Town of Upton
Regular Town Council Meeting
May 9, 2017

THE REGULAR MEETING of the Town Council of Upton, Wyoming was held at 7:00 p.m. on Tuesday, May 9, 2017 at the Upton Community Center located at 917 N HWY 116 in Upton, Wyoming.

Present: Vice-Mayor Travis Beck, Councilmen Nathan Todd, David Watt, and Justin Norman. Also present were: Attorney Mark Hughes, Mark Lindstrom, David Larson, Kelley Millar, Rona Baker, Dennis Stirmel, Ken Rathbun, Gloria Riehemann, Kyle Materi, Don Bartels, Dick Claycomb, Gary Barnes, Neil & Victoria Schiller, Judy Kosola, Ty Kennedy, John Marshall, Pat & Jeff Schiller, Sam & Joyce Haptonstall, Richard Maury, Ladena & Scott Buckley, Jim & Carmen Diehl, Charles & McKenna Sorenson, Denise Thompson, Julie Abbott, Oddette Lambert, Ann Barker, Josh Franzen, Jackie Gustaf, Sharon Materi, Commissioner Marti Ertman, Brittany Trandahl, Commissioner Tony Barton, Richard Drexler, Jesse Williams, Brandi Harlow with the Wyoming Business Council, Mary Bickett, Debra Helwig, Darren Schiller, Debbie Douglas, and Joe Olson.

Vice-Mayor Beck called the meeting to order by leading the group in the Pledge of Allegiance.

Vice-Mayor Beck called for a motion to go into executive session for personnel (Statue 16-4-405 (a) (ii). Councilman Watt made the motion, seconded by Councilman Todd to go into executive session. All voted in favor, and the Council went into executive session at 7:01 p.m. At 7:13 p.m. Councilman Watt, seconded by Councilman Norman made a motion to resume the regular meeting. All voted in favor, and the meeting resumed. Directly following executive session Councilman Watt made a motion, seconded by Councilman Todd to appoint Travis Beck as Mayor. All voted in favor and the motion carried. Clerk Barker then gave the Oath of Office to Mayor Beck. He will serve until his successor is elected at the next general municipal election and qualified. Mayor Beck then offered thanks for Mayor Upton's years of service on the Council. Mayor Beck then appointed David Watt as Vice- Mayor.

Councilman Todd moved, seconded by Councilman Norman, to approve the minutes of the April 11, 2017 regular meeting, the April 27, 2017 special meeting, and the May 8, 2017 special meeting. All voted in favor, and the motion passed.

Mayor Beck asked for a motion to pay the following claims including a claim from First State Bank. Councilman Norman moved to pay the following claims: Aflac (ins.), $104.41; Alpha Communications (tower), $50.00; American Welding & Gas (supplies), $179.81; Arrow Service (sand), $50.00; AT&T Mobility (cells), $406.16; BHE (utilities), $6,068.03; BCBS (ins.), $10,490.68; Black Hills Ammunition (ammo), $1,208.00; Bearlodge Engineering & Surveying (services), $430.00; Big Horn Hydraulics (parts), $55.88; Chase Cardmember Services (credit purchases), $2,062.77; City of Newcastle (dispatch), $1,686.00; Collins Communications (monitoring), $28.00; Contractor's Supply (parts), $333.91; CW Waste (garbage), $5,964.15; David Larson (reimb.), $395.78; Dept. of Treasury (taxes), $10,305.06; Dept. of Workforce Services (taxes), $328.32, $1,022.94; Energy Labs (testing), $470.00; First State Bank (trf), $670.00; Gillette Steel Center (steel), $274.00; Honnen Equipment (parts), $30.80; Howard White Construction (window), $1,334.84; Hughes Law Office (attorney), $2,132.10; Joe's Food Center (supplies), $20.65; Kriz-Davis (lights), $405.00; LGLP (ins.), $500.00; Midland Implement (labor/parts), $1,244.56; NCPERS (ins.), $16.00; Norman Engle (dirt), $120.00; Norco, Inc. (supplies), $91.20; NorMont (parts), $1,065.64; One-Call Wyoming (tickets), $7.50; Postmaster (permit fee), $225.00, (postage), $158.75; Powder River Energy (utilities), $479.57; RT Communications (phone), $769.35; Rona Barker (reimb.), $31.05; Record Supply (parts), $46.46; Servall (mats), $85.96; Team Lab (parts), $239.40; Titan Machinery (parts), $17.76; Top Office Products (maint.), $11.78; Town of Upton (utility), $29.50; Upton Coop (fuel/parts),

$118.11, $2,541.76; USA BlueBook (shirts), $245.50; Upton Senior Housing Authority (ins.), $500.00; Verizon Wireless (cell), $45.17; Walmart Community (supplies), $144.85; WARWS (training), $870.00; WAMCAT (dues), $65.00; Weston County Gazette (adv./supplies), $603.13; Weston County Treasurer (fees), $33.92; Wyoming Machinery Company (parts), $36.20; Wyoming Network (web), $50.00; Wyoming Retirement (pension), $360.00, $5,969.01; Yellowstone Valley Parts (parts) $133.00. The following invoices will be paid from grant funds when received: Arete Design Group (architect), $1,226.25; Bearlodge Engineering and Surveying (4th Street), $3,505.00; DRM, Inc. (park), $10,063.97. **SALARIES:** $25,958.33. Councilman Todd seconded the motion, and all vote "aye". Motion carried.

Ken Rathbun with Bearlodge Engineering and Surveying explained to the Council that on May 3rd four bid packets were publically opened for the 4th Street Waterline Replacement project. Bids were received from: JW Services ($319,465.80); DRM ($364,232.78); Simon Contractors ($419,330.50); and JR Civil ($500,248.37). Ken recommended that Council accept the low bid from JW Services in the amount of $319,465.80. After discussion, Councilman Watt made a motion, seconded by Councilman Norman to approve the low bid from JW Services. All voted in favor, and the motion carried.

Sharon Materi, representative for the Senior Center Board, explained to the Council why the Senior Center had bought property and liability insurance to cover the senior center building. She further stated that in order for the policy in its entirety to be valid, a lease agreement must be drawn up between the Senior Center and the Town.

Neil Schiller updated the Council in regard to the golf course. There are with the deck mower. He asked if the Town would pay half of a different machine through the golf budget, and the other half will be paid by the Upton Golf LLC. Superintendent Lindstrom stated that the Town has the blue and white Ford tractor that they could use. He also said that the Town may be able to help out some with mowing.

At approximately 7:36 p.m. Mayor Beck opened the Budget Amendment Hearing by calling for a comment and objection period stating that the Town of Upton proposes to amend the Budget for the Fiscal Year 2016-2017 in the following particulars:

1. Increase the General Fund Budget by $261,017.00 by budgeting $154,000.00 from the Federal Mineral Royalties grant, budgeting $47,000.00 in matching funds from the Upton Volunteer Fire Department, budgeting $30,000.00 donated to the Upton Volunteer Fire Department by the Upton Economic Development Board, and by budgeting $30,017.00 from general fund reserves. The monies will be used to pay for a new structure firetruck.
2. Increase the Sewer Fund Budget by $10,000.00 by budgeting $10,000.00 from Sewer Fund Cash Reserves. The monies will be used to pay for an easement agreement, attorney, and engineering fees in relation to Upton Sewer Pond Number Three.

There being no comments or objections, Mayor Beck closed the hearing at 7:38 p.m. Councilman Watt, seconded by Councilman Todd made a motion to amend item 1 of the budget. All voted in favor, and the motion carried. Councilman Norman, seconded by Councilman Todd made a motion to amend item 2 of the budget. All voted in favor, and the motion carried.

At approximately 7:39 p.m. Mayor Beck opened the Budget Hearing for the Proposed Budget Ordinance stating the purpose of the Budget Hearing is to inform the public and solicit public comments regarding the proposed Annual Appropriation Ordinance for the Fiscal Year Ending June 30, 2018. There being no comments, the hearing was closed at 7:40 p.m. The Budget Ordinance is scheduled to be passed at the regular council meeting to be held on June 13, 2017.

At approximately 7:40 p.m. with forty eight people in attendance, Mayor Beck opened the Public Hearing for the proposed Rail Park Cleaning and Repair Facility. He stated that the purpose of this Public Hearing is to inform the public and solicit public comments pertaining to filing an application for a Business Committed Grant/Loan Program to develop a Railcar Cleaning Facility located at the Upton Logistics Center. Comments and testimony from interested parties will be solicited at this time. A petition, containing 178 uncertified signatures, was promptly handed to the Council in favor of the project. Highlights of the meeting included questions such as how will the town benefit financially; will the town get more money if they (Atlas Coal 1) gets rich; are the contracts signed with railcar companies; are the contracts guaranteed if not signed; where are the locations for waste disposal; are the railcars lined; is there competition; where are the disposal wells; how many people will be employed; past UEDB endeavors were questioned; will it bring other jobs to this region; how long will it take to complete; will there be a lease payment the first year; will they paint cars; will they repair cars; will the building be on all 40 acres; can more land be purchased; how large is the building; is owning the track for 20 years a UEDB requirement; could the building be sold in five years; does the Council feel like the intense situation may worsen and maybe it would be best to give the County a shot at the project. It was said that the Council had been elected to make the best decisions for the town.

Highlights of the answers include: The town gets up to $40,000 a year period; contracts have not been signed but verbal commitments in place; Class One waste disposal sites are somewhere in Campbell County; there is competition; employment for 57 people is planned for year one, up to 90 in five years; no guarantee to get more land; the business will have one full year of operation before the lease payment is due; there will be no day to day operations management by the UEDB, they will just be landlords; Per the Federal Grant provisions, the track has to stay in the hands of the UEDB for 20 years; the Development Agreement can reflect that time frame for the building as well.

The Council then asked and fielded questions including the option for a per car fee in lieu of the guarantee of the $0 to $40,000 per year. They were informed that what had been presented was all that was on the table for negotiations.

Brandi Harlow told the group that the next deadline for the grant/loan application would be June 1, 2017.

Councilman Todd stated that circumventing the Council is not thinking Upton First. Councilman Todd further stated that the grant was the Town's responsibility, and that is why it goes in front of elected officials to make sure public funds are not funneled into the hands of private business. He remarked that he was trying to make the best decisions for the community. He asked if his demands were unreasonable. Councilman Todd asked how it could be done to be fair to everyone. He suggested tying a small fee to each railcar entering the facility and stated that this would be a win for every party. He would like to sit down with Atlas exclusively and hammer something out.

Mayor Beck stated that the UEDB had done all the footwork, and it had happened before the project came to the Town. He also said that a ton of work needs to be done in a timely fashion, and needs to be correct as well. Carmen Diehl asked if the Town could have revenue from an outside source. Attorney Hughes answered that they could. The representatives of Atlas Coal 1 interjected that it looked like the Town did not want to pass the Resolution, and that they were getting to the point where they would want to walk away. Councilman Todd asked for another week to make a decision. John Marshall stated that they were ready to go to the County if the Council did not pass the Resolutions of support. Councilman Watt said that the Council was not against the plan, they just wanted to make the best decision for the community. He did not like the ultimatums. Councilmen Todd and Watt stated that the UEDB had known about the project for months, and it would have been nice for the Council to have been included earlier. Deputy Clerk Millar said that there was a question into the Business

Council and the Attorney General that must be answered before documents could be signed on the loan portion of the project. She further stated that the two Resolutions, the Development Agreement, and the grant application have conflicting and inconsistent language. She said that it was something that McKenna, Attorney Hughes and she could work on. Councilman Norman stated that he would like to bring the two sides together. John Marshall stated that the UEDB may be able to prepay the $40,000, and that the Council could talk about minor things, but they would not negotiate anything else. John Marshall stated that if the project was too much of a rush the UEDB understood. Councilman Todd said that with $8 million to the UEDB and potentially nothing to the town, that he would like time to work it out. Mayor Beck asked if the grant application could be sent in with unsigned Resolutions. Brandi Harlow said that it could be submitted that way with signed Resolutions to follow. Attorney Hughes stated that the Council could vote on the Resolution for the grant portion of the project with minor edits and tweaks to be made by him, McKenna, and Kelley. This would be correct for the grant portion of the project but not the loan portion. The Council could vote in favor of the application for the loan as long as it is approved by the Attorney General's office. Attorney Hughes said that it was a big decision, not a take it or leave it type thing. At that time Commissioner Ertman asked what would happen if the Attorney General doesn't approve? Attorney Hughes said that he didn't think there would be a problem, but if there was, the document couldn't be signed, and it would have to go to private funding or we may have to go to an election. Commissioner Barton said that the way he saw it, was that the W.C. Commissioners were a back-up plan. He then urged the Council to vote on the Resolutions. Mayor Beck agreed that it should be brought to a vote. Councilman Todd made a motion, seconded by Councilman Norman to close the hearing. All voted in favor and the hearing was closed at 9:25 p.m.

Mayor Beck called for a motion to accept the Resolutions with a few minor tweaks. Councilman Todd then made a motion, seconded by Councilman Watt to table any action on the Resolutions. Councilmen Todd and Watt both voted "aye", with Mayor Beck and Councilman Norman voting "nay". The motion failed. Councilman Norman then made a motion to support the Resolutions with minor changes in support of a $3,000,000.00 grant application and a $3,000,000.00 loan application subject to approval by the Wyoming Attorney General's office. Mayor Beck, Councilman Watt, and Councilman Norman all voted "aye". Councilman Todd voted "nay". Motion passed.

Councilman Todd made a motion to table discussions or decisions in regard to Susan Bridge's request to purchase property. Councilman Watt seconded the motion, and all voted in favor. Motion tabled.

Attorney Hughes prepared a grazing lease agreement between the Town and Goose Landing, LLC. Councilman Watt made a motion, seconded by Councilman Todd to table the matter. All voted in favor, and the motion was tabled. Mr. Gose will be asked to attend the next council meeting to review the lease for the possibility of Council approval.

Councilmen Todd and Watt recused themselves from the following portion of business due to a conflict of interest. Due to the Rule of Necessity, Councilman Noman moved to pass on the third and final reading AMENDED ORDINANCE NO. 1, SERIES 2016 entitled: AN ORDINANCE VACATING AND ABANDONING PORTIONS OF CEDAR STREET AND 5TH AVENUE IN THE NEIMAN ADDITION, FIRST ENLARGEMENT TO THE TOWN OF UPTON, WESTON COUNTY, WYOMING. Mayor Beck seconded, and both voted "aye". Motion passed.

Discussion was held in regard to ways of creating more revenue for the community center. The building is utilized, but revenues fall far short of expenses. Approximately $1,500 was brought in as revenue with expenditures between $35,000 and $40,000. Councilman Watt was trying to come up with ways to increase revenues and suggested tacking on $1.50 to town utility billings. Attorney Hughes suggested using an operation round-up that would generate more funds. Councilman Todd suggested asking for donations on future billings.

After discussion, Councilman Todd made a motion to add verbiage to the billings asking for donations. Councilman Norman seconded the motion, and all voted in favor. Motion carried.

Oddette Lambert requested approval to have a catering permit for a wedding reception that will be held in the Cowboy Bar and parking lot on June 3, 2017. Councilman Todd made a motion, seconded by Councilman Watt. All voted in favor, and the motion carried.

Councilman Todd made a motion, seconded by Councilman Norman to approve an easement for the lagoon. All voted in favor, and the motion carried. The easement will be presented to Ralph and Jo Ann Shuck for their approval and signatures.

Councilman Watt made a motion, seconded by Councilman Todd to approve RESOLUTION No. 6, 2017 entitled: RESOLUTION OF THE TOWN OF UPTON, WYOMING. All voted in favor, and the motion passed. RESOLUTION No. 6, 2017 states that June 5, 2017, and annually thereafter, is hereby proclaimed as Arbor Day in the Town of Upton, Wyoming, to be celebrated and observed as may be appropriate to honor the importance of trees in our daily lives and to promote the planting and care of trees in Upton, Wyoming. The Resolution in its entirety may be viewed at city hall.

Councilman Todd made a motion, seconded by Councilman Watt to approve RESOLUTION No. 7, 2017 entitled: A RESOLUTION OF THE TOWN COUNCIL OF UPTON, WESTON COUNTY, WYOMING ADOPTING UTILITY RATE INCEASES AND LANDFILL FEE RATE INCREASES FOR THE FISCAL YEAR 2018. All voted in favor, and the Resolution passed. The Resolution is listed in its entirety below:

RESOLUTION NO. 7
A RESOLUTION OF THE TOWN COUNCIL OF UPTON, WESTON COUNTY, WYOMING ADOPTING UTILITY RATE INCREASES AND LANDFILL FEE RATE INCREASES FOR THE FISCAL YEAR 2017-2018

WHEREAS, the Town Council of Upton, Weston County, Wyoming has met and considered its budget for the fiscal year 2017-2018; and

WHEREAS, the Town Council of Upton, Weston County, Wyoming imposes fees to recoup the costs of all services resulting from all enterprise funds expenditures; and

WHEREAS, the Town Council of Upton, Weston County, Wyoming is required to balance the budget and all enterprise funds must be self-sustaining; and

NOW, THEREFORE BE IT RESOLVED by the Town Council of Upton, Weston County, Wyoming that increases in the following particulars will become effective July 1, 2017:

1. The rate for each additional 1,000 gallons of water used over the initial 1,000 gallons included in the base rate will increase from $2.70 to $2.90 per thousand.
2. The sewer service rate will increase from $19.00 per month to $20.00 month for residential customers, a Commercial Rate shall increase from $21.00 per month to $22.00 per month, and the Industrial Rate for commercial customers at the Upton Logistics Center will increase from $22.50 per month to $23.50 per month.
3. All garbage service rates will increase by $3.00 per month per can type, and

DONE IN OPEN SESSION this 9th day of May, 2017.
Town Council of Upton, Weston County, Wyoming

Councilman Watt made a motion, seconded by Councilman Norman to approve the City and Town Dispatch Agreement with the City of Newcastle for FY2017-2018. All voted in favor, and the motion passed. The dispatch services will remain at $1,686.00 per month.

Councilman Todd made a motion, seconded by Councilman Norman to hold a hearing to amend the Town Budget for the Fiscal Year 2016-2017. All voted in favor, and the motion passed. The monies will be used for new employee wages. This matter will considered and acted upon by the Town Council of Upton, Wyoming at approximately 7:30 p.m. at the regular meeting that will be held on June 13, 2017.

The fire department written report was submitted in advance by Fire Chief Strong. No police department was submitted.

Superintendent Lindstrom reported that the 4th Street Project will soon be starting. Park Enhancement project has begun. Concrete pads for the band shell is first on the list with the building to follow.

Deputy Clerk Millar stated that ARETE will present color schemes for the park project. Councilmen Watt and Norman will get with the UEDB to make decisions.

Councilman Watt made a motion, seconded by Councilman Norman to give the swimming pool a free fill. All voted in favor, and the motion carried.

Mayor Beck called for a motion to approve serving alcohol at Hunter Woodard's graduation party on May 21, 2017 at the community center. Councilman Todd made the motion, seconded by Councilman Watt. All voted in favor, and the motion carried.

Councilman Todd asked if the Council would entertain the idea of appointing Dennis Stirmel to the Council. Mayor Beck then asked Dennis if he would be interested in serving on the Council. Dennis indicated that he would be glad to be on the Council. Dennis ran for a council seat in the last election with the 3rd most votes. Councilman Todd then made a motion, seconded by Council Norman to appoint Dennis to the Council. All voted in favor, and the motion carried. Clerk Barker then gave the Oath of Office to Councilman Stirmel who will serve until his successor is elected at the next general municipal election and qualified.

There being no further business, Councilman Watt moved to adjourn, seconded by Councilman Norman. All voted in favor and the motion passed. The meeting adjourned at 10:00 p.m.

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Mayor

_____

Attest Clerk