

# CHEYENNE HERALD

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**the local advocacy Journal**

## Mayor's "grace period" edict on cell phone ban is illegal

An e-mail, with the language in the box at the right, was sent to city attorney Dan White on Friday night after the Channel 5 News announced that the mayor had stayed enforcement of the cell phone ban for 25 days.

My question posed to the city attorney was where the mayor was granted that power. If it exists in state statute, I could not find it in my initial search and I was asking Dan to provide me the source.

He had not responded as of 5:00 pm on Tuesday, September 22, so I sent a second request. I was surprised he could not send such a citation by return e-mail on Monday morning (assuming he does not check his e-mails on the weekend).

Surprise is not the right word, I guess, because I didn't think such a grant of power was given to a mayor. It would be contradictory to the authority granted a city's governing body (which includes the mayor) to approve legislation and the strength of an ordinance which provides for an effective date.

**W.S. § 15-3-201** ... *The mayor is entitled to sign or veto any ordinance passed by the governing body ... If the mayor neglects or refuses to sign any ordinance and fails to return it with his objections in writing at the next regular meeting of the*

*governing body, it becomes law without his signature.*

Ordinance No. 3870, signed by Rick Kaysen was to take effect upon "approval

and publication." Approval was Monday, September 14, 2009, and publication was Saturday, September 19, 2009. And, even though there is a petition drive underway to try to force a referendum on

the cell phone ban, and whatever the mayor's reasons for a 25 day grace period were, he does not have the statutory power to impose such a delay.

**W.S. § 15-1-114(a)** *All municipal legislation shall be by ordinance, ...*

**W.S. § 15-1-115(d)** *Passage of an ordinance requires the affirmative vote of the majority of the qualified members of the governing body.*

**W.S. § 15-1-116(a)** *Every ordinance before becoming effective shall be published at least once in a newspaper of general circulation, ...*

The cell phone ban legislation is Ordinance 3870. It was passed by a 7-1 vote on September 14 with Ms. Ash and Mrs. Case absent. And, the ordinance was published in the Wyoming Tribune-Eagle on September 19, 2009.

The mayor was one of the seven affirmative votes and he signed the ordinance, attested to by the city clerk, before it was published. That cell phone ban ordinance is law. And it would set a very dangerous precedent for the mayor to delay implement of a law that was approved with an effective date. Had he wanted it delayed, he should amended it to be effective at a later date. He didn't.

*E-mail sent twice to city attorney's office. No response.*

From: davefeatherly@msn.com To: dwhite@cheyennecity.org  
Subject: Cell phone ban ordinance Date: Fri, 18 Sep 2009 19:27:15 -0600

Dan;

I heard Erin Fry say on the KGWN 5:30 news tonight that Rick was unilaterally imposing a 25 day delay on enforcement of the cell phone ban.

I can find no provision in either City Code or Wyoming State Statutes granting the mayor that power. Can you provide me the citation you relied upon to encourage Rick to delay an ordinance that is to take affect "upon its approval and publication"?

For a mayor to have that power would mean that the one role a city council has in city government - legislation - could be cancelled by the act of one man, the mayor. The mayor does have veto power but Rick voted in favor of the cell phone ban so it would be peculiar for him to veto the same ordinance. And a veto can be overridden by the city council as a whole. So, they do have the last word on legislation.

I may have missed it so if you'll provide me the source of that power for the mayor to make an edict to delay enforcement of any ordinance duly passed by the governing body and published in the necessary newspaper, I'd appreciate it. Thanks for your prompt response.  
/s/ Dave Featherly

## Still in denial about the condition of Downtown Cheyenne

In spite of the steady emptying of Cheyenne's downtown, more apparent by the day, there are those who continue to imagine things are fine. One insider from the disappointing DDA said that if they could get the hole filled, that would solve the problem. Filling the hole wouldn't begin to deal with the myriad of problems that present such a challenge to the future of Cheyenne's downtown.

It will take a minor miracle to turn the downtown around in the next decade. And, if unsuccessful, the downtown will become a ghetto of more empty buildings, vacant stores, graffiti and dwindling traffic. As banks move their headquarters out of the downtown and state government offices move further and further from the core of downtown (they have no choice about staying in Cheyenne - the Wyoming Constitution requires that the "center of government" be here), attractions and employment will diminish.

The DDA has some responsibility, and mounds of money, for both the decay and a revitalization, if there is to be any, of the downtown. But, make no mistake about it, city government is more responsible for the decline than is the DDA.

It has been unfortunate that the DDA board abdicated their responsibility to an unproven Denver firm. All anyone needs to say about their performance is "look around." Since January 1, 2001, downtown stores have moved away and downtown buildings have emptied at an alarming pace. Not just the small speciality stores. Not just the mom and pop operations. That is not uncommon for downtowns across the country. What is unusual is that there has not been a steady stream of replacement small businesses following the departures.

When the major operations leave your downtown, it takes a special group of

promoters to find replacements. A group Cheyenne has not had. Different merchants' groups have formed, tried and then disbanded, but the only constant with a direct responsibility for the well-being, growth, stability and prosperity of downtown has been the Downtown Development Authority. That name is such a horrible misnomer. The group has spent a lot of money but the spending has resulted in no net development.

The Hynds Building was sold by Resolution Trust Corporation twenty years ago. Since 1986, it has sat empty and abandoned.

One who professed to want to "revitalize" the downtown bought it but allowed it to sit empty for a decade. Another group, from Colorado, bought the Hynds and promised the inexperienced and naive city government officials they would make great things happen with the building if the taxpayers would fund a skywalk

from an unsafe and unused parking garage to their property. They did nothing and the building is once again up for sale. Ditto a group that grandly announced they would build a new Marriott franchise extended-stay hotel where Wyoming Home and Mary's Bake Shoppe once stood. They didn't and the city now believes if they fill that hole with dirt, the downtown will be revitalized. It won't. Not close.

There will be an opportunity to hire someone to lead a rebirth of Cheyenne's downtown. But, who among the DDA board has any idea at all about hiring an economic development guru? No one. The other economic development groups based in Cheyenne - LEADS and the Wyoming Business Council - have passed jobs to those "next in line." Well-connected but not well-qualified. Will the DDA do the same? Will the next half million dollars disappear with nothing to show for the spending? Probably.

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