



**City of Black Hawk
City Council**

August 9, 2023

MEETING MINUTES

Ana Cohen from White Construction 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, August 9, 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 Commander Cooper, Fire Chief Woolley, Finance Director Hillis, City Clerk/Administrative Services Director Greiner, Public Works Director Isbester, Maintenance Services Manager Jackson, City Engineer Reed, Water Resource Engineer Dallam, Community Planning & Development Director Linker, Development Services Coordinator Richards, 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 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. PUBLIC COMMENT: Deputy City Clerk Martin confirmed no one had signed up to speak.

6. APPROVAL OF
MINUTES:

July 26, 2023

**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.

7. PUBLIC HEARINGS:

A. CB30, An Ordinance Approving a Billing Agreement for the Section 401 of the Clean Water Act; State Water Quality Certification Between the City of Black Hawk and the State of Colorado; Department of Public Health and Environment

Mayor Spellman read the title and opened the public hearing.

Water Resource Engineer Dallam introduced this item to reimburse review costs from CDPHE to review proposed raw water system improvements, including an infiltration gallery, plant expansion, and a new reservoir complex. He said the City is pursuing a permit from the Corp of Engineers that CDPHE is required to review.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB30, an Ordinance approving a Billing Agreement for the Section 401 of the Clean Water Act; State Water Quality Certification between the City of Black Hawk and the State of Colorado; Department of Public Health and Environment 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 Moates **MOVED** and was **SECONDED** by Alderman Torres to approve CB30, an Ordinance approving a Billing Agreement for the Section 401 of the Clean Water Act; State Water Quality Certification between the City of Black Hawk and the State of Colorado; Department of Public Health and Environment.

MOTION PASSED

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

B. CB31, An Ordinance Approving the Augmentation Station Lease Agreement Between the City of Black Hawk and the City of Northglenn

Mayor Spellman read the title and opened the public hearing.

Water Resource Engineer Dallam said the City of Black Hawk had a 10-year agreement with the City of Northglenn augmenting for them at the Church Ditch Augmentation Station. That agreement has expired, and this one will continue our relationship with Northglenn and a \$500 payment per year for administration services.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearings on CB31, an Ordinance approving the Augmentation Station Lease Agreement between the City of Black Hawk and the City of Northglenn 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 Bennett to approve CB31, an Ordinance approving the Augmentation Station Lease Agreement between the City of Black Hawk and the City of Northglenn.

MOTION PASSED

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

C. CB32, An Ordinance Approving the Property Exchange Agreement Between the City of Black Hawk, Maverick Gaming, LLC and Proximo Distillers, LLC

Mayor Spellman read the title and opened the public hearing.

City Manager Cole explained that when Proximo purchased properties from RSM in 2020, the title search determined that Maverick Gaming owned portions of three of their mining claims. The City facilitated this exchange by conveying .08 acres of City property located at 7315 Black Hawk Boulevard to Maverick to help complete their property, and in turn, Maverick would convey their interest in those three mining claims to Proximo. This exchange will also help the City with future Lake Gulch Road improvements.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearings on CB32, an Ordinance approving the Property Exchange Agreement between the City of Black Hawk, Maverick Gaming, LLC and Proximo Distillers, LLC 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 Torres **MOVED** and was **SECONDED** by Alderman Bennett to approve CB32, an Ordinance approving the Property Exchange Agreement between the City of Black Hawk, Maverick Gaming, LLC and Proximo Distillers, LLC.

MOTION PASSED

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

8. ACTION ITEMS:

- A. Resolution 62-2023, A Resolution Approving a 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
- B. Resolution 63-2023, A Resolution Approving a Temporary Construction Easement Between the City of Black Hawk and the Fellowship Benevolent Corporation Associated with Improvements to the Property Located at 187 Clear Creek Street
- C. Resolution 64-2023, A Resolution Approving a License Agreement Between the City of Black Hawk and the Fellowship Benevolent Corporation Associated with Improvements to the Property Located at 187 Clear Creek Street

Mayor Spellman read the titles.

Community Planning & Development Director Linker and White Construction representatives Ryan Meredith and Anna Cohen presented these items. Ms. Linker said they were finally finished with the 187 Clear Creek Street design. She explained that 187 Clear Creek sits directly on their property line, so the first resolution is a temporary construction easement with the Greiner Family Trust for access through their property to 187 Clear Creek. There will be destruction to their yard, which will be replaced when the project is finished.

Resolution 63, she said, is a temporary construction easement with the Fellowship Benevolent Corporation to allow the City onto their property to make the improvements, and Resolution 64 is a perpetual license agreement with the Fellowship Benevolent Corporation to acknowledge the portion of their property that encroaches into the Clear Creek Street right-of-way.

**MOTION TO
APPROVE**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve Resolutions 62-2023, a Resolution approving a 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, Resolution 63-2023, a Resolution approving a Temporary Construction Easement between the City of Black Hawk and the Fellowship Benevolent Corporation associated with

improvements to the property located at 187 Clear Creek Street, and Resolutions 64-2023, a Resolution approving a License Agreement between the City of Black Hawk and the Fellowship Benevolent Corporation associated with improvements to the property located at 187 Clear Creek Street.

MOTION PASSED

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

- D. Resolution 65-2023, A Resolution Approving the Historic Preservation Easement Agreement Between the City of Black Hawk and the Fellowship Benevolent Corporation in an Amount Not to Exceed \$948,581.00 for the Property Located at 187 Clear Creek Street**
- E. Resolution 66-2023, A Resolution Approving the Rehabilitation Grant Program Agreement Between the City of Black Hawk and the Fellowship Benevolent Corporation in an Amount Not to Exceed \$616,749.00 for the Property Located at 187 Clear Creek Street**
- F. Resolution 67-2023, A Resolution Approving Amendment No. 1 to the Construction Manager/General Contractor Agreement Between the City of Black Hawk and White Construction Group for the Residential Rehabilitation Program Project at 187 Clear Creek Street in an Amount Not to Exceed \$1,565,330.00**

Mayor Spellman read the titles.

Community Planning & Development Director Linker and White Construction representatives Ryan Meredith and Ana Cohen introduced these items. Ms. Linker started with Resolution 67 to explain how they arrived at the Historic Preservation Easement. This amendment, she explained, is for the Guaranteed Maximum Price (GMP) for the construction phase of 187 Clear Creek and the preconstruction design phase only for 121 Marchant. The GMP for 187 Clear Creek includes the exterior preservation easement and the interior rehabilitation grant totaling \$1,565,330.00 for 870SF, which equates to approximately \$1783.00 per SF; the easement piece is \$948,581.00 and the rehabilitation piece is \$616,749.00.

She said she went back to previous projects, and the exterior amount is comparable to what was done in the past. The interior amount of \$616,749.00 includes \$5,354.00 paid directly by the Fellowship as an allowance for upgrades. She said this project has tripled in cost, as rehabilitation projects have typically been around \$2,000.00, but materials and costs of labor have skyrocketed, which will have a bearing on future projects, especially since the homeowner pays tax on the tax, which may be too much to cover in the future. So, in summary, if you take the GMP and add in the original design costs of \$13,719.81, which

includes the change order for the dry utilities, that brings the total of this project up to \$1,579,049.81.

She asked if Council approves Amendment No. 1 that they amend the language regarding the landscaping for 185 Clear Creek to mirror the language in the Temporary Construction Easement, which states the property owner has the option to decline the installation of sod and request the contractor reimburse them directly for all costs associated with the purchase and installation of sod.

Ms. Linker noted the original agreement with White Construction showed both 187 Clear Creek and 121 Marchant beginning together, but this Amendment No. 1 amends the scope of work to show that 121 Marchant is ready to go into their design phase only, with the design to be completed by the end of the year.

The change order for the dry utilities, she explained, was for White Construction to subcontract with Kimley Horn to allow them to work with Xcel Energy, as they have a good working relationship with Xcel. White has found Xcel to be very difficult to work with.

She confirmed the completion date for this project is August 20, 2024.

Resolution 65 is this project's Historic Preservation Easement piece for \$948,581.00, and Resolution 66 is the Rehabilitation Grant Program piece for \$616,749.00, of which \$5,354.00 is paid by the Fellowship Benevolent Corporation.

Alderman Midcap had a few questions on cost and what White Construction thought was the massive increase in prices nowadays, as new construction seems less expensive than rehabilitating historic houses. Mr. Meredith replied that with the onset of COVID-19, there have been shortages in the labor field, longer lead times for material procurement, rush delivery premium charges, and a premium to come up the mountain to Black Hawk. Mayor Spellman noted that this rehabilitation is from the ground up, from the foundation to the roof, with all new utilities, and that this house will be good for another 150 years.

MOTION TO APPROVE

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Moates to approve Resolutions 65-2023, a Resolution approving the Historic Preservation Easement Agreement between the City of Black Hawk and the Fellowship Benevolent Corporation in an amount not to exceed \$948,581.00 for the property located at 187 Clear Creek Street, Resolutions 66-2023, a Resolution approving the Rehabilitation Grant Program Agreement between the City of Black Hawk and the Fellowship Benevolent Corporation in an amount not to exceed \$616,749.00 for the property located at 187 Clear Creek Street, and Resolutions 67-2023, a

Resolution approving Amendment No. 1 to the Construction Manager/General Contractor agreement between the City of Black Hawk and White Construction Group for the Residential Rehabilitation Program Project at 187 Clear Creek Street in an amount not to exceed \$1,565,330.00, with the addition of adding the language about the sod reimbursement, if requested, for 185 Clear Creek.

MOTION PASSED

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

G. Resolution 68-2023, A Resolution Approving the First Addendum to Professional Services Agreement with PEH Architects, Inc. for the Design and Architectural Construction Services Associated with the Restoration and Rehabilitation of 121 Marchant Street in an Amount Not to Exceed \$135,193.00

Mayor Spellman read the title.

Community Planning & Development Director Linker started the conversation by saying that PEH has not changed its prices in years. She said this addendum extends their original agreement by one year, and she has also requested three additional site visits, knowing that 121 Marchant also sits on its property line, and as we enter the construction phase, we may need those extra visits; if they aren't used, then the City won't be charged.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Armbricht to approve Resolutions 68-2023, a Resolution approving the First Addendum to Professional Services Agreement with PEH Architects, Inc. for the design and architectural construction services associated with the restoration and rehabilitation of 121 Marchant Street in an amount not to exceed \$135,193.00.

MOTION PASSED

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

H. Resolution 69-2023, A Resolution Approving the City of Black Hawk Fee Schedule, as Amended

Mayor Spellman read the title.

Community Planning & Development Director Linker introduced this housekeeping item to match current conveyance fees.

Deputy City Clerk Martin stated the Change of Liquor Manager fee changed from \$75 to \$30 at the state level, so we'd like to clean that up in our fee schedule as well.

MOTION TO

APPROVE

Alderman Torres **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolutions 69-2023, a Resolution approving the City of Black Hawk Fee Schedule, as amended.

MOTION PASSED

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

Mayor Spellman noted for the record that if Central City continues to pursue its off-highway vehicle licensing plan, the City of Black Hawk will make it clear that our portion of Lake Gulch Road will not be open to off-highway vehicles, and if someone finds themselves on Black Hawk roads that they will be ticketed immediately. He emphasized that the City will not entertain the plan nor embrace it.

**9. CITY MANAGER
REPORT:**

City Manager Cole had a few items to discuss. The first was Christmas decorations that Public Works has been working on. A Request for Council Action was handed out to Council that described the project. There is a timing issue with ordering, so he would like Council's approval to spend \$199,445.00 to get everything ordered and then bring it back on September 13 to ratify the decision. A motion was made by Alderman Bennett, seconded by Alderman Torres, to approve the purchase of the Christmas decorations. Mayor Spellman added that Corey from City Hall is creating two new Christmas themed stand-ins to add to our inventory of decorations.

The second item was to discuss the School of Mines bike race special event application. They are proposing to hold races at Hidden Treasure on October 7-8, and the question is, does Council mind closing the lot and trails for that weekend? There was consensus to close it all for safety as long as they provided ample notice. It was noted this won't happen each time and that the City can be selective in who they close it for. The City has had a relationship with the School of Mines in the past.

Next, as it is late in the season to pave and staff has had trouble getting bids, it was asked that if staff finds a contractor that can move forward before winter to pave JKQ, City Hall, and a portion of Cooper Streets parking lots, to allow staff to move forward by a phone poll with Council and then ratify it at their next Council meeting, all were in agreement.

Lastly, he said there were no items for the August 23rd meeting, so that it would be cancelled.

**10. CITY ATTORNEY
REPORT:**

City Attorney Hoffmann had nothing to report.

11. EXECUTIVE

SESSION:

City Attorney Hoffmann recommended item number 5 only for Executive Session regarding instructing negotiators in regards to City-owned property.

**MOTION TO ADJOURN
INTO EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:43 p.m. to hold a conference with the City's Attorney 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 4:00 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 4:00 p.m.


Melissa A. Greiner, CMC
City Clerk


David D. Spellman
Mayor

