



**City of Black Hawk
City Council**

April 26, 2023

MEETING MINUTES

Black Hawk's newest Police Officer, Hieu Pham, 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 26, 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, Fire Marshal Walsh, City Clerk/Administrative Services Director Greiner, City Engineer Reed, Community Planning & Development Director Linker, Development Services Coordinator Richards, Baseline Engineering Consultants Harris and Charles, 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 that Agenda item 9F, Resolution 30-2023, was moved to the beginning of the Action Items as a courtesy for the member present.

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. NEW EMPLOYEE
INTRODUCTION:

Police Officer Hieu Pham

Police Chief Moriarty introduced the newest member of the Police Department, Officer Hieu Pham. He is originally from Vietnam, speaks fluent Vietnamese, and is now learning Russian and Japanese. He served in the Marines and has been a great addition to Black Hawk. All warmly welcomed him.

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

7. APPROVAL OF
MINUTES:

April 12, 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.

8. PUBLIC HEARINGS:

A. CB9, An Ordinance Amending Chapter 4 and Chapter 16 of the Black Hawk Municipal Code Regarding Parking Impact Fees, Parking Regulations and Other Minor Amendments to the Black Hawk Zoning Ordinance

Mayor Spellman read the title and opened the public hearing.

Baseline Consultants Harris and Charles went through their presentation. Mr. Charles summarized the three changes: one was to simplify gaming establishment parking requirements by including all internal uses related to gaming under one parking requirement and changing the parking requirement from 1 space per 75 square feet to 1 space per 250 square feet. The next change was to remove reference to the parking impact fee since it is no longer utilized, and lastly was the inclusion of a definition for short-term rentals under this section of code.

City Attorney Hoffmann wanted to note for the record that eliminating the parking impact fee in the City is the end of an era. He provided the background on why it was created, what it was used for, and the benefit provided for those who paid into it for over two decades. He finished by saying that since there is no need to utilize the fee anymore and those that paid into it did receive a value, the City is able to discontinue and remove it.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB9, an Ordinance amending Chapter 4 and Chapter 16 of the Black Hawk Municipal Code regarding Parking Impact Fees, parking regulations and other minor amendments to the Black Hawk Zoning Ordinance 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 Bennett **MOVED** and was **SECONDED** by Alderman Johnson to approve CB9, an Ordinance amending Chapter 4 and Chapter 16 of the Black Hawk Municipal Code regarding Parking Impact Fees, parking regulations and other minor amendments to the Black Hawk Zoning Ordinance.

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

B. CB10, An Ordinance Approving the Grant from the State of Colorado, Division of Criminal Justice in an Amount Not To Exceed \$40,000.00 to Acquire a TruNarc Handheld Narcotics Analyzer and Ductless Fume Hood for the City’s Evidence Storage Room

Mayor Spellman read the title and opened the public hearing.

Police Chief Moriarty explained how this new analyzer uses a laser to determine the drug without taking a physical sample for testing, exposing staff to dangerous substances. She said another safety product offered through this Grant was the fume hood, which helps with airborne substances while processing evidence.

PUBLIC HEARING: Mayor Spellman declared a Public Hearing on CB10, an Ordinance approving the Grant from the State of Colorado, Division of Criminal Justice in an amount not to exceed \$40,000.00 to acquire a TruNarc Handheld Narcotics Analyzer and Ductless Fume Hood for the City’s evidence storage room 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 Moates to approve CB10, an Ordinance approving the Grant from the State of Colorado, Division of Criminal Justice in an amount not to exceed \$40,000.00 to acquire a TruNarc Handheld Narcotics Analyzer and Ductless Fume Hood for the City’s evidence storage room.

MOTION PASSED

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

9. ACTION ITEMS:

F. Resolution 30-2023, A Resolution Providing Funding for 2023 for the Gregory Street HARD District Business Marketing Association in the Amount of \$101,071.00

Mayor Spellman read the title.

City Manager Cole said any funding provided to the Marketing Association is subject to Council's appropriations. Mayor Spellman said they tightened up on some of the conditions for approval outlined in Section 3 of the Resolution.

Sadie Schultz, President of the Gregory Street Hard District Business Marketing Association, was introduced by Mayor Spellman. She thanked Council and the City and said with the City's continued support, they plan to build on the success of last summer by adding new events. They have partnered with a new advertising and event company to manage their events, and the Founders' Day event will be spectacular this year with big named headline bands, and she added that the marketing company has also developed a strong relationship with the Silver Dollar Metropolitan District for cross-marketing with the casinos. Mayor Spellman noted that Cabin Creek Brewing would again be producing a special beer for Founders' Day, this year a pre-prohibition lager. There will be a new can design, and Sadie mentioned they would also be offering a root beer brewed by Tommyknocker with the Founders' Day logo.

MOTION TO APPROVE

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 30-2023, a Resolution providing funding for 2023 for the Gregory Street HARD District Business Marketing Association in the amount of \$101,071.00.

MOTION PASSED

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

A. Resolution 25-2023, A Resolution Adopting the City's Three-Mile Annexation Plan

B. Resolution 26-2023, A Resolution Accepting the Petition for Annexation and Establishing June 14, 2023 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 No. 19)

C. Resolution 27-2023, A Resolution Accepting the Petition for Annexation and Establishing June 14, 2023 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 No. 20)**

- D. Resolution 28-2023, A Resolution Accepting the Petition for Annexation and Establishing June 14, 2023 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 No. 21 and 22)**
- E. Resolution 29-2023, A Resolution Providing Notice of the City's Intent to Annex Certain Property as Enclave Annexations Pursuant to C.R.S. § 31-12-106(1), With Such Enclave Annexations to be Considered at the June 14, 2023 City Council Meeting for Unincorporated Territory Located in the County of Gilpin Identified as the Quartz Valley / Maryland Mountain – 2023 Annexations Numbers 1, 2, and 3**

Mayor Spellman combined these items.

Baseline Consultant Harris provided one presentation for the above agenda items. He started with the Three-Mile plan that is required to be adopted each year. Staff is requesting the City adopt the same 2020 Comprehensive Plan, including the updated Future Growth Area Map for the City, because the growth area changed after the Comprehensive Plan was approved in 2020.

He then went through the annexations. There are three types of annexations, two of which were in the packet. Resolutions 26, 27, and 28 are joint petition annexations submitted by the City of Black Hawk and Proximo Distillers as the property owners. These annexations require full notice and a public hearing. Resolution 29 is a notice of the City's intent to annex non-City-owned properties, known as Enclave Annexations. The state does not require petitions for enclaves if all land around it has been annexed for at least three years. The third annexation, not included in the packet, is City-owned lands in Maryland Mountain; they are also considered enclaves, but since they are City-owned properties, there are no noticing requirements, and they can simply be added to the June 14 agenda if the surveyor can have them completed by then.

City Attorney Hoffmann added information on the annexation process for the record. Regarding Resolutions 26, 27, and 28, he said, to be eligible, an annexation must show 1/6 contiguity and have one-half or more property owners owning more than 50% of the property under both the Annexation Act and the Colorado Constitution. He said these are 100% petitions meaning the property is all owned by those owners petitioning, so we meet the constitutional requirements and Council can approve the Resolutions of Substantial Compliance; this will provide notice for four consecutive weeks and set the public hearing for June 14.

He went on to explain that an Enclave Annexation process is similar, but there is no requirement for a public hearing. A notice is still required in the paper but there is no public hearing. City Council can consider it by Ordinance on June 14. He said an enclave means the property to be annexed has been surrounded by the City for at least three years.

Lastly, he described Annexation by Ordinance, which means the City can annex any City-owned property simply by passing an Ordinance as long as the property contemplated is not strictly a road right-of-way, which it is not.

Also, at the June 14 meeting will be the zoning for all of these annexations because, under the City's Charter, the City requires concurrent zoning of any annexed property.

Mr. Harris added that the recently purchased property on Gregory Point would be included in the upcoming zoning ordinance.

**MOTION TO
APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Midcap to approve Resolution 25-2023, a Resolution adopting the City's Three-Mile Annexation Plan.

MOTION PASSED

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

**MOTION TO
APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Torres to accept Resolution 26-2023, a Resolution accepting the Petition for Annexation and establishing June 14, 2023 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 No. 19).

MOTION PASSED

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

**MOTION TO
APPROVE**

Alderman Torres **MOVED** and was **SECONDED** by Alderman Bennett to accept Resolution 27-2023, a Resolution accepting the Petition for Annexation and establishing June 14, 2023 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 No. 20).

MOTION PASSED

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

**MOTION TO
APPROVE**

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Johnson to accept Resolution 28-2023, a Resolution accepting the Petition

for Annexation and establishing June 14, 2023 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 No. 21 and 22).

MOTION PASSED

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

**MOTION TO
APPROVE**

Alderman Johnson **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 29-2023, a Resolution providing notice of the City's intent to annex certain property as Enclave Annexations pursuant to C.R.S. § 31-12-106(1), with such Enclave Annexations to be considered at the June 14, 2023 City Council Meeting for unincorporated territory located in the County of Gilpin identified as the Quartz Valley / Maryland Mountain – 2023 Annexations Numbers 1, 2, and 3.

MOTION PASSED

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

G. Resolution 31-2023, A Resolution Approving the Professional Services Agreement Between the City of Black Hawk and PEH Architects in an Amount Not to Exceed \$50,220.00 for Design Services on the Police Station Renovation Project

Mayor Spellman read the title.

City Engineer Reed introduced this item and said the conceptual and schematic design plans were completed under PEH's on-call services agreement. He said this approval is for the full construction plans and can be ready by next Wednesday.

**MOTION TO
APPROVE**

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Moates to approve Resolution 31-2023, a Resolution approving the Professional Services Agreement between the City of Black Hawk and PEH Architects in an amount not to exceed \$50,220.00 for design services on the Police Station Renovation Project.

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:**

City Attorney Hoffmann asked Council for a Motion to set a Revocation Hearing, if needed, at the next meeting of May 10 at 3:00 p.m. to revoke Feeney Farms liquor license. He provided background on the state

refusing to issue Peak to Peak Liquor's license because, theoretically, Tom Feeney could renew his license as he has up to six months to do so. He said he is hoping to resolve the issue cooperatively with the state, but if not, this hearing is the process to expedite the matter. Mr. Feeney has no authorization to the premises, and the City, as the landlord, has already terminated Mr. Feeney's lease and released the premises to Peak to Peak Liquors.

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Midcap to schedule a Revocation Hearing for May 10, 2023, at 3:00 p.m. The **MOTION PASSED** unanimously.

12. 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 City-owned property, and the items regarding negotiations related to the City's Paint Program.

**MOTION TO ADJOURN
INTO EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:33 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 4:20 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 4:20 p.m.


Melissa A. Greiner, CMC
City Clerk


David D. Spellman
Mayor

