

A meeting of the City Council was held on Tuesday, the 21st day of February 2017. Pastor Don Wight of Calvary Community Church gave the Invocation and the Pledge of Allegiance was led by Councilman Lundvall.

Present were Councilmen Barks, Carsrud, Kuntz, Lundvall, McGrath, Montgomery, and Mayor Carter-King; City Administrator Napier; Attorneys Davidson and Reyes; Directors Boger, Hamilton, Pitlick; Managers Palazzari and Davidsmeier; and City Clerk Abelseth.

Approval of General Agenda

Councilman Montgomery made a motion to approve the General Agenda; seconded by Councilman Carsrud. All voted aye. The motion carried.

Approval of Consent Agenda

Minutes:

Special Meeting – January 31, 2017; Pre-Meeting – February 7, 2017; Regular Meeting – February 7, 2017.

Ordinance 3rd Reading

ORDINANCE 3912

AN ORDINANCE APPROVING AND AUTHORIZING THE ANNEXATION OF TERRITORY SOLELY OWNED BY THE CITY OF GILLETTE TO BE KNOWN AS THE SHOSHONE AVENUE RIGHT OF WAY ANNEXATION TO THE CITY OF GILLETTE, WYOMING, IN ACCORDANCE WITH W.S. 15-1-407, CONTIGUOUS AND ADJOINING THE PRESENT BOUNDARIES AND ESTABLISHING AN R-1 SINGLE FAMILY RESIDENTIAL ZONING DISTRICT, SUBJECT TO ALL PLANNING REQUIREMENTS

Bills and Claims

ABSOLUTE AUTO LLC,417.40; ADECCO EMPLOYMENT SERVICES,277.76; ADECCO EMPLOYMENT SERVICES,329.84; ALCO MOBILE STORAGE,487.00; ALSCO, 1,043.71; ALYSHIA VIGIL,20.00; AMANDA MORRISON,50.00; AMERICAN WATER WORKS, 1,879.00; AMERICAN WELDING & GAS INC,25.38; ANIXTER POWER SOLUTIONS, 60,595.88; ARGUELLO, ALAN, 35.57; ARROW PRINTING AND GRAPHICS INC,64.83; ASSURE CO RISK MANAGEMENT & REGULATOR COMPLIANCE,350.00; AVP CONSULTING LLC,69.28; BEAR'S NATURALLY CLEAN,15.00; BIG D SANITATION, 2,232.13; BLACK HILLS POWER & LIGHT, 100,406.99; BLACK HILLS POWER & LIGHT, 1,435.00; BLACK HILLS WYOMING LLC, 505,604.56; BLUE CROSS BLUE SHIELD OF WYOMING, 53,275.74; BLUE CROSS BLUE SHIELD OF WYOMING, 104,930.51; BLUE CROSS BLUE SHIELD OF WYOMING, 35,387.99; BORDER STATES ELECTRIC, 2,975.00; BRENNAN ENGINEERING INC,590.00; BROOKS, STEEL, 73.51; BROWN, HOLLY, 38.57; CAMPBELL COUNTY CLERK ELECTION, 20,119.71; CAMPBELL COUNTY ENGINEERS, 57,846.25; CAMPBELL COUNTY HOSPITAL DISTRICT,694.50; CAMPBELL COUNTY JOINT POWERS FIRE BOARD, 14,958.22; CAMPBELL COUNTY JUVENILE PROBATION,151.05; CAMPBELL COUNTY PREDATORY ANIMAL CONTROL BOARD, 3,424.55; CAMPBELL COUNTY PUBLIC HEALTH,25.00; CAMPBELL COUNTY SENIOR CITIZEN CENTER,500.00; CAMPBELL, JAMES E, 61.78; CARQUEST AUTO PARTS,321.50; CENTRAL TRUCK & DIESEL INC, 1,846.00; CERVANTES, ESPERANZA, 208.64; CHAVIRA, OMAR, 208.72; CHILDREN'S HOME SOCIETY, 250.00; CITY OF GILLETTE - PETTY CASH,20.94; CLAUS LLC, 19,766.00; CODY JILEK,460.00; COFFEE, KAREN, 208.61; COLLINS COMMUNICATIONS INC, 7,389.17; CONSOLIDATED ENGINEERS INC, 25,695.69; CRAIG FURMAN,50.00; CRYSTAL OTT,100.00; CUMMINS ROCKY MOUNTAIN INC,101.60; CURTIN, JOSEPH JR, 208.03; DAVE LUERAS, 180.00; DERRIC CULEY,50.00; DERUDDER, MARY, 208.22; DESERT MOUNTAIN CORPORATION, 9,742.28; DOWL LLC, 3,617.50; DPC INDUSTRIES INC, 12,610.00; DRIVE TRAIN INDUSTRIES, 99.98; DRM INC, 23,215.75; EMPLOYMENT TESTING SERVICES INC,204.00; ENERGY LABORATORIES INC,713.00; ENTENMANN ROVIN COMPANY,117.50; ERIN GAUTHIER, 125.00; EXPRESS SCRIPTS INC, 9,433.29; EXPRESS SCRIPTS INC, 6,250.92; FAIRMONT SUPPLY COMPANY,397.20; FARMER BROTHERS COMPANY,516.00; FASTENAL COMPANY,573.79; FERGUSON ENTERPRISES, INC #1701, 908.75; FICKEL, JAMES & JULIE, 35.84; FIRST INTERSTATE BANK OF GILLETTE, 128.95; FIRST NATIONAL BANK OF GILLETTE, 13,933.28; FREMONT MOTOR LANDER INC, 63,312.00; GILLETTE CONTRACTORS SUPPLY INC, 1,239.09; GILLETTE WINNELSON COMPANY,94.14; GLENNIS PALMER,200.00; GOURMET ON THE GO LLC,141.00; GOVOLUTION, LLC, 1,364.00; GUTHRIE, RICH, 92.59; HACH COMPANY, 332.94; HD SUPPLY WATERWORKS LTD,705.55; HDR INC - US ENGINEERING ACCOUNTS RECEIVABLE, 36,726.00; HENSLEY, DONALD, 45.96; HIGHT, JERRY, 142.07; HLADKY CONSTRUCTION, 125,399.54; HOLCOMB, BRANDON, 150.07; HOMAX OIL, 24,499.65; HOWARD SUPPLY COMPANY,608.40; HUB INTERNATIONAL MOUNTAIN STATES LIMITED,50.00; INSIGHT PUBLIC SECTOR,25.00; INTER-MOUNTAIN LABS INC,151.00; ITRON INC, 2,037.90; J R ENTERPRISES,90.00; JACK'S TRUCK CENTER INC,430.66; JLC SIGN SYSTEMS INC,897.30; JOHNSON, TREVOR, 208.70; JP MORGAN CHASE BANK,38.31; KRIZ-DAVIS COMPANY,125.63; KRUSE, WAYNE, 149.06; LARD, SELIESA, 137.17; LECHNER, JESSIE & BRAD, 208.77; LEGEND COMMUNICATIONS OF WYOMING,500.00; LIJEWSKI, RYAN, 18.37; LISA DEHERRERA,100.00; LOUISE CARTER KING,23.73; LOVE, MANDY & MICHAEL, 144.83; MAJOR METAL SERVICE LLC, 1,879.60; MCM GENERAL CONTRACTORS, 9,577.48; MCM GENERAL

CONTRACTORS, 47,227.04; MCNEILUS TRUCK & MANUFACTURING,100.30; MICHELLE RICHTER,40.99; MOA WYOMING INC, 31,972.49; MONTGOMERY, LEE & DENISE, 208.68; MOREHEAD, COI, 208.59; MORRISON MAIERLE INC, 80,881.30; NORCO INC, 1,151.20; ONE CALL OF WYOMING COPR,115.75; ONLINE INFORMATION SERVICES INC, 210.90; PAGAN, DANIELA, 142.59; PAMELA MONDRAGON,40.00; PAUL GERRITS,91.46; PCA ENGINEERING INC, 9,623.60; POSTAL PROS SOUTHWEST INC, 3,648.21; POWDER BASIN CHAPTER WSPE,140.00; POWDER RIVER ENERGY CORPORATION, 5,250.00; POWDER RIVER HEATING & CONDITIONING CORPORATION, 2,679.00; POWDER RIVER OFFICE SUPPLY INC,112.09; POWDER RIVER POWER,69.55; PRAIRIE FIRE BREWING, 2,908.25; PRO FORCE MARKETING INC, 18,632.47; PROELECTRIC INC, 7,808.92; RAILROAD MANAGEMENT CO LLC,637.61; RASMUSSEN, ALAN, 146.26; RECORD SUPPLY INC NAPA,262.59; RESOURCE SOFTWARE INTERNATIONAL LTD,600.00; ROBERT J O'NEIL, 1,275.00; ROBIN KUNTZ,14.98; ROSILES, CLARA, 16.66; ROTO ROOTER SEWER SERVICE,275.00; SCHLAUTMANN, MICHAEL, 417.40; SCHUTZ FOSS ARCHITECTS PC, 16,645.87; SMITH, ASHLEY DAWN, 208.50; SPIEGEL & MCDIARMID LLP,149.90; STEVEN PETERSON,76.34; SUNDANCE EQUIPMENT COMPANY,259.16; THAT EMBROIDERY PLACE,214.90; TIM CARSRUD, 21.50; TOTAL ADMINISTRATION SERVICES CORP., 51.00; TOTAL ADMINISTRATION SERVICES CORP., 605.34; TRAFFIC SAFETY SERVICES,417.29; TWIN EAGLE TRANSPORT, LLC, 288.64; UNIVERSAL ATHLETIC SERVICE,470.00; VAN EWING CONSTRUCTION, 61,788.50; VANKERREBROOK, DOUG, 74.47; VILCHIZ, MARIA, 208.61; WAGES, DUSTY, 124.03; WALKER, THOMAS & LOISANN, 50.84; WAL-MART,12.00; WAL-MART,16.84; WANKE, KENNETH, 208.61; WATER ENVIRONMNET FEDERATION, 110.00; WAUSAU EQUIPMENT COMPANY INC,104.25; WESCO RECEIVABLES CORP, 10,549.80; WESTERN STATIONERS,13.26; WESTERN WASTE SOLUTIONS INC, 4,045.00; WHITFORD, STEPHEN, 42.67; WYODAK RESOURCES DEVELOPMENT CORP, 34,764.57; WYOMING MACHINERY CO,558.56; WYOMING STATE REVENUE AND TAX, 130,596.86; WYOSTAR, 4,654.07; XEROX CORPORATION, 91.92; YEPIV, LORRAINE, 200.00

Councilman Barks made a motion to approve the Consent Agenda; seconded by Councilman McGrath. All voted aye. The motion carried.

Conflict Claims

Councilman Kuntz made a motion to approve a conflict claim for Councilman Carsrud in the amount of \$115.64; seconded by Councilman McGrath. Barks, Kuntz, Lundvall, McGrath, Montgomery and Mayor Carter-King voted aye. Councilman Carsrud abstained. The motion carried.

Councilman Kuntz made a motion to approve a conflict claim for Mayor Carter-King in the amount of \$135.82; seconded by Councilman Barks. Barks, Carsrud, Kuntz, Lundvall, McGrath and Montgomery voted aye. Mayor Carter-King abstained. The motion carried.

Councilman Carsrud made a motion to approve a conflict claim for Councilman Kuntz in the amount of \$14.98; seconded by Councilman Barks. Barks, Carsrud, Lundvall, McGrath, Montgomery and Mayor Carter-King voted aye. Councilman Kuntz abstained. The motion carried.

Comments-Other

Council – Councilman Barks announced the upcoming Trash-a-Thon on May 6th; Councilman Carsrud reported that the Pronghorns will be in Casper and that their season is coming to an end; Councilman Montgomery thanked the Gillette Main Street Committee for the recent Ice Fest event.

Other – Phil Grabrick explained the upcoming Jackalope Jump Fund Raising Event for the Special Olympics.

Unfinished Business

RESOLUTION 2602

A RESOLUTION AUTHORIZING THE USE OF PROFESSIONAL SERVICES FOR CONSTRUCTION ADMINISTRATION SERVICES WHEN THE PROJECT HAS UTILIZED PROFESSIONAL SERVICES FOR THE DESIGN OF THE PROJECT

Councilman Barks made a motion to remove the foregoing Resolution from the table; seconded by Councilman McGrath. All voted aye. The motion carried and the Resolution was removed from the table. No discussion followed. All voted aye. The motion carried.

New Business – Minute Action

Councilman Barks made a motion to approve a request from Family Fun Frontier Center, LLC, to expand their dispensing room dimensions from a 10' X 15' room in the NE corner of the building to a 446 square foot room in the NE portion of the building; seconded by Councilman Carsrud. Administrator Napier provided an explanation regarding the request. All voted aye. The motion carried.

RESOLUTION 2603

A RESOLUTION AUTHORIZING SUBMISSION OF A PREAPPLICATION FORM TO THE STATE LOAN AND INVESTMENT BOARD FOR A LOAN THROUGH THE STATE REVOLVING FUND ON BEHALF OF THE GOVERNING BODY FOR THE CITY OF GILLETTE, WYOMING, FOR THE PURPOSE OF INTERSTATE INDUSTRIAL PARK L.I.D. AND STREET IMPROVEMENTS PROJECT

Councilman McGrath made a motion to approve the foregoing Resolution authorizing the submission of a pre-application form to the State Loan and Investment Board for a loan through the state revolving fund on behalf of the Governing Body for the City of Gillette, Wyoming, for the purpose of Interstate Industrial Park L.I.D. and Street Improvements Project; seconded by Councilman Carsrud. Administrator Napier provided an explanation regarding the request. All voted aye. The motion carried.

Councilman McGrath made a motion to approve a quote award for the base project and additive alternate for the Donkey Creek Bridge Overlay Project to S & S Builders, LLC, in the amount of \$47,110 (1% project); seconded by Councilman Montgomery. Administrator Napier provided an explanation regarding the request. All voted aye. The motion carried.

Appointments

Councilman McGrath made a motion to appoint Charles W. Anderson to a partial term on the Board of Adjustment expiring on June 30, 2019; seconded by Councilman Montgomery. All voted aye. The motion carried.

Public Hearings and Considerations

Mayor Carter-King opened a public hearing to consider the renewal of retail, restaurant, bar & grill, winery, winery satellite, microbrewery, special malt beverage, resort, and limited liquor licenses and permits for the liquor licensing period of April 1, 2017 to March 31, 2018.

Brent Eischeid, representing the Railyard Restaurant, formerly the Chophouse, was asked to provide an update regarding the remodeling progress for the restaurant. Mr. Eischeid thanked the Council for the opportunity to provide an update. A power point presentation of the changes that have been made was presented. He began by announcing the new name for the restaurant. He then provided a timeline of the remodeling project and a comparison of the original concept versus today's progress. He reported that the patio has doubled in size, occupancy has been increased by 75 occupants, an increase of fireplaces, which include indoor/outdoor fireplaces, changed the bar, and two conference rooms with data capability have been added; everything from top to bottom has been changed. The completion of the project is near and ready to be turned over to the new manager and his staff. Estimated training and soft opening are scheduled for April 1, 2017. After that will determine the date of the grand opening. Mayor Carter-King asked how many will be employed. Mr. Eischeid reported that, currently, they have hired 35, and are expecting to hire 15 more for a total of 50 employees. The Mayor asked if he has been able to cater during this process. Mr. Eischeid stated there has been very minimal catering; the kitchen was gutted and therefore, no safe way to do any commercial cooking. The Mayor remarked that she and a couple council members had toured the facility a few months ago and it was beautiful then; she can't imagine how nice it looks today. Mr. Eischeid added that trim work is beginning and should be a pleasant surprise for everyone. Councilman McGrath asked for a rough estimate of the project. Mr. Eischeid stated he'd rather not disclose that dollar amount, but added that the project is approximately six times over the initial projected amount. Councilman McGrath then asked for a completion percentage. Mr. Eischeid stated that he feels he is roughly, 80 - 85% complete; the mechanicals are complete from heating, to plumbing, to electrical, aside from finishing work around the canned lighting. Mayor Carter-King remarked that it will be nice to be open this summer for the patio seating. The Mayor then thanked Mr. Eischeid and stated that he has done what Council has asked and has kept the Council updated on the progress of the project, which is appreciated.

Kevin Kessner, attorney for the Law Firm of Yonkee & Toner in Sheridan, approached the Council on behalf of his client, Tom Simons and Discount Liquors, LLC, as well as his business partners, on the project to construct a retail liquor store in Gillette. Mr. Kessner began by thanking the Council for the opportunity to speak and then stated that he stands before the Council on behalf of his client with regard to the application for the renewal of a retail liquor license that Discount Liquors acquired last year. Mr. Kessner stated that, hopefully, he has done an adequate job of keeping the Council apprised of facts since his involvement in December on Mr. Simons' behalf. He believes that he has supplied two or three letters to the Council, along with supporting materials as to the timeline of events that have transpired over the last year, as well as efforts taken by his client and business partners to move this project along. Mr. Kessner stated that he was not going to go through the timeline of events, and the efforts that have been undertaken, but would like to make a motion to add items to the record in this matter. He presented Administrator Napier with an

envelope with the correspondence to be included in the record in this hearing. Mayor Carter-King asked for an explanation of what Mr. Kessner is asking to be added to the record. Mr. Kessner stated that it is his assumption that the City Council has received correspondence from him regarding this particular project, as well as a time line of events, the materials that were attached to his letters, and he would like these materials included in the record. He added there is correspondence from the City asking him specific questions about the project and those communications that have gone back and forth between the City and himself over the last two months. Mayor Carter-King asked if there was a copy for each of the Council Members in the envelope. Mr. Kessner stated that there was only one copy of the correspondence for the record. Mayor Carter-King stated that she has in front of her letters from January 13, 2016 and December 15, 2016 and asked Mr. Kessner if he had more than that. Attorney Davidson provided a point of clarification stating that Mr. Kessner had, over the course of several months, been sending correspondence directly to Council. Initially, Mr. Kessner was asked to provide correspondence to legal staff and documents were provided to Council via the GI packet. Mr. Davidson stated that Council does not have those documents in front of them but he has them available at this meeting. Mr. Kessner stated that he wrote a letter to the City of Gillette on December 15, 2016; Mr. Davidson wrote a letter to him on December 30, 2016; a responsive letter with enclosures was sent by Mr. Kessner on January 11, 2017; an email from Mr. Davidson on January 12, 2017 was sent to Mr. Kessner and a responsive letter from Mr. Kessner was sent on January 13, 2017. An affidavit from his client was also included in the packet, dated with today's date. Mayor Carter-King asked if Mr. Kessner feels as if his client has kept up with what the Council asked when the license was awarded to him. Mr. Kessner stated that his position in this particular matter is that his client has had delays in this project; there's no question about that. He believes those have been well documented to the Council. His client's business partner's son, who was a major investor involved in this project, had significant health issues in June and the project was put on hold. All the financing going on then, the plans, everything that was in place and moving forward at that time, was put on hold. It wasn't until three months later when he decided that his son's health had returned, he would get back into the project. This was in September of 2016 and had to restart the financing process over. At that point in time, Gillette's economy was not doing as well as it had in the past. There were concerns from lenders doing a project of this size, that became nervous about the project. They continued to move forward. They were getting to a point when financing was going to be approved. Mr. Kessner added he had conveyed that message sometime in December or January, that financing would be in place soon. However, lenders and investors involved became nervous starting in September that this council would not approve the renewal of the license. Mr. Kessner feels that this was a result of City Council commenting to members of the public that it (the license) was probably not going to be approved. As we sit here now, the folks lined up to do this, are waiting on this Council's decision to move forward. No one is going to begin turning shovels because this project largely depends on the liquor license; it's a large investment and doesn't work without the liquor license. He would also add, that efforts have been undertaken in this project to move it forward. A city street, opened to the public, has been constructed to the tune of approximately \$250,000, as well as other design aspects of the project. His client purchased the liquor license for \$270,000, with roughly \$520,000 worth of capital investment into this project. He believes his client has a protected property interest because of that investment. This situation is different from a transfer, or an application for a liquor license where the person does not have a property interest. Once a liquor license goes to an individual, they do have a protected property interest under Wyoming state law. As far as his client's position, he feels he has invested a substantial amount of time and money into this; things did not go as planned but that is why he believes that Wyoming State Statute contemplates providing a license holder two years to hold onto a license before construction begins, or before the operation and sale begins. He would even argue that Wyoming state law contemplates even a greater length of time because an individual who has met the two-year requirement and has not undergone the project, and is not in operation, can seek an additional year if good cause can be shown. Mr. Kessner added that they are not asking for an additional year beyond the two years; he is asking that his client be permitted the two years as any other citizen holding a liquor license is permitted under Wyoming State Statute. Mr. Kessner pointed out that if there is a concern that there is a business owner out there that is needing a license, and one is not available unless the City does not renew this license, it is his understanding that Sweetwater Gap, LLC did not file their renewal paperwork and that license will go back to the City. He believes that there is going to be a license available for any interested person to come apply for it. He would say that the need is not as great, absent that particular license being available in the near future. With all of that, he is asking the Council to approve this renewal and give his client the opportunity to move forward on this project for the city of Gillette. Mayor Carter-King asked Mr. Kessner if he was aware of the letter submitted by his client, dated January 13, 2016. Mr. Kessner responded that he was not aware of the letter. Mayor Carter-King stated that in the letter, he listed four items that he was willing to do to get the license. Mr. Kessner apologized and said that he is aware of that letter. Mayor Carter-King stated that as far as the Council and the City are concerned, not one of those items was finished. The first one says, upon license transfer the architect will finalize design and go to construction bid within two months. You mentioned three months later

there were troubles; in two months we didn't have anything. Then it says - we will finish our portion of Madison Avenue to the end of the property line; that was not done to City specs. We never received any type of building plans. She went on to read that the building will not be a pole barn or shop type building. She stated which it is not, because there is nothing. It is awfully hard for this Council, especially if you saw the gentleman who got up before; that is what this Council expects when we award a license; that the recipient agrees to what they sign and tells the Council what they will do. That license has been out of commission for over a year, not bringing in any revenue to the City, which is what these types of licenses are for. Mr. Kessner stated that he would agree with that. His client is just asking for the two years that are allowed under state statute. Mayor Carter-King asked if he is asking for another year. Mr. Kessner confirmed that was correct. The Mayor stated that nothing has happened in one year, and asked what could be expected in another year. Mr. Kessner stated that he believes everyone involved in this project is waiting for the Council's decision. Nobody wants to put a large amount of money in this project if the renewal is going to be denied; then there would be a partial building that, frankly, wouldn't serve a purpose. Mayor Carter-King replied that she could assure him, that if there was a start of a building, if the City would have received building plans, if there would have been any kind of progress, this Council would be looking a lot differently upon this license. Mr. Kessner stated that would be a difficult thing to tell investors investing four million dollars into a project, that Council might approve the renewal if you come start this project. Councilman Barks stated that one of the items that the Mayor didn't read in the letter was that the facility would be constructed and operational in 12-16 months, was the commitment of Mr. Simons. And in fact, the motion that was made to approve that liquor license specifically indicated that per this letter we are giving the license contingent upon the items of this letter. None of which, as the Mayor pointed out, have been completed at this time. Mr. Kessner stated that he could not argue with Council about that; those are the facts. Some things have been done on the project, not to the scale that was hoped for and he had outlined those delays. He would also argue that his client has not been given the full 16 months. Councilman Barks stated, on that point, 12 months have past and there are four months left out of the 16 months, and there has not even been a plan submitted for the design of the facility to the Planning Department for approval. Councilman Barks added that he believes that is a two to four-week process and he does not believe that a four-million-dollar building can be built in three months. Mr. Kessner replied that as far as he can see, and the evidence on record of this matter, I think that is speculative and he doesn't see evidence that the building couldn't be done. He added he's not taking a position on that but he has seen no evidence on the record. Councilman Barks asked Mr. Kessner if he believes it is possible, that a four-million-dollar building could be designed and constructed in a three-month period in Gillette, Wyoming? Mr. Kessner replied that he is not taking a position on that, he's saying that there is no evidence in the record that says it can't be done. Councilman Barks asked if that was his statement. Mr. Kessner confirmed it was his statement. Councilman Lundvall asked to hear from Mr. Simons regarding his thoughts on Councilman Barks' question. Mr. Simons stated that he didn't know, that he is only one partner in this endeavor and added that he has another partner in this. Councilman Lundvall asked if it is his understanding that Mr. Simons believes he could construct it in three-months? Mr. Simons stated that is not what he said; he doesn't know, he's not a builder. Mayor Carter-King asked Mr. Simons if it was his signature on the letter stating that he would get the four points done. Mr. Simons confirmed that was correct. Councilman McGrath asked about the rest of the investors and if any one of them was in the audience. Mr. Kessner stated that he only represents Tom Simons on this matter. There are other investors that have separate legal counsel. Councilman McGrath reviewed the minutes and asked Mr. Kessner if he had seen the minutes. Mr. Kessner confirmed he had. Councilman McGrath replied that it was clear in the minutes of the timeframe, and asked Mr. Kessner if he would agree that is what it says? Mr. Kessner stated that he does not disagree that is what the minutes say. There was no further discussion. Mayor Carter-King closed the public hearing.

Councilman McGrath made a motion to approve the renewal of retail, restaurant, bar & grill, winery, winery satellite, microbrewery, special malt beverage, resort, and limited liquor licenses and permits for the liquor licensing period of April 1, 2017 to March 31, 2018; seconded by Councilman Carsrud. Councilman Barks made a motion to remove Razor City Discount Liquors for individual discussion; seconded by Councilman Kuntz. All voted aye. The motion carried and Razor City Discount Liquors renewal was removed for individual discussion. Mayor Carter-King asked for additional discussion on the remaining liquor licenses. Councilman McGrath thanked the Police Department for their compliance checks. Councilman Kuntz stated that there were contingencies added to the Chophouse (at that time) and they did do what they had agreed to do. The Council then voted on the motion to approve the remaining liquor license renewals. All voted aye. The motion carried.

Councilman Barks made a motion to approve Razor City Discount Liquors, even though he plans to vote otherwise; seconded by Councilman McGrath. Mayor Carter-King asked for additional discussion. Councilman Barks reiterated that there is a letter written by Mr. Simons, dated January

13, 2016. One of the conditions the letter states is upon license transfer architect will finalize building design and go to construction bid within two months. The facility will be constructed and operational within 12-16 months. He added, then in the minutes of the subsequent meeting in February, there was a motion made to approve Razor City Discount Liquors' license contingent upon compliance with the terms of the letter submitted by Tom Simons entitled Liquor License Transfer dated January 13, 2016. There was a vote and the motion was passed contingent upon the terms of the letter submitted by Tom Simons entitled Liquor License Transfer dated January 13, 2016. In the public hearing it was discussed that this was not done. There has not been a plan submitted. Mr. Simons was asked a couple times in the past year to visit with the Council to give an update. Councilman Barks recollects that he did provide an update one time, although there was no update primarily because the finance partner was out of the country. Council has heard nothing since and therefore, he is speaking against the motion. Councilman Montgomery asked if the extra year was granted, is there any guarantee that this could be accomplished with the investors? Mr. Kessner replied that the investors in the project are waiting on the Council's renewal to move forward with the project. He added that he couldn't, nor wouldn't, provide a guarantee, but it is his understanding that it would move forward. Mayor Carter-King stated that it is too bad that his client and the others didn't take notice of how this has worked before. If they weren't able to do it, for the reasons Mr. Kessner has said, then it would have been nice if you would have come tonight, or even possibly before, and said we know the renewals are coming up but we are planning, if the financing goes through, to present a plan. She added she is not saying that would have changed the decision for tonight, but it wouldn't have hurt. Mr. Kessner stated that he believes he clarified that information in his prior correspondence. At that time there was a meeting in early February, to get final approval and he was told that it can't be given until the Council votes to renew the license. He reiterated that he had shared some of that information with the Council and added that he didn't know how much Mr. Simons had shared with the Council since Mr. Kessner's involvement. Mayor Carter-King asked what information was shared. Mr. Kessner replied, regarding the project and how financing was going. Mayor Carter-King stated that she feels the Council was begging for information. Mr. Kessner replied that, in all fairness, since his involvement, he has supplied the information that was requested from his client and added that he feels he has provided all the information that has been requested of him. Councilman Kuntz asked if he was referring to information from December 2016 and asked if that was his first communication with this Council. Mr. Kessner replied that he recalls sending three letters. He believes the first one was in December, the second was a more detailed letter sent in January in response to Mr. Davidson's questions that Council had for his client, which had several attachments. City Administrator Napier stated that it is intriguing to hear of a timeline that has been submitted, and would like clarification of what the timeline is and what it is that Council can turn to, to review, from what has been reportedly submitted. Mr. Napier added that he is not aware of a timeline, other than the timeline submitted in January 2016. Mr. Kessner stated that he had given a timeline of what has transpired since the license was acquired to the present. He has not given a timeline for the future, if that is the question that is being asked. Mr. Kessner apologized for any confusion on his statement. Mayor Carter-King asked if his client, or the investors, are prepared to give the Council any type of timeline if the license is renewed. Mr. Kessner stated that he believes they would be prepared to give a timeline, assuming it's renewed, and they can get their financing in place. Mayor Carter-King asked why the investors aren't here tonight. Mr. Kessner replied that the timeline would be triggered by the financing being approved. Mayor Carter-King stated that is why she would think that the investors would be at tonight's meeting. Mr. Kessner ended by saying that he represents Tom Simons and he cannot speak for the others. Council voted on the motion. Councilmen Montgomery and Carsrud voted aye. Councilmen Barks, Lundvall, McGrath, Kuntz, and Mayor Carter-King voted nay. The motion failed and Discount Liquors, LLC, d.b.a. Razor City Discount Liquors' liquor license was not renewed.

Executive Session

Councilman McGrath made a motion to move into an Executive Session to discuss litigation; seconded by Councilman Kuntz. All voted aye. The motion carried.

Adjournment

There being no further business, the meeting was adjourned at 8:03 p.m. The next scheduled meeting will be held on March 7, 2017, Council Chambers, City Hall. This meeting can be viewed in its entirety at <http://www.gillettewy.gov/CityCouncilVideos.html>. Minutes can be viewed at <http://www.gillettewy.gov/CityCouncilMinutes.html>.

(S E A L)

ATTEST:

Karlene Abelseth, City Clerk
Publication Date: March 1, 2017

Louise Carter-King, Mayor