

**RIFLE CITY COUNCIL MEETING**

Wednesday, May 18, 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 Jonathan Rice, Jen Sanborn, Jeanette Thompson, Randy Winkler, and Mayor Keith Lambert.

Councilor Sanborn moved to excuse Councilors Alan Lambert and Jay Miller from attending tonight’s meeting; seconded by Councilor Thompson.

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

**OTHERS PRESENT:** John Hier, City Manager; Lisa Cain, City Clerk; Matt Sturgeon, Assistant City Manager / Director of Planning; Jim Neu, City Attorney; Jim Bell, Cable 10 Manager; Michael Churchill, Cable 10 Assistant Manager; Mike Braaten, Government Affairs Coordinator; Daryl Meisner, Police Chief; Ann Thrasher; Christi Patterson; Chris Johnson; Annie Schmidt; Ashlyn Taylor; Caitlin Diaz; Erica Salazar; Jessica Chavez; Layton Stutsman; Trenton Condie; Cheyanne Miller; Allen Taddy; Stanley Wailes; Michael Langhorne; Gil Frontella; and Scott Becker.

**CONSENT AGENDA - APPROVE THE FOLLOWING ITEMS:**

- A. Minutes from the May 4, 2011 Regular Meeting
- B. Liquor License Renewals – Choice Liquors and Rib City
- C. Appoint Board Members to Rifle Senior Center Advisory Board
- D. March 2011 Financial Statements
- E. Accounts Payable
- F. Approve Visitor Improvement Fund Advisory Board Recommendation for Fireworks Expenditure

Councilor Rice moved to approve Consent Agenda Items A, B, C, D, E, and F; seconded by Councilor Sanborn.

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

**CITIZEN COMMENTS AND LIVE CALL-IN**

Ann Thrasher asked Council to consider adopting regulations to control free-roaming cats.

Chris Johnson, Annie Schmidt and other members of Christi Patterson’s 8<sup>th</sup> grade civics class were present to observe tonight’s meeting.

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

***CONSIDER ACTING ON REQUEST FROM HYLAND ENTERPRISES***

Allen Taddy, Terminal Manager, and Stanley Wailes, Operations Manager, Hyland Enterprises, Inc. - Rifle Terminal, requested that the City consider amending its Agreement for Bulk Water Use with Hyland. Hyland had entered into an agreement with the City in 2006 to pay "out of City" rates for bulk water sales. In doing so, they

avoided having to pay tap fees which would have been in excess of \$363,000 in 2006. Staff suggested that to receive "in City" rates of the present time, Hyland purchase the tap now (number of taps required is estimated to be 85). At 2011 prices these taps would cost more than \$463,000. Hyland countered this proposal by suggesting that if they purchase the taps now, the City credit them for the extra water charges they have paid in the form of "out of City" rates. Staff felt this was a fair request and calculated that credit to be \$262,790, thereby giving them a cost for purchase of the taps of approximately \$200,858. Per City code, they can pay for the taps over a period of years. Hyland now proposes to purchase the taps at the 2006 rate, and receive the credit for "out of City" water purchases. With this scenario, the cost of the tap purchase would be approximately \$100,507. Council noted that, had the business purchased the taps in 2006, the City would have had use of those funds for the past 5 years. Council suggested Mr. Taddy and Mr. Wailes meet with staff and explore options for payment of the \$200,858.

***CONSIDER APPROVING RIFLE VENTURES, LLC WATER LINE EXTENSION AND LAND ACQUISITION THROUGH RREDC***

Michael Langhorne, President, Rifle Regional Economic Development Corporation (RREDC), explained that a portion of the Rifle Ventures property extends in a panhandle configuration on the southern boundary of the Rifle Creek Plaza property, separating a portion of the Rifle Creek Plaza property from Highway 6. The RREDC has negotiated the donation of this property to the RREDC to benefit the redevelopment of the Rifle Creek Plaza property. The proposed Property Donation and Redevelopment Agreement between the City, RREDC and Rifle Ventures provides that the City will extend an 8-inch waterline to the remainder of the Rifle Ventures property that lies to the west of Rifle Creek Plaza. Rifle Ventures will reserve a 10-foot utility easement on the property donated to RREDC. When the construction of the theater is completed by the end of this year, the City will be recording a lot line adjustment plat to clean up property lines that have been involved with this project (Isham, Country Attic, and now the Rifle Ventures Parcel). Prior to that plat being recorded, the RREDC will convey the Rifle Ventures parcel to the City so it will merge with the overall site.

Councilor Thompson moved to approve the Property Donation and Redevelopment Agreement between the City, RREDC and Rifle Ventures; seconded by Councilor Rice.

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

Councilor Winkler left the Council chambers.

***CONSIDER PROPOSAL FOR ARCHITECTURAL SERVICES FOR NEW UTE THEATRE***

Gil Frontella, President, New Ute Theatre Society, Inc. (NUTS), was present. City Manager John Hier reported that NUTS solicited a proposal from Johnson-Carter Architects for architectural services for the theatre in the amount of \$7,500. NUTS' budget presently includes approximately \$65,000. Mr. Hier noted that NUTS does not have an existing agreement with the City concerning expenditure of budgeted funds. Therefore, the City Council must authorize any expenditure of these funds. The solicitation of the proposal is in compliance with the City's purchasing policy, which permits "Open Market" solicitation of professional services when the cost is less than \$25,000.

Councilor Rice moved to enter into a contract with Johnson-Carter Architects for architectural services for the New Ute Theatre as outlined in their proposal for an amount not to exceed \$7,500; seconded by Councilor Thompson.

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

***CONSIDER PROPOSAL FOR CONSULTING AND DESIGN SERVICES FOR NEW UTE THEATRE***

Mr. Hier said that NUTS solicited proposals for consulting and design of acoustical and audio visual systems for the proposed theater renovation. The 5 proposals range in price from \$21,500 to \$54,070. Mr. Hier pointed out

that it is very difficult to evaluate the proposals because the scope of work varies with each proposal. Council's consensus was that the City ask Johnson-Carter Architects to analyze the proposals and provide a recommendation to Council.

Councilor Winkler returned to the Council chambers.

***KING'S CROWN FAIRWAY AVENUE RIGHT-OF-WAY DEDICATION AGREEMENT***

City Attorney Jim Neu reminded Council that the developers of Queen's Crown are commencing construction of a portion of the Fairway Avenue extension from Highway 13 into their property. Ultimately Fairway Avenue will extend to its terminus in Palomino Park, but the cost of construction and funding shortages dictate that the current project only involves building the intersection with Highway 13. However, it is imperative that the City secure the entire right-of-way since there is a possibility that the developer will be able to continue the construction project towards Palomino Park or perform some rough grading at this time. Staff has been negotiating with the owners of the adjacent King's Crown property to obtain the necessary right-of-way through their property and have come to an agreement. There currently exists right-of-way for Fairway Avenue from the 1970s that is not feasible to build on because of the slope of the land. In exchange for King's Crown conveying the more practical right-of-way, the City would consider an ordinance vacating that unneeded right-of-way in the future after Fairway Avenue is constructed. The City's agreement with Queen's Crown includes a cost recovery provision for Fairway Avenue. The proposed Agreement clarifies how that cost recovery will be applied to King's Crown when it develops its vacant parcel. In addition, the Agreement would clarify the construction of some of the drainage improvements related to Fairway Avenue that were a concern to King's Crown.

Councilor Rice moved to approve the King's Crown Fairway Avenue Right-of-Way Dedication Agreement; seconded by Councilor Thompson.

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

***CONSIDER DIRECTING STAFF AS TO ENNOVATE'S TECHNICAL ENERGY AUDIT***

Government Affairs Coordinator Mike Braaten informed Council that Ennovate, the City's energy performance contractor, has completed the technical energy audit for the City and has identified various energy conservation measures (ECMs) for the City Hall, Justice Center, Public Works O&M building, Parks Maintenance facility and the Senior Center. Total cost of all improvements is \$380,851, which is reduced to a total net cost of \$327,559 after Xcel rebates and the Encana Boiler grant. Estimated annualized savings (utility, operational and cost avoidance averaged over the 10 year span) is \$46,038; Ennovate guarantees that the City will save at least \$20,000 annually.

If Council approves moving forward with the project, the City has the option of paying for the improvements outright or financing the project through a 10-year lease-purchase at a 4.5% APR (actual APR may vary) for an estimated annual payment of \$41,147. The final costs are subject to change until the City is under contract with Ennovate as costs may vary due to market commodity fluctuations or equipment price increases, among other factors. Council directed staff to pursue the project, using the option of paying for the improvements outright. Council asked staff to provide additional information about the role of local contractors in the project.

***CONSIDER AMENDING MUNICIPAL CODE REGARDING MEDICAL MARIJUANA BUSINESS LICENSING – ORDINANCE NO. 3, SERIES OF 2011 (FIRST READING)***

Mr. Neu reminded Council that the Colorado Legislature passed significant legislation in 2010 regarding the regulation of medical marijuana businesses. The Department of Revenue, which oversees the state's regulation of medical marijuana businesses, promulgated extensive regulations. The legislation created a dual licensing system with a state and local licensing authority, similar to liquor licensing, that becomes effective July 1, 2011. Prior to the adoption of that legislation, the City enacted local regulations of medical marijuana businesses by Ordinance

No. 33, Series of 2009, codified in Chapter 6 of Article VIII of the Rifle Municipal Code (RMC). The state's statutory scheme fits very well with what the City enacted, but some of the terminology in the RMC needs to be changed to match state statute and regulations, such as changing "permit" to "license" and "dispensary" to "center," etc. In addition, the state created three separate licensed activities: medical marijuana centers, optional premises cultivation operations, and infused products manufacturers. Proposed Ordinance No. 3, Series of 2011 amends the RMC accordingly and includes new and amended definitions to conform to the state's regulations. In addition, Ordinance No. 3 adopts the state's regulations by reference and any violation of those regulations is also a violation of this Chapter subject to local enforcement.

The State's regulations include a provision prohibiting medical marijuana businesses from being located within 1,000 feet of a school, an alcohol or drug treatment facility, or a residential child care facility. The City may amend this distance, which will be adhered to by the state, and currently Section 6-8-60(6) states a 500-foot separation requirement based upon discussions with staff. Council directed staff to change the 500-foot separation requirement to a 1,000-foot separation requirement, and include a "grandfather" clause for any existing businesses within 1,000 feet of such facilities. The State Legislature recently passed additional clean-up legislation in HB 11-1043 that contains an additional one year moratorium on new medical marijuana businesses.

Councilor Rice moved to approve Ordinance No. 3, Series of 2011, on first reading as amended and to order it to be published by title as required by Charter; seconded by Councilor Thompson.

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

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

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

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

Councilor Winkler moved to approve Ordinance No. 4, Series of 2011, on first reading as presented and to order it to be published by title as required by Charter; seconded by Councilor Rice.

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

***CONSIDER CALLING FOR MAIL BALLOT ELECTION FOR SEPTEMBER 13, 2011 REGULAR MUNICIPAL ELECTION – RESOLUTION NO. 5, SERIES OF 2011***

Ms. Cain said that proposed Resolution No. 5, Series of 2011, would call for conducting the September 13, 2011 regular municipal election by mail ballot.

Councilor Rice moved to approve Resolution No. 5, Series of 2011; seconded by Councilor Winkler.

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

**ADMINISTRATIVE REPORTS**

Mr. Hier reported to Council on the following issues: Utility Director position; heavy metals in wastewater plant discharge; wastewater plant warranty issues; employee health insurance open enrollment; Rifle Creek dam repair; and fire suppression sprinkler requirement for Public Works Facility addition.

Police Chief Daryl Meisner said the 35<sup>th</sup> Annual Rifle Police Department Bicycle Rodeo, held on May 14, was a success.

**COMMENTS FROM MAYOR AND COUNCIL**

Councilor Rice congratulated graduating Rifle High School seniors.

Mayor Lambert commended staff, particularly Parks Maintenance Crew Leader Dale Wilson, on the efficiency of Spring Clean-Up.

**EXECUTIVE SESSION**

***EXECUTIVE SESSION FOR CONFERENCE WITH THE CITY ATTORNEY FOR THE PURPOSE OF RECEIVING LEGAL ADVICE ON SPECIFIC LEGAL QUESTIONS UNDER CRS 24-6-402(4)(B); AND FOR THE PURPOSE OF DETERMINING POSITIONS RELATIVE TO MATTERS THAT MAY BE SUBJECT TO NEGOTIATIONS, DEVELOPING STRATEGY FOR NEGOTIATIONS, AND/OR INSTRUCTING NEGOTIATORS, UNDER CRS SECTION 24-6-402(4)(E)***

Councilor Rice moved to adjourn to executive session to receive legal advice and discuss negotiations; seconded by Councilor Winkler (9:06 p.m.).

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

Councilor Sanborn moved to adjourn from Executive Session; seconded by Councilor Thompson (9:46 p.m.).

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

Meeting adjourned at 9:47 p.m.

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Lisa H. Cain  
City Clerk

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Keith Lambert  
Mayor