

JANUARY 24, 2017

**CITY OF GUNNISON COUNCIL  
REGULAR SESSION MEETING MINUTES**

5:30 P.M.

Following a Work Session meeting, Mayor Hagan called the Regular Session meeting to order at 5:30 P.M., with Councilors Drexel, Sovick, Morrison and Schwartz present along with City Attorney Fogo, City Manager Forrest, City Clerk Davidson, Finance Director Cowan, IT Director Lee, Community Development Director Westbay, many citizens and the press. A Council quorum was present.

**PUBLIC HEARING**

5:30 P.M.

**To Receive Public Input on Retail Marijuana Store Establishment License Application from Frozen Smoke Dispensary LLC, dba Frozen Smoke Dispensary, 500 W. Highway 50, Ste. 103, Gunnison, CO.**

Mayor Hagan called the Public Hearing to order and stated the time is 5:31 P.M., on Tuesday, January 24, 2017, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison Colorado. Present at the public hearing were himself, Mayor Richard Hagan, City Councilors Andy Sovick, Robert Drexel, Leia Morrison and Matt Schwartz, City Attorney Kathy Fogo, City Manager Russ Forrest, City Clerk Gail Davidson, Finance Director Ben Cowan, IT Director Mike Lee, Community Development Director Steve Westbay and WSCU Liaison Jodie Howard. The purpose of this public hearing is to receive input on a retail marijuana store establishment license application from Frozen Smoke Dispensary LLC, dba Frozen Smoke Dispensary, 500 W. Highway 50, Ste. 103, Gunnison, Colorado.

Mayor Hagan asked for proof of publication. City Clerk Davidson stated a copy of the notice was included in the public hearing packet and the official affidavit of publication is included in the City's permanent files.

Mayor Hagan then called for City Staff's comments and recommendations. City Clerk Davidson gave the following input: the City Council of the City of Gunnison, approved and adopted Marijuana Establishment rules and regulations and these are found in Section 8.40 of the Gunnison Municipal Code (GMC) and the City of Gunnison *Land Development Code (LDC)*; to operate a Marijuana Establishment in the City, a license from both the State of Colorado and the City of Gunnison must be obtained; the applicant, Frozen Smoke Dispensary LLC., 6736 Sequoia, Frederick CO, 80530, has completed and submitted the required State Marijuana Enforcement Division (MED) and the City of Gunnison Marijuana Establishment License application forms for a retail marijuana store establishment license to be located at 500 W. Highway 50, Ste. 103, in Gunnison; the 100% Principal in the LLC is Breanna Unruh; the proposed retail marijuana establishment location property is owned by Gunnison Motorsports LLC, Fritz Kadlec Principal, the City-required Property Owner Consent form has been submitted authorizing the submission of the application for a retail marijuana store establishment on the property; the proposed location is within the allowed zoning district for a retail marijuana store establishment; the State MED submitted their completed forms back to the City within the required seven days of their submission; Frozen Smoke Dispensary LLC has paid the City's license and application fees; and the conditional State License has been received. The completed application forms were forwarded onto the Police, Finance, City Clerk, Public Works, and Community Development Departments, as well as to the City Attorney for review. A copy of the City of Gunnison Departmental Approvals form was included in the Public Hearing information packet. The Clerk's, Finance, Police, Public Works and Community Development Departments have signed off on the application. The Clerk's Department did hear some comments about the proposed store location being sited between two existing licensed establishments. She spoke with the State Marijuana Division and they have no regulations regarding this. It is up to the local jurisdiction to determine the densities of marijuana establishments within their jurisdiction.

The Community Development (CD) Department submitted their internal Marijuana Site Development Application after reviewing the application for compliance with the provisions of the City of Gunnison *Land Development Code* regarding allowed location, signage, control of marijuana-related odors, hours of operation, and other City-adopted building standards. The CD Department has issued their retail marijuana establishment permit with the following conditions: the Marijuana establishment shall comply with all provisions, standards and regulations of the *Land Development Code* and all relevant building, mechanical and fire codes adopted by the City; a mechanical source capture and exhaust system shall be installed and subject to inspection and approval by the Building Official; a minimum of 2 off-street, exterior parking spaces shall be dedicated to this marijuana establishment; and building occupancy for the licensed retail marijuana store establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Community Development Director.

City Clerk Davidson then stated the City Council set the Public Hearing for 5:30 P.M., Tuesday, January 24, 2017, the premises was posted with the required Public Hearing notice poster, and the Public Hearing notice was published as required in the Gunnison Country Times Newspaper. Therefore, based on the review and investigations of the license application, City Staff recommends approval of the Frozen Smoke Dispensary LLC, retail marijuana store establishment license, to be located at 500 W. Highway 50, Ste. 103, Gunnison, CO 81230, with the stated conditions.

Mayor Hagan asked the applicants for their comments Breanna Unruh and Dustin Smith came forward and addressed Council. They used to live in Gunnison and now living in Frederick. They look forward to being back in Gunnison and to bringing a new business and jobs to town. They want to open up employment. They have already hired two experienced store managers who fully understand compliance with the regulations. Mayor Hagan thanked the applicants.

Mayor Hagan then called for any comments in favor or in opposition to the retail marijuana store establishment license application. No comments were made.

Mayor Hagan asked if there were any letters, emails or other written comments that have been received from the public to be entered into the record. City Clerk Davidson stated no other written comments were received on the license application. Mayor Hagan called for any further comments on the application and hearing none, closed the Public Hearing at 5:39 P.M. Council returned to the Regular Session meeting.

#### **Council Action Items:**

**Possible Action on Retail Marijuana Store Establishment License Application from Frozen Smoke Dispensary LLC, dba Frozen Smoke Dispensary, 500 W. Highway 50, Ste. 103, Gunnison, CO.** A public hearing on the application was held at the beginning of the meeting.

Councilor Morrison moved and Councilor Schwartz seconded the motion that the Retail Marijuana Store Establishment License for Frozen Smoke Dispensary LLC, dba Frozen Smoke Dispensary, 500 W. Highway 50, Ste. 103, Gunnison, Colorado, 81230, be approved based on the following findings and with the following conditions:

#### **FINDINGS:**

- (1) There has not been a denial of an application at the same location, on the grounds that the reasonable requirements of the neighborhood were satisfied by the existing establishments.
- (2) It appears from the evidence submitted with the application that the applicant is entitled to possession of the premises where the license is proposed to be exercised.
- (3) Selling retail marijuana and allowed retail marijuana-associated products, as proposed in the application, is not in violation of the zoning, fire, building, technical, and other applicable codes of the City of Gunnison or the laws of the State of Colorado.
- (4) The building where the application proposes to sell retail marijuana and allowed marijuana-associated products not appear to be within 1000 feet of any public, charter, or parochial school, daycare school, center or home, the principal campus of any college, university or seminary, or mental health facilities.
- (5) Within the City Limits where Retail Marijuana is proposed to be cultivated and wholesale sold, there are the following existing licensed marijuana establishments:  
1 – Retail Marijuana Cultivation Center  
9 – Retail Marijuana Stores
- (6) All fees necessary for the application have been paid.

#### **CONDITIONS:**

- (1) The Marijuana establishment shall comply with all provisions, standards and regulations of the *Land Development Code* and all relevant building, mechanical and fire codes adopted by the City.
- (2) A mechanical source capture and exhaust system shall be installed and subject to inspection and approval by the Building Official.

- (3) A minimum of 2 exterior parking spaces shall be dedicated to this retail Marijuana establishment.
- (4) Building occupancy for the licensed retail establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Community Development Director.

Roll call vote, yes: Sovick, Hagan, Morrison, Schwartz. Motion carried.

Roll call vote, no: Drexel.

**Citizen Input:** Mayor Hagan called for any citizen input for Council on issues not already being discussed on the agenda. He asked they step forward, identify themselves and keep their comments to three minutes. No citizens responded.

**Council Action Items:**

**Appointing two full and one alternate City representative to the Gunnison Land Preservation Board.** City Clerk Davidson stated the previous terms for the City representatives were up in January. She advertised the vacancies and contacted the previous representatives. Sonja Chavez de Baca declined to serve once again due to time constraints and Kendall Burgemeister has submitted his letter of interest in continuing to serve. Two other individuals, Bryan Tutor and Bruce Noble, submitted letters of interest. Mayor Hagan invited each interested party to come forward individually and tell Council why they would like to serve on the board as a City representative. Council thanked each for their interest. Mayor Hagan stated Council has a difficult decision to make because all three interested parties are well qualified. He asked them if one would be willing to serve as the alternate. Bryan Tutor indicated he would serve in that capacity.

Councilor Schwartz moved and Councilor Drexel seconded the motion to appoint Kendall Burgemeister and Bruce Nobel as full City representatives and Bryan Tutor as alternate City representative, all with four years terms, to the Gunnison County Land Preservation Board.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz, Sovick. So carried.

Roll call vote, no: None.

**Regular Session meeting minutes of January 10, 2017.**

Councilor Drexel moved and Councilor Sovick seconded the motion to approve the Regular Session meeting minutes as presented.

Roll call vote, yes: Hagan, Morrison, Schwartz, Sovick, Drexel. So carried.

Roll call vote, no: None.

**Action on 2017 Contracts for Service and Continuing Challenge Grants.**

A brief discussion with Finance Director Ben Cowan ensued. The Visitor Center agreement was discussed since it is funded through the vendor fee's pass through rather than directly from the General Fund. Therefore, its Agreement is not the same as the others. Council also verbally agreed to review and revamp the funding criteria and priorities for the Contracts for Service, Continuing Challenge Grants and Challenge Grants before next year's budget development.

Councilor Schwartz moved and Councilor Morrison seconded the motion to authorize the Mayor's signature on the 2017 Memorandums of Agreements as presented and to authorize the release of the budgeted 2017 funds for the programs.

Roll call vote, yes: Morrison, Schwartz, Sovick, Drexel, Hagan. So carried.

Roll call vote, no: None.

Councilor Morrison moved and Councilor Schwartz seconded the motion to authorize the Mayor's signature on the Continuing Challenge Grants as presented and to release the budgeted 2017 funds for those programs.

Roll call vote, yes: Schwartz, Sovick, Drexel, Hagan, Morrison. So carried.

Roll call vote, no: None.

**Action on Challenge Grant Applications.** Councilor Morrison informed Council she would be abstaining from the conversation and decision since she is a sub-contractor to I-Bar Inc. Finance Director Cowan reviewed the two Challenge Grant applications that were submitted. One is from I-Bar, Inc. asking for \$5,000 to assist with the 2017 Castle Creek Guitars Summer Concert Series and the second application is from KBUT Public Radio in the amount of \$4,000 to help

fund an overnight music festival at the I-Bar Ranch. Mayor Hagan invited the applicants to explain their requests. Director Cowan informed Council there is \$2,000 in the Challenge Grant line item in the 2017 adopted budget. The intent of the grant funds program is to assist governmental and non-profit organization events that will bring outside sales dollars into the community. The I-Bar is not a non-profit and KBUT is a non-profit organization.

Bryan Wickenhauser, spoke about the first Challenge Grant application. He reminded Council the original event was granted funds by the City several years ago. The successful summer concerts bring in a large number of people from outside the community that eat in the restaurants, stay in the local hotels, and generate sales tax.

Tyler Lucas and Julia Brazell of KBUT asked Council to assist with funding their summer KBUT Kampout event concert. They will be bringing in Mama's Cooking, a band with a large regional crowd draw and that will generate additional outside sales tax for the City.

Council discussion ensued. Verbal consensus was that neither application met the existing criteria for funding. No action was taken by Council.

**Discussion and possible action on Snowplowing Equipment.** Finance Director Ben Cowan and City Manager Forrest reviewed the current snowplowing situation. We are at historic snow levels so far this January. The City Manager acknowledged the fantastic snow removal operations of the Public Works and Parks & Recreation crews. The Police and Communications Departments have also done a great job in communicating parking restrictions and changes to the citizens. Director Cowan reviewed the snow removal costs thus far this year. With the costs of employee overtime, contracted snow removal and equipment repair/rental, the City is currently approximately \$92,522 over the budgeted snow removal funds. City Manager Forrest reviewed the snow removal equipment situation. The snow blower and front end loader have had to be repaired. The most significant cost relates to repairs on the Volvo Motorgrader that will require approximately \$45,000 to \$60,000 in repairs. The grader will have to be taken to Colorado Springs for those repairs and a rental grader then obtained to continue snow removal operations.

Councilor Drexel moved and Councilor Morrison seconded the motion to authorize the repair of the Volvo Motorgrader in an amount not to exceed \$60,000.

Roll call vote, yes: Sovick Drexel, Hagan, Morrison, Schwartz. So carried.

Roll call vote, no: None.

Mayor Hagan informally acknowledged that the snow removal budget has been exceeded and formal approval of that overage will come with adoption of the additional appropriations ordinance in February.

**Ordinances and Resolutions Action Items:**

**Ordinance No. 1, Series 2017; Re: Amending Section 2.20A of the Gunnison Municipal Code, City Purchasing Policy; 2nd Reading.** Councilor Schwartz introduced Ordinance No. 1, Series 2017, and it was read by title only by the City Attorney.

Councilor Schwartz moved and Councilor Drexel seconded the motion that Ordinance No. 1, Series 2017, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING CHAPTER 2.20, PURCHASING POLICY AND PROCEDURE OF THE CITY OF GUNNISON MUNICIPAL CODE**, be introduced, read, passed and adopted on second and final reading this 24<sup>th</sup> day of January, 2017.

Roll call vote, yes: Drexel, Hagan, Morrison, Schwartz, Sovick. So carried.

Roll call vote, no: None.

**Ordinance No. 2, Series 2017, Re: Youth Tobacco Ordinance; 1<sup>st</sup> Reading.** Councilor Morrison introduced Ordinance No. 2, Series 2017, and it was read by title only by the City Attorney.

Councilor Morrison moved and Councilor Sovick seconded the motion that Ordinance No. 2, Series 2017, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON AMENDING CHAPTER 5.10 OF THE GUNNISON MUNICIPAL CODE, GENERAL OFFENSES, PROHIBITING THE POSSESSION OF TOBACCO PRODUCTS BY PERSONS UNDER THE AGE OF EIGHTEEN, AND PROHIBITING THE FURNISHING OF TOBACCO PRODUCTS TO PERSONS UNDER THE AGE OF EIGHTEEN**, be introduced, read, passed and ordered published on first reading this 24<sup>th</sup> day of January, 2017.

Roll call vote, yes: Hagan, Morrison, Schwartz, Sovick, Drexel. So carried.  
 Roll call vote, no: None.

**Ordinance No. 3, Series 2017, Re: Write-In Candidates in General Municipal Election; 1<sup>st</sup> Reading.** Councilor Drexel introduced Ordinance No. 3, Series 2017, and it was read by title only by the City Attorney.

Councilor Drexel moved and Councilor Morrison seconded the motion that Ordinance No. 3, Series 2017, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON ADOPTING WRITE-IN CANDIDATE AFFIDAVIT REQUIREMENTS FOR CITY OF GUNNISON MUNICIPAL ELECTIONS**, be introduced, read, passed and ordered published on first reading this 24<sup>th</sup> day of January, 2017.

Roll call vote, yes: Morrison, Schwartz, Sovick, Drexel, Hagan. So carried.  
 Roll call vote, no: None.

**Resolution No. 2, Series 2017; Re: Calling the 2017 Regular Municipal Election and setting it to be conducted as a mail ballot election.** Councilor Schwartz introduced Resolution No. 2 Series 2017, and it was read by title only by the City Attorney.

Councilor Schwartz moved and Councilor Morrison seconded the motion that Resolution No. 2, Series 2017, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, DIRECTING THE CITY CLERK OF THE CITY OF GUNNISON TO CONDUCT THE REGULAR MUNICIPAL ELECTION, SCHEDULED FOR MAY 9, 2017, AS A MAIL BALLOT ELECTION AND TO SET GUNNISON CITY HALL AS THE VOTING PRECINCT PHYSICAL VOTING CENTER FOR SAID ELECTION**, be introduced, read, passed and adopted this 24<sup>th</sup> day January, 2017.

Roll call vote, yes: Schwartz, Sovick, Drexel, Hagan, Morrison. Motion carried.  
 Roll call vote, no: None.

**Resolution No. 3, Series 2017; Re: Canceling the Council Regular Session meeting scheduled for May 9, 2017, due to the Regular Municipal Election.** Councilor Sovick introduced Resolution No. 3, Series 2017, and it was read by title only by the City Attorney.

Councilor Sovick moved and Councilor Drexel seconded the motion that Resolution No. 3, Series 2017, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, TO CANCEL THE REGULAR SESSION MEETING DATE OF CITY COUNCIL WHICH WAS ORIGINALLY SCHEDULED FOR MAY 9, 2017**, be introduced, read, passed and adopted this 24<sup>th</sup> day of January, 2017.

Roll call vote, yes: Sovick, Drexel, Hagan, Morrison, Schwartz. So carried.  
 Roll call vote, no: None.

**Adjourn Regular Session Meeting and Convene Discussion Session.**

Mayor Hagan adjourned the Regular Session meeting and Council went into the discussion/work session at 6:55 P.M.

  
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 Mayor

  
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 City Clerk