

MINUTES
EVANS CITY COUNCIL MEETING
May 5, 2015

CALL TO ORDER

Mayor Morris called the meeting to order at 7:34 p.m.

PLEDGE

ROLL CALL

Present: Mayor Morris, Mayor Pro-Tem Schaffer, Council Members Brown, Clark, Finn, Homann, and Rudy

PROCLAMATIONS

A. Building Safety Month – May 2015

Mayor Morris read the Proclamation for Building Safety Month and presented it to Zach Ratkai, City Community Development Manager

RECOGNITIONS

A. May Yard of the Month

Mayor Morris and Kyle Fehr, City Code Enforcement Officer, presented Yard of the Month to Mr. Dennis Walkowiak from 2107 36th St Ct., Evans.

B. Recognizing Commander Jason Phipps, Evans Police Department

Chief Rick Brandt, Evans Police Department, talked about the annual academy hosted by the Federal Bureau of Investigations. Chief Brandt discussed the difficult curriculum of the academy and presented a plaque to Commander Jason Phipps, Evans Police Department, to recognize Commander Phipps for graduating from the 2015 academy.

AUDIENCE PARTICIPATION

Dean Snyder, 1613 San Juan Circle, Evans, spoke to City Council about his concerns related to homes in the local housing market not being inspected before they are sold. Mr. Snyder spoke about his career as a building and electrical inspector in the State of Washington. Lastly, he spoke about an expensive City fee for the installation of a fireplace in his home.

Raegan Robb, Evans City Clerk, explained that Fred Neal, from 1614 38th Street, submitted two letters to City Council, which will be inserted into the record (Attachment A).

APPROVAL OF AGENDA

Raegan Robb, Evans City Clerk, explained that an item added under New Business concerning City Park Impact Fees should have been titled to address equivalent residential units (EQRs). He explained that the item concerning EQRs would be the fourth item under New Business.

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Rudy, to adopt the Agenda, as amended.

The motion passed with all voting in favor thereof.

CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of April 21, 2015**
- B. Ordinance No. 621-15 1st Quarter Budget Revision (2nd Reading)**
- C. Acceptance of the 2014 Audited Financial Statements**

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Clark, to adopt the Consent Agenda. The motion passed with all voting in favor thereof.

NEW BUSINESS

- A. Ordinance No. 622-15 Changes to City Code Banning E-cigarettes (1st Reading)**

Raegan Robb, Evans City Clerk, presented Ordinance No. 622-15 that amends Chapter 8.18 of the Evans City Code which Controls Smoking in the City and addresses all forms of electronic smoking devices.

Mr. Robb explained that Electronic smoking devices, are also known as “e-cigarettes” or “ESDs” have emerged as an alternative to tobacco smoking. These smoking devices have come under intense scrutiny by a number of health organizations which point to studies that demonstrate that these devices still represent a significant health concern with their emissions and we are seeing a trend where these devices are being banned in Colorado communities.

He explained that this issue was considered by the Greeley City Council in early 2015 and subsequently, members of the Evans City Council and staff requested an educational presentation at the February 3rd Work Session from Rachel Freeman, from the Tobacco Control Program Coordinator, under the Weld County Department of Public Health and Environment; and Megan Blaser, from the Community Health Education Coordinator, from Centennial Area Health Education Center.

Mr. Robb stated that “Rachel and Megan presented information from other Colorado communities who have regulated smoking to varying degrees, along with articles of support, and other communications. The material presented by Rachel and Megan was attached to this report and they are available for questions.

Following the February 3rd Work Session, the Evans City Council requested more information, and staff followed-up with City Council at the Work Session on February 17th where the Council Members asked the Tobacco-Free Coalition to draft an ordinance to be considered at a regular City Council meeting.”

He discussed the current provisions of Chapter 8.18 of the Evans Municipal Code, which provides for the “Controlling of Smoking” by specifically prohibiting smoking in certain areas in the City, but also provides exceptions to these restrictions to specify where smoking can take place; and outlines the types of businesses that do not apply to the current smoking restrictions in the City.

He reminded Council that the Ordinance is not targeting the sale of “electronic smoking devices” or attempting to shut down smoke shops or businesses that sell tobacco products that are already allowed to exist according to SubSection 30 of Chapter 8.18.

Mr. Robb listed the proposed code changes by Ordinance No. 622-15, including:

- adds definition for “electronic smoking devices in Chapter 8.18;
- creates a new SubSection 45 that prohibits the use of electronic smoking device at all locations where smoking is already prohibited under SubSection 30, which includes “any indoor area or specified outdoor recreation areas;
- amends SubSection 50 to allow an owner to post signs prohibiting the use of electronic smoking devices or designate areas where the use of e-cigarettes are and are not permitted; and
- modifies SubSection 60(c), to allow for citations and prosecution in municipal court for any violations of Chapter 8.18.

He explained that the Ordinance does not have a direct fiscal impact on the City of Evans, and that staff does not have a recommendation on this issue.

Council City did receive some advance communications supporting the Ordinance from LungColorado.Org and the Colorado Tobacco Free Alliance, which were entered into the record (Attachment B).

Mayor Morris asked for any testimony in support of this issue.

Rachel Freeman, the Tobacco Control Program Coordinator, under the Weld County

Department of Public Health and Environment discussed the toxins and carcinogens found in e-cigarettes, the negative health impacts of e-cigarettes and asked the City Council for their support banning e-cigarettes in the City of Evans.

Megan Blaser, Community Health Education Coordinator, from Centennial Area Health Education Center, talked about the role of her Coalition for education, prevention, and commitment to the health of the community in Weld County.

Ms. Blaser talked about the negative impacts of smoking and importance of keeping cigarettes away from minors in Weld County. Lastly, she talked about the problem of e-cigarettes being more accessible to minors, the rising issues with kids being poisoned due to access to liquid nicotine, and urged the Council to support the Ordinance.

Council Member Finn asked Ms. Blaser if they have tracked an increase in minors using e-cigarettes.

Ms. Blaser explained that the use of e-cigarettes has tripled according to the CDC.

Council Member Finn talked about current tobacco law prohibiting the sale of tobacco to minors and whether e-cigarettes should be legislated at the state level.

Council Member Clark asked why municipalities needed to adopt exempting e-cigarettes when it could be legislated at the state level.

Ms. Blaser discussed frustrations with achieving a state-wide policy banning e-cigarettes in public places, and explained that her coalition was currently attacking the issues on a local level.

Mayor Morris asked for any testimony opposing the Ordinance—there was none.

Mayor Morris voiced his support for the issue and the importance of keeping all forms of tobacco out of public places. He talked about the adoption of the Colorado Clean Air Act in 2006, when e-cigarettes did not exist. Lastly, he talked about the need to prohibit the use of e-cigarettes at the local level, ahead of state policy.

Council Member Finn disagreed and spoke about revisions to the Clean Air Act to prohibit smoking in casinos, and later to address marijuana.

Council Members Clark and Finn talked about supporting businesses who want to prohibit e-cigarettes on a case-by-case basis.

Council Member Homann explained why he was opposed to the Ordinance.

Council discussion ensued on the matter.

Mr. Robb addressed questions about the provisions in the Ordinance concerning optional prohibition.

Mayor Morris asked about other neighboring Cities.

Rachel Freeman referred to the list of municipalities that have banned e-cigarettes and added that Arvada banned.

Mayor Morris listed the cities in Colorado that have taken action against e-cigarettes.

Council Member Finn talked about the need for a level playing field when it comes to banning substances and not a patchwork of bans according to each municipality.

Mayor Morris thanked the Council Members for their comments, and spoke about his support for the Ordinance.

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Rudy, to approve Ordinance 622-15 to amend City Code to prohibit e-cigarettes. The motion passed 4-3 on a roll-call vote.

B. Resolution No. 14-2015 Approving Asset Disposals

Mr. Robb presented the Resolution, explaining that City Council adopted Resolution 10-2015 on April 7, 2015, to provide an asset disposal policy for the disposal of surplus/abandoned property from City departments that have accumulated and will continue to accumulate property that is damaged, out modeled, or no longer useful to the City which is considered “surplus property” according adopted policy.

Mr. Robb explained that under the asset disposal policy, property with an original cost of more than \$5,000 may be declared surplus property to be sold if the Evans City Council authorizes the sale of such property through the adoption of a resolution. He explained that staff anticipates this will only be necessary one or two times per year, typically for items such as vehicles. Lastly, Mr. Robb stated that the replacement of these vehicles is in the 2015 budget for the Recreation Department as asset management items and that revenue collected from the sale of surplus property will be receipted into the same fund in which the property was originally purchased.

Mayor Morris asked about how surplus property will be sold.

Mr. Robb summarized the asset disposal property.

Jessica Gonifas, Deputy City Manager explained that the vehicles would be traded in for the market value, if no bids are received.

Council Member Clark made the motion, seconded by Council Member Rudy, to adopt Resolution No. 14-2015. The motion passed with all voting in favor thereof.

C. The Award of Bid for the 37th Street Storm Sewer Project – Phase II

Dawn Anderson, City Engineer, discussed the details of the 37th Storm Sewer Project and explained that the project was advertised according to the City purchasing policy. According to Ms. Anderson, the City received eight complete base bid amounts, and selected Coyote Construction for the bid award.

Mayor Pro-tem Schaffer asked about the dollar amount.

Ms. Anderson confirmed that the total amount was not to exceed \$790,921.

Mayor Morris asked about the project fixing drainage along 37th near the rail road tracks.

Ms. Anderson confirmed that the project would also address drainage.

Council Member Clark made the motion, seconded by Council Member Homann, to award the 37th Street Storm Drain Project – Phase II to Coyote Ridge Construction, and to authorize the Mayor’s signature on an agreement in the amount of \$790,921.00.

The motion passed with all voting in favor thereof.

D. Development EQRs

Aden Hogan, City Manager, asking approval for the Mayor to sign a letter to Marc-Andre Levesque concerning a development in the City and the applicant’s request to reconfigure the EQR calculation for the development. Mr. Hogan discussed the current formula for EQR calculation and the possible need for a future resolution to recalculate EQR requirements for domestic water usage. He explained that the current project was requesting to develop 1200 units, and the agreement would allow for the construction on non-potable infrastructure in the development.

Mayor Morris asked about the proper wording of the motion.

Mr. Hogan clarified the motion should authorize the Mayor to sign the letter to the developer to calculate domestic water volume at .06 EQR/dwelling unit.

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Clark, to authorize the Mayor to sign the letter to the developer. The motion passed with all voting in favor thereof.

REPORTS

A. City Manager

Mr. Hogan, had nothing to report.

B. City Attorney

Scott Krob, City Attorney, updated the Council about the funds received from Mineral Resources for the mineral rights leased from City property.

AUDIENCE PARTICIPATION

There was no audience participation.

EXECUTIVE SESSION

A. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e)

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Clark, to adjourn into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e). The motion passed with all voting in favor thereof.

City Council adjourned into executive session at 8:38 p.m.

The executive session concluded at 9:03 p.m.

Scott Krob, City Attorney, entered into the record that the reason for the executive session was satisfied according to the referenced state law and covered under attorney client privilege.

ADJOURNMENT

The regular meeting adjourned at 9:03 p.m.



Raegan Robb, City Clerk