

APRIL 11, 2017

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

5:30 P.M.

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

PUBLIC HEARING

5:30 P.M.

Receive public input on Hotel & Restaurant Liquor License Application from Lefave LLC dba Mario's Pizza and Pasta, 213 W. Tomichi Avenue, Gunnison, CO.

Mayor Hagan called the public hearing to order and stated the date is Tuesday, March 28, 2017, at 5:30 PM in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, CO. The purpose of the Public Hearing is to receive input on the Hotel & Restaurant Liquor License Application from Lefave LLC., dba Mario's Pizza and Pasta, 213 W. Tomichi Avenue, Gunnison, CO. The record should reflect the attendance of City Councilors Andy Sovick, Robert Drexel, Leia Morrison, Matt Schwartz, and myself, Mayor Richard Hagan, City Attorney Kathy Fogo, City Manager Russ Forrest, City Clerk Gail Davidson, Finance Director Ben Cowan, Community Development Director Westbay and the applicant.

Mayor Hagan asked the applicant to please identify themselves. Danny and Kerry Lefebvre introduced themselves as the applicants.

Mayor Hagan then asked the City Clerk to give the staff report for the hearing. City Clerk Davidson stated Article 47, Title 12, of the Colorado Revised Statutes (CRS) sets the general rules and regulations for the proper manufacture, distribution and sale of alcoholic beverages. It states the state licensing authority and the local licensing authority, in this case the Gunnison City Council, have dual responsibility for regulating the sale and service of alcoholic beverages and issuing licenses to do so. If the State doesn't approve a license, the City cannot grant a license and the State will not issue a license without the City's approval. Article 47, Title 12 sets the application requirements and process for each type of liquor license. The applicant, Lefave LLC is applying for a Hotel & Restaurant Liquor License for Mario's Pizza and Pasta, located at 213 W. Tomichi Avenue in Gunnison. The premises currently has a Beer & Wine License but the applicant wants to provide other alcoholic drinks. This type of license allows for the sale and service of malt, vinous and spirituous liquor by the drink for on-premises consumption along with having meals. The applicant has filed the proper application with the required documentation, has paid the required fees, the Public Hearing was noticed in the Gunnison Country Times and the premises was posted for the Hearing. The principals in the LLC are Danny J and Kerry Lefebvre.

Part 3 of C.R.S. 47-12 allows for concurrent state and local review of the license application. The applicant has paid the fees for a concurrent review and the State has conducted their review at this time. The City Attorney, City Clerk, Building Official, Fire Marshal and Police Chief have reviewed the application and the premises. Copies of their memos are included in Council packets and are included in the official record of the public hearing. A liquor license is a property right and as such, the application hearing is a quasi-judicial proceeding where any party with an interest can present evidence regarding the issuance of the liquor license. The duty of the Local Licensing Authority is to determine if the applicant is of good moral character, that the issuance of the license meets the reasonable requirements of the neighborhood and the needs and wants of the neighborhood will be met by the issuance of the license. The neighborhood is defined as the area located within the incorporated city limits of the City of Gunnison.

Based on the review and preliminary findings, Staff is recommending approval of the Hotel & Restaurant Liquor License for the following reasons: there has not been a denial of an application at the same location by either the State or the Liquor Licensing Authority of the City of Gunnison within the two years preceding the date of the application on the grounds that the reasonable requirements of the neighborhood were satisfied by the existing outlets; it does appear from the evidence submitted by the applicant that they are entitled to possession of the premises where the license is proposed to be exercised; selling malt, vinous and spirituous liquor by the drink, in the manner proposed in the license application, is not in violation of the zoning, fire and other applicable codes of the City of Gunnison or the laws of the State of Colorado; the building where the application proposes to sell malt, vinous and spirituous liquor by the drink is not located within

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500 feet of any school, college, university or seminary; within the City limits there are currently 40 active liquor licenses; all fees have been paid and no adverse records were found on the LLC principals.

Mayor Hagan called for the applicant's testimony. Danny and Kerry Lefebvre addressed Council. They are asking for approval of the application so they can serve full alcohol. They currently hold a Beer & Wine License. Mr. Lefebvre provided Council with petitions containing 60 signatures of local citizens who would like to have a Hotel & Restaurant License granted for this location. They have plans to expand the restaurant to the west on the current building and will have a new entrance and a full bar in the new area. They will submit the modification of premises application later this spring. Council thanked the applicants.

Mayor Hagan called for any testimony for or against the application. There was none. Mayor Hagan called for any further comments and hearing none, closed the public hearing at 5:40 P.M.

Possible Action on Hotel & Restaurant Liquor License Application from Lefave LLC, dba Mario's Pizza and Pasta, 213 W. Tomichi Avenue in Gunnison, CO 81230.

Councilor Morrison moved and Councilor Sovick seconded the motion that the Hotel & Restaurant Liquor License for Lefave LLC dba Mario's Pizza and Pasta, 213 W. Tomichi Avenue in Gunnison, Colorado, be approved for the following reasons:

1. There has not been a denial of an application at the same location, or a location within 500 feet thereof, by either the state or local licensing authority, within the two years preceding the date of the application on the grounds that the reasonable requirements of the neighborhood were satisfied by existing outlets.

2. Selling Malt, Vinous and Spirituous Alcohol by the drink for on-premises consumption as proposed in the license application is not in violation of the zoning, fire and other applicable codes of the City of Gunnison or the laws of the State of Colorado.

3. The building where the applicant proposes to sell Malt, Vinous and Spirituous Alcohol by the drink for on-premises consumption as proposed in the license application, is not located within the 500 foot distance requirement for the principal campus of any college, university, or seminary.

4. Within the City limits of the City of Gunnison, where liquor is proposed to be sold, there are the following existing other outlets:

- 4 - Beer and Wine Licenses
- 16 - Hotel/Restaurant Licenses
- 5 - Retail Liquor Store Licenses
- 1 - Arts License
- 1 - Brew Pub License
- 5 - Tavern Licenses
- 1 - Club Type Licenses
- 6 - 3.2% Beer Type License

5. All fees necessary for the application have been paid.

6. According to the information required by the State of Colorado Liquor Division and after testimony of the applicant at the public hearing, the applicant is of good moral character and possesses the qualifications necessary to conduct the type of business proposed.

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

Roll call vote, no: None.

Mayor Hagan stated the agenda indicates a discussion item is next on the agenda. The Regular Session meeting was recessed at 5:40 P.M. Following the discussion work session, the Regular Session meeting was reconvened at 6:31 P.M.

Citizen Input: Mayor Hagan called for any citizen input for Council on issues not already being discussed on the agenda. He asked them to step forward, identify themselves and keep their comments to three minutes. Carlie Kenton, Executive Director of the Gunnison Center for the Arts,

Eric Freson, Gunnison Chamber Executive Director and Alan Wartes, addressed Council. They asked to be placed on an upcoming agenda to make a request for funding for the Art Walk Alliance to purchase flags and flag holders to be displayed at the 20+ participating businesses in the monthly First Fridays Art Walk events. The flags and flag poles will be manufactured and purchased locally. They will increase the visual impact, branding, and exposure of the monthly event. Mayor Hagan stated there is \$20,000 in the Economic Development line item. Council consensus was to include the request on the April 25th Council agenda.

Council Action Items:

Consent Agenda:

- o **City Employee Driving Records Check Program;**
- o **Set Public Hearing on Retail Marijuana Product Manufacturing Establishment License Application from MPI Inc., 651 S. Boulevard, St. AB in Gunnison for Tuesday, April 25, 2017, at 5:30 P.M.; and**
- o **Set Public Hearing on Retail Marijuana Product Manufacturing Establishment License And Retail Marijuana Cultivation License Application from Cosmic Foods, Inc., 555 S. 10th Street, Gunnison, CO for Tuesday, April 25, 2017, at 5:45 P.M**

Councilor Morrison moved and Councilor Drexel seconded the motion to approve the consent agenda as presented.

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

Roll call vote, no: None.

Consideration and Action to approve minutes of March 28, 2017, council meeting.

Councilor Drexel moved and Councilor Morrison seconded the motion to approve the March 28, 2017, meeting minutes as submitted.

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

Roll call vote, no: None.

Roll call vote, abstain: Schwartz. He was not in attendance at the meeting.

Discussion and possible action on MEAN Electric Utility Cost of Service Study.

City Manager Forrest stated one of Council's adopted Strategic Priorities is to evaluate the City's infrastructure, including the City's electric utility. Representatives from the City's power provider, the Municipal Energy Agency of Nebraska (MEAN), performed the initial cost of service analysis. Electric Superintendent Will Dowis, MEAN Representative Andrew Ross and Finance Director Ben Cowan addressed Council. Items discussed included the following: an overview of the MEAN organization; WAPA hydro allocations are the least expensive power produced; the cost of service study included a review of the capital reserve plan and rate adjustments that might be necessary; and a fixed cash reserve diminishes over time. Mr. Ross reviewed that a cash reserve rate should be based on 3 months operating expenses, the gross utility plant currently in place and any debt service. Cash reserves need to be flexible and not a fixed flat rate. The cost of service analysis is recommending a 3.1% increase in January 2018 to cover projected capital and operational costs. There needs to be at least \$900,000 in capital reserves to cover large transformer costs if needed. Finance Director Cowan reviewed the proposed amendment in the Electric Division Enterprise Fund Cash Reserve Policy. A short discussion ensued.

Councilor Schwartz moved and Councilor Drexel seconded the motion to amend the City's Fund Balance Policy to amend the Cash Fund Policy for the Electric Division Enterprise Fund to state that the minimal available resources, net of customer deposits and inventory shall consist of the following, the end of year 2021: for operational cash flow during periods of peak demand, 25% of operational expenditures; for storm contingency and response to emergencies, 1% of gross utility plan in service; and for capital replacement reserve, 10% of five-year capital improvements less any borrowing.

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

Roll call vote, no: None.

IGA with Region 10, Re: Gunnison Valley Transportation Planning Region Committee:

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Community Development Director Westbay informed Council the City was contacted by Region 10 to formalize the City's participation in the Regional Transportation Planning Region Committee and there is no financial obligation attached to this IGA.

Councilor Schwartz moved and Councilor Morrison seconded the motion to authorize the Mayor's signature

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

Roll call vote, no: None.

Discussion and possible action on funding request for Community Builders Task Force (CBTF) next steps. City Manager Forrest informed Council there is a request from the CBTF to enter into a contract with the County, in cooperation with other CBTF members, to expend \$9,200 for the development of an economic development website along with development of regional indicators to track the progress and impact of the One Valley Prosperity Strategy to connect entrepreneurs to resources in the Valley and to attract and support local entrepreneurs and The City would be partnering with the County, Crested Butte, Mt. Crested Butte, WSCU, CBMR, CB South and the Community Foundation on this project. There would be a yearly cost of approximately \$600 to maintain the developed website. Discussion ensued. Councilor Sovick raised his concern that he has a hard time fitting this request into the adopted Strategic Plan. He wonders why the Plan was adopted if it isn't going to be followed in the decision making process. City Manager Forrest stated that this project, while not a specific goal, would facilitate a high level of creating a vibrant and resilient local economy as described in the Plan.

Councilor Morrison moved and Councilor Schwartz seconded the motion to authorize the City Manager to sign an agreement with Gunnison County for the expenditure of \$9,200 from the Economic Development line item for the scope of services as outlined in the memo dated April 11, 2017.

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

Roll call vote, no: None.

Ordinances and Resolutions:

Ordinance No. 5, Series 2017; Re: Adopting Backflow Prevention Standards applicable to commercial, industrial and multi-family residential service connections within then City's public water system; 1st Reading

Councilor Drexel introduced Ordinance No. 5, Series 2017, and asked it be read by title only by the City Attorney.

City Attorney Fogo and City Manager Forrest stated this ordinance creates the legal regulatory authority for the City to have this program as it is required by the State. The City drafted the ordinance to create some flexibility in the program for local property owners.

Councilor Drexel moved and Councilor Sovick seconded the motion that Ordinance No.5, Series 2017, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ADOPTING BACKFLOW PREVENTION STANDARDS APPLICABLE TO COMMERCIAL, INDUSTRIAL AND MULTI-FAMILY RESIDENTIAL SERVICE CONNECTIONS WITHIN THE CITY'S PUBLIC WATER SYSTEM** be introduced, read, passed and ordered published on first reading this 11th day of April, 2017.

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

Roll call vote, no: None.

Ordinance No. 6, Series 2017; Adoption of 2015 ICC Building Codes; 1st Reading.

Councilor Morrison introduced Ordinance No. 6, Series 2017, and it was read by title only by the City Attorney.

Community Development Director Westbay and Building Official Jansen spoke with Council about the proposed Code amendments. Discussion ensued and Council consensus was to require mandatory blower door testing as is defined in Chapter 4 of the International Energy Conservation

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Code. Councilor Morrison stated it is not cost prohibitive and it is relatively easy to do. Mayor Hagan concurred and stated the City should be a leader in energy efficiency. Councilor Sovick stated this ordinance is an opportunity to keep building costs down by not requiring sprinkler systems in duplex units as currently proposed. Building Official Jansen stated sprinklers save lives and the current adopted code requires duplex fire sprinklers. Council consensus was to make no amendment change to this code requirement.

Councilor Morrison moved and Councilor Drexel seconded the motion that Ordinance No. 6, Series 2017, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON REPEALING AND RE-ENACTING CHAPTER 14, TECHNICAL CODES, ARTICLES 1 THROUGH 5, OF THE CITY CODE OF THE CITY OF GUNNISON, AND ADOPTING BY REFERENCE THE 2015 EDITIONS OF THE INTERNATIONAL BUILDING CODE, INTERNATIONAL RESIDENTIAL CODE, INTERNATIONAL EXISTING BUILDING CODE, INTERNATIONAL ENERGY CONSERVATION CODE, INTERNATIONAL MECHANICAL CODE, INTERNATIONAL FUEL GAS CODE, INTERNATIONAL FIRE CODE, AND INTERNATIONAL PROPERTY MAINTENANCE CODE, AND ESTABLISHING THE PENALTY FOR THE VIOLATION THEREOF**, be introduced, read, passed with the ordinance stating a blower door test is mandatory and ordered published on first reading this 11th day of April, 2017.

Roll call vote, yes: Hagan, Morrison, Schwartz, Sovick, Drexel. 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 8:40 P.M.



Mayor



City Clerk