

WORK SESSION AGENDA



**Casper City Council
City Hall, Council Chambers
Tuesday, November 10, 2020, 4:30 p.m.**

COVID-19 precautions are in effect at Council meetings. All Council meetings including Work Sessions are held in Chambers. Entrance to the meetings is the east door off David Street. Upon entry you will be asked to sign-in for contact tracing purposes. Face coverings are encouraged. Seating has been gridded into six feet distances. Seating capacity for the public is fifteen seats. Media will be given priority for seating. Public input via email is encouraged: CouncilComments@casperwy.gov

Work Session Meeting Agenda		Recommendation	Allotted Time	Beginning Time
Recommendations = Information Only, Move Forward for Approval, Direction Requested				
Moment of Silence for Layne Luckow				
1.	Council Meeting Follow-up		5 min	4:30
2.	Nominations for Council Leadership	Direction Requested	10 min	4:35
3.	Grant Application – 1 st Street Gateway Project	Move Forward for Approval	20 min	4:45
4.	WAM Resolutions	Move Forward for Approval	30 min	5:05
5.	Project and Contract Management Discussion	Information Only	30 min	5:35
6.	Sale of Tobacco – City Code Consistent with State Statute	Direction Requested	20 min	6:05
7.	Agenda Review		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

****Please silence cell phones during the meeting****

We are CASPER

Communication Accountability Stewardship Professionalism Efficiency Responsiveness

November 5, 2020

MEMO TO: J. Carter Napier, City Manager *JCN*
FROM: Jolene Martinez, Assistant to the City Manager
SUBJECT: Submission of a Land and Water Conservation Fund grant in an amount up to \$250,000 for the First Street Gateway Project.

Meeting Type & Date

Council Work Session November 10, 2020

Action Type

Direction requested

Recommendation

That Council authorize the submission of a Land and Water Conservation Fund grant in an amount up to \$250,000 for the First Street Gateway Project.

Summary

Visual impressions of a community are important, and gateways into a community can help to create a positive visual impression. The intersection of First and Poplar Streets is one of Casper's major gateways; it leads directly into the downtown core. Though many studies and strategic plans have identified this area as an important gateway, it remains a distinct negative visual break from the work that has been done in the surrounding area including the Amoco Reuse Area, Downtown Casper, and the Old Yellowstone District. Using the public input gathered as part of numerous city plans including Generation Casper, staff has identified the First Street Gateway Project to establish a public gathering space and recreation area that creates a positive presentation of Casper and this downtown area.

The gateway will create a park along the riverfront from the BNSF bridge extending to First Street and west from First Street along the river bank. The park will include a pathway, a boat ramp with an attached parking lot, bollard lighting, park benches, picnic tables, landscaping, and a welcome sign. The initial estimated cost of the entire First Street Gateway Project is \$1,736,000.

As part of the funding strategy, staff is recommending application to the state's Land and Water Conservation Fund (LWCF) for some of the elements of the project. This grant program provides financial assistance for public outdoor recreational lands and facilities. The maximum amount that can be requested is \$250,000, and a 50% match in cash or donated goods and services or work is required. However, applicants must demonstrate they have dedicated 100% of the funding by providing an approved resolution by the applicant's governing body.

Financial Considerations

While the entire cost of the First Street Gateway Project is estimated at \$1,736,000, the LWCF grant request will be for selected foundational elements of the project, so that the project can be

built as funding becomes available. Up to \$250,000 of the first \$546,000 of the project will be requested from the Land and Water Conservation Fund. Council will need to budget \$546,000 for the project, though \$250,000 will be reimbursed by the grant for a net cash need of \$296,000. The additional funding is anticipated to come from a series of sources including the River Fund, private foundations, and other public grant programs that staff has identified. Preliminary discussions with those funders have been encouraging. The Natrona County Recreation Joint Powers Board awarded the City a \$223,000 grant for First Street Gateway Project elements, and, dependent on projects timelines, that grant may be an eligible source of match funding.

Oversight/Project Responsibility

Andrew Beamer, Public Services Director

Liz Becher, Community Development Director

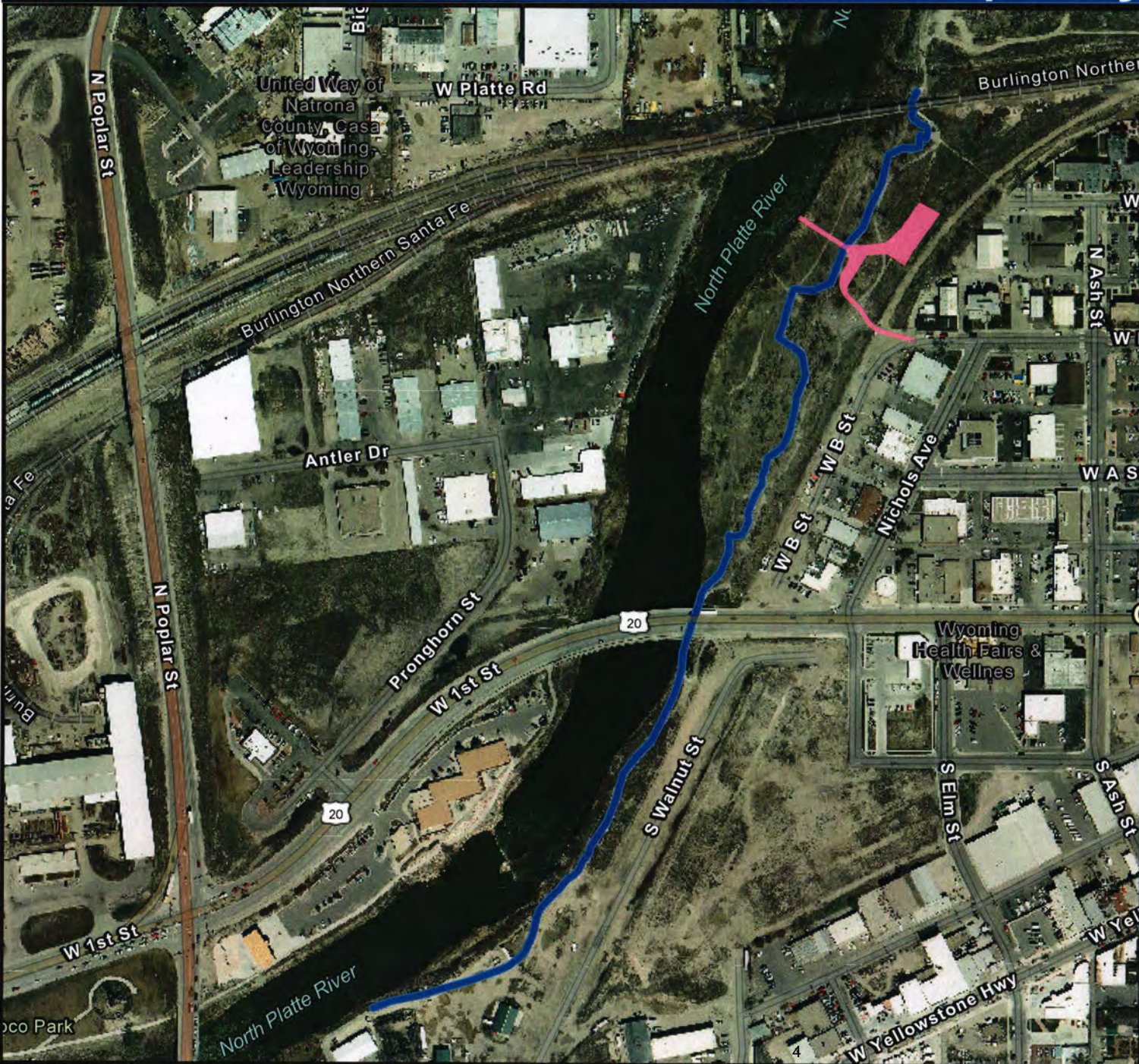
Scott Baxter, Associate Engineer



Jolene Martinez, Assistant to the City Manager

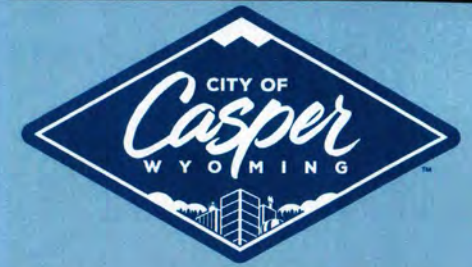
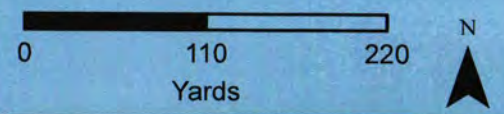
Attachments

Project map

First Street Gateway Project



-  Proposed Boat Ramp
-  Proposed Path



Disclaimer

All data, information, and maps are provided without warranty or any representation of accuracy, timeliness of completeness even though the City of Casper has used reasonable efforts to make its data as accurate as possible. Maps and data are to be used for reference purpose only and the City of Casper shall assume no liability for the use, misuse, accuracy or completeness of this information.

Date Printed:

November 10, 2020

TO: J. Carter Napier, City Manager *JCN*
FROM: Jolene Martinez, Assistant to the City Manager
SUBJECT: Wyoming Association of Municipalities Legislative Agenda 2021

Meeting Type & Date

Work Session, November 10, 2020

Recommendation

That Council review the Wyoming Association of Municipalities 2021 Wyoming Legislative Agenda and provide direction.

Summary

In 2019, Wyoming Association of Municipalities (WAM) changed its legislative strategy for the Wyoming legislature such that a streamlined, prioritized legislative agenda is developed annually and adopted and pursued by WAM staff and all member municipalities. This strategy resulted in successful outcomes during the 2020 legislative session including passage of a version of the optional municipal sales tax and surface water diversion legislation. For 2021, WAM has developed an agenda with nine issues selected from all the issue resolutions submitted from its members.

Casper submitted nine Council-approved resolutions to WAM, and seven of Casper's submissions were selected as priorities for 2021. The nine WAM resolutions/issues for the 2021 WAM agenda are:

1. Research and advocate for changes to 911 service funding
2. Support and strengthen the Wyoming Association of Sheriffs and Chiefs of Police lobbying effort on gaming
3. Remind legislators about the powers of governance delegated to counties and municipalities
4. Amend state statute to allow WDEQ to issue payment of eligible landfill remediation program credit to landfill owners
5. Supporting legislation terminating the requirement of posting notice of applications for all liquor licenses renewals, transfers or new applicants on the premises of the applicant
6. Provide uniform financial transparency in every governmental entity within Wyoming
7. Amend state statute to give seasonal employer status to municipalities such that seasonal employees are exempt from collecting unemployment payments
8. Supporting the authority of cities and towns to create taxing districts
9. Supporting an amendment to the statutes relating to the distribution of sales tax.

The two Casper resolutions that did not make the priority list are

- Billing local assessments through county property taxing infrastructure
- Giving cities the ability to review and comment on WYDOT storm sewer designs.

However, WAM did commit to having a conversation with WYDOT administratively to try to solve the issue of cities being allowed input on storm sewer design within municipal boundaries.

In summary, staff recommends Council move the WAM 2021 Legislative Agenda forward. Staff will then be authorized to work with WAM staff and its members to get the issues passed. The streamlined WAM process likely will result in more success for municipalities as a whole though it may exclude City of Casper legislative issues and may not give legislative issues the same priority Council would give.

Financial Considerations

There are no financial considerations.

Oversight/Project Responsibility

J. Carter Napier, City Manager

Jolene Martinez, Assistant to the City Manager

Attachments

Summary of WAM legislative process and WAM 2021 resolutions

Wyoming Association of Municipalities 2021 Resolution Summary

WAM Resolution Number	Title	Council approved	Casper Submitted	WAM Final
2020-01	Research and advocate for changes to 911 service funding	x	x	x
2020-02	Support and strengthen the wyoming association of sheriffs and chiefs of police lobbying effort on gaming	x	x	x
2020-03	Remind legislators bout the powers of governance delegated to counties and municipalities	x	x	x
2020-04	Amend state statute to allow wdeq to issue payment of eligible landfill remeiation program credit to landfill owners	x	x	x
2020-05	Supporting legislation terminating the requirement of posting notice of applications for all liquor licenses renewals, transfers or new applicants on the premises of the applicant	x	x	x
2020-06	Provide uniform financial transparency in every government entitiy within wy	x	x	x
2020-07	Amend state statute to give season employer status to municipalities such that season employees are exempt from collecting unemployment payments	x	x	x
2020-08	Supporting the authority of cities and towns to create taxing districts			x
2020-09	Supporting an amendment to the statutues relating to the distribution of sales tax			x
	Resolution to amend state statute to enable cities and towns to bill local assessment district assessments through county property taxing infrastructure	x	x	no
	Resolution giving cities the ability to review and comment on WYDOT storm sewer designs would reduce cities' costs in maintaining the storm sewers. (For example, WYDOT might approve corrugated steel pipe, which is not allowed by the City of Casper because of early failure and difficulty with maintenance	x	x	no, WAM will arrange talks with WYDOT

RESOLUTION No. 2020-01

**A RESOLUTION TO RESEARCH AND ADVOCATE FOR CHANGES TO
911 SERVICE FUNDING**

WHEREAS, Wyoming and states across the country have 911 fees attached to all phone services that totaled \$2,675,270,976 in 2018; and

WHEREAS, cities and states across the country have differing 911 charges including state and local fees as well as authority to audit service providers; and

WHEREAS, fees collected are not covering the costs of the 911 system and the fees may be allocated to the locality where the phone is billed rather than where the service is being provided; and,

WHEREAS, some states have amended and enlarged the 911 funding system and are allocating funding to additional public safety service elements; and,

WHEREAS, in 2019, the Wyoming legislature passed House Bill 161 to designate a statewide 911 coordinator who is responsible for coordinating with 911 local and state stakeholders to develop a statewide 911 plan and ensure compliance with federal grant regulations.

NOW, THEREFORE, BE IT RESOLVED that the Wyoming Association of Municipalities supports such rulemaking and legislation allocating appropriate fees where the service is rendered and cover the costs of the 911 system and other public safety elements.

Approved on this (date) 10/15/20

Scott Dellinger
President Scott Dellinger



Building Stronger Communities

RESOLUTION No. 2020-02

A RESOLUTION TO SUPPORT AND STRENGTHEN THE WYOMING ASSOCIATION OF SHERIFFS AND CHIEFS OF POLICE LOBBYING EFFORT ON GAMING

WHEREAS, the Wyoming Para Mutual Commission was converted into the Wyoming Gaming Commission via the successful 2020 House Bill 138; and

WHEREAS, the bill grandfathers existing "games of skill" until January 1, 2021 and charges the Gaming Commission to study gaming in the state; and

WHEREAS, gaming may cause law enforcement issues for; and

WHEREAS, the Wyoming Association of Municipalities can make efforts to build a coalition to support lobbying efforts on gaming in 2021.

NOW, THEREFORE, BE IT RESOLVED that the Wyoming Association of Municipalities supports a broad coalition to lobby for gaming laws that are enforceable and good for cities and towns.

Approved on this (date) 10/15/20

Scott Dellinger
President Scott Dellinger



Building Stronger Communities

RESOLUTION No 2020-03

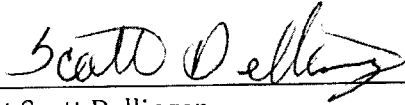
**A RESOLUTION TO REMIND LEGISLATORS ABOUT THE POWERS OF GOVERNANCE
DELGATED TO COUNTIES AND MUNICIPALITIES**

WHEREAS, municipalities are empowered by the State of Wyoming to govern under WS 15-1-101 through 15-11-302; and

WHEREAS, bills have been introduced and moved forward in several legislative sessions to negate or ignore the home rule authority of cities and towns established by WS 15-1-101 through 15-11-302.

NOW, THEREFORE, BE IT RESOLVED that the Wyoming Association of Municipalities will oppose such legislation and partner with and assist legislators to strengthen home rule principles that empower cities and towns.

Approved on this (date) 10/15/20



President Scott Dellinger



Building Stronger Communities

RESOLUTION No 2020-04

A RESOLUTION TO AMEND STATE STATUTE TO ALLOW WDEQ TO ISSUE PAYMENT OF ELIGIBLE LANDFILL REMEDIATION PROGRAM CREDIT TO LANDFILL OWNERS

WHEREAS, State of Wyoming legislators worked with landfill owners to remediate landfills leaking into groundwater and developed a 25% landfill owner cost-share program via state statute; and

WHEREAS, landfill owners that paid for or borrowed money to pay 100% of the costs to remediate their landfills were determined to be eligible for landfill remediation credit; and

WHEREAS, the landfill remediation state statute restricts activities for which the credit can be used such that Casper, Wamsutter, and Thayne will not be able to ever collect their total estimated credits of \$1,904,719.39; and

WHEREAS, an amendment to state statutes that allows for a one-time payment to the three landfill owners to be exclusively used for landfill closure loan repayments, closure/post closure reserve funding, groundwater cleanup and remediation activities, and improving old landfill caps would address the inherent fairness.

NOW, THEREFORE, BE IT RESOLVED that the Wyoming Association of Municipalities supports such legislation as may be necessary to pay unavailable landfill credits to the three landfill owners.

Approved on this (date) 10/16/20

Scott Dellinger
President Scott Dellinger



Building Stronger Communities

RESOLUTION No. 2020-05

A RESOLUTION SUPPORTING LEGISLATION TERMINATING THE REQUIREMENT OF POSTING NOTICE OF APPLICATIONS FOR ALL LIQUOR LICENSES RENEWALS, TRANSFERS OR NEW APPLICANTS ON THE PREMISES OF THE APPLICANT.

WHEREAS, Wyoming State Statute 12-4-104 (a) requires municipalities post notice of applications for all liquor license transfers, renewals and new requests on the licensed premise; and

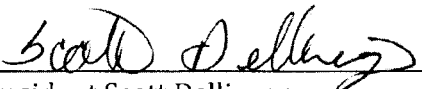
WHEREAS, the current law also requires advertisement of the application in a local newspaper for two (2) consecutive weeks, and on a local website when available; and

WHEREAS, W.S. 12-4-104 (a) requires the City Clerk to post the notices on the premises and does not permit notice of applications to be sent to the applicant/owner/proprietor for posting; and

WHEREAS, eliminating the requirement of a clerk posting notices will allow the clerk and staff to devote more time to other required tasks;

NOW, THEREFORE, BE IT RESOLVED that the Wyoming Association of Municipalities supports legislation eliminating the requirement that city or town clerks post notice of applications on premises and requiring posting by the applicant of the notice of application.

Approved on this (date) 10/15/20



President Scott Dellinger



Building Stronger Communities

RESOLUTION No. 2020-06

**A RESOLUTION TO PROVIDE UNIFORM FINANCIAL TRANSPARENCY IN EVERY
GOVERNMENTAL ENTITY WITHIN WYOMING**

WHEREAS, municipalities and counties are required to publish, within sixty (60) days after the end of each fiscal year, the name, position, base annual salary of and amount of overtime pay paid to each full-time employee and each elected official; and

WHEREAS, publishing the name of each employee may create safety concerns for employees; and

WHEREAS, Wyoming has many governmental entities and sub-divisions not subject to this publishing requirement; and

WHEREAS, the Wyoming Association of Municipalities believes financial transparency should have equal application across all government entities and political subdivisions in the State of Wyoming;

NOW, THEREFORE, BE IT RESOLVED that the Wyoming Association of Municipalities supports such legislation as may be necessary to reach uniform financial transparency in Wyoming.

Approved on this (date) 10/15/20

Scott Dellinger
President Scott Dellinger



Building Stronger Communities

RESOLUTION No. 2020-07

A RESOLUTION TO AMEND STATE STATUTE TO GIVE SEASONAL EMPLOYER STATUS TO MUNICIPALITIES SUCH THAT SEASONAL EMPLOYEES ARE EXEMPT FROM COLLECTING UNEMPLOYMENT PAYMENTS

WHEREAS, municipalities have employment opportunities that are seasonal; and

WHEREAS, the current law of the State of Wyoming does not count these jobs as seasonal and grants seasonal employees unemployment which is charged against the municipality; and

WHEREAS, municipalities could have significant cost savings by lowering their unemployment rating and payment obligations;

NOW, THEREFORE, BE IT RESOLVED that the Wyoming Association of Municipalities supports such legislation as may be necessary to change state statute to give seasonal employer status to municipalities.

Approved on this (date) 10/15/20

Scott Dellinger
President Scott Dellinger



Building Stronger Communities

RESOLUTION No. 2020-08

**A RESOLUTION SUPPORTING THE AUTHORITY OF CITIES AND TOWNS
TO CREATE TAXING DISTRICTS**

WHEREAS, Wyoming's ninety-nine (99) cities and towns are responsible to provide public safety and reliable services for sixty-nine percent (69%) of all Wyoming residents who reside in those communities, as well as tourists and visitors who frequent these communities; and,

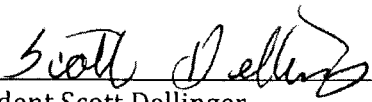
WHEREAS, Partnerships between two or more local governmental entities is a recognized method to better serve the citizens and visitors of Wyoming in particular regions of the state; and,

WHEREAS, Existing local taxation authority of municipal governing bodies does not provide sufficient revenues to provide funding for the projects which are necessary to serve residents of and visitors to cities and town and,

WHEREAS, Wyoming cities and towns require a more sustainable and consistent way to fund projects which serve to improve the economic vitality, safety, and beauty of their communities.

NOW THEREFORE, BE IT RESOLVED that the Wyoming Association of Municipalities hereby resolves to request that the State of Wyoming empower municipalities to raise revenues to fund projects necessary to meet the needs of local residents and visitors by allowing voters within the municipal limits and cooperating governmental entities to enact a special purpose excise tax, commonly known as a 6th Penny tax, to use for those purposes allowed by W.S. 39-15-203.

Approved on this (date) 10/15/20



President Scott Dellinger



Building Stronger Communities

RESOLUTION NO. 2020-09

**A RESOLUTION SUPPORTING AN AMENDMENT
TO THE STATUTES RELATING TO THE DISTRIBUTION OF
SALES TAX**

WHEREAS, Wyoming law, at W.S. 39-15-111 (b) currently provides for the distribution of the sales tax revenues received by the State of Wyoming under W.S. 39-15-103 and W.S. 39-15-104; and

WHEREAS, 39-15-111 (b) requires 69% of the sales tax revenues be credited to the State general fund, and that an additional 1% shall be deducted to cover administrative expenses; and

WHEREAS, the remaining balance of 30% is distributed to the counties, cities and towns in Wyoming pursuant to W.S. 39-15-111 (b)(iii); and

WHEREAS, local government revenue generated from Sales, Use, and Property Tax, funding from the State of Wyoming and Direct Distribution Appropriation, and other miscellaneous sources of income have been insufficient to meet the increasing demands of continuing essential services and are anticipated to decrease in the foreseeable future; and

WHEREAS, the costs of providing essential services and capital expenditure requirements are expected to increase; and

NOW, THEREFORE BE IT RESOLVED, the Wyoming Association of Municipalities supports legislation to request that the State of Wyoming amend W.S. 39-15-111 to provide for a distribution of sales tax revenue so that 50% is distributed to the state, and 50% is distributed to counties and municipalities.

Approved on this (date) 10/15/20

Scott Dellinger
President Scott Dellinger



Building Stronger Communities

October 26, 2020

MEMO TO: J. Carter Napier, City Manager *JCN*
FROM: Andrew Beamer, P.E., Public Services Director *AB*
SUBJECT: Contract Management

Meeting Type & Date:
Council Work Session
November 10, 2020

Action Type:
Information Only

Summary:

Capital projects, regardless of size, contain the same set of front-end contract documents. These documents include the Advertisement to Bid, Instructions to Bidders, Bid Schedule, Standard Agreement Between Owner and Contractor (Agreement), and Measurement and Payment Procedures. Of particular interest to potential bidders are the Advertisement to Bid and Agreement.

The Advertisement to Bid provides potential bidders with a brief description of the project, where the bidder can attend a pre-bid meeting to meet the project team, and when bids are due. The Agreement lets prospective bidders know when the project must be completed, along with the ramifications for not completing the project on time in the form of liquidated damages.

Attendance at a pre-bid meeting is generally optional, but it does provide bidders with an opportunity to ask clarifying questions and to ask for changes to the contract documents. Bidders are often concerned about completion dates and will often ask that project timelines be extended. Any changes to the contract documents prior to bid opening are made by issuing an addendum so that all bidders are aware of the changes.

After contract award by City Council, the only mechanism to change the contract documents is by execution of a change order. Change orders under thirty thousand dollars (\$30,000) or for a time extension of less than thirty (30) days are generally handled administratively through the City Manager. Those exceeding these thresholds are taken back to City Council for their consideration.

Justifications for change orders can range from differing site conditions than expected, unusual weather, delays in receiving specialized equipment or material, or errors in the contract documents. Recently, change orders have been authorized because of delays caused by the COVID-19 pandemic. All change orders are reviewed by the project team for appropriateness before being forwarded to the City Manager or City Council for consideration.

Two completion dates are associated with capital projects: a date for substantial completion and a date for final completion. For a project to be considered substantially complete, the project must have progressed to the point where the work can be utilized for the projects intended purposes. For

a pathway project, that might mean that the pathway is in and can be utilized by the public. For a water main replacement project, that might mean the water line is in, tested, and back in service. Contract items remaining between substantial and final completion generally consist of subsidiary and clean-up items. Final completion is self-explanatory, in that all components of the project have been completed and accepted by the Owner.

Failure by a contractor to complete a project by the substantial or final completion dates result in the assessment of liquidated damages against the contractor. Liquidated damages are not a penalty, but an estimate of the financial loss of the owner that the delays cause, and are paid by the contractor to the Owner each day the contract extends beyond the completion dates. The dollar amount can vary between projects, but is typically several hundred dollars per day. If a contractor is unable to complete a project because of the onset of winter conditions, a winter shut-down will often be authorized to suspend the continued assessment of liquidated damages until weather conditions improve.

November 4, 2020

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

FROM: John Henley, City Attorney *JH*

SUBJECT: Proposed draft ordinance – An Ordinance Amending Chapter 9.40 of the Casper Municipal Code – Offenses by or Against Minors – Article IV – Sale of Tobacco

Meeting Type & Date

Work Session
November 10, 2020

Action type

Information and direction requested.

Recommendation

That Council review the attached draft ordinance and prepare follow-up questions and/or comments as appropriate.

Summary

Effective July 1, 2020, Wyoming State Statutes prohibit the sale of nicotine products to persons under the age of twenty-one (21) years old, as well as the purchase, possession and use of products by persons under the age of twenty-one (21) years old. There are two areas of the Statute that are updated: (1) the Statute is more explicit in describing e-cigarettes and vaping – which has been updated in the ordinance; and (2) the age limit for lawful purchase of tobacco or nicotine products was increased from eighteen (18) years old to twenty-one (21) years old.

The purpose of the attached ordinance is to provide for consistency between the Wyoming Statutes and the Casper Municipal Code.

Financial Considerations

None

Oversight/Project Responsibility

City Attorney's Office
Casper Police Department

Attachments

Proposed draft ordinance

ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 9.40 OF THE
CASPER MUNICIPAL CODE – OFFENSES BY OR AGAINST
MINORS – ARTICLE IV – SALE OF TOBACCO.

WHEREAS, the governing body of the City of Casper has the authority granted by Wyoming State Statute §15-1-103(a)(xiii) and (xli) to adopt ordinances and resolutions necessary to protect the health, safety and welfare of the City and of its citizens; and,

WHEREAS, the governing body of the City of Casper may perform all acts in relation to the concerns of the City necessary to the exercise of its corporate powers; and,

WHEREAS, effective July 1, 2020, Wyoming Statute §§ 14-3-301 *et. seq.*, prohibit the sale of nicotine and tobacco products to persons under twenty-one years old and the purchase, possession and use of tobacco and nicotine products by persons under twenty-one years of age; and

WHEREAS, the Casper Municipal Code needs updated and modified from time to time; and,

WHEREAS, the governing body of the City of Casper desires to update and amend the following Sections of Chapter 9.40 Offenses by or Against Minors – Article IV – Sale of Tobacco for the purpose of consistency between the State Statutes and the Casper Municipal Code.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CASPER, WYOMING: that the following Sections of Chapter 9.40 Offenses by or Against Minors – Article IV – Sale of Tobacco, are hereby updated and amended as follows:

9.40.150 - Definitions.

A. “Electronic cigarette” means any device that can be used to deliver aerosolized or vaporized nicotine or synthetic nicotine to the person using the device and includes any component, part and accessory of the device and any vapor material intended to be aerosolized or vaporized during the use of the device. Electronic cigarette pipe, electronic hookah, vapor pen and any similar product or device. Electronic cigarette does not include a battery or battery charger if sold separately from the electronic cigarette and does not include any product regulated as a drug or device by the United States Food and Drug Administration under the Food, Drug and Cosmetic Act.

A.B. "Tobacco products" means any substance containing tobacco leaf, or any product made or derived from tobacco that contains nicotine, including, but not limited to, cigarettes, cigars, pipe tobacco, snuff, chewing tobacco or dipping tobacco.

C. “Nicotine products” means tobacco products and electronic cigarettes.

D. “Vapor material” means any liquid solution or other material containing nicotine or synthetic nicotine that is depleted as an electronic cigarette is used. Vapor material includes liquid solution or other material containing nicotine or synthetic nicotine that is sold with or inside an electronic cigarette.

~~B-E.~~ "Vending machine" means any mechanical, electric or electronic self-service device which, upon insertion of money, tokens or any other form of payment, dispenses nicotine products or tobacco products.

(Ord. 54-00 § 1 (part), 2000)

9.40.160 - Prohibited sales or delivery.

- A. No person shall sell, offer for sale, give away or deliver nicotine products or tobacco products to any person under the age of ~~eighteen~~twenty-one years. Nicotine products or tobacco products shall be, to the extent possible, kept behind a counter or otherwise made inaccessible to purchasers of the nicotine product or tobacco product, and control and access to the nicotine product or tobacco product in the business establishment shall be maintained by the retailer, his agent or employee.
- B. Any person violating subsection A of this section is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars for the first offense; two hundred dollars for the second offense in any twelve-month period; and five hundred dollars for third and subsequent offenses in any twelve-month period.
- C. It is an affirmative defense to a prosecution under subsection A of this section that:
 - 1. In the case of a sale, the person who sold the nicotine product or tobacco product was presented with, and reasonably relied upon, an identification card which identified the person buying or receiving the nicotine product or tobacco product as being over ~~eighteen~~twenty-one years of age; or
 - 2. The nicotine product or tobacco product was given or delivered to the person under ~~eighteen~~twenty-one years of age by his parent or guardian and the tobacco product was given or delivered to the person for use in the privacy of his parent's or guardian's home or under the direct supervision of the parent or guardian.

(Ord. 54-00 § 1 (part), 2000)

9.40.170 - Posted notice required; location of vending machines.

- A. Any person who sells nicotine products or tobacco products shall post signs informing the public of the age restrictions provided by this article at or near every display of nicotine products or tobacco products and on or upon every vending machine which offers nicotine products or tobacco products for sale. Each sign shall be plainly visible and shall contain a statement communicating that the sale of nicotine products or tobacco products to persons under ~~eighteen~~ twenty-one years of age is prohibited by law.
- B. No person shall sell or offer nicotine products or tobacco products through a vending machine unless the vending machine is located in:

1. Businesses, factories, offices or other places not open to the general public;
 2. Places to which persons under the age of ~~eighteen~~twenty-one -years of age are not permitted access; or
 3. Business premises where alcoholic or malt beverages are sold or dispensed and where entry by persons under ~~eighteen~~twenty-one -years of age is prohibited.
- C. Any person violating subsection A or B of this section is guilty of a misdemeanor punishable by a fine of not more than one hundred dollars. Each day of continued violation shall be deemed a separate offense.

(Ord. 54-00 § 1 (part), 2000)

9.40.180 - Purchase by ~~minors~~underage persons prohibited.

- A. No person under the age of ~~eighteen~~twenty-one years shall purchase nicotine products or tobacco products, or misrepresent his identity or age, or use any false or altered identification for the purpose of purchasing nicotine products or tobacco products.
- B. Any person violating subsection A of this section is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars for the first offense; two hundred dollars for the second offense in any twelve month period; and five hundred dollars for third and subsequent offenses in any twelve month period. Upon a conviction for violation of subsection A of this section, the court may allow the defendant to perform community service and be granted credit against his fine and court costs at the rate of five dollars for each hour of work performed.

(Ord. 54-00 § 1 (part), 2000)

9.40.190 - Possession or use by ~~minors~~underage persons prohibited.

- A. It is unlawful for any person under the age of ~~eighteen~~twenty-one -years to possess or use any nicotine products or tobacco products.
- B. Any person violating subsection A of this section is guilty of a misdemeanor punishable by a fine of not less than one hundred dollars for the first offense; two hundred dollars for the second offense in any twelve month period; and five hundred dollars for third and subsequent offenses in any twelve month period. Upon a conviction for violation of subsection A of this section, the court may allow the defendant to perform community service and be granted credit against his fine and court costs at the rate of five dollars for each hour of work performed.
- C. It is an affirmative defense to a prosecution under subsection A of this section that the defendant possessed or used the nicotine products or tobacco product in the home of, or under the direct supervision of, a parent or guardian.

(Ord. 54-00 § 1 (part), 2000)

PASSED on 1st reading the ____ day of _____, 2020

PASSED on 2nd reading the ____ day of _____, 2020

PASSED, APPROVED, AND ADOPTED on third and final reading the ____ day
of _____, 2020.

APPROVED AS TO FORM:

ATTEST:

Fleur Tremel
City Clerk

CITY OF CASPER, WYOMING
A Municipal Corporation

Steven K. Freel
Mayor