



**City of Black Hawk  
City Council**

**October 13, 2021**

**MEETING MINUTES**

Emily Richards, the City's new Development Services Coordinator, rang the bell to open the meeting.

1. CALL TO ORDER: Mayor Spellman called the regular meeting of the City Council to order on Wednesday, October 13, 2021, at 3:00 p.m.

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

Staff Present: City Attorney Hoffmann, City Manager Cole, Police Chief Moriarty, Finance Director Hillis, City Clerk/Administrative Services Director Greiner, Public Works Director Isbester, Community Planning & Development Director Linker, 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 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. City Council noted no conflicts.

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

5. INTRODUCTION OF NEW EMPLOYEE: Emily Richards, Development Services Coordinator

Community Planning & Development Director Linker was pleased to provide Emily's background. She said Emily had previously worked closely with the Community Planning and Development while working for SAFEbuilt for the last five years, and when an opening came up to join the Black Hawk team, she applied. Emily is currently getting her Chief Building Official certification to further help in her duties in the Building Department. All welcomed her!

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

7. APPROVAL OF  
MINUTES: September 22, 2021

**MOTION TO  
APPROVE** Alderman Johnson **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. CB29, An Ordinance Amending Article II of Chapter 6 of the Black Hawk Municipal Code with the Addition of a New Section 6-77**

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann introduced this first of several ordinances based on new legislation related to liquor from the 2021 legislative session. He provided the COVID background where the state had allowed licensees to offer liquor takeout and delivery, and now they have extended it for several more years. He said local governments could choose to create their own permitting process if they prefer, but this Ordinance only authorizes the licensee to notify the City once they receive their permit from the state. The City will not be creating a separate permitting process.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB29, an Ordinance amending Article II of Chapter 6 of the Black Hawk Municipal Code with the addition of a new Section 6-77 open and invited anyone wanting to address the Board either "for" or "against" the proposed Ordinance to come forward.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO  
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve CB29, an Ordinance amending Article II of Chapter 6 of the Black Hawk Municipal Code with the addition of a new Section 6-77.

**MOTION PASSED**

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

**B. CB30, An Ordinance Amending Section 6-73 of the Black Hawk Municipal Code and Adding a New Section 6-78 Relating to Festival Permits**

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann reiterated that this Ordinance was arising out of the 2021 legislative session. He said this permit allows other license types to hold this sort of off-site festival that was previously only allowed by wineries. He added that a local application may be approved administratively through the City Clerk's office unless issues need to come before Council.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB30, an Ordinance amending Section 6-73 of the Black Hawk Municipal Code and adding a new Section 6-78 relating to Festival Permits open and invited anyone wanting to address the Board either "for" or "against" the proposed Ordinance to come forward.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO  
APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Torres to approve CB30, an Ordinance amending Section 6-73 of the Black Hawk Municipal Code and adding a new Section 6-78 relating to Festival Permits.

**MOTION PASSED**

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

**C. CB31, An Ordinance Amending Section 6-73 of the Black Hawk Municipal Code and Adding a New Section 6-79 Relating to Communal Dining Areas**

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann said this comes from the same legislative session where the state created a way for more than one licensee within

1000 feet of each other to create an off-premise area to serve liquor. Again, this may be approved administratively through the City Clerk's office.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB31, an Ordinance amending Section 6-73 of the Black Hawk Municipal Code and adding a new Section 6-79 relating to Communal Dining Areas open and invited anyone wanting to address the Board either "for" or "against" the proposed Ordinance to come forward.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO  
APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Armbright to approve CB31, an Ordinance amending Section 6-73 of the Black Hawk Municipal Code and adding a new Section 6-79 relating to Communal Dining Areas.

**MOTION PASSED**

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

**D. CB32, An Ordinance Amending Section 6-73 of the Black Hawk Municipal Code and Adding a New Section 6-80 Relating to Tastings in Retail Liquor Stores**

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann introduced this last liquor ordinance allowing tastings (samples) to occur in Retail Liquor Stores and noted that later on in the agenda is the City's first proposal for a Retail Liquor Store.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB32, an Ordinance amending Section 6-73 of the Black Hawk Municipal Code and adding a new Section 6-80 relating to Tastings in Retail Liquor Stores open and invited anyone wanting to address the Board either "for" or "against" the proposed Ordinance to come forward.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO  
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to approve CB32, an Ordinance amending Section 6-73 of the Black Hawk Municipal Code and adding a new Section 6-80 relating to Tastings in Retail Liquor Stores.

**MOTION PASSED**

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

**E. CB33, An Ordinance Amending Sections 6-13 and 6-14 of the Black Hawk Municipal Code Relating to Business Licensing**

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann said the City Clerk's office discovered that this section of the Code referenced previously repealed Ordinances, so this Ordinance merely cleans up those sections.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB33, an Ordinance amending Sections 6-13 and 6-14 of the Black Hawk Municipal Code relating to Business Licensing open and invited anyone wanting to address the Board either "for" or "against" the proposed Ordinance to come forward.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Armbright to approve CB33, an Ordinance amending Sections 6-13 and 6-14 of the Black Hawk Municipal Code relating to Business Licensing.

**MOTION PASSED**

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

**F. CB34, An Ordinance Amending Section 10-162 of the Black Hawk Municipal Code Prohibiting the Carrying of Firearms into City Buildings**

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann began by saying this Ordinance is also a result of 2021 legislative, stemming primarily from the King Soopers incident in Boulder. He said the state gave local governments more authority to address firearms within their local jurisdictions, and this Ordinance can prohibit a person with a concealed carry permit from carrying a concealed handgun into City buildings provided that signage is posted. He noted that this, of course, excludes the Police Department and others authorized to carry a weapon as part of their regular duties.

Tom Feeney, Black Hawk resident, asked how this would affect the convenience store that he rents from the City. City Attorney Hoffmann said it would not, as it is only where City business is conducted, so for instance, the Fire Department Administrative Offices above his store would fall under this Ordinance, but not his store.

Alderman Midcap had a question about the \$50 penalty, to which Mr. Hoffmann replied that if the City wishes to move forward with this Ordinance, they are required, under state law, to impose this penalty.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB34, an Ordinance amending Section 10-162 of the Black Hawk Municipal Code prohibiting the carrying of firearms into City buildings open and invited anyone wanting to address the Board either “for” or “against” the proposed Ordinance to come forward.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO  
APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Johnson to approve CB34, an Ordinance amending Section 10-162 of the Black Hawk Municipal Code prohibiting the carrying of firearms into City buildings.

**MOTION PASSED**

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

**G. CB35, An Ordinance Authorizing the Execution and Delivery of a Site Lease Agreement, a Lease Purchase Agreement, and Related Documents in Connection with the Construction of Certain Public Improvements of the City; Approving the Forms of Such Documents, and Providing for Other Matters Relating Thereto**

Mayor Spellman read the title and opened the public hearing.

Finance Director Hillis introduced this item of Certificates of Participation (COPs), basically called a lease agreement, for 20 million dollars and the formal documents related to it.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB35, an Ordinance authorizing the execution and delivery of a Site Lease Agreement, a Lease Purchase Agreement, and related documents in connection with the construction of certain public improvements of the City; approving the forms of such documents, and providing for other matters relating thereto open and invited anyone wanting to address the Board either “for” or “against” the proposed Ordinance to come forward.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO  
APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Johnson to approve CB35, an Ordinance authorizing the execution and

delivery of a Site Lease Agreement, a Lease Purchase Agreement, and related documents in connection with the construction of certain public improvements of the City; approving the forms of such documents, and providing for other matters relating thereto.

City Attorney Hoffmann recommended that the motion include that the City Attorney approves the final form, as some items are still being worked on.

**MOTION PASSED**

There was no discussion, and the motion **PASSED** unanimously, noting the City Attorney's recommendation above.

**H. CB36, An Ordinance Amending Section 10-222(e) of the Black Hawk Municipal Code Relating to Service Fee for False Alarms by Alarm Devices**

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann introduced this item that updates the Code to reflect the recent amendment to the Fee Schedule regarding False Alarm Fees. He said it still allows the Fire Chief to deviate from the Fee Schedule if he feels there are extenuating circumstances to file an action in municipal court.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on CB36, an Ordinance amending Section 10-222(e) of the Black Hawk Municipal Code relating to service fee for false alarms by alarm devices open and invited anyone wanting to address the Board either "for" or "against" the proposed Ordinance to come forward.

No one else wished to speak, and Mayor Spellman declared the Public Hearing closed.

**MOTION TO APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Moates to approve CB36, an Ordinance amending Section 10-222(e) of the Black Hawk Municipal Code relating to service fee for false alarms by alarm devices.

**MOTION PASSED**

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

**9. ACTION ITEMS:**

**A. Resolution 67-2021, A Resolution Accepting the Petition for Annexation and Establishing December 8, 2021, as the Date of Public Hearing on the Requested**



**Annexation of a Parcel of Unincorporated Territory Located in the County of Gilpin  
(Lake Gulch Whiskey Resort Annexation No. 8)**

- B. Resolution 68-2021, A Resolution Accepting the Petition for Annexation and Establishing December 8, 2021, as the Date of Public Hearing on the Requested Annexation of Parcels of Unincorporated Territory Located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation Nos. 9 through 12)**
- C. Resolution 69-2021, A Resolution Accepting the Petition for Annexation and Establishing December 8, 2021, as the Date of Public Hearing on the Requested Annexation of a Parcel of Unincorporated Territory Located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 13)**
- D. Resolution 70-2021, A Resolution Accepting the Petition for Annexation and Establishing December 8, 2021, as the Date of Public Hearing on the Requested Annexation of a Parcel of Unincorporated Territory Located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 14)**
- E. Resolution 71-2021, A Resolution Accepting the Petition for Annexation and Establishing December 8, 2021, as the Date of Public Hearing on the Requested Annexation of a Parcel of Unincorporated Territory Located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 15)**
- F. Resolution 72-2021, A Resolution Accepting the Petition for Annexation and Establishing December 8, 2021, as the Date of Public Hearing on the Requested Annexation of a Parcel of Unincorporated Territory Located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 16)**
- G. Resolution 73-2021, A Resolution Accepting the Petition for Annexation and Establishing December 8, 2021, as the Date of Public Hearing on the Requested Annexation of a Parcel of Unincorporated Territory Located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 17)**
- H. Resolution 74-2021, A Resolution Accepting the Petition for Annexation and Establishing December 8, 2021, as the Date of Public Hearing on the Requested Annexation of a Parcel of Unincorporated Territory Located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 18)**

Mayor Spellman combined Action Items 9A through 9H under one umbrella motion.

City Attorney Hoffmann explained that Phase 1 of the Proximo Lake Gulch Whiskey Resort project was annexations 1-7 annexed in 2020 and that this is Proximo's Phase 2, which covers the area known as the Bulge Area. He said City staff has determined they are eligible to be annexed, and if Council approves the findings by resolution, then the Annexation Act sets the public hearing date no less than 30 days and no more than 60



days, which brings the public hearing date to December 8, 2021. He added that under the City's Charter, the property's zoning would also be on that same date, and there will be an amendment to their existing Planned Unit Development (PUD) scheduled on December 8<sup>th</sup>, as well.

Mayor Spellman noted that this is the area that was in the previous Growth IGA and located in Central City's growth area, but now through the new Growth IGA, the City can annex it into the City of Black Hawk.

**MOTION TO  
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 67-2021, a Resolution accepting the Petition for Annexation and establishing December 8, 2021, as the date of public hearing on the requested annexation of a parcel of unincorporated territory located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 8), Resolution 68-2021, a Resolution accepting the Petition for Annexation and establishing December 8, 2021, as the date of public hearing on the requested annexation of parcels of unincorporated territory located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation Nos. 9 through 12), Resolution 69-2021, a Resolution accepting the Petition for Annexation and establishing December 8, 2021, as the date of public hearing on the requested annexation of a parcel of unincorporated territory located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 13), Resolution 70-2021, a Resolution accepting the Petition for Annexation and establishing December 8, 2021, as the date of public hearing on the requested annexation of a parcel of unincorporated territory located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 14), Resolution 71-2021, a Resolution accepting the Petition for Annexation and establishing December 8, 2021, as the date of public hearing on the requested annexation of a parcel of unincorporated territory located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 15), Resolution 72-2021, a Resolution accepting the Petition for Annexation and establishing December 8, 2021, as the date of public hearing on the requested annexation of a parcel of unincorporated territory located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 16), Resolution 73-2021, a Resolution accepting the Petition for Annexation and establishing December 8, 2021, as the date of public hearing on the requested annexation of a parcel of unincorporated territory located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 17), and Resolution 74-2021, a Resolution accepting the Petition for Annexation and establishing December 8, 2021, as the date of public hearing on the requested annexation of a parcel of unincorporated territory located in the County of Gilpin (Lake Gulch Whiskey Resort Annexation No. 18).

**MOTION PASSED**

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

**I. Resolution 75-2021, A Resolution Approving the License Agreement Between the City of Black Hawk and Penn National Gaming Inc. (Ameristar Casino) for Promotional Vehicle Displays and Associated Special Event Signs**

Mayor Spellman read the title.

Julie Esterl of Baseline Corporation went through her presentation of a request to allow a promotional vehicle display and associated special event signs on the public right-of-way on the sidewalk outside of the Ameristar Casino. The applicant was present for any questions.

**MOTION TO APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 75-2021, a Resolution approving the License Agreement between the City of Black Hawk and Penn National Gaming Inc. (Ameristar Casino) for promotional vehicle displays and associated Special Event Signs.

**MOTION PASSED**

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

**J. Resolution 76-2021, A Resolution Approving the First Amendment to Commercial Lease with the Woodbury Collective Corporation for the Property Located at 327 Gregory Street, Black Hawk, Colorado**

Mayor Spellman read the title.

Finance Director Hillis introduced this item amending the insurance requirements consistent with the McAfee House lease.

**MOTION TO APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 76-2021, a Resolution approving the First Amendment to commercial lease with the Woodbury Collective Corporation for the property located at 327 Gregory Street, Black Hawk, Colorado.

**MOTION PASSED**

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

**K. Local Liquor Authority Consideration of a Request for a New Retail Liquor Store for Feeney Farms II, Inc. at 7320 Black Hawk Blvd., Suite 1A and to set the Boundaries of the Neighborhood and to Set a Date for Public Hearing**

Mayor Spellman read the title.

City Attorney Hoffmann started by reminding City Council that under the Colorado Liquor Code, they were now acting as the City's Local Liquor Authority. He informed them that the City Clerk's office had received a new liquor application for a Retail Liquor Store from Feeney Farms II, Inc. to be located at the EAGLEsmart Convenience Store. He said this meeting was to set the boundaries of the neighborhood, which he suggests be the entire City, as has been the practice in previous applications, and to schedule the public hearing, which would be December 8, 2021.

**MOTION TO  
APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Johnson to approve the request for a new Retail Liquor Store License for Feeney Farms II, Inc. at 7320 Black Hawk Blvd., Suite 1A and to set the boundaries of the neighborhood as the whole City of Black Hawk, and to set the public hearing date for December 8, 2021.

**MOTION PASSED**

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

**10. CITY MANAGER  
REPORTS:**

City Manager Cole reported the distribution of the proposed 2022 budget by Finance Director Hillis, required by law to be received by October 15<sup>th</sup>. He said he would like to schedule a budget work session at 2:00 p.m. at the next Council meeting on October 27<sup>th</sup>. Mayor Spellman added that the regular Council meeting would then commence immediately after the work session.

**11. CITY ATTORNEY:**

City Attorney Hoffmann had nothing to report.

**12. EXECUTIVE  
SESSION:**

City Attorney Hoffmann recommended items number 1, 2, and 5 for Executive Session. Items 1 and 5 were already listed on the agenda, and item 2 was added for specific legal advice regarding intergovernmental matters. Items 1 and 5 relate to the purchase, acquisition, lease, transfer or sale of real personal or other property, and the negotiations relate to City-owned land on Artisans' Point, Gregory Street Plaza, and other City-owned property.

**MOTION TO ADJOURN  
INTO EXECUTIVE  
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:30 p.m. to hold a conference with the City's Attorney to consider the purchase, acquisition, lease, transfer or sale of real, personal or other property, pursuant to

C.R.S. § 24-6-402(4)(a), 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**

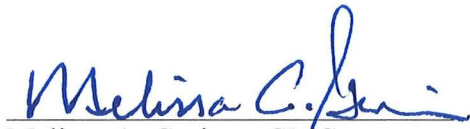
Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn the Executive Session at 4:02 p.m.

**MOTION PASSED**

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

**13. ADJOURNMENT:**

Mayor Spellman declared the Regular Meeting of the City Council adjourned at 4:02 p.m.



Melissa A. Greiner, CMC  
City Clerk



David D. Spellman  
Mayor

