



**City of Black Hawk
City Council**

March 27, 2024

MEETING MINUTES

Corey Marshall, a candidate from District 3 for Gilpin County Commissioner, 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, March 27, 2024, at 3:00 p.m.

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

Staff Present: Visiting City Attorney Graham, City Manager Cole, Police Chief Moriarty, Fire Chief Woolley, Administrative Services Director/City Clerk Greiner, Community Planning & Development Director Linker, Finance Director Hillis, Public Works Director Isbester, City Engineer Reed, Water Resource Engineer Dallam, Maintenance Services Manager Jackson, Deputy City Clerk Martin, and many others from all departments including a strong showing of employees that reside in Gilpin County.

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

Mayor Spellman acknowledged what a fine job Public Works had done with the last few snowstorms. He said the City did not miss a beat and noted that Fire and Police were also right there with everyone. He went on to say he would expect nothing less because they are the best, and it is proven because Black Hawk only hires the best! He also gave kudos to the Water Department for keeping us in water. Everyone did a stellar job!

3. **AGENDA CHANGES:** Mayor Spellman said he would preempt some items on the agenda after Public Comment, as Council has an item of exigent circumstances that needs to be addressed at this meeting. Deputy City Clerk Martin noted there were no other agenda changes.

4. **CONFLICTS OF INTEREST:** Visiting City Attorney Graham stated that this is the portion of the agenda where the Council could disclose a conflict of interest on any matter on today's agenda, in addition to what is currently on file with the Secretary

of State's Office and the City Clerk's Office. Visiting City Attorney Graham asked the Council if they had any Conflicts of Interest and asked members of the audience if anyone objected to any Council member voting on any item on today's agenda.

No conflicts were noted from the Council and no objections were received from the audience.

5. EMPLOYEE INTRODUCTIONS: Lloyd "Calvin" Culp, Fleet Technician II
Thomas Tabbert, Maintenance Worker I
Yan "Z" Zou, Water Utility Operator I

Maintenance Services Manager Jackson introduced Calvin and Thomas, providing their backgrounds and stating how they have already proven themselves as great team members.

Water System Superintendent McLain introduced Z. She comes from Florida State University with a Civil and Environmental Engineering Degree. He said she is a quick learner and has already received her Level 1 Distribution and Treatment Certification within the past six months.

All were warmly welcomed to a round of applause.

6. PUBLIC COMMENT: Deputy City Clerk Martin stated that Corey Marshall signed up to speak.

Corey Marshall, 70 Rudolph Ranch Road in Gilpin County, introduced himself for the record. He is running for County Commissioner in District 3. He provided his background: he has lived in the county for 30 years, owns a local horse boarding facility, was engaged in the county for many years with the School District, and worked for Ford and Coors focused on strategy, finance, and business development. He said he would like to take that business experience and help run the county in a "common sense business approach," including supporting the cities and building industry, including the county's biggest industry, gaming. He was thankful for the opportunity to speak.

Mayor Spellman wanted to read an item in the City Charter for this next issue. He read, "The Mayor shall, from time to time, communicate to the Aldermen information and recommend all such measures as, in the Mayor's opinion, may tend to the improvement of the finances, police, health, security, comfort and ornament of the City." He then said that he does this quite often, and it is up to the Aldermen to decide whether it is a good idea. One recommendation was the Intergovernmental Agreement (IGA) with the School District, to which Black Hawk now remits 1.5% of the sales tax generated in the City, and as part of that agreement, Black Hawk has "conditions subsequent."

He recently went to the Board of Alderman with an idea to partially fund the Gilpin County Community Center. City Clerk Greiner pulled up a term sheet on the projector screens, and hard copies were made

available to the audience. He read the term sheet for the record: “Under the following terms and conditions, beginning in January 2025, Black Hawk shall remit \$1,000,000 to Gilpin County on an annual basis, including thereafter a yearly increase equal to the most recently published Actual Denver-Aurora-Lakewood Consumer Price Index. The funds shall be divided into twelve monthly installments. Gilpin County shall dedicate the received funds solely to the Gilpin County Parks and Recreation Department, using the funds exclusively for the operating expenses of the Gilpin County Community Center.” He said the first few conditions were the “conditions subsequent,” if Gilpin County entered into this IGA, similar to the School District, these would be the terms under which the \$1,000,000 would be remitted to the county. He then went on to read the terms:

- The total Gilpin County mill levy, including the mill levy for the Gilpin County Library District, shall not exceed 10.695 mills.
- The funding formula in the Second Amendment to the Establishing Contract for the Gilpin Ambulance Authority shall remain the same.
- No Gilpin County Sales Tax, Use Tax, Lodging Tax, or any other tax or fee shall be imposed within Black Hawk.
- No governmental or quasi-governmental entity within Gilpin County shall impose a mill levy within Black Hawk.
- No governmental or quasi-governmental entity within Gilpin County shall impose a Sales Tax, Use Tax, or any other tax or fee within Black Hawk.
- No constitutional amendment or other mechanism applicable to the City shall be adopted that amends the constitutional allocation of gaming funds to the City received pursuant to Article XVIII, Section 9(5) (b) (II) & (III) and results in a decrease in the funds allocated to the City as a result of limited gaming.
- No part of the territory in Gilpin County shall be included within the boundaries of the regional transportation district or any other governmental or quasi-governmental entity created to finance transportation or mass transit.
- Black Hawk residents and City employees shall receive a no-cost annual individual or household membership to the Gilpin County Community Center.
- Children of Black Hawk residents shall be provided access at no cost to youth activities and recreational leagues offered at the Gilpin County Community Center.
- The Gilpin County Community Center shall be open seven days a week for a minimum of 84 hours.

He said that Black Hawk currently has an IGA in place with the county by giving them \$25,000 just as a way to assist the community center and residents, and based on the number of residents that took advantage of the money, only \$2,000 of that \$25,000 was used last year.

All of this, he said, is contingent on a ballot question to increase the City’s lodging tax in the November 2024 election, and Council feels this is a very generous offer. He noted that the only language that should have been added is that these are non-negotiable terms; however, when he contacted Commissioner Marie Mornis to set up a meeting with County Manager Ray Rears last week, he and City Manager Steve Cole, after hand-delivering these terms, made it quite clear at that time that they were non-negotiable terms.

Since then, the commissioners met yesterday, March 26th, and after coming out of their Executive Session, he saw on Facebook the following post:



Gilpin County Colorado

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The Board of County Commissioners (BoCC) held an Executive Session on March 26, 2024. Following the session, the Board stated that they appreciate the offer from [City of Black Hawk](#) for dedicated funding for Parks & Recreation. The BoCC looks forward to further negotiations on the proposed terms.



He continued to say “that they made it abundantly clear that the terms and conditions were non-negotiable. If Gilpin County wants us to remit to them \$1,000,000 annually, certainly the residents of Black Hawk and our businesses want something in return: to maintain low taxes and stabilize any taxes. Regarding the IGA with the School District, it only benefited those residents in the southern part of the county in the RE-1 School District. In the north end of the county, which is part of the RE-2 Boulder Valley School District, they do not really benefit from the IGA with the school district. This IGA would benefit all of Gilpin County residents.”

“Based on last year’s election results, 64% of Gilpinites voting agreed that taxes should not be raised to operate the community center. So, Black Hawk was willing to step up and remit \$1,000,000 annually to help defray some of the costs of operating the community center. The City’s response to Gilpin County based on that last sentence the county posted on Facebook was ‘The City of Black Hawk presented the Gilpin County Board of Commissioners with a Non-Negotiable offer to fund the operating expenses of the Gilpin County Community Center in the substantial amount of \$1,000,000 annually beginning January 1, 2025. Black Hawk officials made it abundantly clear that the terms and conditions of the offer were non-negotiable.’ Based on the last sentence in the Gilpin County Facebook post, the Gilpin County Board of Commissioners has declined and rejected the generous offer from the City of Black Hawk to provide annual funding for the Gilpin County Community Center.” Again, he added, it is contingent on the ballot question before the Black Hawk voters, but the lodging tax is a pass-through tax to the visitors of Black Hawk, so we are confident that the voters of Black Hawk will support this concept and allow us to raise the lodging tax.

Mayor Spellman then opened this to Council to make any comments. Alderman Moates stated that it was his opinion that it would be unconscionable for Gilpin County to snub their noses at Black Hawk's offer of \$1,000,000 yearly while racing in their efforts to raise taxes that would affect every resident in Gilpin County.

Alderman Midcap stated that the rec center has so much deferred maintenance, millions of dollars, and right now, the county is talking about using reserves, which he thinks is a mistake, to take care of the rec center. And, on top of that, he said, in order to make the rec center viable they were trying to do a 2.7% mill levy increase, which is basically \$1,000,000 and that failed because people don't want to increase their taxes, but still the county does want to increase the taxes, so this is an option that the City of Black Hawk put out there where taxes don't have to be raised for \$1,000,000, and they are trying to dictate the terms to us and we're the ones giving them the money, so I'd actually like to see us just take this off the table and say we're not going to do it.

Alderman Torres said he communicates a lot, through work and other venues, with folks of the county, and people are opposed to having their taxes raised for many reasons; one of them, he would say, is that the services that the county has provided over the years from tax increases haven't been to offer more services but to raise them to sustain what we already have. However, he said, this isn't an offer coming from Black Hawk, as if we are the heroes; we are trying to get something out of it, which is the whole honest truth. What we want out of it, he said, is to be able to maintain the economy in this county, functioning at a level pace without raising taxes on the residents. If you do not think that that's plausible, he said he doesn't know where your heads are at, but I gotta say this: it is not negotiable; the reason it is not negotiable is that there is only one negotiating aspect to it: you want to retain the right to impose taxes at all levels including inside of Black Hawk no matter how beneficial this offer might be. He ended by saying that we would have to take it off the table if you do not agree to the terms we presented.

Mayor Spellman wanted to point out something else that if the county were to enter into this IGA, this is not binding; if the current board wished to approve the IGA and they are all reelected and back on the board next year they can terminate this, there's no downside, and chances are the reason why it would be breached is that there is some sort of election in November but then the voters get to decide in Gilpin County, do you want to give up \$1,000,000 coming from Black Hawk and have your taxes raised, or do you want to keep the status quo, but this is not binding, a new group of county commissioners could say no we don't like this agreement any longer, and we just simply want to raise taxes, that's their prerogative. So, at any time, this IGA could be terminated by any Board of County Commissioners.

Alderman Armbright and Bennett agreed with everything that was said. Alderman Johnson did as well but would agree to take it off the table. Mayor Spellman would recommend leaving it on the table for now to see if the current board of County Commissioners were to come to their senses and accept this; if they don't, this could very well become an election issue this November and candidates can support it, or not. If no candidates or current board of County Commissioners want to support this, then in the future simply, the residents of Gilpin County can express their voice because if there is a ballot measure put on at some point by the commissioners and we roll this out next year or the following year and we give the voters of Gilpin County the option here's this offer \$1,000,000 annually or raise your taxes, and again we know the results from last year's ballot question.

Mayor Spellman said that when he and City Manager Cole met last Thursday with Commissioner Mornis and County Manager Rears, they set up a time on April 10 at 10:00 am to meet again, not to negotiate, but to have a framework for an IGA to agree on the language in the IGA on how they would implement the terms and conditions, not to negotiate the terms and conditions. So, at this point, the April 10th date has been vacated; they do not intend to meet. He added that they may leave it on the table and let it become a voter issue, and as Mr. Marshall came today to introduce himself as a candidate, perhaps he'd like to use this as a campaign issue: let the voters of Gilpin County decide. He finished by adding that Black Hawk makes up 55% of the county's budget through gaming this year.

Donna Okray Parman, 529 Highpoint Circle in mid-Gilpin, spoke for the record. She said we in Gilpin County prevented that mill levy from going through because we have plenty of money in Gilpin County; it's how they are spending it. She has a blog and said she has hundreds of people on the blog who read the news of what's happening in the county, and when we attended the budget hearings in January, two of the commissioners, not the one here today, looked at us and said they would come back with another mill levy and said they have to have secure funding for the rec center. She wanted to thank Black Hawk for this offer, and as a resident, a citizen, and a grandma who wants to leave her cabin to her grandkids someday, it sounds like a good plan for us. She went on to add that the county earned 1.5 million dollars a year for the three years of the original mill levy that we had to pass to come back from COVID, so what Black Hawk is offering is \$500,000 less a year than the entire amount that the entirety Gilpin taxpayers paid for the mill levy, and thanked the City again for their generosity and for coming up with the idea. She said the commissioners bullied the citizens into voting. She is proud of the City and how they decorate so beautifully with flowers and at Christmas, and this meeting was wonderful, how nice and polite everyone was, and how they shook hands with all the new employees.

7. APPROVAL OF
MINUTES:

March 27, 2024

**MOTION TO
APPROVE**

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

MOTION PASSED

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

8. PRESENTATION:

Black Fox Mining, LLC.

Matt Collins, President of Black Fox Mining, and Ed McGoldrick, VP of Operations, were present to go through their presentation.

Mr. Collins took a moment for the record to second Ms. Parman's sentiments about the City's offer to Gilpin County and said his kids learned to swim at the rec center, and he appreciates what Black Hawk is trying to do, which he supports 100%.

The presentation described the reinvigoration of the Bobtail Tunnel, focusing on a proposal for Phase 1 to get the infrastructure and property tour-ready. There is \$330,000 in contingency budgeted, but he said this

is a budget and not a fixed bid, so if there is any chance to save money, they will. The biggest cost would be in the #5 shaft area, which would be the communal area. Mr. Collins confirmed there would be two crews of four, three underground and one above ground, at all times. He estimates seven months of work to open in the spring of 2025.

Mayor Spellman said the contract would be heard at the next meeting. He said this would be more of a distinct mining tour because it is right on Gregory Street within the City. It will bring back the City's golden years and will be a major feature in the Gregory Street HARD District.

9. ACTION ITEMS:

A. Resolution 31-2024, A Resolution Amending the Temporary Construction Easement Between the City of Black Hawk and the Greiner Family Trust Associated with Improvements to the Property Located at 187 Clear Creek Street

Mayor Spellman read the title.

Community Planning and Development Director Linker introduced this item. The Greiner Family Trust signed the original Temporary Construction agreement on August 9, 2023. On February 27, 2024, the Greiner Family Trust requested the City consider compensating the Trust for the entire value of the total project and in turn, the Trust would complete the project with their own landscape company and release the City/White Construction Company from their obligation to return the property to its original condition. The change requires an amendment to the original Temporary Construction Easement.

MOTION TO APPROVE

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 31-2024, a Resolution Amending the Temporary Construction Easement between the Greiner Family Trust associated with improvements to the property located at 187 Clear Creek Street.

MOTION PASSED

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

10. CITY MANAGER REPORT:

City Manager Cole had nothing to report.

11. CITY ATTORNEY REPORT:

Visiting City Attorney Graham had nothing to report.

12. EXECUTIVE SESSION: Visiting City Attorney Graham recommended item number 2 only for Executive Session.

**MOTION TO ADJOURN
INTO EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 4:28 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).

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 4:45 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 4:45 p.m.


Melissa A. Greiner, CMC
City Clerk


David D. Spellman
Mayor

