

City of Black Hawk  
City Council Minutes  
February 12, 2014

1. CALL TO ORDER: The regular meeting of the City Council was called to order by Mayor Spellman Wednesday, February 12, 2014 at 2:00 p.m.

2. ROLL CALL: Present were: Mayor Spellman, Aldermen Armbright, Bennett, Cales, Johnson, Moates, and Torres.

Staff present: City Attorney Hoffmann, City Manager Lewis, City Clerk Magno, Community Planning and Development Administrator Linker, IT Director Young, IT Support Staff Muhammad, Assistant to City Manager for Administration Greiner, Fire Chief Taylor, Finance Director Hillis, Public Works Director Isbester, Water Coordinator Ford, and Police Chief Cole.

EXECUTIVE SESSION:

**MOTION TO  
ADJOURN**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 2:01 p.m. to hold a conference with the City's attorney to receive legal advice on specific legal questions pursuant to C.R.S. § 24-6-402(b).

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

**MOTION TO  
RECONVENE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Cales at 2:25 p.m.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

WORK SESSION:

Council viewed the video regarding renovation of the Church. Consensus of Council was that the videographer did a great job.

Mayor Spellman stated the video was not complete. He explained Deputy Stevens found in the minutes of April 18, 1865; where the Council made a resolution to attend the funeral services of the Chief Magistrate, Abraham Lincoln. Services were to be held April 19, 1865 at 10:30 a.m. at the Presbyterian Church. This information will be added to the video.

Mayor Spellman stated a plaque would be ordered regarding the assassination of Lincoln.

PLEDGE OF  
ALLEGIANCE:

Mayor Spellman led the meeting in the recitation of the Pledge of Allegiance.

3. AGENDA CHANGES: City Clerk Magno informed Council item 7-D, Resolution 2-2014, A Resolution Approving the Comprehensive Sign Plan and Conditionally Approving a Certificate of appropriateness for the Z Casino Comprehensive Sign Plan has been moved to be heard as the first Public Hearing.

4. CONFLICTS OF  
INTEREST:

City Attorney Hoffmann asked Council to declare any Conflicts of Interest on any issue appearing on the agenda this afternoon other than those previous disclosures and conflicts that have already been disclosed and are on file with the City Clerk and Secretary of State. Council declared no conflicts.

City Attorney Hoffmann asked the audience if there were any objections to any member of Council voting on any issue on the agenda this afternoon. The audience had no objections.

5. PUBLIC COMMENTS: No one came forward to address Council.

6. APPROVAL OF  
MINUTES for  
January 22, 2014  
**MOTION TO  
APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Torres to approve the Minutes of the January 22, 2014 meeting as presented.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

7. PUBLIC HEARINGS:

- A. Resolution 2-2014,  
A Resolution Approving  
the Comprehensive  
Sign Plan and  
Conditionally Approving  
a Certificate of  
Appropriateness for  
the Z Casino  
Comprehensive  
Sign Plan

Mayor Spellman read the title.

Vince Harris, Baseline, explained the resolution is for a certificate of appropriateness for Z's casino, which is Bullwhackers. This resolution will amend the license agreement for electronic signs.

Mr. Harris stated Staff recommends approval with five conditions.

**PUBLIC HEARING:** Mayor Spellman declared a Public Hearing on Resolution 2-2014, A Resolution Approving the Comprehensive Sign Plan and Conditionally Approving a Certificate of Appropriateness for the Z Casino Comprehensive Sign Plan open and invited anyone wanting to address the Board either "for" or "against" the proposed resolution to come forward.

No one came forward to speak and Mayor Spellman declared the Public Hearing closed.

**MOTION TO APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 2-2014, A Resolution Approving the Comprehensive Sign Plan and Conditionally Approving a Certificate of Appropriateness for the Z Casino Comprehensive Sign Plan with five conditions recommended by Staff.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

**B. CB 3, An Ordinance to Adopt the Black Hawk Employee Handbook Dated February 2014**

Mayor Spellman read the title.

City Attorney Hoffmann explained this ordinance, if adopted, would repeal and adopt a new employee handbook. He stated one overwhelming change was this handbook was sent to all employees. If they had any questions they could address those to Assistant to City Manager for Administration Greiner or appear before Council.

City Attorney Hoffmann stated the change is from "For Cause" employment to "At Will". He explained the State of Colorado is an "At Will" state and this would bring the City into compliance.

City Attorney Hoffmann explained at this time, Administrator Greiner has not received any questions from employees regarding the handbook.

City Manager Lewis stated it has been quite an undertaking. He explained Management Team was still going over the handbook this morning.

City Manager Lewis explained under job announcements, the draft states internal candidates can apply at the same time as opening to everyone. Management Team recommends opening to internal candidates for a time before opening to everyone.

City Manager Lewis explained sick leave bank is still being discussed and will go by what is in the handbook until further notice.

City Manager Lewis explained with all the new technology, how will the City address e-cigarettes. Management Team recommends treating e-cigarettes just like any other tobacco product.

City Manager Lewis stated the Employee Status review is blank for it needs to be reviewed.

Mayor Spellman stated with the Employee Status review the employee will either get the bonus or not. City Manager Lewis stated yes and there will not be any scoring.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB 3, An Ordinance to Adopt the Black Hawk Employee Handbook Dated February 2014 open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

No one came forward to speak and Mayor Spellman declared the Public Hearing closed.

Alderman Torres stated he would like an amendment to Section 304 Holidays. Would like Columbus Day eliminated as a holiday and implement the employee’s birthday instead.

City Attorney Hoffmann explained if Council wishes to approve the three amendments to be included, they are; practice in job announcements, e-cigarettes, and substitute employee’s birthday in place of Columbus Day for holidays.

**MOTION TO APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman to Bennett approve CB 3, An Ordinance to Adopt the Black Hawk Employee Handbook Dated February 2014 with the following

amendments: practice in job announcements, e-cigarettes, and substitute employee's birthday in place of Columbus Day.

**MOTION PASSED** There was no discussion and the motion **PASSED** unanimously.

C. CB 4, An Ordinance  
Repealing and  
Reenacting Chapter 15  
of the Black Hawk  
Municipal Code  
Adopting a New  
Black Hawk  
Sign Code

Mayor Spellman read the title.

Vince Harris, Baseline, gave some back ground for the proposed sign code.

City Attorney Hoffmann clarified that non-compliant signs are the temporary signs, not signage already approved by Council.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB 4, An Ordinance Repealing and Reenacting Chapter 15 of the Black Hawk Municipal Code Adopting a New Black Hawk Sign Code open and invited anyone wanting to address the Board either "for" or "against" the proposed ordinance to come forward.

No one came forward to speak and Mayor Spellman declared the Public Hearing closed.

**MOTION TO APPROVE**

Alderman Armbricht **MOVED** and was **SECONDED** by Alderman Cales to approve CB 4, An Ordinance Repealing and Reenacting Chapter 15 of the Black Hawk Municipal Code Adopting a New Black Hawk Sign Code.

**MOTION PASSED** There was no discussion and the motion **PASSED** unanimously.

D. CB 5, An Ordinance  
Submitting Ballot  
Questions for an  
April 1, 2014 Regular  
Municipal Election,  
and Setting the  
Ballot Titles  
Thereof

Mayor Spellman read the title.

City Attorney Hoffmann explained the City has its regular municipal election in April. It is an opportunity for Council to have a TABOR Notice.

City Attorney Hoffmann explained the first ballot question would impose a 5% sales tax on all retail marijuana and medical marijuana as well as products for either. The revenue estimate is \$100,000. Second question relates to Monarch Casino reimbursement of 4% sales tax not to exceed \$2.7 million.

City Attorney Hoffmann stated since this is for multiple years. The voters can authorize for Monarch to receive money back from lodging.

**PUBLIC HEARING:** Mayor Spellman declared a Public Hearing on CB 5, An Ordinance Submitting Ballot Questions for an April 1, 2014 Regular Municipal Election, and Setting the Ballot Titles Thereof open and invited anyone wanting to address the Board either “for” or “against” the proposed ordinance to come forward.

No one came forward to speak and Mayor Spellman declared the Public Hearing closed.

**MOTION TO APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Johnson to approve CB 5, An Ordinance Submitting Ballot Questions for an April 1, 2014 Regular Municipal Election, and Setting the Ballot Titles Thereof.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

**8. ACTION ITEMS:**

- E. 201 Church Street  
Amend Scope of  
Work and PEH  
Architectural Fee

Mayor Spellman read the title.

Community Planning and Development Administrator Linker explained this is a request to amend scope of work and additions to the architectural fees for the new IT facilities.

Administrator Linker stated the design has a basement for all the mechanical equipment; first floor for servers, restroom, kitchen, and office; and second floor an office.

**MOTION TO**

**APPROVE**

Alderman Cales **MOVED** and was **SECONDED** by Alderman Johnson to approve 201 Church Street – Amend Scope of Work and PEH Architectural Fee.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

F. 231 Horn Street  
and 301 Chase  
Street – Preservation  
Easement Change  
Orders

Mayor Spellman read the title.

Bryan Carruthers, Consilium, went over the change order for 301 Chase Street.

Mr. Carruthers explained Staff was working with Big Valley regarding the cost for the change order. He stated the cost would probably come down.

City Attorney Hoffmann stated Council could approve with “not to exceed”.

Alderman Cales inquired why the foundation was not discovered with the initial discovery. Mr. Carruthers explained initially the contractors felt they could hit bedrock at 4 feet like the rest of the house; however, that corner they had to go down 14 feet.

**MOTION TO  
APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve 301 Chase Street – Preservation Easement Change Orders.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

Mr. Carruthers explained for 231 Horn Street the contractor had to go down farther to find bedrock and there were a lot more utilities in the street than first figured.

**MOTION TO  
APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Johnson to approve 231 Horn Street – Preservation Easement Change Orders.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

G. Resolution 3, 2014, A  
Resolution Establishing

a Contingency on  
Grant Projects Under  
the Community  
Restoration and  
Preservation Fund  
Grant Program to  
be Managed at the  
City Manager's  
Discretion

Mayor Spellman read the title.

City Attorney Hoffmann explained Council had previously passed a resolution giving the city manager the ability to manage a contingency on all City projects. The Grant Program was an oversight and should have been included.

**MOTION TO  
APPROVE**

Alderman Cales **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 3-2014, A Resolution Establishing a Contingency on Grant Projects Under the Community Restoration and Preservation Fund Grant Program to be Managed at the City Manager's Discretion.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

H. Resolution 4-2014,  
A Resolution  
Rescinding Sales  
Tax Rebate to  
Small Businesses

Mayor Spellman read the title.

City Attorney Hoffmann explained this resolution, if adopted, would appeal Resolution 2010-7 where the City rebated the City's 4% sales tax for certain categories of retail businesses. However, the effective date is April 1, 2014, where it would rescind all sales tax to non-gaming businesses.

City Attorney Hoffmann stated Council requested the effective date to be April 1, 2014 so more of a hardship would not be put on the convenience store.

**MOTION TO  
APPROVE**

Alderman Armbricht **MOVED** and was **SECONDED** by Alderman Cales to approve Resolution 4-2014, A Resolution Rescinding Sales Tax Rebate to Small Businesses.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.



- I. Resolution 5-2014,  
A Resolution  
Rescinding Water  
Rebate to Small  
Businesses

Mayor Spellman read the title.

City Attorney Hoffmann explained this was similar to the sales tax rebate. The effective date would be April 1, 2014 so the convenience store would not have more hardships.

**MOTION TO  
APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman to Torres to approve Resolution 5-2014, A Resolution Rescinding Water Rebate to Small Businesses.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

- J. Resolution 6-2014,  
A Resolution  
Approving the  
Agreement of  
Lease Between the  
City of Black Hawk  
as Lessor and the  
Gilpin Ambulance  
Authority as  
Lessee

Mayor Spellman read the title.

City Attorney Hoffmann explained, if adopted, this would authorize a lease to Gilpin Ambulance Authority for 430 Gregory Street.

**MOTION TO  
APPROVE**

Alderman Cales **MOVED** and was **SECONDED** by Alderman Bennett to Resolution 6-2014, A Resolution Approving the Agreement of Lease Between the City of Black Hawk as Lessor and the Gilpin Ambulance Authority as Lessee.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

- K. Resolution 7-2014,  
A Resolution  
Reappointing  
Ronald W. Carlson  
to be the City of  
Black Hawk

Municipal Court  
Judge

Mayor Spellman read the title.

**MOTION TO  
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 7-2014, A Resolution Reappointing Ronald W. Carlson to be the City of Black Hawk Municipal Court Judge.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

L. Resolution 8-2014,  
A Resolution  
Reappointing Thad  
Renaud to be the  
City of Black Hawk  
Assistant Municipal  
Court Judge

Mayor Spellman read the title.

**MOTION TO  
APPROVE**

Alderman Cales **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 8-2014, A Resolution Reappointing Thad Renaud to be the City of Black Hawk Assistant Municipal Court Judge.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

M. On Call Service  
Agreements for  
2014

Mayor Spellman read the title.

**MOTION TO  
APPROVE**

Alderman Cales **MOVED** and was **SECONDED** by Alderman Johnson to approve the On Call Service Agreements for 2014.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

N. Highway 119  
Waterline  
Project – Design  
Engineering  
Services

Mayor Spellman read the title.

Water Coordinator Ford explained the City was ready to do the waterline loop from Richman Street to Mill Street. The project

needs to be accomplished to provide more water for the Monarch project.

**MOTION TO APPROVE**

Alderman Cales **MOVED** and was **SECONDED** by Alderman Torres to approve Highway 119 Waterline Project – Design Engineering Services.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

- O. Ratification of  
Phone Poll Regarding  
Council Special  
Meetings and  
Work Session  
Schedules

Mayor Spellman read the title.

**MOTION TO APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Ratification of Phone Poll Regarding Council Special Meetings and Work Session Schedules.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

Mayor Spellman explained this would include the special meetings and work sessions on the Council meeting schedule.

- P. Resolution 9-2014,  
A Resolution Approving  
the First Amendment  
to Subdivision  
Agreement Between the  
City of Black Hawk and  
Monarch Growth,  
Inc.

Mayor Spellman read the title.

City Attorney Hoffmann explained this proposed amendment would do two things. First the amount of the security would not cover all the excavation. Second change relates back to the ballot question. He stated we cannot do it in a separate agreement until the election is over.

**MOTION TO APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 9-2014, A Resolution Approving the First Amendment to Subdivision Agreement Between the City of Black Hawk and Monarch Growth, Inc.

**MOTION PASSED** There was no discussion and the motion **PASSED** unanimously.

9. CITY MANAGER REPORTS:

Q. Certificate of Achievement for Excellence in Financial Reporting For 2012

City Manager Lewis requested this be postponed to the February 26, 2014 meeting. He stated this was a finance award and the Finance Director was unavailable with the death of his father.

City Manager Lewis stated he was remiss acknowledging the Department Heads hard work on the handbook and Administrator Greiner for getting all the changes put together.

City Manager Lewis explained demolition on Gregory Street would start on February 24, 2014 and be completed no later than March 21, 2014.

10. CITY ATTORNEY:

City Attorney Hoffmann requested an Executive Session regarding legal issues pertaining to the grant program, potential legislation, and potential litigation.

11. EXECUTIVE SESSION:

**MOTION TO ADJOURN**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session 4:10 p.m. to hold a conference with the City's attorney to receive legal advice on specific legal questions pursuant to C.R.S. § 24-6-402(b) and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, or and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(e).

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

**MOTION TO RECONVENE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres at 4:52 p.m.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

**MOTION TO APPROVE**

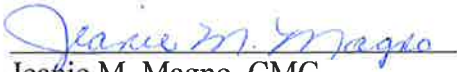
Alderman Moats **MOVED** and was **SECONDED** by Alderman Johnson to approve a change order in the amount of \$62,500 as final settlement with White Construction regarding the maintenance facility.

**MOTION PASSED**

There was no discussion and the motion **PASSED** unanimously.

12. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council closed at 4:53 p.m.

  
Jeanie M. Magno, CMC  
City Clerk

  
David D. Spellman  
Mayor