

CITY OF BOX ELDER COMMON COUNCIL MEETING MINUTES

Tuesday March 20, 2018

7:00 pm Regular Meeting – City Council Chambers, 420 Villa Drive, Box Elder

Public comments are welcomed, but no action will be taken by the Council on comments received for items not on this agenda. Anyone wishing to have the Council vote on a new item will need to fill out an agenda request item form for the item to be considered on the next council agenda.

1. Call meeting to order

Present were Mayor Larry Larson, Council Members Scott Allen, Steve Cowley, Bruce Hegel, Jeff Hollinshead, Rick McPherson, and Tricia Weathers. Also present were Interim City Attorney: Richard Pluimer, Police Chief Jason Dubbs, Public Works Director Bob Kaufman, Planning and Zoning Director Ron Koan, City Clerk Michael Alcanter, and City Administrator/Finance Officer Nicole Schneider.

2. Moment of Silence/Pledge of Allegiance

3. Roll Call

4. Approve Agenda

Motion by Hollinshead, seconded by: Hegel. Vote Aye: unanimous.

5. Declaration of any potential conflicts-of-interest

CONSENT AGENDA: Agenda items 6 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.

6. To approve the reading of the March 6, 2018 Common Council Meeting Minutes.

7. To approve Payroll 6 (Feb 18- March 3). Total Payroll \$64,992.09; General Government: \$3,807.67; Finance Office: \$10,411.81; Police Department: \$25,559.86; PW Street Maintenance: \$5,933.76; PW Parks \$4,699.64; Planning & Zoning: \$5,386.85; P & Z Board: \$750.00; PW Water Production \$2,889.41; PW Water Distribution: \$4,217.32 and PW Sewer Collection: \$1,335.77.

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

9. Approve job offer extended to Nathan Cronin for the position of Certified Police Officer, salary \$42,565.33. (Salary pre-approved during budget hearings.)

To discuss and decide action on Consent Agenda Items 6-9.

Motion by Hegel, seconded by McPherson. Vote Aye: unanimous

CITY BUSINESS:

10. FINANCE: To discuss and decide action on Election Board workers for the April 10, 2018 ward 1 and ward 3 election. Election Superintendent – Mary Jo Hix; Election Deputies: Jonda Bennett, Wes Rick, Eileen Kienzle, Jo Ann Blackweasel, and Gladys Hillestad.

Motion by Hollinshead, seconded by Cowley. Vote Aye: unanimous

11. FINANCE: First reading of Ord. #592 for budget appropriation to amend ordinance #579, 2018 budget.

Motion by Weathers, seconded by Cowley. Vote Aye: unanimous

12. PLANNING & ZONING / FINANCE: Discuss and decide action approving wage increase (\$2532.53 increase to annual salary) to roster position, GIS specialist, to extend offer to Nicholas Dierks. In addition to approve job offer to Nicholas Dierks at \$42,052.65 Koan: When we initially budgeted on the scale we put in the A, you know the very bottom. Then we found out there is such a limited pool of specialized people and finding somebody qualified, we wanted to extend Nicholas to H is where we are at on the scale. Otherwise we would be offering him lower than what he is currently make and may not be able to get anybody. Will absorb that into our budget, we are not asking for an increase in budget. McPherson: What kind of experience does he have? Koan: He is currently working an environmental geotechnical company. He was the best out of the four candidates that we did interview. He has fairly good experience. McPherson: If I am reading this right we are doing things on grade fifteen, number six step. Koan: Correct. Schneider: You might want to share who was there in the different interviews. Koan: We had Pennington County, Rapid City GIS come sit in, Meade County also, Nicole and I were there. We had some technology knowledge in the room with those two agencies. This is the person they recommended after the second interview, in which they talked strictly technical information. Nicole: It was

a pretty heavy screening, those were people that are well versed in GIS. Hollinshead: Nicole were we able to get any information on comparison on the benefits package? Nicole: They did not want to share that information. I called asking that we are looking for comparable benefits for companies in the area who provide GIS services. They got really cagey, I wasn't able to get that information unfortunately. That is not something you would ask of an applicant. Hollinshead: Right, I understand. McPherson: Am I hearing this right you hired him? Koan: We just extended an offer. Nicole: The item here actually combines what you see in item number nine in your packet on usage scale. So, that is an audit request that we add that. That when we hire somebody, we say what wage we are going to hire them at. We figure we would put them together. If you allow the increase to the adjusted roster not the budget that would take care of the first line. The second line would take care of the audit requirement of reporting. Weathers: The difference is? Nicole: \$2,523.00 for the year. Motion by Weathers, seconded by McPherson. Vote Aye: unanimous

13. PLANNING & ZONING: Discuss and decide on Zoning Amendment #180029 for Elk Vale Business Park LLC. To rezone Lots 1-4 of Block 9, Northern Lights Subdivision from Residential to Residential 3-Mixed Use Residential.

Koan: These are the two lots you approved previously in the plat in the last meeting. The planning commission had a public meeting, as required. No public input, this just puts it into mixed use. So, they can continue to build fourplexes or similar on these two properties as. The planning commission recommends. Weathers: Were there any objections? Koan: No, Not at all.

Motion by Hollinshead, seconded by McPherson. Vote Aye: unanimous

14. PUBLIC WORKS: Authorize Mayor to sign Cooperative Purchasing Service Agreement with SWWC Service Cooperative.

Kaufman: This is another governmental purchasing program similar to National Joint Power Association which we signed last year. There is no financial obligation for us to do this. It gets us in the pool to purchase previously bid items at a cost savings. This one came up for use in a piece of park equipment we are looking at for a community park. This will garnish about a twelve percent savings. We are not committed to anything here for the park equipment, it is just an option for us.

Motion by McPherson, seconded by Hollinshead. Vote Aye: unanimous

15. PUBLIC WORKS: Review and take action on Bids for Prairie View Estates Drainage Improvement project. PWS 1-2018.

Kaufman: You have the bid tab in your packet. I was very disappointed with the results, here we had one bidder. Our budget was \$75,000. We have two alternatives we can reject the bid and look at rebidding it now or wait for a year and rebid it. I will tell you honestly, I have never rebid something in the same year and got good results out of it. The other option is to go ahead and award it and allow me the authority to negotiate with the contractor to change the scope of work down to keep within our \$75,000 budget. The original scope of work was for six intersections. I believe we could get it down to three and stay within budget. Weathers: Remind me again, these drainage improvements are they something that if we don't do, we are going to have more damage, its going to cost more to fix in a year? Kaufman: In the Prairie subdivision, the north / south streets by the original plans were supposed to have drainage pans to carry the water down the steeper grades. When it was constructed they simply put radiuses around the corners. Under low flow events, small rains/ lawn watering, it does run down the street, make the corner and goes where it is supposed to go. In heavy rain events the velocity is so great it jumps the curb, runs across the street through the asphalt, and catches the gutter running north. We are losing asphalt at those intersections. Weathers: If we were to delay this a year or even adjust it to just three intersections, are we going to be costing ourselves more money in the long run? Kaufman: No, because we can still do three of them. Then we can come back and do the other three next year. Weathers: But it won't be a significant amount of damage at those other three intersections? Kaufman: No, no worse then what we are seeing on an annual basis right now. My big concern is the three of them that are on the west side of the subdivision. Those also have manholes in that section, so I know we are getting some infiltration into our sewer system at those locations.

Motion by Weathers, seconded by McPherson to go ahead and award it and allow Kaufman authority to negotiate with the contractor to change the scope of work down to keep within our \$75,000 budget. Vote Aye: unanimous

16. PUBLIC WORKS: Review and take action on Bids for 2018 Gravel Street Reconstruction project

Kaufman: We had a lot of bidders and a low bid with Western Construction, it is well within budget. Our budget was \$180,000, so it would be my recommendation that we work with Western Construction. Weathers: Western Construction meets all our requirements. Kaufman: Yep.

Motion by Weathers, seconded by Hollinshead to award contract to Western Construction for \$170,550.00. Vote Aye: unanimous

17. PUBLIC WORKS/LEGAL: Plainsview Mobile Manor request to have sewer bill reduced to 76 units from present billing of 100 units.

Kaufman: Several meetings back Plainsview Manor was here. You reduce their sewer billing rate from 109 units to 100 units. At that time the representative was here saying that we actually only have 76 units in the court. They didn't have the documentation from the county verifying that 76 is all they were allowed to have. We have had several months in a row where the owner keeps calling and even submitting his bill for 76 units. I have called him back every month and said no your being billed for 100 units. That is all we have documentation to support. So, they finally got a letter which is in the

packet. It points out that Pennington County does have some restrictions that have been placed upon them. Limiting them to a total of 76 units. That's what this request is for, is to reduce it back down to 76 units. The owner is aware that he will be responsible for 100 units until the council formally approves a reduction. We are not going to be going back to pay anything. If you approve something here it would be reduced. I have gone out and verified that there are only 76 units in the court.

Motion by Hegel, seconded by McPherson to approve adjustment to 76 units. Vote Aye: unanimous

18. PUBLIC WORKS/LEGAL: Authorize mayor to sign construction order #1 for Radar Hill Road Slide Repair, \$177,754.43.

Kaufman: This is the final quantity adjustment for the Radar Hill Road project. The contractor did a good job out there. Well within the time frame. They actually came up with a series of recommendations to the D.O.T. which they accepted. This caused the project to be reduced in price by one hundred seventy-seven plus thousand dollars. So, this is actually a deduct change order for the scope of work. This means the city's actual share will be reduced by roughly \$35,000.

Motion by Hollinshead, seconded by Cowley. Vote Aye: unanimous

19. COUNCIL MEMBER WEATHERS: Authorize mayor to sign trailer mounted hydraulic mobile bleacher system application and agreement.

McPherson: Is this for a lease? Weathers: Yes, this is for a lease. We have been leasing the bleachers from Rapid City since the beginning. We did look at purchasing them. But they are very expensive, so we continue to lease them. There are a few changes this year. Our staff will have to haul them from Rapid City. Rapid City will no longer deliver outside their city limits. The fee is per day of use which is honestly what they have charged us in the past despite what their contract said. Hollinshead: The original letter that I read did it talk about six of eight days we were going to have those? Weathers: No, we will pick them up on Friday and they will be returned on Monday unless it is a holiday then it will be a Tuesday. They will only charge us for the actual day of use which is Saturday. Hollinshead: Is this a different letter then what was in our initial packet then? Weathers: I don't believe so. Where do you see eight days of use? Nicole: So, six days its on item number three. Its just what we had in last years contract. Weathers: I do see that, that's the term of the lease. So, if you look down here it says day of use the total is still fourteen hundred. It's right below it, item 4A. Hollinshead: Bob is this going to create any problem for your guys going down and picking these up and taking them back? Kaufman: No, we just need to know ahead of time, so we can schedule it. Hollinshead: Item E then won't be any expense to us at all? Weathers: There will be no expense there because they will not deliver them to us.

Motion by McPherson, seconded by Cowley. Vote Aye: unanimous

20. MAYOR/LEGAL: Discuss and decided action on council member request for information from departments.

Larson: There was request for a couple different things going back to November I believe it was. I thought after talking to legal that we should have this as a discussion item to see how we might handle request is. This could require our department heads and staff to end up doing a lot of extra work. One of the request was overtime. Of course, we get the overtime in there already, that's already there so I wasn't exactly sure that we needed that one; it is already in the agenda. Allen: Gives you overtime hours but doesn't give a break down of what is happening during those hours. That was the request. McPherson: Do we have policy on this already? Larson: I don't believe we have any policy other then the person coming in would have to pay so much per black and white copy and so much for a colored copy. Allen: Actually, we do have a policy under title three Box Elder code. Which the first hour is not charged they are only charged for copies. Specifically, under C, council members shall receive a paper copy at no charge. So, I was denied twice making these requests and we had a policy the whole time. Larson: Actually, I just deferred it and said we needed to have the council discuss it. Allen: No, I made a request for information. I was turned down for that information. We have a policy that covers me receiving it. Here I sit, without the information I requested. So, yes, I was denied for public information that anybody can walk in the door and get. Larson: Well that is something then that sill needs to be discussed. Allen: We have a policy are we going to arbitrarily change the policy depending on who asks for the information? Larson: No. Allen: That's what happened this time. I asked, you denied. Larson: No, I said we put it on the agenda and discuss it. Allen: That doesn't happen with freedom of information. Unless it is something that cannot be given out. Under state-law its specific on what you can get and when you can get it. Under our own code its specific. Pluimer: Well let me just jump in for a bit here. There are twenty-seven exceptions to what constitutes what is open to inspection and copying. Both of these requests in my opinion felt very close to the exception in SDCL 1-27-1.5 subsection seven and section sub four. I have not been asked for a formal opinion that and I am not prepared to give that. I think we somewhat cavalierly throw out the perception that anything that is on file at city hall is a public record. I'm just saying that there are multiple exceptions to the statute to what is available for inspection and photocopying. Allen: So, reviewing your bills for instance? Pluimer: Subsection four talks about records concerning attorney work product which are subject to privilege recognized under our statute. I think I have tried to explain to you before that I personally have absolutely no hesitancy. Allen: Last meeting, you stated that it was public record. Pluimer: Let me finish please. No, I don't know that I consider it public record. It is to the extent that there is no privilege information included in those billings. I also explained that by the nature of my billing is intended to demonstrate to council the type of work I am doing, who I am doing it for, the types of works I am doing, in that regard there may be some privilege information in it. Scott, also, let me just tell you this. What my biggest question is what do you intend to do with that information? Do you intend to make it public information that we spend x number of dollars working on project A or B or C? Then, I have an issue with that. So, it's really a three or four-pronged approach. Number one; who

makes the request. Number two; is the information public record according to statute. Privileged information consists of personal information other than directory information. So, to the extent that employee A spent twelve hours in overtime. To the extent that you are identifying information for a specific employee, which would be something other than directory information, I don't believe that is public information. Assume for the sake of discussion also that the council should have a higher level of access to that information than does the general public. I don't know that I would dispute that. Dispute that you as a council person should probably be able to review my bills. If you haven't already done so. Allen: I haven't done so, it is not allowed. Pluimer: You know I send them every month. I can't tell you what happens. I seem to get paid on a regular basis. So, somebody has approved that billing. But the fact that I have no objection to you viewing that information is different than you photocopying information and then permitting it to be transmitted to non-council people. That's why I think the discussion needs to occur, not that there is information as a council representative that you probably shouldn't be entitled to. But what do you do with it when you get it. Does that make it public information? I don't think it does. That's why I suggested to the mayor that we have the discussion. Have some policy that says you get access to everything I do. There is nothing I have done that I'm ashamed of having done. That doesn't mean that I want that out on the street so that somebody knows that we have spent time taking about A or B or C projects. In some cases, fairly specific detail as to what the nature of those discussions have been. If we could have an understanding or a policy that says go in take a look at it, ask me any questions you want to ask me. But that doesn't necessarily make it public information. Number two it shouldn't be disseminated beyond the council without some specific authorization from council to do so. Weathers: If I may, I think all of council is aware of attorney client privilege. What business in the city has to remain confidential, what can't. I think Council member Allen, merely wanted to see what projects time was spent on, same with the overtime hours. What departments were using such hours. We have been hiring employees and we are still seeing overtime hours. As far as council members requesting information, if we need to make a formal policy that says council can request a formal report then we need to do so. As a council member, I should not have to worry about whether or not I can review documents to properly assess if we are doing our jobs and staff is doing their jobs. It is not something that we want to micro manage. But I should be able to say hey we still have a lot of overtime hours. Can I have a breakdown of why we still have these overtime hours. What projects are these overtime hours being spent on? That's something that council should have access to in order to do our jobs. Pluimer: Your point is well taken, that's a council decision. What I'm concerned about and I think what the discussion points to is, to what extent any individual council member has to go into any department head, and ask for any document, any work, as opposed to that coming from a council request. Weathers: Let me clarify my positions please. I actually intended that to mean the individual council member. If every council member anytime they wanted to review a document had to come before council to request that document, we start raising suspicion with the public our employees aren't doing their job and we may be merely checking in. I don't want to give a public impression if I ask public works or finance or planning and zoning why are there ten hours of overtime consistently every month, I don't want to give the impression to the public they are not doing their job properly. I just need an answer. That's something I should be able to request. Pluimer: That's why it is here for discussion. Nicole: You guys might want to recall in the budget hearings and in your budget binders there was an explanation and breakdown of overtime. We didn't hire the position that absorbed a lot of that overtime until March 5th, which was a couple of weeks ago. Weathers: Thank you. Larson: Did you have something? Citizen Wolf: Yes, we are talking about public information. I personally came in and asked for information on certain properties. I was told directly from Michelle, go to Rapid City. Larson: Hold on one second. Right now, we are discussing this particular issue. If you have something with this, we are ok. Otherwise we are not going to get into all kinds of other things. Citizen: Well I'm assuming what he brought up is the fact as our right to know what you all are spending our money on. That's what he was questioning. Larson: Another time. Citizen: Why is it another time, why can't you explain it to us now? We are all listening. Larson: Well anybody can get the information if it meets the law and they want to pay the fee that we have. Citizen: So, I'm allowed to come tomorrow and request information and pay whatever the fees are to get that information from you all? Larson: If it's legal. Koan: And if we have the information, a lot of the times we don't have it, the county has information that we don't. Allen: Under our current policy the first hour of staff time does not cost. Nicole: Also, the claims are part of the agenda packet that are provided to all of you that come to the meeting. It is part of the packet. Citizen: Can I have one, I don't have one right now. Citizen: You guys ran out over here about half way through. Nicole: We ran out. This is actually a pretty robust group I have to say we normally don't get that many of you and we try to save trees. Weathers: I do appreciate the information that you are saying; but, regarding the actual council members requesting information, does anyone else on council feel that we should not be able to request reports and information? McPherson: I feel we should. Hollinshead: I guess I would share a view that I have a little bit of an issue when a council member is creating additional FTEs with employees based on a single item they are requesting. I think a lot of this, possibly with a little clarification of what we're seeking, could go a long way. Versus just information in general. When we are starting to breakdown stuff that we have already been provided, to what degree are we going to go with on that. Weathers: Honestly, that's up to every council individual and how much they want to be involved. That's something each person has to make a decision. Hollinshead: Well to a degree, I suppose. There is one thing to be involved, another thing to create or duplicate work that's already happening; especially, when we are looking at trying to decide if overtime hours are being done in the right way or not. We are creating more overtime hours by requesting work that, quite frankly, the information is already being provided. Weathers: Most of the stuff in the current request, I believe should be a matter of pulling a report; which, should not take even a full-time hour. Hollinshead: I think what we are asking, what I heard was we need a break down of not only the hours that were worked but what they were doing during that time. There is not going to be a report that's going to generate that. Weathers: Typically, if I'm not mistaken everything is divided by department it is worked on. Nicole: That is actually in this, it comes with your packet. It is broken down by

department. It is not going to detail what they were doing. Like this last month Rachel is out on maternity leave, Randy is out sick, I have a family emergency. I'm not even here when this request came through and there is staff rallying to get stuff done. That is not going to be in a report. Weathers: Ok. So, what is a reasonable report request in your eyes Councilmen Hollinshead? Hollinshead: Anything that is not currently being given to us in some form already. Then I think there would be an opportunity to look at that, but when we are coming to something that's going to create additional hours or research then I think that should come before council. Then council as a whole should decide if this is something council needs to look at. Weathers: I just want to clarify, so, you're saying if we don't normally get the report we can ask for a report; But, at the same time, it still needs to go through council. Hollinshead: No, if it's a report that can be available to us, it is an assembled report we can ask for a report. But what we are asking for here is not a report. We are asking for more detail, the way I understand it because it has been unclear precisely what we are looking for. Weathers: Ok. I'm trying not to focus on the individual request right now. I'm trying to figure out how we would clarify what could be done with a simple mouse click and what would require more time. Hollinshead: Well, I don't know. I guess reading our documents would be one thing that would help us out. If we can go back and simply look at what's been provided to us. Its pretty simple to do a lot of that research ourselves without having to go back and have it recreated. Weathers: Ok. So, a report that is not in here. Once again, something that is not provided. How do we put into writing, clarify, quantify what requires council approval and what a council member can request? We don't know the capabilities as council members of every report the system can generate. Hollinshead: I think Scott already provided the document that says what you can request. It actually provides instructions on how to do it also. So, it says information request forms are available at the finance office and when completed are to be submitted to the finance office for processing. The finance office will then forward the request to mayor or council president for review. Weathers: So, you want council members to go get a form, fill it out, and turn it in at the front desk. I am asking that question? Hollinshead: This is what Mr. Allen brought in, its written rule. Weathers: I am well aware of what he brought in. I am asking that question. Hollinshead: I would follow the rule just as he has asked us to. Weathers: Because it also says in here that as council members state law requires us to make documents available to the public, as council members. So, this to me would indicate we should have access to the records without us having to go through the twenty-four-hour process. Because this says we have twenty-four hours or is it twenty-four or forty-eight. Hollinshead: Its forty-eight. So, let me see that one again please. Larson: To me there is a difference between if you say I would like such and such report and it is easily available kind of what you're saying, as opposed to saying all the way back to November. Now that requires the information that you are already provided. Which I wasn't sure it was that detailed. What if she would have given you this and that wasn't what you were looking for, not you I don't mean you. That wasn't what was being looked for here. It was more detailed. So, what was the four hours that so and so had in overtime. Now it requires first of all to go back to November and all the people that had overtime. Then figure out in November what could that have been. Cause its not detailed or written down what that over time was for. Just that they had overtime. It would take some time its not that easy I would think. Weathers: So, what I'm hearing is perhaps staff if they are not clear on a request could ask for a clarification, if it's something that could take massive amounts of man hours. Hey, we are unclear on what exactly you need us to do. That could be clarified. Once again, if we're trying to create a policy on what council can request. How do we put that into writing, where do we draw the line, what's acceptable, what's not? Bruce you look like you have something. Bruce: Well, obviously we have a policy. The policy was read there right? As for overtime hours, every two weeks the first Tuesday and the third Tuesday we get this packet right. In this packet it tells us in detail, detailed enough showing what the overtime hours are. Allen: Shows what the hours are it doesn't say what the hours are. My concern is we keep seeing thirty to fifty hours overtime. This week it was a little lower. A full employees worth of overtime only we are paying it at time and a half. Do we need to hire another employee instead of putting out all that overtime? Nicole: And we did. Allen: I understand that, I'm just looking for answers to justify why we are putting out time and a half. When we should be putting out straight time. You guys fluffed it all up and made it worse. Hegel: Wait a minute every first and third Tuesday we get it and we need more information. I have never been denied the information from staff. Larson: If you just asked at that time, what was that overtime. It's way easier for Nicole to say oh I know what that overtime was. But now when you go back give me all the overtime back to November which now requires going through some files, finding all that information and trying to figure out why did we have all that overtime. Hegel: I think once we approve this agenda we are accepting that overtime. As far as I'm concerned, when we sign this sheet right here, we put our initials on it and we sign it. Basically, saying that we approve our votes and all the stuff we have done, we are approving the overtime at that point. Why are we looking backwards, we are trying to move forward on this. Larson: It seems that I recall Nicole brought this out a long time ago. Hollinshead: During the budget it was part of that. Larson: Talking about we were going to have a lot of overtime till we got all the positions filled. So, even though we see this overtime we should know why there is overtime. You know it wasn't filled until a week ago Monday I think was when the position was filled. Nicole: March the 5th. Allen: So, the problem for me on that is we have now three or more people then we've ever had and in finance. We rarely had an overtime hour, we did several change overs to computer systems and they never logged one hour of overtime during that. Nicole: Actually, they did and that was also part of the budget document was the overtime that Misty, Rachel and Randy accrued. Allen: I'm going back a few years here on how things were handled then, and things are handled better now. But I'm saying you had half the amount of members and little to no overtime ever. So, my concern is, is some of the overtime being fluffed? To make it look like we need more people. I'll ask the hard questions it doesn't bother me to the least. Weathers: I would not think that is the case. Hollinshead: I would like to respond to that. We can go back three years and we can look at the man hours that were done then. We can also look at the work that was produced. Which created the extensive amount of overtime hours that we had to have in order to bring this city up to where it is. Allen: Some of it I agree. Hollinshead: When we look at the finance department and we

look at for the first time in history of this city we have actually got audits completely caught up. That didn't happen in forty-hour weeks. We had years and years of shortages if you will in departments, shortages both in technical ability, shortages in qualifications, which allowed this city to drop considerably back. We had piles and piles. In order to make that come up to where we are at now your going to have to find something for that. So, if you want to call that fluff by bringing the city to current, then I'm not sure I can find fluff there. Allen: I didn't say it was, I said it could possibly be fluff. Like anybody can juice their budgets. Its common practice everybody juices their budgets for the extra stuff. If nobody asked the question or brings it out for these discussions, we just become complacent and we sign our name on several hundred thousand dollars every council. Hollinshead: Each council member has the right to review, organize, and make those discussions as they come about. Allen: They do the work they get paid I don't have an issue with that. Same with the city attorney. What I'm concerned about is if there's extra projects or extra things going on that the full council is not aware of. Weathers: So, if I may, I do agree with you I don't think that there is any fluff going on. I do think that three years ago we had some massive under amount of work being completed. Because we discovered that we had 1.8 million more then we thought at one point. I do want to bring the discussion back to how council members handle information. But I also wanted to remind you Mayor Larson we had a question or comment from the public. Citizen: I was going to say that there should be something to protect you as a council group that your allowed to see information, but you're not allowed to share it with the public. So, there should be something in there like the attorney was saying you can do research, but it can't be public knowledge. Cause there's certain things that can't be released to the public. So, there should be something for you in that manner. Anybody that sits among your board has access to it, but they're not allowed to share that publicly. There should be something in your guidelines for it. That's all I wanted to share. Citizen: I apologize I came a little late. I was kind of under the awareness that we might be discussing the water problem back at wagon wheel. Is that true or false or did you already discuss that. Larson: That will come up probably during public works. Which is a couple more down. Larson: I guess the main thing is if the council as a whole is satisfied with following that. McPherson: When you say follow that what do you mean by follow that? Larson: The policy that Scott brought up there. We do have to follow the law of course. So, if there were things that we are not sure about we would refer it to the attorney. If the council is willing to go with that and the extra time it would require our staff to be working on these things. That's up to you guys, that's why I brought it back to you as a council. Weathers: So, on staff time for information request I feel the only reasonable wording would be to come up with a maximum number of full time hours staff can spend on a council request before council needs to sign off on it. That would limit any expenditures of staff time. That would still allow the information. As far as having to get a form and take it to the front desk I think as council members elected by the people an email should suffice. Hollinshead: If we are going to follow this then we follow the whole thing. Weathers: Ok. In that case then council can request as many hours of research as they want because there is not limit in that whatsoever. I'm trying to come up with a compromise. That protects staff time and gets council members information they need. Hollinshead: I'm just saying we brought this forward we have made it aware to all of us. If we want to modify this or change this, we can change this. Weathers: I'm kind of working that direction. McPherson: I think it states in there the first hour is free. Weathers: That is for public, but for council there is no charge for the first copy. McPherson: But then there's regulation that they can only copy so many times if I'm not mistaken. Weathers: One, they can only get one copy. But then it doesn't address how much time a staff member can investigate on behalf of council. McPherson: I assumed that it was that first hour. Weathers: I guess that's up to interpretation, cause I see that as the first hours free and after that for the public there's a charge; is the way that I interpret that. McPherson: Perhaps the council needs to go back and rephrase that, look at that. Larson: Just to make sure we know how much time is involved in that. What's free, is what maybe has to be looked at. Hegel: That's why you are reviewing it to, right? I believe that it is one hour even for council. That's the way I interpret it. Of course, I understand also that you want the reviews to make sure that stuff you don't want to get out on the legal side of it. That the state tells us that we can't, we don't want to put out there. Weathers: That's an easy fix. Hegel: I believe it is still one hour. That's breaking it down as an individual as a council as a full council here the powers that we have, we can request as a full council the staff to do whatever we want them to do as a full council, but not as an individual. Weathers: Absolutely, and I think for the sensitive information if I'm not mistaken, Jeff I believe you work for the federal government. We can easily put a designation on its for your eyes only if it's something that can't be released to public. That's not an issue. Hollinshead: You could do that, or the other thing is you can say can be reviewed in house. Weathers: Yeah, either way just some designation that indicates it can't be sent out for public knowledge. Cause there are items that we are bound by law to keep private. Nicole: Is it one hour per request or per day or week? McPherson: I actually think that we need to take this back to the committee and have it brought back forward. This is something that can wait till we have a regular attorney we don't need to be paying the interim to do this. We are not very far from voting new officers and new attorney coming. Weathers: It could go to committee before then but for legal reason it would have to wait. Hollinshead: What committee would that go to? Weathers: Ordinance. Weathers: So, I would make a motion to allow ordinance committee to review. But to hold off on legal review until our full-time attorney is on staff. McPherson: I would second that. Motion by Weathers, seconded by McPherson. Roll Call- Allen: Aye, Cowley: Aye, McPherson: Aye, Hegel: Nay, Hollinshead: Nay, Weathers: Aye, Larson: Now back to the actual request then. Was for the legal bill basically. Is there a way that that should be handle to meet these? Pluimer: You know if Counselman Allen will review the bills and agree that anything that is billed is held in confidence with the council and not disseminated to the public I have no objection. Allen: I agree, I don't need copies I will just review the actuals. Larson: How about the overtime? Allen: I withdraw the overtime request. Larson: Ok.

21. DEPARTMENT HEAD REPORTS:

Mayor: Larson: I didn't have a whole lot, but I did go to a civic leader social. I went to a chamber meeting they discussed a lot about economic development in the city there. On Sunday, the return of the Douglas High School basketball team. They took fifth in the state and the cheerleaders got the spirit of six. There was a lot of people there it was fun. I think that's probably the first time they have went to state now in many years. Citizen: 1996. Larson: A nice event. That's all I had.

Police: Dubbs: Thank you mayor. I would request to yield my time right now and also request the council excuse me to deal with an urgent matter. Thank you.

Public Works: Kaufman: It appears we have a large contingent here from Wagon Wheel so. I'll give you a little background because I know a lot of you are concerned about that. At the March 6th City Council Meeting I believe the council was confident that they had an agreement worked out with the owner of the Wagon Wheel court as far as paying for delinquent billing and a testing process that the city would participate in to help alleviate her concerns that there were major leaks in the facility. My understanding is that as of March 6th, which was the Tuesday, that by March 9th all that documentation was to be prepared, executed and returned to the city. As of Friday March 16th, that had still not been received. We had discussions in house about putting out some type of notifications about what the status was to the situation. Due to the fact that there was a snow storm going on we decided to delay that until Monday. Which is when the letters went out informing the land owners of what the situation was. That got the desired result. Monday afternoon she came in and completed the documentation she was supposed to and paid the bill up to date. Weathers: Up to date? Nicole: No. Larson: She still owes the \$51,000. Nicole: She followed the agreement only paid for last month's bill. Kaufman: She made her payments to come up to date with the agreement she signed. That's all I have. Larson: Did you have anything before we open up the comments? Pluimer: You know you or Nicole originally advised me that documentation had been received. I suggested that city withhold signature on that until the council meeting. Because you were pretty specific with the deadline at the last meeting. I didn't feel like it was within the scope of my authority to say yeah, its two weeks late, but go ahead. The documentation is available, the second check is paid for \$12,000. I think which is the February billing and the agreement is to accept the January payment of \$10,000. That still leave us with a \$61,000 balance. The terms of that payment are spelled out in the terms of our agreement. I have no reason to inconvenience these folks by turning off their water. Even though the timing of the owner's action were belated. Nicole: Also, with the signed agreement the city can file the lis pendens is that correct? Pluimer: No, we have a mortgage. Nicole: So, it's the mortgage we can file? What will that do for the city? Having the mortgage? Pluimer: Nothing as a practical matter. The title report showed that there were huge mortgages ahead of us. But it will be a lean on the property for the balance of the \$61,000. Which would be the same as a lis pendens or a judgment lean. Weathers: Before we take public comment, do we want to talk to them first or make a discussion of what we are going to do? I am not sure what order we want to do this in I guess. Larson: They may have something to say so we should probably listen. Citizen: Its my first time at one of these meeting and I want to know how often are we going to be receiving these letters on our door? In our lease we signed that we would not be paying a water bill, and the fact that we got charged a bill every time a pipe pops. Normally when these pipes burst water puddles sit around for days and it smells like septic water. That's not an environment we should live in people have children here. They should not be around that. Larson: I understand that and, Bob, maybe you want to speak to the fact that first of all that's not in the city limits, it's not our system. We really have nothing to do with it. Kaufman: The water system for Wagon Wheel Court is actually owned by Akers or the developer Eastgate Estates. That's not ours, we simply provide water at one of the old well locations. I understand that you people all pay your water bills to her or Eastgate Estates. Citizen: We shouldn't have one; from what our lease says, we shouldn't be paying a water bill, or we are supposed to have free water. Kaufman: You are paying, in the rent you are paying to her, you are paying your water. Citizen: What he is saying is they have changed our lease several times and increased our lot rent. That's going to be a separate issue I am going to bring up with a lawyer. Kaufman: That's between you and her that has nothing to do with us. Our situation is we know darn well that you people are paying your rent and paying your bills and you should not have to be going through this. The only way we can get her attention is to sometimes put a letter out like this. Like I told you before, it achieved the result that we expected. She has come forth and complied with what she had previously said she would do. We do not own the system; we have nothing to do with the system. We are trying the best we can to work something out so that you guys don't have to do this on a regular basis. Citizen: I get that, I understand completely, where you all are coming from. You can't believe anything that comes out of her mouth. You give her a deadline and she goes past it. Its just our concern is will it ever come to the fact that you will cut our water off regardless if she pays you or not. Kaufman: No, as long as she stays current with the agreement. Citizen: That's my point though. If she does break that contract and does not follow it, will we or will we not have water? Kaufman: That would be up to these guys to decide how to handle it. Citizen: Because at that point in time, obviously the only laundry mat in town doesn't have water. Can I come to your house wash my cloths and take a shower? Am I guaranteed that the state won't come after me to take my kids away, because we no longer have running water in our home? That's my concern and that's my point. Larson: We all get your concerns and we would hate to do that. We certainly couldn't guarantee that it would never come to that point. I would be lying to you if I told you it could never come to that point, I hope it never does. Citizen: Would they give us the option to get water meters, so we don't have to deal with this? Kaufman: We don't own the system. Citizen: If she can't pay her water bills, she is not going to pay to have meters put in. Citizen: Well she is supposed to be paying to put meters in. Pluimer: Well she did agree to pay for five meters. Which will facilitate the testing for leaks. So, I mean she has made some progress there. We haven't

been paid for those yet. Nicole: Yes, we were given a \$900 check to go with the last-minute change on the last page. Larson: That's for the big meter? Kaufman: That was for a single meter to preform the testing. She has to have the other meter pits installed, set up accounts just like any other normal water customer would, and we will install the meters there with the standard deposit. Weathers: I will say that the last council meeting was quite the lengthy discussion on this. None of us want to shut off water to people who are paying their bills. We totally understand that. I think the fact that it has gone on this long shows how reluctant we are to do anything that extreme if we can avoid it. Citizen: I have two questions what is the monthly water bill average? Can you share that? Like what is her bill a month average for this location? Larson: I don't know we can share that. Nicole: Unfortunately, there are a lot of law protections around utility bills. Citizen: Where I have concern with this is I have people who own trailers there, rent to own threw me. My phone blows up like crazy when these letters go on the doors. If something falls through the crack is there a point where someone can step in and say I will take on this bill. Is there anything as you as a city can do with that lot or does it have go to an auction situation? Pluimer: I will just tell you that we have a contract with her company to deliver bulk water to a specific location. We don't have any authority or control as how it is disbursed, how its billed, or how it is paid for once it passes through our meter. I don't think I would be reluctant under other circumstances, now that we have been talking about what is public information. Personally identifiable account information for any of our contract customers would be confidential information. Citizen: I had a question you mentioned about doing water testing. Does that involve seeing if it is drinkable or if more pressure is going to be added to the system? Kaufman: No, one of her disputes with us has been that she thinks there is a massive leak in the system some place. She can't believe what the amount of water is, she is being billed for on a monthly basis. We have gone through a pretty lengthy evaluation of what there, come up with a simple process to put a meter in one location and a shut off valve in another so that we can isolate where the water is going. So, that we can help assure her of what the actual water consumption is in the park. That is part of the reason for the five-meter pits she has to install. Those are five locations that would fall in our study able area. It's a quantity thing, its not a water issue. Citizen: It seems like every time they shut off the water, another burst happens somewhere else. That's why it is happening and what can we do to fix it. Kaufman: That's the quality of the system that is in the ground. It's a very old system. It was probably sub standard when it was put in. I'm guessing it is probably forty, fifty years old. It's a system that has lived its life. Larson: You may or may not know this. Through the fair housing HUD you do have some rights. Mike why don't you just explain. Mike: This is why I sent a text message, I do not have a voice. So, under fair housing laws through the South Dakota Department of Fair Housing and the federal Housing and Urban Development you as renters have rights. You have rights under fair housing. You have rights to clean and habitable housing. If for some reason she does have the water shut off for nonpayment you guys do have rights through your leases. My biggest suggestion is for you to contact South Dakota Department of Fair Housing. Citizen: I was reading in hear that there is an agreement to put a mortgagee, that you guys are fifth, sixth in line. Because they mortgaged it out so many times. I know that really doesn't give you guys a guarantee of anything. How does that affect us if she does end up getting foreclosed on? Would it affect our water supply if she gets foreclosed on? Plumier: You know as long as she complies with the agreement you will get water. But I can't tell you if she refuses to comply with the agreement, the city is already \$61,000 behind on this deal. I think that gives you an indication of how far the city's been willing to go to work with her. We are a public utility and we are accountable to tax payers. Citizen: Is there a way to set up an escrow account? Plumier: No. Citizen: I was just going to make the comment that if this was a private person their water would have been shut off long ago. You would have no water if this would have been any individual in town. Citizen: I know, and I get that. Weathers: So, I don't think that any of us can promise that it would never come to a point that your water would not be shut off. But we will give you as much notice as we can, so that if it comes to that you can find alternative arrangements and try to figure something out. Citizen: If we have to come to an alternate arrangement because she cannot keep her things together can we sue her? Weathers: I can't speak to that I'm not an attorney. Pluimer: We have one contract with Cynthia's company. If she doesn't pay our only recourse is to sue her and shut off the water. What rights you have, I think the gentlemen is saying that there are rights out there I'm not going to try tell you I know what your options are. Citizen: Well you're the attorney you should be able to tell me what information I want to know right? Larson: No, he is the city attorney. Larson: Any other final discussion on that? So, how does the council do this. Pluimer: Motion to authorize you to accept or reject the payment and the contract. Weathers: Can we go that without it being on the Agenda? Not that I want to hold a special meeting to do that. Pluimer: Obviously we didn't know until yesterday that the payment was tendered. You previously authorized the mayor to sign, you gave Bob and I direction that it was to have been completed by Thursday or Friday at the last council meeting. I'll take my chances on agenda items because we have got peoples water who will be shut off or not shut off. Weathers: I agree I want to take care of it, I just want to make sure we don't have anything come back on us. Larson: That would fall under an emergency type thing. Weathers: I would make the motion to accept the agreement and authorize the mayor to sign. Seconded by Cowley. Kaufman: I do have a question for you. That agreement had a time frame of forty-five days to complete the testing program. It would be my position that started on March 9th. Which is the date that you all agreed the agreement should be completed. You want it to start then or another time? Pluimer: My suggestion is the mayor is going to sign and date it as of today. I am a little reluctant to make it unilaterally retroactive. I would suggest that we start it today.

Motion Weathers, seconded by Cowley. Vote aye: unanimous

Kaufman: We have received three packets from three different firms for our well spending program. We will be reviewing those shortly does any of the council want to participate in the interview we have with these three firms? Also, I need to inform you that we have a little hiccup with our welcome sign. The one for right here on the East side of town. There was

some misunderstandings evidently. We are having to find a different location for that. I have got meetings set up tomorrow with another land owner out there.

Finance/Legal: April 2, 2018 at 2:30p.m. verify availability for next Finance/Legal Committee meeting.

Nicole: Ok. So, we have got a few things. One is establishing the next meeting. Are you guys available on April 2nd at 2:30? we got a lot of answers. Weathers: Yes, I will be available. McPherson: April second is a Monday? I should be available. I have already got it marked down. Nicole: I didn't see that you accepted it, so I wanted to make sure. We got a bunch of answers for you guys. We already started working on templates for the budget document. We will be changing them so that they are a little bit lighter. What you all have is copies of our current reports. You have got a revenues report, broke it down in the email what these were. Everything looks pretty good. Sales tax is going up, property tax we will not be able to tell until May. Triple B and Bid 1 and 2 you see the breakdown there. Bid two was added so you start seeing those draws total up. Even though with the Bid two we are acting as a pass through we still have to record it. We get our interest earnings, we are going to start reporting that because that is new to the city. The city has never really made any interest we actually owed the bank in prior years. We will talk about some ideas on how we want to utilize that interest in the budget. Utilizing it in the current year or in the future fiscal year and how to plan for that. This one actually shows you the breakdown by funds, so it just shows how we are still even with paying all our bills have an increase in revenues. I loved to hear that you guys were all over snowballing number nine. Let's get rid of the debt. Then the breakdown that was provided to the finance legal committee that shows how much it has cost to keep those loans. Along with that you have your revenue and expense report. This is as of February, we did not have it for January cause as you know in January we are we are actually closing the prior year. So, any cleanup we were doing would have impacted those numbers. Now you get a nice picture. Everything looks really good. If people were spending all of their budget if you look at the expenditure under the general fund we would be close to 17 percent. Nobody is at 17 percent. So, that's good news. Then we have our revenues breakdown which looks really good. Nothing has happened yet with the East Mall Drive but we had a last minute request from the USDA for a financial compilation. That's kind of an involved document it's not something you just snap your fingers and put it together. They wanted it right away, we worked very hard to get that document together and to get it signed off by Casey Peterson and that went, and USDA accepted it. So, now we are just waiting for a loan package on East Mall Drive. The next sections are your Enterprise. So, you've got your water and your sewer. There pretty typical you are going to see a big change with sewer, with the payoff of that loan and your going to have that line added for that payoff. So, its going to be a little more robust. Did you want to add anything Mandy? Mandy: I think only on that I was going to add a little bit more to was that loan number nine summarization. We kind of touch on briefly at the last meeting. Its another summarization like number five the one that we are going to pay off. The number nine is just showing that other loan is out there. We should really think about taking the payments from loan number five and applying it to that one. So that we can get that one down. You are in the same situation with that one that you were with number five. Nicole: Any questions?

Planning & Zoning: Koan: The only thing I have is you will start to see on Liberty Park number two which is up here on Liberty and Prairie Road we have creek construction meeting briefly tomorrow morning and they will get started with that second phase.

City Attorney: Pluimer: Nothing further from me.

22. COUNCIL REPORTS:

Allen: I got nothing.

Cowley: Nothing.

Hegel: Nothing.

Hollinshead: Nothing sir.

McPherson: Yes, real quick this is the second meeting that my name has been left off of some pages does that mean I can't vote? Alcanter: That's the new guys fault. Larson: It would have to be the one that you motioned or seconded. I'm looking for, I'm going what in the world, where did his name go.

Weathers: Nothing.

23. OTHER REPORTS:

Economic Development: Wes: we had a pretty interesting meeting. One person showed up and requested to join. So, we voted him a member. Then we had a visitor from Deadwood. Laurie Fredricks from the community development

representative, from the governor's office of economic development. She spoke for a little over an hour and everybody learned a lot.

24. CITIZEN INPUT: Citizen: I just want to commend Dick, I think he has done a bang-up job. Sitting at these meeting and after Rex was dismissed, he's on it, if you ask him something he's gives you an answer. I just want to remind Scott in particular or the council you did just spend or approve \$10,000 on fireworks for twenty minutes when your talking of spending money. Citizen: The new area of Prairie Drive where those mailboxes are. If you are coming through there, when people are coming through there getting off work. People are stopping leaving their car door open and running around checking their mail. So, you've got the chance of getting the car door or they jump back in their car and turn left and don't look to see who is behind them. Is there anyway those mailboxes can be moved? Kaufman: You will have to talk to the postal service. Because we have absolutely no input. Citizen: I don't live there I just drive by there, it's a hazard. Kaufman: I understand we have absolutely no input in that what so ever. I will make a comment to the post office about it. Citizen: City clean up? Kaufman? April 16 to the 26th. Citizen: Are they going to have locations for disbursing garbage? Kaufman: Yeah, we are going to do the same thing we did last year. We will have some extra dumpsters down by the shop. Citizen: Would it be a thought though if there's areas, like some people don't have pickups or a chance to hall, we could put them down at the other end of Box Elder like Busters. Kaufman: We are going to have to get approval from somebody to put it on private property. Citizen: It's a thought there. Kaufman: We can look into it.

25. ADJOURNMENT 8:37 pm.

Motion by Holinshead, seconded by Cowley Vote aye: unanimous

Seal:

Attest:

Larry Larson
Mayor

Nicole Schneider
City Administrator/Finance Officer