

RIFLE CITY COUNCIL MEETING

Wednesday, January 19, 2011

REGULAR MEETING

7:00 p.m. * Council Chambers

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

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

Councilor Miller moved to excuse Councilor Alan Lambert from attending tonight's meeting; seconded by Councilor Sanborn.

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

OTHERS PRESENT: John Hier, City Manager; Lisa Cain, City Clerk; Jim Neu, City Attorney; Michael Churchill, Cable 10 Assistant Manager; Mike Braaten, Government Affairs Coordinator; Charlie Stevens, Utilities Director; Dick Deussen, City Engineer; Daryl Meisner, Police Chief; Aleks Briedis, Recreation Director; Tom Whitmore, Parks Director; Keith Edquist; Carlton Hoffmeister; Michael Langhorne; Will Cross; Kathy Trapp; Marge Gerloff.

CONSENT AGENDA - APPROVE THE FOLLOWING ITEMS:

- A. Minutes from the January 5, 2011 Regular Meeting
- B. Appoint Parks & Recreation Advisory Board members
- C. Amendment to Rifle Creek Theatre Façade Construction Agreement
- D. 2010 Audit Engagement Letter
- E. Water Fund Purchase Orders for Materials
- F. November Financial Report
- G. November Sales Tax Report
- H. Accounts Payable

Councilor Miller moved to approve the Consent Agenda; seconded by Councilor Rice.

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

CITIZEN COMMENTS AND LIVE CALL-IN

Keith Edquist, representing Pioneer Mesa Filing 1 Homeowners Association (HOA), advised Council that the HOA is concerned about unused construction materials left at the subdivision by the subdivision developer, to the detriment of the homeowners. HOA members are also concerned about erosion from the subdivision's Filing 2 into Filing 1, compromising the Filing 1 drainage system and reducing Filing 1 property values.

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

CONSIDER WAIVING PARKING FEES AT HUFFMAN GULCH FOR THE RIFLE SNOWMOBILE CLUB'S ANNUAL POKER RUN ON FEBRUARY 20

Snowmobile Club President Carlton Hoffmeister was present. As they have done in years past, the Snowmobile Club is requesting a waiver of all parking fees for their annual event, the Poker Run on February 20 at Huffman Gulch.

Councilor Sanborn moved to waive parking fees at Huffman Gulch for the Snowmobile Club's Annual Poker Run on February 20; seconded by Councilor Miller.

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

CONSIDER APPROVING AGREEMENTS WITH RIFLE ECONOMIC DEVELOPMENT CORPORATION REGARDING VALLEY LUMBER PROPERTY

City Attorney Jim Neu and Rifle Economic Development Corporation (REDC) President Michael Langhorne informed Council that the REDC has worked closely with the City regarding the redevelopment of the former Valley Lumber Property. The City and the REDC have entered into various agreements regarding that relationship. With the recent negotiation of a Lease with Brenden Theatres, the City's agreements with the REDC need to be addressed accordingly.

TERMINATION AND RELEASE OF EXCLUSIVE RIGHT TO NEGOTIATE

In 2010 the City and the REDC entered into that certain Exclusive Right to Negotiate and Memorandum of Understanding (MOU) regarding the redevelopment of a portion of the Valley Lumber Property for the construction of a Health and Wellness Center. In that MOU, the City agreed to negotiate exclusively with the REDC with respect to a portion of the Valley Lumber Property. When the City and the REDC started discussing a lease with Brenden Theatres for the construction of a multiplex theatre, the REDC recognized it needed to release the City of its obligations to negotiate only with the REDC. The proposed Termination and Release of Exclusive Right to Negotiate was approved and signed by the REDC late last year so that the City could commence and continue the negotiations with Brenden Theatres unbridled. It is now before the City Council to formally approve the Termination and Release.

FIRST AMENDMENT TO INFRASTRUCTURE DESIGN AGREEMENT

The City was awarded a \$25,000 DOLA grant last summer for costs associated with the design of infrastructure necessary to get the Valley Lumber Property investment ready. The REDC agreed to contribute 50% of the matching funds for the DOLA grant (\$12,500) and perform the duties of contractor under the Grant. Because the Health and Wellness Center cannot be located on the Valley Lumber Property, the REDC cannot contribute funds towards the Grant match; however, it has already prepared and published bids for the design work and it is willing to continue the role of contractor under the Grant. Because time is of the essence with preparing the Valley Lumber Property for Brenden Theatres, the City welcomes the REDC's continued assistance.

The proposed First Amendment to Infrastructure Design Agreement sets forth the parties' new relationship. The REDC will not be providing any funds for the work, but it will oversee the completion of the design work. The City is responsible for the match funds under the DOLA grant and because the scope of the design work is expanding with an actual user on the Property, the cost of such work will exceed the original amount.

The REDC has also agreed to convey to the City property donated to the REDC by Jon Isham adjacent to the Valley Lumber Property. The Isham Property was donated to the REDC with the condition that a lot line adjustment plat be prepared and recorded adjusting the property western boundary to the middle of Rifle Creek (the parcel boundary now lies on the west side of Rifle Creek and is of no use to the redevelopment of the Valley Lumber Property). Bookcliff Surveying is going to prepare the necessary plat on behalf of and as a donation to the

REDC. The City is agreeing to execute the plat since it will be the owner of that parcel by the time the plat is finalized.

Councilor Miller moved to approve the Termination and Release of Exclusive Right to Negotiate and Memorandum of Understanding with the REDC and to approve the First Amendment to Infrastructure Design Agreement between the City and the REDC; seconded by Councilor Thompson.

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

CONSIDER APPROVING GROUND LEASE OF VALLEY LUMBER SITE

Assistant City Manager Matt Sturgeon announced that staff has negotiated a Ground Lease with Brenden Theatres for a multiplex theatre on 24,000 square feet of the Valley Lumber Property which will contain 6-7 screens with a seating capacity of 675- 900. The Lease further allows an expansion of the Theatre with an additional 4,500 square feet for two movie screens in the future at Brenden’s option. The City is responsible for constructing the public improvements for the Valley Lumber Property and preparing all of the Common Area, including parking, sidewalks and landscaping. The Leased Premises encompasses only the footprint of the Theatre and any future expansion. Exhibit A to the Lease shows a very general layout of the Property and the Theatre Pad Site. The final location and shape of the Theatre footprint and the parking configuration will be determined through the site plan and building permit process.

The City will prepare the Property to allow Brenden to build on the Theatre Pad Site. Brenden is committing to build the Theatre pursuant to the City’s draft Central Business District Zone Code adhering to the City’s usual building permit process. The REDC, which is bidding out the design work for the public improvements, indicated the design will be completed by the end of February, allowing hard engineer’s estimates to be made for the cost of the public improvements at that time. Brenden Theatres will be coming to the City Council’s March 2, 2011 meeting to present final architectural design of the Theatre. Because staff does not have a good estimate of the cost of the public Improvements for which the City is responsible, and staff still only has conceptual elevations of the Theatre as Brenden prices various options, both parties agreed to have an “out” in the Lease in case costs prohibit current expectations. Therefore, either party may terminate the Lease by giving notice to the other party by March 4, 2011. However, staff plans on working very closely with Brenden to avoid such a result.

The term of the lease is 10 years with the option to extend it with 2 five-year extensions. Brenden will pay rent in the amount of \$5,000 per month and they hope to have the Theatre open by Thanksgiving 2011 with rent payments commencing December 1, 2011. In the event construction takes longer not due to Brenden’s fault, rent will commence when the Theatre opens for business. Rent can be increased by 3 percent if the option term is exercised. Brenden will further be responsible for all of its utilities and its share of Common Area expenses based upon its parking needs. Brenden is provided a license over the Common Area and sufficient parking for their operation and the City will maintain all of the Common Area. The Lease further contains customary insurance requirements and indemnity provisions related to each party’s activities. At the end of the Term of the Lease, and any extensions, the City will take possession of the Theatre building.

City Manager John Hier added that the City had budgeted monies in the Economic Development Fund and the Capital Fund in 2010 and 2011 for redevelopment of the Valley Lumber Property. The City’s intent was to develop the site to make it attractive to new commercial development complimentary to existing commercial development in the downtown. City crews will be assisting in the process of site development.

Mr. Sturgeon acknowledged these actions that were important in making this lease transaction come to fruition: Valley Lumber’s agreement to relocate from downtown to north Rifle, Jon Isham’s donation of land to the REDC, and Western Rockies Federal Credit Union’s agreement to swap land with the Downtown Development Authority (resulting in the City having more land adjacent to the Valley Lumber site).

The REDC is evaluating other sites for a Health and Wellness Center.

Councilor Miller moved to approve the Ground Lease between the City and Brenden Theatre Corporation; seconded by Councilor Rice.

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

CONSIDER APPROVING MEMORANDUM OF UNDERSTANDING WITH RIFLE ECONOMIC DEVELOPMENT CORPORATION FOR REGIONAL ECONOMIC DEVELOPMENT PURPOSES

Mr. Langhorne reported that the REDC has made efforts to expand their activities on a regional basis. They have been successful thus far in obtaining participation from other communities including Parachute and New Castle. They will be asking Garfield County to participate. The REDC's hope is to provide economic development assistance throughout western Garfield County. Mr. Hier noted that the City budgeted \$8,000 within its 2011 Economic Development Fund to assist in this effort. The proposed Memorandum of Understanding outlines the nature of their proposed goals, provides the City with a position on their Board of Directors, and requires the REDC to submit an annual budgeting and accounting report to the City.

Councilor Thompson moved to approve the Memorandum of Understanding with Rifle Economic Development Corporation for regional economic development purposes; seconded by Councilor Sanborn.

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

CONSIDER BIDS RECEIVED FOR ASBESTOS ABATEMENT AT VALLEY LUMBER SITE

Mr. Sturgeon explained that pursuant to state regulations, staff obtained an asbestos report for all the structures on the former Valley Lumber site. This report is necessary to obtain a demolition permit from the Colorado Department of Health and Environment. The report found no asbestos in the out buildings; however, the main building contains asbestos in several building components including drywall, caulking, and some roofing materials.

The presence of asbestos in a form that can become friable during demolition requires the City to abate the asbestos prior to City crews removing the structure from the site. Staff solicited bids from contractors pursuant to the Purchasing Code for abatement of friable asbestos. It received the following bids:

<u>Bidder</u>	<u>Amount</u>	<u>Comment</u>
Monarch Site Services, Inc.	\$31,989 (potentially \$44,814)	(1)The higher price would be to cover cost of roofing disposal if it is determined City crews cannot remove and dispose of roofing materials containing "non-friable" asbestos. (2)This firm is going to do asbestos abatement work at the Ute Theatre, so economies of scale might result in lower costs if the City hired this contractor.
Prestige Environmental Services, Inc.	\$33,000	
Nelson Engineering & Construction Inc.	\$98,675	

Councilor Rice moved to grant staff the authority to enter into a contract with Monarch Site Services, Inc. for asbestos abatement at the former Valley Lumber site in an amount not to exceed \$44,814; seconded by Councilor Thompson.

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

CONSIDER APPROVING DESIGN OF PLAYGROUND AT CENTENNIAL PARK

Recreation Director Aleks Briedis informed Council that Great Outdoors Colorado (GOCO) has announced its 2011 competitive grant cycle for Local Park and Outdoor Recreation grants. Staff would like to apply for a grant to complete the planned playground and amenities in Centennial Park on the north end of the great bowl. Applications are due March 4, with awards being announced June 14.

To be able to apply for this grant, the City will need a detailed master plan with cost estimates for this area. Design Concepts has given the City a proposal for this to include a tot lot playground, a primary aged playground, play equipment selected to carry the energy and mining theme, swings, picnic shelter with restroom, concrete walk connections, ADA accessibility, interpretive, educational and discovery activities. Due to the park being located in the flood plain, designs will be inserted into the existing flood analysis model to account for drainage and maintenance.

Funds were not budgeted for this plan in the 2011 budget. Staff is recommending reallocating funds from the Deerfield Park Planning Funds to pay for the Centennial Playground Plan. In the event the City is short for funds in the future to complete the Deerfield Park Plan, staff will investigate backfilling with Parkland Dedication funds. Staff is hoping that the City will not have to do this, but staff will come back to Council if this is needed.

Currently \$208,000 is budgeted for the Deerfield Park Planning. Design Concepts' proposal for the Centennial Playground Plan is \$9,980. GOCO grants in amounts large enough to complete the Deerfield Park Plan will not be available until at least 2012. Smaller grant amounts are available this year, and staff recommends that the City apply for a smaller grant for a smaller project, such as completion of the Centennial Playground Plan.

An organization is ready to contribute cash toward the 20 percent match that this grant would require, and staff is investigating whether other organizations are ready to contribute cash as well.

Councilor Rice moved to reallocate \$9,980 from the Deerfield Park Plan to complete the Centennial Playground Plan; seconded by Councilor Sanborn.

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

CONSIDER EXTENDING APPROVAL OF PHASE II DESIGN COSTS FOR RIFLE REGIONAL WATER PURIFICATION FACILITY TO MALCOLM-PIRNIE ENGINEERING

City Engineer Dick Deussen and Utilities Director Charlie Stevens explained that in 2010, the City expended \$380,500 to have Malcolm-Pirnie Engineering complete a portion of the Phase II Design for the Rifle Regional Water Purification Facility (RRWPF). Finishing the Phase II Design will cost \$1,196,392. Funds in this amount have been included in the 2011 budget.

Councilor Miller moved to approve an investment of Phase II Design Costs for the Rifle Regional Water Purification Facility to be completed by Malcolm-Pirnie Engineering in an amount not to exceed \$1,196,392; seconded by Councilor Rice.

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

CONSIDER ACCEPTING GRANT FOR \$10,000 FROM WATER AND POWER AUTHORITY FOR ACACIA AVENUE – WHITERIVER AVENUE LOOPING PROJECT

Mr. Stevens and Mr. Deussen reported that the Colorado Water Resources and Power Development Authority had awarded the City a grant of \$10,000 for the Acacia Avenue-Whiteriver Avenue Looping Project. No matching funds are required from the City to receive this grant.

Councilor Sanborn moved to accept a grant from the Colorado Water Resources and Power Development Authority for the Acacia Avenue-Whiteriver Avenue Looping Project; seconded by Councilor Miller.

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

CONSIDER APPROVING ON FIRST READING ORDINANCE NO. 1, SERIES OF 2011 (AMENDMENT TO ORDINANCE NO. 21, SERIES OF 2004 VACATING A PORTION OF SHOUBE AVENUE)

AN ORDINANCE OF THE CITY OF RIFLE, COLORADO, AMENDING AND SUPERSEDING ORDINANCE NO. 21, SERIES OF 2004 APPROVING THE VACATION OF SHOUBE AVENUE BETWEEN LOTS 2, 3 AND 6, BLOCK A AND LOTS 1, 4 AND 5, BLOCK B, NORTH RIFLE ADDITION

Mr. Neu reminded Council that in 2004, City Market was planning an expansion of its Rifle store and the City negotiated a trail easement along Rifle Creek. At the same time, to clean up property issues, the corporate owner of the Property, Dillon Real Estate, Co., Inc. requested that a portion of Shoupe Avenue located in the middle of the parking lot be vacated. The City approved the right-of-way vacation by Ordinance No. 21, Series of 2004. That ordinance was never recorded and therefore not effective and the trail easement was never executed and conveyed to the City. Staff became aware of this as the City commenced construction of the Rifle Creek Trail between 16th Street and the City Market parking lot. The City received a license from Dillon Real Estate to construct the trail that is now completed while Dillon's attorney worked on other title and real estate issues. Dillon is now ready to convey the trail easement to the City. With new title information, the City needs to amend Ordinance No. 21, Series of 2004 for it to be accurate. Proposed Ordinance No. 1, Series of 2011 makes the required amendments and vacates Shoupe Avenue as it exists in City Market's parking lot. Staff will present the revised trail easement document to Council at the second reading of Ordinance No. 1 on February 2, 2011.

Councilor Miller moved to approve Ordinance 1-11 on first reading as presented and to order it to be published by title as required by Charter; seconded by Councilor Thompson.

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

ADMINISTRATIVE REPORTS

Mr. Hier reported to Council on the following issues: solid waste collection request for proposals (RFP), Ute Theatre asbestos removal, February 15 all hands meeting, new copiers at City Hall, auction of surplus City equipment, and staff training. He thanked all staff members who contributed to bringing the Valley Lumber redevelopment project forward for Council action.

Mr. Deussen announced that the City has advertised an RFP to add a 30-foot-wide by 78-foot-long bay on the east side of the Operations and Maintenance building, with garage doors at each end. Proposals are due on February 7, 2011.

Mr. Stevens requested that Council review the assessment of the condition of the ductile iron raw water transmission pipeline, between the site of the RRWPF and the Graham Mesa Water Treatment Plant. The assessment was made to determine the pipeline's physical suitability for use as a finished drinking water transmission pipeline in the future, upon the completion of the RRWPF.

Government Affairs Coordinator Mike Braaten informed Council that newly-elected County Commissioner Tom Jankovsky would attend Council's February 2 workshop starting at 5:30 p.m. He also noted that the state legislature just started its 2011 session. He will compile a list of bills of interest to the City.

Police Chief Daryl Meisner reported that 2 new Police Officers will start City employment on January 23. A U.S. Department of Justice Office of Community Oriented Policing Services (COPS) grant provided funding for 1 of the positions.

COMMENTS FROM MAYOR AND COUNCIL

Councilor Rice pointed out that the positive economic developments that have occurred in the City reflect the cohesiveness of the community. This cohesiveness is also reflected in the community's response to the tragic death of Austin Booth.

Councilor Miller remarked that senior members of the community have told him that they would like curbside recycling to be available, because it is difficult for them to walk up the ramps at the existing recycling center.

Councilors Sanborn and Winkler are anxious to move forward with use of electronic packets.

Mayor Lambert hoped that members of the community would take the time to express their appreciation for their fellow community members.

Meeting adjourned at 8:32 p.m.

Lisa H. Cain
City Clerk

Keith Lambert
Mayor