

The mayor was not "out of bounds." He knowingly exceeded his authority.

For the mayor to get legal advice from the Wyoming Association of Municipalities attorney is like Tiger Woods seeking support from his caddy. It is bound to confirm what was asked. And the current city attorney is proving to be no improvement over the last couple that held that job.

While the daily's coverage of this mayor is a marked improvement over coverage of the last, it still leaves too much to be desired. Following the lead of the Cheyenne Herald, the McCracken offering is at least writing a little about the failures of this mayor. They wouldn't do that with the last one. So, they're on the right track.

The mayor has a specific job to do. In addition to his administrative and executive duties, he is also a member of the governing body - the group that makes law for a municipality. As a single member, he has but one vote and the same influence on legislation as the other nine. Where he differs is that he also has veto power. In other words, if he disagrees with an action taken by the governing body of which he is a member and casts one vote, he can veto the action. Because he votes for (approval) almost every measure presented, it would be odd that he would veto legislation that he cast a positive vote on. But, he could.

On a vote to override a mayor's veto, the mayor does not have a vote. That action, as well as his own appointments, are the only ones for which the mayor cannot cast a vote.

Legislation can also set a later effective date after approval. Both the mayor and city attorney should know that. If they don't, after 11 months in office, they haven't learned much in almost one-fourth of their term of office.

So, on the issue of a cell phone ban: That legislation percolated for weeks, if not months. It failed when it was too broad and attempted to reduce distracted driving including such things as eating a burger, etc. The term could encompass almost everything a driver did except hold both hands on the steering wheel and stare straight ahead. For example, changing the radio dial could be considered distracted driving as could adjusting a rear view mirror.

Ten members of the governing body should have thought of the options drivers in the City of Cheyenne would have if a ban on cell phone use was approved. To later claim that it came as a surprise doesn't say much for the lawmakers.

It is comical to now read that the mayor was told by local retailers that Bluetooth devices and other hands-free devices that use a cell phone signal were unavailable in Cheyenne because of a "run" on them.

Puhleeze!

Most people who own a cell phone and who used them while driving in the past are familiar with the internet. And they are familiar with shopping local retailers on the internet.

But, in spite of it taking months for passage of the cell phone ban, the mayor ordered a "grace period" of 25 days after legal adoption of the ban before police officers were to cite drivers for using the then illegal device while driving.

Chances are Rick extended the enforcement date because of pressure from some groups who depend heavily on use of cell phones while driving - such as real estate agents. Or other supporters.

And the WAM mouthpiece offered that a mayor can tell a local police chief to "go slow" on enforcement. That would be the same as telling the chief to ignore the ordinance that was passed by the city governing body, with the mayor's supportive vote. They either enforce the ordinances or they don't.

Other ordinances passed in recent years are obviously being ignored. Some by law enforcement and some by the mayor's office. Two come readily to mind and a third isn't far behind. There was considerable debate about dogs being loose in the box of pickup trucks or on flat bed trucks. There is an ordinance that makes such an occurrence a violation. How many times do you think that has been cited? One? More like zero.

A few years back, when the last administration sought to take more and more control of resident's lives, an ordinance was passed to make 25 the legal speed

limit in town. To make that enforceable would have required posting signs throughout town that made motorists aware that Cheyenne's speed limit was lower than the speed limit set by the State for within municipalities. Cities and towns can set their speed limits at 10 mph - they just have to adequately inform or the citations wouldn't go very far.

Another action that was taken, again after considerable debate and upset feelings, was that parking in the downtown core area would be limited to two hours per day. Two hours total in any part of a nine square block area of downtown. If an employee wanted to move their car during the day, they'd have to move it outside that controlled area. To enforce the restriction, the City was going to order hand held computers that the parking monitors could use. None of that ever happened and downtown parking remains the problem that it is perceived to be because of employees taking the parking better left available for customers.

It wasn't just the former mayor who ignored the law. The current one has a good jump on at least being as much a lawbreaker as the past one was.

When a lawsuit was filed to challenge the permit issued to construct a billboard after the City had changed City Code prohibiting any further billboards in the zoned area, residents prevailed and a large billboard that had illegally been placed at Pershing and Seymour had to be taken down. There are three other such billboards that were constructed in violation of the same ban in City Code.

To mollify the billboard company that had relied on an illegally issued permit to construct the billboard later ruled illegal, the mayor and his minions sweetened the pot for that company's future construction of electronic billboards.

But, it was this mayor who had the responsibility for ordering the other three billboards removed - even without a resident plaintiff - because of District Court Judge Keith Kautz' ruling. If one was illegal, all four were. Unfortunately for residents who count on the mayor doing the "right thing," the legal thing, one of those billboards is on the property of a city councilman and he likely relies on the revenue from the billboard company to keep his store open. So, that billboard on Dell Range as well as the other two illegally placed, remain. And almost certainly always will.

It came to light in my review of the land traded to the ice center investors that part of that land out on Storey Boulevard has never formally changed hands. Even though those who thought they owned the land (as a result of the trade) tried to get it rezoned, they don't even hold title to some of the land at Storey and Blue Bluff. They thought they did. The current mayor knows this, as does the city attorney. Yet, correction has not been effected.

The difference for residents is that the land is not being taxed and will not be until the City "vacates" the land where the street (Storey) was supposed to go - right through the middle of this parcel in question. Until that is done, the ice center investors do not own the land. And, when the correction is made, no back taxes can be billed them because the land is held by the City, not private property owners.

The die has been cast.

Cheyenne's mayor does not feel State or local laws apply to him. He is well aware of the frequent lawbreaking of his predecessor and few legal actions were initiated on them. On one violation, illegal annexations, several different lawsuits were filed against the City for approving illegal annexations (four in all) and the City lost every one of them.

Rick is confident that no one cares enough about a cell phone ban or when billing for the recycling program would begin to take legal action. And the city attorney is not going to bite the hand that feeds him. Worse, it sounds like this city attorney, like others before him, advise the mayor that it is all right to take illegal actions. A prior city attorney has told many people that he offered the legal advice that he did because "that's what they wanted to be told." Great lawyering, huh?

The cell phone ban "grace period" is fully on the shoulders of the mayor and that speaks to his lack of knowledge. The suspension of billing on the recycling program was initiated by underlings and that speaks to a lack of leadership. The mayor cannot tolerate mid-level supervisors circumventing the authority of the governing body and state statute by delaying imposition of an ordinance or illegally waiving fees - which is what the suspension of a legally approved and published recycling program fee was.

There is a process to be followed. The mayor has to learn what it is. And try to educate an uninformed city attorney, too.

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