



**City of Black Hawk
City Council**

August 8, 2018

MEETING MINUTES

New employees Terry Feltis and Fred Godin 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 8, 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, Street Maintenance Workers Feltis and Godin, 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 and asked for a moment of silence in honor of long-time resident of over 50 years, former Mayor of six years, and former Alderman of over 18 years Wilhelm (Bill) Lorenz who passed away a week ago.

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. INTRODUCTION OF
NEW EMPLOYEES:

Terry Feltis, Street Maintenance Worker I
Fred Godin, Street Maintenance Worker I

Street Superintendent Schaller introduced both employees and provided a brief background on each. Terry grew up in Black Hawk and is trying to relocate back to the area, and Fred is local to Central City. They were both warmly welcomed.

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

7. APPROVAL OF
MINUTES:

July 25, 2018

**MOTION TO
APPROVE**

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

MOTION PASSED

There was no discussion and the motion passed unanimously.

8. PUBLIC HEARINGS:

A. CB13, An Ordinance Approving the Inclusion of Property into the Black Hawk Business Improvement District and Changing the Boundaries of the District Consistent Therewith

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann introduced this item related to the Saratoga Casino property, which is not currently included within the Business Improvement District. He added it is a condition of a previous Council approval.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB13, an Ordinance approving the inclusion of property into the Black Hawk Business Improvement District and changing the boundaries of the District consistent therewith 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 Johnson **MOVED** and was **SECONDED** by Alderman Bennett to approve CB13, an Ordinance approving the inclusion of property into the Black Hawk Business Improvement District and changing the boundaries of the District consistent therewith.

MOTION PASSED

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

B. CB14, An Ordinance Approving a Memorandum of Understanding Between the Colorado Department of Public Health and Environment and the City of Black Hawk for Fire Services to the North Clear Creek Water Treatment Plant

Mayor Spellman read the title and opened the public hearing.

Fire Chief Woolley introduced this item and said it has been revised for a term of five years, as opposed to annual renewals.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB14, an Ordinance approving a Memorandum of Understanding between the Colorado Department of Public Health and Environment and the City of Black Hawk for Fire Services to the North Clear Creek Water Treatment Plant 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 Moates **MOVED** and was **SECONDED** by Alderman Bennett to approve CB14, an Ordinance approving a Memorandum of Understanding between the Colorado Department of Public Health and Environment and the City of Black Hawk for Fire Services to the North Clear Creek Water Treatment Plant.

MOTION PASSED

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

C. Resolution 50-2018, A Resolution Conditionally Approving the Certificate of Appropriateness and the Site Development Plan for the Canyon Parking Lot

Mayor Spellman read the title and reopened the public hearing from July 25.

City Attorney Hoffmann explained that this item was continued for a few reasons: one, so that Council could see and evaluate renderings of the proposed sign introduced at the last meeting; and two, he and Mr. Steve Jones, attorney for the applicant, have been working on an

amendment to the Subdivision Improvement Agreement (SIA) and the language was not complete at the time. He said today's meeting was to receive direction on what Council feels would be the appropriate improvements necessary for the approval of the Certificate of Appropriateness and Site Development Plan for the Canyon Parking Lot, and then bring it back another time for approval.

Baseline Consultant Harris went over the application again from July 25 to remind Council of the project and proposal. He said since the last meeting, the applicant has put together two sign options, which were included in the packet. Option A is with 25' tall letters, up lit from light poles in the parking lot, with no colored sculpted concrete, just shotcrete and mesh as discussed at the last meeting. Option B is with 20' tall letters internally lit, so no light would be shining up from the parking lot, and they are proposing colored sculpted concrete only on the smaller wall section facing Main Street next to the Dakota site. Harris said that staff has reviewed their new proposal and agree that an appropriate solution to not having the entire wall colored sculpted concrete, as was their recommendation two weeks ago, could be the sign, yet staff suggests the following: 25' letters instead of 20', put a circle around the logo so that the bird does not fade away in the daylight, add the "wedge" to the portion next to the Dakota site facing Main Street so that area is complete with colored sculpted concrete, and once excavation is done then choose the same colored mesh to match the color of the rock, instead of matching the existing mesh on the existing upper back wall.

Dave Gruenewald and Steve Jones, of Jacobs Entertainment, addressed Council. Mr. Gruenewald repeated from the last meeting that in an effort to offer an alternative to staff's previous recommendation of sculpting the entire site, Jacobs has offered a sign, along with some sculpted concrete, in order to reduce their costs. He said they have come back with two proposals: the 25' high lettered sign first proposed two weeks ago; and as a sign of goodwill, he said they are willing to spend a couple hundred thousand dollars to provide colored sculpted concrete to the smaller section of wall next to the Dakota property because this is a prominent rock face right on Main Street, but to add this the sign size would be reduced down to 20' letters to compensate for the cost. He said he could not accept staff's recommendation on the disc/circle proposed for the hawk due to its diameter. The hawk is close to 40' so the disc would have to be at least 50' and would be too expensive. He said his objective is to help solve what has been a problem for 20 years, just not all at once and they are already bearing a lot of costs with public improvements and excavation fees.

Mayor Spellman clarified costs for a clearer understanding. Mr. Gruenewald confirmed that the 25' high lettered sign would cost \$600,000, currently without the enhancements that staff is

recommending, and that at the July 25 meeting he did say the estimate they received to use color sculpted concrete on the entire cut was \$1,500,000, including the "wedge" and Main Street portions. He confirmed that the "wedge" portion alone is \$300,000, and the Main Street portion is \$200,000.

Mayor Spellman said that Council was working under an assumption that the entire cost would be \$4,000,000 based on estimates the City had received when staff looked into the costs, in case they had to step in to finish the project. Council thought the \$1,500,000 number was much more reasonable. Discussion ensued on the sign itself and potentially leaving the "wedge" portion out in order to minimize costs. Mayor Spellman took a straw poll and Council really does not care for the sign, so it was just a matter of the colored sculpted concrete. Mayor Spellman said that if Council took out the "wedge" and the sign, the cost would be brought down to \$1,200,000 and if they took staff's recommendation to add the disc/circle, it would bring just the sign price up to possibly \$800,000.

The Mayor then asked Council how much of the cut do they think is reasonable to ask the applicant to complete with colored sculpted concrete. Mr. Gruenewald thought a good compromise would be to leave out the "wedge" and sculpt the two faces. Council really wants the entire site completed and tossed around the idea of asking the applicant to pay for it all and the City would provide a rebate for the cost of the "wedge", perhaps through device fees over a certain period of time. City Attorney Hoffmann said the City does have an existing program in the Municipal Code for sharing back sales tax, and was more inclined to do a share back with sales tax as opposed to device tax, that way the City shares in their success. It is called the Enhanced Sales Tax Incentive Program (ESTIP) and he explained the City would have to run some numbers and come back with a proposal for a base number, and any number over that base number is what would be shared back at a percentage amount to reach the \$300,000 number or a term of years, whichever were to happen first.

Mr. Hoffmann said this has been done before and one of the differences between this proposal and the other applicant is that this proposal will not generate any new net sales tax, so the City will have to artificially create a base number, but it can be done. Mayor Spellman suggested combining the Lodge and Gilpin Casinos together to do this as it is all Jacobs Entertainment, in order to figure out sales tax on both properties. Jacobs' Attorney Mr. Smith said it couldn't be 25 years to repay, because the applicant would not be incentivized to comply. Mayor Spellman thought no later than five years to pay it back. Sales Tax generated was discussed and how the comps given away at the properties take away from the sales tax generated. Mayor Spellman suggested maybe a combination of sales tax and device fees. He

confirmed, when asked by Council that if the applicant's estimate goes over and above the \$300,000 for the "wedge", that it would not be the City's responsibility, the City is only in it for \$300,000. Alderman Midcap wanted to confirm that if the entire project went above the \$1,500,000 the City would not be contributing any additional funds. Mayor Spellman confirmed the City would only be contributing \$300,000.

Mr. Hoffmann was concerned that if it is not paid off in five years and both casinos were still doing the same level of business that's one thing, but if they dial back for any reason that could put the City at risk, and part of the Sales Tax Share Back program is to share in their success, and as it stands this discussion would be putting risk on the City that is incumbent on the success of their property. Mayor Spellman thought for a guaranteed \$300,000 the entire site gets colored sculpted concrete, so it's worth some possible downside spread out over five years, and it would be future revenue, so really not taking anything out of the bank right now. He went on to say with all the new parking spaces being created, hopefully this will generate more gaming revenue the applicant is after. Mr. Hoffmann said that if the City puts out a number and a five-year term and the applicant doesn't generate that number, then technically the City would have to backfill that amount, so it could be out of pocket money. It was decided to talk more about the details internally.

Mayor Spellman reiterated Council's choices: to require the applicant to take on the cost of \$1,500,000 to sculpt the entire site, leave the "wedge" out entirely, or come up with \$300,000 over five years to clean up this site once and for all. It was decided to direct the applicant to move forward with sculpting the entire site (all shotcrete will be sculpted, including the slope stabilization) with the ESTIP program to cover the "wedge" and to come back to the next meeting on August 12. The applicant is asking in return to receive their permits quickly. City Manager Lewis suggested continuing this hearing to September 12 instead of August 22, as his staff has not seen anything be submitted in a timely manner. Mr. Gruenewald respectfully disagreed with that statement. Mayor Spellman suggested continuing to the next meeting and at that time they can continue it again if needed.

Mr. Hoffmann and Mr. Jones feel comfortable that the SIA agreement language will be done within the week. Mr. Hoffmann stated that the applicant desires to add to the revised agreement the transfer of whatever is left over from the Dakota site security monies, minus the portion the City has to keep, to the Canyon site once excavation at the Dakota site is complete. He said they have to complete the Dakota site in order to allow it to be transferred, and this way at all times the City would be secured both in terms of whatever excavation or public improvements may be remaining in the agreement. Community

Planning and Development Administrator Linker was concerned about the timeframe to receive items in for the next packet. It was decided by 10:00 a.m. on Monday the applicant would have everything in, which would give staff enough of time to review and prepare for the packet.

MOTION TO CONTINUE

Alderman Moates **MOVED** and was **SECONDED** by Alderman Torres to continue Resolution 50-2018, a Resolution conditionally approving the Certificate of Appropriateness and the Site Development Plan for the Canyon Parking Lot to August 22 City Council meeting.

MOTION PASSED

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

D. Resolution 51-2018, A Resolution Conditionally Approving the Certificate of Appropriateness for an Amendment to the Lodge Casino Comprehensive Sign Plan

Mayor Spellman read the title and opened the public hearing.

Baseline Consultant Harris introduced this item and said as per Municipal Code, this proposal exceeds what can be approved administratively.

Angela Renfro, of BSC Signs, was present on behalf of the Lodge Casino to present the proposal. She said there was one minor change from the packet and that is a change of illuminated color from green to white halo illuminated letters on the entrance sign, because she could not find a green color to match the green of the Lodge letters.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 51-2018, a Resolution conditionally approving the Certificate of Appropriateness for an amendment to the Lodge 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 51-2018, a Resolution conditionally approving the Certificate of Appropriateness for an amendment to the Lodge Casino Comprehensive Sign Plan.

MOTION PASSED

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

9. ACTION ITEMS:

None

10. CITY MANAGER REPORTS:

City Manager Lewis had nothing to report.

11. CITY ATTORNEY:

City Attorney Hoffmann had nothing to report.

12. EXECUTIVE SESSION:

City Attorney Hoffmann recommended items number 2 and 5 for Executive Session for specific legal issues related to potential legislation.

MOTION TO ADJOURN INTO EXECUTIVE SESSION

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:58 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(4)(b) and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e).

MOTION PASSED

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

MOTION TO ADJOURN

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn the Executive Session at 4:30 p.m.

MOTION PASSED

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

13. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council closed at 4:30 p.m.

Melissa A. Greiner, CMC
City Clerk

David D. Spellman
Mayor

