



**City of Black Hawk
City Council**

August 22, 2018

MEETING MINUTES

Mike Schaller, Street Superintendent of the Public Works Department, rang the bell to open the meeting.

1. CALL TO ORDER: The regular meeting of the City Council was called to order on Wednesday, August 22, 2018, at 3:00 p.m. by Mayor Spellman.

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

Staff present: City Attorney Hoffmann, City Manager Lewis, Police Chief Cole, Fire Chief Woolley, Finance Director Hillis, City Clerk/Administrative Services Director Greiner, Public Works Director Isbester, Street Superintendent Schaller, Senior Civil Engineers Ford and Reed, Community Planning and Development Administrator Linker, Baseline Consultant Harris, and Deputy City Clerk Martin.

PLEDGE OF ALLEGIANCE: Mayor Spellman led the meeting in the recitation of the Pledge of Allegiance.

3. AGENDA CHANGES: Deputy City Clerk Martin confirmed there were no agenda changes.

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. No conflicts were noted from City Council.

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 COMMENT: Deputy City Clerk Martin confirmed that no one had signed up to speak.

6. APPROVAL OF
MINUTES:

August 8, 2018

**MOTION TO
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to approve the Minutes as presented.

MOTION PASSED

There was no discussion and the motion passed unanimously.

7. PUBLIC HEARINGS:

A. CB15, An Ordinance Calling a November 6, 2018 Special Election to be Coordinated with Gilpin County and Submitting a Ballot Question to City Voters

Mayor Spellman read the title and opened the public hearing.

Finance Director Hillis introduced this item concerning Consumer Use Tax. He said it would be increased from its current rate of 4% to 6% to be consistent with the City's Sales Tax rate of 6%.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB15, an Ordinance calling a November 6, 2018 Special Election to be coordinated with Gilpin County and submitting a Ballot Question to City voters 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 Johnson to approve CB15, an Ordinance calling a November 6, 2018 Special Election to be coordinated with Gilpin County and submitting a Ballot Question to City voters.

MOTION PASSED

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

B. CB16, An Ordinance Adding a New Article XX to Chapter 6 of the Black Hawk Municipal Code Entitled Short-Term Rental Properties

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann said there had been some concerns raised to ensure that any impacts from short-term rentals would not be any different on the residential community than a single family residential use. He reminded Council that they had previously approved parking

requirements for short-term rental properties and that this Ordinance would create a licensing process in order to comply with minimum safety standards, allow the City to inspect those safety standards, to comply with criteria in the Municipal Code, and to ensure that no other commercial use be allowed on the property.

Mayor Spellman asked Alderman Midcap if he had a conflict with voting. City Attorney Hoffmann said this matter was of legislative nature, as opposed to quasi-judicial, so Alderman Midcap can participate in the vote if he'd like, but should state for the record what the conflict may be. Alderman Midcap stated that he owns a Bed and Breakfast at 250 Chase Street in Black Hawk and is comfortable with voting.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB16, an Ordinance adding a new Article XX to Chapter 6 of the Black Hawk Municipal Code entitled Short-Term Rental Properties 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 Moates to approve CB16, an Ordinance adding a new Article XX to Chapter 6 of the Black Hawk Municipal Code entitled Short-Term Rental Properties.

MOTION PASSED

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

C. CB17, An Ordinance Amending Article IV of Chapter 13 of the Black Hawk Municipal Code Regarding the City's Watershed Protection District

Mayor Spellman read the title and opened the public hearing.

Senior Civil Engineer Ford introduced this item which expands the area to be protected in the City's Watershed Protection District to include the Hidden Valley Water Treatment Plant; the previous Ordinance did not include the Plant. He said the expansion is five miles upstream of the Hidden Valley intake. City Attorney Hoffmann said the five mile rule from an intake structure is authorized by State law, and it gives the City the ability to enforce should anyone get within five miles of the Plant.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB17, an Ordinance amending Article IV of Chapter 13 of the Black Hawk Municipal Code

regarding the City's Watershed Protection District 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 Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve CB17, an Ordinance amending Article IV of Chapter 13 of the Black Hawk Municipal Code regarding the City's Watershed Protection District.

MOTION PASSED

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

- D. Resolution 50-2018, A Resolution Conditionally Approving the Certificate of Appropriateness and the Site Development Plan for the Canyon Parking Lot**
- E. Resolution 52-2018, A Resolution Approving the Third Amendment to the Subdivision/Site Improvement Agreement Between the City of Black Hawk and JIJE, LLC**
- F. Resolution 53-2018, A Resolution Approving the Enhanced Sales Tax Incentive Program Agreement Between the City of Black Hawk and the Lodge Casino, LLC and the Gilpin Casino, LLC**

Mayor Spellman read the titles, opened the two new public hearings and reopened the public hearing for Resolution 50-2018 from July 25 and August 8.

Baseline Consultant Harris began with Resolution 50-2018 and said there have been some items updated and addressed from the last meeting. He confirmed that the colored sculpted concrete would start from the end of the new Dakota site sculpted wall and end at the former Canyon Casino building, what is behind the building would not be touched. He said about an hour and a half ago the applicant sent over redlines of the proposed resolution. Staff met with the applicant just prior to the meeting and has agreed on four of the five changes, which were incorporated into the resolution and just printed out for Council prior to the meeting. Harris stated that the rock screen wall that was just taken down in front of the Dakota site will now be used as a sample for future rock screen walls, and staff has changed the Site Development Plan and the resolution condition pertaining to the screen wall to match that type of pattern.

Harris said one condition not fully discussed with the applicant yet is in regards to the light pole bases. A condition was included in the resolution, but he said that staff was still not clear from the revised

document what the exact finish would be on the bases, because the Dakota site has concrete bases which were not approved, the poles were supposed to go right down to the ground.

Dave Grunenwald, Vice-President of Development for Jacobs Entertainment and Bob Schnautz, of River Studio Architects in Golden were present to discuss the light poles. Mr. Schnautz said at the last meeting they proposed pedestal concrete bases, same as the Lady Luck parking lot, after giving thought to damage from vehicles hitting the poles. The applicant brought a materials board with four different finishes to be submitted for the record. They recommended the rough concrete trowel finish with a Jackson Brown Benjamin Moore color. Council reviewed the board and agreed that the rougher finish was preferred. Mr. Grunenwald again thanked everyone for their time and hard work. Staff recommended approval.

City Attorney Hoffmann had handed out a paper copy of the Third Agreement to the Subdivision/Site Improvement Agreement (SIA) to Council and stated that once again everyone had worked extremely hard to get this ready for Council. He asked Council to consider approving Resolution 52-2018 with the following amendments: delete section 7.6, as it was left over from a previous version, and change the dates in sections 8.2 and 8.3 from December 31, 2020 to September 30, 2019, as the December dates were originally placeholders. He said the applicant had mentioned that they would be in trouble if the project was not done before September 30, 2019 and with that date, the City can draw from the security money, if needed, in order to complete the project. He said they tightened up the language in section 7.2 on how the two excavations are managed together so that the developer can receive their security money back for the Dakota site when it is complete and when the City has accepted the certification that the project is complete. Mayor Spellman summarized that ultimately the applicant could not use the Canyon lot until the project is complete. City Attorney Hoffmann was confident the SIA was complete.

City Attorney Hoffmann explained Resolution 53-2018 and said at the last meeting direction was given to come up with a mechanism based on existing City regulations, which the City has through the Enhanced Sales Tax Incentive Program (ESTIP), to share in costs with the developer. He described how the program works and that the developer is incentivized to do their best to generate sales tax to meet a threshold amount. He said the City believes it will likely be \$60,000 a year for a five year term that will be shared back to the developer after the threshold amount is met. He said if the \$300,000 threshold has not been met at the end of the term, then the City agrees to cover the difference up to \$300,000.

PUBLIC HEARING:

Mayor Spellman declared Public Hearings on Resolution 50-2018, a Resolution conditionally approving the Certificate of Appropriateness and the Site Development Plan for the Canyon Parking Lot, Resolution 52-2018, a Resolution approving the Third Amendment to the Subdivision/Site Improvement Agreement between the City of Black Hawk and JIJE, LLC, and Resolution 53-2018, a Resolution approving the Enhanced Sales Tax Incentive Program Agreement between the City of Black Hawk and the Lodge Casino, LLC and the Gilpin Casino, LLC 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 Hearings closed.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 50-2018, a Resolution conditionally approving the Certificate of Appropriateness and the Site Development Plan for the Canyon Parking Lot.

MOTION PASSED

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

MOTION TO APPROVE

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 52-2018, a Resolution approving the Third Amendment to the Subdivision/Site Improvement Agreement between the City of Black Hawk and JIJE, LLC, with the deletion of section 7.6 and changing the dates in section 8.2 and 8.3 from December 31, 2020 to September 30, 2019.

MOTION PASSED

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

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 53-2018, a Resolution approving the Enhanced Sales Tax Incentive Program Agreement between the City of Black Hawk and the Lodge Casino, LLC and the Gilpin Casino, LLC.

MOTION PASSED

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

8. ACTION ITEMS:

A. Resolution 54-2018, A Resolution Approving the City of Black Hawk Fee Schedule, As Amended

Mayor Spellman read the title.

City Clerk/Administrative Services Director Greiner introduced this item in support of Council Bill 16 just previously approved for short-term rental properties. Staff is recommending a fee of \$100 to be consistent with the fee for a Lodging License.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 54-2018, a Resolution approving the City of Black Hawk Fee Schedule, as amended.

MOTION PASSED

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

B. Resolution 55-2018, A Resolution Awarding the Bid and Approving the Design-Build Contract Between the City of Black Hawk and Symmetry Builders, Inc. in an Amount Not To Exceed \$58,094.00 For Pre-Construction Services Pertaining to the Fire Station Restroom Renovation Project

Mayor Spellman read the title.

Civil Engineer Reed and Brett Hahnenkamp, Senior Project Manager for Peak Program Value, introduced this project to add three bathrooms and showers to the Fire Station. Reed added that the Fire Chief and two staff members will permanently move to a suite above the convenience store to create more space. Reed explained the design-build method chosen for this project. He said this resolution only authorizes expenditures to design, and that staff would come back in December for approval for a design-build amendment, which would establish the Guaranteed Maximum Price (GMP) for construction; construction would begin after the first of the year. Alderman Midcap asked a few questions about the process, which Reed explained. Mr. Hahnenkamp added that the Contract approved today also locks in unit rates for Symmetry Builders' construction costs. These costs will be adjusted based on the duration of the project and will be presented, along with sub-contractor fees, in the GMP amendment.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 55-2018, a Resolution awarding the Bid and approving the Design-Build Contract between the City of Black Hawk and Symmetry Builders, Inc. in an amount not to exceed \$58,094.00 for pre-construction services pertaining to the Fire Station Restroom Renovation Project.

MOTION PASSED

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

C. Resolution 56-2018, A Resolution Approving a Lease Agreement with Canon Solutions America, Inc. for Copier Equipment

Mayor Spellman read the title.

The pertinent information was included in the packet.

MOTION TO APPROVE

Alderman Armbricht **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 56-2018, a Resolution Approving a Lease Agreement with Canon Solutions America, Inc. for Copier Equipment.

MOTION PASSED

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

D. Resolution 57-2018, A Resolution Approving the Professional Services Agreement with Keller Rohrback, L.L.P. Regarding the Pursuit of Claims for Damages and Injunctive Relief Against Pharmaceutical Companies and/or Pharmaceutical Distributors Who Manufacture, Market and Sell Prescription Opioids, and Other Related Services as Necessary

Mayor Spellman read the title.

City Attorney Hoffmann introduced this Professional Services Agreement with a Seattle law firm that specializes in these types of large Tort Claim cases. He explained the litigation nationwide of the impact on local governments from the Opioid crisis and read the list of Colorado cities and counties who have signed up for the same claim. He said regardless of where the case will be filed, this firm has the expertise and Black Hawk will be well represented.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 57-2018, a Resolution approving the Professional Services Agreement with Keller Rohrback, L.L.P. regarding the pursuit of claims for damages and injunctive relief against Pharmaceutical Companies and/or Pharmaceutical Distributors who manufacture, market and sell prescription Opioids, and other related services as necessary.

MOTION PASSED

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

E. Resolution 58-2018, A Resolution Authorizing the Execution of Necessary Agreements with Xcel Energy for the Undergrounding of the Primary Electric, Street Light Circuit, and Residential Services Along Chase Street in an Amount Not To Exceed \$435,178.00

Mayor Spellman read the title.

Council thanked Public Works Director Isbester for all his efforts working with Xcel. Isbester said they could start work within five weeks. Mayor Spellman noted that there will be some extra costs involved for reasphalting, etc. and added that one of the reasons why the City can do this now is because they have suspended the Residential Grant Program and were able to free up monies.

MOTION TO APPROVE

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 58-2018, a Resolution authorizing the execution of necessary agreements with Xcel Energy for the undergrounding of the primary electric, street light circuit, and residential services along Chase Street in an amount not to exceed \$435,178.00.

MOTION PASSED

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

F. Resolution 59-2018, A Resolution Awarding the Bid and Authorizing an Agreement with Vance Brothers in the Amount of \$89,809.32 for the Black Hawk Slurry Seal Project

Mayor Spellman read the title.

Public Works Director Isbester and Street Superintendent Schaller introduced the annual slurry seal maintenance project for several City parking lots and sections of Richmond and Main Street.

MOTION TO APPROVE

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 59-2018, a Resolution awarding the Bid and authorizing an agreement with Vance Brothers in the amount of \$89,809.32 for the Black Hawk Slurry Seal Project.

MOTION PASSED

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

9. CITY OF BLACK HAWK PROGRAM VALIDATION:

Brett Hahnenkamp, Senior Project Manager for Peak Program Value, was present for any questions in regards to the Executive Summary Report on the Phase 1.B deliverables. He said Phase 1.A and 1.B are now complete and the tool kit is next in Phase 2. Authorization is needed to finish Phase 2 and Phase 3. **A MOTION WAS MADE** by Alderman Bennett and **SECONDED** by Alderman Armbright to authorize expenditures for Phase 2 and Phase 3.

10. CITY MANAGER
REPORTS:

City Manager Lewis had nothing to report.

11. CITY ATTORNEY:

City Attorney Hoffmann had nothing to report.

12. EXECUTIVE
SESSION:

None

13. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council closed at 3:50 p.m.



Melissa A. Greiner, CMC
City Clerk



David D. Spellman
Mayor

