

SEPTEMBER 9, 2014

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 Drexel, with Councilors Ferguson, Steinbeck and Hagan present along with City Attorney Fogo, City Manager Coleman, City Clerk Davidson, WSCU Liaison Ballesteros, Finance Director Collins, Parks & Recreation Director Ampietro, many citizens and the press. Councilor Riggs arrived at 7:05 P.M. A Council quorum was present.

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PUBLIC HEARING

7:00 P.M.

Receive Input on Hotel & Restaurant Liquor License Application from Silvia Veronica Perez, Sole Proprietor, dba Agave Family Mexican Restaurant, 800 N. Main Street, Gunnison, CO 81230.

Mayor Drexel opened the public hearing at 7:00 P.M. and stated the reason for the public hearing is to receive input on the Hotel & Restaurant Liquor License Application from Silvia Veronica Perez, sole proprietor, dba Agave Family Mexican Restaurant, 800 N. Main Street in Gunnison, Colorado, and present at the hearing are City Councilors Richard Hagan, Anne Steinbeck, Stu Ferguson, Carolyn Riggs (arrived at 7:05 P.M.), himself Mayor Bob Drexel, City Attorney Kathy Fogo, City Manager Ken Coleman, City Clerk Gail Davidson, WSCU Liaison Stefano Ballesteros and the applicant.

Mayor Drexel asked the applicant to stand and introduce herself. Ms. Silvia Veronica Perez introduced herself to Council. Her daughter was present to act as interpreter as needed.

Mayor Drexel then asked for the Duties of the Board and the procedural aspects of 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 sale of alcoholic beverages. It states the state licensing authority and the local licensing authority have dual responsibility for regulating the sale 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 is applying as a sole proprietor for a Hotel & Restaurant Liquor License for Agave Family Mexican Restaurant, located at 800 N. Main Street in Gunnison. The applicant has filed the proper application with the required documentation, has paid the required fees, the required Public Hearing was noticed in the Gunnison Country Times and the premises was posted for the Hearing. 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 is conducting 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 in 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 entire City Limits of the City of Gunnison.

Mayor Drexel asked for proof of publication and proof of posting for the record. City Clerk Davidson stated copies of the proof of publication and proof of posting are included in Council's packets and are included in the official file of the Public Hearing. Mayor Drexel entered the application and the official file into the record. City Clerk Davidson then reviewed the Preliminary Investigation Report. She stated an investigation has been made, and based on the results thereof the following has been determined: (1) 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. (2) 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. (3) 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. (4) The building

where the application proposes to sell malt, vinous and spirituous liquor by the drink, located at 800 N. Main Street, Gunnison, is not within 500 feet of reasonable walking distance of any public or parochial school or the principal campus of any college, university, or seminary. (5) Within the City limits where the applicants proposes to sell liquor, there are the following existing outlets: 5 – Beer and Wine Type Licenses; 9 - Hotel/Restaurant Type Licenses; 5 - Retail Liquor Store Licenses; 1 - Arts License; 1 - Brew Pub License; 8- Tavern Licenses; 1 - Club License; 6 - 3.2% Beer Type Licenses; for 36 - Total Number of Active Liquor Licenses in City of Gunnison; (6) According to information from the Police Department of the City of Gunnison, the following records have been found with regard to the following applicant: A local background check has been conducted and a memo from Gunnison Police Chief Keith Robinson states he has no objections to the issuance of a license concerning the applicant but had a question regarding Ms. Perez's full name on her license. That question has been resolved.

Ms. Perez's fingerprint card has been submitted with her full name to the CBI for a background check, and the City is awaiting results. If that search reveals any problems the applicant can be asked to come back before Council for resolution. Mayor Drexel reiterated that the Determination of the Neighborhood is the Incorporated City Limits of Gunnison, Colorado.

Mayor Drexel called for the applicant's testimony. Ms. Perez, through her daughter acting as interpreter, addressed Council. Ms. Perez stated she would like to have a liquor license since people sometimes come in and request a drink with their meal, but when learning alcohol is not available they leave. She thinks the liquor license would be a good addition to her business.

Mayor called for any further testimony in favor of the application. There was none.

Mayor Drexel called for any testimony in opposition of the application. Gunnison County resident Jim Welsh, came forward and identified himself as a 40-year resident of the Gunnison area. Mr. Welsh stated the following: he opposed to the application being granted; he owns a rental that the applicant and her family moved into without permission; the applicant caused damage to the property and trashed the trailer and property; the applicant constructed and ran a beauty shop at the trailer without permission; there are too many liquor licenses already in that area; the applicants aren't trustworthy enough to be serving alcohol to customers; they could serve alcohol to kids; they were late in paying rent and destroyed locks and other items; they left oil in buckets and litter in the yard that he is now having to clean up; he has over 30 photos of the damage to the property; he thinks the applicant and her family took advantage of him, and he is disabled; and the application shouldn't be approved because she isn't of good character. Mr. Welsh thanked Council for allowing him to testify and Council thanked Mr. Welsh for his testimony.

Ms. Perez and her daughter came forward with rebuttal testimony. Ms. Perez testified the following: what Mr. Welsh is saying is false; he told them they had to move, and they only had three days to move; he took advantage of them because they are immigrants; they did not construct and operate a beauty shop since she works full time and didn't have time to run a beauty shop; they tried to enclose the porch area because it was so cold; the trailer is old and had damage to it when they moved in that was never repaired when they asked; there is water damage on the ceiling that was never repaired, and he didn't fix a thing when they lived there; they paid a deposit when they moved in and paid on time; his statements are completely false; when they moved out they returned to get their belongings from the trailer, and they had to break the lock to get in to get their items and to clean the trailer because they were locked out; they spent \$800 on the remodel because it was cold; the trailer is very old, and they didn't destroy anything in 2 years; they are a family and want a nice place to live; there was a broken window when they moved in and it was never fixed even though they asked many times; Mr. Welsh was given a free simple breakfast at their restaurant but when he started ordering more expensive items they charged him, and he became angry; and they didn't take advantage of him.

Councilor Riggs asked how long they have been at the restaurant and what their relationship with their landlord was like. Ms. Perez stated 6 months and they have a good relationship with the landlord and always pay their rent on time.

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Mayor Drexel asked for any further comments and hearing none, closed the Public Hearing at 7:26 P.M. He stated the application would come under consideration later in the meeting.

Consideration of Minutes:

Regular Session Meeting Minutes of August 26, 2014.

Councilor Steinbeck moved and Councilor Riggs seconded the motion to approve the Regular Session Meeting minutes of August 26, 2014, as submitted.

Roll call vote, yes: Riggs, Ferguson, Drexel, Steinbeck, Hagan. So carried.

Roll call vote, no: None.

Pre-Scheduled Citizens:

Presentation on Senior Transportation Funding Request – Nell Whiting, Wade Baker, Karin Stewart. Ms. Stewart and Ms. Whiting came forward and introduced themselves. City Manager Coleman informed Council he has met with the seniors, Wade Baker of the Gunnison Health Care Center and Scott Truex of the RTA regarding the request. The existing senior van runs three days per week with limited on-call service and the seniors would like to expand the service to add another van or bus and operate an additional day during the week. Discussion ensued on the following items: the City and RTA are being asked to contribute \$25,000 each per year to expand the service; a backup driver is needed to cover vacation and sick time for the present driver; the possibility to obtain more money from the Region 10 Area Agency on Aging (AAA); the possibility of obtaining CDOT Grants for senior transportation needs; the role of the County in the exiting transportation services for seniors through Karin Stewart's office; the need for operational funds as well as capital funds to purchase a vehicle; the need for additional County funding for the project; and the need for other non-senior citizens for this type of transportation. City Manager Coleman stated City staff has incorporated \$25,000 in the draft 2015 Budget for this request.

Several citizens present in the audience provided input. Rogene McKiernan sits on the Region 10 AAA Board, and there is no money available for additional transportation needs. Federal and state dollars are limited. Martha Gentry would also like to see the service area extended to housing areas outside the City limits. Marilyn Tibjlas, a physical therapist who works with seniors, said she took care of senior relatives and saw the need for the services. The existing van is too full, and it is difficult to get to medical appointments without having to wait for extended periods of time. Ken Swedberg is involved in the Young at Heart Senior program, and the wait time for the bus is sometimes very long. Many people are using the service. Transportation is a big issue for seniors and helps in determining whether they stay or leave the Valley as they age. Vince Rogalski, Chair of the Gunnison Valley Transportations Planning Region and the Colorado Transportation Advisory Committee, stated there are no capital funds available for operations. Councilor Steinbeck stated if such transportation became a reality, the needs of disabled individuals should be considered also. City Manager Coleman informed the audience that Council will review the funding request during their September 16th budget meeting. Council thanked all of the citizens present for their input.

Unfinished Business: None.

New Business:

Action on Silvia Veronica Perez, Sole Proprietor, dba Agave Family Mexican Restaurant, Application for a Hotel & Restaurant Liquor License.

Councilor Hagan moved and Councilor Riggs seconded the motion that the Hotel & Restaurant Liquor License for Silvia Veronica Perez, sole proprietor, dba Agave Family Mexican Restaurant, 800 N. Main Street, Gunnison, Colorado, 81230, 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. 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 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.

4. 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, does not appear to be within 500 feet by reasonable walking methods of any public or parochial school or the principal campus of any college, university, or seminary.

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

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

6. All fees necessary for the application have been paid; and

7. 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.

Councilor Steinbeck asked about the CBI background check. City Clerk Davidson stated that the results have not been received at this time but Council, as the Local Licensing Authority, can request the applicant return to Council for a Hearing if the results of that background check reveal any problems with the applicant. Councilor Ferguson stated there is no way to weigh the merits of the allegations presented at the Public Hearing. The testimony presented is troubling but there is no basis of fact on either side. City Attorney Fogo stated there is eight years of the resident's history included in the application, and there does not appear to be any problems during that time. Councilor Hagan stated the testimony does not represent mismanagement of a liquor license, and it didn't seem to be applicable to the license. He thinks it is laudable for the citizen to come forward and give testimony on the application. Councilor Riggs reminded the applicant it is an honor and privilege to receive a liquor license, and serving liquor to citizens in the community requires a great deal of respect for the community. WSCU Liaison Ballesteros stated he agrees with Councilors Hagan and Ferguson that the testimony doesn't affect the liquor license. The allegations are hard to prove. He knows it is difficult for immigrants to start a successful business, and it is always easier to be negative rather than positive. He thinks the license would be a good thing for the applicant. Mayor Drexel commented he is aware of great difficulties resulting from alcohol abuse in the community. A liquor license requires great responsibility to be prudent with the customers.

Roll call vote, yes: Ferguson, Drexel, Steinbeck, Hagan, Riggs. Motion carried.

Roll call vote, no: None.

Action on Award of Parks & Recreation Master Plan Consultant Contract to MIG in a Project Amount Not to Exceed \$78,000. Parks & Recreation Director Dan Ampietro informed Council the contract under consideration this evening is the "boiler plate" services contract language utilized by the City for projects of this scope.

Councilor Ferguson moved and Councilor Hagan seconded the motion to approve and award the Parks & Recreation Master Plan Consultant Contract to MIG in a project amount not to exceed \$78,000.00.

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Roll call vote, yes: Drexel, Steinbeck, Hagan, Riggs, Ferguson. So carried.
 Roll call vote, no: None.

Action to Approve City Fund Balance (Cash Reserve) Policy. Finance Director Collins informed Council that following last week's discussions with Council, a maximum General Fund Cash Reserves fund balance of 40% and a minimum of 33% set in the Policy.

Councilor Hagan explained that he is not in favor of the maximum amount level and will not vote in favor of the Policy. He agrees that the Policy is needed to guide Council on spending of the funds, but he thinks there are a lot of needs to be addressed with those cash reserves. Councilor Steinbeck stated that the Policy can always be changed down the road if the spending levels need to be amended. Councilor Riggs applauded Council Hagan for getting Council to set a Policy. It creates a larger vision for the future and encourages growth. She thinks the 33% minimum is a good target and shows spending responsibility to the citizens.

Councilor Ferguson moved and Councilor Steinbeck seconded the motion to approve the City Fund Balance Cash Reserve Policy dated September 9, 2014.

Roll call vote, yes: Steinbeck, Riggs, Ferguson, Drexel. Motion carried.
 Roll call vote, no: Hagan.

Action to Approve DOLA Grant Application for Senior Addition to Community Center. City Manager Coleman stated that in his conversation with the Division of Local Affairs (DOLA) representatives he was asked if Council had authorized the grant application for the Senior Addition to the Community Center. The City has not done that in the past, and it was his oversight on this application. He is asking for that authorization at this time.

Councilor Steinbeck moved and Councilor Riggs seconded the motion to approve the DOLA Grant Application for the Senior Addition to the Community Center in the amount of \$150,000.

Roll call vote, yes: Hagan, Riggs, Ferguson, Drexel, Steinbeck. So carried.
 Roll call vote, no: None.

Ordinance and Resolutions:

Ordinance No. 8, Series 2014; Re: Amending Chapter 2.20, Purchasing Policy and Procedure of the Gunnison Municipal Code; 2nd Reading. Councilor Ferguson introduced Ordinance No. 8, Series 2014, and asked that it be read by title only by the City Attorney.

Councilor Ferguson moved and Councilor Hagan seconded the motion that Ordinance No. 8, Series 2014, **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 9th day of September, 2014.

Roll call vote, yes: Riggs, Ferguson, Drexel, Steinbeck, Hagan. So carried.
 Roll call vote, no: None.

Councilor Ferguson stated it is important for the City to have this policy to ensure fair and prudent purchasing of goods and services. Not all municipalities utilized these types of policies.

Resolution No. 8, Series 2014; Re: Supporting Watershed School District Ballot Issue. Councilor Steinbeck introduced Resolution No. 8, Series 2014, and she then read it by title only.

Councilor Steinbeck moved and Councilor Riggs seconded the motion that Resolution No. 8, Series 2014, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, SUPPORTING GUNNISON WATERSHED SCHOOL DISTRICT'S MILL LEVY OVERRIDE ISSUE 3B ON THE NOVEMBER 4, 2014, GENERAL ELECTION BALLOT**, be introduced, read, passed and adopted this 9th day of September, 2014.

Roll call vote, yes: Ferguson, Drexel, Steinbeck, Hagan, Riggs. So carried.
 Roll call vote, no: None.

City Attorney Kathleen Fogo: reported she will not be in attendance at the next Regular Session Council meeting.

City Manager: Ken Coleman reported the City will be closing on the purchase of the IOOF Park on Friday morning. He met with representatives of Western State and the High School regarding the parade event permits that they submitted. The parades will be on the same day and logistics are being formulated. City Manager Coleman then discussed the following items: Staff's focus has been on developing a balanced 2015 Budget; he reminded Council the Budget Work Session meeting will start at 3pm; the 5-year Capital Plan and the adopted Reserve Fund Policy will be incorporated into the 2015 Budget; he met with representatives from DOLA, and they discussed DOLA's new focus on energy conservation through the use of alternative fuels projects. City Manager Coleman then discussed the following topics from the Mayor's Managers' Meeting he attended with Mayor Drexel: sales tax revenues in Mt. Crested Butte are up 28%; he will be meeting with the new Western State Colorado University Athletic Director to discuss town-gown relationships and developing more inclusive community connections; he will contact WSCU President Dr. Greg Salsbury to extend an invitation to meet with Council; Crested Butte is ramping up for the big Bud-Light "Whatever" event; the new General Surgeon will be starting soon at the hospital, and the urgent care services will be expanded; drilling of the new County Courthouse geothermal wells has started, and those wells will be utilized for heating and cooling of the new building; and lastly, a variety of endangered species was discussed.

Acting City Manager: Public Works Director Ken Bradford was not in attendance.

Finance Director: Wendy Collins reported the Budget Work Session will take place next week, and hardcopies of the budget will be provided. She will be attending the CML District 10 meeting in Cedaredge with Councilor Steinbeck.

Parks & Recreation Director: Dan Ampietro reported the Community Center HVAC heat exchanger unit was installed by Mesa Mechanical. Installation required two chain hoists to lift it into the mezzanine. The old unit was left in place as an emergency backup. It appears the new unit is functioning. The manufacturer will be providing maintenance information for the Community Center staff.

City Clerk: Gail Davidson informed Council the first Youth City Council introductory meeting took place last Sunday and the program is starting up for the school year.

WSCU Liaison: Stefano Ballesteros reported the students are excited to be gearing up for Western's Homecoming. The schedule of events can be found on Western's website. There will be the parade, golfing at Dos Rios, the lighting of the W, a bonfire, and the annual alumni party at the Aspinall-Wilson Center. Stefano then invited Council, Staff and the public to participate in the WSCU River Conservation Club's fly fishing and river cleanup on October 18th. They are a very active group on campus. There will be free fly fishing classes and a fundraiser at the University Center Ballroom on Saturday evening.

Non-Scheduled Citizens: None.

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

Mayor Pro Tem Ferguson: informed Council the Gunnison Valley Observatory has extended its public viewing season through September 20th.

Councilor Riggs: informed Council she attended the Club 20 election debates last weekend. The debates and conversations were very interesting.

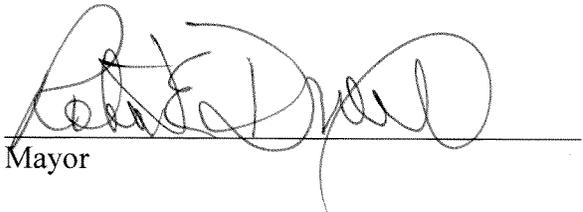
Councilor Hagan: reported he attended the Gunnison Trails Commission meeting last night. The Commission discussed the increasing pressure on local trails and trailheads. The Commission hopes to develop an action plan to address the issue and formulate ways to get users to disperse to other trails.

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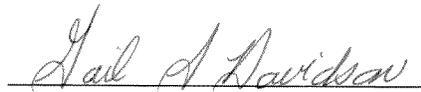
Councilor Steinbeck: reported she hosted 25 people for a gardening seminar in partnership with Mountain Roots. They all had a wonderful time. Councilor Steinbeck reported she will be attending the Gunnison Valley Regional Housing Authority meeting tomorrow.

Mayor Drexel: reported he had a busy week. He attended the Mayors'/Managers' meeting that was hosted by the Library. He and the City Manager met with the DOLA representatives prior to that meeting. The Mayor also attended the cannabis symposium held at Western State last Saturday. There were only 9 people in attendance, but many good comments were presented during a roundtable discussion. Chuck Reynolds, co-owner of Soma Wellness in Crested Butte, presented the proponent viewpoint and Bob Doyle, with "Smart Approach to Marijuana", presented the opposition viewpoint. Mayor Drexel reported he heard the budget for the "Whatever" event in Crested Butte was around \$30 million.

Adjournment: Mayor Drexel called for any further discussion, and hearing none, adjourned the meeting at 9:02 P.M.



Mayor



City Clerk