

WORK SESSION AGENDA

**Casper City Council
City Hall, Council Meeting Room
Tuesday, November 12, 2019, 4:30 p.m.**





| Work Session Meeting Agenda | | Recommendation | Allotted Time | Beginning Time |
|--|----------------------------------|---------------------------|----------------------|-----------------------|
| Recommendations = Information Only, Move Forward for Approval, Direction Requested | | | | |
| 1. | Council Meeting Follow-Up | | 5 min | 4:30 |
| 2. | Legislative Agenda | Move Forward for Approval | 30 min | 4:35 |
| 3. | Towing Resolutions | Direction Requested | 20 min | 5:05 |
| 4. | LAD Request for Jade & Arrowhead | Direction Requested | 20 min | 5:25 |
| 5. | Sign Code Revisions | Direction Requested | 60 min | 5:45 |
| 6. | 2018 Arterials & Collectors | Direction Requested | 5 min | 6:45 |
| 7. | Platte River Restoration | Direction Requested | 5 min | 6:50 |
| 8. | Agenda Setting | | 20 min | 6:55 |
| 9. | Legislative Review | | 10 min | 7:15 |
| 10. | Council Around the Table | | 10 min | 7:25 |
| Approximate End Time: | | | | 7:35 |

We are CASPER

Communication Accountability Stewardship Professionalism Efficiency Responsiveness

November 1, 2019

TO: Honorable Mayor, and Members of the Casper City Council

FROM: J. Carter Napier, City Manager 
Jolene Martinez, Assistant to the City Manager 

SUBJECT: Wyoming Legislative Agenda 2020

Meeting Type & Date

Work Session, November 12, 2019

Recommendation

Direction requested.

Summary

The City of Casper has been working with Wyoming Association of Municipalities (WAM), and thus all Wyoming municipalities, on a legislative agenda for the 2020 Wyoming Legislature since spring of this year. Municipalities submitted their legislative issues as resolutions for consideration at the WAM meeting in Sheridan in May. Casper submitted four Council-approved resolutions for consideration: the option to participate in the state health insurance program; the option to create a stormwater utility through the municipal ordinance process; the support of statewide anti-discrimination legislation; and a process to share responsibility for sales tax collection errors. All submitted resolutions were reviewed and divided into position statements and legislative priorities. The four position statements selected were air service funding, statewide anti-discrimination, greater financial independence for municipalities, and cities joining the state health insurance system. The seven priority legislative issues selected for the focus of WAM 2020 legislative efforts and the current status of these efforts are outlined in the table below.

| Legislative Issue | Current Status | Notes |
|------------------------------|--|--|
| Franchise fees | Legislation sponsored by Corporations Committee negotiated and accepted by WAM. Out of committee and moved to session. | |
| Optional municipal sales tax | To be reviewed by Revenue Committee at November 11 meeting. | Currently makes 5 th cent permanent for all counties to be distributed county-wide; 6 th cent to be allowed through vote for county-wide special purpose; and 7 th cent to be a municipal option tax. |

| | | |
|-----------------------------|--|--|
| Surface water utility | Legislation sponsored by Corporations Committee negotiated and accepted by WAM. Out of committee and moved to session. | |
| Sales tax collection errors | Not moved forward by Revenue Committee. | |
| Public records | Legislation sponsored by Judiciary Committee negotiated and accepted by WAM. Out of committee and moved to session. | |
| Lien authority | Not moved forward by committee. | |
| Tax districts | Not moved forward by committee. | |

Since the WAM convention, two other issues of importance to municipalities have emerged: gaming and budget and financial reporting. The gaming legislation will make games of skill legal. While the gaming legislation has the potential to give Casper an additional revenue source, it likely comes with the need to provide additional City services to regulate and ameliorate the results of increased gambling. The financial reporting legislation, if passed, will require municipalities to send additional financial reports to the state to be posted on the state's website for public comment.

This new strategy of lobbying for important legislation for municipalities by WAM has resulted in a streamlined legislative process and a stronger position for municipalities going into the 2020 Legislature. This process may result in more stable revenue streams for all municipalities; however, it may exclude important legislative issues for Council and may not give legislative issues the same priority Council would give. In summary, staff is seeking Council direction on its priorities for Casper's 2020 Legislative Agenda.

Financial Considerations

There are no financial considerations.

Oversight/Project Responsibility

Jolene Martinez

Attachments

Legislative bills: franchise fees, optional municipal sales tax, surface water utility, public records

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Municipal right of way franchise fees.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to cities and towns; authorizing franchise
2 fee agreements for access to public rights-of-way; providing
3 limitations on franchise fee agreements as specified;
4 providing exceptions; and providing for an effective date.

5

6 *Be It Enacted by the Legislature of the State of Wyoming:*

7

8 **Section 1.** W.S. 15-1-131 is created to read:

9

10 **15-1-131. Communications companies franchise agreements**
11 **authorized; limitations; procedure; exceptions.**

12

1 (a) The governing body of a city or town may enter into
2 a franchise agreement with a communications company, as
3 defined by W.S. 1-26-813(b), for access to its public rights-
4 of-way if the governing body deems the franchise agreement to
5 be proper and the agreement meets the requirements of this
6 section.

7 *****

| 8 | STAFF COMMENT |
|---|---------------|
| | |

9 The phrase "deems proper" comes from W.S. 15-1-
10 103(a)(xxxi) which reads "The governing bodies of all
11 cities and towns may: Grant franchises for such terms as
12 the governing body deems proper to any utility company,
13 provided no franchise may be entered into with any person
14 in which that person is given an exclusive right for any
15 purpose whatsoever..."

16 *****

18 (b) All franchise agreements entered into by a
19 governing body with a communications company under this
20 section shall:

21

22 (i) Be fair and reasonable;

23

24 (ii) Be competitively neutral and
25 nondiscriminatory;

26

27 (iii) Comply with all requirements of applicable
28 federal and state laws and ordinance;

1

2 (iv) Not unreasonably impair or inhibit the
3 deployment of communications services;

4

5 (v) To the extent practical encourage the
6 deployment of communications services to serve consumers.

7

8 (c) Franchise fees assessed under a franchise agreement
9 entered into pursuant to this section shall:

10

11 (i) Be passed through to customers unless
12 otherwise agreed;

13

14 (ii) Not be assessed on revenues from internet
15 access service.

16

17 (d) A communications company assessed a franchise fee
18 on local exchange services by a governing body may not be
19 assessed any additional franchise fees by that governing
20 body, including an assessment on any other communications
21 services.

22

1 (e) A communications company proposing to enter into a
2 franchise agreement shall provide to the governing body of
3 the city or town a request for negotiations. Negotiations
4 between the governing body and a proposed franchisee shall
5 not exceed one hundred eighty (180) days unless agreed to by
6 the parties in writing. A request made under this subsection
7 shall include, at a minimum, the date of the request for
8 negotiations, the proposed date for the start of
9 negotiations, the date by which negotiations shall terminate
10 and the contact information for the proposed franchisee.

11

12 (f) Any communications company with a cable television
13 franchise pursuant to 47 U.S.C. § 541 et seq. shall be exempt
14 from subsections (a) through (d) of this section.

15

16 **Section 2.** W.S. 15-1-103(a)(xxxiii)(intro) is amended
17 to read:

18

19 **15-1-103. General powers of governing bodies.**

20

21 (a) The governing bodies of all cities and towns may:

22

1 (xxxiii) Grant franchises for such terms as the
2 governing body deems proper to any utility company, and, for
3 communication companies, in accordance with W.S. 15-1-131,
4 provided no franchise may be entered into with any person in
5 which that person is given an exclusive right for any purpose
6 whatsoever and:

8 **Section 3.** Any existing franchises on the effective date
9 of this act may continue until termination, but no
10 communications company franchise shall thereafter be renewed
11 for more than ten (10) years at a time except for good cause
12 as determined by the governing body.

14 **Section 4.** This act is effective July 1, 2020.

(END)

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Local sales and use taxes.

Sponsored by: Joint Revenue Interim Committee

A BILL

for

1 AN ACT relating to taxation and revenue; requiring counties
2 to impose a portion of the local general purpose sales and
3 use tax; decreasing the number of local entities required
4 to approve provisions related to specified local sales and
5 use taxes; increasing the amount of time between elections
6 for specified local sales and use taxes; authorizing the
7 implementation of an optional municipal sales and use tax
8 as specified; providing procedures; amending related
9 provisions; specifying applicability; and providing for an
10 effective date.

11

12 *Be It Enacted by the Legislature of the State of Wyoming:*

13

1 **Section 1.** W.S. 39-15-203(a)(i)(intro), (A), (B) and
2 (C), (ii)(C), (iii)(A), (v)(B) and (C) and by creating a
3 new paragraph (vi), 39-15-204(a)(intro) and by creating a
4 new paragraph (vii), 39-15-211 by creating a new subsection
5 (d), 39-16-203(a)(i)(intro), (A), (B) and (C), (ii)(A),
6 (iv)(B) and (C) and by creating a new paragraph (v),
7 39-16-204(a)(intro) and by creating a new paragraph (vi)
8 and 39-16-211 by creating a new subsection (d) are amended
9 to read:

10

11 **39-15-203. Imposition.**

12

13 (a) Taxable event. The following shall apply:

14

15 (i) The following provisions apply to imposition
16 of the general purpose excise tax under W.S.
17 39-15-204(a)(i). One percent (1%) of the tax under W.S.
18 39-15-204(a)(i) shall be imposed by each county and shall
19 not require an election as provided in this paragraph. The
20 following shall apply to any additional tax imposed by any
21 county, subject to the limitations specified in W.S.
22 39-15-204(a)(i) and (iv):

23

1 (A) Except as provided by subparagraph (F)
2 of this paragraph, no additional tax shall be imposed under
3 W.S. 39-15-204(a)(i) until the proposition to impose the
4 taxes is submitted to the vote of the qualified electors of
5 the county, and a majority of those casting their ballots
6 vote in favor of imposing the taxes. If a county seeks to
7 increase a tax rate previously approved by the qualified
8 electors of the county that increase shall be separately
9 proposed and voted upon, provided that the total amount of
10 the separate propositions is subject to the limitations
11 specified in W.S. 39-15-204(a)(i) and (iv). A county may
12 impose both taxes authorized in W.S. 39-15-204(a)(i) and
13 (ii), but the proposition to impose each tax also shall be
14 individually stated and voted upon. Except as otherwise
15 provided, excise taxes imposed under this paragraph shall
16 commence as provided by W.S. 39-15-207(c) following the
17 election approving the imposition of the tax;

18
19 (B) The proposition to impose an excise tax
20 shall be at the expense of the county and be submitted to
21 the electors of the county upon the receipt by the board of
22 county commissioners of a petition requesting the election
23 signed by at least five percent (5%) of the electors of the

1 county or of a resolution approving the proposition from
2 the governing body of the county and the governing bodies
3 of at least ~~two-thirds (2/3)~~ fifty percent (50%) of the
4 incorporated municipalities within the county. If proposed
5 by petition by electors, the number of electors required
6 shall be determined by the number of votes cast at the last
7 general election. The election shall be at the direction
8 and under the supervision of the board of county
9 commissioners;

10

11 (C) The proposition may be submitted at an
12 election held on a date authorized under W.S. 22-21-103. A
13 notice of election shall be given in at least one (1)
14 newspaper of general circulation published in the county in
15 which the election is to be held, and the notice shall
16 specify the object of the election. The notice shall be
17 published at least once each week for a thirty (30) day
18 period preceding the election. At the election the ballots
19 shall contain the words "for the county sales and use tax"
20 and "against the county sales and use tax". If a portion
21 of the proceeds from the tax will be used for economic
22 development as provided by W.S. 39-15-211(a)(i), the ballot
23 shall contain the words "a portion (or specific percentage)

1 of the tax proceeds shall be used for economic development"
2 in a clear and appropriate manner. If the proposition is
3 approved the same proposition shall be submitted at
4 subsequent general elections as provided in this
5 subparagraph until the proposition is defeated. If the tax
6 proposed is approved after July 1, 1989, the same
7 proposition shall be submitted at every other subsequent
8 general election until the proposition is defeated. However
9 in those counties where the tax is not in effect, the
10 county commissioners with the concurrence of the governing
11 bodies of ~~two-thirds (2/3)~~ fifty percent (50%) of the
12 municipalities may establish the initial term of the tax at
13 ~~two (2)~~ four (4) years. ~~If the term of the tax is limited~~
14 ~~to two (2) years,~~ The term of the tax shall be stated in
15 the proposition submitted to the voters. If a proposition
16 establishing the term of the tax at four (4) years is
17 approved, the proposition shall be submitted at the next
18 general election and at every other subsequent second
19 general election following the election at which the
20 proposition was initially approved and at the general
21 election held every four (4) years thereafter until the
22 proposition is defeated;

23

1 (ii) The following provisions apply to
2 imposition of the lodging excise tax under W.S. 39-15-
3 204(a)(ii):

4
5 (C) The proposition to impose an excise tax
6 shall be at the expense of the county and be submitted to
7 the electors of the county upon the receipt by the board of
8 county commissioners of a petition requesting the election
9 signed by at least five percent (5%) of the electors of the
10 county or of a resolution approving the proposition from
11 the governing body of the county and the governing bodies
12 of at least ~~two-thirds (2/3)~~ fifty percent (50%) of the
13 incorporated municipalities within the county. If proposed
14 by petition by electors, the number of electors required
15 shall be determined by the number of votes cast at the last
16 general election. The election shall be at the direction
17 and under the supervision of the board of county
18 commissioners;

19
20 (iii) The following provisions apply to
21 imposition of the specific purpose excise tax under W.S.
22 39-15-204(a)(iii):

23

1 (A) Before any proposition to impose the
2 tax or incur the debt shall be placed before the electors,
3 the governing body of a county and the governing bodies of
4 at least ~~two-thirds (2/3)~~ fifty percent (50%) of the
5 incorporated municipalities within the county shall adopt a
6 resolution approving the proposition, setting forth a
7 procedure for qualification of a ballot question for
8 placement on the ballot and specifying how excess funds
9 shall be expended;

10

11 (v) The following provisions apply to imposition
12 of the excise tax under W.S. 39-15-204(a) (vi) the purpose
13 of which is economic development:

14

15 (B) The proposition to impose an excise tax
16 shall be at the expense of the county and be submitted to
17 the electors of the county upon the receipt by the board of
18 county commissioners of a petition requesting the election
19 signed by at least five percent (5%) of the electors of the
20 county or of a resolution approving the proposition from
21 the governing body of the county and the governing bodies
22 of at least ~~two-thirds (2/3)~~ fifty percent (50%) of the
23 incorporated municipalities within the county. If proposed

1 by petition by electors, the number of electors required
2 shall be determined by the number of votes cast at the last
3 general election. The election shall be at the direction
4 and under the supervision of the board of county
5 commissioners;

6
7 (C) The proposition may be submitted at an
8 election held on a date authorized under W.S. 22-21-103. A
9 notice of election shall be given in at least one (1)
10 newspaper of general circulation published in the county in
11 which the election is to be held, and the notice shall
12 specify the object of the election. The notice shall be
13 published at least once each week for a thirty (30) day
14 period preceding the election. At the election the ballots
15 shall contain the words "for the county sales and use tax
16 for economic development" and "against the county sales and
17 use tax for economic development". If the tax proposed is
18 approved, the same proposition shall be submitted at every
19 other subsequent general election until the proposition is
20 defeated. However, the county commissioners with the
21 concurrence of the governing bodies of ~~two-thirds (2/3)~~
22 fifty percent (50%) of the municipalities may establish the
23 initial term of the tax at ~~two (2)~~ four (4) years. ~~If the~~

1 ~~term of the tax is limited to two (2) years ,~~ The term of
2 the tax shall be stated in the proposition submitted to the
3 voters. If a proposition establishing the term of the tax
4 at four (4) years is approved, the proposition shall be
5 submitted at the ~~next general election and at every other~~
6 ~~subsequent~~ second general election following the election
7 at which the proposition was initially approved and at the
8 general election held every four (4) years thereafter until
9 the proposition is defeated;

10

11 (vi) The following provisions apply to
12 imposition of the municipal tax under W.S.
13 39-15-204(a)(vii):

14

15 (A) The tax authorized by W.S.
16 39-15-204(a)(vii) shall be in addition to and not in lieu
17 of any tax imposed by a county under W.S. 39-15-204(a)(i),
18 (iii) or (vi) if those taxes are imposed;

19

20 (B) At least ninety (90) days after a vote
21 to initially approve or continue a tax under W.S.
22 39-15-204(a)(iii), or following adoption of a resolution
23 under subparagraph (J) of this paragraph, a city or town

1 within the county where the tax was imposed may propose a
2 special purpose excise tax. The amount of the tax proposed
3 under this subparagraph shall not exceed the amount of tax
4 that the city or town collects during the same time period
5 pursuant to the tax imposed under W.S. 39-15-204(a)(iii).
6 The tax imposed under this paragraph shall terminate not
7 more than ninety (90) days following the termination of the
8 tax imposed under W.S. 39-15-204(a)(iii) or as provided in
9 subparagraph (J) of this paragraph;

10

11 (C) Revenue from the tax shall be used for
12 a specific purpose in a specified amount as specified in
13 the proposition to impose the tax. A city or town may
14 impose a portion of the tax for separate purposes provided
15 that the purposes are voted on separately, each proposition
16 specifies the purpose of the tax and the total amount of
17 the tax does not exceed the full amount authorized in W.S.
18 39-15-204(a)(vii) and subparagraph (B) of this paragraph;

19

20 (D) No tax shall be imposed under this
21 paragraph until a specific proposition to impose the tax is
22 approved by a vote of the majority of the qualified
23 electors voting on the specific proposition. The purpose of

1 the tax and the maximum estimated amount of revenue to be
2 collected shall be specified in the proposition. The
3 election shall be held in accordance with W.S. 22-21-101
4 through 22-21-112. Any excise tax imposed under this
5 paragraph shall commence as provided by W.S. 39-15-207(c)
6 following the election approving the imposition of the tax;

7
8 (E) A notice of election shall be given in
9 at least one (1) newspaper of general circulation published
10 in the county in which the election is to be held, and the
11 notice shall specify the proposition that will be
12 considered at the election. The notice shall be published
13 at least once each week for a thirty (30) day period
14 preceding the election. At the election for each
15 proposition, the ballots shall contain the words "for the
16 municipal sales and use tax" and "against the municipal
17 sales and use tax". The ballot shall describe the specific
18 purpose excise tax in a clear and appropriate manner;

19
20 (F) If the proposition to impose or
21 continue the tax is defeated the proposition shall not
22 again be submitted to the electors of the city or town for
23 at least eleven (11) months. If the proposition is defeated

1 at any general election following initial adoption of the
2 proposition the tax is repealed and shall not be collected
3 following June 30 of the year immediately following the
4 year in which the proposition is defeated except:

5
6 (I) If the proposition was for less
7 than the full amount authorized in W.S. 39-15-204(a)(vii),
8 this subparagraph shall not prohibit a separate proposition
9 for the remaining authorized amount of the tax as provided
10 in subparagraphs (B) and (C) of this paragraph;

11
12 (II) If the proposition was to
13 increase the amount of the tax originally adopted by the
14 electors or to impose a tax for a different purpose,
15 subject to the maximum allowable tax, the defeat of the
16 proposition shall not repeal the proposition originally
17 adopted by the electors.

18
19 (G) If the proposition is approved by the
20 qualified electors, the city or town council shall adopt an
21 ordinance for the tax authorized by W.S. 39-15-204(a)(vii)
22 consistent with the approved proposition. The ordinance
23 shall include the following:

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23

(I) A provision imposing sales tax upon retail sales of tangible personal property, admissions and services made within the city or town, whichever is appropriate;

(II) Provisions identical to those contained in article 1 of this chapter except for W.S. 39-15-102(a), insofar as it relates to sales taxes, except the name of the city or town as the taxing agency shall be substituted for that of the state and an additional license to engage in business shall not be required if the vendor has been issued a state license pursuant to law;

(III) A provision that any amendments made to article 1 of this chapter or to chapter 16 of this title that are not in conflict with article 1 of this chapter or to chapter 16 of this title shall automatically become a part of the sales tax ordinances of the city or town;

(IV) A provision that the city or town shall contract with the department prior to the effective

1 date of the sales tax ordinances whereby the department
2 shall perform all functions incident to the administration
3 of the sales tax ordinances of the city or town;

4

5 (V) A provision that the amount
6 subject to the sales tax shall not include the amount of
7 any sales tax imposed by the state of Wyoming.

8

9 (H) Subject to subparagraphs (B) and (J) of
10 this paragraph, a tax imposed for a specific purpose and in
11 a specified amount shall terminate when the amount
12 specified in the proposition approved by the electors is
13 collected. A city or town may agree to terminate the tax
14 if the tax collected reaches the actual cost of the
15 completed projects and the amount specified in the
16 proposition exceeds the actual cost of the completed
17 projects. A city or town shall inform the department that
18 a tax is terminated.

19

20 (J) If a county has not imposed a tax under
21 W.S. 39-15-204(a)(iii) the board of county commissioners
22 may adopt a resolution to authorize cities and towns within
23 the county to propose a municipal tax under this paragraph

1 as provided in subparagraph (B) of this paragraph. The
2 resolution shall establish the maximum taxation rate in
3 increments of one-quarter of one percent (.25%) not to
4 exceed a rate of one percent (1%). The proposition by a
5 city or town for a municipal tax authorized under this
6 subparagraph shall specify that the municipal tax shall
7 terminate after two (2) years.

8

9 **39-15-204. Taxation rate.**

10

11 (a) In addition to the state tax imposed under W.S.
12 39-15-101 through 39-15-111 any county of the state may
13 impose the following excise taxes and any city or town may
14 impose the ~~tax~~ taxes authorized by ~~paragraph (ii)~~
15 paragraphs (ii) and (vii) of this subsection and any resort
16 district may impose the tax authorized by paragraph (v) of
17 this subsection:

18

19 (vii) An excise tax at a rate in increments of
20 one-quarter of one percent (.25%) not to exceed a rate of
21 one percent (1%) upon retail sales of tangible personal
22 property, admissions and services made within the city or
23 town, the purpose of which is for a specific purpose and in

1 a specified amount as provided in the proposition to impose
2 the tax.

3

4 **39-15-211. Distribution.**

5

6 (d) For all revenue collected by the department from
7 the taxes imposed by W.S. 39-15-204(a)(vii) the department
8 shall:

9

10 (i) Deduct one percent (1%) to defray the costs
11 of collecting the tax and administrative expenses incident
12 thereto which shall be deposited into the general fund;

13

14 (ii) Deposit the remainder into an account for
15 monthly distribution to the city or town in which the tax
16 has been imposed which shall only be used by the city or
17 town for costs related to the purposes approved in the
18 proposition to impose the tax.

19

20 **39-16-203. Imposition.**

21

22 (a) Taxable event. The following shall apply:

23

1 (i) The following provisions apply to imposition
2 of the general purpose excise tax under W.S.
3 39-16-204(a)(i). One percent (1%) of the tax under W.S.
4 39-16-204(a)(i) shall be imposed by each county and shall
5 not require an election as provided in this paragraph. The
6 following shall apply to any additional tax imposed by any
7 county, subject to the limitations specified in W.S.
8 39-16-204(a)(i) and (iii):

9
10 (A) Except as provided by subparagraph (F)
11 of this paragraph, no additional tax shall be imposed under
12 W.S. 39-16-204(a)(i) until the proposition to impose the
13 taxes is submitted to the vote of the qualified electors of
14 the county, and a majority of those casting their ballots
15 vote in favor of imposing the taxes. If a county seeks to
16 increase a tax rate previously approved by the qualified
17 electors of the county that increase shall be separately
18 proposed and voted upon, provided that the total amount of
19 the separate propositions is subject to the limitations
20 specified in W.S. 39-16-204(a)(i) and (iii). A county may
21 impose both taxes authorized in W.S. 39-16-204(a)(i) and
22 (ii), but the proposition to impose each tax also shall be
23 individually stated and voted upon. Except as otherwise

1 provided, excise taxes imposed under this paragraph shall
2 commence as provided by W.S. 39-16-207(c) following the
3 election approving the imposition of the tax;

4
5 (B) The proposition to impose an excise tax
6 shall be at the expense of the county and be submitted to
7 the electors of the county upon the receipt by the board of
8 county commissioners of a petition requesting the election
9 signed by at least five percent (5%) of the electors of the
10 county or of a resolution approving the proposition from
11 the governing body of the county and the governing bodies
12 of at least ~~two-thirds (2/3)~~ fifty percent (50%) of the
13 incorporated municipalities within the county. If proposed
14 by petition by electors, the number of electors required
15 shall be determined by the number of votes cast at the last
16 general election. The election shall be at the direction
17 and under the supervision of the board of county
18 commissioners;

19
20 (C) The proposition may be submitted at an
21 election held on a date authorized under W.S. 22-21-103. A
22 notice of election shall be given in at least one (1)
23 newspaper of general circulation published in the county in

1 which the election is to be held, and the notice shall
2 specify the object of the election. The notice shall be
3 published at least once each week for a thirty (30) day
4 period preceding the election. At the election the ballots
5 shall contain the words "for the county sales and use tax"
6 and "against the county sales and use tax". If a portion
7 of the proceeds from the tax will be used for economic
8 development as provided by W.S. 39-16-211(a)(i), the ballot
9 shall contain the words "a portion (or specific percentage)
10 of the proceeds will be used for economic development" in a
11 clear and appropriate manner. If the proposition is
12 approved the same proposition shall be submitted at
13 subsequent general elections as provided in this
14 subparagraph until the proposition is defeated. If the tax
15 proposed is approved after July 1, 1989, the same
16 proposition shall be submitted at every other subsequent
17 general election until the proposition is defeated.
18 However in those counties where the tax is not in effect,
19 the county commissioners with the concurrence of the
20 governing bodies of ~~two-thirds (2/3)~~ fifty percent (50%) of
21 the municipalities may establish the initial term of the
22 tax at ~~two (2)~~ four (4) years. ~~If the term of the tax is~~
23 ~~limited to two (2) years,~~ The term of the tax shall be

1 stated in the proposition submitted to the voters. If a
2 proposition establishing the term of the tax at four (4)
3 years is approved, the proposition shall be submitted at
4 the ~~next general election and at every other subsequent~~
5 second general election following the election at which the
6 proposition was initially approved and at the general
7 election held every four (4) years thereafter until the
8 proposition is defeated;

9
10 (ii) The following provisions apply to
11 imposition of the specific purpose excise tax under W.S.
12 39-16-204(a)(ii):

13
14 (A) Before any proposition to impose the
15 tax or incur the debt shall be placed before the electors,
16 the governing body of a county and the governing bodies of
17 at least ~~two-thirds (2/3)~~ fifty percent (50%) of the
18 incorporated municipalities within the county shall adopt a
19 resolution approving the proposition, setting forth a
20 procedure for qualification of a ballot question for
21 placement on the ballot and specifying how excess funds
22 shall be expended;

23

1 (iv) The following provisions apply to
2 imposition of the excise tax under W.S. 39-16-204(a)(v) the
3 purpose of which is economic development:
4

5 (B) The proposition to impose an excise tax
6 shall be at the expense of the county and be submitted to
7 the electors of the county upon the receipt by the board of
8 county commissioners of a petition requesting the election
9 signed by at least five percent (5%) of the electors of the
10 county or of a resolution approving the proposition from
11 the governing body of the county and the governing bodies
12 of at least ~~two-thirds (2/3)~~ fifty percent (50%) of the
13 incorporated municipalities within the county. If proposed
14 by petition by electors, the number of electors required
15 shall be determined by the number of votes cast at the last
16 general election. The election shall be at the direction
17 and under the supervision of the board of county
18 commissioners;

19
20 (C) The proposition may be submitted at an
21 election held on a date authorized under W.S. 22-21-103. A
22 notice of election shall be given in at least one (1)
23 newspaper of general circulation published in the county in

1 which the election is to be held, and the notice shall
2 specify the object of the election. The notice shall be
3 published at least once each week for a thirty (30) day
4 period preceding the election. At the election the ballots
5 shall contain the words "for the county sales and use tax
6 for economic development" and "against the county sales and
7 use tax for economic development". If the tax proposed is
8 approved the same proposition shall be submitted at every
9 other subsequent general election until the proposition is
10 defeated. However, the county commissioners with the
11 concurrence of the governing bodies of ~~two-thirds (2/3)~~
12 fifty percent (50%) of the municipalities may establish the
13 initial term of the tax at ~~two (2)~~ four (4) years. ~~If the~~
14 ~~term of the tax is limited to two (2) years,~~ The term of
15 the tax shall be stated in the proposition submitted to the
16 voters. If a proposition establishing the term of the tax
17 at four (4) years is approved, the proposition shall be
18 submitted at the ~~next general election and at every other~~
19 ~~subsequent~~ second general election following the election
20 at which the proposition was initially approved and at the
21 general election held every four (4) years thereafter until
22 the proposition is defeated;

23

1 (v) The following provisions apply to imposition
2 of the municipal tax under W.S. 39-16-204(a)(vi):

3
4 (A) The tax authorized by W.S.
5 39-16-204(a)(vi) shall be in addition to and not in lieu of
6 any tax imposed by a county under W.S. 39-16-204(a)(i),
7 (ii) or (v) if those taxes are imposed;

8
9 (B) At least ninety (90) days after a vote
10 to initially approve or continue a tax under W.S.
11 39-16-204(a)(ii), or following adoption of a resolution
12 under subparagraph (J) of this paragraph, a city or town
13 within the county where the tax was imposed may propose a
14 special purpose excise tax. The amount of the tax proposed
15 under this subparagraph shall not exceed the amount of tax
16 that the city or town collects during the same time period
17 pursuant to the tax imposed under W.S. 39-16-204(a)(ii).
18 The tax imposed under this paragraph shall terminate not
19 more than ninety (90) days following the termination of the
20 tax imposed under W.S. 39-15-204(a)(ii) or as provided in
21 subparagraph (J) of this paragraph;

22

1 (C) Revenue from the tax shall be used for
2 a specific purpose in a specified amount as specified in
3 the proposition to impose the tax. A city or town may
4 impose a portion of the tax for separate purposes provided
5 that the purposes are voted on separately, each proposition
6 specifies the purpose of the tax and the total amount of
7 the tax does not exceed the full amount authorized in W.S.
8 39-16-204(a)(vi) and subparagraph (B) of this paragraph;

9
10 (D) No tax shall be imposed under this
11 paragraph until a specific proposition to impose the tax is
12 approved by a vote of the majority of the qualified
13 electors voting on the specific proposition. The purpose of
14 the tax and the maximum estimated amount of revenue to be
15 collected shall be specified in the proposition. The
16 election shall be held in accordance with W.S. 22-21-101
17 through 22-21-112. Any excise tax imposed under this
18 paragraph shall commence as provided by W.S. 39-16-207(c)
19 following the election approving the imposition of the tax;

20
21 (E) A notice of election shall be given in
22 at least one (1) newspaper of general circulation published
23 in the county in which the election is to be held, and the

1 notice shall specify the proposition that will be
2 considered at the election. The notice shall be published
3 at least once each week for a thirty (30) day period
4 preceding the election. At the election for each
5 proposition, the ballots shall contain the words "for the
6 municipal sales and use tax" and "against the municipal
7 sales and use tax". The ballot shall describe the specific
8 purpose excise tax in a clear and appropriate manner;

9
10 (F) If the proposition to impose or
11 continue the tax is defeated the proposition shall not
12 again be submitted to the electors of the city or town for
13 at least eleven (11) months. If the proposition is defeated
14 at any general election following initial adoption of the
15 proposition the tax is repealed and shall not be collected
16 following June 30 of the year immediately following the
17 year in which the proposition is defeated except:

18
19 (I) If the proposition was for less
20 than the full amount authorized in W.S. 39-16-204(a)(vi),
21 this subparagraph shall not prohibit a separate proposition
22 for the remaining authorized amount of the tax as provided
23 in subparagraphs (B) and (C) of this paragraph;

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(II) If the proposition was to increase the amount of the tax originally adopted by the electors or to impose a tax for a different purpose, subject to the maximum allowable tax amount, the defeat of the proposition shall not repeal the proposition originally adopted by the electors.

(G) If the proposition is approved by the qualified electors, the city or town council shall adopt an ordinance for the tax authorized by W.S. 39-16-204(a)(vi) consistent with the approved proposition. The ordinance shall include the following:

(I) A provision imposing a use tax upon sales and storage, use and consumption of tangible personal property made within the city or town, whichever is appropriate;

(II) Provisions identical to those contained in article 1 of this chapter, insofar as it relates to use taxes, except the name of the city or town as the taxing agency shall be substituted for that of the

1 state and an additional license to engage in business shall
2 not be required if the vendor has been issued a state
3 license pursuant to law;

4

5 (III) A provision that any amendments
6 made to article 1 of this chapter or to chapter 15 of this
7 title not in conflict with article 1 of this chapter or to
8 chapter 15 of this title shall automatically become a part
9 of the use tax ordinances of the city or town;

10

11 (IV) A provision that the city or town
12 shall contract with the department prior to the effective
13 date of the use tax ordinances whereby the department shall
14 perform all functions incident to the administration of the
15 use tax ordinances of the city or town;

16

17 (V) A provision that the amount
18 subject to the use tax shall not include the amount of any
19 use tax imposed by the state of Wyoming.

20

21 (H) Subject to subparagraphs (B) and (J) of
22 this paragraph, a tax imposed for a specific purpose and in
23 a specified amount shall terminate when the amount

1 specified in the proposition approved by the electors is
2 collected. A city or town may agree to terminate the tax
3 if the tax collected reaches the actual cost of the
4 completed projects and the amount specified in the
5 proposition exceeds the actual cost of the completed
6 projects. A city or town shall inform the department that
7 a tax is terminated.

8
9 (J) If a county has not imposed a tax under
10 W.S. 39-16-204(a)(ii), the board of county commissioners
11 may adopt a resolution to authorize cities and towns within
12 the county to propose a municipal tax under this paragraph
13 as provided in subparagraph (B) of this paragraph. The
14 resolution shall establish the maximum taxation rate in
15 increments of one-quarter of one percent (.25%) not to
16 exceed a rate of one percent (1%). The proposition by a
17 city or town for a municipal tax authorized under this
18 subparagraph shall specify that the municipal tax shall
19 terminate after two (2) years.

20

21 **39-16-204. Taxation rate.**

22

1 (a) In addition to the state tax imposed under W.S.
2 39-16-101 through 39-16-111 any county of the state may
3 impose the following excise taxes, any city or town may
4 impose the tax authorized by paragraph (vi) of this
5 subsection and any resort district may impose the tax
6 authorized by paragraph (iv) of this subsection:

7
8 (vi) An excise tax at a rate in increments of
9 one-quarter of one percent (.25%) not to exceed a rate of
10 one percent (1%) upon sales and storage, use and
11 consumption of tangible personal property made within the
12 city or town, the purpose of which is for a specific
13 purpose in a specified amount as specified in the
14 proposition to impose the tax.

15

16 **39-16-211. Distribution.**

17

18 (d) For all revenue collected by the department from
19 the taxes imposed by W.S. 39-16-204(a)(vi) the department
20 shall:

21

1 (i) Deduct one percent (1%) to defray the costs
2 of collecting the tax and administrative expenses incident
3 thereto which shall be deposited into the general fund;

4

5 (ii) Deposit the remainder into an account for
6 monthly distribution to the city or town in which the tax
7 has been imposed which shall only be used by the city or
8 town for costs related to the purposes approved in the
9 proposition to impose the tax.

10

11 **Section 2.**

12

13 (a) If any county has not imposed at least one
14 percent (1%) of the tax under W.S. 39-15-204(a)(i) and
15 39-16-204(a)(i) on the effective date of this act, the
16 county shall impose a tax at a total rate equal to one
17 percent (1%) as required in W.S. 39-15-203(a)(i) and
18 39-16-203(a)(i) as amended by section 1 of this act.

19

20 (b) If county has in place a tax under W.S.
21 39-15-204(a)(i) and 39-16-204(a)(i) at a rate of one
22 percent (1%) or more on the effective date of this act,
23 that rate shall continue until the next general election at

1 which the tax is scheduled to be considered as provided in
2 W.S. 39-15-203(a)(i)(C) prior to the amendments in section
3 1 of this act. At that time the county shall impose a tax
4 of one percent (1%) as required by W.S. 39-15-203(a)(i) and
5 39-16-203(a)(i) as amended by section 1 of this act. Any
6 additional tax shall be submitted by proposition as
7 provided in W.S. 39-15-203(a)(i) and 39-16-203(a)(i).

8

9 **Section 3.** This act is effective January 1, 2021.

10

11

(END)

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO. [BILL NUMBER]

Surface water diversion.

Sponsored by: Joint Corporations, Elections & Political
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to cities and towns; specifying the authority
2 of cities and towns over surface water diversion; authorizing
3 fees; and providing for an effective date.

4

5 *Be It Enacted by the Legislature of the State of Wyoming:*

6

7 **Section 1.** W.S. 15-7-101(a)(iii)(intro) and (B) is
8 amended to read:

9

10 **15-7-101. Purposes.**

11

1 (a) In addition to all other powers provided by law,
2 any city or town may make public improvements as follows for
3 which bonds may be issued to the contractor or be sold as
4 provided in this chapter to:

5
6 (iii) Take any action necessary to establish,
7 purchase, extend, maintain and regulate a water system for
8 supplying water to and diverting surface water from its
9 inhabitants and their property and for any other public
10 purposes, including:

11
12 (B) Prescribing and regulating of rates for
13 the use of water and fees for surface water diversion; and

14
15 *****
16 **STAFF COMMENT**
17 The Committee may wish to consider whether the term "surface water" is broad and when
18 used with "divert" may allow the diversion of water from a natural stream, pond or lake.
19 To clarify, the Committee could consider specifying that it is surface water "runoff" or
20 "diffused" surface water (*see DiFelici v. City of Lander*, 312 P.3d 816, 823 (Wyo. 2013)
21 and *State v. Hiber*, 44 P.2d 1005, 1008 (Wyo. 1935)).
22 *****
23

24 **Section 2.** This act is effective July 1, 2020.

25

26 (END)

**DRAFT ONLY
NOT APPROVED FOR
INTRODUCTION**

HOUSE BILL NO.

Public records-amendments.

Sponsored by: Joint Judiciary Interim Committee

A BILL

for

1 AN ACT relating to public records; amending provisions
2 related to the designated public records person and
3 ombudsman; specifying gubernatorial appointment of the
4 ombudsman; amending salary reporting requirements for
5 certain governmental entities; amending compilation and
6 formatting requirements; defining terms; clarifying and
7 modifying the release of agricultural information and
8 rulemaking authority; and providing for an effective date.

9

10 *Be It Enacted by the Legislature of the State of Wyoming:*

11

12 **Section 1.** W.S. 15-1-110(b)(i), 16-4-201(a) by
13 creating a new paragraph (xiv) and by creating a new

1 subsection (c), 16-4-202(a), (d)(ii) and (iii) and (e), 16-
2 4-203(d)(iii) and (xiv)(intro) and 18-3-516(b)(i) are
3 amended to read:

4

5 **15-1-110. Minutes of meetings and titles of ordinances**
6 **passed to be published; exception; contents; publication of**
7 **salary information of specified officials and employees.**

8

9 (b) A city or town required to publish minutes under
10 subsection (a) of this section shall separately publish:

11

12 (i) Within sixty (60) days after the end of each
13 fiscal year, the name, position and gross monthly salary of
14 ~~each full-time employee and each elected official~~ and the
15 gross salary information of each full-time employee,
16 provided that each employee's annual gross salary shall be
17 published as a gross dollar amount without identification
18 other than by position classification or category of
19 employee. A brief statement shall accompany the salary
20 publication specifying that all salaries are listed as
21 gross annual salaries, gross monthly salaries or actual
22 monthly wages, not including any fringe benefits such as
23 health insurance costs, life insurance benefits and pension

1 plans. The statement shall also indicate that the salaries
2 or wages do not include any overtime the employee may earn
3 which would be paid by the city or town;

4

5 **16-4-201. Definitions; short title; designation of**
6 **ombudsman.**

7

8 (a) As used in this act:

9

10 (xiv) "Ombudsman" means the person designated by
11 the governor as required by subsection (c) of this section.

12

13 (c) The governor shall designate an ombudsman for
14 purposes of this act. The ombudsman shall:

15

16 (i) Receive complaints as provided under this
17 act;

18

19 (ii) Upon request of either party, mediate
20 disputes between a governmental entity and an applicant for
21 a public record;

22

1 (iii) Provide uniform interpretation, advice and
2 training on this act to governmental entities and the
3 general public;

4
5 (iv) Have other authority and duties as provided
6 in this act.

7
8 *****
9 *****

10 **STAFF COMMENT**

11
12 For newly created paragraph (c)(iii) above, the Committee
13 may wish to consider:

- 14
15 • The advisory role the ombudsman would have versus the
16 role of the Attorney General, county attorneys, and
17 municipal attorneys to advise their respective
18 governmental entities.
19 • The interplay between the ombudsman's interpretations
20 of the Public Records Act and the judiciary's role in
21 interpreting statute.
22 • The role of a governmental official to provide
23 interpretation, advice, and training for the general
24 public and the effect that interaction may have on the
25 resolution of subsequent disputes.

26
27 More broadly, the Committee may wish to consider the role
28 of the ombudsman, an executive-branch official, addressing
29 complaints made against the legislative branch or the
30 judicial branch in light of Article 2, Section 1 of the
31 Wyoming Constitution (separation of powers), and whether
32 the ombudsman should be designated to handle executive-
33 branch complaints only.

34
35 *****
36 *****
37

1 **16-4-202. Right of inspection; rules and regulations;**
2 **unavailability; training.**

3
4 (a) All public records shall be open for inspection
5 by any person at reasonable times, during business hours of
6 the governmental entity, except as provided in this act or
7 as otherwise provided by law, but the ~~official custodian of~~
8 ~~any public records~~ governmental entity may make rules and
9 regulations with reference to the inspection of the records
10 as is reasonably necessary for the protection of the
11 records and the prevention of unnecessary interference with
12 the regular discharge of the duties of the ~~custodian or his~~
13 ~~office~~ governmental entity. All applications for public
14 records shall be made to the designated public records
15 person.

16
17 (d) If a public record exists primarily or solely in
18 an electronic format, the custodian of the record shall so
19 inform the requester. Electronic record inspection and
20 copying shall be subject to the following:

21

1 (ii) A governmental entity shall provide an
2 electronic record in alternative ~~formats~~ file types unless
3 doing so is impractical or impossible;

4

5 *****
6 *****
7 STAFF COMMENT

8
9 The Committee may wish to consider defining "file types" or
10 specifying what file types are.

11
12 Alternatively, if the intent of this change is to address
13 requests to transfer documents from, for example, a Word
14 document to an Excel spreadsheet, the Committee may wish to
15 consider inserting the word "electronic" before "file
16 types".

17
18 *****
19 *****
20

21 (iii) A governmental entity shall not be
22 required to compile data, extract data or create a new
23 document to comply with an electronic record request; ~~if~~
24 ~~doing so would impair the governmental entity's ability to~~
25 ~~discharge its duties;~~

26

27 (e) Each governmental entity shall designate a person
28 to receive all applications for public records. The
29 designated public records person shall be an employee,
30 officer, contractor or agent of the governmental entity.

1 The governmental entity shall submit the name, business
2 email address and business mailing address of the
3 designated public records person to the department of
4 administration and information for publication on the
5 department of administration and information official
6 website. The designated public records person shall serve
7 as a point of contact between the governmental entity and
8 applicants seeking public records.

9

10 *****

11 *****

12 **STAFF COMMENT**

13
14 **The Committee may wish to consider whether further**
15 **parameters or definitions are needed for who is or would be**
16 **an "agent" or "contractor" of a governmental entity. See**
17 **W.S. 16-4-201(a)(ii) (defining "official custodian" as "any**
18 **officer or employee of a governmental entity").**

19
20 *****

21 *****

22
23 **16-4-203. Right of inspection; grounds for denial;**
24 **access of news media; order permitting or restricting**
25 **disclosure; exceptions.**

26
27 (d) The custodian shall deny the right of inspection
28 of the following records, unless otherwise provided by law:

29

1 (iii) Personnel files except those files shall
2 be available to the duly elected and appointed officials
3 who supervise the work of the person in interest.
4 Applications, performance ratings and scholastic
5 achievement data shall be available only to the person in
6 interest and to the duly elected and appointed officials
7 who supervise his work. Employment contracts, working
8 agreements or other documents setting forth the terms and
9 conditions of employment of public officials and employees
10 are not considered part of a personnel file and shall be
11 available for public inspection. Release of salary
12 information shall be provided by position classification or
13 by category of employee and each individual salary shall be
14 published as a gross dollar amount without identification
15 other than by position classification or category of
16 employee;

17
18 (xiv) Information concerning an agricultural
19 operation, farming or conservation practice, a surface or
20 subsurface resource or the land itself, if the information
21 was provided by an agricultural producer or owner of
22 agricultural land in order to participate in a program of a
23 governmental entity. The custodian shall also deny the

1 right of inspection to geospatial information maintained
2 about the agricultural land or operations. Provided,
3 however, that if otherwise permitted by law, the inspection
4 of the information described in this paragraph shall be
5 allowed in accordance with the following:

6

7 **18-3-516. Publication of proceedings; publication of**
8 **salary information of certain officials and employees.**

9

10 (b) Each board of county commissioners shall post on
11 the county's official website in the manner provided in
12 subsection (f) of this section and publish separate from
13 the minutes of the proceedings:

14

15 (i) Within sixty (60) days after the end of each
16 fiscal year, the name, position and gross monthly salary of
17 ~~each full-time employee and~~ each elected official and the
18 gross salary information of each full-time employee,
19 provided that each employee's annual gross salary shall be
20 published as a gross dollar amount without identification
21 other than by position classification or category of
22 employee. A brief statement shall accompany the salary
23 publication specifying that all salaries are listed as

1 gross annual salaries, gross monthly salaries or actual
2 monthly wages, not including any fringe benefits such as
3 health insurance costs, life insurance benefits and pension
4 plans. The statement shall also indicate that the salaries
5 or wages do not include any overtime that the employee may
6 earn which would be paid by the county.

7

8 *****
9 *****

10 **STAFF COMMENT**

11

12 For the amendments to W.S. 15-1-110(b)(i), 16-4-
13 203(d)(iii), and 18-3-516(b)(i), the Committee may wish to
14 consider whether specifying categories of employees is
15 necessary. The reference to "position classification"
16 included in the bill draft is based on W.S. 9-2-1022(a),
17 which requires the Human Resources Division of the
18 Department of Administration and Information to "[classify]
19 positions into categories."

20

21 It is not clear whether any municipalities or counties have
22 position classifications for their employees. W.S. 15-1-
23 110(b)(i) and 18-3-516(b)(i) currently requires publication
24 of, among other things, the employee's "position" when
25 salary information is being published.

26

27 The amendments to the three sections listed above are based
28 on the language found in W.S. 21-3-110(a)(ii)(A); the
29 pertinent language is highlighted below:

30

31 21-3-110. Duties of boards of trustees.

32

33 (a) The board of trustees in each school district
34 shall:

35

36 (ii) Keep minutes of all meetings at which
37 official action is taken and a record of all official acts
38 including a record of all warrants issued against the

monies belonging to the school district. The minutes and records shall be public records. A list of each warrant over five hundred dollars (\$500.00) shall be published one (1) time in a legal newspaper of general circulation within the respective county within thirty (30) days of the date of the meeting. Individual yearly gross salary payments need be published only once in March of each year:

(A) Each individual annual gross salary shall be identified by category and each individual salary shall be published as a gross dollar amount without identification other than by category. Categories shall include superintendent, assistant superintendent, high school principal, assistant high school principal, junior high principal, junior high assistant principals, elementary principals, elementary assistant principals, first grade teachers, second grade teachers, third grade teachers, fourth grade teachers, fifth grade teachers, sixth grade teachers, kindergarten teachers, high school departmental teachers (business, language arts, foreign languages, science, social studies, mathematics, or other), vocal music, instrumental music, elementary music, secondary art, elementary art, secondary physical education, elementary physical education, vocational education, secondary guidance counselors, secondary librarians, elementary librarians, driver education, special education teachers, remedial teachers, nurses, teacher's aides, head coaches, assistant coaches, dramatics, secondary secretarial, junior high secretarial, elementary secretarial, business managers, janitorial, bus drivers, and other categories which may be selected so that every individual salary may be categorized. Each category shall show a cumulative subtotal and there shall be a grand total of all categories. At the end of the salary publication there shall be printed the district salary schedule;

Section 2. This act is effective July 1, 2020.

2020

STATE OF WYOMING

20LSO-0182
Working Draft
0.5

1

(END)

October 2, 2019

MEMO TO: J. Carter Napier, City Manager *JCN*
FROM: Keith McPheeters, Chief of Police *KMP 307*
SUBJECT: Authorizing a Professional Services Agreement for Wrecker Services with All Around Towing LLC, E & F Towing, Transport and Recovery, M.A.D. Transportation & Towing, and On The Hook Recovery and Transport

Meeting Type & Date

Work Session

November 12, 2019

Action type

Direction requested

Recommendation

That Council, by resolution, authorize a professional services agreement for wrecker services with All Around Towing, LLC, E & F Towing, Transport and Recovery, M.A.D. Transportation & Towing, and On The Hook Recovery and Transport, to provide wrecker services for the Casper Police Department, through the Public Safety Communications Center, "PSCC" on an as-needed, rotating basis.

Summary

The proposed contractors have entered into a Professional Services Agreement for wrecker services for public safety dispatching services, including the dispatch of wreckers, through PSCC to the various entities in Natrona County.

The current agreement expired in June 2019; therefore, a new agreement is necessary between the parties.

A few important provisions included in the contract are:

- The wrecker service companies must provide a current copy of their insurance policy or policies, indicating that the wrecker service company is covered by liability insurance.
- The wrecker service companies must provide a copy of their current fee schedule for all services provided.
- The wrecker service companies must release items of personal property to the lawful owner, when authorized by the participating agency requesting the tow.



Financial Considerations

N/A

Oversight/Project Responsibility

Steve Schulz, Police Captain

November 1, 2019

MEMO TO: J. Carter Napier, City Manager 
FROM: Andrew Beamer, P.E., Public Services Director 
SUBJECT: Resident Request to Form a Local Assessment District

Meeting Type & Date:
November 12, 2019
Council Work Session

Action Type:
Direction Requested

Summary:

A property owner at the intersection of Arrowhead Road and Jade Avenue has requested that the City create a Local Assessment District (LAD) to make road and utility improvements. The area was originally platted in the 1970's, with the requirement that the developer construct all street and utility improvements. For the most part, these improvements were constructed, with the exception of the intersection of Arrowhead Road and Jade Avenue, which remains gravel. Installation of a water main also did not occur to the south property line to allow for future extension.




As the developer of the subdivision is no longer viable, the burden to make the improvements now lies with the adjacent property owners. The City of Casper Engineering Division has estimated the cost to make these improvements to be close to \$250,000. This cost includes an engineering consultant to design and provide construction administration services, as well as the cost for a contractor to construct the improvements. The property owner is requesting that the City provide in-house engineering and construction services, and that the property owners only be liable for actual out-of-pocket expenses. The property owner is also requesting that the LAD be established so that the assessments are spread out over ten (10) equal annual installments at the interest rate of three (3) percent. If Council agrees to this proposal, the Engineering Division has estimated the out-of-pocket expenses to be approximately \$80,000.

The creation of a LAD is governed by State Statute, requiring, among other things, adoption of a resolution by Council notifying the public of its intent to make the improvements, and a public hearing allowing property owners an opportunity to object. If objections are filed by more than one-half (1/2) of the area, the proposed improvements within the assessment district are abandoned.

From discussions with the requesting property owner, it is apparent that only two of the four owners subject to the assessment are in favor of the creation of a LAD. The other two are opposed. As the opposing two hold more than half of the area within the assessment district, it is likely the creation of a LAD will fail and that the property owners will have to find another mechanism to construct the improvements.

City staff held a subsequent meeting with the two property owners in favor of the LAD. To resolve the ongoing issue with the gravel intersection, it is proposed that the City provide engineering and construction services, and that the two property owners pay their proportionate share for the improvements. This amounts to a total of \$40,000, or \$20,000 per property owner. The adjacent land owners not participating in the costs would not be able to obtain any future building permits until their share has been paid. In lieu of creating a LAD, the property owners have agreed to enter into an agreement with the City for their amount of improvements, but have asked that the payments be split over two equal annual payments.

November 7, 2019

MEMO TO: J. Carter Napier, City Manager 
FROM: John Henley, City Attorney 
Liz Becher, Community Development Director 
SUBJECT: Sign Code Revisions

Meeting Type & Date: Council Work Session, November 12, 2019

Action Type: Information Purposes Only

Recommendation: That Council consider the conceptual changes to the City's regulations regarding signage found in Chapter 17.96 of the Casper Municipal Code, and authorize a phased approach to amending the Code moving forward.

Summary: Many of the City's sign regulations currently in effect date back to the 1990's. Although limited tweaks to the ordinance have occurred over the years, for the most part, the code seems to have functioned well, and the business community has not seemed to have taken issue with any of the regulations. Today, due to several factors, including the need to address changing technology (such as electronic signage) as well as the need to take into account recent direction that has come from the U.S. Supreme Court, staff finds it necessary to recommend some updates to the Code.

The City Attorney's office, and the Code Enforcement Division, have already begun to review the City's existing sign regulations, and have had some preliminary discussions about possible changes; however, revision efforts have not begun in earnest, pending a discussion with the Council about WHY these changes are being recommended at this time. Assuming the Council decides to move forward, staff would request some initial feedback about the proposed methodology.

In that some of the sign regulation changes may be considered to be significant, one of the first things staff would propose is to bring local sign companies into the discussion, just as was done when the Electronic Messaging Centers (EMC) Signage regulations (Section 17.96.030) were created a few years ago. Bringing the private sector experts to the table early during that process was hugely successful, as evidenced by the industry showing up to support the changes when the public hearing was held to adopt the ordinance.

Secondly, the City's contracted consultant for the Casper Area Wayfinding Plan (currently underway) has generously offered to review the City's sign code to provide their suggestions, based on both the direction that they are headed with Wayfinding signage, as well as best

practices that they have gleaned from working all over the U.S. This is an opportunity to tackle two issues at once, rather than possibly creating a compatibility issue between regulations.

Finally, with input from local sign companies, as well as our consultant, staff would begin to craft updated regulations that would then be presented to Council in manageable phases so a deliberate and measured review can be conducted, ideally, with input and support from the public/citizens.

Financial Considerations: None at this time.

Oversight/Project Responsibility: Attorney's Office and Code Enforcement Division

Attachments: John Henley Communication

John Henley Communication

The impetus for updating the Casper Municipal Code provisions was the U.S. Supreme Court Ruling in *Reed v. Town of Gilbert*.¹ The essence of the *Reed* decision can be summarized in two words: content neutral.

In an academic setting, this sounds not difficult, but given the deluge and variety of information, concepts, feelings and opinions citizens want to express, the application of the principle to the variety of reasons for expression, and add to that the proliferation of ways to communicate, makes this a very interesting challenge. Since the *Reed* ruling, multiple Circuit Courts of Appeals have found weaving together the *Reed* principle with other case law that was not explicitly overruled difficult.

Let's start with the basics – non-commercial informative signs.

Government signs -

Government signs are government speech intended to ensure public safety. These government signs include those described and regulated in the Manual on Uniform Traffic Control Devices and signs that are necessary to identify properties and to implement laws.

One of the earlier cases (*City of Ladue v. Gilleo*, 1994), which was a unanimous decision, was to note there is a physical-material difference in examining signs, at least usually; are holograms signage? The Court said “While signs are a form of expression protected by the Free Speech Clause,” they pose distinctive problems that are subject to municipalities’ police powers. Unlike oral speech, signs take up space and may obstruct views, distract motorists, displace alternative uses for land, and pose other problems that legitimately call for regulation; governments may regulate the physical characteristics of signs – just as they can, within reasonable bounds and absent censorial purpose, regulate audible expression in its capacity as noise.

¹ Good News Community Church (Good News), rented space at an elementary school in Gilbert, Arizona, and placed about 17 signs in the area announcing the time and location of Good News' services. Gilbert had an ordinance that restricted the size, number, duration, and location of certain types of signs, including temporary directional ones, to prevent improper signage. After Good News received an advisory notice from Gilbert that it violated the Sign Code, Good News sued Gilbert and claimed that the Sign Code violated the Free Speech Clause of the First Amendment and the Equal Protection Clause of the Fourteenth Amendment. The provisions of a municipality's sign code that imposed more stringent restrictions on signs directing the public to the meeting of a non-profit group than on signs conveying other messages were found content-based regulations of speech. The ordinance was found unconstitutional. The Court held that the restrictions were subject to strict scrutiny because they were content-based restrictions, or restrictions that were applied differently depending on the message of the sign. Because these restrictions were content-based on their face, the Court did not examine justifications or the government's motives in determining whether the restrictions are subject to strict scrutiny. Despite the Town of Gilbert's argument that the restrictions do not single out a specific nonprofit or church but restrict all, the Court stated that the First Amendment prohibits censorship of all speech on a whole topic. The Court also held that the restrictions cannot survive strict scrutiny because they had no compelling interest in adding restrictions to only a certain type of sign.

The Court went on to conclude that the City's regulation banning almost all residential signs went too far in restricting speech. At the same time the Court noted that its decision did not eliminate the city's ability to restrict some types of signs: "Nor do we hold that every kind of sign must be permitted in residential areas." Different considerations might well apply, for example, in the case of signs (whether political or otherwise) displayed by residents for a fee, or in the case of off-site commercial advertisements on residential property.

Our current code provision, in the very first substantive provision states:

Except as otherwise provided, the following shall apply to signs in all zoning districts within the city.

- A. Permitted and Exempt Signs. The following signs are permitted and shall comply with all applicable provisions of this title except that a sign permit or permit fee is not required:
 - 1. Flags, pennants, or insignia of governmental, fraternal, religious, and civic organizations, or any education institution.... (17.96.020A.1.)

In the very first paragraph, the picking and choosing process, based on content is exemplified. Why is a reading club excluded from this list or a political party or a hunting group or an environmental organization?

Government Signs, at least within the Casper Ordinance addressing signs, are not well defined and the reasons for the distinction should, given more recent Court opinions be stated. An amended provision on government speech might look like this:

Government Sign. A government sign is a sign that is constructed, placed or maintained by the federal, state or local government or a sign that is required to be constructed, placed or maintained by the federal, state or local government either directly or to enforce a property owner's rights.

Comment: While the government often speaks directly, its speech can often be found in requirements of law that demand members of a community, residents and property owners to post notices to protect the rights afforded by the government. This form of speech finds protection in recognition of legal requirements that a property owner must post a property against trespassing, solicitors and others to enforce property rights and privacy; or where a property owner must warn of dangers on the property to protect public safety and limit liability such as warning of dangerous animals, high voltage, sinkholes, gun or weapon usage among other dangers. While these postings are sometimes voluntary, all are required by the government to be in a certain form and should constitute the government's speech. However, even if considered private speech the majority in *Reed* recognized that these types of signs could well survive even the strict scrutiny standard.

Of course, in addition to the permission and placement of signs, there are limitations upon certain types of signage. In our current code addressing temporary signs – maybe the most prolific are

those which advertise garage and yard sales. The current code provisions for temporary signs provides:

11. Temporary signs shall only be permitted after issuance of a permit by the community development department as outlined in Section 17.96.090. Temporary signs are allowed only in the commercial or industrial zoning districts. Temporary banners are permitted only if attached to the front a building, or in the case of a corner lot, the front and one side of a building, and if flush with the wall of the structure, or if affixed to a permanently installed sign mounting structure. The area of the temporary signs or banners attached to the wall of a building or a permanently installed sign mounting structure shall be counted and considered a part of the maximum total signage allowed. Provided, however, two temporary freestanding signs constructed of a rigid material, with a sign face area of not more than twelve square feet per side, shall be permitted...

One of the temporary freestanding signs must be moved on a daily basis. Temporary signs or banners that re in violation, partially detached or in disrepair must be removed or repaired upon notice, as per Section 17.96.100 of this code. City parks and city athletic fields are exempted from the temporary sign regulations set forth in this section. Temporary signs for garage or yard sales are allowed in residential zoning districts, provided they are removed immediately upon completion of the sale, or within seventy-two hours, whoever is less. A permit is not required for garage or yard sale signs;

12. Temporary signs advertising special events or fundraisers for nonprofit organizations shall be permitted in the park historic zoning district, provided they are removed upon the completion of the event or within seventy-two hours, whichever is less. Permanent athletic sponsorship signs shall be permitted at public athletic facilities.

The content issue again is brought into focus by the special status awarded to garage and yard sale signs. No permit is required for this, but if you want to express a religious or moral or identified viewpoint, the code provisions may be deemed a prior restraint based upon the government's preference for garage and yard sale signs.

Alternative language for dealing with temporary signage may look like this:

Poach sign means any small sign, generally of a temporary nature, made of any material, when such sign is tacked, nailed, posted, pasted, glued or otherwise attached to trees, poles, stakes, fences or other objects not erected, owned and maintained by the owner of the sign.

Temporary signs, Generally:

- (a) Temporary signs allowed at any time:

- (i) A property owner may place two (2) signs with sign faces no larger than [six (6) square feet] on the property at any time. This Section does not include poach signs.
- (ii) A property owner may place two (2) signs no larger than [eleven (11) inches by fourteen (14) inches] [in two (2) windows on the property at any time].
- (b) Ten (10) temporary signs may be located on the owner's property for a period of sixty (60) days prior to an election involving candidates for a federal, state or local office that represents the district in which the property is located or an adjacent district or involves an issue on the ballot of an election within the district where the property is located or an adjacent district per issue and per candidate for each principal building lawfully existing on the property. This Section does not authorize poach signs.


Comment: Political signs represent the highest degree of protected speech and an adopting jurisdiction should exercise extreme caution in limiting a person's right to express positions on issues or candidates. The time during which the signs may be authorized must not be so short as to prevent the message from being delivered. On the other hand, the government retains the right to regulate the time, place and manner of expression and the right to protect property values and aesthetics. The balance weighs in favor of free expression. Nevertheless, reasonable time restrictions are consistent with the First Amendment and reasonable manner restrictions are consistent with the First Amendment. Taken together, a reasonable limit on the size, location and duration of this form of expression can be consistent with the First Amendment. Cases, prior to *Reed v. Town of Gilbert*, generally recognize that 30 days is too little, but a time frame of 60 to 90 days may be significant.


The above provisions give flexibility to the property owner or resident. This particular provision would be more for residential neighborhoods.

The above discussion is just the tip of the iceberg, given the changes mandated by *Reed*, but also you may want to review new technologies and materials, e.g., holograms, digital signage, drone banners, drone formations, etc.

[IMLA, the Municipal Government Lawyer Group, has been trying to arrive at a "model" sign code; they have not yet adopted such a model, but some of the above provisions are based on the organization's work]

November 7, 2019

MEMO TO: J. Carter Napier, City Manager 

FROM: Andrew B. Beamer, P.E., Public Services Director 
Andrew Colling, Engineering Tech

SUBJECT: Change Order No. 3 with JTL Group, Inc., DBA Knife River, Inc., for an Increase of \$126,440.69, as part of the 2018 Arterials & Collectors Improvements, Project 17-093

Meeting Type & Date:
Council Work Session
November 12, 2019

Action Type
Information

Summary:

Knife River, Inc., is under contract with the City of Casper for the 2018 Arterials & Collectors Improvements Project. The project includes mill and overlay, replacement of cast iron water main pipes, replacement of sanitary sewer mains, installation of storm sewer catch basins, ADA accessible ramps at intersections throughout the project area, miscellaneous repairs to sidewalk, curb and gutter and curbside in the areas of South Jackson Street, East 3rd Street and East 5th Street near the Wyoming Medical Center, and the area of 15th Street between South Wolcott and Oakcrest Avenue.



Many bid items were over-run during the project, due to under-estimated quantities by the engineering consultant, construction methods differing from those anticipated during design, and field directives by city engineering staff. These items included expanded mill and overlay limits, increased utility patching, additional curb and gutter replacements, and increased concrete repairs, and amount to an additional \$126,440.69. The additional work was deemed necessary during construction to provide more complete and thorough repairs in these areas, with the anticipation that large-scale construction projects will not be occurring on these roads and utilities for the foreseeable future. With these additional items, the total contract amount is \$1,805,355.87. Shawn Gustafson with ECS Engineers, the City's consultant for the project, will be present to further discuss these overruns and why they weren't identified earlier in the project.

Financial Considerations:

Funding for the additional work is proposed to come from the \$70,846.62 remaining in project contingency funds, \$24,329.78 from Water Fund Reserves, and \$31,264.29 from the 1%#16 Sales Tax Funds allocated to Street Improvements.

November 6, 2019

TO: Honorable Mayor, and Members of the Casper City Council

FROM: J. Carter Napier, City Manager 
Jolene Martinez, Assistant to the City Manager 

SUBJECT: River Restoration – First Street Reach Progress Report

Meeting Type & Date

Work Session, November 12, 2019

Recommendation

Information

Summary

At the August 20, 2019 Council Meeting, Council awarded a contract to Shamrock Environmental Corp for construction of the North Platte River Restoration – First Street Reach, Project No. 12-51 in the amount of \$2,455,959.40 with a contingency of \$144,040.60 for a total project amount of \$2,600,000. Removed from the contract due to funding constraints were the following bid items: trail replacement, a boat ramp, a parking lot, and stormwater system repairs. These items are all part of developing the riverfront envisioned in Generation Casper and multiple studies and strategic plans over the last twenty years. Staff continues to look for funding. The Shamrock agreement was the third agreement to be awarded for the First Street Reach project. The other two agreements were with the City's engineering consultant, Stantec Consulting Services, and the City's environmental consultant, Golder and Associates who are both needed to oversee the construction. Construction began in late September and was expected to be completed by December. The landscaping was expected to be completed by June 2020.

The City of Casper has been in a phased river restoration construction project to restore portions of the North Platte River within its municipal boundary since the river restoration master plan was completed in 2012. Three phases of a seven phase project from Morad Park to the water treatment plant have been completed at a cost of \$3.924 million. Monitoring by Wyoming Game and Fish and City is showing the completed restoration is meeting the goals of improved water quality, improved riverine and riparian habitat, spurred economic development and increased tourism. The estimated cost to complete all seven construction phases is about \$20 million. The construction phases are combined with the riparian restoration work (e.g. Russian olive removal) and the annual volunteer day with the entire effort named the Platte River Revival.

It was known by the Platte River Revival Advisory Committee, the City's consultants, and City staff that the construction on the First Street reach would be a particularly complex stretch of the river to restore because of urban development constraints and past refinery pollution. It took five years of planning, design, and permitting to get to the point of bidding the project. The Platte River Revival

Advisory Committee took the extra step to hire the environmental consultant, with an \$115,000 grant from the North Platte River Foundation, to review all the WDEQ documents and remedy agreement related to the refinery contamination, produce a mitigation plan, secure the environmental permits to construct, and provide environmental oversight during construction. The importance of the First Street reach cannot be downplayed because of its location within the City's OYD, proximity to downtown, and role as a gateway into Casper.

No one expected, however, to find a good deal of unmitigated pollution remaining in this stretch of river. The construction project is now also a remediation project with currently identified costs of \$526,559, more than half the project left to complete, and perhaps additional remediation work required. It is clear that the timeline for the project will need to be amended and now completed over two construction seasons with the final landscaping work to be completed by June 2021.

To cover all unplanned and unbudgeted remediation costs and the cost of stretching the project over two construction seasons, the Platte River Revival Advisory Committee has been in a series of discussions with BP. BP has agreed to pay the City \$100,000 by the end of the year and has requested the City keep a record of the remediation costs to present to them on December 8 for payment consideration. Should cost recovery discussions prove unsuccessful, the Platte River Revival Advisory Committee will be making recommendations for Council to consider. One of those recommendations will be to reconvene WDEQ, the City, and BP to amend Remedy Decision Two.

Financial Considerations

Covering the reclamation costs until they can be reimbursed.

Oversight/Project Responsibility

Jolene Martinez

Attachments

There are no attachments.