

City Council Proceedings April 20, 2009

The governing body of the City of Powell met in regular session at 7:00 p.m., April 20, 2009 at City Hall. Mayor Mangold opened the meeting and led those in attendance in reciting the Pledge of Allegiance. Mayor Mangold called the meeting to order and the following were present:

Mayor: Scott Mangold
Council Members: Josh Shorb, Don Hillman, Jim Hillberry, Floyd Young, and Rex Sanders.
Absent: Councilman John Wetzel
City Officials: City Administrator Zane Logan, City Clerk Ardyce Busboom, Finance Director Annette Thorington, Aquatics Supt. Carrie Parmer, City Attorney Sandra Kitchen, and Deputy City Attorney Scott Kath.

Approval of Agenda

Mayor Mangold called for review and approval of the agenda. Councilman Shorb moved to approve the agenda with the addition of item 8B – Councilman Young for Tree Board report under Mayor/Council members. This motion was seconded by Hillberry and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

7 P.M. Public Hearing – Transfer of Ownership of Retail Liquor License #9. Attorney Kitchen opened a public hearing to consider the transfer of retail liquor license #9 (formerly held by Rustad LLC) to Zimbo Development LLC d/b/a Joey's. No public comments were received and this hearing was closed at 7:03 p.m. Councilman Shorb moved to approve this transfer of ownership which motion was seconded by Hillman and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Approval of Minutes.

Mayor Mangold called for any additions or corrections to the April 6th regular meeting minutes which were distributed to Council and posted at City Hall prior to the meeting. Councilman Hillman moved to approve these minutes, which motion was seconded by Young and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY - None; MOTION CARRIED.

Bills and Claims

The list of claims, a copy of which is attached, was then considered. Councilman Hillberry made a motion that the bills be allowed and authorize the Treasurer to draw warrants for payment of same, which motion was seconded by Sanders and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Matters From The Public

BOCES. Mr. David Northrup, Vice Chairman of BOCES updated Council on the \$75,000 funding pledge from this group for the Powell Aquatics Center to be used toward aquatic equipment and education. BOCES will work with the City regarding transfer of funds for the purchase of equipment.

Powell Coalition Against Substance Abuse. Ms. Helena DeFina reviewed a revised agenda for the upcoming meeting scheduled for May 7th at the Commons to develop guidelines for public policy on alcohol issues.

Softball Association Seasonal Kegger Permit. The seasonal kegger permit, with the same alcohol rules and regulations as previous years, was requested by the Softball Association for league play in Homesteader Park. Councilman Shorb moved to approve this kegger permit, which motion was seconded by Hillberry and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Catering Permit. Heart Mountain Pub LLC submitted a request for a catering permit for the Class of '99 reunion scheduled for June 26th at the Park County Fairgrounds with alcohol hours requested from 7 p.m. to 2 a.m. Councilman Hillman moved to approve this catering permit which motion was seconded by Sanders and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Request for 24-hour Bar Openings for 2009. Ms. Jennifer Lieser submitted the local license holders request for the 24-hour bar openings for 2009. Dates requested are: June 27th (Alumni); July 25th (Fair); October 31st (Halloween); and December 31st (New Years Eve). Councilman Hillberry moved to approve these four openings for 2009 which motion was seconded by Shorb and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Mr. Buck Wells – Powell Gambling Ordinances. Mr. Wells, President of the Powell Eagles Club requested clarification of the gambling laws. Attorney Kitchen addressed questions, noting that Powell ordinances parallel state statutes on gambling laws with the exception of two definitions that need updating, the first dealing with pull tab laws and the second dealing with the addition of golf tournaments included with Calcutta wagering. Legal staff will prepare and submit a revised ordinance for Council consideration to make these two changes.

LaVina Package Liquors – Request for a Beer Garden. Following this issue being tabled at the April 6th meeting, Councilman Hillberry moved to bring this request back from the table for further consideration which motion was seconded by Sanders and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young and Sanders; NAY – None; MOTION CARRIED. Mr. Chris Boswell discussed his plans regarding the request to operate a beer garden on the south side of LaVina Package Liquors. They would like to operate this beer garden from May to the end of September. The Building Official has been consulted regarding fencing and adjoining neighbors have been visited with regarding this proposal. Mr. Brent Foulger of Blair’s Market noted he opposes this request and stated that there are currently parking problems with patrons of this establishment. Council noted that of the adjacent property owners that were contacted regarding this request, all opposed allowing a beer garden. Several Council members also received calls voicing concern with allowing a beer garden to operate in this area. Councilman Hillman made a motion that this request be given a trial run with operation on Friday and Saturday only from 3 to 8 p.m. and reviewed by June 27th to address any problems. This motion was seconded by Sanders and the vote was: AYE – Hillman, Hillberry, and Sanders; NAY – Mangold, Shorb, and Young; MOTION DEFEATED. Councilman Shorb then made a motion to allow a beer garden to operate on Wednesday, Thursday, and Friday from 3 to 8 p.m. with review by June 27th, which motion was seconded by Hillman. Further discussion followed and Councilman Shorb withdrew his motion. Councilman Hillman then made a motion that LaVina’s be allowed to operate a beer garden on Monday, Tuesday, and Wednesday from 3 to 8 p.m. until June 27th following which time operation of this beer garden will be re-evaluated and addressed again at the first council meeting in July. This motion was seconded by Shorb and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Mayor/Council Members

WAM Convention Voting Delegate and Alternate. Councilman Shorb made a motion that Mayor Mangold serve as the voting delegate at the June WAM Convention with Councilman Hillberry to serve as the alternate. This motion was seconded by Young and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Tree Board Report and Property Cleanup Concerns. Councilman Young provided Council with an update of Tree Board activities, including the downtown tree project and Arbor Day which is scheduled for April 24th. Councilman Young also related that he had received several calls concerning the deteriorating appearance of Whispering Pines Subdivision, with weeds, fencing issues, and open foundations noted. Discussion followed with it being noted that these are issues that the property owner needs to address.

Legal

Ordinance No. 6, 2009 was up for third reading and was read by title only, the title of which is as follows:

AN ORDINANCE ENACTING SECTION 9.08.100 OF THE POWELL CITY CODE BY PROHIBITING PERSONS FROM USING OR BEING UNDER THE INFLUENCE OF CONTROLLED SUBSTANCES.

Councilman Shorb moved to approve this ordinance on third reading which motion was seconded by Young and the vote was: AYE – Mangold, Wetzell, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Waiver of Hearings for Proposed Liquor License Suspensions. Attorney Kitchen informed Council that One Stop Shoppe and Hansel & Gretel’s have waived their due process hearing to challenge the validity of the proposed three-day suspension of their

liquor licenses for accumulation of demerit points in a twelve month period as per city code. Hansel and Gretel's requested Council consider the dates of April 27, 28, and 29 as their dates for suspension closure. Councilman Hillberry moved to approve these suspension dates for Hansel and Gretel's which motion was seconded by Young and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young and Sanders; NAY – None; MOTION CARRIED. One Stop Shoppe then requested Council consider the dates of May 7, 8, and 9 as their dates for suspension closure. Councilman Shorb moved to approve these suspension dates for One Stop Shoppe which motion was seconded by Hillberry and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED. These three-day suspensions are full 24-hour periods each day from midnight to midnight. These establishments will also be subject to suspension compliance inspections during this period.

Letter of Agreement – Regional Recycling. Attorney Kitchen reviewed a Letter of Agreement between the cities of Powell and Cody, Park County, and Powell Valley Recycling covering plans for the potential development of a centralized recycling operation that would serve all of Park County. Councilman Shorb moved to approve this agreement and authorize execution of same which motion was seconded by Hillberry and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Administrative

Parks Dept. Equipment and Implements Bid Results. Administrator Logan reviewed bids received for equipment and implements for the parks department. Only one bid was received and only one item out of six called for in the bid proposal was bid on. Administrator Logan presented staff recommendation to accept the bid submitted by Heart Mountain Farm Supply in the amount of \$4475.00 for a Flail Mower. Councilman Hillman moved to approve this bid which motion was seconded by Hillberry and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Panther Blvd. Bid Results & Notice of Award. Administrator Logan reviewed bids received for the Panther Blvd. Treated Water Line which contract was awarded to the lowest bidder meeting specs. which was Capstone Construction for the amount of \$597,438.00. Councilman Hillberry noted he would abstain from discussion and voting on this issue. Councilman Sanders moved to accept this bid and authorize execution of the notice of award which motion was seconded by Shorb and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

Compensation Survey Review. Administrator Logan requested Council consideration of the compensation survey and program which was reviewed at the 4 p.m. Council work session. Councilman Young moved to approve the least cost implementation proposal for compensation adjustments, the purchase of the optional software program, and to utilize Mr. Swallow's services in implementing this evaluation software program. This motion was seconded by Hillberry and the vote was: AYE – Mangold, Shorb, Hillman, Hillberry, Young, and Sanders; NAY – None; MOTION CARRIED.

General Announcements. Administrator Logan informed Council of the following: 1) Budget work is continuing with upcoming work sessions for review scheduled for May 12th and 14th; 2) Mastec is back to begin the cleanup work from the Powellink project; 3) Mayor Mangold reminded council of Arbor Day scheduled for April 24th and TCT lunch also scheduled for April 24th.

There being no further business to be considered at this meeting, Councilman Hillman moved to adjourn which motion was seconded. Mayor Mangold adjourned the regular meeting at 8:16 p.m.

APPROVED:

ATTEST:

Mayor

City Clerk