

STATE OF COLORADO
COUNTY OF HUERFANO
CITY OF WALSENBURG
Regular Session Meeting
March 16, 2010 6:00 p.m.

Mayor Quintana called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited. Council members present were: Rick Jennings, Silvana Lind, James England, Nick Vigil, David Mockmore, Erin Jerant, Craig Lessar, and James Moore. Others in attendance were City Administrator Alan Hein, Assistant Administrator Beth Neece, City Attorney Dan Hyatt, City Clerk Lori Sheldon, and City Treasurer Jacque Sikes.

APPROVAL OF MINUTES

Mayor Quintana asked for a motion to accept the minutes from the March 2nd Regular City Council meeting. James Moore moved, seconded by Craig Lessar, that the minutes be accepted as presented. Motion passed on a roll call vote of 9-0.

Committee Reports

Finance Committee Chairman James England reported that the Finance Committee met on Monday, March 15th at 5:30. Those in attendance were himself, Mayor Quintana, Councilpersons Silvana Lind, Nick Vigil, David Mockmore, Erin Jerant, Craig Lessar, and James Moore. Also in attendance were City Administrator Alan Hein, Assistant City Administrator Beth Neece, Paul Powell representing Petroglyph, Bob Brozowski representing the Walsenburg Care Center, Renee Rinehart from the Signature, and Larry Patrick from the Huerfano World Journal. Items on the agenda were as follows:

- ◆ A proposed future water lease to Petroglyph for 2-5 acre feet for augmentation. As part of their substitute water plan, Paul Powell discussed the need for the possible water usage for augmentation. The Committee asked questions and expressed concerns regarding recent litigation Petroglyph has been in with members of the River Ridge community along with others. Mr. Powell said he was aware of the public's perception of Petroglyph and stated that the company is working hard on reparations and fixing "burned bridges" with the community.
- ◆ The sale of the Kincaid property to the Kreutzer Family, LLC will be completed in a meeting tomorrow (March 17th). The selling price was \$550,000.00. The net deposit to the bank for the City will be \$514,295.72 which is above market value.
- ◆ Bob Brozowski from the Walsenburg Care Center was present to discuss a swap of land owned by the City for land owned by the Care Center. The land will be used by the care Center to construct a state-of-the-art facility complete with a 10-unit assisted living center.
- ◆ Amending the 2010 paving budget to sponsor the paving and infrastructure for the new left turn land at Pine and Walsen.
- ◆ Finally, the layoff of the Chief of Police was reported by the City Administrator.

Parks and Recreation Committee Chairman Erin Jerant reported that the Committee did not meet. The next meeting will be April 5th.

Safety Committee Chairman Craig Lessar had no report.

Public Resources Committee Mayor Quintana stated that there is no report at this time.

Treasurer's Report Treasurer Jacque Sikes reported that as of the End of Feb it is \$8,099,138.03. That is showing a change in assets of negative \$177,626.68, down overall for this year \$11,320.00. James England moved, seconded by Jim Moore and Rick Jennings, that the Treasurer's Reports for January and February be accepted. Motion passed on a roll call vote of 9-0.

CITIZEN FORUM

Ray Bustos was scheduled but had to cancel.

REPORTS

Administrator Alan Hein reported on the following:

Martin Lake Valve Replacement: The weather has hampered construction. The new cofferdam is built. They have their equipment pretty well buried in the mud and are working diligently to get it dug out. The report that he got before we got all the snow was that the groundwater situation was improving. There were some issues with the depth of the bedrock. Very little has been done in the last week because of the weather conditions.

Wastewater Treatment Plant: That's still on hold. He's still waiting to hear from USDA on research as to securing another loan to finance that. He was unable to contact the representative today. They requested some information from the City which we sent to them last week.

Northlands: Sewer infrastructure is part of the USDA deal. We'll have final word on the CDBG grant in the next couple of weeks. It looks very positive that we've secured that grant. It's contingent on the loan with USDA.

Emergency Siren: We had an electrician come. There is no problem with the wiring in the building. The next step is to bring him back to do some testing. We need to decide where to activate the siren from (dispatch, City Hall, etc.). We need to notify the public that the siren will be tested and when.

Councilman Moore asked Mr. Hein if he had (or would) ask the USDA if the pursuit of any other loans would impact their ability to work with us. Mr. Hein replied that part of the criteria for the loans is that you have to have a certain percentage (25%) of the O&M in reserve and we fall short of that at this time. Mr. Moore reiterated that, since the City has looked into several other loan opportunities that would potentially burden the City with debt, would that impact the USDA's ability to do business with us. Mr. Hein replied that he would find out.

Mayor pro tem England wanted confirmation that the electrician is coming back to do the testing of the siren. Mr. Hein replied that he is not but that if the Council requests, he will get that scheduled. James England then moved, seconded by Dave Mockmore, that Council direct staff to bring the electrician to continue with the status of the siren. Councilperson Jerant asked about the cost. Mr. Hein replied that it would be about 2 hours so, at \$60.00/hour it would be \$120.00. Motion then passed on a roll call vote of 9-0. Silvana Lind asked if the siren would be connected with the Reverse 911 system. Mayor Quintana replied that it would probably work in concert but would not be

connected. Mr. England stated that it had been discussed in Finance Committee that it would probably only be used in a catastrophic incident or national emergency. He also said that it would be a good bridge with the County and FEMA or Diego Bobian who is in charge of Emergency Response since not everyone will have (reverse) 911 available to them. Ms. Lind also stated that she thinks it would be wise to inform the public about the circumstances under which it will be use. Mayor Quintana made a couple of suggestions about methods of disseminating that information (perhaps a flyer in the bills). Mr. England also suggested contacting Mr. Bobian to find out what situations he would consider catastrophic or national emergency in order to include that in the information release.

Police Chief There is no report at this time. Mayor Quintana asked Mr. Hein if there would be someone filling in for the Chief. Mr. Hein replied that there would be someone at the next meeting.

Monthly Reports

Mayor Quintana asked if there was any discussion on reports. Councilperson Jerant asked about the Monthly Red Tags report – there is no 2010 information. Mr. Hein replied that he will find out. Ms. Jerant had a question about a discrepancy in the investment accounts. Mayor Quintana suggested asking Krystal. Ms. Jerant would like Krystal to attend Council meetings since all Council members do not attend the Finance Committee meeting. Ms. Jerant also had a question about the YTD numbers on the police department report. Mr. Hein said he would look into it.

Unfinished Business

- ◆ Sale of the Kincaid property – Mayor pro tem England stated that he had asked the broker (Mr. Bachman) to be here this evening to answer any questions. He also wanted to know if Mr. Hyatt had anything to add to the sale of the property. Mr. Hyatt replied that he had prepared the ordinance, it just needs to be passed at the proper time in the agenda. Councilperson Jerant asked if the tenants are being allowed to complete their lease. Mr. Bachman replied that the lease expires some time in April and the new buyers have to honor the lease that was made with the City. Jacque Sikes asked about the original list price. Mayor Quintana replied that he believed it was \$850,000.00. Mr. Bachman also stated that the security deposit that the City was holding has been transferred to the buyer who will refund it to the tenants depending upon the condition of the property at the end of the lease. This item will be continued later in the meeting.
- ◆ James England made a motion, seconded by Nick Vigil, that 4 acres of land (from the property just east of the Spanish Peaks Regional Health Center) be separated for the Walsenburg Care Center and that staff be directed to continue negotiations with the Care Center toward an agreement. Motion passed on a roll call vote of 9-0. Councilperson Lind asked Mr. Brozowski if he had anything to add. Mr. Brozowski replied that, in response to questions posed in the Finance meeting regarding asbestos and lead paint, he did start some investigation. He learned that when the addition was constructed in 1984 that it had to pass muster with the State EPA meaning that if there were any lead paint or asbestos at that time it would have had to be mitigated before the construction would have been allowed. He is looking for those documents. He was also asked about the number of

employees who reside in Walsenburg and the answer to that is 97%. They have 52 employees and 34.43 FTEs (full time equivalent). Mayor pro tem England asked, with the addition of the 10 unit assisted living facility, how many new jobs would be added. Mr. Brozowski did not know but said he would check and report back. He talked about the difference between the care required for the two types of facility. They are currently licensed for 42 beds. The new facility would be 40 beds plus the 10 assisted living units. They are also currently below capacity (32 residents). Councilperson Jerant asked if the State gave them any guidelines on when they have to vacate the building. Mr. Brozowski said “No.” Ms. Jerant then asked if the building is still habitable. The answer was “absolutely.” Ms. Jerant said she had heard otherwise and Councilperson Lind commented to Mr. Brozowski that she was aware that facilities such as the care center did receive periodic state inspections and she wondered if there had been any problems that the state saw regarding the viability of the building. Mr. Brozowski replied that there is no deficiency that requires (prohibits) habitability. Ms. Jerant then asked if the hospital is still interested. Councilman Vigil replied that they would only be interested if the Care Center isn’t. Ms. Jerant said she talked to David Gnaizda from the Hospital Board today and he said the hospital is still interested and they don’t want to be shut out. Mr. Vigil responded that they are running numbers and will discuss it at their next board meeting.

- ◆ Sale of the Kincaid (continued) Mr. Hyatt asked for a correction of the wording in paragraph 2 of the ordinance (insert the word “and” between the words “of” and “the” and insert the words “of said property” after the word “sale” at the end of the line. James England introduced

ORDINANCE NUMBER 993

AN ORDINANCE PROVIDING FOR THE SALE OF CERTAIN REAL PROPERTY NOT PREVIOUSLY USED FOR A GOVERNMENTAL PURPOSE

WHEREAS, C.R.S. §31-15-713 provides that a municipality may sell real property by ordinance where the real property was not previously used for a governmental purpose; and

WHEREAS, the City of Walsenburg owns certain ranch property known as the Kincaid Ranch not previously used for any governmental purpose; and

WHEREAS, the City of Walsenburg desires to sell said real property.

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

1. The City Council of the City of Walsenburg declares that the real property known as the Kincaid Ranch, which common address is 1233 Co. Rd. 350, La Veta, Colorado more specifically described in the plat and legal description attached hereto as Exhibit A, is surplus property that has never been used for a governmental purpose.
2. The City Council of the City of Walsenburg approves the following conditions of and the sale of said property pursuant to C.R.S. 31-15-713(2) (2009).
 - a. The sale price shall be five-hundred-fifty-thousand dollars (\$550,000.00).

- b. The property will sell without any water rights, said water rights having been severed previously from the property.
 - c. The City will reserve unto itself the 7/8 mineral rights previously attached to the property.
 - d. Total settlement costs including commissions and pro-rated rent income from the property will total approximately \$35,704.28.
3. These terms will not lead to speculation.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 16th DAY OF MARCH, 2010.

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

CITY OF WALSENBURG

ATTEST:

Bruce Quintana, Mayor

Loretta Sheldon, City Clerk

Mr. England then moved, seconded by James Moore, to adopt Ordinance 993 AN ORDINANCE PROVIDING FOR THE SALE OF CERTAIN REAL PROPERTY NOT PREVIOUSLY USED FOR A GOVERNMENTAL PURPOSE, that it be published in the newspaper of record and that the Mayor be authorized to sign any and all documents to make the sale go forward. Motion passed on a roll call vote of 9-0. After a question from Councilman Mockmore regarding the pro-rated rent mentioned in paragraph 2(d), Mr. Bachman replied that it also includes the deposit and that the Housing Authority needs to return that money to the City since it will be included in the settlement costs at closing.

- ◆ James England moved, seconded by James Moore that we amend the 2010 paving budget to sponsor the paving and infrastructure of the new grocery store and other items in conjunction with the street improvements. Councilperson Jerant asked what the other items are. Mr. England replied that there was discussion about the turn lanes for the school as a safety issue. Mr. Hein replied that they include curb and gutter, sidewalk, asphalt paving, a small retaining wall. Ms. Jerant would like the motion to include specific items. Mr. Hyatt suggested that the discussion be concluded and then amend the motion. Mr. Hein then presented two drawings detailing the work that is to be done. There was discussion of the drainage plan. In answer to a question from Councilman Moore about CDOT approval, Mr. Hein said that it has been tentatively approved. Mr. Hein also said that the store will be built in conjunction with the street improvements this Spring. In response to a question from Councilperson Jerant Mr. Hein said that the chip seal project for this summer was

over-budgeted. What we propose to do is to take that money for this project and then, whatever is left over will go back to the chip-seal project. We will do the majority of the project in-house. We can not do the asphalt work. Mr. Hyatt clarified that there would not really be an amendment to the budget but that Mr. Hein just needs Council approval to switch the funds to a different project. A budget amendment resolution would only be needed if the total expenditure amount were to increase. There was then discussion regarding how firm the developer's commitment is and how to ensure that the store will be built before we spend the money to improve the infrastructure. Councilperson Jerant would like to see a confirmation in writing that their funding is in place and they're ready to start construction when we're doing the infrastructure improvements. She would also like to get a tentative completion date. Mr. Hein said he would talk to the developer about it. Jacque Sikes suggested getting a performance bond. Mr. Hyatt explained that normally a performance bond is issued when you want to make sure a project is completed. Ms. Sikes added that, if the developer backs out then the bond company will complete whatever work is designated in the bond. Mr. Hyatt suggested that the motion include a contingency that the City has adequate assurance that the project will be completed, whether it be in the form of a performance bond or some other form. Jim Roberts from Southern Colorado Land and Livestock, as the real estate broker for the developer, assured Council that the developer has already spent a significant amount of money in the preparation to build this store and they are dedicated to completing the project. Councilman Jennings asked if we have the manpower to complete this project with the layoffs. Mr. Hein replied that we do but if we run into trouble we can hire day labor. Ms. Sikes pointed out that \$60,000.00 had already been spent from that fund this year and asked what for. Mr. Hein replied that it was for ADA compliance work. Ms. Sikes replied that the reports say that it has been used to pay other debt. After extensive discussion in an effort to understand what the reports mean, Mr. Hein said that he will discuss it with the Finance Director and return to Council with an answer and possibly a recommendation for a special meeting. James England amended his motion that we re-appropriate the 2010 paving budget to sponsor the paving and infrastructure for the turn lanes at Walsen and Pine contingent upon the adequate proof of the (commitment to) completion of the project by the owners of the new grocery store. Motion passed on a roll call vote of 8-1 with the nay vote being from Erin Jerant.

New Business

- ◆ Lease of 2-5 acre feet of water to Petroglyph for augmentation. Mayor pro tem England stated that this has been discussed in the Finance meeting. Mr. Powell was here from Petroglyph. There were a lot of questions and concerns regarding litigation that Petroglyph is going through. Mr. England's concern is binding future Councils to a "what-if". Mr. Powell led them to believe that they may need it, they may not need it, their dollar amount per acre foot they said was negotiable. He was also told the 5 acre feet may be a very low estimate of what eventually might be needed. He does not believe that this council cannot bind future Councils to an unknown amount over an unknown number of years. Councilman Moore asked Mr. Hyatt for clarification on that point. Mr. Hyatt explained that, where it normally comes up is in the reverse situation where funds are being spent, not received. James England

moved, seconded by James Moore, that we lease 2-5 acre feet to Petroglyph for augmentation. Motion failed on a roll call vote of 0-9.

- ◆ James England moved, seconded by Nick Vigil, that the liquor license renewal application for Lillian E. Burch d/b/a Moonglow, 204 Sproull, Walsenburg, Colorado, for a Tavern Liquor license, Malt, Vinous, and Spirituous be approved. Motion passed on a roll call vote of 8-0 with 1 abstention from Mayor Quintana due to his relation to the owners.

James England moved, seconded by Nick Vigil, to go into executive session for a conference with the City Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. Section 24-6-402(4)(b); Motion passed on a roll call vote of 9-0.

At the conclusion of the executive session, Mayor Quintana stated: The time is now 8:31 p.m., and the executive session has been concluded. The participants in the executive session were: Councilperson Rick Jennings, Councilperson Silvana Lind, Councilperson James England, Councilperson Nick Vigil, Mayor Bruce Quintana, Councilperson Dave Mockmore, Councilperson Erin Jerant, Councilperson Craig Lessar, and Councilperson James Moore, Attorney Dan Hyatt, City Administrator Alan Hein and Beth Neece Assistant Administrator. For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record.

Adjournment

With no further items on the agenda, the City Council meeting adjourned at 8:32 p.m.

CITY OF WALSENBURG

ATTEST:

Bruce A. Quintana,
Mayor

Lori Sheldon
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.