

**Minutes
City of Leadville
Regular Council Meeting
July 19, 2016
Leadville City Hall, 800 Harrison Avenue
6:00 PM**

COUNCIL MEMBERS

PRESENT: Gwen Shepherd, Dave Chimovitz, Mayor Greg Labbe, Mayor Pro Tem Max Duarte, Mike Canty, Shoshanah Beck, Jake Mohrmann

COUNCIL MEMBERS

ABSENT: None

STAFF PRESENT: Sarah Dallas, (Administrative Services Manager & Deputy City Clerk) Roy McGinnis, (Finance Director), Dan Dailey, (Fire Chief), Jim Schneiter (Street Dept. Supervisor), Robert Glenny (Police Chief)

PUBLIC

PRESENT: Ryan Fitzmaurice, Kathy Bedell, Kyle Welch, John Cirullo, Debbie McCall, Lillie N. Avi, Lynne Westerfield, Karen Onderdonk and hospital representatives, Robert Seuferer, R.M. & Ron Fesquez and other members of the public interested in today's Agenda items.

6:00 PM CALL TO ORDER, ROLL CALL & Executive Session Script read into the record by Mayor Labbe

6:05pm Council convened executive session pursuant to C.R.S. Section 24-6-402(4)(b) - legal advice and to ask questions of City's attorneys regarding compliance with Arbitration Order in Continental Western Ins. Co. v. Halcomb and Q.B. Associates.

6:25pm Mayor convened City Council meeting and read closing script of executive session. No comments or declarations made by members who participated in the executive session. No motions or action items made based upon the executive session.

6:31pm Pledge of Allegiance

6:31pm Council Discussion Previous to Agenda: Schedule CC work session for 8-9-16 at 6:00pm.

Agenda Revisions – Mayor Labbe asked that Council re-consider the variance request for Kyle Welch at 615 Harrison Ave, so eliminated signage installation. This had a tie vote at the 7-5-16 meeting. Discussion amongst council and staff of how to go about reconsideration. ASM Dallas said a motion should be made by a councilmember who had voted in favor of the variance, 2nded and voted on. Mayor Labbe moved to add this agenda item and reconsider the issue. Councilmember Beck seconded. Discussion: none. Roll Call: CM Shepherd abstained the 6 other CM voted in favor.

6:41pm Public comments not on the agenda: ASM Dallas read into the record a message received from Kathie Gillette from the Spanish Flea. Kathie is concerned with the banner fee costs and the amount of time banners are allowed. She expressed that council should consider ticketing those that have banners that are not in good order but allow banners to remain a free expense and used for a business without a time limit. She is unable to be in person for health issues and will try to get more comments submitted in the future.

Debbie McCall commented that there are those that have told her that they can't participate in City Council because it is not handicap acceptable. CM Duarte stated City Hall is handicap accessible. There was some discussion. ASM Dallas explained people can call in advance to have the accessibility opened up through the police station access of City Hall.

Minutes - Approval of minutes of the regular meeting of July 5th, 2016.

Comment from Sarah Dallas – Roy McGinnis was not in attendance and the pages were out of order. Discussion among Council to add page numbers to the minutes in the future.

CM Mohrmann asked if the minutes could reflect what each vote by council was on the motions for accountability for the public. CM Chimovitz and Mayor Labbe agreed. CM Canty moved to approve the minutes with the discussed changes for 7-5-16, CM Chimovitz seconded.

Discussion: none. Roll Call: Unanimous to approve.

New business

6:48pm Adjourn Meeting of City Council and Convene Local Liquor Licensing Authority.

a. Sports Hall of Fame Special Event Permit - TransRockies Run. No representation by Sports Hall of Fame present for the meeting.

Discussion amongst the authority about the mapping and clarification between Baker Field and Leiter Field. Discussion that they have not had an issue with Sports Hall of Fame conducting other events but this would be the first TransRockies event.

Mayor Labbe moved to approve Special Event Liquor Permit for the Leadville/Lake County Sports Hall of Fame, Leadville CO to be held during the Transrockies run on August 10, 2016 from 11 am – 10 pm between Leiter Field and baker Field, in Leadville, CO. CM Mohrmann seconded. Discussion: none.

Roll Call: Unanimous in favor.

b. Lions Club Special Event Permit – Boom Days – Lions Club representative present John Cirullo.

John spoke that Lion's Club will be honoring by dedicating the Lions Club beer tent to Mr. Bill. & Mrs. Helen Scala. It will hereby be known as the Bill & Helen Scala beer tent. This is to honor the years of service by the Scala's to the Lion's Club and Leadville. A small ceremonial dedication will happen on August 6th at 1:00pm. There will also be Polka music at the beer garden throughout the Boom Days event.

Mayor Labbe moved to approve the Special Event Liquor Permit for the Leadville Lions Club, Leadville CO to be held during Boom Days on August 06, 2016 from 6 am – 6 pm and August 7, 2016 from 8 am – 6 pm, at 600 Harrison Avenue, Leadville, CO and the beer tent will be dedicated to Bill and Helen Scala .

CM Beck seconded. Discussion: CM Duarte asked ASM Dallas if he has no financial interest but is a member of Lion's Club can he vote.

ASM said it is up to him to determine a conflict but appears there is no conflict.

Roll Call: Unanimous in favor.

c. City of Leadville Special Events Permit – Tabor Opera House- ASM Dallas was representing the City of Leadville.

This is for the 2016 season since the City of Leadville is operating the Tabor Opera House. The Tabor Opera House Preservation Foundation is not operating this summer and the Art Gallery Permit has expired. This request is for the next three events scheduled and the license can add additional events that get scheduled at later dates. This is for July 23, 2016, August 17, 2016 and September 2, 2016.

CM Duarte recused himself from the conversation and left the council chambers.

ASM Dallas explained this was awkward but the Leadville Liquor License Authority would have to approve the application and this is how the process is done. The City of Leadville paid the permitting fee of \$20 and will let State Liquor Licensing know of the approval.

CM Chimovitz asked if there would be difference in liability for VIP.

ASM Dallas said it will not change liability but it will have to be noted the admission for the show is the same cost and the “perks” of the VIP tickets include a drink ticket, wood sticker, and preference in seating.

CM Mohrmann asked for clarification on why the foundation couldn’t apply. This was answered by Mayor Labbe and ASM Dallas that the foundation is not reorganized and is waiting until the City purchases the property in October 2016.

CM Beck moved to approve Special Event Liquor Permit for the City of Leadville to be held at the Historic Tabor Opera House on July 23, 2016, August 17, 2016 and September 2, 2016 all from 7-9:30 PM, at 308 Harrison Avenue, Leadville, CO.

CM Canty seconded. Discussion: CM Mohrmann asked if there has ever been other agencies have to do this.

ASM Dallas said yes it does happen from time to time.

Roll Call: CM Duarte recused. All other CM voted in favor.

d. Renewal of Manuelita’s Liquor License. Council discussed the renewal and read there was no issues on the liquor establishments on file with the Police Department.

CM Mohrmann said interim Bertolas gave a report/ interaction from a renewal.

Chief Glennly said there was no list of interactions and if there had been they would have been included.

CM Chimovitz asked if the letter or a report would be part of the processes and would request that to be pro-forma. Chief Glennly agreed.

CM Mohrmann moved to approve the renewal of the Hotel & Restaurant License for Manuelita’s to sell Malt, Vinous, and Spirituous Liquors.

CM Canty seconded.

Discussion: none.

Roll Call: Unanimous in favor.

e. Renewal 3.2% Beer for Shopko Liquor License. Council discussed the renewal and read there was no issues on the liquor establishments on file with the Police Department.

CM Canty moved to approve the License for Shopko to sell 3.2%.

CM Mohrmann seconded.

Discussion: none.

Roll Call: Unanimous in favor.

7:39pm Adjourn Local Liquor Licensing Authority meeting – Re-convene Meeting of City Council.

C4 Composting Presentation by Cloud City Conservation/Lynne Westerfield

Lynn Westerfield with C4 Conversation gave a presentation to City Council about a compost grant opportunity. Lynn started with explain the successful Lake County School Districts composting program.

Lynne explained 4 options that the mini grant of \$5000 could be used for, within the City of Leadville. Options included:

1. Purchase an Earth Tub for use by residents and businesses that is operated by C4. On a C4 site and would include a cost for users but then they would receive, *to be determined amount*, composted soil material back. This would cost \$13,000 and would require both the City's and County's mini grant plus additional costs covered through C4.
2. Compost at Lake County Landfill. This is not being well received by the county and seems to be an option not worth pursuing at this time.
3. Support compost pick-up service through a private company-like Vail Honey Wagon- this would cost more money for the residents and they would then have to buy back the composted material for an additional fee.
4. Set up a program to deliver a compost stipend to households to set up their own compost system; however this would be less effective in the winter months because of freezing temps.

City Councilmembers asked questions and discussed the options presented which included: How much capacity would the earth tub provide? Lynn expressed roughly 40-50 families.

Would enough families pay for this service?

If they went with option #4 would compost freeze?

If they went with option #1 would compost buckets freeze before making it to the earth tub?

After back and forth questions with council and Lynn, Mayor Labbe asked what next steps were needed.

Lynn said a letter of agreement would need to be signed to enter into the contract with C4 for the mini grant of \$5000.

ASM Dallas confirmed there would be no additional or cost to the City to implement option #1. Councilmembers seemed to be in favor of this option if the County and C4 partner together and directed staff to sign the forms once hearing back from Lynn at C4.

Lynn Westerfield brought up additional issue of hazard waste material/dumping.

Lynn wanted to let people know that starting 8-1-16 citizens can dump latex and exterior paint at the Lake County landfill for free. This is because the county now has a partnership with Paint Care.

There is a levy tax fee that is associated with all new paint purchased that makes this program policy.

Full guidelines will be added to the Lake County website in the near future.

CTF Funds Discussion – Tabor Opera House

Mayor Labbe explained the match challenge from the CTF funds from the County. Lake County had challenged the City to match a \$50,000 contribution from the lottery CTF funds. These funds do not come out of the general fund.

Mayor Labbe presented the current balance of the City's CTF fund.

The funds can be used for purchase/acquisition of parks or museums. The Tabor Opera House is a qualifying purchase.

Mayor Labbe explained where the project currently is at, in terms of raised funds. He explained that we are waiting on DOLA funds but that is also predicated on the state budget committee releasing frozen state funds to be utilized.

CM Mohrmann asked if they could wait to match the funds, depending on where the funding is at, closer to the closing date of the purchase contract.

ASM Dallas expressed concern that if Council votes on the issue now, she can use that information to tell DOLA and other funding organizations. This would look favorable on amending grant requests currently pending.

Council discussed the issue and Mayor Labbe explained that they could craft the motion so the funds could be used as acquisition, rehabilitation, or operational depending on the need.

Mayor Labbe moved to use \$50,000 of City CTF funds balance as a match for the acquisition, rehabilitation, or operation of the Tabor Opera House.

CM Chimovitz seconded.

Discussion: CM Mohrmann asked how much CTF funds the City receives annually.

Finance Director McGinnis answered roughly \$24,000 a year.

Roll Call: Unanimous in favor.

Unfinished Business

Public Hearing St. Vincent CUP discussion and decision by City Council

Mayor Labbe opened the public hearing for the St. Vincent CUP and read the script into the record.

Mayor Labbe asked for exparte communication.

CM Duarte said he had spoken with Kathy Bedell who asked him a questions about the hearing.

CM Duarte told her to come to the hearing so he felt he didn't have a conflict.

Mayor Labbe explained that council and P&Z commissioners had be advised by legal counsel, not to attend the neighbor meeting while this CUP application and hearing was pending. No members of P&Z or council attended the meeting.

Karen Onderdonk with St. Vincent Hospital gave a brief presentation re-capping the presentation given to the P&Z commission on 7-5-16. Karen explained the hospital has been at the same location longer then the new zoning changing the area to R2 zoning. The plan on being good neighbors and working on the concerns the 6th street property owners have. They have already had several meetings with these neighbors to address these issues. The meeting last week was to address and listen to the following concerns:

- Mechanical system noise on the roof- the architectural firm is looking into proper mitigation of this issue to put in place a screen or other mechanism to lower sound concerns.
- Buffer behind the property that is adjacent to the 6th street property by looking into proper native/indigenous tree vegetation to create a proper barrier.
- Light pollution will be mitigated using dark skies compliance with down lighting to properly mitigate the issue.

CM Chimovitz asked if the group consider the privacy fencing recommend at the P&Z hearing beyond vegetation barriers. Karen said they would still consider fencing but are considering this on the on-going site development and will do the best that they can.

Mayor Labbe stated modern mechanical systems are much quieter then old systems and would consider ways to quantify what proper noise remediation would mean.

Karen explained that the mechanical system has not yet been designed. The first step is seeking land use approval then a submittal to USDA for a grant application due in mid-August. Then the completed design phase would be next.

CM Chimovitz expressed concern with not having a completed design to consider that could be quantified, in order to approve something without having adequate measures in place.

Mayor Labbe suggested putting condition or standards in place to protect the neighbors.

CM Mohrmann asked about sound concerns with the helipad for the helicopter.

Karen responded that they use generators only if a power outage occurs and conduct generator testing in day time hours. They fill the Oxygen tanks during regular business hours. The mechanicals on the roof was the main noise concern and that is being discussed and designed

to be good neighbors and it looks like a sound wall would be constructed to direct the sound towards the high school and not the 6th street neighbors.

Mayor Labbe asked for public comment in favor. No one spoke in favor.

Mayor Labbe asked for public comment in opposition. Bob Seufferer at 725 W 6th spoke about the constructive neighborhood meeting held where they discussed many issues. The helipad is not their concern because that saves lives. They are concerned with the grade level of the structure and the mechanical units that will be placed on top of the buildings. He stated this would be at his homes ear level and would project the sound up. He is concerned this wall will not be adequate to address the issue. He is concerned with the generator. Although they have these concerns he is willing to continue talks to solve the issue with the hospital design.

Last time the cell tower CUP was pushed through and he wasn't in town for it, this time he wanted to be pro-active to make sure the concerns were addressed.

CM Chimovitz asked Bob is the wall proposal for the mechanicals was going to be insufficient in Bob's opinion.

Bob expressed that he doesn't know what the sound wall proposal is or the mechanical units to make that determination.

CM Chimovitz discussed sound proofing and how to arrive at an adequate criteria for compliance.

Bob expressed it would depend on the decibel level.

CM Beck asked staff how to go about this criteria point.

ASM Dallas said it would need to be a quantifiable measure for enforcement.

Mayor Labbe suggested looking up acceptable decibel levels online and then using those figures as the quantifiable measure.

Bob asked to not hold up the hospital project but come to an agreement on conditions.

CM Chimovitz expressed the hospital should come back with an adequate resolution to the issue in order to have an objective and measurable outcome in place for an end result.

Bob suggested continuing to work with the hospital to work on an agreeable decibel level and sound wall barrier that is acceptable to the neighbors as the condition.

CM Chimovitz asked what if the hospital comes back and can't do it.

Karen said she appreciates the relationship established with the neighbors and they believe they can come up with a plan that is an adequate sound mitigation resolution for the neighbors.

Kathy Bedell with Leadville Today located at 409 E 11th street expressed concerns to council about this being a "cart before the horse" hearing. She asked council to not feel pressure to make a decision on the issue if there was still concerns not addressed. The information and exchanges she is seeing online indicate the public social media conversation is at a different level. Kathy said council should have a full understanding of the business plan and

management contract before making a decision on the conditional use permit. She expressed that the loan is not yet secured for the hospital and it should they should be clear and come with their plan after proper funding is in place, for council to make this important decision.

She asked what will happened to the major empty building on the property, once the new facility was built? This is a major concern as it is near the high school building. She encouraged council to lean in with pressure to the hospital.

Karen said the hospital has not yet had time to address some of these issues and this is an on-going process that they will happily answer.

ASM Dallas read the CUP criteria that must be answered and considered by council into the record.

Bob wanted clarification on whether P&Z had arrived at a decision or not during the 7-5-16 hearing.

ASM Dallas read the full recommendation by council into the record.

CM Chimovitz expressed not wanting to make a decision tonight and to wait for more information.

Mayor Labbe discussed closing the public input portion and then continuing to discuss with council, staff, and applicant.

CM Canty moved to close the public input portion.

CM Mohrmann seconded.

Discussion: CM Chimovitz wanted to postpone a final decision and felt a decision didn't need to be rendered tonight.

Mayor Labbe asked what an appropriate time frame would be for the necessary information.

CM Chimovitz suggested 1-2 weeks or maybe a year if necessary.

Roll Call: Councilmembers Shepherd, Labbe, Canty, and Duarte voted yes. Councilmembers Mohrmann, Chimovitz, and Beck voted no. Motion to close public hearing passed by 4-3 vote.

Mayor Labbe said the citizens of Leadville and Lake County passed the measure last fall to fund a new hospital and ambulance service.

Kathy Bedell spoke from the back and stated that was not correct and not how the ballot measure was worded.

Mayor Labbe said she was out of order because public comment was closed.

CM Chimovitz expressed that we are considering a new facility for the hospital but must have all the questions answered before finalizing a decision. Council discussed back and forth with staff on utility requirements, building codes, and next levels of expertise who will approve the final plans for the hospital.

Mayor Pro Tem Duarte said they should put conditions on the permit that can be binding to the hospital.

CM Shepherd expressed concerns with CUP enforcement and how we don't enforce what has already been approved.

CM Chimovitz expressed concerns if that is correct.

ASM Dallas explained the code allows council to revisit if a legitimate complaint has been filed and explained the 210 E 10th street CUP and CUP amendment that happened last summer.

CM Beck thought there wasn't sufficient answers to specifically state conditions at this time.

Mayor Pro Tem Duarte said they should put in the conditions presented by P&Z

CM Mohrmann asked how we could get the applicant to respond to the questions asked and what time frame we could get them back to continue the hearing.

Mayor Labbe said he thought 2 weeks should be sufficient.

ASM Dallas said if they were to continue the hearing they needed to set the date and time tonight.

CM Mohrmann asked Karen if two weeks from tonight on 8-2-16 would be sufficient.

Police Chief Glenn addressed council saying that whatever condition they proposal make sure it has a specific measurable point from the neighbor's property for enforcement purposes.

Council discussed what conditions or questions they needed to receive to render a decision.

CM Beck suggested they request the hospital to respond with solutions for sound mitigation based on decibel levels of what is an acceptable level of noise from the neighbor's property within 200ft.

Mayor Labbe moved to continue the public hearing, based upon the criteria and question stated by CM Beck, and continue the meeting on 8-2-16 at 6:30pm.

CM Chimovitz seconded.

Discussion: CM Mohrmann confirmed that ASM Dallas would have time to post the public hearing continuation, ASM Dallas confirmed.

Roll Call: Unanimous in favor.

8:55pm Mayor Labbe called a 5minute recess.

9:01pm Councilmember Shepherd had to leave the meeting.

Mayor Labbe opened up the reconsideration and reminded everyone it would still be considered a quasi-judicial process.

9:02pm Mayor Labbe convened City Council meeting

Mayor Labbe reminded council they would still be in quasi-judicial process for the hospital CUP and not to have exparte communication. CM Beck said social media would also count.

Variance request revisited - sign code relief at 615 Harrison Ave for Kyle Welch

Mayor Labbe opened up the reconsideration hearing.

CM Canty stated she still feels the sign is inappropriate.

CM Mohrmann expressed he read the minutes and the original application

CM Beck stated though we are concerned with preserving historic nature of Harrison Ave we also have to consider moving forward with tasteful additions and design to buildings. She felt this suggested signs were nor offensive and were tasteful and we should use variances to consider on a case by case basis.

Mayor Labbe expressed he felt they would not be too bright and would be a good solution to the new building.

CM Chimovitz stated his concern was that the applicant came in and asked for “forgiveness”

Cm Duarte states it was not destroying history and has no real problem with the request.

CM Mohrmann stated lit signs are historic and don’t we have a name “Lead Vegas” for a season and that bright signs are energy for downtowns at night.

Kyle Welch of 615 Harrison Ave property brought the sign and displayed the light to council.

Discussion amongst council on the presented sign.

Mayor Labbe moved that City Council approve on 2nd vote the sign variance for Kyle Welch at 615 Harrison Ave.

CM Duarte seconded.

Roll Call: Councilmember Canty voted no. All other councilmembers present voted yes. 5-1 in favor.

Department Reports and upcoming meetings.

Upcoming Meetings

Added CDOT work session 7/26/16, added executive session before P&Z CUP hearing 7/27/16. 8/17/16 for fire management board and 8/18/16 for fire planning meetings added.

Department Reports

Council listened to all reports and then voted in favor unanimously for all the reports at once.

Treasurer’s Reports

Bills. CM moved, CM seconded. All in favor by raise of hands.

Mayor’s Reports

Mayor brought up his BBQ survey of 35 businesses and the results. He gave a copy to all of council.

Mayor read a letter of thanks to the fire department and street department for helping with a fallen down tree on Chestnut Street.

Mayor updated status on land swap for Chestnut property and a property on E 6th street.

Council Reports

None

Adjournment – 9:37pm