



SPECIAL MEETING MINUTES OF THE CITY COUNCIL

City Council Chambers
448 East 1st Street, Room 190
City of Salida, Colorado

Tuesday, November 29, 2016 6:00 p.m.

I. SPECIAL MEETING CALLED TO ORDER –

II. PLEDGE OF ALLEGIANCE – Led by Mayor James LiVecchi

III. ROLL CALL

All Elected Officials were present with the exception of the City Clerk, Betty Schwitzer

IV. CITIZEN PARTICIPATION

Shawn Gillis of Salida stated that he has noticed there has been a transparency quest for the last couple years. Gillis stated that he is curious how the TABOR compliance issue came up. Gillis asked if the City Attorney came up with the idea to pursue the issue. He continued to state that if it was the action of council, it needs to come out. Gillis continued to state that with the hiring of the City Attorney he would like to bring back the issue of attorney fees paid by the City.

Alison Brown of Salida stated that she is a resident and a local business owner. Brown stated that there have been multiple legal opinion presented that indicate there is not a TABOR compliance issue. Brown stated that the compliance plan is forcing a fire sale of the property at an auction. She continued to state that the voters could choose whether to confirm the purchase or to agree with Council's direction with the compliance plan. Brown stated that it should not be decided by the City Council because it will impact the City for many years to come.

Monika stated that she has lived in the community for over forty years and has been a business owner. Griesenbeck stated that it is the City Council's duty to ensure that they are in compliance with the law. Griesenbeck stated there is an ongoing issue of what exactly the NRCDC is. She continued to state that if the NRCDC is a separate entity, then they should be paying property taxes. Griesenbeck stated that she felt statements made by the previous City Attorney may not have been true. Griesenbeck stated that the NRCDC operated in secret for the first 3 years and now the citizens are being told it is a part of the City.

Lauri Lau of Salida stated that she is very concerned because she is a neighbor. She stated that she has never seen that the citizens want to dump the NRCDC land. Lau stated that she is saddened to hear that there is a TABOR violation without much proof. She stated that a vote to fire sale an asset for no reason is in conflict with what the citizens of Salida want.

Louise Fish of Salida stated that she is pleading with the Council not to approve the compliance plan. Fish stated that there is not a violation and that many attorneys have stated the same thing. Fish stated that the Council has a fiduciary duty to make correct decisions. Fish asked when the plan to have a TABOR violation was hatched. Fish asked if the attorney was selected because they wanted to do this plan. Fish asked if there is a buyer for the land?

James Miller asked where the openness and transparency is on the issue. Miller stated that there are several opinions stating that there are no TABOR violations. He asked that the Council to issue a declaratory judgement. Miller stated that there is one opinion from a lawyer that he did not feel was experienced. Miller stated that the opinion of Mr. Kahn should be made public. Miller felt that the voters are being lied to.

Ron Mazzeo of Salida stated that he is shocked that some of the Council members have forgotten the platforms that they ran on. Mazzeo stated that there has not been a meeting for the Citizens and the Council to have a conversation. Mazzeo stated that the City has spent over \$40k and it is not very transparent. He stated that the Council has been forcing the issue and will eliminate the land for public use. He stated that the only power that the people have are the votes next November. He stated that it is time for the Council to listen to the Citizens and realize there is not an issue.

Ray Kitson stated that the Compliance Plan is a joke and did not feel there was very much opportunity for the Citizens to comment on the issue. Kitson stated that there has been a comprehensive plan from the beginning. He stated that the Council is ignoring the plan. Kitson stated that he felt there was a buyer lined up and the NRCDC makes money every month. He stated that the NRCDC is a conduit for the City to operate the land. Kitson stated that he hoped that they would not pass the resolution.

Tom Bomer of Salida stated that there was an article regarding letters that were written to High Country Bank. Bomer asked who directed the City Attorney to write the letters. He stated that the actions that will be taken by Council are based solely on the City Attorney's opinion. He stated that there is not a legal opinion and felt that the Mayor and Council decided what the end goal was and worked backwards.

Robin NeJame stated that she is speaking as a citizen and thanked the Council. She asked the Council to reconsider the position on the Vandaveer. She believed that the current lease allows the NRCDC to make money. NeJame asked at what public meeting did four council members come up with a statement. NeJame stated that there was an email that she felt was not an open meeting. NeJame stated that the Council needs to attend the NRCDC Meetings.

Berv Browdy of Chaffee County stated that he is puzzled about the idea that the City would indict, try and find itself guilty. He stated that he did not feel it makes sense. He stated that the property pays for itself and asked that there be an opportunity for dialogue with the community.

Jill Fudstrum stated that she agrees with the comments and was confused about the rush.

Ken Matthews of Salida stated that Phase 2 of the Compliance plan to immediately sell the US Forrest Service Building. He asked how the debt would be serviced if the building is sold. He stated that the plan states that if the NRCDC is unwilling, then the City will implement the compliance plan. He stated that there is not a way to enforce it. Matthews stated that the City would need to go to court. Matthews stated that there have been various opinions and stated that there needs to be an evaluation of the evidence. He asked that Granzella vote against it.

Vickie Klein read a letter that was sent to the City Council earlier in the afternoon that was in opposition of the City Council's position.

Merle Baranczyk thanked the Council for their service. He stated that the question of the compliance plan is whether or not the City had the authority to go into debt without the vote of the people. The question is whether the City exceeded its authority and can a municipality create a nonprofit to avoid the TABOR question.

Forrest Whitman stated that he was an elected official for fifteen years. He said the hardest thing is to sometimes put the egos aside and really find out what's going on. Whitman stated that it is not an ethical issue, but rather a legal issue.

Fred Klein of Salida stated that it annoys him to some degree that some people will complain and not offer solutions. He stated that time is a virtue in terms of real estate and there needs to be patience in a real estate transaction. Klein stated that it should be a vote of the people. He wanted the Council to take some time on the issue.

Phil Sasso of Salida stated that you buy low and sell high. He stated that he doesn't know how much will be lost in a fire sale of the property.

1. SNRCDC Compliance Plan (Steve Rabe)

Resolution 2016-88 regarding the Salida Natural Resource Center Development Corporation Compliance Plan

Kahn gave an introduction and provided background information regarding the SNRCDC Compliance Plan.

Granzella asked Kahn if it was recommended by the legal Counsel that a compliance plan be filed. Granzella asked if it is the recommendation of the City Attorney not to release confidential information. Kahn stated that all of the documentation would be privileged. Kahn stated that the governing body could choose to release the privileged document.

Brown motioned to approve Resolution 2016-88, a resolution of the City Council, City of Salida regarding the Salida Natural Resource Center Development Corporation Compliance Plan. Hallett seconded the motion.

Brown-Kovacic stated that she is committed to the Citizens in all aspects and did not want to breach her fiduciary responsibility. Brown-Kovacic stated that she felt there needed to be a declaratory judgement or something by a vote of the citizens of Salida. She urged the Council to consider another option by identifying what is not in compliance and bring those aspects into compliance. Brown-Kovacic stated that there are a number of issues and stated it creates a fire

sale that the Council is opposed to. There is a risk that there is a left over note that will need to be covered. Brown-Kovacic stated that the Council only has the authority to appoint and remove members and approve the sale of property. Brown-Kovacic stated that she would like an opinion that explicitly establishes a concise legal opinion.

Brown-Kovacic motioned amend the motion to continue the compliance plan until there is a written legal opinion from Legal Counsel to specifically identify what is in violation of TABOR. Rogers seconded the motion.

Rogers stated that the impact of the decision is huge. She asked if they want to keep the current culture or to sell the Vandaveer to the highest bidder to build more mansions.

Bowers stated that he saw the Vandaveer purchased illegally purchased, the water rates were raised as a result of that. The ownership was turned over to the NRCDC. Bowers stated that the AHRA deeds were going to be sold and he was opposed to that. Bowers stated that he felt the compliance plan was the right thing to do.

In a 4-3 roll call vote, the amendment to the initial motion failed. The dissenting votes were Bowers, Brown, Hallett and LiVecchi.

Granzella motioned to amend the final disposition date to be September 20, 2017 to allow for the opportunity of a ballot question at the November 2017 election to replace the NRCDC and to have the auction in November 20, 2016 if the question does not pass. Brown-Kovacic seconded the motion.

Brown stated that he felt the language in the Compliance Plan that allows for an extension would be adequate protection.

Rogers was in agreement with Granzella's motion.

Brown-Kovacic stated that it was a suggestion of DOLA to take the issue to the voters.

In a 4-3 roll call vote, the amendment to the initial motion failed. The dissenting votes were Bowers, Brown, Hallett and LiVecchi.

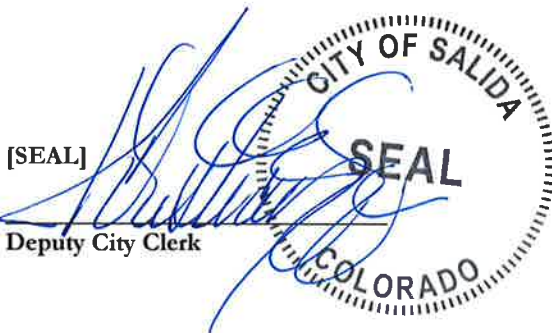
In a 4-3 roll call vote, the initial motion to approve Resolution 2016-88 was approved and THE MOTION CARRIED. Brown-Kovacic, Rogers, and Granzella had the dissenting votes.

Rogers stated that the initial document was 23 pages and has almost doubled.

There will be an item on the next City Council Agenda to consider the release of the Privileged and Confidential NRCDC document.

V. ADJOURN –

The meeting adjourned at 7:35 P.M.

[SEAL]

Deputy City Clerk

CITY OF SALIDA
SEAL
COLORADO


James LiVecchi, Mayor

