

CITY OF BOX ELDER COMMON COUNCIL MEETING MINUTES  
Tuesday, November 1, 2016  
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 in honor of fallen soldiers and active duty personnel/recitation of the Pledge of Allegiance.
3. Roll Call: Present were: Council Members: Scott Allen, Steve Cowley, Doug Curry, Bruce Hegel, Jeff Hollinshead, and Tricia Weathers. Also present were: Planning & Zoning Coordinator Ron Koan, Public Works Director Bob Kaufman, Legal Counsel Rex Hagg, City Administrator/Finance Officer Nicole Schneider, and Police Chief Jason Dubbs.
4. Approve Agenda: Motion by Allen, seconded by Cowley to approve the agenda with Executive Session for Contractual at 4A. Vote aye: Unanimous.
- 4A. (32.) Executive Session: Motion by Allen, seconded by Cowley to enter into Executive Session at 7:02 pm for Contractual. Vote aye: Unanimous.

CONSENT AGENDA: Agenda items 5 through 21 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 October 18, 2016 Common Council Meeting Minutes.
6. To approve Payroll 22 (Oct 2 to Oct 15) Total Payroll \$53,525.34; General Government: \$4,957.68; Finance Office: \$1,970.66; General Finance: \$2,671.97; Police Dept: \$21,597.73; PW Street Maintenance: \$3,000.08; PW Animal Control: \$561.00; PW Parks: \$1,782.90; Planning & Zoning: \$4,813.31; Planning & Zoning Board: \$500.00; PW Water Production: \$2,946.74; PW Water Distribution: \$7,643.73; PW Sewer Collection: \$1,079.54.
7. To approve the claims, utility refunds, loan payments and hand checks.
8. To approve business license #1710 for Rial's In Home Child Care, located at 670 Airway Ct, Box Elder.
9. To approve pay application #2 for Hills Materials Company for South Ellsworth Rd reconstruction in the amount of \$27,867.08.
10. To approve renewal of liquor license retail on-sale for America's Beverage Entertainment LLC 486-514 Americas Way.
11. To approve renewal of liquor license package off-sale for America's Beverage Entertainment LLC 468-534 Americas Way.
12. To approve renewal of liquor license convention facility for Atlantis LLC 4201 S Interstate 90.
13. To approve renewal of liquor license package off-sale for Atlantis LLC 1416 N Elk Vale Rd.
14. To approve renewal of liquor license retail on-sale for Belle Starr Gentlemans Club 228 Box Elder Rd.
15. To approve renewal of liquor license package off-sale for Fresh Start #39 640 Box Elder Rd W.
16. To approve renewal of liquor license package off-sale for J & L Market 520 N Ellsworth Rd, #1B.
17. To approve renewal of wine license retail on-off sale for Love's Travel Stop #602 679 Reagan Ave.
18. To approve renewal of liquor license package off-sale for Loaf 'N Jug #449 437 N Ellsworth Rd.
19. To approve renewal of liquor license retail on-sale for MG Oil Company Truck Stop Lounge North 4200 N I-90 Service Rd.
20. To approve renewal of liquor license retail on-sale for MG Oil Company Truck Stop Restaurant & Lounge Exit 61 & I-90.
21. To approve renewal of liquor license package off-sale for The Jug Liquor Store 135 S Ellsworth Rd. Motion by Hegel, seconded by Curry to approve Consent Agenda Items 5-21 as presented. Vote aye: Unanimous.

**CITY BUSINESS:**

22. PLANNING/ZONING DEPARTMENT: Motion by Cowley, seconded by Weathers to approve second reading of Ordinance 568 adopting Title 90 – Animals. Discussion on rabbits, they are not a prohibited animal on the list. Vote aye: Unanimous.

23. PLANNING/ZONING DEPARTMENT: Motion by Hollinshead, seconded by Hegel to approve preliminary plat application 160135 for Elk Vale Business Park (640 Denali Drive). Vote aye: Unanimous.

24. PLANNING/ZONING DEPARTMENT: To discuss and decide action on request for appeal of administrative citation 000604 issued to SDEDA for nuisance at 221 Oak St. PZ Director Koan stated that the information was included in the packet about the trailer. He stated that the citation was necessary due to the safety hazards and the condition of the trailer and property. The city has been working with the organization since March on the clean-up and the problem hasn't been corrected. There have been numerous verbal conversations, a letter sent in February, and a letter was sent with the citation. Weathers stated that she is ok with giving the owner until November 30<sup>th</sup> to have something done with the nuisance, writing a citation to the owner of the trailer, and denying the appeal of the administrative citation. Allen stated that he would be willing to forego the citation and/or fine if SDEDA is willing to give their word that they are willing to withhold payment to the property owners until such time that the properties are cleaned up, because the city won't be able to recoup costs for abatements. There was a question of whether or not this issue has been brought up to the Governor's office to open-up lines of communication and promote good relations. There are numerous properties that the entity owns that have not been cleaned up with broken windows and pieces of furniture being dumped on the properties. Legal Counsel Hagg recommended a meeting to establish a procedure on how to deal with these issues before they arise. He stated that there should be an agreement reached on the procedure of how these problems are going to be addressed before they become a city nuisance. City Administrator Schneider stated that the City Attorney should prepare a memo to SDEDA to encourage such a meeting which would allow the City to be more proactive and deal with the problem before it becomes a bigger issue. Weathers moved to send a memo to SDEDA as the entity owner to facilitate a conversation establishing procedures to address such issues between the City and SDEDA and encourage the maintenance of properties that are purchased by SDEDA. City Administrator Schneider asked Legal Counsel Hagg for clarification on the contact for communications with SDEDA on the sewer plant. Legal Counsel Hagg stated that there is language in the utility agreement that the Mayor is the point of contact for communications between the entities for the sewer plant but does not pertain to any other business that SDEDA does with the City.

Motion by Weathers, seconded by Allen to deny the appeal and to send a memo to SDEDA with a timeline of no more than fourteen (14) days to clear up the safety hazard and to open dialogue to prevent this from happening in the future, and to have Legal Counsel Hagg to research the assessment situation with SDEDA as they are a government entity. Vote aye: Unanimous.

25. PUBLIC WORKS DEPARTMENT: Motion by Cowley, seconded by Weathers to approve BMX Track billboard advertising agreement with Lamar Advertising. The lease is for \$1,500.00 per year and the city retains right of first refusal and there is a clause in the lease for either party to terminate the lease with sixty (60) days written notice. Vote aye: Unanimous.

26. PUBLIC WORKS DEPARTMENT: Motion by Weathers, seconded by Cowley to approve revised DOT agreement for Radar Hill Road slide repair. The revised cost estimate is \$360,000 for the City's 20% share of the overall cost. The slide material will be removed; the hill will be rebuilt. Vote aye: Unanimous.

27. FINANCE DEPARTMENT: Motion by Hollinshead, seconded by Curry to approve proposal from Swiftec, to install wall sockets for an on-line payment kiosk; to remove safety risk in offices; to switch ADC to HDMI in the event center. This will reduce the waiting time for customers who wish to use the online payment option during office hours. There are issues in some of the offices where wires are running across the floor. The plan is to also add sockets in the council chambers to prepare for video screens. The switch in the event center is to allow for laptops to be used for training purposes. Vote aye: Unanimous.

27A. LEGAL COUNSEL: Motion by Weathers, seconded by Allen to approve the settlement agreement, the amendment to Utility Service Contract and the real property lease, with the contingency of the consent of Ellsworth Air Force Base on the 50/50 split of the operation and maintenance costs from Project Solutions. Legal Counsel Hagg stated that there have been numerous discussions on the administrative fees and the operation and maintenance cost split. He stated that there is a settlement agreement to address the past fees and the total cost of the unpaid administrative fees is \$40,000.00. The city will pay a fixed 7% of the administrative fees, the billing for Project Solutions, the third party's fixed costs that runs the plant will be split equally and the balance of the billing will be based on the percentage amount of monthly flow. Weathers asked that a memo be added to the file explaining all the changes to the agreements and contracts for posterity.

**28. DEPARTMENT HEAD REPORTS:**

Mayor: Mayor Larson stated he went to the movie showing of the Royal Air Force at the Air and Space Museum last Friday and he received a letter from the Meals on Wheels program. He also stated that the Rapid City Chamber is hosting a speaker on Thursday, November 10<sup>th</sup> on retaining small businesses in the community. He will be working with the

Chamber of Commerce to host a "Shop Local" day on the Saturday after "Black Friday". He spoke about the training that will be going on in the Powder River Basin and the discussion on making Spearfish Canyon a State Park. He spoke about attending the Domestic Violence Awareness bowling and stated that the event was well attended.

Police: Police Chief Dubbs gave the statistics report for October 18th to October 31st, he stated that there were 305 calls for service. He stated that the department gave out candy for the Halloween Patrol and they handed out pencils and other information at the Fall Festival at the high school last week.

Public Works: Public Works Director Kaufman stated that along with the Radar Hill road agreement with the DOT, there will be an engineering agreement with KLJ on the agenda for the next meeting. He also stated that he is waiting to hear back from DENR on the Ghere well. There has been a discussion with the Bradsky's on a developer's agreement on East Mall Drive and the Liberty Landing project should start this month. The City's insurance is responding to a claim filed by Valley Village; they will have an expert witness here on November 9<sup>th</sup> to meet with staff to get information to prepare a response to the complaint. The has begun on the welcome sign locations and they started advertising for the open position in the department.

Finance: Finance Officer Schneider gave an update on the sales tax report. She reported to the council about the City's debt limit obligations and stated that she would like to meet with all council members to share information that she gathered regarding the loan payments for TIF 1.

Planning & Zoning: Planning & Zoning Coordinator Koan stated that the trailer at 235 Douglas was removed and cleaned up by a contractor. He asked that everyone look at the new website, he stated that the new website should be "live" on Monday, November 7<sup>th</sup>. He also stated that he is looking for guidance on 493 Coyote Trail as to what to do with the property. The project is still in limbo and is a severe safety hazard. Direction was passed on to Legal Counsel Hagg to somehow make the property safe. Recommendation that in the future, no permits be issued to this developer due to the lack of progress on the present project. He stated that an affidavit was dropped off at 502 Box Elder Rd, and Mr. Jobbins has not signed the affidavit but has a signed lease at 110 Westside Drive, which is a car lot. Weathers stated that this discussion took place at the last meeting and the issues would be addressed at the review of the conditional use permit.

City Attorney: Legal Counsel Hagg asked Finance Officer Schneider to put the settlement agreement amount of \$40,000.00 administration fees for SDEDA on the next claims list. Legal Counsel Hagg stated that he received a letter from the attorney from the insurance company that the trailer park will not cooperate to allow the expert from the city's insurance to investigate the claim.

#### 29. COUNCIL REPORTS:

Allen: No input.

Cowley: No input.

Curry: No input.

Hegel: No input.

Hollinshead: No input.

Weathers: No input.

#### 30. OTHER REPORTS:

Economic Development: None.

#### 31. CITIZEN INPUT: None.

33. ADJOURNMENT: There being no further business to be considered in front of the Common Council at 10:25 pm, motion by Allen, seconded by Weathers to adjourn. Vote aye: Unanimous.

Seal:

Attest:

---

Larry Larson  
Mayor

---

Nicole Schneider  
City Administrator/Finance Officer