



**City of Black Hawk
City Council**

June 10, 2020

MEETING MINUTES

1. CALL TO ORDER: The regular meeting of the City Council was called to order on Wednesday, June 10, 2020, at 3:00 p.m. by Mayor Spellman.

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

Virtual/Present Staff: City Attorney Hoffmann, City Manager Cole, Commander Jantz, Fire Chief Woolley, Finance Director Hillis, City Clerk/Administrative Services Director Greiner, Public Works Director Isbester, Community Planning & Development Director Linker, Baseline Engineering Consultants Harris and Esterl, IT Manager Muhammad, 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 Martin confirmed that agenda item 8C, Resolution 50-2020, was added 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. No conflicts were noted from City Council.

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

5. PUBLIC COMMENT: Deputy City Clerk Martin confirmed that two people had signed up to speak, but they did not note what they wished to speak on. It was decided that they could interject during the time of opening the public hearings, if desired.

6. APPROVAL OF
MINUTES:

May 27, 2020

**MOTION TO
APPROVE**

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

MOTION PASSED

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

7. PUBLIC HEARINGS:

A. CB14, An Ordinance Ratifying and Approving the Grant Agreement Between the Colorado Department of Transportation, Division of Transit and Rail, and the City of Black Hawk

Mayor Spellman read the title and opened the public hearing.

City Manager Cole introduced this item. At the last meeting approval was given to the City Manager to sign this grant through the CRES act agreement, this ordinance to support that approval.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB14, an Ordinance ratifying and approving the Grant Agreement between the Colorado Department of Transportation, Division of Transit and Rail, and the City of Black Hawk 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 Armbright **MOVED** and was **SECONDED** by Alderman Torres to approve CB14, an Ordinance ratifying and approving the Grant Agreement between the Colorado Department of Transportation, Division of Transit and Rail, and the City of Black Hawk.

MOTION PASSED

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

B. CB15, 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 authorize the city to acquire property known as Dale mining claim or dale lode necessary for roadway improvements to serve new for proximo development and create a better city road system from mesa down to lake gulch road.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on CB15, 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 resolution 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 Johnson to approve CB15, 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.

C. Resolution 45-2020, A Resolution Conditionally Approving the Special Review Use Permit for the Golden Gilpin Mill

Mayor Spellman read the title and opened the public hearing.

Baseline Planning Consultant Harris and Esterl were present to go through their presentation. Julie went through the criteria needed in order to approve a SRU. She provided background on the property, which was included in the packet. The site is question in considered Mill Site #10 and Mill Site #11 and are located in the Environmental Character Preservation (ECP) zone district. Since the mining/milling use had been discontinued since 2011, the re-use of the site for this use now required a Special Review Use permit. 9 conditions for approval.

Matt Collins, Professional Mining Engineer, Mike Meter, Mill Manager and others on the phone.

Alderman Midcap had question on backfill of bates hunter mill – matt, currently rehabilitating the batesw huneter and mentioned all the white bags, that material is old stope fill from underground, will 3 different

products gravity, floatation, tailing product. Explained the process and put it back in the mine to fill in those hoels. Likes the characteristic and how it fits into BH.

Vince – timeframe? Application and operations? Matt – application by end of summer, if not sooner. Operationally, begin lab work immediately inside the building. Have to repair equipment been idel for decades, ideally by end of year or early next year to start processing. Tourism blend in later on? Matt – once equipment is donebefore operations.

Hal – 4 roudtrips there and back to hunter bates. Research and reasonable expeations lead to 4

Applicant will need to submit new land use application allow to begin next step of reviews for plat, Co. rehabilitation of bates hunter, white supersacs, material old stope fill, move material for 2nd egress, truck transport that to mill, then gravity product, floatation concentrate, tailings product, dewater and truck back to mine, reslurry back into mine to fill mine voids. Fits in character of BH – Hal. Vince – applicant – SDP process first, when would you expect operations?appliaction and begin operations? Remaining submittals by end of summer if not sooner. Maybe July. Laboratory work immediately, within the building to do the charazterizatin of the materials. Have to repair equipment, building permits by end of year or early next year for processing. Tourism – potentially occurring sooner. 4 RT trip down and back 70 tons per day. Reasonable expectation is 4 trucks per day.

Laurence b james, 13295 windfield place, golden, 80401, by profession mining geologist and operate small mills and wanted to comment. Only accept minerals from hunter bates mine as per county. General principle to limit it only to this one mine. Mayor said that condition is from city not county. To keep door open for othersand within county there are some good examples already in county

Matt Collins, applicant, been good neighbors, mining engineer of black hawk.living in Nederland, mike from Denver and other folks listening in.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 45-2020, a Resolution conditionally approving the Special Review Use Permit for the Golden Gilpin Mill open and invited anyone wanting to address the Board either “for” or “against” the proposed resolution to come forward.

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

MOTION TO APPROVE

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 45-2020, a Resolution conditionally approving the Special Review Use Permit for the Golden Gilpin Mill.

MOTION PASSED

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

D. Resolution 46-2020, A Resolution Denying a Variance to Allow a Height Variance which would Allow a Structure 103 Feet in Height

E. Resolution 47-2020, A Resolution Conditionally Approving a Certificate of Architectural Compatibility and a Site Development Plan for the T Mobile Facility Located at 821 Miners Mesa Road

Mayor Spellman read the titles and opened the public hearings.

Corey – two items related to cell tower, variance request and CoAC, approve or deny the variance based on staff recommendation and evidence. Explained the order of the resolutions. then consider CoAC with variance or without.

Baseline Planning Consultants Harris and Nieske went through the presentation and introduced this item. Free standing facility proposed on Miners Mesa where the 50 x 50 License agreement was granted. 45' allowed, applicant is requesting 103' SDP for improvements. Faux barrel look. Letter provided today by Harmon Zuckerman, legal of Proximo in support of denial. Read into the record. Also today from applicant are 3 maps with three different coverage maps.

Melanie went through variance criteria, full reading of applicant's response to staff's comments in the packet. 103 foot tower proposed would result in a 58 foot variance request. Due to extreme topography the lowest they could go is 96' Anything lower will have shading issues created by the extreme topography. , answers from applicant on criteria and staff's comments on those answers, hardship is terrain – fewer towers and more co-location to allow other carriers to use this tower in the future, why wasn't this brought up back during lease agreement, there was no mention of a height over 45' at that time. What height is appropriate for this location? Staff is not convinced they need a tower higher than 45' at this time and recommend denial of their variance request. SDP will need to be altered depending on what height council approves. Vince went through recommendations, your role as board of appeals, find that all of those criteria be met to approve a variance. Our analysis does not find that all criteria is met. Depending on vote on 46-2020 then 47-2020 those drawing needs to be updated appropriately on SDP.

Applicant – doug barker, 304 spring water trail, Woodstock, GA, representing vertical bridge holdings, first have seen the letter and they have a great appreciation the Lake Gulch Resort and what it will bring to that resort. 10' separation for different carriers – different tenants. Need

for additional height, will get complaints and carriers will try to come in to fix it., any additional height allows for another tenant. Anything over 45' would be appreciated.

Hal – water tower look height will not change design.

Benito – 45 and 100 is not that much diminished. 45' would only be two carriers. No comment from Proximo on 55'?

Applicant would be happy to work with Proximo – maybe table or make it a condition? Will not do anything to jeopardize continue this public hearing to allow vertical bridge to contact proximo to explain the coverage to their resort to see if they are interested in anything other than 45' – until Jun 24. Vince – how many providers ar out there and how many more towers can we expect? No need for more than 4 carriers at this location. This resort will drive the carriers here. 4 towers on miners mesa right now, would need all those towers. Matt 2047 harmony drive, Tmobile and vertical bridge. We'll give you proximo contact info.

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 46-2020, a Resolution denying a variance to allow a height variance which would allow a structure 103 feet in height open and invited anyone wanting to address the Board either “for” or “against” the proposed resolution 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 Resolution 46-2020, a Resolution denying a variance to allow a height variance which would allow a structure 103 feet in height.

MOTION PASSED

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

PUBLIC HEARING:

Mayor Spellman declared a Public Hearing on Resolution 47-2020, a Resolution conditionally approving a Certificate of Architectural Compatibility and a Site Development Plan for the T Mobile Facility located at 821 Miners Mesa Road open and invited anyone wanting to address the Board either “for” or “against” the proposed resolution 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 Resolution 47-2020, a Resolution conditionally approving a Certificate of Architectural Compatibility and a Site Development Plan for the T Mobile Facility located at 821 Miners Mesa Road.

MOTION PASSED

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

8. ACTION ITEMS:

A. Resolution 48-2020, A Resolution Approving the City of Black Hawk Fee Schedule, as Amended

Mayor Spellman read the title.

Community Planning and Director Linker housekeeping, updated land use flow process, eliminated some fees and implemented a new deposit fee based on SF of building. Use consultants and costs are covered

**MOTION TO
APPROVE**

Alderman Moates **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 48-2020, a Resolution approving the City of Black Hawk Fee Schedule, as amended.

MOTION PASSED

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

B. Resolution 49-2020, A Resolution Forgiving Certain Device Taxes for the Month of May, 2020, Payable in June of 2020 and Deferring Certain Water Fees

Mayor Spellman read the title.

Finance Director Hillis adding additional monthe

**MOTION TO
APPROVE**

Alderman Armbright **MOVED** and was **SECONDED** by Alderman Torres to approve Resolution 49-2020, a Resolution forgiving certain Device Taxes for the month of May, 2020, payable in June of 2020 and deferring certain water fees.

MOTION PASSED

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

C. Resolution 50-2020, A Resolution in Support of Proposed Initiative No. 257, "Local Voter Approval of Gaming Limits in Black Hawk, Central City, and Cripple Creek," on the 2020 General Election Ballot

Mayor Spellman read the title.

City Attorney Hoffmann letter to go out with all signatures, not being worked out, will pursue signature drive for initiative process complete support

**MOTION TO
APPROVE**

Alderman Midcap **MOVED** and was **SECONDED** by Alderman Bennett to approve Resolution 50-2020, a Resolution in support of Proposed Initiative No. 257, "Local Voter Approval of Gaming Limits in Black Hawk, Central City, and Cripple Creek," on the 2020 General Election Ballot.

MOTION PASSED

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

**9. CITY MANAGER
REPORTS:**

City Manager Cole had nothing to report.

10. CITY ATTORNEY:

City Attorney Hoffmann had nothing to report.

**11. EXECUTIVE
SESSION:**

City Attorney Hoffmann recommended item number 2 and 5 only for Executive Session, and the specific legal issues related to the pending litigation, and potential litigation and potential legislation.

**MOTION TO
ADJOURN INTO
EXECUTIVE
SESSION**

Alderman Bennett **MOVED** and was **SECONDED** by Alderman Johnson to adjourn into Executive Session at 3:36 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 4:50 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 closed at 4:50 p.m.


Melissa A. Greiner, CMC
City Clerk


David D. Spellman
Mayor