



**City of Black Hawk  
City Council**

**April 12, 2023**

**MEETING MINUTES**

Deputy City Clerk Martin 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, April 12, 2023 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, Police Officer Randall, Fire Chief Woolley, Fire Marshal Walsh, Finance Director Hillis, City Clerk/Administrative Services Director Greiner, Public Works Director Isbester, City Engineer Reed, Maintenance Services Manager Jackson, Community Planning & Development Director Linker, Development Services Coordinator Richards, Baseline Engineering Consultant Esterl, and Deputy City Clerk Martin.

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

3. **AGENDA CHANGES:** Deputy City Clerk Martin noted no changes 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 previous disclosures and conflicts that have already been disclosed and are on file with the City Clerk and Secretary of State. He pointed out that Alderman Midcap did have a conflict on agenda item 7B and would recuse himself. No other City Council member noted any 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. **PUBLIC COMMENT:** Deputy City Clerk Martin confirmed no one had signed up to speak.

6. APPROVAL OF  
MINUTES:

March 8, 2023

**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. CB4, An Ordinance Stating the Intent of the City of Black Hawk to Acquire Certain Property for the Construction, Expansion, and Improvement of City Streets and Roadways, Pursuant to C.R.S. §38-6-101, C.R.S. § 31-25-201, Article XX, § 1 of the Colorado Constitution, and Article 8, Section 4 of the City of Black Hawk Home Rule Charter**

Mayor Spellman read the title and opened the public hearing.

City Attorney Hoffmann introduced this item. He said this Ordinance would authorize the City to acquire those properties necessary for the construction of various roadway infrastructure to serve the Tin Cup Distillery and Proximo developments as a whole, including Lake Gulch Road and the Miners Road Roundabout. He said the City would start the process by negotiating with the property owners to attempt to obtain the properties voluntarily, but if unable to reach an agreement, the City can proceed with condemnation.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB4, an Ordinance stating the intent of the City of Black Hawk to acquire certain property for the construction, expansion, and improvement of City streets and roadways, pursuant to C.R.S. §38-6-101, C.R.S. § 31-25-201, Article XX, § 1 of the Colorado Constitution, and Article 8, Section 4 of the City of Black Hawk Home Rule Charter open and invited anyone wanting to address the Board either “for” or “against” the proposed Ordinance to come forward.

No one 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 CB4, an Ordinance stating the intent of the City of Black Hawk to acquire certain property for the construction, expansion, and improvement of City streets and roadways, pursuant to C.R.S. §38-6-101, C.R.S. § 31-25-201, Article XX, § 1 of the Colorado Constitution, and Article 8, Section 4 of the City of Black Hawk Home Rule Charter.

**MOTION PASSED**

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

**B. Local Liquor License Authority's Consideration of Approval for a New Retail Liquor Store License for Peak to Peak Market LLC dba Peak to Peak Liquors at 7320 Black Hawk Blvd., Suite 1A, Black Hawk**

Mayor Spellman read the title and opened the public hearing under the Local Liquor License Authority (LLA).

Deputy City Clerk Martin introduced this item and stated the role of the LLA at this hearing was to determine if the applicant, Nicholas Spencer, is eligible to hold a Retail Liquor Store license and if there is a need for this type of license in the neighborhood. She reminded them that at the applicant's initial appearance on March 8, 2023, they had no objection to allowing Mr. Spencer to submit as evidence the previous petition from November 2021 for the same liquor-type license at the same location. City Attorney Hoffmann added that the City has on file the application and all the supporting information from the applicant that was deemed part of the evidence already in the record.

Nicholas Spencer of 7320 Black Hawk Boulevard, Suite 1A in Black Hawk, was present for any questions. He stated that he increased the liquor area by 100 square feet, and everyone commented on how nice it looked and what a great job he had done with the place.

City Attorney Hoffmann said the previous petition was filed just over a year ago, and the City can consider it as evidence as it did before based on the already decided need for this type of license in the neighborhood.

**PUBLIC HEARING:**

Mayor Spellman declared a Public Hearing on the Local Liquor License Authority's consideration of approval for a new Retail Liquor Store License for Peak to Peak Market LLC dba Peak to Peak Liquors at 7320 Black Hawk Blvd., Suite 1A, Black Hawk open and invited anyone wanting to address the Board either "for" or "against" the proposed license to come forward.

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

**MOTION TO APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Johnson to approve a new Retail Liquor Store License for Peak to Peak Market LLC dba Peak to Peak Liquors at 7320 Black Hawk Blvd., Suite 1A, Black Hawk.

**MOTION PASSED**

There was no discussion, and the motion **PASSED** 5-1, noting Alderman Midcap's abstention.

8. ACTION ITEMS:

**A. Resolution 18-2023, A Resolution Authorizing a Change in the City's 401(a) Governmental Money Purchase Plan with Mission Square Retirement**

Mayor Spellman read the title.

City Clerk/Administrative Services Director Greiner mentioned that at the last meeting, Council had approved an amendment for the City's 457 plan, and this amendment is the same where the age of in-service distributions is lowered from 70.5 to 59.5.

**MOTION TO APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 18-2023, a Resolution authorizing a change in the City's 401(a) Governmental Money Purchase Plan with Mission Square Retirement.

**MOTION PASSED**

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

**B. Resolution 19-2023, A Resolution Approving the 2023 Gilpin County Hazard Mitigation Plan**

Mayor Spellman read the title.

Fire Chief Woolley said this was an update to the plan initially approved in 2016, must be updated every five years, and provides more eligibility for hazard mitigation funding. He pointed out that one of the mitigation items identified in the plan for the City was the Community Wildfire Protection Plan, which he hopes to have completed by the end of 2023.

Alderman Midcap asked if all this mitigation was up on the trail system, to which Chief Woolley responded only two of the specific items were on the trail system; the others included protection around critical infrastructure, the Community Wildfire Protection Plan, early notification, Ready, Set, Go!, and community preparation for a natural disaster. He added that the key thing for the City is to develop a starting point for wildfire fuel reduction to protect the community and create a more resilient infrastructure related to wildfires.

**MOTION TO APPROVE**

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 19-2023, a Resolution approving the 2023 Gilpin County Hazard Mitigation Plan.

**MOTION PASSED**

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

**C. Resolution 20-2023, A Resolution Approving the Acquisition of Certain Real Estate Known as Lots 6-12, Block 42 Within the City of Black Hawk**

Mayor Spellman read the title.

City Manager Cole introduced this item and said back in December; the City purchased 1/3 interest of lots 6-12 in block 42 for future trail system development. Recently, he said the other two owners of the remaining lots approached the City to sell their interest. One wanted to close early, so he is asking to ratify the Gornick contract that went through last week and approval to close on the Slawomir contract, which is not scheduled yet.

**MOTION TO APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Armbright to approve Resolution 20-2023, a Resolution approving the acquisition of certain real estate known as lots 6-12, block 42 within the City of Black Hawk.

**MOTION PASSED**

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

**D. Resolution 21-2023, A Resolution Approving the Contract Between the City of Black Hawk and MW Golden Constructors in the Amount of \$17,500 for Pre-Construction Services Pertaining to the Copper Kitchen Pizzeria**

Mayor Spellman read the title.

City Engineer Reed explained the new Cost Plus process used for the next four Resolutions. He said a structured Cost Plus contract establishes pre-construction fees, which is a set dollar amount, but it also establishes overhead and profit percentages that will be tacked on to the cost of the work so that the total sum, including overhead and profit, will eventually be established as a guaranteed maximum price (GMP) at which time he will need to come back to Council to authorize the construction cost. He emphasized that these contracts do not authorize construction but only pre-construction and the overhead and profit fees.

Alderman Midcap had a question on the process, and Mr. Reed confirmed these were awarded upon percent overhead and percent profit and added they were very competitive. He noted that the pre-construction fees would not be a part of the GMP, and the Copper Kitchen Resolution was priced at \$17,500 because it is still in the design process. He expects construction to begin sometime in June.

**MOTION TO APPROVE**

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 21-2023, a Resolution approving the contract between the City of Black Hawk and MW Golden Constructors in the

amount of \$17,500 for pre-construction services pertaining to the Copper Kitchen Pizzeria.

**MOTION PASSED**

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

**E. Resolution 22-2023, A Resolution Approving the Contract Between the City of Black Hawk and MW Golden Constructors in the Amount of \$5,000 for Pre-Construction Services Pertaining to the Police Station Renovation Project**

Mayor Spellman read the title.

City Engineer Reed introduced this project to renovate most of the first level of the Police Department, including the cramped dispatch area, inefficient records space, adding plumbing to the prison cell to also act as a prisoner bathroom, and electronic locks for extra security for Police staff. He said this one is a little different as the design is underway with no design contract yet, so the designers are working at risk. He intends to submit the design contract at the next Council meeting. He said MW Golden also provided a low amount for overhead and profit on this one, along with the same time frame as the Copper Kitchen in June.

**MOTION TO  
APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 22-2023, a Resolution approving the contract between the City of Black Hawk and MW Golden Constructors in the amount of \$5,000 for pre-construction services pertaining to the Police Station Renovation Project.

**MOTION PASSED**

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

**F. Resolution 23-2023, A Resolution Approving the Contract Between the City of Black Hawk and Roche Constructors, Inc. for Pre-Construction Services Pertaining to the Gregory Point Site Improvements Project**

Mayor Spellman read the title.

City Engineer Reed reminded Council of the design brought to them back in 2020 but was put on hold due to unforeseen circumstances. He said it was for an exterior elevator to reach the upper tier of the homes at Gregory Point (formerly known as Mountain City), replace deteriorating railings, repair some retaining walls, and replace broken sidewalks. He added there were no pre-construction costs because the project was already fully designed and ready to go. The schedule to begin is early June.

**MOTION TO  
APPROVE**

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolution 23-2023, a Resolution approving the contract between the City of Black Hawk and Roche Constructors, Inc. for pre-construction services pertaining to the Gregory Point Site Improvements Project.

**MOTION PASSED**

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

**G. Resolution 24-2023, A Resolution Approving the Contract Between the City of Black Hawk and Roche Constructors, Inc. for Pre-Construction Services Pertaining to the Lace House Rehabilitation Project**

Mayor Spellman read the title.

City Engineer Reed explained the rehabilitation of the interior of the Lace House to bring it up to museum standards with the intent of opening it back up to the public as a museum featuring finishes and furnishings from Black Hawk's mining history. The project includes mechanical and electrical work, carpeting, and wallpaper. Again, there are no pre-construction fees because it is fully designed. Construction would run simultaneously with the Gregory Point Improvements Project.

**MOTION TO  
APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 24-2023, a Resolution approving the contract between the City of Black Hawk and Roche Constructors, Inc. for pre-construction services pertaining to the Lace House Rehabilitation Project.

**MOTION PASSED**

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

**9. CITY MANAGER  
REPORT:**

City Manager Cole had nothing to report.

Mayor Spellman directed City Manager Cole, Public Works Director Isbester, and Maintenance Services Manager Jackson to establish the ROW for Chase Street, delineate it, and put in some sort of barricade to ensure Chase Street is a residential street with residential access only now that the Silver Hawk building, which sat in the City's right-of-way (ROW), has been demolished.

**10. CITY ATTORNEY  
REPORT:**

City Attorney Hoffmann explained the process for annexing property as per statute, which starts with the Clerk's office referring petitions to Council as a communication. He said on behalf of the City Clerk's office,



four annexation petitions were received and identified as Lake Gulch Whiskey Resort Annexation Numbers 19, 20, 21, and 22. Also received were three enclave annexations, meaning property that has been surrounded by City property for more than three years, and does not require an annexation petition but is being referred as a communication to Council as well. He reiterated that this starts the annexation process under the Municipal Annexation Act, and the remainder of the process is to review the petitions for compliance, assuming they comply, then bring Resolutions of Substantial Compliance to Council's April 26<sup>th</sup> meeting, which sets the public hearing date of no less than 30 days and no more than 60 days from the date of those resolutions to June 14, 2023. He said these properties are owned by Proximo and/or the City, in the Lake Gulch, Maryland Mountain, and Quartz Valley areas.

11. EXECUTIVE  
SESSION:

City Attorney Hoffmann recommended items number 2 and 5 for Executive Session and the specific legal issues related to potential litigation, potential legislation, and options related to the disposition of City-owned property, and under item 4(e) regarding City-owned land on Gregory Hill, the Gregory Street HARD District, other City-owned property, and potential property acquisition.

**MOTION TO ADJOURN  
INTO EXECUTIVE  
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:34 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**

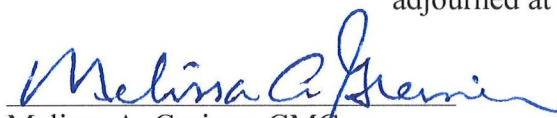
Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn the Executive Session at 4:45 p.m.

**MOTION PASSED**

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

12. 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

