



MEETING OF THE CITY COUNCIL

City Council Chambers
448 East 1st Street, Room 190
City of Salida, Colorado
Tuesday, October 17, 2017 6:00 p.m.

The City Council may take action on any of the following agenda items as presented or modified prior to or during the meeting, and items necessary or convenient to effectuate the agenda items.

I. REGULAR MEETING CALLED TO ORDER

II. PLEDGE OF ALLEGIANCE – Led by Mayor Jim LiVecchi

III. ROLL CALL

All elected officials and staff were present.

Mayor LiVecchi introduced the new Deputy City Clerk, Lynda Travis.

IV. PRESENTATION

a) Salida Tree Board-Work Plan Presentation (Marilyn Moore)

Marilyn Moore submitted a 2017 budget with 4 goals attached: 1) to continue to address the backlog of tree removals and safety pruning, 2) to plant at least 18-20 city trees, 3) to treat American elms for scale insect, and 4) to install protection around younger trees.

Questions regarding the information presented were made by council member Brown-Kovacic and council member Bowers.

b) 2016 Audited Financial Statement Presentation (Dan Cudahy, McMahan & Associates)

Dan Cudahy addressed the City regarding the 2016 audit of financial statements. He stated the City will receive a clean opinion on its financial statements for 2016 except for the component unit (Salida Natural Resource Center Development Corporation) which broke off from the city in 2017; enough information was not available to support an opinion on the component unit but the rest of the City is doing fine according to Mr. Cudahy.

Other points made:

Significant difficulties were encountered in completing audit procedures do to incomplete accounting records. Additional procedures were performed obtain sufficient evidence to support an opinion on the City's financial statements.

No disagreements with management arose during the course of the audit.

A few significant deficiencies in internal controls were noted. There is insufficient segregation of duties with finance director's practice of signing checks and performing bank reconciliations. Recommendations were that bank reconciliations should be segregated from those handling receipts, disbursements and check signings, etc. and hiring an outside CPA firm to oversee the accounting function might provide long term stability, internal control and assistance with the auditing preparations. Outside CPA firms are being used with other clients and it has provided them stability especially during times of employee turnover.

Files containing agreements and schedules related to the City's debt were missing or incomplete. Debt schedules and capital asset schedules were two main items causing delays to the auditing process. City staff were unable to locate some loan agreements but these were eventually obtained from the previous auditors and lenders.

There is currently no procedure for reconciling detailed capital asset records to the general ledger on a regular basis.

Errors in the finance records were found by previous finance director, Jana (who was hired in 2016), who then corrected them. Errors were time consuming to go through but were corrected by Jana. Review of financial records also showed minimal errors after Jana's work and corrections were made properly.

Financial statements are preliminary and TABOR calculations are currently being reviewed by Attorney Mr. Dee Wisor. Tabor calculation is one of the most complicated Mr. Cudahy has seen due to the City's interaction between the 1993 election and the TABOR law. Some of the legal assumptions made in the calculation can change the amount of the TABOR liability significantly. This review process was anticipated to be done by tomorrow and a solid number should be available at that time. Until then Mr. Cudahy did not feel comfortable giving a concrete answer regarding the matter. Mr. Cudahy estimated that out of his company's 100 local clients, 98% are estimated to have debruced on the overall revenue limit.

City is in good financial position with over \$10M in available resources and a \$12M budget. Net position increased about a few hundred thousand dollars (subject to TABOR liability). City's net position increased during 2016 by about \$1.9 M and overall the City is in good shape financially. Cudahy then suggested that City could benefit from an outside CPA firm.

Mayor LiVecchi asked Mr. Cudahy to confirm that the City has two years to rectify the liability (if any found). Mr. Cudahy confirmed that to his knowledge that was correct. Mayor LiVecchi then asked if monies owed to the citizens could be refunded and/or put to a vote to determine where to divert funds. Mr. Cudahy suggested a temporary reduction in water and sewer fees (since the City does not collect property taxes) or to have an election regarding the disbursement of funds in another way.

Council member Brown-Kovacic then asked whether there could be some training for new accounting staff. Cudahy responded by again stating that an outside CPA firm would be a good option since his firm, McMahan & Associates, should not get involved at that level since they are supposed to be an independent entity. He said that an outside CPA firm would also provide flexibility for what services could be provided.

Cudahy then stated he would add some language to the reports about the legal assumptions. He stated that is subject to judicial interpretation and therefore statements would provide certainty regarding the numbers found in the calculation.

Council member Bowers asked when the errors found by Jana occurred. Cudahy stated that they occurred at the end of 2015 and into first half of 2016. Errors started occurring after Jan Schmidt left. Council members Bowers then asked if that information would be stated in the final report presented to council. Cudahy stated that it would not appear in the final report but would include the adjustments made by his firm which were the result of audit procedures.

Council member Brown said he wanted to know when a finished product would be brought to council for acceptance. Cudahy stated the TABOR calculation is the only outstanding part of the process and he recommended approving it at the next meeting.

V. CITIZEN PARTICIPATION – 3-minute time limit. *Citizen participation is for items not on the agenda and for agenda items that are not scheduled public hearings.*

Ms. Anne-Marie Holen of Salida expressed concern regarding the treatment of council member Eileen Rogers by Mayor LiVecchi. She also questioned why the story was not addressed in the Mountain Mail. She believed it may be due to deliberate suppression after discussing the matter with a previous Mountain Mail employee and believed the story may be based on fact.

Jim Miller of Salida discussed free speech as given to all through the Bill of Rights. He also discussed the lawsuits the City is involved with. He stated the powers that be have tried to label the lawsuits as frivolous but said there is nothing frivolous about elected officials lying to a citizen and therefore lying to the public. He stated the initial email that was denied being in existence is the basis for the lawsuit and was denied three times. He said lying occurred regarding the content of the second email also. In summary, Mr. Miller says the above stated are the core issues brought up by council member Eileen Rogers and that spending tax payer money on attorney fees without council approval is illegal. He concluded by saying the citizens of Salida, including himself, stand with council member Eileen Rogers and reminded her of her right to speak.

Irv Brody of Salida stated he does not want to add to the dissension that is hurting and dividing the citizens of the town. He said he believes majority of council has lost its ability to listen to the minority because of old grievances. And that the motive has been to prove wrong previous council members or administrators. He told the Mayor that he ran on transparency and fiscal responsibility but that somehow the Mayor has lost his way and has limited access of information to the public. He concluded by saying he disliked the Mayor's treatment of council member Rogers and suggested a mediator to help the new council solve problems.

Robin Nejame of Salida addressed the Mayor regarding his treatment of council members Eileen Rogers. She asked the council to allow Eileen Rogers to speak tonight and concluded by asking the council to be kind to one another.

Sally Kriebel of Salida said she "dittos" all that was said by her predecessors. She then addressed the Mayor and council regarding the treatment of Eileen Rogers at the last city council meeting. She said she was disappointed with fellow council members for not speaking up for Mrs. Rogers. She concluded by encouraging them to act more appropriately in the future.

Chuck Rose of Salida stated the entire council bears responsibility regarding the Mayor's behavior last week. He then asked the governing body whether he is being investigated.

Ken Matthews of Salida provided information regarding the upcoming election including rules for voter registration and the date of the upcoming election.

Shawn Gillis of Salida said he wanted to discuss what council member Eileen Rogers brought up at the last city council meeting regarding an investigation involving her and council member Brown-Kovacic. He asked the Mayor whether he had approved the investigation and whether council knew about it. He also encouraged transparency in all matters.

Sheree Beddingfield of Salida asked why the Mayor has delegated the appeal hearings process to city attorney. She expressed concern that navigating the process is not only difficult for citizens but for the Council as well. She said appeal hearings were not always conducted that way in the past. She then expressed concern that no public hearing was held and therefore no testimony given. She stated the hearing was an unnecessary expense to the City and was not in compliance with City code.

Jill Flodstrom of Salida expressed disappointment regarding disrespectful behavior towards Eileen Rogers by Council and the Mayor. She said the behavior has been very disappointing and she did not believe the citizens would receive an apology.

VI. SCHEDULED ITEMS

1. Consent Agenda (Larry Lorentzen)

- c) Approval of Agenda
- d) Approval of Meeting Minutes: September 19, 2017
- e) Approval of Meeting Minutes: October 3, 2017
- f) Salida Business Alliance-Request for Closure of streets
- g) Council Action Award Tennis/Pickleball Court, Phase II, Project 2017-019 – Theresa Casey
- h) Fee waiver request for Riverside Park- Andre Wilkins (Music Director for Salida High School)

The Mayor stated that he sent Council a memo over the weekend requesting that we move Item #6 (the elected official reports) to Item #2. He also stated, that for tonight's meeting, he would not be enforcing the Salida City Council meeting rules and procedures, Section J, which is a violation of Order of Decorum and he waived the 10-minute time limit on speaking as mandated by Robert's Rules of Order. He hoped to get his requests as a motion.

Brown asked if there was any other objection to the Consent Agenda that anyone wanted to bring forward. There were no objections.

Brown motioned "to combine Items C-H on the Consent Agenda with the changes to the agenda that would involve moving scheduled item #6 up to scheduled Item #2 and also waiving the rules of meeting procedure which were adopted by resolution of City council for the duration of the elected officials report for this meeting only and approve the agenda as modified."

Granzella seconded the motion. Mayor stated the motion was seconded and asked if there was any more discussion. Council member Brown-Kovacic asked what the purpose of the motion was. Mayor stated that the purpose was to address the issues involving Eileen Rogers early on, so the citizens would not have to wait for the duration of the meeting. Eileen Rogers then asked why this process was not implemented in all city meetings and whether the motion would cause a permanent change to the procedure. The Mayor said that council could do that in the future. Council member Brown then reminds the Mayor of the motion on the table, suggested voting on the motion and suggested discussing any permanent changes to procedure at a later meeting. Council member Brown then repeated the motion per council member Eileen Roger's request.

Mayor said we have a motion to second and asked if there was any more discussion. With all in favor, THE MOTION CARRIED.

2. Elected Official Reports_(Item #6 was moved to Item #2 per a motion)

- City Clerk – Betty Schwitzer
- City Treasurer – Theresa Cortese
- City Council – Michael Bowers, Hal Brown, Cheryl Brown-Kovacic, Rusty Granzella, Melodee Hallett and Eileen Rogers.
- Committee Reports
- Mayor – Jim LiVecchi

Discussion then began. Mayor addressed Mr. Rose and told him he is not being investigated. Mayor said he does read and code all billing statements from the city attorney (including accounts receivable and the matters report). He also stated he does not keep track of council members time spent with Mr. Kahn and does not have time to review the large amount of junk emails he receives.

He further stated that he has reviewed the data regarding the votes of the council. Based on his findings, he perceived the council as working well together and determined that they come to consensus in many matters. He also stated that council has received various training materials and believes council should adhere to them.

He then explained that he made the decision to silence Eileen Rogers due to him finding the statements slanderous towards him and towards the city attorney. He said he would have acted in the same manner had it been any other council member in the same or similar situation.

Regarding city attorney, Mr. Kahn, the Mayor confirmed he has made the decision to get him involved in some legal matters. He listed some examples of where Mr. Kahn's services were utilized and explained the reasons why. He further stated he believes some council members may have loyalties that are not in the best interest of the City. He stated this causes legal complications and more costs to the City.

He then addressed the "Scope of Work" issue. He said the policy was already established but that it was just consolidated into a document. He said his interest is for the council to return its focus on to City business. He then said he has responded accordingly to those he perceived to be out of order during the meetings and his intention is to have productive meetings.

Eileen Rogers said August city attorney invoices have some duplicate errors resulting in the overpayment of services. She requested to meet with the Mayor to resolve the issue. A time to meet was established. She then requested to meet with the Mayor to review the September Conundrum invoice report. A time to meet was established. She then discussed a CORA request she recently had fulfilled for Matter #272 & #313. She expressed concern that the information was marked "privileged and confidential attorney client communication and work product." She expressed concern that some bills are available publicly online yet the bills she requested are marked privileged. Mayor responded by saying the online statement became public because it was the result of a CORA request that someone had submitted. Mr. Rogers asked why her request was marked privileged since she followed the same procedure.

Mr. Granzella commented on last meeting. He expressed disappointment that Mrs. Rogers was not allowed to speak at the last meeting but said that his silence was more of a calming effort.

Brown-Kovacic commended the Fire department on a job well done with the Open House held the previous weekend. She then stated she was confused when she received the Mayor's request to amend the consent agenda. She further stated that she ran for council initially to assist with a "split" that she

perceived. She then stated she felt her comments, while on council, have been scrutinized. She stated she has made all comments in the best interest of the City. She said she feels the city attorney should fulfill the functions of giving legal advice and document preparation but that he should not set City policy or be involved in politics. A city attorney should be neutral in her opinion. She stated she was told she cannot speak with the city attorney without first getting permission. She then urged more discussion and common ground.

Hal Brown addressed comments made by Jim Miller and Sheree Beddingfield regarding legal fee spending and quasi-judicial hearings, respectively. He said both claims made were erroneous. He said the quasi-judicial hearing process is outlined in the Salida Municipal Code and that the only change that has been made is that the process is only now being followed. He then stated comments made by Eileen Rogers were not accurate and that various involved parties have expressed to her that her actions were not in the best interest of the City. He then listed several incidents by date that involved Mrs. Rogers. He supported his position on the matter by referencing various laws. He then addressed the City's legal costs that were previously mentioned by Eileen Rogers. He disagreed with her regarding the costs and provided his own financial interpretation. He said the City has been, or currently is, involved in several lawsuits with various parties he listed by name. He said that these lawsuits were the reason for the costs incurred.

Mike Bowers read a prepared statement and expressed his discontent with the lack of respect by many parties. He said his time while on council has been very difficult and he hopes that the behavior improves.

5-minute recess taken.

- 3. FEMA Flood Insurance Study –2nd Reading and Public Hearing (Larry Lorentzen)**
Ordinance 2017-22 Second Reading adopting new FEMA Flood Insurance Study effective December 7, 2017.

City Administrator, Larry Lorentzen, states that this is a public hearing and second reading for Ordinance 2017-22 which adopts FEMA Flood Insurance study. He stated that FEMA requires the City to adopt the ordinance by the effective date December 7, 2017 in order to remain eligible for its flood insurance program.

The study digitized current information on flood plains to Salida and no significant changes were noted to flood boundaries themselves. He stated staff would recommend, subject to the public hearing, to adopt the ordinance as it is written. He noted there are no changes to the ordinance since the first reading.

No citizens signed up for the public hearing.

Brown moved the council to adopt Ordinance 2017-22. The motion was seconded. With all in favor, THE MOTION CARRIED.

- 4. Suspension of Main Street Patio Program (Glen Van Nimwegen)**
Resolution 2017-62 - Extend suspension of the Main Street Patio Program.

Community development director, Glen Van Nimwegen, gave an introduction and provided some background information regarding the patio program. He stated that during the June 6 council meeting many concerns were raised by council who then advised staff to prepare a document that would allow for a break from taking new applications until staff had time to amend the code. On June 20 the policy was suspended by resolution with a time limit of 4 months to October 20, 2017. Since that time staff has

been working on a draft with the planning commission. It was prepared for public hearings and was presented to the city attorney. The attorney advised that sidewalk spaces should be addressed as well. The current resolution asks for an additional 4 months to February 20, 2017. During that time people will still be allowed to apply for a patio and to get it in place before May. He did not think finishing the project will take that long but felt that the additional time requested would be a good idea.

Granzella asked what the status is on 1st and F street. Mayor stated the project is a bit behind due to weather issues. Bowers asked if there is going to be an extension on the 1st and F street project and whether the shuttle service will continue. Glen said the shuttle will run through Sunday. Bowers asked Glen if he knew when the 1st and F street project would be finished because he wanted to factor that into his decision. Lorentzen said he did not know the status of the project.

Eileen Rogers made a motion to approve Resolution 2017-62. The motion was seconded. With all in favor, THE MOTION CARRIED.

5. Downtown Parking Study Grant (Glen Van Nimwegen)

Requesting the authorization for the Mayor to make an application to Department of Local Affairs (DOLA) for an Administrative Planning Grant for a downtown parking study.

Glen Van Nimwegen gave an introduction and provided background information. He told council he reviewed a 2015 citizen's survey asking what capital improvement projects the City should do. Downtown parking came in as #3. He stated he has been trying to get a better understanding of the potential issue before forming any opinions.

He requested an administrative planning grant with DOLA (that tops out at \$25,000) that would need to be matched by the City. He said the study would be an inventory of the demand (based on time of day & time of season) and would look at what locations may be having parking difficulties. He said the study would also include any recommendations. He estimated the study would end up costing \$70,000 and the City would need to put up \$45,000. He recommended waiting on starting the study next year and said his only request tonight is to allow the Mayor to submit a letter to DOLA.

He then explained to the Mayor how the study would be conducted. It would look at the City's two busiest times of year and each study would span over a two-week period.

Granzella stated he was initially against the study. But then asked if getting the study done with the grant would help with attaining future grants. Glen said it might prove helpful with larger grants in the future for the purchase of property or the construction of parking.

Melodee Hallett said her concerns were the same as Granzella's. She said that amount of money might be better used for parking in other ways.

Rogers suggested delaying the parking study due to the 1st and F street project. She also expressed concern that the 2-week time periods would not provide sufficient information regarding the parking situation. She suggested that a local long-term study might be more valuable. Glen responded that an RFP process is another way in which data could be collected.

Brown-Kovacic asked if there was an impending deadline for the grant. Glen said that administrative grants are available year-round. She further stated that her and Granzella have been working on the parking issue and they have identified some properties that might be used for parking. She suggested continuing the discussion so that her and Granzella can research the matter further.

Granzella asked if there was a deadline to use the grant by a specific time. Glen was not sure. Bowers then asked if there would be a penalty if they did not use the money. Glen said they would only have to return the money. Bowers then asked if abstaining from applying would adversely impact their ability to get future parking grants. Glen said it would not.

Brown-Kovacic motioned to push the deadline out four months. The motion was seconded. With all in favor, THE MOTION CARRIED.

6. Administrator/Deputy City Clerk

- City Administrator Report – Larry Lorentzen
Lorentzen informed council that he would be conducting interviews for the Finance Director position soon.
He also addressed an internal control issue found by the audit report. To rectify that issue he assigned himself and Chief Clark as the only designated check signers
- Deputy City Clerk – Lynda Travis

VII. NEW BUSINESS

Brown asked whether the next regular meeting should be cancelled since it is on municipal election night. Brown rescinded his request after the Mayor said he did not think moving it would be a good idea.

Bowers asked about the status of the Christmas lights and the City's heart. He asked if the City has any money to donate. Rogers suggested they first look in inventory. Brown-Kovacic said SBA is assisting with the fixtures but they are facing staffing issues since they previously relied on federal prisoners.

VIII. OLD BUSINESS

Granzella asked if there was any money available for the Tree Board. Lorentzen said he had already added her request into the draft budget. Granzella then asked why the draft budget did not have any money in the airport fund when in the past it did. Lorentzen said that was a mistake and he will correct it.

Rogers said City and Chaffee County need to submit a proposal to CDOT regarding the semi-trucks driving through Highway 291. Bowers gave some history regarding the matter and said the request had been denied in the past.

IX. ADJOURN

The Mayor motioned to adjourn. With all in favor, THE MOTION CARRIED.


Deputy City Clerk

[SEAL]

Mayor

