

WORK SESSION AGENDA



Casper City Council

The Lyric


Tuesday, January 23, 2024 at 4:30 p.m.

Work Session Meeting Agenda		Recommendation	Beginning Time	Allotted Time
Recommendations = Information Only, Move Forward for Approval, Direction Requested				
1.	Meeting Follow-up		4:30	5 min
2.	Wyoming Governor's Big Game License Coalition Grant Application	Direction Requested	4:35	5 min
3.	Grants for Garden Creek Flood Prevention	Direction Requested	4:40	15 min
4.	Public Engagement Division Services	Direction Requested	4:55	20 min
5.	Budget Amendment #2	Move Forward for Approval	5:15	30 min
6.	Business Incentive Options	Information Only	5:45	30 min
7.	Utility Billing Follow-up	Direction Requested	6:15	45 min
8.	Agenda Review		7:00	10 min
9.	Council Around the Table		7:10	20 min
Approximate End Time:				7:30

*** Reminder ***

Please silence cell phones during the City Council meeting.

January 13, 2024

MEMO TO: J. Carter Napier, City Manager 

FROM: Tom Brauer, Chief Operating Officer
Jolene Martinez, Manager of Public Engagement

SUBJECT: Application to the Wyoming Governor's Big Game License Coalition Grant Program

Meeting Type & Date

Work Session
January 23, 2024

Action Type

Direction Request

Recommendation

That Council support the submission of a grant application to the Wyoming Governor's Big Game License Coalition grant program to maintain the North Platte River riparian area.

Summary

On December 1, 2023, Wyoming Game and Fish Department opened the annual Wyoming Governor's Big Game License Coalition grant program to award funding to projects in five priority areas including State Wildlife Action Plan (SWAP) priorities. Applications are due January 31, 2024. Maintaining and improving North Platte River riparian area habitat fits squarely with SWAP priorities. City of Casper is a qualified applicant, and no grant match is required, though matching funds and in-kind services make an application stronger. Awarded funding is required to be spent within three years of an award contract.

North Platte River restoration (a.k.a. Platte River Revival) is an important Casper infrastructure project that is an economic driver. Monitoring has shown improved water quality, increased habitat for aquatic and terrestrial species, and improved recreational opportunities. Staff has identified a project to address significant riparian plant and tree survival issues and believes the project will score well. As required by City policy, staff requests Council support to submit an application. Successful applications are expected to be awarded in June 2024.

Financial Considerations

No match is required but matches (cash or in-kind) make projects more competitive. The River Fund will provide a cash match, and City crews and volunteers will provide in-kind services.

Oversight/Project Responsibility

Jolene Martinez, Public Engagement Manager

Attachments

None

January 21, 2024

MEMO TO: J. Carter Napier, City Manager

FROM: Tom Brauer, Chief Operating Officer
Alex Sveda, P.E., City Engineer AS

SUBJECT: Building Resilient Infrastructure Grant and a Communities and Flood Mitigation Assistance Grant

Meeting Type & Date

Work Session
January 23, 2024

Action Type

Direction Requested

Recommendation

That Council support the submittal of a Building Resilient Infrastructure and Communities (BRIC) Grant sub-application and submittal of a Flood Mitigation Assistance (FMA) Grant sub-application in relation to reestablishing stormwater flood prevention controls along and within the Garden Creek drainages.

Summary

On June 15, 2023, the City of Casper experienced a 100-Year storm with local areas receiving peak precipitation intensities of 3.78 inches per hour. Garden Creek was overwhelmed during this storm with bank/bridge abutment/outfall erosion and damages with major debris build-up. Since many public parks and residences are located along Garden Creek, events like the June 15th storm have shown vulnerable areas that can receive preventative upgrades to protect both public and private assets.

In September and October of 2023, City Staff met with the State Office of Homeland Security and the Federal Emergency Management Agency (FEMA) to review June 15th storm-related damages and assistance eligibility. FEMA recommended applying for both BRIC and FMA Grants to reestablish stormwater flood prevention controls for Garden Creek.

The BRIC Grant program gives states and local communities funding to address future flooding and natural disaster risks from a pool of \$1 Billion. The City is requesting \$3,000,000 from BRIC for study, design, and construction upgrades. The study is estimated to be \$200,000.

The FMA Grant is a competitive program that provides funding to states and local governments for projects that reduce or eliminate the risk of repetitive flood damage to buildings insured by the National Flood Insurance Program from a pool of \$800 Million. The City is requesting \$2,000,000 from the FMA Grant.

The City match to both grants is 25%. The City would be a subrecipient to the State of Wyoming's primary application for Federal award of both grants. The sub-applications are due

to the State of Wyoming by February 2, 2024 with the primary applications due to FEMA by February 29, 2024. Infrastructure damaged along Garden Creek from the June 15th event (i.e. Parks Pedestrian Bridge Repairs Project) has already been approved and made eligible for FEMA assistance funding. The BRIC and FMA Grants are in addition to this funding and are being sought for riparian flood prevention reinforcements along and within Garden Creek to sustain channel, bank, river crossings, access, maintenance, outfalls, utilities (i.e. water, sanitary), and other preventative/resiliency upgrades.

Financial Considerations

City match funding is anticipated to come from stormwater funds.


Oversight/Project Responsibility

Alex Sveda, City Engineer

Attachments

None

January 11, 2023

MEMO TO: J. Carter Napier, City Manager 
FROM: Tom Brauer, Chief Operating Officer
Jolene Martinez, Manager of Public Engagement
SUBJECT: Public Engagement Division Services

Meeting Type & Date

Work Session
January 23, 2024

Action type

Direction requested

Recommendation

That Council considers media services the Public Engagement Division provides and gives additional direction.

Summary

In the Fiscal Year 2022 Budget, Council approved new positions as part of its strategy to engage the public and improve public information. A new city division, Public Engagement (PED), was formed, with four staff provide marketing, design, event and volunteer coordination, and external communication services to the organization. An overview presentation of the division's activities in its first full year of operation was given at the November 7, 2023 Pre-Meeting.

City of Casper strives for transparency, availability, and factual information to citizens. One vehicle for achieving this goal is through media interaction. PED presents information to media generally through media releases and City of Casper Facebook posts. When interviews are requested, PED works with media to understand the goal of the request and deadline; determine the best interviewee; gather the information and prepare a fact sheet with all the data and facts; help select the best interview location so that if it is a video interview or requires photographs that media can obtain the best B-roll and photographs; and schedule the interview. PED staff often attend the interview as a resource for both the media and the interviewee.

Staff are suggesting Council may want to utilize media services that the Public Engagement Division can provide.

Financial Considerations

No financial considerations. Information only.




Oversight/Project Responsibility

Jolene Martinez, Manager of Public Engagement

Attachments

None

January 17, 2024

MEMO TO: J. Carter Napier, City Manager 
FROM: Jill Johnson, Financial Services Director 
Pete Meyers, Management Analyst 
SUBJECT: Second Amendment to the Fiscal Year 2024 Budget

Meeting Type & Date

Council Work Session, January 23, 2024

Action Type

Discussion/Direction to Staff

Recommendation

That Council, by resolution, authorize a second amendment to the Fiscal Year 2024 Budget.

Summary

The City of Casper budgets on an annual basis. Legally, the budget provides City staff with an authorization to spend City funds throughout the fiscal year. The current fiscal year, Fiscal Year 2024, will run from July 1, 2023 through June 30, 2024.

The City will typically amend the budget three times in one year. The second budget amendment occurs about half way through the fiscal year, and it is usually much smaller than the first amendment, which was passed by the Council in October 2023.

This budget amendment is divided into two categories: New Budget Requests, and Project Carryovers.

New Budget Requests (Attachment A) are for new endeavors that were not envisioned by the original budget as adopted in June 2023. The requests of this type include \$796,790 of additional revenue and \$2,368,739 of additional expenses, so the net budget impact (expense minus revenue) comes to \$1,571,949.

- \$730,141 of this budget impact stems from the recent one-time payment for City employees. Council authorized this one-time payment in December 2023. Full time employees were awarded \$1,000 payments, and qualifying part time employees received \$500 payments.
- \$440,000 of new spending is being requested for the Wastewater Treatment Plant's Motor Control Center (MCC) project. MCC's are devices that help plant operators to control remote pieces of equipment. These funds are being applied from cash that is available within the Wastewater Treatment Plant fund.
- \$298,232 is being removed from budgeted revenue in the Public Transit Fund. This was caused by a rearrangement of several Transit-related federal grants. The original plan for fiscal year 2024 called for drawing down the federal Transit grants that the City typically receives from the Department of Transportation. However, the City also has unspent

federal CARES and ARPA funding, so a decision was made to use those funds instead. To do this, the budget was amended (Budget Amendment #1) to increase anticipated federal revenue so that we could capture those CARES and ARPA dollars. But now that the City has increased the anticipated revenue from CARES and ARPA, the City must counteract that by unbudgeting some of the revenue that it was originally going to receive from the standard federal transit grants.

- The Transit Division is also in the process of buying two ADA accessible busses and two ADA accessible vans. These vehicles are being funded primarily with federal dollars, but a local 15% match of \$97,500 will be required to claim those funds. Those match dollars are being provided by the Direct Distribution Fund.
- \$70,000 is being added to the budget to help pay for repairs to the main cylinder of the Baler machine at the Regional Landfill. These funds are being applied from cash that is available within the Balefill fund.

Project Carryovers (Attachment B) are for projects that were authorized in Fiscal Year 2023, but the services or products were not delivered before June 30, 2023, so the City must re-authorize the remaining budget so that the projects can be completed. Many project carryovers were addressed in October by Budget Amendment #1, but four additional carryovers have since been discovered, so those must be dealt with here.

The four projects in question come to \$306,870 of carryover spending. The four carryover projects are:

- The Washington Park Pool Pump Replacement Project, in the amount of \$9,521, which is being paid for with Optional One Cent #16 Sales Tax dollars.
- The Public Utilities Asphalt Repair project, in the amount of \$98,946, which is being paid for with available funds from within the Water Distribution Fund.
- The Regional Wastewater System Interceptor project, in the amount of \$150,000, which is being paid for with available funds from within the Water Distribution Fund.
- The Baler Upgrades Project, in the amount of \$48,403, which is being paid for from within the Balefill fund.

Financial Considerations

The new requests within this budget amendment come to \$2,368,739 of additional spending, but \$796,790 of this will be offset with new revenue (such as grant revenue, and interfund transfers). The net budget impact of these requests therefore comes to \$1,571,949.

Budget Carryovers, in the amount of \$306,870, are also being requested by this amendment. These were budgeted in the previous year, but those funds will now be added to the current year budget.

Oversight/Project Responsibility

Jill Johnson, Financial Services Director

Attachments

Attachment A: Budget Amendment #2 – New Budget Requests

Attachment B: Budget Amendment #2 – Budget Carryovers

BUDGET AMENDMENT #2

Attachment A

ATTACHMENT A: NEW BUDGET REQUESTS

Fund	Revenue	Expense	Total Impact
Aquatics Fund	\$ 4,905.00	\$ (4,905.00)	\$ -
FY24 BUA2 - One Time Employee Payment	\$ 4,905.00	\$ (4,905.00)	\$ -
Balefill Fund		\$ (107,075.00)	\$ (107,075.00)
FY24 BUA2 - Cylinder Replacement in Baler		\$ (70,000.00)	\$ (70,000.00)
FY24 BUA2 - One Time Employee Payment		\$ (37,075.00)	\$ (37,075.00)
Buildings and Structures Fund	\$ 21,158.00	\$ (14,133.00)	\$ 7,025.00
FY24 BUA2 - Ice Arena Fall Protection		\$ 7,025.00	\$ 7,025.00
FY24 BUA2 - One Time Employee Payment	\$ 21,158.00	\$ (21,158.00)	\$ -
Capital Projects Fund	\$ 65,205.00	\$ 336,630.00	\$ 401,835.00
FY24 BUA2 - 1 cent vehicle purchase		\$ (34,167.00)	\$ (34,167.00)
FY24 BUA2 - 12th Street Cape Seal - Accrual Fix		\$ 94,053.00	\$ 94,053.00
FY24 BUA2 - 2nd Street Cape Seal Project		\$ 77,434.00	\$ 77,434.00
FY24 BUA2 - BAS Truck Accessories		\$ (5,900.00)	\$ (5,900.00)
FY24 BUA2 - Center Street Railroad Underpass Funding		\$ (283,070.00)	\$ (283,070.00)
FY24 BUA2 - Crossroads Pump and Motor - Accrual Fix		\$ 17,824.00	\$ 17,824.00
FY24 BUA2 - FWC South Walkway - Fix Engineering Service Fee	\$ 47,630.00	\$ (47,630.00)	\$ -
FY24 BUA2 - High Top Van - Increase Budget to Match Costs		\$ (7,350.00)	\$ (7,350.00)
FY24 BUA2 - Police Station - Accrual Fix		\$ 320,309.00	\$ 320,309.00
FY24 BUA2 - Polygraph equipment 1	\$ 8,075.00	\$ (8,075.00)	\$ -
FY24 BUA2 - Polygraph equipment 2	\$ 9,500.00	\$ (9,500.00)	\$ -
FY24 BUA2 - Transit Division Additional Funding for Project 1150024008		\$ (6,750.00)	\$ (6,750.00)
FY24 BUA2 - Transit Division Removal of Project 1150024007		\$ 17,250.00	\$ 17,250.00
FY24 BUA2 - Visitors Bureau Bus - Accrual Fix		\$ 187,959.00	\$ 187,959.00
FY24 BUA2 - Wolf Creek Road - Accrual Correction		\$ 24,243.00	\$ 24,243.00
Direct Distribution Fund		\$ (108,836.00)	\$ (108,836.00)
FY24 BUA2 - Auditing Services for Ford Wyo		\$ (4,600.00)	\$ (4,600.00)
FY24 BUA2 - Transit Division ADA Van %231		\$ (18,750.00)	\$ (18,750.00)
FY24 BUA2 - Transit Division ADA Van %232		\$ (18,750.00)	\$ (18,750.00)
FY24 BUA2 - Transit Division Bus Shelter Contributions from Rotary		\$ 264.00	\$ 264.00
FY24 BUA2 - Transit Division Low Floor Bus %231		\$ (30,000.00)	\$ (30,000.00)
FY24 BUA2 - Transit Division Low Floor Bus %232		\$ (30,000.00)	\$ (30,000.00)
FY24 BUA2 - Transit Division Operating Assistance from WYDOT		\$ (7,000.00)	\$ (7,000.00)
Fleet Maintenance Fund	\$ 17,095.00	\$ (17,095.00)	\$ -
FY24 BUA2 - One Time Employee Payment	\$ 17,095.00	\$ (17,095.00)	\$ -
General Fund	\$ 15,000.00	\$ (732,921.00)	\$ (717,921.00)
FY24 BUA2 - CNFR Donation		\$ (5,000.00)	\$ (5,000.00)
FY24 BUA2 - Fire Station Access Control PO		\$ (94,843.00)	\$ (94,843.00)
FY24 BUA2 - Fireworks Support - McMurry Passthrough	\$ 10,000.00	\$ (10,000.00)	\$ -
FY24 BUA2 - Fix Negative Cash in PD Grants Fund		\$ (16,265.00)	\$ (16,265.00)
FY24 BUA2 - FWC South Walkway - Fix Engineering Service Fee		\$ (47,630.00)	\$ (47,630.00)
FY24 BUA2 - Lyric Rental - Undo Duplicated Budget		\$ 12,000.00	\$ 12,000.00
FY24 BUA2 - Polygraph equipment 1		\$ -	\$ -
FY24 BUA2 - Polygraph equipment 2		\$ -	\$ -
FY24 BUA2 - Shop with a Cop Program	\$ 5,000.00	\$ (5,000.00)	\$ -
FY24 BUA2 - State Seizure Money in Wrong Fund		\$ (9,364.00)	\$ (9,364.00)
FY24 BUA2 - One Time Employee Payment		\$ (556,819.00)	\$ (556,819.00)
Hogadon Ski Area Fund	\$ 21,836.00	\$ (8,086.00)	\$ 13,750.00
FY24 BUA2 - Snowmaking Repair and Expansion	\$ 13,750.00		\$ 13,750.00
FY24 BUA2 - One Time Employee Payment	\$ 8,086.00	\$ (8,086.00)	\$ -
Ice Arena Fund	\$ 5,189.00	\$ (5,189.00)	\$ -
FY24 BUA2 - One Time Employee Payment	\$ 5,189.00	\$ (5,189.00)	\$ -
Metro Animal Shelter Fund	\$ 15,562.00	\$ (123,283.00)	\$ (107,721.00)
FY24 BUA2 - Metro Vehicle Purchase		\$ (107,721.00)	\$ (107,721.00)
FY24 BUA2 - One Time Employee Payment	\$ 15,562.00	\$ (15,562.00)	\$ -
Metropolitan Planning Organization Fund	\$ (12,354.00)	\$ 10,229.00	\$ (2,125.00)
FY24 BUA2 - MPO Western Gateway Accrual - Budget Reduction	\$ (13,480.00)	\$ 14,898.00	\$ 1,418.00
FY24 BUA2 - Reverse incorrect revenue from BUA1	\$ (3,543.00)		\$ (3,543.00)
FY24 BUA2 - One Time Employee Payment	\$ 4,669.00	\$ (4,669.00)	\$ -
Municipal Golf Course Fund		\$ (6,529.00)	\$ (6,529.00)
FY24 BUA2 - One Time Employee Payment		\$ (6,529.00)	\$ (6,529.00)
Perpetual Care Fund		\$ (13,750.00)	\$ (13,750.00)
FY24 BUA2 - Snowmaking Repair and Expansion		\$ (13,750.00)	\$ (13,750.00)

BUDGET AMENDMENT #2

Attachment A

Fund	Revenue	Expense	Total Impact
Police Grants	\$ 76,732.00	\$ (50,851.00)	\$ 25,881.00
FY24 BUA2 - BJA2023 Edward Byrne	\$ 44,295.00	\$ (44,295.00)	\$ -
FY24 BUA2 - Fix Negative Cash in PD Grants Fund	\$ 16,265.00		\$ 16,265.00
FY24 BUA2 - State Seizure Money in Wrong Fund	\$ 9,616.00		\$ 9,616.00
FY24 BUA2 - WYDOT-Highway Safety Camera Grant	\$ 5,000.00	\$ (5,000.00)	\$ -
FY24 BUA2 - One Time Employee Payment	\$ 1,556.00	\$ (1,556.00)	\$ -
Property and Liability Insurance Fund	\$ 4,933.00	\$ (11,958.00)	\$ (7,025.00)
FY24 BUA2 - Ice Arena Fall Protection		\$ (7,025.00)	\$ (7,025.00)
FY24 BUA2 - One Time Employee Payment	\$ 4,933.00	\$ (4,933.00)	\$ -
Public Safety Communications Center	\$ 33,848.00	\$ (75,600.00)	\$ (41,752.00)
FY24 BUA2 - PSCC T1 to Ethernet		\$ (41,500.00)	\$ (41,500.00)
FY24 BUA2 - State Seizure Money in Wrong Fund		\$ (252.00)	\$ (252.00)
FY24 BUA2 - One Time Employee Payment	\$ 33,848.00	\$ (33,848.00)	\$ -
Public Transit Fund	\$ 391,052.00	\$ (689,548.00)	\$ (298,496.00)
FY24 BUA2 - High Top Van - Increase Budget to Match Costs	\$ 73,000.00	\$ (73,000.00)	\$ -
FY24 BUA2 - Transit Division ADA Van %231	\$ 125,000.00	\$ (125,000.00)	\$ -
FY24 BUA2 - Transit Division ADA Van %232	\$ 125,000.00	\$ (125,000.00)	\$ -
FY24 BUA2 - Transit Division Additional Funding for Project 1150024008	\$ 45,000.00	\$ (45,000.00)	\$ -
FY24 BUA2 - Transit Division Bus Shelter Contributions from Rotary	\$ (264.00)		\$ (264.00)
FY24 BUA2 - Transit Division Low Floor Bus %231	\$ 200,000.00	\$ (200,000.00)	\$ -
FY24 BUA2 - Transit Division Low Floor Bus %232	\$ 200,000.00	\$ (200,000.00)	\$ -
FY24 BUA2 - Transit Division Operating Assistance from WYDOT	\$ -		\$ -
FY24 BUA2 - Transit Division reducing federal portion for match for CARES & ARPA	\$ (298,232.00)		\$ (298,232.00)
FY24 BUA2 - Transit Division Removal of Project 1150024007	\$ (115,000.00)	\$ 115,000.00	\$ -
FY24 BUA2 - One Time Employee Payment	\$ 36,548.00	\$ (36,548.00)	\$ -
Recreation Center Fund	\$ 7,644.00	\$ (7,644.00)	\$ -
FY24 BUA2 - One Time Employee Payment	\$ 7,644.00	\$ (7,644.00)	\$ -
Refuse Fund		\$ (45,683.00)	\$ (45,683.00)
FY24 BUA2 - One Time Employee Payment		\$ (45,683.00)	\$ (45,683.00)
Revolving Land Fund		\$ (32,900.00)	\$ (32,900.00)
FY24 BUA2 - North Platte Water and Sewer Study		\$ (32,900.00)	\$ (32,900.00)
River Fund	\$ 41,226.00	\$ (47,818.00)	\$ (6,592.00)
FY24 BUA2 - Lessons Learned Rpt - River Fund	\$ 20,000.00	\$ (20,000.00)	\$ -
FY24 BUA2 - Riparian Test Plot Planting	\$ 15,000.00	\$ (15,000.00)	\$ -
FY24 BUA2 - Riparian Test Plot Planting Consultant		\$ (16,000.00)	\$ (16,000.00)
FY24 BUA2 - Stantec Environmental - Accrual Fix	\$ 6,226.00	\$ 3,182.00	\$ 9,408.00
Sewer Fund		\$ (13,960.00)	\$ (13,960.00)
FY24 BUA2 - One Time Employee Payment		\$ (13,960.00)	\$ (13,960.00)
Special Fire Assistance	\$ 63,550.00	\$ (63,550.00)	\$ -
FY24 BUA2 - Enbridge PPE Grant	\$ 11,550.00	\$ (11,550.00)	\$ -
FY24 BUA2 - RRT2 23SHSPRR2RRAET Methane Leak Detector	\$ 12,000.00	\$ (12,000.00)	\$ -
FY24 BUA2 - RRT2 23SHSPRR2RRINT1 Mobile Radios	\$ 12,000.00	\$ (12,000.00)	\$ -
FY24 BUA2 - RRT2 23SHSPRR2RRINT2 Portable Radios	\$ 28,000.00	\$ (28,000.00)	\$ -
FY24 BUA2 - WOHS Regional Response Grant %2319 Reliquishment		\$ -	\$ -
FY24 BUA2 - WOHS Regional Response Grant %2320 Reliquishment		\$ -	\$ -
FY24 BUA2 - WOHS Regional Response Grant 2316 Reliquishment		\$ -	\$ -
Sports and Athletics Fund	\$ 7,581.00	\$ (7,581.00)	\$ -
FY24 BUA2 - One Time Employee Payment	\$ 7,581.00	\$ (7,581.00)	\$ -
Wastewater Treatment Plant Fund		\$ (462,749.00)	\$ (462,749.00)
FY24 BUA2 - WWTP MCC Project		\$ (440,000.00)	\$ (440,000.00)
FY24 BUA2 - One Time Employee Payment		\$ (22,749.00)	\$ (22,749.00)
Water Fund		\$ (40,407.00)	\$ (40,407.00)
FY24 BUA2 - One Time Employee Payment		\$ (40,407.00)	\$ (40,407.00)
Weed and Pest Fund		\$ (6,919.00)	\$ (6,919.00)
FY24 BUA2 - One Time Employee Payment		\$ (6,919.00)	\$ (6,919.00)
WTP Ops	\$ 16,628.00	\$ (16,628.00)	\$ -
FY24 BUA2 - One Time Employee Payment	\$ 16,628.00	\$ (16,628.00)	\$ -
Total Impact	\$ 796,790.00	\$ (2,368,739.00)	\$ (1,571,949.00)


BUDGET AMENDMENT #2

Attachment B

ATTACHMENT B: BUDGET CARRYOVERS

Fund	Expense	Total Impact
Balefill Fund	\$ (48,403.00)	\$ (48,403.00)
FY24 BUA2 - Baler Upgrades Project Rollover	\$ (48,403.00)	\$ (48,403.00)
Capital Projects Fund	\$ (9,521.00)	\$ (9,521.00)
FY24 BUA2 - Washington Park Pool Pump Rollover	\$ (9,521.00)	\$ (9,521.00)
Wastewater Treatment Plant Fund	\$ (150,000.00)	\$ (150,000.00)
FY24 BUA2 - RWWS Interceptor Project Rollover	\$ (150,000.00)	\$ (150,000.00)
Water Fund	\$ (98,946.00)	\$ (98,946.00)
FY24 BUA2 - CPU Asphalt Repair Rollover	\$ (98,946.00)	\$ (98,946.00)
Total Impact	\$ (306,870.00)	\$ (306,870.00)

January 15, 2024

MEMO TO: J. Carter Napier, City Manager 
FROM: Liz Becher, Community Development Director
SUBJECT: Business Incentive Options

Meeting Type & Date:

Council Work Session, January 23, 2024

Action Type:

Information Only

Recommendation:

That Council, review the Constitutional and Statutory restrictions on cities for business incentives.

Summary:

Business incentives were proposed by Council as a possible resource for their Business Investment Goal, and staff was asked to research the limitations.

The ability of a city to fund economic development projects under Wyoming law is very limited. A memo has been provided which discusses the constitutional and State statutory provisions for guidance on typical projects. Any changes to these provisions will require legislative action by the Wyoming State Legislature.

In addition to the projects referenced in the memo, inquiries are common for assistance regarding the following:

- Tipping fees at the landfill – Not allowed; unless qualified as the “necessary support of the poor” per Article 16, Section 6.
- 99-year lease on public property – Allowed; since the City maintains ownership of the property and it is not considered a donation per Article 16, Section 6.
- Waiving of permit fees or tap fees – Not allowed; no public improvements can be gifted/donated to a private entity per Article 16, Section 6.
- Reductions in property taxes – Not allowed; the City has no control over sales or property taxes.
- Façade improvement grants – Only allowed with federal funds as an independent funding source; not the general fund (even as a match with private funds).
- Deferred payments – Allowed if the City has a security interest in real property and be in 1st position on any loan.

There are some statutorily allowed mechanisms that can allocate resources to the City for planned improvements.

Those mechanisms include Tax Incremental Financing (TIF) and Urban Renewal Areas (URA).

A TIF is authorized by Section 15-9-207 (c) of the Wyoming Statutes. A development plan is presented for a project area, and must contain a provision providing that increases in property taxes, sales taxes, or both, collected in the project area shall be used for up to twenty-five (25) years to defray of the costs of the development. Eligible costs would include land acquisition, building construction, infrastructure, etc. The amount allocated for the TIF project is the increase in the amount collected over property taxes and/or sales taxes for the established base year. If there are no increases, then there is no TIF funding for the project.

Urban renewal is a state-enabled economic development tool used to revitalize deteriorating or underdeveloped areas. Redevelopment of urban areas is often more expensive than new development, so public action through an URA can be used to encourage private investment in the area. An URA is a redevelopment area designated, approved, and adopted by the City, as defined by 15-9-103 of the Wyoming Statutes. The URA Code authorizes the City to engage in various activities which may include acquisition of a blighted area, demolition of dangerous/vacant buildings, construction of public improvements, and disposition of property in the URA at its fair value, per a Development Agreement. The City is further authorized to work with a Developer on completing the scope of work in the designated URA, with the authority to reimburse the Lender for the Developer's work outlined in the Agreement. The projects can use a variety of tools for redevelopment, including tax increment financing (TIF).

Financial Considerations:

None at this time.

Oversight/Project Responsibility:

The Community Development Director will work with the City Attorney's office on all business incentive requests.

Attachments:

Memo from Bill Luben, previous City Attorney

MEMO

WYOMING CONSTITUTIONAL AND STATUTORY RESTRICTIONS ON CITIES FOR ECONOMIC DEVELOPMENT EXPENDITURES

To: V.H. McDonald
City Manager
City of Casper, Wyoming

From: William C. Luben, City Attorney

Date: November 10, 2015

A city, as a subdivision of the State, only has those powers delegated to it through the State Constitution and by the statutory powers delegated to it by the Legislature.

The ability of a city to fund economic development projects under Wyoming law is very limited. What follows is a discussion of the constitutional and State statutory provisions for guidance on these issues.

SECTION 1: WYOMING CONSTITUTIONAL RESTRICTION

Article 16, § 6 of the Wyoming Constitution provides as follows:

Loan of credit; donations prohibited; works of internal improvement: Neither the state nor any county, city, township, town, school district, or any other political subdivision, shall loan or give its credit or make donations to or in aid of any individual, association or corporation, except for necessary support of the poor....

This provision prohibits a city from loaning, giving its credit, or otherwise making donations to any individual, association or corporation, except for the “necessary support of the poor,” which has historically been associated with the provision of necessary food, clothing, and shelter for indigent persons.

The Wyoming Supreme Court has held that a “lending of credit” or the “donation of property” does not occur in violation of this constitutional provision if there is an exchange of adequate consideration between the parties. See *Frank v. City of Cody*, 572 P.2d 1106 (Wyo. 1977). This constitutional provision prohibits the gifting or donation of funds, facilities, or public improvements to a private developer for the development of an economic development project. In this regard, a city’s ability to foster economic development projects is further limited by specific statutory provisions as discussed below.

SECTION 2: STATUTORY RESTRICTIONS

The following Wyoming statutory provisions place very specific restrictions on a city's ability to sell its property and/or to foster economic development projects. Copies of these statutory provisions are attached for your reference and review.

A. GENERAL POWERS

Generally, and as a starting point, W.S. § 15-1-111 grants cities the authority and power to (1) advertise the resources of the city or town; (2) further its industrial development; or (3) encourage exhibits at fairs, expositions and conventions. HOWEVER, this provision specifically provides that no appropriations may be made by a city for the express aid of any private citizen, firm or corporation. Please note that this latter provision is in conformance with Article 16, § 6 of the Wyoming Constitution, which prohibits a city from making donations or lending its credit to any individual, association, or corporation as discussed above.

B. INDUSTRIAL DEVELOPMENT STATUTORY RESTRICTIONS

The power set forth in W.S. § 15-1-111 for cities to engage in industrial development projects is restricted pursuant to the Industrial Development Projects Act, W.S. § 15-1-701, *et seq.* Under these provisions, the Legislature has broadly defined a project to basically cover or include anything that would be considered to be an "economic development project" for a city. Please see the definition of "Project" in W.S. § 15-1-701.

Although the Legislature has found that such projects serve a "public purpose," it is clear that this Act takes into consideration the constitutional prohibition against making donations or otherwise lending credit without adequate consideration as otherwise required by Article 16, § 6 of the Wyoming Constitution.

Under this Act, a city may, after acquiring an economic development project, sell a project, and may defer the purchase price for a period not to exceed ten (10) years pursuant to W.S. § 15-1-702(a)(iv). If however, the purchase price is deferred, the city is required under the statute to retain a security interest in the property sold. Although this statute allows for the subordination of the security interest, the statute provides that the holder of the obligation to which the payment of the deferred sales price is subordinated shall pay any unpaid deferred balance to the city in the event of default by the purchaser of the project. In effect, this subordination provision is really not a subordination of the debt, as the obligation remains the priority debt on the property in favor of the city.

This provision, requiring a security interest in the property, prevents the sale of property to an entity which may later dissolve, through bankruptcy or otherwise, resulting in a distribution of the assets free and clear of any claim by a city. This, in effect, prevents a donation of a city's interest in the property in violation of the Wyoming constitutional provision.

In addition, although a city may acquire a project under this Act, it cannot, under § 15-1-702(b), operate the project as a business in any manner except as the lessor or holder of a security interest, and cannot acquire any such project or any part thereof by condemnation. This provision further bolsters the intent of the Legislature that the city is not to lose the value of its capital investment in the project by not being collateralized with a security interest for its investment.

A city also has the right to lease a project under this Act pursuant to the restrictions set forth in W.S. § 15-1-705. In the case of leasing, a city retains its fee interest in the ownership of the property, and does not have the potential of losing the capital asset to the private sector.

C. PROPERTY SALE RESTRICTIONS

A city's ability to sell its property is severely restricted by the provisions of W.S. § 15-1-112, which places very specific restrictions upon a city's ability to sell its real or personal property. This provision provides that the sale of any property, real or personal, valued at five hundred dollars (\$500) or more must be advertised once a week for three consecutive weeks announcing a public auction or calling for sealed bids.

A bidding process open to everyone establishes, by its nature, the fair market value of the property being offered for sale. Note, however, that a city reserves the right to reject all bids under this public bidding process.

This provision contains an exception for selling property to specific entities or individuals, including the State of Wyoming or any agency thereof, any legal subdivision of the state, or to any person acquiring the property for a use which the governing body determines will benefit the economic development of the city. However, any such sale is subject to a public hearing, notice of which shall include the appraised value of all real properties involved in the sale.

The Constitutional restriction against donating or lending a city's credit to an individual, association, or corporation, coupled with the fact that the city has to publish the appraised value of the real property being sold, establishes an intent that the sale of property to a specific individual or entity for economic development purposes cannot be for less than the fair market value of the property.

Clearly, the sale of property below its fair market value to a specific individual or entity without calling for bids would result in a donation (gift) of the discounted value in contravention of this Constitutional provision. As such, the sales price for the property cannot be discounted below its fair market value if it is being sold to a specific person or entity, even though it is being acquired for economic development purposes, and must be purchased for its fair market value.

SECTION 3: OTHER STATUTORY ALLOWED PROGRAM FUNDING

A. HOUSING PROJECTS

W.S. § 15-10-101 *et seq.* provide that a city, either in its own right, or through a separate housing authority may carry out the powers under these provisions. These statutes allow a city, or the

housing authority as established, to provide and assist, by any suitable method, decent, safe and sanitary housing and related facilities to persons of low income. “Persons of low income” are defined as persons or families who, as determined by the public body undertaking a project, cannot afford to pay the amounts at which private enterprise, unaided by public subsidy, is providing decent, safe and sanitary housing.

However, the funding of such programs is still subject to the restrictions of the lending of credit making donations as set forth in Article 16, § 6 of the Wyoming Constitution, and the restrictions of the Industrial Development Projects Act.

B. OWNERSHIP OF CONVALESCENT HOMES, REST HOMES AND HOSPITALS

W.S. § 15-1-103(a)(xxix)(B) (copy not attached) provides that a city may own and regulate convalescent homes, rest homes and hospitals. This provision only speaks to a city actually owning these types of facilities, and not funding the construction of these facilities owned and operated by third parties. However, the Industrial Development Projects Act includes health care facilities in its definition of “Project,” which then could be acquired by a city and sold or leased under the provisions of this Act.

As noted above, the sale of any such facility would then have to be sold for its fair market value, and if the sales price payment is deferred, a city would be required to retain the security interest in the property as required by this Act.

C. CONTRACTING FOR TREATMENT AND PREVENTIVE SERVICES FOR THE MENTALLY ILL, SUBSTANCE ABUSER AND DEVELOPMENTALLY DISABLED

W.S. § 35-1-611 through § 35-1-628 provide for the funding by a city of preventive services for the mentally ill, substance abusers and developmentally disabled. For purposes of this Act, the following definitions are applied pursuant to § 35-1-613(a):

(ii) “Developmental disabilities” means a disability attributable to mental retardation, cerebral palsy, epilepsy, autism or any other neurologically handicapping condition requiring services similar to those required by mentally retarded individuals, that has continued or to be expected to continue indefinitely and constitutes a substantial handicap to the individual’s ability to function normally in society.

(iv) “Human services program” means community facilities, services and programs which exclusively or in part, are used or operated to prevent or treat mental illness, substance abuse or developmental disabilities, to provide shelter and crisis services for

victims of family violence or sexual assault or to provide other community based services which serve a public purpose.

(v) “Mental illness” means a condition which is manifested by a disorder or disturbance in behavior, feeling, thinking or judgment to such extent that care and treatment are required.

(vii) “Substance” means alcoholic beverages and other drugs.

(viii) “Substance abuse” means the use, without compelling medical reason, of any substance which results in psychological or physiological dependency as a function of continued use in such a manner as to induce mental, emotional or physical impairment or to cause socially dysfunctional behavior.

(x) “Crisis services for victims of family violence and sexual assault” means emergency intervention, information, referral services and medical, legal and social services advocacy.

(xii) “Family violence” means domestic abuse as defined by W.S. § § 35-21-102(a)(iii).

(xiii) “Shelter” means a place of temporary refuge, offered on a twenty-four (24) hour, seven (7) day per week basis to victims of domestic violence and their children.

Section 35-1-614 of this Act provides that a city may contract with private agencies or a community board to provide human service programs for a city. In this regard, the city, under this section, may appropriate funds for these types of programs.

Please note that these provisions speak of funding programs, and not capital construction projects. To do otherwise could put the City in the position of having donated the value of such capital improvements to an organization, who, for whatever reason, goes out of business or ceases their social services, and sells off their building to the loss of the taxpayers. The building or ownership of capital construction projects for these services would fall, in my opinion, under the provisions of the Industrial Development Projects Act, which allows a city to acquire health care facilities, subject to the sale and security interest requirements of the Act.

January 15, 2024

MEMO TO: J. Carter Napier, City Manager *JCN*
FROM: Jill Johnson, Financial Services Director *JJ*
Brandy Coyle, Accounts Receivable Supervisor
SUBJECT: Utility Billing Ordinance Changes

Meeting Type & Date

Council Work Session
January 23, 2024

Action type

Follow up - Information

Recommendation

Staff recommends that the City continue our current deposit policy which returns the deposit after 12 months of good payment history; that all charges follow the property and the owner is responsible for payment of delinquent charges

Summary

At the January 9, 2024 Council work session, further discussion of the Utility Billing Ordinance changes generated the need for staff to provide additional information.

Hold deposits until the tenant moves out

Two options were provided related to deposits; the first was to have the deposit held 5 years, the second was to hold the deposit indefinitely. Staff believes that the intention of the 5 years is related to accounts being written off after 5 years in collections. There is not any correlation between the 5 years and collections so staff believes this to not be an effective strategy.

The process of holding the deposit indefinitely is something the City already does. If a utility customer does not have good payment history over 12 months, the deposit is not returned. Holding the deposit indefinitely disincentives customers who pay on time by not returning their deposit. Over the past 12 months, the City has only returned 12 deposits.

An example of the current practice is:

- the customer signs up for services and pays a deposit
- customer pays on time every month for 12 months, the deposit is returned
- customer falls on hard times and is delinquent, deposit is reinstated and collected
- customer pays on time for 6 months and then is delinquent, deposit is held for an additional 12 months from the date of delinquency
- customer pays on time for another 8 months and this is delinquent, deposit is held for and additional 12 months from the date of delinquency

- customer moves out of the property; the deposit is applied to the final bill. If the deposit is not enough, the customer receives a bill for the balance; if the deposit exceeds the balance the City issues the customer a refund.

As you can see from the above example, if the customer continues to be delinquent, the deposit is held until there are 12 months of good payment history. Of the few communities we were able to contact regarding how they handle their deposits, Evansville was the only community which returned the deposit after 12 months. Cody credits the deposit after 18 months of good payment history. Evanston, Green River, and Lander keep the deposit until moveout. Laramie and Rock Springs do not charge a deposit and Riverton allows the tenant's deposit to be waived by the Landlord.

While staff is not suggesting doing a credit check, the City of Cody does an online utility credit check which determines a \$0, \$200, or \$400 deposit. The credit check looks at all utilities including cell phones. If there is a co-applicant which they allow, the credit check is done on both applicants and the better credit determines the deposit amount. Their collections have been reduced by implementing the credit check process and collecting the deposit based on credit.

Rocky Mountain Power charges a deposit based on a credit check and releases it after 12 months of good payment history or if property is vacated.

Do not allow tenants to have a utility account; the utility account would be in the name of the owner

Currently the City of Laramie and the Cheyenne Board of Public Utilities are the only known municipalities who do not permit tenants to put utilities in their names. The Cheyenne Board of Public Utilities allows the owner to put an "in care of" with the tenant's name on the owner's account but the owner is responsible for the utility bill. Cheyenne also does not allow for new service if there is an outstanding balance; the balance would need to be paid in full prior to establishing the new service.

In Cheyenne, Douglas, Evanston, Evansville, Green River, Lander, Laramie, Mills, Riverton, and Rock Springs the bill follows the property and new services are not started until the prior bill is paid. That is for both owners or tenants.

In Bar Nunn, Evansville, and Mills, if the owner sells the property but has an outstanding utility bill, services for the new owner would not be set up until the outstanding bill from the prior owner was paid in full.

Rocky Mountain Power, if the property has a landlord agreement, moves the utilities to the owner if the account is scheduled for shut off if that is the selection on the landlord agreement. While the owner is not responsible for the tenant bill up to the change to the owner, the owner is responsible for the bill even if the tenant is still in the property.

Provide notices to owners but do not hold them liable for the past due utility bills

Providing notices to owners certainly meets the goal of better communication; however, staff is concerned that without holding the owners liable, the goal of reducing past due, collections and write offs would not be achieved.

In conclusion, there were two additional items discussed by Council. Council was interested to know how many of the rental property accounts have out-of-state owners. Unfortunately, the ability to get this data has been difficult and because property manager information would not be included, would be incomplete. Additionally, Council was debating if the timeline for notification to the owner could be moved up to allow more time to notify owners of delinquent accounts. Making the account delinquent at 15 days after the billing date does not allow enough time for the account holder to make payment. Staff would be concerned that the bill could become delinquent before the account holder even received it.

Financial Considerations

By implementing the suggested changes to the ordinance for delinquent bills to follow the property where the owner is ultimately responsible for all utility charges as appears to be a standard practice throughout Wyoming, staff believes the amount of collections and write offs will be reduced.

Oversight/Project Responsibility

Brandy Coyle, Accounts Receivable Supervisor