

CITY COUNCIL COMMUNICATION FORM

FROM: Dan Foote, City Attorney
THROUGH: N/A
DATE: September 20, 2022
ITEM: A Resolution Designating James J. Moylan as the Hearings Officer for Matters Arising Pursuant to Ordinances Nos. 2817, the Steamboat Springs Election Code, and 2858, Short-Term Rental Licensing

_____ DIRECTION
_____ INFORMATION
_____ ORDINANCE
_____ MOTION
 RESOLUTION
_____ PROCLAMATION

I. REQUEST/ISSUE & BACKGROUND INFORMATION:

The City has previously appointed James J. Moylan as the City's hearings officer for matters relating to alcohol beverage, medical marijuana, and retail marijuana licensing matters. Mr. Moylan has also been appointed to hear matters arising from violations of the City's stormwater regulations. Mr. Moylan has handled numerous matters relating to alcohol beverage licensing, mostly relating to sales to minors. The City has not yet scheduled any hearings relating to marijuana or stormwater matters.

The City's election code, adopted on July 20, 2021 by Ordinance No. 2817, contemplates the appointment of a hearings office to adjudicate campaign finance complaints. The recently adopted short-term rental licensing ordinance, Ordinance No. 2858, also contemplates the appointment of a hearings officer to adjudicate complaints relating to short-term rental licensees.

The proposed resolution would authorize Mr. Moylan to act as hearings officer with respect to campaign finance and short-term rental licensing matters. Mr. Moylan is currently acting as a hearings officer for the City and staff views the proposed resolution as being merely an extension of Mr. Moylan's existing

responsibilities and not the award of a contract to a new independent contractor. The proposed ordinance would also have the advantage of maintaining consistency in the City's procedures for administrative hearings. For these reasons, staff proposes to extend the scope of Mr. Moylan's responsibilities without having conducted a competitive contracting process.

If Council would prefer to appoint a hearings officer after a competitive process, the City would recommend modifying the resolution to make the appointment for a short-term for six months to one year to ensure that the City has a hearings officer in place for any short-term rental or campaign finance matters that require resolution pending completion of a competitive selection process.

II. SUMMARY AND ALTERNATIVES:

Council may designate Mr. Moylan as its hearings officer for campaign finance and short-term rental matters on an indefinite basis; make the designation on a temporary basis pending a competitive selection process; or decline to approve the resolution in any form

III. STAFF RECOMMENDATION:

Staff recommends approving the resolution for a term of at least one year. If there is a desire on Council's part to solicit interest in the position, staff would recommend delaying any competitive selection process for a year in order to give interested parties a better idea as to what sort of workload to expect after the City begins short-term rental licensing enforcement.

To date, the hearings officer's duties have been light and intermittent. They have consisted entirely of liquor licensing matters that have historically arisen sporadically. Annual expenditures have ranged from \$0 (2020 and 2021) to \$800 (2016). Staff expects that the scope of work and time commitment for the hearings officer position will increase once the City commences short-term rental licensing enforcement.

Choosing not to approve the resolution in any form would create the potential for the City to receive a campaign finance complaint and not be prepared to act on it. Licensing enforcement will not begin until January 1, 2023 so it will be several months before there is a need for a hearings officer for short-term rental matters.

IV. FISCAL IMPACT:

Staff estimates a fiscal impact of \$20,000. Mr. Moylan is compensated at an hourly rate of \$225. The fiscal impact of the proposed appointment is based on staff's estimate of the volume of short-term rental licensing enforcement

activity. This cost is included in the calculation for the short-term rental licensing fee. Staff does not anticipate significant expenditures relating to campaign finance matters.

V. LEGAL ISSUES:

None.

VI. CONFLICTS OR ENVIRONMENTAL ISSUES:

None.

VII. CONSISTENCY WITH COUNCIL GOALS AND POLICIES:

This item relates to the goal of adopting short-term rental regulatory policies, licensing procedures, and enforcement rules.