



**MINUTES REGULAR MEETING
CITY COUNCIL CHAMBERS
125 E. 3rd Street**

Salida, Colorado

March 16, 2010

6:00 p.m.

The meeting was called to order at 6:01 p.m.

PLEDGE OF ALLEGIANCE –

Led by Mayor Pro Tem Tom Yerkey.

ROLL CALL -

Present at roll call were Mayor Pro Tem Tom Yerkey and Council Members Scott Damman, Jim McCormick, Jay Moore, and Steven Stewart, and. Also present were City Administrator Jack Lewis, City Clerk Betty Schwitzer, City Treasurer Eileen Rogers, Deputy City Clerk Janella Martinez, and City Attorney Cassia Furman.

Absent were Mayor Chuck Rose and Council Member Keith Baker.

CITIZEN PARTICIPATION -

No one signed to speak.

PRESENTATIONS –

SCHEDULED ITEMS-

1. Consent Agenda
 - a. Approval of Agenda
 - b. Minutes: Minutes March 2, 2010

Staff recommends combining and approving the items on the consent agenda.

A motion was made by Damman to combine and approve the items on the consent agenda. Moore seconded the motion. With all in consensus, **THE MOTION CARRIED.**

2. Boat Ramp Restroom Bids– (Rob Vance)

Section 2

Rob Vance, Public Works Director, presented written materials that are included in the packet for the record

The request is to reject all bids for the Boat Ramp Restroom project and to instruct staff to re-bid the project.

BACKGROUND:

There has been interest for several years in the creation of the next phase of the City's Whitewater Park in Riverside Park. A grant was applied for and awarded for the construction of these improvements. The improvements will be another attraction at our current Whitewater Park. These improvements are an economic benefit to our citizens as they bring in people from other areas to kayak and use our river.

The Whitewater Park and Greenway Phase 4 Project actually has several parts and each part will be bid separately. The project includes the construction of new in-stream whitewater features and the maintenance of existing features and the construction of a retaining wall and trail in Riverside Park, known as the Whitewater Park improvements. Another part of the overall project is construction of a two room flush type restroom at the boat ramp. The third part of this project is the construction of an artificial climbing wall in Riverside Park. This wall will be attached to the retaining wall and will be an added play feature of the Park.

The restroom bid was opened on February 10, 2010 and on-going negotiations with the apparent low bidder fell through on Monday, March 29, 2010 when he notified me that he could procure liability insurance.

RECOMMENDED MOTION:

A Council person should make a motion to reject all bids for the Boat Ramp Restroom and to instruct staff to re-bid the project.

Followed by a second and then a vote.

Attachments: Memo describing situation.

On February 10, 2010 we held a bid opening for the Boat Ramp Restrooms, There were 8 total bids for the project. We started working with the low bidder and unfortunately the low bidder as of Monday March 29, 2010, informed me that he would not be able to meet the requirement of the bid and procure liability insurance. This disqualifies him from being awarded the bid.

History: Since the bid opening I have been working with the low bidder in an effort to provide "local" work on this project. This business is from Buena Vista. The company is called General Construction and came with good references that he does quality work. Some of his work is available at our local campgrounds. At first he was not in good standing with the State and was instructed to get that fixed. He needed to pay his annual fees. Then there was an issue with a bond that got worked out which was followed by a budget issue. Then on Monday, March 29, 2010, I had thought everything was worked out and we were ready to ask for an award but once on the State's website noticed that his standing was not changed. I placed a phone call to him to see what was up and that was when he informed me that he had allowed his liability insurance to drop and at this point was not able to re-instate.

I have tried contacting the second low bidder but have not been successful. It has been longer than thirty days since the project was bid, so at this time I feel it is only right to reject all bids and instruct staff to re-bid the project.

Motion: Council is hereby asked to reject all bids for the Boat Ramp Restroom. Council is also asked to instruct Staff to re-bid the project.

3. Wong-Brown Encroachment License- (Dara MacDonald)
Resolution 2010-20

Section 3

The request is to pass a Resolution approving a License to Encroach Agreement with Casey Brown Investments, LLC for the existing building along G Street and along Third Street. The area of encroachment is shown on the attached exhibit and described in the legal description.

The applicant has applied for a subdivision exemption to rearrange some lot lines between the two properties at 139 W. Third Street and 305 G Street. It was from the survey that this encroachment was brought to our attention. The encroachment is only for the existing building. No new encroachment is proposed.

This encroachment request has been reviewed by the land use attorney and they have drafted the agreement.

Action:

Make a motion to pass RESOLUTION 2010-20 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, AUTHORIZING THE MAYOR TO SIGN A LICENSE TO ENCROACH AGREEMENT WITH CASEY BROWN INVESTMENTS, LLC

followed by a second and a roll call vote.

4. Agreement for Legal Services – (Jack Lewis)

Section 4

5. Proposed Recreation Fees (Theresa Casey)

Section 5

Resolution 2010-21 to set new fees and offer annual free schools out swim day
The Municipal Code calls for Council approval of rate changes and of wavier of fees.
For Council consideration are the following fee changes:

- o Add a 6 month pass: \$145 for a single, \$290 for a family, effective immediately.
- o Add a military discount: \$9.00, (same as senior fee), effective immediately.
- o Limit the life of the Budget Pass, currently 5 years, to one year from date of purchase and from 20 visits to 15 visits, effective June 1, 2010.(\$75, still \$5 per visit)
- o Offer an annual “FREE” school is out swim day, to follow the end of the regular school year, to stimulate summer activity and to celebrate the official start of the summer fun season.

RECOMMENDED MOTION:

Make a motion to pass RESOLUTION 2010- 21 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SALIDA, COLORADO, TO SET NEW FEES AND OFFER AN ANNUAL FREE SCHOOLS OUT SWIM DAY.

Followed by a second and voice vote.

**6. Chip Seal Settlement with PMS and Rocky Mountain Chip Seal
(Karp, Neu, Hanlon)**

Section 6

**7. Intergovernmental Agreement with Poncha Springs for the Transfer
of Sewer System (Karp, Neu, Hanlon)**

Section 7

DATE: March 31, 2010

The purpose of this Memo is to briefly outline the history of the ongoing dispute between the City of Salida (“Salida”) and the Town of Poncha Springs (“Poncha”) as it relates to the current 2004 Sewer Agreement by and between the parties and the proposed resolution of it.

In 2004 Salida and Poncha entered into the most recent of a series of agreements between them for Salida to provide sewage treatment services to Poncha. Shortly thereafter a dispute arose between the parties regarding the methodology of billing and the amounts that were due as a result. The parties tried to informally resolve the differences over the course of several years but were unable to do so. In January of 2009, Salida filed a complaint against Poncha in Chaffee County District Court making several claims including breach of contract, rescission and to have the contract found void *ab initio* as a result of it being volatile of TABOR. Poncha filed several counterclaims against Salida and the case moved forward during the first half of 2009.

The parties agreed to and the Court ordered that they participate in formal mediation. The parties engaged in two formal mediation sessions with retired Judge Leopold acting as the mediator. Those mediation sessions ultimately resulted in a Memorandum of Understanding which outlined the parameters of settling the dispute. That Memorandum of Understanding (“MOU”) was approved by both

Salida and Poncha governing bodies (a copy of which is attached hereto).

Since adoption of the MOU the parties have been working diligently to implement the provisions of the MOU which in substance provided for the transfer of the sewer system in Poncha to Salida. The KARP NEU HANLON, P.C.

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outgrowth of those continued negotiations are the two Intergovernmental Agreements (“IGA”) which are presented for your consideration and approval. The first IGA provides for the transfer of the sewer system to Salida and contains a variety of provisions which will be discussed below to implement that transfer. The second IGA is for the ongoing operations of the sewer system and the interaction between

Salida as the regional sewer provider and Poncha as a municipality served by the regional plant.

The highlights of the Transfer IGA are as follows:

1. The Poncha sewer system will be transferred along with its customers to Salida effective April 1, 2010. This assumes a first billing cycle at the end of April.
2. Customers in Poncha will be charged the same rates as in-city residents in Salida. This should result in a significant decrease in the current rates for Poncha residents as Poncha was charging additional amounts above and beyond the amounts being charged by Salida.
3. Salida will continue to have the flexibility to use special assessments as necessary within its service area to address specific problems that affect a portion of rate payers but do not affect or benefit all of the rate payers on the system.
4. Consistent with the MOU, Poncha is working to address areas of substantial groundwater infiltration on their system. They have limited the amount that they will expend from retained funds in their sewer enterprise to \$25,000.00. If additional repairs need to be made to the Poncha system, they will be financed via a special assessment.
5. Poncha will payoff the remaining debt it has outstanding which is secured by its Sewer Enterprise Fund.
6. Poncha will retain the balance of its Sewer Enterprise Fund less the amounts specified above

and any prepaid tap fees/sewer plant investment fees, including, but not limited to, prepaid sewer tap fees

for the Little River Ranch, which will be transferred to Salida on the Transfer Date.

The important points in the IGA for operations of the sewer system are as follows:

1. Poncha retains complete control over its land use planning process as a result of this IGA.

Salida is acting solely as a utility provider within the corporate boundaries of Poncha.

2. Salida will be responsible for billing and collecting from individual customers receiving service as well as collecting plant investment fees or other improvement fees which may be adopted from time to time.

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3. Residents in Poncha will become in-city (or rather in-region) rate payers and will be billed at the same rates as current Salida in-city customers are.

4. New development will be required to enter into inclusion agreements with Salida that address issues including design of infrastructure for the sewer system, incremental upgrades necessary to support the development, bypass water necessary to support the development, as well as the developer being responsible for costs of installing infrastructure.

The above two IGA's represent significant amount of work by both staff and the respective governing bodies. It ensures that Poncha residents will see rates commensurate with the services that they are receiving and will hopefully provide for necessary upgrades to their system as those become necessary. From Salida's perspective, these agreements put to bed a long-standing dispute but, more importantly, provide a road map for the regional sewer plant to provide the high quality waste water treatment that the residents have come to expect while preserving the water quality standards that are important both to Salida's drinking water as well as the regional recreation industry.

At this time, staff is recommending approval of the IGA's contingent upon the attachment of the Exhibits identified at the back of the IGA's which are currently being assembled by Poncha.

8. Intergovernmental Agreement with Poncha Springs for Provision of Sewer Services (Karp, Neu, Hanlon) Section 8

9. City Administrator/City Attorney/Deputy City Clerk Section 9

a. Administrator's Report – (Jack Lewis)

Recommendation for use of former Council Chambers/Annex and former City Hall

10. City Administrator/City Attorney/Deputy City Clerk-

a. Administrator's Report –

City Administrator Jack Lewis presented written information that is included in the packet for the record.

1. Keith Baker, Scott Damman and I met to review the properties the City vacated by moving to the new Touber Building. Those properties are the prior City Hall at 124 E Street, the Police/Council building at 123 E 3rd Street and the police annex building at 125 E 3rd street. The recommendation of the group is to allow the Fire Department to use the City Hall facility, and to winterize and secure the other two buildings and wait until the Salida real estate market improves. The group is also recommending not leasing the two buildings as that was seen in this current environment as competing too much with the private sector considering the abundance of office space currently on the market. Other factors the group considered are the possible use of these facilities for other activities that are currently located elsewhere and the possibility of trades for

properties the City may deem appropriate from time to time. The action I am looking for is whether or not the Council agrees with the recommendation. If not I am looking for specific direction regarding each property.

b. City Attorney Report – Karp, Neu, & Hanlon, PC

Cassia Furman noted that during this morning's workshop it was discussed to hold a work session to discuss formation of a Home Rule Commission and discuss the pro's and con's of Home Rule would be held April 7, 2010 at 8:30 a.m.. She was able to confirm with Attorney Hanlon that one of them would be available for that work session.

Council Member McCormick left at 6:40 p.m.

Attorney Furman stated they heard from Brad Redmiles, the Attorney from Poncha Springs this afternoon. There should be two agreements with Poncha Springs to discuss any final revisions during the Executive Session to be held on March 23. She said they hope to come out of Executive Session to approve the two agreements in the open session of the meeting. The first agreement addresses the transfer of the Poncha Springs sewer facility to Salida. The Second agreement is the operational agreement that details how Salida and Poncha Springs will work together in the future, more of the continuing relationship after we transfer these items.

c. Deputy City Clerk -

Deputy Clerk Martinez had nothing to report.

7. Elected Official Reports -

a. Treasurer

City Treasurer Rogers reported the City is down 5% from last year and the County is down 10%.

b. Mayor –

Chuck been doing a great job.

c. City Council-

ADJOURNMENT –

A motion was made by Damman to adjourn the meeting at 6:45 p.m. The motion was seconded by Moore. With all in consensus, THE MOTION CARRIED.

Mayor

[SEAL]

Deputy City Clerk

Respectfully submitted by Janela S. Martinez, Deputy City Clerk