

STATE OF COLORADO
COUNTY OF HUERFANO
CITY OF WALSENBURG
Regular Session Meeting
January 5, 2010 6:00 p.m.

Mayor Sheldon called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited. Council members present were: Larry Patrick, Edie Flanagin, Susan Blake, Bruce Quintana, David Mockmore, Erin Jerant, James England, and James Moore. Others present were City Administrator Alan Hein, Assistant Administrator Beth Neece, City Attorney Dan Hyatt, Deputy City Clerk/Treasurer Lori Sheldon, City Council Elect Silvana Lind, City Council Elect Craig Lessar, and City Council Elect Nick Vigil, and Judge James Lusero.

APPROVAL OF MINUTES

Mayor Sheldon asked for a motion to accept the minutes from the December 15th Regular City Council meeting. Larry Patrick asked for a correction on the vote tally for the compressed work week from 5-0 to 5-4. Edie Flanagin made the motion, seconded by Susan Blake, that the minutes from the November 17th Regular City Council meeting be accepted as corrected. Motion carried on a Roll Call vote of 9-0.

Committee Reports

Finance Committee Chairman Larry Patrick reported that the committee met in regular session on Monday night with 6 Council members present along with the 3 new incoming council members. Also present were Assistant Administrator Beth Neece, Mike and Nancy Lave, and representatives from the Signature and World newspapers. Discussion was held on the bids for the legal advertising contract. All 3 newspapers submitted bids. Renee Rinehart of the Signature brought up whether the Huerfano Journal had published their legal status and the benefit she saw to her newspaper's column size. Questions were posed as to why the World offered free publishing of legals to the County but not the City. The reporter from the World does not handle those matters so no answer was available. Mr. Patrick asked Beth Neece whether she had checked on the legal ramifications of the Journal. Ms. Neece replied that she had talked to Dan Hyatt and he recommended that she call the Colorado Press Association. They don't have a problem with any of our 3 newspapers but suggested that we contact the Postmaster because it's an issue between the Postmaster and the paper and he also doesn't have any problem with any of our newspapers. Brian Orr from the Journal stated that he had also spoken with the Postmaster and that he had volunteered to write a letter saying that the Journal is a legal publication in the Post Office's eyes. Discussion was also held on the intergovernmental agreement draft from the County to the City for consideration of taking over management of the Walsenburg law enforcement. Concern was expressed by several Council members that there was insufficient financial data given out, by both the City and the County and that putting forth an agreement was premature considering that the main reason for the discussion was financial savings. The Finance Committee recommends that both the City and County give more detailed information about costs and savings. A meeting with the County, scheduled for next week, has been postponed to give both sides more time to deliver the financial information needed. Mike Sheldon gave the Committee a rundown of 2 proposals on helping Council to go paperless with agenda items in their booklets for each meeting.

The overall costs would be in the neighborhood of \$3,000 - \$5,000 depending on which proposal was favored if any. The cost of providing the agenda items in paper for would be \$150 - \$300 each year. Mr. Sheldon noted that he could give council members access to information that was secure without going to the full computer route thus giving options to those with or without laptop computers. The consensus seemed to be that the idea has merit but the cost is still questionable in light of our financial situation. However, going forth with access in various ways at no cost on council members' personal laptops who wish to do so may be a short-gap move until the City's finances make this more viable. Allowing Dawson Geophysical an opportunity to do testing on the Kincaid Ranch for natural gas was discussed and the process and safety of it was questioned. The item is on the agenda for later in the meeting.

Parks and Recreation Committee Chairman Bruce Quintana had no report.

Safety Committee Chairman Erin Jerant had no report but will be getting with Beth to schedule a meeting.

Public Resources Committee Chairman Edie Flanagan had no report.

CITIZEN FORUM

No citizens signed in to speak.

REPORTS

Administrator Alan Hein reported on the following:

New Grocery Store: He's been in contact with the developers and it's still moving along. There was a meeting with CDOT in discussion of the entryway and the finalization of the design and documents needed to get that accomplished. The cost on that is quite high. We're in the process of trying to work out some details and maybe working with them to help them get this accomplished.

Martin Lake Valve Replacement: Still waiting on the State approval for the design. He hasn't heard anything but hope to in the next week or so.

Wastewater Treatment Plant Status: He talked with the engineers this afternoon and we're getting ready to go back and see what we can do to resolve some of the issues we have with design and funding on that project.

Handicap Ramp Program: We still have to put together a summary. He's still in the process of researching that and has no information at this time.

Raw Water Status: PER is completed and turned back in but not much else to report on that.

Mayor Sheldon said that she talked to Hugh Brown (the developer for the grocery store) and he told her that they feels that the cost for the turn lane (entryway) is prohibitive if we can't figure out how to get the costs down. She place a call to CDOT because she thinks there is a way to work it out. Alan replied that he thinks that the City can be a big help to them, we can do a lot of the excavation and help them out quite a bit. He's been in contact with Mr. Brown and they've discussed that. We'll do whatever we possibly can to get that accomplished.

Chief of Police Chief Baldonado was not available so no report was given.

Unfinished Business

Councilman Flanagin introduced Ordinance 991 for the 2nd reading:

AN ORDINANCE AMENDING THE WALSENBURG MUNICIPAL CODE CHAPTER 6, ARTICLE 5 AND ORDINANCE NUMBER 990 REGARDING BUILDING TRADES IN THEIR ENTIRETY

WHEREAS, the City of Walsenburg entered into an intergovernmental agreement allowing the Regional Building Authority to issue building trade licenses; and

WHEREAS, it is necessary to amend previously existing ordinances to provide for the change of licensing authority; and

WHEREAS, the City Council of the City of Walsenburg determines and finds that it is in the best interest of the public necessity, health, safety and general welfare to regulate building trades inside the municipal limits of the City of Walsenburg; and

WHEREAS, the City Council has authority pursuant to C.R.S. § 31-15-501(1)(c) to license, regulate, and tax any lawful occupation.

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

- a. Municipal Code Chapter 6, article 5 and ordinance number 990 regarding building trades are hereby amended in their entirety as follows.
- b. Definitions.
 - a. The term “Building Trade” in this Article shall mean engaging in any concrete work on a property or any form of construction work or service to create, improve, repair, remodel, or upgrade a structure or any part of a structure for which work or service the state of Colorado does not issue a license.
 - b. The term “Contractor” in this Article 5 shall mean a person, corporation, limited liability company or unincorporated association engaged in a building trade as an independent contractor for another person, corporation, limited liability company or unincorporated association. A homeowner as defined herein is not a contractor.
 - c. The term “Homeowner” in this Article 5 shall mean a natural person personally engaged in any form of building trade on property owned by that homeowner.
- c. All contractors shall
 - a. present adequate proof of a minimum of one-million dollars of liability insurance to the city building inspector or designee prior to the issuance of a building permit, and
 - b. present adequate proof of a workers’ compensation insurance policy where the contractor employs or intends to employ others for the services being provided.
 - c. The liability insurance and workers’ compensation insurance shall remain in full force and effect from the time the building permit is issued until all work has been completed on the project for which the building permit was issued.
- d. Homeowners who employ or intend to employ a person to assist the homeowner with work the homeowner is personally performing shall provide adequate proof of a homeowner’s policy for the

property upon which the work will occur or a workers' compensation insurance policy to the building inspector or designee prior to the issuance of a building permit. The policy shall continue in full force and effect from the date of issuance of the building permit until all work has been completed on the project for which the building permit was issued.

- e. It is unlawful for any contractor to perform a building trade within the municipal limits of the city of Walsenburg without a building trade license for the work being performed issued by the Regional Building Authority or the state of Colorado. Each day said work is performed without a building trade license shall be a separate offense.
- f. Penalty. Whoever violates any provision of this ordinance shall be punished by a fine of not less than two hundred dollars (\$200.00) or more than three-hundred dollars (\$300.00) for each offense.
- g. Severability. Where any phrase, clause or section of this ordinance is held to be unenforceable or unconstitutional for any reason by a competent court, such decision shall not affect the validity or enforceability of the remaining portions of this ordinance.
- h. Repealer. All ordinances previously adopted are hereby repealed or amended to the extent necessary to conform to this ordinance.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this _____ DAY OF DECEMBER 2009.

PASSED ON SECOND READING, ADOPTED AND ORDERED PUBLISHED BY TITLE this _____ day of _____, 20__.

CITY OF WALSENBURG

ATTEST:

Edith T. Sheldon, Mayor

Loretta Sheldon,
Deputy City Clerk

Eddie Flanagan made the motion, seconded by Susan Blake, to accept Ordinance 991 and authorize the Mayor to sign it and order that it be published in its entirety. Motion passed on a roll call vote of 9-0.

Councilman England asked that Dan Hyatt read the bids for the publication of legal notices. Mr. Hyatt read the first bid from the Huerfano World which was \$0.06 for the first line and \$0.06 for each additional line. They increased the size of the type to 8 point for which they would charge \$0.08 per line. The other bids were substantially higher – one from the Huerfano Journal was \$0.11 per line and the bid from the Signature was \$0.20 per line. The optional line length/type size bid was increased by 1/3 for each (length and size) but the price stayed at \$0.20. Councilman Jerant asked if the first bid was from a paper that is locally owned and operated. Bill Knowles from the Huerfano County World replied that the new owner – Dale Bean - is a local resident. James England made the motion, seconded by Erin Jerant, that bid from the Huerfano County World, being the low bid, to be the official publication site for legal notices for the City of Walsenburg for a period beginning today and ending December 31, 2010 be accepted. Motion passed on a roll call vote of 5-1 with the no vote being from Susan Blake and 3 abstentions from Edie Flanagan, Larry Patrick, and Edi Sheldon.

Finally, Mayor Sheldon expressed her sincere appreciation to Larry Patrick and Edie Flanagan and Susan Blake as out-going Council members. They were presented with clocks as thanks for their years of service. She also awarded certificates to those who will remain and thanked them for their service and dedication.

Mayor Sheldon then adjourned this portion of the meeting.

New Business

The new Council members were sworn in by Judge Lusero and, after a brief recess, took their seats on the dais.

The first order of business was the re-appointment of the City Attorney. A motion was made by Dave Mockmore, seconded by James England, to re-appoint Dan Hyatt as the City Attorney. Motion passed on a roll call vote of 8-0.

James England made a motion, seconded by James Moore to re-appoint James Lusero as the Municipal Judge. Motion passed on a roll call vote of 9-0.

Next was the appointment of a Council Person to fill the vacant seat in Ward 2. James Moore made a motion that the application of Larry Patrick as the candidate for the Ward 2 seat open for the City of Walsenburg be accepted. Councilman Moore stated that Mr. Patrick has established a very strong track record of dedication to the City and that he has a great deal of experience that very few candidates would ever be able to contribute to the City and our Council. He believes that Mr. Patrick would be the best candidate across the board and we're very lucky to have the opportunity to bring more experience back into the Council at this particular time. Mayor Quintana was unsure how to proceed as there was a motion made with no other discussion. Mr. Hyatt clarified that what Councilman Moore had said was actually a nomination, not a motion. Councilman Jerant asked for clarification on whether filling a vacant seat is a job for the old council or the new council. Mr. Hyatt replied that by default it is the job of the new council. Larry Patrick stated that there was a precedent – two years ago Mr. Moore and Mr. Taylor were considered advertised by the old council. Edie Flanagan also came forth based on advertising. Mayor Quintana admonished Mr. Patrick saying that proper etiquette is to have Council discussion on the subject and then comments from others. Mr. Hyatt then clarified that it is immaterial which council advertised the position. Councilman England stated that it was his understanding that the new council would have been the one to advertise and that staff's due diligence to get things done in a timely manner kind of cut it off at the pass. Mr. Hyatt then stated that the vacancy actually occurs when the election occurs because then you do not have a candidate. The statute states that you have 60 days in which to fill the vacancy. Mayor Quintana replied that he thought the vacancy occurred once the new council was seated. Mr. Hyatt again stated that he thinks the vacancy occurs at the time of the election because then there's no candidate. You can interpret it either way. He then said that they could always re-advertise if they wanted to. Mayor Quintana stated that a tokenary re-advertisement by the new council probably would be prudent. Councilman England stated that he would be worried about the statutory implications of doing that. If it's 60 days from the election that would have made it 2 days ago. Mr. Hyatt replied asking, what is the penalty if you don't appoint

within 60 days? The penalty is that you have to hold an election. The problem with that is, if you couldn't get a candidate to run in the first election then the deadline is really immaterial. He doesn't think we need to worry about that aspect of it. Councilman Moore restated that the City can use the experience that this candidate already has. Four years on the City Council is a great asset to the City Council as well as to the citizens of Walsenburg. Councilman Jerant then stated that we currently have more candidates with experience on City Council than new candidates. We already have massive experience. Councilman Moore said that we can use the additional experience, it's a great asset and there's no logical reason to step aside from the opportunity because we haven't had anyone (else) who's even expressed interest. He then asked when we advertised. Beth Neece replied that she believed that it was 4 weeks and that we started right after the election when we knew there would be a vacancy. Mr. Moore pointed out that we have spent money on advertising, we would be looking at spending additional money and we already have a candidate who has a track record with a great deal of experience and the dedication. He doesn't know what kind of reason anyone would have to overlook the opportunity. It would be a disservice to the City when you have someone with that level of competence that you don't, up front, accept. Mayor Quintana then stated that Mr. Moore is pushing Mr. Patrick pretty hard. He said that Mr. Patrick has said things in public. He's made comments about a portion of our public. He stated that didn't want to go into this but Mr. Patrick has made comments about poor people. If you're going to have a Council person serving on this Council he has to serve everybody in the City of Walsenburg, not affluent, not middle class, not poor but everybody and to make a statement like that says something. Councilman Moore asked what the statement was. Mayor Quintana asked Larry to respond to that question. Mr. Patrick said that he thinks Mayor Quintana is taking things way out of context and that he has absolutely nothing against poor people whatsoever. Mayor Quintana asked why he made the comment. Mr. Patrick said that he has served everybody of every economic background. Mayor Quintana asked why he made the comment. Mr. Patrick asked Mayor Quintana what the comment was since he is the one who seems to want to make something of it. Mayor Quintana then asked the reporter from the Huerfano County World to refresh his memory. Bill Knowles replied that it was regarding pricing structures at the water park and how it should be marketed and how to make the water park break even. Mayor Quintana interjected that (Mr. Patrick said) "some people think that we should serve the poor people". Mr. Knowles then replied that Mr. Patrick basically made the statement that "we're looking at it in terms of serving and taking care of the poor people of Walsenburg which is making it a bigger operation. Councilman Moore said that it was a discussion where they talking about the admission rates for the water park. Mayor Quintana then stopped Councilman Moore and stated that it is not the only thing that concerns him. He stated that our financial situation came to be while Larry Patrick was sitting on the Finance Committee as chair and it was brought to Larry's attention on more than one occasion that we should really watch out with our finances, we should really be careful. We were warned about our financial situation by a past administrator. Mr. Patrick asked Mayor Quintana to expound on that stating that Mayor Quintana was at very few Finance Committee meetings during the two years that he was the Chairman. Mr. Quintana replied that it was in open Council. Mr. Patrick was upset that Mayor Quintana was trying to blame one person. Mayor Quintana said that he's not blaming one person but that Mr. Patrick is part of the problem. Mr. Patrick stated that then Mayor Quintana would be part of the problem also. Councilman Vigil then suggested that we

readvertise because this animosity can not do us any good. Mr. Patrick stated that the position was advertised. It was done legally and forthrightly. He followed the rules and he put forth (his letter of intent). He respectfully requested that, if there is a motion and a second on the floor, that Council give their vote one way or the other. There was no prior second so Silvana Lind seconded. Councilman England stated that his concern is that the last Council operated under the guise of being able to handle an agenda item regardless of how they voted, and move along to the next agenda item. The thing he sees here is a consternation or a conflict that would have to be worked out between (Mayor Quintana and Mr. Patrick) if this Council is to proceed properly. Until some of it is discussed he doesn't believe there will be a constant flow and that will not be productive for the City. He respects both gentlemen very much but if this Council is going to move forward we are going to have to get along one way or the other. Mr. Patrick replied that he has nothing against Mr. Quintana. He has the utmost respect for any Council person who is willing to serve. He has no personal agenda with Bruce, he is looking to serve the people of Walsenburg fairly and openly and he has no personal animosity toward Mr. Quintana. Mayor Quintana replied that he would like to have the two weeks so that he can talk with Mr. Patrick. He believes that they have avoided issues and whether Mr. Patrick says he gets along with him or not, there have been times when they've had some pretty rough discussions and they need to talk about the direction of Walsenburg as he did with all Council members before they were seated. Mr. Patrick stated that would not be a problem. They agreed to (on) vote(s) 90% of the time. Agreeing 100% of the time is not possible. Mayor Quintana replied that he doesn't think that 2 more weeks of advertising will not hurt Mr. Patrick one way or the other. Mr. Patrick replied that it would if someone else came forth and Council had an opportunity to vote for someone else. It's already been done legally. He's here. It wasn't easy for him to come forth but he did, he's done his due diligence and is not pleased to have to go through all of this. The roll was then taken and failed on a roll call vote of 4-4 (tie=fail) with the nay votes being from Craig Lessar, Erin Jerant, Nick Vigil, and Mayor Quintana.

Next on the agenda is the appointment of City Clerk. As only one applicant met the statutory requirement, James England made the motion, seconded by James Moore, that Lori Sheldon be appointed as City Clerk for the City of Walsenburg. Motion passed on a roll call vote of 8-0.

Next was appointment of the City Treasurer. Again, as only one candidate met the statutory criteria, James England made the motion, seconded by Nick Vigil, that Jacque Sikes be appointed to the position of Treasurer for the City of Walsenburg. Motion passed on a roll call vote of 8-0.

Erin Jerant nominated James England as Mayor pro tem, seconded by Craig Lessar. Motion passed on a roll call vote of 7-0 with one abstention from Mr. England. Mr. England stated that he looks forward to serving as Mayor pro tem and will do to the best of his ability what is necessary to keep peace and harmony on this Council and to continue for the next 2 years as we did the last 2 years.

The next item on the agenda is appointment and ratification of Committee chairs. Mayor Quintana has talked with each individual Council member to see what their interests and goals are and what they felt the City needed. He came away feeling that James England would fill the seat for the Finance Chair. His commitment to that committee has been outstanding and he believes that he would serve well. He recommends Erin Jerant as the Parks and Recreation committee chair as she previously served in that capacity and she understands it more than anyone besides him. Craig

Lessar is recommended for the Safety Committee chair which committee will meet quarterly. Finally, the Public Resources Committee chair is a hard seat to fill. Mayor Quintana praised Edie Flanagin for her work in that regard. He does not have a recommendation to fill that seat at this time. Mayor pro tem England asked whether a committee chair has to be a Council person. Mr. Hyatt replied that a chair person does not need to be appointed from City Council. Mayor pro tem England then moved, seconded by Nick Vigil, that former Councilman Edie Flanagin as the chairman of the Public Resources committee. He also volunteered his services as Council representative on that Committee. Ms. Flanagin expressed her appreciation but declined as she does not believe that she will have the time necessary to devote to serving as chair. Mayor Quintana said that any services that she could render would be appreciated.

Motion to ratify the Mayor's recommendations was put forth by James England, seconded by Erin Jerant. Motion passed on a roll call vote of 8-0.

The liquor license for Rosa's Cantina was next on the agenda. Clerk Lori Sheldon stated that there were no citations from the city but that the state had suspended their license for 1 violation. Mayor pro tem England asked for clarification about whether this was the same violation they had dealt with prior to this. Clerk Sheldon replied that it was a separate violation. Mr. Hyatt stated that typically on a third violation it would be considered whether to revoke the license. He recommends sending them a letter notifying them of their status. A motion was made by James England, seconded by Craig Lessar, that the consideration of the liquor license renewal be moved to the January 19th City Council meeting to allow staff and the city attorney to draft a letter and allow staff to look into the violation a little more. Motion passed on a roll call vote of 8-0.

James England made the motion, seconded by Erin Jerant, that the tavern liquor license for malt, vinous, and spirituous liquors, for Lollard Productions, d/b/a The Iron Horse, be approved. Motion passed on a roll call vote of 8-0.

Next is the seismic survey by Dawson Geophysical. After clarification by Dan Hyatt that he had reviewed the agreement and sees no problems with it, and that the representative from Dawson was going to contact the renters to inform them of where the survey would take place, and that the survey will not take place on the portion of the ranch that the DeTrays have leased, James England made the motion, seconded by Nick Vigil, to permit Dawson Geophysical to conduct geophysical operations on the property known as Kincaid, owned by the City of Walsenburg, and to allow the Mayor to sign all paperwork necessary. Motion passed on a roll call vote of 8-0.

Mr. Hyatt went over several points of decorum with the new Council. Mayor pro tem England asked if the session with Gregg Piburn has been scheduled. Beth Neece replied that she had not been able to schedule it yet and is waiting for a reply from Mr. Piburn. Several Council members expressed an interest in having the session on a Sunday instead of Saturday. Ms. Neece said that she would check into that and get back with them.

Adjournment

With no further items on the agenda, the City Council meeting adjourned at 7:15 p.m.

CITY OF WALSENBURG

ATTEST:

Bruce A. Quintana
Mayor

Lori Sheldon
Deputy 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.