

WORK SESSION AGENDA




**Casper City Council
City Hall, Council Meeting Room
Tuesday, August 27, 2019, 4:30 p.m.**


Work Session Meeting Agenda		Recommendation	Allotted Time	Beginning Time
Recommendations = Information Only, Move Forward for Approval, Direction Requested				
Optional Bishop House Tour - 3:45 p.m.				
1.	Council Meeting Follow-Up		5 min	4:30
2.	Arborist Licensing	Direction Requested	20 min	4:35
3.	Context Sensitive Agreements with WYDOT on Poplar St Bridge*	Direction Requested	20 min	4:55
4.	Meadowlark Park	Direction Requested	20 min	5:15
5.	WAM Video - Open Meetings Law	Information Only	10 min	5:35
6.	Code of Ethics & Social Media Policy (Continued Discussion)	Direction Requested	40 min	5:45
7.	Agenda Setting		20 min	6:25
8.	Legislative Review		10 min	6:45
9.	Council Around the Table		10 min	6:55
Approximate End Time:				7:05

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Communication Accountability Stewardship Professionalism Efficiency Responsiveness

August 22, 2019

MEMO TO: Casper City Council
J. Carter Napier, City Manager 

FROM: John Henley, City Attorney 

SUBJECT: Trees and shrubs

Meeting Type & Date:
Work Session
August 27, 2019

Action Type
Trees and Shrubs/Information and direction requested

Recommendation
That Council consider the request and circumstances and provide direction.

Summary
As the result of a man's (consumer's) death, resulting from the felling of a tree by an uncertified individual providing arborist service, the City was asked to review its licensing ordinance for arborists. In the process of that review, which included discussions with and a meeting with the daughters of the man who was killed in the tree felling incident, and meetings with local tree services, a review of the City Code Chapter addressing "Trees and Shrubs" was undertaken; the result of that review are the proposed modifications showing in red and blue on the attached Chapter 12.32 "mark-up." The vast majority of the tree companies asked for increased training requirements, certification by the International Society of Arboriculture and maintain significantly higher liability insurance and Workers' Compensation insurance (See 12.32.075). Another request by the vast majority of arborists was a request that for "aerial operations" a certified arborist must be on location for the performance of the aerial operation. (12.32.020 and 12.32.090 B1).

Financial Considerations
None anticipated

Oversight/Project Responsibility
Tim Cortez, Parks and Recreation Director
John Henley, City Attorney

Attachment
Proposed Tracked Changes to Code Chapter 12.32 – Trees and Shrubs

1 Chapter 12.32 - TREES AND SHRUBS

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2 Sections:

3 12.32.010 - Purpose ~~of provisions.~~ – Authority.

- 4 ~~A. This Chapter provides addresses for the care of trees and shrubs on public rights-of-way, and~~
- 5 ~~aids in the proper growth of a landscape program to enhance the beauty of the city. The City~~
- 6 ~~recognizes the substantial economic, environmental, aesthetic and public health benefits of~~
- 7 ~~healthy trees and shrubs within the community. It is the policy of the City to protect and enhance~~
- 8 ~~the community's trees and shrubs. The purpose of this Chapter is to promote and protect the~~
- 9 ~~public safety and general welfare by providing regulation, and to establish policies regarding the~~
- 10 ~~planting, maintaining and removal of trees through recommended and accepted horticultural and~~
- 11 ~~arboricultural practices, and to establish and enforce professional standards for commercial~~
- 12 ~~arborists, pertaining to operating a tree maintenance business and/or a landscaping business~~
- 13 ~~with a tree maintenance component.~~
- 14 ~~B. Authority is granted to cities and towns by Wyo. Stat. Section 15-1-101(a)(xiii) and (xii) to license~~
- 15 ~~and regulate business activities within the City for the health, safety and welfare of its citizens.~~
- 16 ~~C. The requirements of this Chapter will not be deemed to impose any liability for damages or duty~~
- 17 ~~of care and maintenance upon the City or any of its officers, agents or employees.~~

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18 (Ord. 29-83 (part), 1983: prior code § 38-1)

19 12.32.020 - Definitions.

20 ~~The following definitions shall apply in the interpretation and enforcement of this Chapter:~~
21 ~~As used in this Chapter:~~

22 ~~A. "Aerial Operation" shall mean any tree felling operation or any tree trimming or pruning~~
23 ~~operation which is being performed on tree branches 12 feet above the ground or greater,~~
24 ~~measured from the ground where it intersects with the tree trunk, to the branch where it~~
25 ~~intersects with the tree trunk.~~

26
27 ~~AB. "City property" shall mean and include all real property owned by and leased to the City of~~
28 ~~Casper, not including dedicated right-of-way, dedicated parks and developed parks and public~~
29 ~~spaces. "City property" means all city-owned property, including parks, dedicated rights-of-way~~
30 ~~and all other real property.~~

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31 ~~BC.—"Commercial arborist" means any person, firm or corporation engaged in the business of~~
32 ~~cutting, trimming, pruning, spraying, injecting chemicals, or removing trees or shrubs for~~
33 ~~compensation.~~

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34 ~~GD. "Maintenance" shall mean any and all work performed on trees including, but not limited to,~~
35 ~~planting, watering, pruning, removing, stump grinding, treating for insects or diseases,~~
36 ~~protecting and enhancing soils, and preserving and protecting trees during construction.~~

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37 ~~DE. "Noxious tree" means a tree that is designated a "designated noxious weed" by the Wyoming~~
38 ~~Weed and Pest Control Act, Wyoming Statute § 11-5-101, et seq.~~

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39 ~~EF. "Private property" means all land and improvements, including fixtures and appurtenances,~~
40 ~~located within the property lines of a property.~~

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41 ~~FG. "Large trees" means those trees that attain a height of thirty feet or more at maturity.~~

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42 ~~CH.—"Property owners" shall means any person or entity having a legal interest in real-owning~~
43 ~~such property and its fixtures and appurtenances, as shown by the plats of Natrona County,~~
44 ~~Wyoming.~~

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1 ~~GI. "Responsible party" shall mean the property owner or an entity or person who, acting as an~~
2 ~~agent for or in any other legal capacity on behalf of the owner, has authority over property~~
3 ~~subject to this chapter or who is responsible for the maintenance or management of said~~
4 ~~property.~~
5 ~~HJ. "Tree" or "trees" shall mean any perennial woody plant, usually, but not necessarily, single~~
6 ~~stem~~
7 ~~and long-lived with a height greater than overall spread.~~
8 ~~D. "Small trees" means those trees that attain a height of twenty feet to thirty feet at maturity.~~
9 ~~E. "Commercial arborist" means any person, firm or corporation engaged in the business of~~
10 ~~cutting, trimming, pruning, spraying, injecting chemicals, or removing trees or shrubs for~~
11 ~~compensation.~~

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12 (Ord. 11-97 § 1 (part), 1997: Ord. 29-83 (part), 1983: prior code § 38-2)

13 12.32.030 ~~-- Guidelines and~~ Authority.

14 For the purpose of this chapter, ~~forestry section~~ the Parks Division of the ~~public services Parks and~~
15 ~~Recreation De~~partment is charged with the duties and responsibilities of implementing the annual City
16 tree plan.

17 (Ord. 29-83 (part), 1983: prior code § 38-3)

18 (Ord. No. 31-10, § 1, 12-21-2010)

19 12.32.040 - Powers and duties—City tree plan.

20 It shall be the responsibility of the Director of the ~~public services Parks and Recreation De~~partment,
21 or ~~his duty the Director's~~ authorized agent, to develop, write and implement an annual, community
22 ~~forestry tree and shrub~~ work plan.

23 (Ord. 29-83 (part), 1983: prior code § 38-4)

24 (Ord. No. 31-10, § 2, 12-21-2010)

25 12.32.050 - Enforcement—City Manager authority.

26 The City Manager or ~~his the Manager's~~ duly authorized agent shall have full power, authority,
27 jurisdiction and control of planting, locating and replacing all trees on public streets and other areas of
28 public property, and shall likewise have supervision, direction and control of the care, trimming and
29 removal thereof, as well as the enforcement duties with respect to the obligations imposed by this
30 chapter.

31 (Ord. 29-83 (part), 1983: prior code § 38-5)

32 12.32.060 - Care of public trees—City authority.

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33 The City shall have the right to plant, trim, spray, preserve and remove trees, plants and shrubs
34 within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to
35 insure safety when servicing City utilities, or to preserve the symmetry and beauty of such public grounds.
36 The City may remove, or cause to be removed, any tree or part thereof which is in an unsafe condition, or

1 which, by reason of its nature, is injurious to sewers, electric power lines, gas lines, water lines or other
2 public improvements, or is affected with any injurious fungus, insect or other pest.

3 (Ord. 29-83 (part), 1983: prior code § 38-8)

4 12.32.070 - Planting—Location and spacing.

- 5 A. No tree planting is permitted where the distance between the curb and the sidewalk is less than five
6 feet.
- 7 B. No tree or shrub shall be planted closer than ten feet to any fireplug or utility pole.
- 8 C. Trees and shrubs planted near intersections shall be no closer to that intersection than as provided
9 in Sections 12.24.040 and 12.24.050 of this code.

10 ~~D. Large trees shall be spaced at least forty feet apart, so as to allow for safe, healthy and attractive
11 growth. Small trees shall be spaced at least twenty feet apart.~~

12 ~~E. Trees shall be planted no closer than fifteen lateral feet from driveways and alleys.~~

13 ~~FD.~~ No trees ~~other than those defined as small in this chapter~~ shall be planted under or within ten
14 lateral feet of any overhead utility wire or within five lateral feet of any underground water line, sewer
15 line, transmission line, or other utility.

16 ~~GE.~~ No trees of the genus populus shall be planted within fifty feet of any underground water line or
17 sewer line.

18 ~~HF.~~ ~~Small trees~~ shall not be planted ~~closer than two feet or large trees~~ closer than four feet to any
19 curb or sidewalk.

20 ~~IG.~~ Variances to location and spacing and species restrictions may be granted under special
21 circumstances, such as public beautification projects, wherein special consideration can be made to
22 accommodate the desired beautification and appearance. Such variances shall be granted by the
23 city manager or his/her designee upon review of submitted plans and specifications. Existing trees
24 and shrubs are specifically "grandfathered."

25 (Ord. 7-99 § 1, 1999; Ord. 29-83 (part), 1983: prior code § 38-7)

26 12.32.075 - Commercial arborist—License and insurance requirements—Suspension and revocation—
27 Appeal procedures.

- 28 A. All commercial arborists shall be licensed and insured. Any appropriate fees that may be assessed
29 for licensing shall be established by resolution.
- 30 B. Before a commercial arborist license will be granted, the applicant shall:

31 1. Successfully complete yearly, with a satisfactory score, a competency test administered by the
32 Wyoming Extension Office, City Parks and Recreation Division Department. Within three years
33 of obtaining a commercial arborist license from the City, ~~a representative from each business~~
34 ~~each commercial arborist~~ shall also secure at least one certification from the International
35 Society of Arboriculture as an ISA Certified Arborist. Proof of such certification ~~and each~~
36 ~~certification~~ shall be filed with the City Clerk's Office ~~and may be used by such~~
37 ~~individual and his business or employer's business in their advertising and solicitation so~~
38 ~~long as such certifications remain in effect.~~

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39 2. Prior to an arborist license being issued, applicants must file with the office of the City Clerk
40 proof of commercial general liability insurance coverage for the business of the employer of the
41 arborist or the business of the arborist, from a carrier authorized to do business within the State
42 of Wyoming in the following amounts. Commercial general liability insurance coverage must be
43 in the minimum amount of one million hundred thousand dollars (\$1,000,000.00) per occurrence

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1 with a minimum general aggregate amount of two million three hundred thousand dollars
2 (\$3,000,000.00). The coverage document must list the City of Casper, office of the City Clerk,
3 as a certificate holder and contain a statement indicating that any notice of cancellation issued
4 to the applicant must also be provided in writing
5 to the City Clerk within thirty (30) days of effectiveness and Workers' Compensation coverage
6 as mandated by the Statutes of the State of Wyoming.

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7 ~~Maintain a general liability and property damage insurance policy, with a responsible company~~
8 ~~authorized to do business in the state, in full force and effect, and file copies of such certification~~
9 ~~in the office of the city clerk.~~

- 10 C. Failure of a commercial arborist to comply with the conditions set forth in this section shall ~~be~~
11 ~~sufficient grounds result in for~~ the City ~~manger~~ ~~Clerk's revocation of~~ ~~revoke~~ such license. In the
12 event of ~~any suspension or such~~ revocation, except and unless such license has been caused to be
13 revoked by termination of insurance, the City Council shall have the authority to overrule or
14 otherwise modify ~~any order the revocation of~~ the City ~~manager~~ Clerk with regard to license
15 ~~suspension/revocation~~. If an appeal of the City ~~manager's~~ Clerk's decision is desired, the appeal
16 shall be filed ~~with the Clerk with a copy to the City Attorney~~ within ten calendar days from the date of
17 the City ~~manager's~~ Clerk's ~~decision to suspend or revocation e of~~ the arborist license. A hearing by
18 the City Council on an appeal shall be held within ~~thirty twenty-five (25)~~ days from the date the
19 appeal is filed with the City Clerk.

20 (Ord. 11-97 § 1 (part), 1997)

21 12.32.080 - Permit—Required when—Application.

- 22 A. It is unlawful for any person, firm, partnership or corporation to prune, trim, plant, remove or replace
23 any tree or shrub on public property, or within the public right-of-way, without first having obtained a
24 permit for such activity from the City ~~manager or his authorized agent~~ Director of the City Parks and
25 Recreation or the Director's designee.
- 26 B. Such permits shall be requested by written application, which shall specifically describe the work to
27 be done and the location thereof. Any permit issued pursuant to an application previously submitted
28 shall expire within sixty (60) days from the date of its issuance, or within such shorter time as may be
29 set forth within the permit. No charge shall be made for any permit, or for the processing of any
30 application requesting a permit pursuant to the terms of this Chapter. Any work done without a
31 permit required by this Section may result in a criminal misdemeanor charge and may be punishable
32 by a fine of up to \$750.00.
- 33 C. Such permit may direct the specific manner in which the trimming and cutting is to be done. It shall
34 be the responsibility of the ~~city manager~~ Director or ~~his authorized agent designee~~ to establish
35 reasonable standards for these permits.
- 36 D. In the event a permit is denied, the basis for denial shall be given to the applicant, who shall have
37 the right to appeal the denial to the City Council. A written notice of appeal must be filed with the City
38 ~~manager~~ Clerk with a copy to the City Attorney within five (5) days of the denial. Upon the receipt of
39 a notice of appeal, the City Council shall hear and decide the appeal. At the next regular scheduled
40 meeting occurring no less than three (3) days from of when the notice of appeal is filed with the
41 Clerk.
- 42 E. No trees or shrubs shall be planted in or removed from any public street, public parking strip or other
43 public property within the City without the prior acquisition of a written permit therefor from the
44 Director of the ~~public services~~ Parks and Recreation Department. A violation of this subparagraph
45 may result in a criminal misdemeanor charge and may be punishable by a fine of up to \$750.00.

46 (Ord. 2-85 § 1 (part), 1985; Ord. 29-83 (part), 1983; prior code § 38-10 (A) (part), (1))

47 (Ord. No. 31-10, § 3, 12-21-2010)

1 12.32.090 – Licensed Arborist responsibility

2 A. Arborist will be responsible for work activities performed by them or supervised by them in
3 conformance with all applicable city code provisions, and applicable Wyoming law.

4 B. The following provisions apply to licensee operations:

5 1. An ISA Certified Arborist must be on location at the job site at all times during an aerial
6 operation.

7 12. Safety measures and equipment must be utilized at all times to protect workers and the public;

8 23. Adherence to notices or orders issued from the Director of the Parks and Recreation
9 Department or the Director's designee pertaining to work activities and operations; and the

10 34. Maintenance of current physical and mailing and emailing address information, as well as text
11 information at the Office of the City Clerk for use in providing any written or personal notification
12 necessary from the Director.

13 5. A violation of Paragraphs 1-5 of this Section shall be punishable by a criminal misdemeanor
14 fine of up to \$750.00.

15 12.32.090 – Permit—Work by utilities.

16 A. In the absence of provision in the franchise concerning this subject, upon application to the director
17 of the public services department by cable television, telephone, telegraph, electric power or service
18 corporation or utility, to trim trees or to perform other operations affecting trees or shrubs on public
19 property, or upon such application by a qualified contractor who has entered into a contract with a
20 cable television, telephone, telegraph, electric power or other public service corporation or utility to
21 trim such trees or shrubs or to perform other operations affecting trees or shrubs on public property
22 or within the public right-of-way, the director of the public services department may grant an annual
23 permit covering all tree trimming and other operations affecting trees or shrubs on the public right-of-
24 way or on public property by such cable television, telephone, telegraph, electric power or other
25 public service corporation or utility, or a qualified contractor. Such permits shall be effective for a
26 period of one year unless sooner revoked for cause.

27 B. Notwithstanding the issuance of such permit, the director of the public services department shall be
28 notified of the time and location when and where such operation shall take place. The amount of
29 trimming or the extent thereof, or other operation, shall be performed in a manner consistent with
30 standards set by the director of the public services department, and all such trimming, cutting,
31 pruning or removal of trees and shrubs shall be accomplished in a neat, workmanlike manner and
32 consistent with generally accepted practices. The director of the public services department may, if
33 necessary, assign an inspector to supervise the activities conducted pursuant to such permit, and
34 the cost of such inspection shall be charged to the public service corporation, utility or contractor.

35 (Ord. 2-85 § 1 (part), 1985; Ord. 29-83 (part), 1983; prior code § 38-10(A)(1))

36 (Ord. No. 31-10, § 3, 12-21-2010)

37 12.32.100 - Permit—Traffic control measures.

38 It shall be a condition of the permit required in Sections 12.32.080 and 12.32.090 of this Chapter that
39 the permittee take appropriate measures to assure that, during the performance of the work, traffic
40 conditions shall be maintained as nearly normal as practicable, at all times. The permittee shall route and
41 control traffic, including his own vehicles, as required by the City Manual of Specifications and
42 Procedures for the use of traffic-control devices in construction and maintenance areas, and other
43 applicable City Ordinances.

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1 (Ord. 2-85 § 1 (part), 1985: Ord. 29-83 (part), 1983: prior code § 38-10 (C))

2 12.32.110 - Permit—Not required for work by property owner.

3 A property owner or a member of his immediate family who trims or prunes any tree or shrub within
4 the public street which abuts his property shall not be required to obtain a permit as set forth in Sections
5 12.32.080 and ~~12.32.090~~ of this Chapter.

6 (Ord. 2-85 § 1 (part), 1985: Ord. 29-83 (part), 1983: prior code § 38-10 (B))

7 12.32.120 - Protection of trees during excavations.

8 In making excavations in street or other City property, care shall be taken to avoid injury to the roots
9 of any tree or shrub, wherever possible.

10 (Ord. 29-83 (part), 1983: prior code § 38-14)

11 12.32.130 - Attaching signs or notices prohibited.

12 It is unlawful to attach any sign, advertisement or notice to any tree or shrub on City property or
13 parkway.

14 (Ord. 29-83 (part), 1983: prior code § 38-12)

15 12.32.140 - Attaching wires or ropes prohibited.

16 A. It is unlawful to attach any wire or rope to any tree or shrub in any public street, parkway or other
17 City property without the permission of the City Manager or his duly authorized representative.

18 B. Any person or company which maintains poles and wires in the streets, alleys or other City property
19 shall, in the absence of provision in the franchise concerning the subject, keep such wires and poles
20 free from and away from any trees and shrubs in such places as far as may be possible, and keep all
21 such trees and shrubs near wires and poles properly trimmed, subject to the supervision of the City
22 Manager or his duly authorized representative, so that no injury shall be done either to the poles or
23 wires or to the shrubs and trees by their contact.

24 (Ord. 29-83 (part), 1983: prior code § 38-13)

25 12.32.150 - Injuring trees or shrubs prohibited.

26 It is unlawful to purposely injure any tree or shrub planted or growing on City property or parkway.

27 (Ord. 29-83 (part), 1983: prior code § 38-11)

28 12.32.160 - Prohibited species of trees and shrubs.

29 It is unlawful to plant or cause to be planted on public places with the exception of riparian and
30 natural areas adjoining creeks and drainages, any of the following:

31 A. Any cotton-bearing cottonwood trees; except within forty (40) feet of the North Platte River
32 bank.

- 1 B. Any female box elder tree (acer negundo);
2 C. ~~Any of the willows with a maximum height of ten (10) or more feet (genus salix), except within~~
3 ~~forty (40) feet of the North Platte River bank.~~
4 D. Any State of Wyoming designated weeds (Wyoming Statute 11-5-102) which include Russian
5 olives and tamarisk.

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6 (Ord. 7-99 § 2, 1999; Ord. 29-83 (part), 1983: prior code § 38-6)

7 12.32.170 - Dangerous trees deemed nuisance when—Remedies.

- 8 A. Any tree growing over a public alley, street or highway, or so located as to extend its branches over
9 a public alley, street or highway, shall be trimmed by the owner of the property on which the tree
10 stands, or his duly authorized agent, so that there shall be a clear height of fifteen (15) feet above
11 the surface of the street, alley or highway, and eight (8) feet above the surface of sidewalks
12 unobstructed by the branches, or so that the tree does not obstruct the light from any streetlight or
13 the view of any intersection. Additionally, such owner or agent shall remove all dead branches and
14 stubs on any tree or trees which have become likely to fall on or across the public highways, streets
15 or alleys of the City.
- 16 B. For purposes of maintaining visibility for traffic at intersections, existing hedges, shrubs or other plant
17 material within ten (10) feet from the face of the curb on a corner lot shall be trimmed and maintained
18 so as not to stand more than thirty-six (36) inches above the level of the sidewalk. On corners where
19 existing embankments, retaining walls or other objects are placed, no plant material shall be planted
20 unless a permit has previously been obtained from the City Manager.
- 21 C. If vegetation, on private property, in any way other than as stipulated in this section causes a
22 hindrance to the general public, or in any way endangers the security and usefulness of any public
23 street, highway, alley, sewer or sidewalk, as determined, following an inspection, the same is
24 declared to be a public nuisance. The City Manager or his authorized agent shall issue the property
25 owner or his agent a written notice requiring the owner or agent to correct or remove the nuisance
26 within fifteen (15) days. If the owner or agent does not correct the nuisance within the time specified,
27 the city manager or his authorized agent shall cause the same to be corrected or removed. In the
28 event the city corrects or removes the tree, then all costs thereof, including, but not limited to: cost of
29 any contractors and administration; costs and fees as established by the City Council; all collection
30 fees, expenses, costs and reasonable attorney's fees incurred by the City, shall be due and owing
31 from the property owner to the City. Such costs, expenses and fees may be collected in any manner
32 prescribed by law.

33 (Ord. 27-05 § 3, 2005; Ord. 18-99 § 1, 1999; Ord. 29-83 (part), 1983: prior code § 38-9)

34 12.32.180 - Interfering with city activities—Public hearings.

35 No person shall prevent, delay or interfere with the director of the public services department, or any
36 of his duly authorized agents or assistants in the execution or enforcement of this chapter; provided,
37 however, nothing contained in this chapter shall be construed as an attempt to prohibit a public hearing,
38 or to prohibit any legal or equitable remedy in any court of competent jurisdiction for the protection of
39 property rights by the owner of property within the city.

40 (Ord. 29-83 (part), 1983: prior code § 38-15)

41 (Ord. No. 31-10, § 3, 12-21-2010)

42 12.32.190 - Violation—Penalty.

1 Any person violating any provision of this Chapter shall be guilty of a misdemeanor, the penalty for
2 which shall be that set forth in Chapter 1.28 of this code.

3 (Ord. 29-83 (part), 1983: prior code § 38-16)

August 8, 2019

MEMO TO: J. Carter Napier, City Manager *JCN*

FROM: Andrew Beamer, P.E., Public Services Director *AB*
Terry Cottenoir, Engineering Technician

SUBJECT: South Poplar Street and West 1st Street Enhancements Project, No. 17-072

Meeting Type & Date
Council Work Session
August 27, 2019

Action Type
Direction Requested

Recommendation:

That Council provide recommendations on the enhancements for the South Poplar Street and West 1st Street Enhancements Project, No. 17-072.

Summary:

WYDOT is preparing to reconstruct South Poplar Street between West 1st Street and Collins Drive. This project includes replacement of the bridge over the North Platte River to include pedestrian sidewalks and reconstruction of the intersection at South Poplar Street and West 1st Street for additional turn lanes. WYDOT currently plans on installing a 5-ft sidewalk on one-side of the bridge deck, with a 10-ft sidewalk on the other side.

Federal Surface Transportation On-System Enhancement funds, administered by WYDOT, have been allocated to the project. A portion of these funds were utilized to install decorative pedestrian lights on the Poplar Street Bridge over the BNSF railroad. The City of Casper is prepared to utilize the balance of these funds, \$265,000, augmented with the additional \$500,000 in 1%#16 funds allocated by council, to construct enhancements along the project corridor.

Included in the budget for this fiscal year is \$100,000 of the allocated \$500,000 of 1%#16 funds to procure the services of a landscape/engineering firm to design and oversee construction of the enhancements. Staff is requesting Council direction on the desired enhancements. After accounting for WYDOT's preliminary engineering, construction engineering, and Indirect Cost Allocation Plan, \$589,100 remains available for the enhancements. Following is a list of suggested enhancements along with their estimated costs:

<u>Suggested Enhancement</u>	<u>Estimated Cost</u>
Install Decorative Street Lights Over the North Platte River Bridge	\$125,000
Install Decorative Street Lights along the Remainder of Poplar St. to Collins Dr.	\$400,000

Widen Sidewalk to 10-ft along both sides of the North Platte River Bridge	\$426,250
Construct 'Bulb-Outs' on the North Platte River Bridge	\$45,000/each
Install Street Trees and Irrigation System along Poplar Street from 1 st St. to Collins Dr.	\$150,000

Financial Considerations

The construction funds available for enhancements is \$589,100. Included in the budget for this fiscal year is \$100,000 of the \$500,000 in allocated 1%#16 funds to procure the services of a landscape/engineering firm to design and oversee the improvements.


Oversight/Project Responsibility

Terry Cottenoir, Engineering Technician

Attachments

None

Memo



To: Casper City Council
From: Angela Emery
Cc: Carter Napier 
Date: August 20, 2019
Re: Poplar Street Bridge

The Platte River Trails Trust (PRTT) Board is keenly interested in the upcoming reconstruction of the Poplar Street Bridge. Our organization feels this project is a *once in a lifetime opportunity* that in addition to improving non-motorized transportation safety at this key intersection, has the potential to create a major gateway into Casper from the I25 Corridor and deserves to have a first class design aesthetic that will take full advantage of our great community asset, the North Platte River. We have met with WYDOT District Engineer Lowell Fleenor and City Engineer Andrew Beamer and were pleased to learn that the City of Casper is considering using WYDOT enhancement funds, and possibly other City funds, to widen the sidewalks on both sides of the bridge, install lighting, connections south towards Midwest Avenue and King Boulevard and other landscape amenities to this project. The PRTT hopes these enhancements come to fruition. In addition to these important enhancements, the PRTT feels strongly that adding bump outs on the bridge, similar to ones installed on the Robertson Road Bridge, will be a good way to raise the design aesthetic of the bridge and offer excellent viewing areas of the North Platte River to the east and west. The PRTT has been working since 1982 to showcase the North Platte River by creating an environment that encourages and assists people with connecting to the river. Installing bump outs on the Poplar Street Bridge will be an excellent avenue to do just that. To show our dedication to this *once in a lifetime opportunity*, the PRTT Board voted at our August 2019 Board meeting to raise \$100,000, from 2019 Riverfest, our 2019 Year End Giving Letter and grants, to assist with the installation of bump outs on the bridge. Our Board is committed to this course of action and hope City Council will support our efforts.

Robertson Road Bridge



August 13, 2019

MEMO TO: J. Carter Napier, City Manager 
FROM: Tim Cortez, Director of Parks and Recreation 
SUBJECT: Meadowlark Park

Meeting Type & Date
Council Work Session
August 27, 2019

Action Type
Direction Requested

Recommendation
That Council direct staff with regards as to what they would like to see done with the undeveloped portion of Meadowlark Park.

Summary
Meadowlark Park was established in 1979 and currently has 4.9 acres of developed park and an additional 2.9 acres of undeveloped park.

Each year City staff gets a question or two from parties that are interested in what will be done with the undeveloped portion. This portion is addressed in the Parks Plan which was adopted by resolution in 2014. As it stands now, the plan says this undeveloped portion should be turned into a developed area at some point. However, the projected use of such an area would be very low. The current park is more than ample for the size of the neighborhood it serves.

The City set up a public meeting on August 19, 2019 to obtain neighborhood thoughts and concerns. We had 28 adjacent landowners attend the meeting. Everyone agreed, no new homes should be built in the undeveloped area and a little more maintenance to this area would be welcomed. The neighbors would object to housing development of the property for it would likely interfere with their vistas of the mountain and surrounding open areas. We did receive a variety of ideas for the park but there was a vast array and not much consensus. We agreed to do a follow up meeting to share Council's direction and focus the ideas on that course.

Financial Considerations
None at this time.

Oversight/Project Responsibility
Tim Cortez, Director of Parks and Recreation
Liz Becher, Director of Community Development

Attachments
Map of Meadowlark Park

Exhibit "A"

Meadowlark Park / Undeveloped



Legend

Parks

- Meadowlark Park
- Undeveloped Medowlark Park



August 22, 2019

MEMO TO: Casper City Council
J. Carter Napier, City Manager *JCN*

FROM: John Henley, City Attorney *JHA*

SUBJECT: Code of Ethics Ordinance

Meeting Type & Date:

Work Session
August 27, 2019

Action Type

Direction Requested

Recommendation

That Council consider the proposal, and provide direction on scope and changes requested.

Summary

Casper previously had a Code of Ethics; it was repealed in 2018. The repealed Code had some anachronistic language and was ambiguous in several provisions. At the time of its repeal, it was anticipated that it would be further discussed and potentially replaced. The proposed ordinance is based upon Title 9 Chapter 13 of the Wyoming Statutes – “Government Ethics.” At the state level, the Act is known as “The Ethics and Disclosure Act.”

The proposed ordinance is drafted for a municipality and expands the nepotism and conflict of interest provision to include not only family members or spouses, but also one who is a domestic partner with an employee or Council member.

This provision, as stated in the first paragraph of the proposed ordinance, is an “addition to existing laws, rules and regulations providing direction and governing” Casper’s officials and employees. Also, in the “Preamble,” is a brief discussion of the City Manager form of government and the potential cross-currents that can arise unless the organizational format is followed.

Finally, in Subparagraph K of Section 2.60.01, the exception in the last draft “but not a board or commission member serving on a Joint Powers Board,” was deleted.

Financial Considerations

None anticipated

Oversight/Project Responsibility

John Henley, City Attorney

Attachments

Ch. 2.64 – Removal or Censure of Public Officials

W.S. § 15-9-220

W.S. § 16-6-118

ORDINANCE NO. ____

AN ORDINANCE AMENDING CASPER MUNICIPAL
CODE TO ESTABLISH A CODE OF ETHICS

WHEREAS, the members of the Casper City Council desire to conduct their business in a manner that is legally and ethically beyond reproach;

WHEREAS, the Casper City Council pursuant to Wyoming Statute § 15-1-103(a)(v) and (a) (xxxvii), is authorized to investigate “for cause” allegations, and potentially remove a person from office for “incompetency, neglect of duty or otherwise for cause,” provided an opportunity for hearing is established by ordinance - currently Code 2.64.

WHEREAS, the Casper City Council has determined that the principles in Title 9 Chapter 13 of the Wyoming Statutes – “Government Ethics” should be incorporated as stated below into the Casper Municipal Code as a “Code of Ethics.”

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING that Chapter 2.60 - Code of Ethics - of the Casper Municipal Code is Created.

PREAMBLE

The Casper City Council has determined that a code of ethics is an appropriate addition to existing laws, rules and regulations providing direction and governing Casper’s officials, public officers and employees; accordingly, this Code of Ethics for the City of Casper is established.

Serving as a part-time City Council member poses unique challenges; most Council members have not worked in a municipal government setting and a significant number have spent most of their careers in the private sector where they were an owner or manager. To come into an organization, as a member of the body which determines the direction of the organization, but which body employs only three employees of the hundreds of employees working for the organization who answer to the City Manager is a different organizational dynamic. Failure to follow the separation of functions, control and responsibilities, within the organizational framework can result in a blurring of and potentially erosion of the chain of command, putting Council and employees at risk.

The purpose of this Code is to provide some road signs to help guide the Council members and the City’s employees along the various paths and around the occasional obstacles and the different dynamics of very public, public service jobs.

SECTION 2.60.01. DEFINITION OF TERMS

For the purpose of this Ordinance, the following terms, phrases, words and

abbreviations shall have the meanings ascribed to them below. Words not defined shall be given their common and ordinary meaning.

AI. “Anything of value” means:

- (i) a pecuniary item, including money or a bank bill or note;
- (ii) a promissory note, bill of exchange, order, draft, warrant, check or bond given for the payment of money;
- (iii) a contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money;
- (iv) a stock, bond, note or other investment interest in an entity;
- (v) a right in action;
- (vi) a gift, tangible good, chattel or an interest in a gift, tangible good or chattel;
- (vii) a work of art, antiques or collectible;
- (viii) an automobile or other means of personal transportation;
- (ix) real property or an interest in real property, including title to realty, a fee simple or partial interest, present or future, contingent or vested within realty, a leasehold interest or other beneficial interest in realty;
- (x) an honorarium or compensation for services arising out of the person’s service as a public official, official, or public employee;
- (xi) the sale or trade of anything of value for consideration that would ordinarily not be available to a member of the public; or with a rebate or at a discount in its price, unless the rebate or discount is made in the ordinary course of business to a member of the public, or any group or category thereof, but without regard to that person’s status as a public official, official or public employee.
- (xii) a promise or offer of employment;
- (xiii) any other thing of value that is pecuniary or compensatory in value to a person.

A2. “Anything of value” does not mean a campaign contribution properly received and disclosed, as is necessary or required.

B. “Business” means a corporation, partnership, sole proprietorship, LLC, or other type of organization, entity, or association which may be engaged in the buying, selling, exchanging, of commodities, realty, services or anything of value.

C1. “Compensation” includes:

- (i). An advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value; or

(ii). A contract, agreement, promise or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge or transfer of money or anything of value, for services rendered or to be rendered.

C2. “Compensation” does not include:

(i) Contractual salary or wage, hourly wage, employment benefits, reimbursement of expenses, if the reimbursement does not exceed the amount actually expended for the expenses, and if the reimbursement is substantiated by an itemization of expenses; or

(ii) *Per diem* payments or mileage and/or vehicle allowances paid by the employing government entity in accordance with applicable law;

D. “Confidential information” means information which is defined by Wyoming as confidential; in this regard attorney-client privilege between the City Council and its attorney is a privilege belonging to the Council, as an assembly, and shall not be waived unless a majority of the body so directs.

E. “Domestic partner” means a person with whom a public official, officer or City employee maintains a household and an intimate relationship, other than to whom the City official, public officer or employee is legally married.

F. “Employee” means every appointed, classified or unclassified, full-time or part-time employee of the City of Casper who receives a salary or wage as remuneration for their time, service and efforts.

G. “Family member” means an individual, who is the spouse, parent, sibling, child, grandparent or grandchild;

H. “Financial interest” means anything of value which yields directly or indirectly a benefit other than the authorized salary, wage and benefits and remuneration for services to the City, to the “employee” or “public official” or “official”.

I. “Gift” does not include any loan, gift, gratuity, special discount or hospitality with a value of \$250 or less.

J. “Personal interest” is:

(i). With respect to a “public official,” “official” or “employee” an interest which is direct and immediate as opposed to speculative and remote; and

(ii). An interest that provides the public official, official, or employee, a greater benefit or a lesser detriment than it does for a large or substantial group or class of persons who are similarly situated.

K. “Public official” or “official” means: every elected or appointed Casper City Council person, and every appointed board or commission member serving on a board or commission of the City of Casper.

SECTION 2.60.02- USE OF TITLE PRESTIGE OF PUBLIC OFFICE

(a). No public official, official, or employee shall use his or her office or position for his or her private benefit.

(b). As used in this section, “private benefit” means the receipt by the public official, official, or employee of a gift which resulted from his/her holding that office or position.

SECTION 2.60.03- NEPOTISM

(a). No public official, official, or employee shall advocate or cause the employment, appointment, promotion, transfer or advancement of a family member or a domestic partner to an office or position of the City of Casper. A public official, official, or employee shall not supervise or manage a family member or domestic partner who is in an office or position or has employment with the City of Casper, Wyoming.

(b). A public official, official or employee, acting in his or her official capacity, shall not participate in his or her official responsibility or capacity regarding a matter relating to the employment or discipline of a family member or domestic partner.

SECTION 2.60.04- MISUSE OF OFFICE

A public official, official, or employee shall not use public funds, time, personnel, facilities or equipment for his or her private benefit or that of another person or entity unless the use is authorized by law.

SECTION 2.60.05- OFFICIAL DECISIONS AND VOTES

(a). A public official or official shall not make an official decision or vote on an official decision if the public official or official has a personal interest in the matter. In determining whether he or she has a personal interest in a matter, the public official or official shall recognize the importance of his or her right to represent his or her constituency and shall abstain from voting only in clear cases of a personal interest, as defined in this subsection. A public official or official shall not vote to give money or any direct financial benefit to himself or herself except for tax reductions affecting the general public. For purposes of this section, a personal interest is:

(i). with respect to the public official or official, an interest which is direct and immediate as opposed to speculative and remote; and

(ii). an interest that provides the public official or official, a greater benefit or lesser detriment than it does for a large or substantial group or class of persons who are similarly situated.

(b). A public official or official, described by subsection(a) of this section shall abstain from voting on the decision and from making any official decision in the matter. The public official's or official's abstention from voting must be recorded in the City's, board's or committee's official records.

(c) This section shall not be construed to supersede W. S. 15-9-220, or 16-6-118. Those provisions shall control to the extent inconsistent with this section.

SECTION 2.60.06-ACTIONS TAKEN WHILE NEGOTIATING FOR EMPLOYMENT

A public official, official, or employee may not vote or take an official action in a matter affecting a person with whom the public official, official, or employee is negotiating for prospective employment.

SECTION 2.60.07-CONSEQUENCES TO PUBLIC OFFICIALS, OFFICIALS AND EMPLOYEES

Violation of any provision of this act may constitute sufficient cause for termination of an employee's employment or for the censure of the public official or official or the removal of a public official or official from his office or position.

SECTION 2.60.08- EFFECTIVE DATE:

This Ordinance shall become effective 21 days after Council has approved the ordinance on third (3rd) reading.

PASSED on 1st reading the ____ day of _____, 2019.

PASSED on 2nd reading the ____ day of _____, 2019.

PASSED, APPROVED AND ADOPTED on 3rd and final reading the ____ day of _____, 2019.

APPROVED AS TO FORM:

ATTEST:

Fleur D. Tremel
City Clerk

CITY OF CASPER, WYOMING

A Municipal Corporation

Charles Powell
Mayor

Chapter 2.64 - REMOVAL OR CENSOR OF PUBLIC OFFICIALS

Footnotes:

--- (3) ---

Editor's note— Ord. No. 22-14, § 1, adopted September 2, 2014, amended the title of Ch. 2.64 to read as set out herein. Previously Ch. 2.64 was titled removal of officials.

2.64.005 - Definitions.

"For cause" means:

1. Gross and persistent delinquency in being absent from regular meetings of the council. Absence from three consecutive meetings without reasonable excuse shall be evidence of such delinquency;
2. Conviction of a felony;
3. Failing the residency requirements as defined in Section 2.04.030;
4. Determination by a court having jurisdiction to be insane or mentally incompetent;
5. Conviction of a crime involving moral turpitude or constituting a breach of oath of office;
6. Refusing to take the oath of office or to give or renew an official bond if required by law;
7. Conviction of any crime involving ethics or malfeasance; including, but not limited to conviction of the crime of malfeasance pursuant to W.S. § 15-1-113 (m), as it may, from time to time, be amended;
8. Violation of W.S. §§ 9-13-101 et seq., 12-4-103(a)(i), 15-1-127, 15-1-128, or 16-6-118, or Section 5.08.100(A)(1), as they may, from time to time, be amended;
9. Violation of any provision of the public service code of ethics as set forth in Chapter 2.60, or violation of any other law or ordinance involving ethics, as they may, from time to time, be amended;
10. Sexually [sexual] harassment of, workplace violence act against, or creation of a hostile work environment for any agent or employee of the city as set forth in the city personnel rules and regulations manual, dated August 20, 2002, as it may, from time to time, be amended.

(Ord. 11-99 § 2, 1999)

(Ord. No. 22-14, § 2, 9-2-2014)

2.64.010 - Authorization.

- A. Any joint powers board member or other board member appointed by the city council may be removed from office at will at any time by a vote of a majority of all the elected members of the city council.
- B. Any city councilman may be removed from office, for cause, by a vote of a two-thirds majority of all members of the city council after following the procedures set forth in Section 2.64.020 for the removal of any such city councilman.

(Ord. 11-99 § 3, 1999; prior code § 2-71)

(Ord. No. 22-14, § 3, 9-2-2014)

2.64.020 - Procedure.

The following procedures shall be followed for the removal of any city councilman by the city council for any of the "for cause" reasons specified in Section 2.64.005:

1. The city council may, by a resolution approved by a two-thirds majority vote of all of the elected members of the city council, refer any alleged "for cause" conduct to an independent hearing officer who shall be a current member of the state bar association. Said hearing officer shall be retained by the city for hearing the allegations as specified, and set forth in the resolution.
2. The hearing officer shall follow the hearing procedures of a contested case pursuant to the Wyoming Administrative Procedure Act (W.S. § 16-3-101 et seq.) in any removal proceeding.
3. Recognizing that the city attorney's office has a conflict of interest in prosecuting the city's position in any such hearing, the city shall be represented by a special city attorney retained by the city council for the purposes of this hearing.
4. The hearing officer shall state his or her findings in writing and whether or not "for cause" exists for the removal of such councilmember, which shall be forwarded to the members of the city council within ten days after the

conclusion of the hearing. The decision of the hearing officer shall be appealable under the provisions of the Wyoming Administrative Procedures Act.

5. Upon a final decision by the hearing officer finding that the alleged "for cause" conduct has occurred, the councilman may be removed from office or censored by a two-thirds majority vote of all of the elected members of the city council. The vote to remove or censor councilman by the city council is a final decision, shall not be appealable, and the seat held by such councilman shall be vacated.

(Ord. 11-99 § 5, 1999)

(Ord. No. 22-14, § 4, 9-2-2014)

§ 15-9-220. Conflict of interest.

Wyoming Statutes

Title 15. CITIES AND TOWNS

Chapter 9. URBAN RENEWAL

Article 2. DOWNTOWN DEVELOPMENT AUTHORITY

Current through the 2019 Legislative Session

§ 15-9-220. Conflict of interest

No board member or employee of the board shall vote or otherwise participate in any matter in which he has a specific financial interest, defined as a matter in which the member or employee would receive a benefit or incur a cost substantially greater than other property owners within the district. When such interest appears, the board member or employee shall make such interest known, and shall thenceforth refrain from voting on or otherwise participating in the particular transaction involving such interest. Willful violation of the provisions of this section constitutes grounds for dismissal subject to the provisions of W.S. 15-9-206(d).

Cite as (Casemaker) W.S. 15-9-220

§ 16-6-118. Unlawful interest of officeholders in public contracts or works; exception.

Wyoming Statutes

Title 16. CITY, COUNTY, STATE AND LOCAL POWERS

Chapter 6. PUBLIC PROPERTY

Article 1. PUBLIC WORKS AND CONTRACTS


Current through the 2019 Legislative Session


§ 16-6-118. Unlawful interest of officeholders in public contracts or works; exception

- (a) It is unlawful for any person, now or hereafter holding any office, either by election or appointment, under the constitution or laws of this state, to become in any manner interested, either directly or indirectly, in his own name or in the name of any other person or corporation, in any contract, or the performance of any work in the making or letting of which the officer may be called upon to act or vote. It is unlawful for any officer to represent, either as agent or otherwise, any person, company or corporation, in respect of any application or bid for any contract or work in regard to which the officer may be called upon to vote or to take or receive, or offer to take or receive, either directly or indirectly, any money or other thing of value, as a gift or bribe, or means of influencing his vote or action in his official character. Any contracts made and procured in violation of this subsection are null and void and the person violating this subsection may be removed from office.
- (b) Notwithstanding subsection (a) of this section, if any person is interested in any public contract or shall represent any person, company or corporation, but shall disclose the nature and extent thereof to all the contracting parties concerned therewith and shall absent himself during the considerations and vote thereon and not attempt to influence any of the contracting parties and not act directly or indirectly for the governing body in inspection, operation, administration or performance of any contract, then the acts are not unlawful under this section. This section does not apply as to the operation, administration, inspection or performance of banking and deposit contracts and relationships after the selection of a depository.

Cite as (Casemaker) W.S. 16-6-118

August 14, 2019

MEMO TO: Casper City Council
J. Carter Napier, City Manager 

FROM: John Henley, City Attorney 

SUBJECT: Social Media Policy

Meeting Type & Date:
Work Session
August 27, 2019

Action Type
Direction Requested

Recommendation
That Council consider the proposed policy and provide modifications, as appropriate.

Policy Summary
After the August 13, 2019 Work Session direction, the policies reviewed by Council were merged into the Social Media Policy attached. Anticipated next step, Council to pass Resolution adopting the Social Media Policy as Council policy direction on the matter.

The proposed policy provides education/reminders on legal matters, such as Public Records Act compliance and the Terms of Service and privacy settings, etc. In addition, there are reminders of the exemplary conduct of which you expect of yourselves. This policy as drafted does not contemplate any type of formal review or punitive process for alleged violations of the policy; it is a policy embraced by the Council to set forth expectations of Council for itself, upon which the public may rely, and failing which, the public will judge.

Financial Considerations
None anticipated

Oversight/Project Responsibility
Charles Powell, Mayor
Shawn Johnson, Vice President to Council

Attachment
Proposed policy

I. Social Media Policy of the Casper City Council

II. Purpose and Scope

Social media has become a powerful means of communication. It should be used appropriately for those who act on behalf of the City. These Standards are not to be applied to personal accounts of Council members or of their families.

All official presences on social media sites are considered an extension of the City's information networks. Likewise, social media posts, as a City representation, are also subject to public records laws. Social media activity conducted on City-owned computers and/or mobile devices will be subject to the same monitoring guidelines as all other internet usage.

III. Policy

Social media postings and disseminations while representing the City of Casper may be a tool to enhance communications with Casper citizens. The City Council of Casper adopts, when using and posting on social media Casper, as a City Council member, the following standards for Council members' use and guidance:

- a. Social media posts can be considered public records, and must adhere to State retention requirements. There is no expectation of privacy when using social media.
- b. Review and be familiar with its Terms of Service (TOS) agreements.
- c. Review and understand security documentation and privacy settings offered by the social media applications.
- d. Create profiles and related content that is professional and appropriate to the public trust.
- e. Respect brand, trademark, copyright, fair use, disclosure of processes and methodologies, confidentiality and financial disclosure laws.
- f. Pause and think before posting, and reply to comments in a timely manner when a response is appropriate.
- g. Do not use the same logon credentials for City computer systems as on social media sites.
- h. Do not post or release proprietary, confidential, sensitive, or personally identifiable information on social media sites.
- i. Do not use off-topic, vulgar, denigrating or abusive language, or offensive terms targeting individuals or groups, or engage in personal attacks of any kind.

j. Do not endorse commercial products, services, political parties, political candidates, groups or entities.

k. Do not comment on anything related to legal matters or litigation without permission of the City Attorney's office.

l. If reposting from an external source (ex. copy of artwork or an image), credit should be given by noting the origination in the post.

m. The City Council acts as a body. Policy is established by a majority vote. A decision of the majority binds the Council to a course of action and to governing policies and laws.

n. Council members shall support the maintenance of a positive and constructive environment for residents, businesses, and City employees.

o. To the best of their ability, Council members shall represent the official policies and positions of the City Council. When presenting their personal opinions or positions, members shall explicitly state that they do not represent the Council or the City.

p. A Council member, on his or her social media platform, can condemn the nature or the projected consequence of a proposed or adopted measure in strong terms, but there should be no attack upon the motives of or disparagement of another Council member. It is the measure, not the member, which is the subject of public policy.

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