

**CITY OF GREEN RIVER
CITY COUNCIL PROCEEDINGS
FEBRUARY 2, 2016**

The Governing Body of the City of Green River met in regular session at 7 pm in the City Hall Council Chambers. Mayor Pete Rust called the meeting to order. The following Council Members were present: Gary Killpack, Mark Peterson, Ted Barney, Allan Wilson, Brett Stokes, and Lisa Maes. The following were present representing the City: City Administrator Reed Clevenger, Director of Human Resource Cari Kragovich, Director of Public Works Mark Westenskow, Director of Finance Chris Meats, Director of Community Development Laura Profaizer, Chief of Police Chris Steffen, Interim Fire Chief Mike Liberty, Parks and Recreation Director Brad Raney, and City Attorney Galen West.

APPROVAL OF THE AGENDA

Council Member Wilson moved to approve the agenda. Council Member Stokes seconded. Motion carried. (7-0)

PRESENTATIONS

Rebecca Eusek gave a brief update on the Green River Chamber of Commerce.

CITIZEN REQUESTS AND OTHER COMMUNICATIONS

Resident Kay Danielson thanked a gentleman for his help with shoveling the snow in front of her home.

ORDINANCES

Rezoning Property from R-1 (Single Family Residential) to R-2 (Single Family Residential)

2nd Reading: An ordinance amending the Official Zoning Map of the City of Green River, Sweetwater County, State of Wyoming from R-1 (Single Family Residential) to R-2 (Single Family Residential), a 6.950 acre tract of land located along Upland Way, as hereby described within this ordinance.

Council Member Wilson moved to approve on second reading an ordinance amending the Official Zoning Map of the City of Green River, Sweetwater County, State of Wyoming from R-1 (Single Family Residential) to R-2 (Single Family Residential), a 6.950 acre tract of land located along Upland Way, as hereby described within this ordinance. Council Member Peterson seconded.

Mrs. Profazier said the difference between an R-1 Single Family Residential and an R-2 Single Family Residential is the lot size requirements and the rear and side setbacks requirements.

Motion carried. (7-0)

Amendment to Ordinance 12-3, Burning Prohibited in City Limits

3rd Reading: An ordinance amending Article 1 of Chapter 12, of the Green River Code of Ordinance, State of Wyoming, to establish and regulate Burning Prohibited; Bonfire Permits

Council Member Peterson moved to approve on third reading an ordinance amending Article 1 of Chapter 12, of the Green River Code of Ordinance, State of Wyoming, to establish and regulate Burning Prohibited; Bonfire Permits. Council Member Killpack seconded. Motion carried. (7-0)

Addition to the Disorderly Conduct Ordinance

2nd Reading: An ordinance adding a new division to Article IV, of Chapter 18, of the Green River Code of Ordinance, City of Green River, State of Wyoming, to establish and regulate disorderly conduct

Council Member Killpack moved to un-table the consideration on second reading an ordinance adding a new division to Article IV, of Chapter 18, of the Green River Code of Ordinance, City of Green River, State of Wyoming, to establish and regulate disorderly conduct. Council Member Stokes seconded. Motion carried. (7-0)

Council Member Stokes moved to consider on second reading an ordinance adding a new division to Article IV, of Chapter 18, of the Green River Code of Ordinance, City of Green River, State of Wyoming, to establish and regulate disorderly conduct. Council Member Wilson seconded. Motion carried. (7-0)

Council Member Wilson moved to approve on second reading an ordinance adding a new division to Article IV, of Chapter 18, of the Green River Code of Ordinance, City of Green River, State of Wyoming, to establish and regulate disorderly conduct. Council Member Stokes seconded.

Council Member Barney said he does not like Subsection A, Part (4): Who, without lawful purpose or business, loiters, prowls, or wanders upon any public place, or upon the private property of another without the consent of the owner or occupant. He wants to know how it will be determined when someone has a lawful or unlawful purpose.

Mr. Pineda said the changes made to paragraph A (4) and paragraph B were made based on the discussion from the last meeting. The easiest change was the removal of the verbiage on the peeping tom issue since it is already covered by another statute. Council Member Barney raised the issue of the phrase; unlawful or lawful purpose. Changes made will help clarify upfront anyone loitering, prowling, or wondering upon a public place must be done so with lawful purpose or business. If you look at subsection B it states any person who shall refuse to leave after being ordered to do so by police officer, may be arrested. If you look at the ordinance in its entirety it will clarify some of the previous problems council has had in the past.

Council Member Barney asked how will the police officer know what the individual's intent is.

Mr. Pineda said it would be up to the discretion of the officer. Reasonable judgement will follow when a concern has been raised.

Council Member Barney said his problem is that it leaves it up to the officer whether the business is unlawful or lawful.

He said in the City of Jacksonville they were trying to pass an ordinance which would stop known gang members from gathering together. The US Supreme Court decided in 1972 that a presumption that people who might walk, loaf, loiter, stroll, frequent houses where liquor is sold, who are supported by wives, or who look suspicious to the police, are to become future criminals is to precarious for rule of law. The implicit presumption in these generalized vagrancy standards that crime is being nipped in the bud, is to extravagant to deserve extended treatment. Of course vagrancy statutes are useful to the police. They are nets making it easy to roundup so called undesirables but the rule of law implies equality and justice in its application. Vagrancy laws of the Jacksonville type teach that the scales of justice are so tipped that even handed administration of the law is not possible. The rule of law evenly applied to minorities as well as majorities leads to the proof as well as to the rich, is the great mucilage that holds society together. The Jacksonville ordinance cannot be squared with our constitutional standards and is plainly unconstitutional. The phrase of unlawful purposes was also in the Jacksonville ordinance.

The police can go and talk to someone to inquire what they are doing but he said it leaves the police free to ask him what he is up too whenever he is walking the greenbelt or anything else. His answer may be that it is not their business so will he get arrested because of it. That is why he has a problem with paragraph 4 and that is the only problem he has with the ordinance. It limits our constitutional rights and he took an oath to uphold these rights.

Council Member Barney moved to strike out Paragraph 4 and strike Definitions: C (1) which is the definition of loitering and only applies to Paragraph 4. Council Member Peterson seconded.

Council Member Stokes said the majority of the laws are written for the officers to use their own judgement. He thanked Mr. Pineda for rewriting the ordinance. It is fine as it is. There has to be some judgement on the officers' part to make their mind up if the person is unlawful or not. That is why we have courts. He will not support changing the ordinance.

Mr. Pineda said if officers' cannot use their judgement then most, if not all, of the ordinances would not be enforceable. The initial encounter and call determines what they will do in each situation.

Council Member Wilson said the police department has to use their own judgement. He does not think the ordinance needs to be changed and he will not vote in favor of it if it is changed.

Council Member Peterson said he will not vote in favor of this ordinance, no matter how it is written, because this is taking freedoms and rights away from people.

Council Member Killpack said he is in favor of this ordinance and he thinks people need to remember what the intent of the ordinance was in the first place. He does not think the officer's contact anyone for loitering unless someone has called in with a complaint. The officer's need to have something they can do if the situation requires it.

Mr. West said the ordinance is before the council on second reading and the council can vote for it or not but it is not before council to be approved in final form tonight. Council can vote to change the ordinance if they choose but the final ordinance is not what is before them.

Motion failed (3-4) with The Mayor and Council Members Wilson, Stokes, and Killpack voting no.

Original motion carried (4-3) with Council Members Maes, Peterson and Barney voting no.

RESOLUTIONS

Amending the Schedule of Fees and to move Funds from the Animal Control Restricted Donation Funds

R16-06: A resolution amending the Schedule of Fees charged for services, products, licenses, rentals, etc. and to move funds from the Animal Control Restricted Donation Funds for the City of Green River, Wyoming, for the Fiscal Year Ending June 30, 2016

Council Member Wilson moved to approve the resolution amending the Schedule of Fees charged for services, products, licenses, rentals, etc. and to move funds from the Animal Control Restricted Donation Funds for the City of Green River, Wyoming, for the Fiscal Year Ending June 30, 2016. Council Member Peterson seconded. Motion carried. (7-0)

Approving and Authorizing the Execution of a Purchase and Development Agreement and Special Warranty Deed

R16-07: A resolution authorizing and directing the governing body of the City of Green River, Wyoming, a Municipal Corporation, to enter into a Development Agreement and Land Sale with WyoChem Federal Credit Union.

Council Member Maes moved to approve the resolution authorizing and directing the Governing Body to enter into a land sale with WyoChem Federal Credit Union, and authorizing the Mayor and City Clerk to sign, execute, and deliver the Purchase Development Agreement and Special Warranty Deed in accordance with the terms of the agreement, for the sale of Lot 11 of the College Park Business Center PUD, in the amount of \$76,800.01. Council Member Killpack seconded.

Council Member Peterson asked Mrs. Profazier if there is still a two year agreement that if the property was not developed with a time frame then it would revert back to the city on all land sales in Green River.

Mrs. Profazier said in this case the bid had a longer development period and council approved the bid documents. There is a provision in the documents that if they choose to sell the land then the city would have first rights to buy it back. There is no law that sets the certain amount of time to develop it is on a case by case.

Council Member Peterson said they have three years to complete the project.

Mrs. Profazier said according to the Development Agreement they will have it completed by July 15, 2019.

Mayor Rust said the time frame was not on all land sold in Green River it is was only for the business park.

Council Member Killpack said the timeline is based on how the contract is accepted.

Mrs. Profazier said the only thing that has a timeline on length of construction is with subdivisions. By ordinance they have 2 years to complete it. On land sales it is based on the contract the city enters into with the development.

Mr. West said originally the governing body wanted to see development. They didn't want people to buy the lots and sit on them and not have the development occur. The earlier contracts did have strict requirements to develop and now it's up to the developer's contract.

Mrs. Profazier said the Architectural Review Committee also looks at the development.

Motion carried. (7-0)

Support of the Wyoming Association of Municipalities

R16-08: A resolution supporting the Wyoming Association of Municipalities' Legislative Agenda and the Association's efforts in seeking Appropriations of State Funding for all 99 Wyoming Cities and Towns during the 2016 Budget Session of the Wyoming Legislature

Council Member Stokes moved to approve the resolution to support Wyoming Association of Municipalities' Legislative Agenda and the Association's efforts in seeking Appropriations of State Funding for all 99 Wyoming Cities and Towns during the 2016 Budget Session of the Wyoming Legislature. Council Member Killpack seconded. Motion carried. (7-0)

COUNCIL ACTION ITEMS

Task Order 3 to Inberg-Miller Engineers for Material Testing Services

Council Member Stokes moved to approve Task Order 3 to Inberg-Miller Engineers for Materials Testing Services for the Colliers and Hutton Heights Lift Station Replacement Project, in the amount of \$6,800. Council Member Wilson seconded. Motion carried. (7-0)

Bid Award to Wayne Coleman Construction for the 2016 Asphalt Crushing Project

Council Member Peterson moved to award the bid in the amount not to exceed \$73,000 to Wayne Coleman Construction for the 2016 Asphalt Crushing Project. Council Member Wilson seconded.

Council Member Wilson asked for clarification.

Mr. Westenskow said the amount the city has to crush is estimated to be around 10,000 tons but staff would like to crush as much as they can while they have someone here. They put it out at the estimated quantity knowing if there is more there, they can keep going.

Council Member Wilson asked if they will honor the bid amount and continue to crush at \$5 a ton. How do they measure how much tonnage there is?

Mr. Westenskow said they will. They will have a conveyor belt that will weigh it at the same time as it is being run.

Motion carried. (7-0)

Bid Award to Rocky Mountain Recycling for the sale of OCC (Corrugated Cardboard)

Council Member Killpack moved to award the bid for the sale of OCC (corrugated cardboard) recycled materials to Rocky Mountain Recycling of Salt Lake City, Utah, based on current market price. Council Member Stokes seconded. Motion carried. (7-0)

Bid Award to ACP, LLC for the sale of ONP (Old News Print)

Council Member Stokes moved to award the bid for the sale of ONP (Old News Print) recycled materials to ACP, LLC of Logan, Utah, based on current market price. Council Member Wilson seconded. Motion carried. (7-0)

CONSENT AGENDA

Council Member Wilson moved to approve the following consent agenda items. Council Member Peterson seconded. Motion carried. (7-0)

- Agreement with Vortex Productions Inc. for the 2016 Crystal Classic Winter Festival Fireworks Display, in the amount of \$2,900
- Issuance of a Catering Permit to the Ponderosa Bar, Inc. for the Crystal Classic Winter Festival
- Twenty-Four Hour Bar Openings requested by the Green River Liquor Association for Friday, June 24, 2016; Saturday, June 25, 2016; Saturday, October 29, 2016; and Saturday, December 31, 2016
- Minutes for: January 19, 2016 Workshop and Council Meeting
- Payment of Bills:

Prepaid Invoices = \$263,084.35	Outstanding Invoices = \$355,481.89
Payroll Expenditures = \$297,828.49	Pre-authorization Payments = \$1,065,000.00

CITY ADMINISTRATOR'S REPORT

Mr. Clevenger said there will be a SLIB Meeting on February 4, 2016 regarding the loan for the new Wastewater Treatment Facility. He will be attending the Legislative Session and the city will be doing a power point on what is going on in the city. He thanked all of the staff that has been helping with the snow removal and Streets, Parks, and Utilities Departments for removing snow from streets as quickly as possible. The city is using a new ice melt so if citizens are seeing blue on the streets that is the new one. He will be attending the Economic Development Alliance Committee meeting which is made up of members from the county and cities. They will be discussing how they can set things up and what economic development means to the county and cities. The Green River High School and Rock Springs High School will be starting their Make-A-Wish fundraiser and will have many fun events.

CITY ATTORNEY'S REPORT

Mr. West had nothing to report.

MAYOR AND COUNCIL REPORTS

Council Member Stokes thanked everyone who helped with the Legislative Forum. He asked for citizens to be patient with the snow removal.

Council Member Killpack said he was not able to attend the Legislative Forum but he had a good excuse; he went to be with his 27th grandchild. He congratulated the Streets Department and all

other departments that are helping with the snow removal. He said behind the Convalescent Center there are two fire hydrants that are almost covered in snow so someone needs to go and check them. He thanked members of the community who have helped others, who were stuck in the snow, get out.

Council Member Maes thanked staff for working so hard on the snow removal. She will be attending the Great Divide Economic Development Committee meetings and they will be having a conference call on Wednesday. Some of the Federal people attending have asked the committee to hire a full time person but she has said it wasn't a good idea this year since it will fall to cities and towns to pay for the position. Members have been asked to come up with possible grant funding ideas for projects. They are looking for ways to help cities since they have access to federal funds. Please let her know if anyone has ways that the committee could help. She congratulated Mrs. Eusek for completing her 4 year degree.

Council Member Barney said staff has done a great job removing the snow in town. He thanked Mr. Pleasant for plowing his neighborhood and for helping people who got stuck.

Council Member Peterson said he was impressed seeing a supervisor plowing the snow. He asked if the loitering ordinance would be on the next council for final reading since some of the council would not be able to attend.

Mr. Clevenger said no. The ordinance will be moved to the first meeting in March.

Council Member Wilson thanked everyone who came to the forum last month. He has some safety concerns with the school zones at Harrison and Truman. They need to be worked out. He reminded everyone not to pile the snow on the corners at intersections because it blocks the view and is dangerous. He thanked everyone who has helped with the snow removal.

Mayor Rust said the Legislative Forum was great. The speakers did a great job. He said all the Streets Department has been able to do is keep up with the main throughways, so be patient.

ADJOURNMENT

Council Member Wilson moved to adjourn at 8:13 pm. Council Member Stokes seconded. Motion carried. (7-0)

Pete Rust, Mayor

ATTEST:

Chris Meats, City Clerk