

STATE OF COLORADO
COUNTY OF HUERFANO
CITY OF WALSENBURG
Regular Session Meeting
04/21/2009 7:00 p.m.

Mayor Sheldon called the meeting to order at 7:00 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 Lou Taylor. Others present were City Administrator Alan Hein, Deputy City Clerk/Treasurer Loretta Sheldon, and City Attorney Daniel Hyatt.

APPROVAL OF MINUTES

A motion was made by Larry Patrick and seconded by James England to approve the minutes from the March 17, 2009 Regular City Council meeting. Motion passed by a roll call vote of 9-0.

A motion was made by James England and seconded by Susan Blake to approve the minutes from the March 18, 2009 Special City Council meeting. Motion passed by a roll call vote of 9-0.

A motion was made by James England and seconded by Susan Blake to approve the minutes from the April 7, 2009 Regular City Council meeting. Motion passed by a roll call vote of 9-0.

Proclamation

Mayor Sheldon proclaimed the week of April 19th – 25th 2009 the Week of the Young Child in Walsenburg.

Letter of Resignation

Mayor Sheldon read a letter of resignation from Council Member Lou Taylor effective 4/21/09. A motion was made by Larry Patrick to regretfully accept the resignation of Lou Taylor effective 4/21/09 at 7:13 p.m. Motion was seconded by Edi Flanagin. Motion passed on a roll call vote of 7-1 with Mr. Taylor abstaining.

Welcome Home

Mayor Sheldon welcomed home Office James Chamberlain from his tour of duty in Iraq with thanks for his service to the country.

Committee Reports:

Finance Committee

Chair Larry Patrick reported the finance committee met on the prior evening. They discussed encouraging staff and council to participate in direct deposit for their payroll checks.

They also discussed the red-flag resolution dealing with identity theft prevention in the Utilities department.

They briefly discussed the Northlands PER.

They talked about the gravel leases and the possible areas for them and their potential money-wise.

They were pleased with the monthly financial reports.

They discussed the audit which will come up later in the meeting.

Parks and Recreation Committee

Bruce Quintana talked about hiring for the water park. Also, the new water slide is in for the smaller children. They also had a proposal from Fran Blake to do a discount card for the water park but the committee felt they didn't want to do that at this time and recommended that we do

not get involved at this time. Also, lifeguard training will be the first week in May.

Safety Committee

Erin Jerant reported that the mandatory employee safety meeting occurred the prior Friday. It was a short meeting because the drug and alcohol program was cancelled. It will be rescheduled. Part of the time was spent assessing the need for safety equipment that some of the departments thought they needed. CPR cards were passed out to employees who have taken the class. We'll get another class going for those who still need it.

Public Resources Committee

Edie Flanagin reported the Public Resources committee met April 14th. Joey Pacheco presented the water quality report to the committee. Everything checked out very well.

They're still waiting for the progress of the gravel survey. It's still being worked on. Kincaid Ranch will be ready May 1st.

Lori Silva presented her proposal and the appraisal for the goat dairy.

They discussed the sewer tap waiver for abandoned taps similar to the water tap resolution but they decided they don't need to do that at this time since the loans need to be repaid. They are also of the opinion that the extension of the water tap waiver for abandoned taps should be allowed to expire.

They discussed guidelines for the free water for the three cemeteries water usage and came up with a fee schedule for them (enclosed in packet).

They had a work session with Viento Claro regarding the wind farm. After talking with their investors they agreed that we need to get more information on the location of where the gravel pits might be so the decision will be postponed for 30-60 days.

They also had a very successful meeting with Marjorie Sant and Beorn Courtney the water attorney and water engineer. A lot of questions were answered and clarified and it was a very good meeting.

Motion to Advertise to Fill Council Seat

James England made a motion to advertise for letters of intent to fill Councilman Taylor's seat in the local paper of record with a deadline of May 1st. The motion was seconded by Edi Flanagin. The motion passed by a roll call vote of 7-0 with 1 abstention.

Citizen Forum

Marty Malouff made a presentation about the Crossroads Turning Points detox unit which serves Huerfano and Las Animas Counties and to ask for a donation of \$2,500.00. A motion was made by Susan Blake and seconded by Edi Flanagin to donate \$2,500.00 to the Crossroads program. The motion passed by a roll call vote of 8-0.

Ms. Martinez appeared on behalf of La Plaza de Los Leones to ask for assistance in paying for the insurance and to get approval for a liquor license. A motion was made by James England and seconded by Larry Patrick that the application for a Special Events Liquor License for Malt, Vinous and Spirituous liquor be approved. The motion passed on a roll call vote of 8-0.

REPORTS

Administrator's Report

Alan Hein reported on a request from some citizens that a speed limit study be conducted in the area of the Dollar Store northbound on business 25C. CDOT will conduct the study in June or July and any rising or lowering of the speed limit there will happen in September.

Second item is the Kansas Avenue sanitary sewer project. That project is in process at this

time.

We received a permit from the state for the wastewater lagoon. It starts May 1 and is good through April 2014.

We're in the process of putting together a marketing plan.

There have been several good meetings on the Northlands PER. There was a meeting with USDA regarding the information they need to do the grant application.

The next item was the work force survey. We'll try to incorporate work force employees into our operations as much as we possibly can.

He next reported the gravel mining project. The contract has been signed by the Mayor to begin the surveying.

Next is the CDOT detour on Main Street. A state Colorado Department of Transportation representative will be at the May 5th City Council meeting to brief the Council and answer any questions.

There is a request for a street light at Kansas and Jackson Streets. That's been taken care of.

The Headwaters Corporation meeting was very productive. A couple of projects discussed were the raw water line and the well at the East Ranch.

Regarding the Kincaid project – they got the pump in and got water to the home. There are leaks. The next goal is to fix the leaks and then clean the carpets, etc. It should be ready by May 1st.

CIRSA has denied the insurance claim for the roof at the chamber building. Staff is looking at grant opportunities for the renovation of the building.

The purpose of the red flag resolution was discussed.

Chief of Police Report

A council member inquired about ongoing police investigations. Attorney Dan Hyatt cautioned council about inquiries to staff regarding ongoing investigations.

Remaining Reports

Council reviewed the remaining reports. The treasurer's report was not available.

Unfinished Business

The first item for consideration was a new auditor. Larry Patrick made a motion that we keep Mr. Farmer for this year's audit and seek out a new auditor for next year. The motion was seconded by James England. The motion passed by a roll call vote of 7-1.

Lori Silva appeared regarding purchase of a portion of the East Ranch to start a goat dairy. It was decided to have a work session on May 12th during the Public Resources committee meeting and to switch times for the 2 meetings on that evening so that Public Resources will meet at 5:00 and Parks and Rec will meet at 6:00.

Huerfano County Chamber of Commerce appeared regarding the insurance and liquor license for the Black Diamond Jubilee. A motion was made by Larry Patrick and seconded by Susan Blake to share half the cost of the insurance for the Black Diamond Jubilee. The motion passed by a roll call vote of 8-0. A motion was made by Edi Flanagan and seconded by Susan Blake to approve the application for a Special Events Permit for Malted Beverage. The motion passed by a roll call vote of 8-0.

The next item on the agenda was the petition for annexation of land for the waste water treatment plant. A motion was made by James England and seconded by Edie Flanagan to authorize the Mayor to sign the petition for annexation and allow the staff to proceed with the rest of the necessary steps so the resolution can be adopted at the next meeting. The motion passed by a roll call vote of 8-0.

Next is the liquor license application for Bold Petroleum/Acorn Travel Plaza. A motion was made by James England and seconded by Larry Patrick to approve the 3.2 Beer Liquor License for Bold Petroleum. The motion passed on a roll call vote of 8-0.

Next is the quote for boiler insurance. Larry Patrick made a motion, seconded by Bruce Quintana to approve the purchase of the boiler insurance from CIRSA at the price quoted. The motion passed by a roll call vote of 8-0.

New Business

A motion was made by Larry Patrick and seconded by James England and David Mockmore to adopt Resolution 2009 R-04 establishing an identity theft prevention program. The motion passed by roll call vote of 8-0.

RESOLUTION NO. 2009 R-4

A RESOLUTION ESTABLISHING AN IDENTITY THEFT PREVENTION PROGRAM

WHEREAS, the city of Walsenburg operates municipal utilities; and

WHEREAS, municipal utilities are included in the definition of a creditor for the purposes of the Fair and Accurate Credit Transaction Act of 2003; and

WHEREAS, all financial institutions and creditors falling under the Fair and Accurate Credit Transaction Act of 2003 must have an Identity Theft Prevention Program approved and in place prior to November 1, 2008.

NOW THEREFORE BE IT RESOLVED BY THE CITY OF WALSENBURG CITY COUNCIL THAT THE CITY OF WALSENBURG HEREBY ADOPTS THE FOLLOWING AS ITS IDENTITY THEFT PREVENTION PROGRAM.

a. Purpose

- 1 This policy establishes an Identity Theft Prevention Program designed to detect, prevent and mitigate identity theft in connection with the opening of a covered account or an existing covered account and to provide for continued administration of the Program in compliance with Part 681 of Title 16 of the Code of Federal Regulations implementing Sections 114 and 315 of the Fair and Accurate Credit Transactions Act (FACTA) of 2003.

b. Definitions

- 1 **Identify theft** means fraud committed or attempted using the identifying information of another person without authority.
- 2 **A Covered Account** means:
 - A An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes that involves or is designed to permit multiple payments or transactions. Covered accounts include credit card accounts, mortgage loans, automobile loans, margin accounts, cell phone accounts, utility accounts, checking accounts and savings accounts; and

- E Notice from customers, victims of identity theft, law enforcement authorities, or other persons regarding possible identity theft in connection with covered accounts.
 - 2 The Program shall consider the following risk factors in identifying relevant red flags for covered accounts as appropriate:
 - A The types of covered accounts offered or maintained;
 - B The methods provided to open covered accounts;
 - C The methods provided to access covered accounts; and
 - D Its previous experience with identity theft.
 - 3 The Program shall incorporate relevant red flags from sources such as:
 - A Incidents of identity theft previously experienced;
 - B Methods of identity theft that reflect changes in risk; and
 - C Applicable supervisory guidance.
- f. Detection of Red Flags
- 1 The Program shall address the detection of red flags in connection with the opening of covered accounts and existing covered accounts, such as by:
 - A Obtaining identifying information about, and verifying the identity of, a person opening a covered account; and
 - B Authenticating customers, monitoring transactions, and verifying the validity of change of address requests in the case of existing covered accounts.
- g. Response
- 1 The Program shall provide for appropriate responses to detected red flags to prevent and mitigate identity theft. The response shall be commensurate with the degree of risk posed. Appropriate responses may include:
 - A Monitor a covered account for evidence of identity theft;
 - B Contact the customer;
 - C Change any passwords, security codes or other security devices that permit access to a covered account;
 - D Reopen a covered account with a new account number;
 - E Not open a new covered account;

- F Close an existing covered account;
- G Notify law enforcement; or
- H Determine no response is warranted under the particular circumstances.

h. Updating the Program

- 1 The Program shall be updated periodically to reflect changes in risks to customers or to the safety and soundness of the organization from identity theft based on factors such as:
 - A The experiences of the organization with identity theft;
 - B Changes in methods of identity theft;
 - C Changes in methods to detect, prevent and mitigate identity theft;
 - D Changes in the types of accounts that the organization offers or maintains;
 - E Changes in the business arrangements of the organization, including mergers, acquisitions, alliances, joint ventures and service provider arrangements.

i. Oversight of the Program

- 1 Oversight of the Program shall include:
 - A Assignment of specific responsibility for implementation of the Program;
 - B Review of reports prepared by staff regarding compliance; and
 - C Approval of material changes to the Program as necessary to address changing risks of identity theft.

j. Reports shall be prepared as follows:

- 1 Staff responsible for development, implementation and administration of the Program shall report to the City Council and the Utility Board at least annually on compliance by the organization with the Program.
- 2 The report shall address material matters related to the Program and evaluate issues such as:
 - A The effectiveness of the policies and procedures in addressing the risk of identity theft in connection with the opening of covered accounts and with respect to existing covered accounts;
 - B Service provider agreements;
 - C Significant incidents involving identity theft and management's response; and
 - D Recommendations for material changes to the Program.

k. Oversight of Service Provider Arrangements

- 1 The organization (utility) shall take steps to ensure that the activity of a service provider is conducted in

accordance with reasonable policies and procedures designed to detect, prevent and mitigate the risk of identity theft whenever the organization engages a service provider to perform an activity in connection with one or more covered accounts.

2 Duties Regarding Address Discrepancies

3 The organization (utility) shall develop policies and procedures designed to enable the organization to form a reasonable belief that a credit report relates to the consumer for whom it was requested if the organization receives a notice of address discrepancy from a nationwide consumer reporting agency indicating the address given by the consumer differs from the address contained in the consumer report.

4 The organization (utility) may reasonably confirm that an address is accurate by any of the following means:

- A Verification of the address with the consumer;
- B Review of the utility's records;
- C Verification of the address through third-party sources; or
- D Other reasonable means.

1. If an accurate address is confirmed, the organization (utility) shall furnish the consumer's address to the nationwide consumer reporting agency from which it received the notice of address discrepancy if:

- 1 The organization establishes a continuing relationship with the consumer; and
- 2 The organization, regularly and in the ordinary course of business, furnishes information to the consumer reporting agency.

Adopted and passed upon this 18th of November, 2008

CITY OF WALSENBURG

ATTEST:

Edith T. Sheldon, Mayor

Deputy City Clerk

SEAL

James England made a motion, seconded by David Mockmore, to adopt Resolution 2009 R-05 repealing Resolution 2008 R-29, establishing water rates for a new class and restating 2009 water rates. Motion passed on a roll call vote of 8-0.

RESOLUTION 2009 R-05
A RESOLUTION REPEALING RESOLUTION 2008 R-29, ESTABLISHING WATER RATES FOR A NEW CLASS AND RESTATING 2009 WATER RATES

WHEREAS, the City of Walsenburg, a municipal corporation, owns and operates a potable water system to benefit Walsenburg area residents and businesses; and

WHEREAS, Ordinances 965 and 966 provide that the city council of the City of Walsenburg may set water rentals, rates and fees from time to time by resolution; and

WHEREAS, it is necessary to establish water rentals, rates and fees for cemeteries.

NOW THEREFORE BE IT RESOLVED by the City Council of the City of Walsenburg as follows:

- a. The following water rates first adopted in Resolution 2008 R-29 were effective as of the first meter reading which occurred in 2009 and first billed on or about February 1, 2009 with the exception of cemetery rates which are effective as of the first meter reading subsequent to the adoption of this resolution and first billed on or about June 1, 2009.

1. Water Rentals.

Gallons Per Monthly Billing Cycle	Inside City Limits Rates	Outside City Limits Rates
0 to 4,000	\$22.50 minimum charge	\$45.00 minimum charge
4,001 to 15,000	\$1.25 per 1,000 gallons	\$2.50 per 1,000 gallons
15,001 and above	\$2.25 per 1,000 gallons	\$4.50 per 1,000 gallons

2. Cemetery Water Rentals and Augmentation Fee

Gallons Per Monthly Billing	Inside City Limits Rates	Outside City Limits Rates	Outside City Limits Augmentation Fee
0 to 250,000	\$0.00	\$0.00	\$0.00
250,001 and above	\$2.25 per 1,000 gallons	\$4.50 per 1,000 gallons	\$1.25 per 1,000 gallons

3. Tank Truck Water Rental.

Water Delivered Via Fire Hydrants	Rental Rate
Each 1,000 gallons	\$20.00

4. Water Haul Rental.

a. Location.

- i. The water haul system is located at 525 S. Albert Avenue, Walsenburg, CO.

b. Eligibility And Use Limitations

- i. The address of the property to receive the water must have a postal zip code of 81089. Water may not be used for industrial or commercial purposes.
- ii. Water cannot be transported for use outside the 81089 zip code. Any person found transporting water outside the 81089 zip code area or using this water for

uses not specifically approved by the City and purchased through the City water haul system will have their card immediately deactivated with no refund of any unused prepaid water.

- iii. Water purchased per the card system from the City water haul system is to be used consistent with all City water ordinances limited to like use for City residents. As an example, if city residents are restricted from using the water for irrigation of lawns and trees, then water haul customers are subject to the same restrictions.

c. Applications.

- i. Each person seeking to purchase water through the city water haul system shall complete a city Water Haul Application. The city must approve the application prior to water being dispensed to the applicant. Applications are available at the Walsenburg City Hall, 525 S. Albert Avenue, Walsenburg, Colorado. Applicants shall pickup and return applications during normal city office hours.
- ii. Application approval shall be at the city's sole discretion. The city has no obligation to provide this service to any applicant. The city may deny service for any reason not prohibited by law.
- iii. The city does not guarantee a minimum time in which an application will be considered for approval. The approval process must allow sufficient time and ability to research the application and to notify the proper approval personnel.
- iv. Applicants will be notified by mail of the approval or denial of water haul privileges.

d. Only One Card Issued.

- i. Only one card shall be issued per application and per location. Where a water haul card is active at a location a card will not be issued to a different applicant until the active card is either turned in or deactivated.

e. Mandatory Pre-Payment And Card Use.

- i. All charges and fees shall be pre-paid. Upon approval and pre-payment of all applicable charges and fees, one pre-paid card will be given to the applicant in the amount of the pre-paid denomination. The holder of the card cannot purchase quantities outside the limits set forth herein. Water will be dispensed by inserting the provided card into the water haul meter. When the card's pre-paid amount is used, the card will become inactive until another pre-payment is made and the card is re-activated by the City.

f. Cards Remain City Property At All Times.

- i. All cards remain the city's property and subject to revocation where water haul regulations are not followed or where the city determines that providing water haul service under the circumstances is inappropriate.

g. Activation/Re-activation Fee.

- i. A \$5.00 fee shall be added to each water pre-payment as an activation or re-activation fee to offset the cost of record keeping and water haul system maintenance. This fee shall be in addition to the initial card and replacement card fee.

h. Initial Card and Replacement Card Fee

- i. A \$15.00 fee shall be assessed for the initial issuance of a card and for the reissuance of a card subsequent to loss of a card or damage to a card. No card fee shall be assessed for re-activation of card. This fee shall be in addition to the activation / re-activation fee.

i. Minimum Pre-Payment.

- i. Minimum water pre-payment is \$50.00 not including the activation/reactivation fee. The maximum pre-payment purchase will be 5,000 gallons of water.

Gallons Purchased	Charge Per Gallon Purchased Per Calendar Month
0 to 5,000 gallons	.03 per gallon purchased per calendar month
5,001 and above	.05 per gallon purchased per calendar month

j. Warranty.

- i. The city does not warrant the accuracy of the water haul system or its functionality and disclaims the warranty for fitness for a particular purpose with respect to the system and the water except as set forth herein. The City is responsible for the quality of the water at the water haul system point of delivery. Once the water passes the point of delivery and is placed into any non-city owned container the City is not responsible for the quality of that water and cannot be held liable for any reason if said water is later found to be not in compliance with the city's drinking water permit issued by the State of Colorado.

k. Rules Attached to Each Application.

- i. A copy of these rules and regulations shall be attached to every application. The applicant assumes responsibility upon receiving an application to read and understand the attached rules prior to submitting the application. By completing and signing the application, the applicant affirms the applicant understands the rules and regulation, agrees to abide by the same and agrees to forfeit the privilege of purchasing city water where the city determines a rule or regulation violation has occurred whether by the assigned card holder or by a third party with or without the consent or knowledge of the assigned card holder.

5. Water Tap Fees

Tap Size	Inside City Limit Rate	Outside City Limit Rate
¾ Inch (Minimum Size)	\$2,000	\$4,000
1.0 Inch	\$3,600	\$7,200
1.25 Inch	\$5,400	\$10,800
1.50 Inch	\$8,000	\$16,000
2.00 Inch	\$14,000	\$28,000
2.50 Inch	\$20,600	\$41,200
3.0 Inch	\$32,000	\$64,000
4.0 Inch	\$49,000	\$98,000
6.0 Inch Maximum	\$108,000	\$216,000

6. Augmentation Fees.

- a. The augmentation fee shall be \$1.25 per 1,000 gallons.

7. Residential Sewer Service Rates

Type of Use	Inside City Limits Rate	Outside City Limit Rate
Single Family Residence	\$30.00	\$60.00
Apartments	\$30.00	\$60.00
Mobile Homes	\$30.00	\$60.00
Trailer Courts	\$30.00	\$60.00

8. Commercial Sewer Service Rates

Type of Use	Inside City Limits Rate	Outside City Limit Rate
Prisons/Correctional Facilities Per Stool	\$20.05	\$40.10
Hotels / Motels Per Unit	\$20.05	\$40.10
Hospitals Per Stool	\$20.05	\$40.10
Nursing Homes / Schools	\$500.53	\$1,001.06
Laundries / Laundromat	\$400.92	\$801.84

Community Center	\$400.92	\$801.84
Car Wash	\$300.70	\$601.40
Service Station with Wash Rack	\$100.25	\$200.50
Service Station without Wash Rack	\$60.13	\$120.26
Other commercial with no special treatment requirements	\$60.13	\$120.26

9. Minimum Charge and Special Rates.

- a. The minimum sewer rate regardless of amount of use shall be \$30.00.
- b. The city reserves the right to evaluate the sewer rate of any premises and adjust the sewer rate for that premises to compensate for special waste water situations or treatment requirements. Such rates may be based on any or all of the following: BOD, suspended solids, contaminants and / or flow rate

10. Sewer Tap Fees

Tap Size Based on Water Service Sizing	Inside City Limits Rate	Outside City Limits Rates
¾ Inch	\$1,500	\$3,000
1.00 Inch	\$2,700	\$5,400
1.25 Inch	\$4,050	\$8,100
1.50	\$6,000	\$12,000
2.00 Inch	\$10,500	\$20,100
3.00 Inch	\$24,000	\$24,000
4.00 Inch	\$36,000	\$72,000
6.00 Inch	Negotiated	Negotiated

11. Non-Sufficient Funds Check Fee.

- a. A \$25.00 service fee shall be assessed on each check issued to the city as payee for any purpose where the check is returned by the bank for non-sufficient funds. Where the payer issued the check as payment for municipal utilities, the charge shall be added to the utility bill and treated in all respects as part of the utility bill.

12. Repeal and Amendment

- a. All prior resolutions are repealed or amended to the extent necessary to conform to this resolution.

ADOPTED AND APPROVED this 21st day of April 2009.

ATTEST:

Mayor, City of Walsenburg

City Clerk / Deputy City Clerk

James England made a motion, seconded by Edie Flanagin that \$100.00 expenditure be approved for a full page ad in La Placita event program for El Fandango. Motion passed on a roll call vote of 8-0.

Item D regarding the Letter to the Division of Parks was postponed until the May 5th meeting.

Meeting was adjourned.

CITY OF WALSENBURG

ATTEST:

Edith T. Sheldon,
Mayor

Loretta 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.