

STATE OF COLORADO
COUNTY OF HUERFANO
CITY OF WALSENBURG
City Council Regular Session Meeting
December 8th, 2011 6:15 p.m.

Mayor Quintana called the meeting to order at 6:35 p.m. The Pledge of Allegiance was recited at previous Budget Hearing Meeting. Council members present were: Silvana Lind, Gary Sporcich, Nick Vigil, James Moore, Mayor Pro Tem Lessar and Mayor Quintana. Others present included City Clerk Wanda Britt, City Attorney Daniel Hyatt, and Finance Director Dave Johnston. Absent from the meeting were Council members Rick Jennings, Dave Mockmore, Erin Jerant, Acting Administrator Beth Neece and Treasurer Jacque Sikes.

APPROVAL OF AGENDA

Mayor Pro Tem Lessar moved to approve Agenda, seconded by Council member Lind. Passed on a roll call vote of 6-0.

COMMENTS BY MAYOR

Mayor Quintana had no comment.

APPROVAL OF MINUTES

Council member Moore moved to approve the November 15th, 2011 Regular Council meeting minutes, seconded by Mayor Pro Tem Lessar. Passed on a roll call vote of 6-0.

Committee Reports

Finance Committee Report-Mayor Pro Tem Lessar stated the committee discussed the budget, and had the budget hearing. There was potential for a north side pasture bid, which is on the agenda.

CML Committee-Council member Lind highlighted the report given to Council on Colorado Municipal League Policy meeting from October 2011. Council member Lind attended another meeting today; the budget director for the State of Colorado gave a presentation to the CML committee.

Citizens Forum

No Citizens Report.

Administrator's Report-Acting Administrator Beth Neece not in attendance.

Finance Director Dave Johnston stated Acting Administrator Beth Neece wanted to remind City Council members they were invited to the employee's luncheon on December 16th, 2011 from 12:00-1:00 p.m.

Police Chief Report-Lt. Liebschen gave report; he stated Chief Chamberlain was under the weather this week. Lt. Liebschen stated there have been quite a few burglaries in the residential and commercial properties in the city. He recommends that citizens write down serial numbers of their items, so that when they are recovered the items can be

returned to their rightful owners in a faster manner. Council member Moore asked if the burglaries were targeting specific items or just a random grab what you can get. Lt. Liebschen stated in the two instances, he thought they were acts of desperation. He stated the statistics were on the City Clerk's desk, and copies would be handed out to Council members through their mailboxes. Lt. Liebschen stated Chief Chamberlain wanted him to make a comment if the employee gift cards are for the \$25.00 amount Chief Chamberlain, Officer Hornsby and himself would like the \$75.00 split between the rest of the police department and the secretary.

Unfinished Business- Ordinance Number 1006-AN ORDINANCE AUTHORIZING AND RATIFYING THE TRANSFER OF MONIES AMONG VARIOUS FUNDS-

Council member Moore introduced Ordinance Number 1006 for the second reading, Mayor Pro Tem Lessar moved to approve, seconded by Council member Moore and Council member Vigil. Passed on a roll call vote of 6-0.

ORDINANCE NUMBER 1006

AN ORDINANCE AUTHORIZING AND RATIFYING THE TRANSFER OF MONIES AMONG VARIOUS FUNDS

WHEREAS, over the years of 2008 and 2009 various informal transfers occurred between and among the various funds of the city of Walsenburg; and

WHEREAS, it is necessary to formally approve and ratify the transfers in order to provide for the proper accounting of said funds.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WALSENBURG AS FOLLOWS

1. The transfers of funds set forth below are hereby ratified, approved and authorized.
2. Transfers ratified, approved and authorized:
 - a. \$ 618,329.05 from the Gas fund to the General fund.
 - b. \$ 160,000.00 from the Gas fund to the General fund.
 - c. \$ 225,883.22 from the Capital Improvements fund to the General fund.
 - d. \$ 362,929.50 from the Water-Sewer fund to the General fund.
3. Conflicts. All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed or amended to the extent necessary to conform with this ordinance.
4. Severability. If any section, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by a decision of any Court, such decision shall not affect the validity of the remaining portions of this ordinance.
5. Emergency Clause. The City Council of the city of Walsenburg finds that this ordinance is necessary for the immediate preservation of the public health and safety in order to conform with audit requirements prior to the end of fiscal 2011.

PASSED on the first reading and ordered published the 1st day of November, 2011.

ADOPTED and approved the 8th day of December, 2011.

CITY OF WALSENBURG

DATED this 8th day of December, 2011.

By _____
Bruce Quintana, Mayor

ATTEST:

City Clerk / Deputy Clerk

Ordinance Number 1007-AN ORDINANCE PROVIDING FOR THE COMMENCEMENT OF CITY ELECTED OFFICIALS -Mayor Pro Tem Lessar introduced Ordinance Number 1007 for the second reading. Council member Moore moved to approve with the change of “TERMS” added to the end of the title, seconded by Council member Lind. Passed on a roll call vote of 6-0.

ORDINANCE NO. 1007

AN ORDINANCE PROVIDING FOR THE COMMENCEMENT OF CITY ELECTED OFFICIALS TERMS

WHEREAS, Colorado Revised Statutes section 31-4-105 (2011) provides that a municipality’s governing body may opt by resolution or ordinance to commence the terms of its elected officers on the first Monday after the first Tuesday in January following their election; and

WHEREAS, the city council previously decided to exercise this option by resolution; and

WHEREAS, at the time the option was elected each council member was elected for a two year term; and

WHEREAS, council members are now elected for four year with only half of the council members ordinarily standing for election every two years thereby providing greater institutional memory during the budget cycle; and

WHEREAS, the city council now determines that it is in the best interest of the city of Walsenburg that term of office of each elected official for the city of Walsenburg

commence at the first meeting of the governing body following the survey of election returns as set forth in Colorado Revised Statutes section 31-4-105 (2011).

NOW THEREFORE, BE IT ORDAINED BY THE CITY OF WALSENBURG CITY COUNCIL AS FOLLOWS:

1. Each city elected official's term of office shall commence at the first meeting of the governing body following the survey of election returns following the conclusion of old business.
2. Ordinance effective date. This ordinance shall be effective commencing January 10, 2012.
3. Conflicts. All ordinances and resolutions or parts of ordinances and resolutions in conflict with this ordinance are hereby repealed or amended to the extent necessary to conform with this ordinance.
4. Severability. Should any section, clause or provision of this ordinance be declared to be invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance as a whole, or any part thereof, other than the part declared to be invalid.

PASSED on the first reading and ordered published the 15th day of November, 2011.

ADOPTED and approved the 8th day of December, 2011.

City of WALSENBURG

DATED this 8th day of December, 2011.

By _____

Bruce Quintana, Mayor

ATTEST:

City Clerk / Deputy Clerk

New Business

Agreement with Moltz Construction-Finance Director Dave Johnston stated the City of Walsenburg had a credit of \$8,709.00, the total cost for the work described is \$11,701.00; exceeding the credit by \$3,082.00, Moltz Construction will forego the extra

cost and do the work for the credit the City of Walsenburg has with them, and will get the city to the certificate of occupancy standpoint and deal with the punch list separately. He stated that is why the retainage of \$125,000 was moved into the 2012 budget. Mayor Pro Tem Lessar asked how much the punch list would cost. Finance Director Dave Johnston stated the HVAC system was a problem for the contractor not the City's and Moltz would like their retainer so they are working diligently to complete the project. Finance Director Dave Johnston stated he would find out what the punch list consists of and will get back to Council. Mayor Quintana stated this agreement would resolve the issue for the certificate of occupancy. Council member Vigil moved to approve the agreement with Moltz Construction with the Mayor authorized to sign, seconded by Council member Sporcich. Passed on a roll call vote of 6-0.

Century Link Line Volume Plan Contract 2011-Finance Director Dave Johnston went over the contract and price per lines the city is paying. Mayor Quintana asked if the set rate for the 3 year contract would vary from year to year. City Attorney Dan Hyatt stated he went over the contract and did not see anything legally objectionable in the contract. Mayor Pro Tem Lessar moved to approve the 36 month contract with the Mayor authorized to sign the contract, seconded by Council member Moore. Passed on a roll call vote of 6-0.

North Side Pasture-Mayor Pro Tem Lessar made a motion to decline any bids for the North Side Pasture to allow the pasture to replenish itself, seconded by Council member Vigil. Passed on a roll call vote of 6-0.

Della Duran d/b/a Up Town Liquors-Liquor License Renewal-Mayor Pro Tem Lessar moved to approve, seconded by Council members Sporcich and Vigil. Passed on a roll call vote of 6-0.

Frederick T. and Ronald R. Eccher d/b/a Crown Lanes Renewal of Liquor License-Council member Vigil moved to approve, seconded by Council member Moore. Passed on a roll call vote of 6-0.

Gift Cards for Employees-Mayor Quintana stated the Council had discussed the gift cards in the finance committee meeting and asked if Council had any comments. Council member Vigil moved to approve a \$50.00 gift card to all the City employees, seconded by Council member Lind. Passed on a roll call vote of 6-0. Mayor Pro Tem Lessar stated he would have rather seen the \$25.00 gift cards, because of the financial state the city is in, not because the employees don't deserve them.

Employee Holiday Luncheon - The City Council authorizes the funding for the Employee Holiday Party to be taken out of the Hospitality or donations fund and closing the City Offices for 1 hour on December 16th, 2011 from 12-1:00 p.m.-Council member Moore moved to approve, seconded by Council member Vigil. Passed on a roll call vote of 6-0.

Resolution 2011 R-28-A RESOLUTION PROVIDING FOR THE APPROPRIATIONS OF FUNDS FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2012- Mayor Pro Tem Lessar and Council member Vigil moved to approve with recommended changes to Section 1, seconded by Council member Moore. Passed on a roll call vote of 6-0.

RESOLUTION 2011 R-28

A RESOLUTION PROVIDING FOR THE APPROPRIATIONS OF FUNDS FOR THE CALENDAR YEAR BEGINNING JANUARY 1, 2012

WHEREAS, it is necessary to appropriate revenues and unappropriated fund balances to provide for the operations of the City of Walsenburg during calendar year 2012.

NOW THEREFORE, BE IT RESOLVED THAT:

SECTION 1

There is hereby appropriated out of the revenues and unappropriated fund balances of the City of Walsenburg, Colorado for the calendar year beginning January 1, 2012, the following several amounts necessary to defray the expenses and meet the liability of the City of Walsenburg, Colorado, for the calendar year 2012.

GENERAL FUND	\$ 1,545,690
GAS FUND	\$ 1,656,203
WATER FUND	\$ 1,018,580
SEWER FUND	\$ 1,057,310
FIRE PENSION FUND	\$ 4,500
CONSERVATION TRUST FUND	\$ 28,550
CAPITAL IMPROVEMENT FUNDS	\$ 590,900
“OLD-HIRE” PENSION FUND	\$ 3,050
WATER PARK FUND	\$ 110,620
STREET IMPROVEMENT FUND	\$ 1,011,160
DOWNTOWN DEVELOPMENT FUND	\$ 4,535
TOTAL	\$ 7,031,098

ADOPTED AND APPROVED this 8th day of December 2011.

CITY OF WALSENBURG

Bruce Quintana, Mayor

ATTEST:

Wanda Britt, City Clerk

SEAL

Resolution 2011 R-29-A RESOLUTION TO ADOPT 2012 BUDGET-Mayor Pro Tem Lessar moved to approve, seconded by Council member Lind and Sporcich. Passed on a roll call vote of 6-0.

RESOLUTION 2011 R-29

RESOLUTION TO ADOPT 2012 BUDGET

WHEREAS, under Colorado law the city council of the city of Walsenburg, Colorado must adopt a budget of expenditures and revenues for fiscal year 2012; and

WHEREAS, the estimated 2012 income, in each fund together with appropriations from the various fund balances is sufficient in amount to cover the 2012 budgeted expenses.

NOW, THEREFORE, BE IT RESOLVED, by the city council of the city of Walsenburg as follows:

1. That the budget for fiscal year 2012 attached hereto, marked as Exhibit A, and fully incorporated in this resolution as though fully set forth herein is adopted for the city of Walsenburg, Colorado.
2. The total revenues and total expenses in the various funds contained within the budget are:

TOTAL REVENUE	\$ 7,031,098
TOTAL EXPENSE	\$ 7,031,098

Adopted this 8th day of December 2011.

CITY OF WALSENBURG

Bruce Quintana, Mayor

ATTEST:

Wanda Britt, City Clerk

SEAL

Resolution 2011 R-30-A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2012 TO DEFRAY THE COSTS OF GOVERNMENT FOR THE CITY OF WALSENBURG, COLORADO, FOR THE 2012 BUDGET YEAR, AND FOR THE MILL LEVY ON EACH DOLLAR'S WORTH OF PROPERTY AS PER THE ASSESSED VALUE THEREON, AS SHOWN BY THE ASSESSOR OF HUERFANO COUNTY FOR THE YEAR 2011, AS FIXED BY THE BOARD OF EQUALIZATION-Council member Vigil moved to approve, seconded by Council member Moore. Passed on a roll call vote of 6-0.

RESOLUTION 2011 R-30

A RESOLUTION LEVYING GENERAL PROPERTY TAXES FOR THE YEAR 2012 TO DEFRAY THE COSTS OF GOVERNMENT FOR THE CITY OF WALSENBURG, COLORADO, FOR THE 2012 BUDGET YEAR, AND FOR THE MILL LEVY ON EACH DOLLAR'S WORTH OF PROPERTY AS PER THE ASSESSED VALUE THEREON, AS SHOWN BY THE ASSESSOR OF HUERFANO COUNTY FOR THE YEAR 2011, AS FIXED BY THE BOARD OF EQUALIZATION.

WHEREAS, the City Council of the City of Walsenburg adopted its annual budget pursuant to local government budget law on December 8, 2011; and

WHEREAS, the amount of money necessary to balance the budget for general operating expenses is \$ 1,545,690; and

WHEREAS, the 2011 valuation for assessment for the city of Walsenburg, as certified by the County Assessor is \$ 27,537,033.

NOW, THEREFORE, BE IT RESOLVED by the city council of the city of Walsenburg, Colorado:

SECTION 1

There is hereby levied upon each dollar's worth of property within the city limits of the City of Walsenburg for the purpose of defraying the necessary expenses and paying all legal obligations of said City for the calendar year beginning January 1, 2012, a tax of 11.756 mills on each dollar's worth of property according to the assessed value thereon as shown by the valuation for assessment as certified by the Huerfano County Assessor for the year 2011 as fixed by the Board of Equalization.

SECTION 2

There is hereby approved a temporary mill levy rate reduction of 2.000 mills for the calendar year beginning January 1, 2012 for the purpose of effecting a refund of property tax in accord with section 20 of article X of the state constitution as provided for under C.R.S. section 39-1-111.5(1) (2011). This temporary mill levy rate reduction shall

Resolution 2011 R-31-A RESOLUTION EXTENDING THE CITY OF WALSENBURG'S MORATORIUM PROHIBITING THE SALE OR GROWTH OF MEDICAL MARIJUANA, THE ACCEPTANCE OF APPLICATIONS OR ISSUANCE OF MEDICAL MARIJUANA LICENSES- Council member Vigil stated he thought they were just talking about dispensaries. City Attorney Dan Hyatt stated until there is a motion, discussion can not be conducted. Mayor Pro Tem Lessar moved to approve, there was no second from any member of Council. City Attorney Dan Hyatt stated if there is no "second" there is no resolution.

For informational purposes only, he stated the reason it is worded the way it is the statute states the City has the power to prohibit the sales authorized by statute; it does not interfere with those transactions that are authorized under the constitution. There is a big difference between the two. For example if you are a permitted user of medical marijuana, you can grow your own marijuana pursuant to the Colorado Constitution and you can authorize a provider to grow that marijuana and purchase that marijuana from a provider who is not operating a public dispensary. But under the statutes there is a provision allowing public sale to those who have permits through a dispensary or medical marijuana center and the growth of medical marijuana and the ability to produce manufactured products, such as cake products, those are statutory rights those are the only ones the City can prohibit, you can not do anything about the things that are authorized by constitution. He was asked to prepare a resolution that would extend the moratorium for the legal length of time which is up until June 30th, 2012, the only thing Council would have done if it was taken up, would be to prevent someone from transferring a license into the jurisdiction, which could occur since Council did not adopt the resolution.

City Attorney Dan Hyatt stated Council has until June 30th, 2012 to adopt an ordinance to control medical marijuana in its jurisdiction, if Council chooses not to do so and July 1st, 2012 arrives then under the current law the City will not have the ability to pass an ordinance, and the City will have to comply with State law without any input into it. He recommends sometime in the future Council instruct him to prepare a resolution for that purpose. Council member Moore stated City Council would like to have some management of the circumstances and a little tighter control than what the State allows, and thought it would be in the city's interest to have the City Attorney to review the last draft and bring it current and Council will review it. Mayor Quintana stated it behoove the City to have local control.

MAYOR'S CLOSING COMMENTS

Mayor Quintana had no comment.

CITY COUNCIL CLOSING COMMENTS

No Comments.

Adjournment

City Council meeting adjourned at 7:30 p.m.

CITY OF WALSENBURG

ATTEST:

Bruce Quintana,
Mayor

Wanda A. Britt,
City Clerk

The preceding minutes were prepared according to §47 of Robert's Rules of Order, i.e. they contain a record of what was *done* at the meeting, not what was *said* by the members. Tape recordings of the meeting are available for 6 months thereafter only for listening in the City Clerk's Office as well as copies of Ordinances and Resolutions.