

City of Black Hawk  
City Council Minutes  
June 11, 2014

Finance Director Hillis rang the bell.

1. CALL TO ORDER: The regular meeting of the City Council was called to order at 3:00 p.m. by Mayor Spellman Wednesday, June 11, 2014.

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

Staff present: City Attorney Hoffmann, City Manager Lewis, City Clerk/Administrative Services Director Greiner, Deputy City Clerk Stevens, Community Planning & Development Administrator Linker, Finance Director Hillis, Senior Civil Engineer/Water Resources Ford, IT Support Technician Muhammad, Fire Captain Cheek, Police Chief Cole, and Public Works Director Isbester.

PLEDGE OF  
ALLEGIANCE:

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

3. AGENDA CHANGES: Deputy City Clerk Stevens explained that the title of item 8 E had changed and Items 8 I, J, K, L, M, N, and O had been added to the agenda.

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 disclosures and conflicts that have already been disclosed and are on file with the City Clerk and Secretary of State.

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 speak.

6. APPROVAL OF  
MINUTES FOR  
May 28, 2014

**MOTION TO  
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve the Minutes of the meeting as presented.

**MOTION PASSED**

There was no discussion and the motion **PASSED**. Alderman Midcap abstained.

7. PUBLIC HEARINGS:

- A. Resolution 33-2014,  
A Resolution  
Amending the  
City of Black Hawk  
2013 Budget

Mayor Spellman read the title.

Finance Director Hillis explained we were amending the budget to take into account some proceeds received by the City regarding the radio communication tower grant. This resolution recognizes these funds and adjusts the 2013 budget accordingly.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 33-2014, A Resolution Amending the City of Black Hawk 2013 Budget 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 Resolution 33-2014, A Resolution Amending the City of Black Hawk 2013 Budget.

**MOTION PASSED**

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

- B. Resolution 34-2014,  
A Resolution  
Conditionally  
Approving a  
Certificate of  
Appropriateness for  
a Comprehensive  
Sign Plan for the  
Gilpin Casino

Mayor Spellman read the title.

Vince Harris with Baseline explained applicant was requesting approval of a Comprehensive Sign Plan with 191.51 square feet of signage, with 46 signs. The applicant is permitted 270 square feet, with no LED signs. Applicant would like to locate banner with frame around on front of building in accordance with new Sign Code.

Recommend approval with two conditions. Condition #2 was inadvertently omitted from Request for Council Action form. The wording of staff condition #2 is: "The Applicant shall be required to add a note on page 1 of the Comprehensive Sign Plan indicating the following: Only the signs graphically depicted within this approved Comprehensive Sign Plan are allowed. No additional signs can be added on this property without approval from authorized City of Black Hawk representative or City Council, depending on the process to permit additional signage." This wording will be added to all future sign plans to help property owners understand the Sign Code.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on Resolution 34-2014, A Resolution Conditionally Approving a Certificate of Appropriateness for a Comprehensive Sign Plan for the Gilpin Casino 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 Torres to approve Resolution 34-2014, A Resolution Conditionally Approving a Certificate of Appropriateness for a Comprehensive Sign Plan for the Gilpin Casino.

**MOTION PASSED**

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

**C. Resolution 35-2014,  
A Resolution  
Conditionally  
Approving a  
Certificate of  
Appropriateness  
For the Installation  
of Traffic Control  
Bollards for the  
Z Casino**

Mayor Spellman read the title.

Vince Harris with Baseline explained this Certificate of Appropriateness was for the installation of traffic control bollards at the west end of the Z Casino parking lot on back side of property. Approval is recommended with three conditions. Third condition was not listed on Staff Report. "Prior to issuance of building permits the applicant shall coordinate with the city and confirm that the bollards will be installed on the applicant's

property and not in the City of Black Hawk right-of-way; and the applicant shall coordinate with the City of Black Hawk Fire Department in regard to provide a bollard and key system to provide access in case of emergency.”

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on Resolution 35-2014, A Resolution Conditionally Approving a Certificate of Appropriateness for the Installation of Traffic Control Bollards for the Z Casino 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 Midcap inquired if there was a way to make chain more visible to make sure drivers see these at night. Maybe reflective tape would work.

Mr. Harris stated this was a good idea and said staff will work with the applicant to get some type of reflectors on the chains and bollards.

**MOTION TO APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 35-2014, A Resolution Conditionally Approving a Certificate of Appropriateness for the Installation of Traffic Control Bollards for the Z Casino.

**MOTION PASSED**

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

**D. Resolution 36-2014,  
A Resolution  
Conditionally  
Approving a  
Certificate of  
Appropriateness  
For Exterior Paint  
and Lighting at  
231 Gregory Street**

Mayor Spellman read the title.

Vince Harris with Baseline explained the business owner would like to paint exterior of building and add three new light fixtures. Colors proposed are Rockport Gray, Monterrey White, and Sherwood Green. He recommends approval with staff’s conditions.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on Resolution 36-2014, A Resolution Conditionally Approving a Certificate of

Appropriateness for Exterior Paint and Lighting at 231 Gregory Street 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 Armbright to approve Resolution 36-2014, A Resolution Conditionally Approving a Certificate of Appropriateness for Exterior Paint and Lighting at 231 Gregory Street.

**MOTION PASSED**

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

8. ACTION ITEMS:

- E. Resolution 37-2014,  
A Resolution  
Repealing  
Certain  
Findings in  
Resolution No.  
08-2002  
Regarding Yenter  
Companies

Mayor Spellman read the title.

City Attorney Hoffmann explained in 2002 City was engaged in disputes and litigation with Yenter Companies and adopted a resolution to make it very difficult for a bid to be the lowest bid if Yenter Companies was a part of the bid. Now, 12 years later, disputes and concerns with Yenter are gone and the restriction puts an undue burden on City Staff by forcing them to eliminate some good bids for City projects.

Alderman Torres asked if there had been changes in the Yenter Company management.

City Attorney Hoffmann stated that the company had been purchased by its employees and all of the old management was gone.

**MOTION TO APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 37-2014, A Resolution Repealing Certain Findings in Resolution No. 08-2002 Regarding Yenter Companies.

**MOTION PASSED**

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

- F. Application for  
New Medical  
Marijuana  
Business  
License –  
5B1S, LLC dba  
1859  
1. Designate  
Neighborhood to be  
Petitioned  
2. Request to Set  
Public Hearing for  
July 23, 2014

Mayor Spellman read the title.

City Attorney Hoffmann explained this is City’s first application for medical marijuana license under new ordinance allowing both medical and retail marijuana. As of today, in order to get new license under state law, applicant must first obtain medical marijuana license. This is why applicant is seeking just a medical marijuana license now. If approved by Council today, the motion would set the Public Hearing and identify the boundaries of city as the neighborhood to be petitioned for needs and desires.

Similar to liquor licensing, medical marijuana is a dual licensing scheme. This is the first step in the process. Applicant needs approval from city and state prior to opening. According to the established ordinance, which requires us to set the hearing date not less than 30 days out, the first hearing date would be July 23<sup>rd</sup> Council meeting.

Alderman Torres stated he had concerns about the applicant being simply a medical marijuana facility. In the application, the petitioners list “recreational sales” under the section about checking identifications.

City Attorney Hoffmann stated this application was the first step toward obtaining a retail license. The applicants will seek retail license in future, and the medical facility is one of the criteria for obtaining the retail license. He further stated this would be a good question to ask the applicants at the public hearing on July 23<sup>rd</sup>.

**MOTION TO  
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve the boundaries of the city of Black Hawk as

the neighborhood to be petitioned and to set the Public Hearing for July 23, 2014.

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

**G. 191 Clear Creek –  
Emergency Grant  
Application for Roof  
Replacement**

Mayor Spellman read the title.

Community Planning & Development Administrator Linker explained on March 31, 2014, the application for emergency grant for roof replacement was received. Applicant, Ron Servis is conservator for John Thilmont, property owner. The old roof was leaking and had multiple layers of shingles. Applicant's homeowner's insurance was not willing to renew their policy because of the roof issues. Staff feels there is sufficient evidence this work meets the intent of the criteria of Section 2 of the City of Black Hawk Historic Restoration and Community Preservation Fund Guide to Programs. The work has been completed and inspected and the permit has been closed. Staff recommends approval of the emergency grant in the amount of \$14,250.

Alderman Midcap asked if the price included re-decking as well as shingles and if the shingles in the photos were all of the same color.

Community Planning & Development Administrator Linker stated there was a lot of rot, so all the plywood decking has been replaced. House was rehabilitated in 2004, but roof was not done at that time. All of the shingles are the same color and were the same color.

**MOTION TO  
APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Torres to approve 191 Clear Creek – Emergency Grant for Roof Replacement

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

**H. Green Lake Pipeline  
Replacement  
Project Phase IV  
Bid Approval**

Mayor Spellman read the title.

Senior Civil Engineer/Water Resources Ford explained this is the fourth phase of Green Lake Pipeline Replacement. The City purchased Green Lake in 2008 in conjunction with Clear Creek

County. Original pipeline was built at the turn of last century. This project is being done in phases – the City is doing about 315 feet this year, which is the same as last year. City Staff put this project out for public bid and only received one bid – Tim Davis Welding. He has done exceptional work for City in the past. Amount of bid \$78,290 and will be split with Clear Creek County based on ownership shares of Green Lake. City chose to run project because we have the necessary staffing. We will invoice County for their share.

**MOTION TO APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Moates to approve the bid for Green Lake Pipeline Replacement Project Phase IV.

**MOTION PASSED**

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

**Mayor Spellman requested Council review Resolutions 38-42 together with one motion.**

- I. Resolution 38-2014,  
A Resolution Temporarily  
Rebating City Use Tax  
on Construction and  
Building Materials for  
Residential Projects  
Within the City's  
National Historic  
Landmark District

Mayor Spellman read the titles.

City Attorney Hoffmann stated these resolutions were the subject of Council work session from last meeting. Most of these expired in April, 2014. The resolutions, if approved will be in effect until March 31, 2016, through the next Council election.

Resolution 38-2014 is a rebate for building materials on residential properties within the City's National Historic Landmark District. If homeowner did work on home that wasn't covered by the grant program, there would be a rebate on the use tax for the materials used in this work.

Resolution 39-2014 is similar in content to Resolution 38, but this would rebate sales tax paid on the materials used for construction work on homes within the City's National Historic Landmark District.

Resolution 40-2014 renews the current rebate of 50% of parking impact fees for construction of a hotel project of 50 rooms or more

provided the Land Use Application is received prior to the 2016 Council election.

Resolution 41-2014 is the more expansive incentive program related to expansion or renovation of existing casinos. The expansion includes hotel project, restaurants, support space and gaming floor. What has changed from previous version is this resolution offers additional incentive, at Council's discretion, for hotel projects in excess of 400 rooms for a sales tax rebate on public improvements. Section #2 of Resolution 41-2014 outlines the details of this incentive.

City Attorney Hoffmann explained Resolution 42-2014 is the program that rebates device taxes based on market share. When City adopted original program, it was designed to gain market share in a growing market, not a market share of a shrinking market. City needs to establish a base line so that City rebates growth. Casinos have achieved 74% of smaller market. This resolution sets 74% as the base, but in the future, casinos would need to reach 76% to gain the rebate because the market is now smaller. The rebate is based on both percentage and market share.

**MOTION TO APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 38-2014, A Resolution Temporarily Rebating City Use Tax on Construction and Building Materials for Residential Projects Within the City's National Historic Landmark District, Resolution 39-2014, A Resolution Temporarily Rebating City Sales Tax on Retail Items Delivered to City Residential Properties for Personal Consumption and Use, Resolution 40-2014, A Resolution Temporarily Rebating Parking Impact Fees for the Development of Hotels and Other Amenities, Resolution 41-2014, A Resolution to Encourage Diversification of the City's Local Economy by Extending the Waiver of Taxes and Impact Fees for the Development of Hotels and Other Amenities, and Extending the Waiver of Use Tax on Other Renovation Projects, and Resolution 42-2014, A Resolution to Encourage the Increase of the City's Market Share Through a Temporary Rebate of Certain Device Taxes.

**MOTION PASSED**

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

- J.** Resolution 39-2014,  
 A Resolution  
 Temporarily  
 Rebating City Sales  
 Tax on Retail Items  
 Delivered to City  
 Residential Properties  
 for Personal  
 Consumption and  
 Use Combined with Resolution 38-2014.
  
- K.** Resolution 40-2014,  
 A Resolution  
 Temporarily  
 Rebating Parking  
 Impact Fees for the  
 Development of  
 Hotels and Other  
 Amenities Combined with Resolution 38-2014.
  
- L.** Resolution 41-2014,  
 A Resolution to  
 Encourage  
 Diversification  
 of the City's Local  
 Economy by  
 Extending the Waiver  
 of Taxes and Impact  
 Fees for the Development  
 of Hotels and Other  
 Amenities, and  
 Extending the Waiver  
 of Use Tax on Other  
 Renovation  
 Projects Combined with Resolution 38-2014.
  
- M.** Resolution 42-2014,  
 A Resolution to  
 Encourage the  
 Increase of the  
 City's Market Share  
 Through a Temporary  
 Rebate of Certain  
 Device Taxes Combined with Resolution 38-2014..

**Mayor Spellman requested Council review Resolutions 43-44 together with one motion.**

- N.** Resolution 43-2014,  
A Resolution Rebating  
Certain Device Taxes  
based on Adjusted Gross  
Proceeds (AGP) for  
Any One Consecutive  
Quarter/Three (3)  
Consecutive Months Mayor Spellman read the titles.

City Attorney Hoffmann explained Resolution 43-2014 involves payment of rebate earned when the casinos achieve the 74% market share goal for three consecutive months. It makes the payment due immediately based on the number of devices recorded as of June 1, 2014. This is a change from the original thinking where the payment would be made in 2015.

Resolution 44-2014 is simply a clean-up resolution. We initially had rebates of sales tax and water fees for non-gaming commercial properties. This resolution repeals the last of those rebates.

**MOTION TO APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 43-2014, A Resolution Rebating Certain Device Taxes based on Adjusted Gross Proceeds (AGP) for Any One Consecutive Quarter/Three (3) Consecutive Months, and Resolution 44-2014, A Resolution Rescinding Resolution 14-2010, Regarding an Incentive for Non-Gaming Businesses within the City to Locate and Ultimately Provide Amenities such as Retail Development with the Intent of Increasing the Number and Duration of Visits and Make Black Hawk a Destination Resort.

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

- O.** Resolution 44-2014,  
A Resolution Rescinding  
Resolution 14-2010,  
Regarding an Incentive  
for Non-Gaming  
Businesses within the  
City to Locate and  
Ultimately Provide  
Amenities such as  
Retail Development  
with the Intent of

Increasing the  
Number and Duration  
of Visits and Make  
Black Hawk a  
Destination Resort Combined with Resolution 41-2014.

9. CITY MANAGER REPORTS:

City Manager Lewis stated he had nothing to discuss with Council this session.

10. CITY ATTORNEY:

City Attorney Hoffmann requested a brief Executive Session regarding property transfers, potential litigation, and personnel matters.

11. EXECUTIVE SESSION:

**MOTION TO  
ADJOURN**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:29 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)(a) and C.R.S. § 24-6-402 (b), and to consider personnel matters pursuant to C.R.S. § 24-6-402(f).

**MOTION PASSED**

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

**MOTION TO  
RECONVENE**

Mayor Spellman **MOVED** to reconvene at 4:43 p.m.

12. ADJOURNMENT:

Mayor Spellman declared the Regular Meeting of the City Council closed at 4:45 p.m.

  
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Melissa Greiner  
City Clerk

  
\_\_\_\_\_  
David D. Spellman  
Mayor