

September 27, 2011

CITY OF GUNNISON COUNCIL
REGULAR SESSION MEETING MINUTES

7:00 P.M.

The City Council Regular Session meeting was called to order at 7:00 P.M., by Mayor Pro Tem Harriman with Councilors Drexel, Seymour, and Nesbitt present along with City Attorney Landwehr, City Manager Coleman, City Clerk Davidson, Public Works Director Bradford, Community Development Director Westbay, Finance Director Hanson, Finance Clerk Elam, several interested citizens and the press. Mayor Houck and WSC Liaison Edwards were absent. A Council quorum was present.

Consideration of Minutes:

Regular Session Meeting Minutes of September 13, 2011.

Councilor Nesbitt moved and Councilor Drexel seconded the motion to approve the Regular Session Meeting minutes of September 13, 2011, as submitted.

Roll call vote, yes: Drexel, Harriman, Seymour, Nesbitt. Motion carried.

Roll call vote, no: None.

Pre-Scheduled Citizens:

Nancy Osmundson, Re: Restorative Practices Update. Ms. Osmundson contacted the City Clerk this morning and is not able to be in attendance this evening. She will reschedule.

Rick Miller, Re: Sales Tax Auditing. Mr. Miller addressed Council. The issue he addressed was the proposed sales tax audits of businesses conducting business in the City of Gunnison. He identified himself as a City resident and the owner of Miller furniture, a business that his family has run for over 100 years. Issues he discussed included: the proposed audits are just wrong; it creates a sad business environment; disappointed by the unanimous decision by Council 2 weeks ago; disappointed by Staff since the issue was discussed last fall and tighter enforcement on delinquent sales tax businesses was put in place; business sector versus random business selection for the audits was mentioned; the potential cost of selected businesses was discussed; there is no way that \$7.00 is recouped for every \$1.00 spent; most businesses keep at least 7 years of records; his family has been in business since 1885 and they know how to collect and remit sales tax; they have never been audited by the IRS and the IRS uses "red flags" to set the audit process into action; auditors don't educate they are invasive and intrusive; it's hard enough to make ends meet on Main Street without having to spend money getting audited; City money comes from sales and if the businesses don't get paid then the City doesn't get paid; this is bad government and bad legislation; we have a representative government; no information was given to businesses before Council acted on this audit proposal; Council needs to check with the people they represent; and the vendor fee that is allowed for businesses to keep is a very small commission for businesses having to collect, report and remit the sales taxes to the City. He is an honest business owner and again, this is bad government.

Selma Eastman, owner of the Toggery, stated she has been in business since 1988 under their present ownership. Ms Eastman discussed the following items: if there are issues with certain businesses then they need to be audited; most businesses are computerized and it is easy to examine their records; this audit is a slap in the face and questions a business's integrity; don't go after all business; there is a time issue involved in these audits and no way can she take time out of the day to provide the information for the audit, it costs her money; audits need to be convenient for the business owner; a letter to the businesses about this issue would have been nice instead of just saying here you go; if a business is delinquent or blatantly not collecting properly, then lock their doors; and she takes this proposal as an insult to her as an honest business.

Morrill Griffith, co-owner of SunSports since 1978, asked why all of a sudden the City needs more sales tax? He knows times are tough but we can't spend money as in past years. He asked if the City can cut back. Most businesses are on a shoestring budget. Has the City done that? If you "Google" city money-saving ideas maybe we can come up with some ways to cut spending. Are we going to turn businesses against businesses if one gets audited and another doesn't? Will they turn each other in to the City for audits? He has been audited by the State and he had to spend days away from the business to prepare all of the documentation for the audit. This cost him money and he had to pay his accountant to be present. He feels the \$7 return for \$1 spent is blowing smoke. Go after the delinquent businesses. This is not the way to bring in more funds.

Adam Griffith, co-owner of SunSports, asked about internet sales. Some collect sales tax but does the City get these funds? It is not a level playing field anymore. Internet sales are helping to run brick and mortar stores out of business. The City needs to look at that sales tax that is not paid.

Marshal Taylor, owner of Gene Taylor Sporting Goods Store, discussed the following: he agrees with the other comments and doesn't agree with random auditing; the auditing will cause ill feelings and it's not necessary; his store collects and pays their sales tax; the City should target those business that are not paying and don't use honest businesses as targets.

City Staff replied to some of the comments including the following: valid points have been made; staff does trust businesses and most business owners are fine, upstanding people; we are not questioning anyone's integrity; the audits do seem fiscally prudent; the cost to businesses hasn't been considered and needs to be looked at; City Code already requires that 3 years of records be made available to the Finance Department; it definitely is a representative government and the City needs to listen to the sector being impacted; outreach and education is needed; the City has no rights to collect City sales tax from internet sales and this definitely impacts our economy; Staff has been fiscally prudent and conservative in these lean times; and the random selection of businesses needs to be impartial and unbiased for everyone to create a level playing field for all businesses.

Mayor Pro Tem Harriman stated that there are clearly some questions and Council needs to get answers to these concerns. Councilor Seymour thanked everyone for coming and giving Council input. The audit is not happening yet and everyone knows there are businesses that are delinquent in paying their sales tax. The City does need to provide a level playing field for all businesses. Councilor Nesbitt stated he hears the concerns but doesn't fault Staff for bringing forward these issues. It's important to have the discussion.

Kathy Picard, owner of Hair Repair II, stated she has been in business for 25 years. If the process is to educate, educate, educate, then do it. Has the City offered businesses education on the rules? She hasn't seen any of it in 25 years. Finance Director Hanson replied the City offered classes on sales tax collection when we changed over to self-collection in 1998 or 1999. No one attended the classes.

A brief discussion ensued about businesses reporting monthly or quarterly. Ms. Elam stated that a good majority of the businesses do report monthly.

Andy Smith, owner of All Sports Replay, asked how the City plans to pay for the audit. Almost everything is computerized and everything is traceable. How about hiring a local auditing firm? Councilor Nesbitt stated that we need a neutral company with no ties to the community. Director Hanson replied that the auditing company would be paid on an hourly basis and if after the initial review, there isn't anything obvious, then they will move on. Council thanked all of the business people for giving them their input. The process isn't set yet and there are questions to be answered.

Youth City Council Members; Re: Appointment of 2011-2012 YCC Members.
Youth City Council members Tim Cranor, William Eager, and Kaitlin Stewart introduced themselves to Council. A short discussion ensued with Council. City Clerk Davidson, the Youth City Council Advisor, explained that it is difficult for some of the students to attend night meetings due to schedule conflicts.

Councilor Nesbitt moved and Councilor Drexel seconded the motion to appoint Tim Cranor, Hannah Cranor, William Eager, Anna Ferraro, Joy Mask, Meghan Matuszczak, Sarah Orth, Alex Saiers, and Kaitlin Stewart to the 2011-2012 Youth City Council.

Roll call vote, yes: Harriman, Seymour, Nesbitt, Drexel. Motion carried.

Roll call vote, no: None.

Council thanked the students for their interest in municipal government.

Unfinished Business: None.

New Business:

Action on Request to Expend \$6,850 for Purchase of Fire House Storage Unit(s). This item was previously discussed at a Council Work Session. Finance Director Hanson explained that if approved, the appropriation of the funds will be included in the year-end additional appropriation ordinance.

Councilor Drexel moved and Councilor Nesbitt seconded the motion to approve the expenditure of \$6,850 out of General Fund Cash Reserves for the purchase of two shipping container storage units at the Gunnison Fire House.

Roll call vote, yes: Seymour, Nesbitt, Drexel, Harriman. Motion carried.

Roll call vote, no: None.

Discussion on UGRWCD Organization Decree Public Hearing. City Manager Coleman explained that Council approved and sent a letter to Judge Patrick regarding this issue. However, the letter was sent prior to the Public Hearing Notice on the Petition to Reopen and Revise the Organization Decree by the Upper Gunnison River Water Conservancy District was published. The Public Hearing will be held on November 8, 2011, at 9am and public comment is being filed with the District Court no later than October 7, 2011. Discussion then ensued on the original letter that was sent to the Judge. Council consensus was to change the letter to focus on the loss of representation from the City and not other issues. The need for legal representation at the hearing was discussed and it was decided that it was not necessary. The heart of the matter is the loss of representation. City Manager Coleman will redraft the letter for Council's consideration. Because the letter must be sent by October 7th, a Special Session meeting of Council needs to be set so that action can be taken on the letter.

Councilor Drexel moved and Councilor Seymour seconded the motion to set a Special Session meeting of Council at 7:00 P.M., on Tuesday, October 4, 2011, prior to the Work Session meeting, and the agenda topic will be: Action on Letter to Judge Patrick, re: UGRWCD Reorganization Request.

Roll call vote, yes: Drexel, Harriman, Seymour. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Nesbitt. He is a District Board Member.

Air Force Low-Altitude Training Meeting Request. City Manager Coleman informed Council that Mayor Houck had forwarded an email he received asking him if he could serve as a neutral moderator for a community meeting regarding the 27th Special Operations Wing's Low-Altitude Training Area proposal that will incorporate the Gunnison Valley. If the City is the neutral moderator then we couldn't take a position on the proposal. Discussion ensued. City Manager Coleman will pursue asking another community member to serve as moderator. Council will further discuss this topic and whether to take a position or not at a future Council meeting. The public meeting will be October 13th, at 6pm in the WSC Center Ballroom.

Set Public Hearing on Annual Renewal of Chavolos Mexican Restaurant Liquor License. City Clerk Davidson informed Council that Chavolos Mexican Restaurant did not renew their liquor license as required by State Statute. They have a 90 day grace-period from the State in which they can submit their application. They did submit their application and appropriate fees last Friday. According to City Code, the Clerk can ask the City Council to review and act on a renewal application. She is asking Council to set a Public Hearing on the annual renewal of the Chavolos Mexican Restaurant liquor license.

Councilor Nesbitt moved and Councilor Drexel seconded the motion to set a Public Hearing on the Hotel & Restaurant Liquor License renewal application from Chavolos Mexican Restaurant for 7:00 P.M., Tuesday, October 11, 2011.

Roll call vote, yes: Drexel, Harriman, Seymour, Nesbitt. Motion carried.

Roll call vote, no: None.

Excuse Mayor Houck from Regular Session Meeting. The Mayor is out of town at a conference associated with his job.

Councilor Nesbitt moved and Councilor Seymour seconded the motion to excuse Mayor Houck from this evening's Council Regular Session meeting.

Roll call vote, yes: Harriman, Seymour, Nesbitt, Drexel. Motion carried.

Roll call vote, no: None.

Ordinances and Resolutions:

Ordinance No. 8, Series 2011; Re: Vacation of a Portion of East Bidwell Avenue; 2nd Reading. Councilor Nesbitt introduced Ordinance No. 8, Series 2011, and it was read by title only by the City Attorney.

Councilor Nesbitt moved and Councilor Drexel seconded the motion that Ordinance No. 8, Series 2011, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, VACATING PORTIONS OF WISCONSIN STREET, BIDWELL AVENUE AND MAIN STREET, CITY OF GUNNISON, STATE OF COLORADO; AND APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE TERMS OF THE AGREEMENT FOR VACATION OF PORTION OF CITY RIGHT OF WAY AND GRANT OF EASEMENTS, DATED JUNE 28, 2011,** be introduced, read, passed and adopted on second and final reading this 27th day of September, 2011, and copies be made available to the public.

Roll call vote, yes: Seymour, Nesbitt, Drexel, Harriman. Motion carried.

Roll call vote, no: None.

Ordinance No. 9, Series 2011; Re: South Main Street Utility Easements Vacation; 2nd Reading. Councilor Nesbitt introduced Ordinance No. 9, Series 2011, and it was read by title only by the City Attorney.

Councilor Seymour moved and Councilor Nesbitt seconded the motion that Ordinance No. 9, Series 2011, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, VACATING A TWENTY-FIVE FOOT UTILITY EASEMENT PREVIOUSLY RESERVED IN THAT PORTION OF THE EAST-WEST ALLEY LYING BETWEEN LOTS 13 THROUGH 17, BOTH INCLUSIVE, ON THE SOUTH, AND LOT 18 ON THE NORTH, BLOCK 133, AMENDED PLAT OF TOWN OF WEST GUNNISON, CITY AND COUNTY OF GUNNISON, STATE OF COLORADO,** be introduced, read, passed, and adopted on second and final reading this 27th day of September, 2011, and copies be made available to the public.

Roll call vote, yes: Nesbitt, Drexel, Harriman, Seymour. Motion carried.

Roll call vote, no: None.

City Attorney: Rod Landwehr. Nothing to report.

City Manager: Ken Coleman reported on the following: he attended the USAPCC 2011 host communities meeting in Vail today; they will be holding a 2012 race but no course or commitments have been made at this time; the Household Hazardous Waste Event took place on Saturday and it was a success with approximately 1300 gallons collected as well as 3 pallets of used batteries; he has talked with the County and Habitat for Humanity regarding the West Gunnison property, and they stated if the City budgets for placement of the utilities it will help Habitat with the purchase of the property; he has agreement with three property/business owners in the City Market area to place City bike racks at their locations to help alleviate the problems that were brought to Council; and he has been talking with numerous citizens and business owners regarding the informal downtown trick or treat event that takes place every year. He is trying to get some parameters set around the event.

Acting City Manager: Tex Bradford – Departmental Report. Director Bradford stated that Council has his report in their packets. He clarified that the paving of Evans Avenue will take place next week and the grinding of trees has been delayed because the grinder broke. There has been a problem with beavers damming the main ditch up north and he is working with a contract trapper to trap the animals. City Manager Coleman reminded Council the ditches will be turned off September 30th. Council thanked Director Bradford and his employees for all they do for the City.

City Clerk: Gail Davidson. Nothing further to report.

WSC Liaison: Nicholas Edwards. Was not in attendance.

Non-Scheduled Citizens:

City Council Discussion, Meeting Reports, Items for Work Session:

Councilor Drexel: thanked Director Bradford for mowing the weeds on North Colorado Street. He reported he attended the Region 10 Meeting and he was elected to the Executive Board. They discussed a grant from the Telluride Foundation that is available for 3 counties but not Gunnison County, they are working on grievance processes; and they discussed the new Small Business Resource Guides.

Councilor Seymour: nothing further to report.

Councilor Nesbitt: reported that he attended a 5 hour Water Board meeting last night. They mainly discussed their budget. The Gunnison Basin Water Roundtable meeting will be in Montrose next week. Councilor Nesbitt stated they discussed the State naming some of the local waterways as having potential quality issues. He also discussed the Flaming Gorge water diversion project and it may not be dead yet.

Mayor Pro Tem Harriman: reported she didn't attend any meetings but she has been working on the budget grants and contracts worksheets. She heard good things about the Strawbale Conference that was held last weekend. She then asked Director Bradford about water flowing on the DOW trail easement since it is really wet. Director Bradford stated that the water flow will be monitored and culverts installed where needed. This is the approach they followed on the existing VanTuyl Ranch trail.

Adjournment: Mayor Pro Tem Harriman called for any further discussion, and hearing none, adjourned the meeting at 9:51 P.M.

Mayor

City Clerk