

JUNE 28, 2016

CITY OF GUNNISON COUNCIL

7:00 P.M.

REGULAR SESSION MEETING MINUTES

The City Council Regular Session meeting was called to order at 7:00 P.M., by Mayor Hagan with Councilors Sovick, Drexel, Morrison and Schwartz present along with City Attorney Fogo, Interim City Manager Achen, City Clerk Davidson, Finance Director Cowan, Police Chief Keith Robinson, Community Development Director Westbay, Parks & Recreation Director Ampietro, several citizens and the press. A Council quorum was present.

PUBLIC HEARING

7:00 P.M.

Receive Input on Retail Marijuana Store License Application from The Pot Shop LLC dba The Pot Shop, 905B N. Main Street, Gunnison, Colorado.

Mayor Hagan opened the Public Hearing and stated the time is now 7:00 P.M. on Tuesday, June 28, 2016, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison, Colorado and the purpose of this Public Hearing is to receive public input on the Retail Marijuana Store License Application from The Pot Shop LLC dba The Pot Shop, 905B N Main Street in Gunnison, Colorado.

Present at the Public Hearing are myself, Mayor Richard Hagan, City Councilors Andy Sovick, Robert Drexel, Leia Morrison and Matt Schwartz, City Attorney Kathy Fogo, Interim City Manager Mark Achen, City Clerk Gail Davidson, Finance Director Ben Cowan, Community Development Director Steve Westbay, Police Chief Keith Robinson, Parks & Recreation Director Dam Ampietro, the applicant and some citizens. Mayor Hagan asked the applicant to identify himself. Mr. Jonathan Billingsley did so.

Mayor Hagan called for proof of publication. City Clerk Davidson stated a copy of the published notice was included in their packets and the affidavit of publication will be included in the City's official files.

The Mayor called for the determination of the neighborhood regarding this application. City Clerk Davidson stated the neighborhood is defined as the property within the City limits of the City of Gunnison.

Mayor Hagan called for Staff comments and recommendations. City Clerk Davidson stated City Council approved and adopted Marijuana Establishment rules and regulations. These are found in 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 City application and licensing regulations are outlined in GMC Section 8.40. The Pot Shop LLC, dba The Pot Shop, 905B N. Main Street, Gunnison, CO 81230, 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 to be located at 905B N. Main Street, in Gunnison. 100% Principal in the LLC is: Jonathan Billingsley, 130 Tawanka Trail, Gunnison, CO 81230. The proposed store location property is owned by Bennett Acquisitions LLC, Deven Bennett Principal. The property owner's consent to the submission of the application for a Marijuana Establishment on the premises notarized form was included in the application. The proposed store location is within the allowed zoning district for a retail marijuana store establishment within the City. The Pot Shop LLC has paid the City-required license and application fees.

The State MED submitted their completed forms back to the City within the required seven days of their submission. Once the State Application forms were received, they 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 is included in the Public Hearing information packet. The results of that review include:

- Clerk's Department: the required complete application was filed including the property owner consent forms. All City-required fees have been paid. The City has received a copy of the conditional State-approved Retail Marijuana Store License.
- The Finance Department has issued a City Sales Tax License and has provided sales tax remittance information to the applicant.
- The Police Department has completed local background checks and investigations on the applicant LLC Principal – Jonathan Billingsley.
- The Public Works Department has not identified any compliance issues with the City Utility Codes.

- The Community Development Department has received their internal Marijuana Site Development Application and has reviewed 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 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.
 - The licensed retail marijuana establishment premises shall be equipped with a carbon monoxide detector.
 - A minimum of 3 exterior parking spaces with one handicap accessible space shall be dedicated to this retail Marijuana establishment operation.
 - Building occupancy for the licensed retail marijuana establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Community Development Director.

City Council set the Public Hearing for this evening, 7:00 P.M., Tuesday, June 28, 2016, 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.

City Staff has heard verbal concerns about the proposed location of this Establishment next to a Liquor Licensed Establishment, the Powerstop. City Staff, as well as the applicant, contacted the Colorado State Marijuana Enforcement Division and there is no regulations prohibiting this adjacent location. In addition, verbal concerns have been made concerning the proximity to the church located west of the proposed establishment. Again, there are no State or City prohibitions for this location. Therefore, based on the review and investigations of the Retail Marijuana Store Establishment license application for compliance with City regulations, City Staff recommends approval of The Pot Shop LLC, dba The Pot Shop, 905B N Main Street in Gunnison, with the stated conditions.

Mayor Hagan called for the applicant's testimony. Mr. John Billingsley came forward and addressed Council. He has submitted a petition of citizens requesting the application be approved at that location. Mr. Billingsley stated that there will be no entrance immediately from the existing deck. The deck will be reworked to eliminate that proximity. There will also be a secure rear entrance to the building that will have on-street parking on Wisconsin as well. There will be two dedicated parking spots in front of the store. Mr. Billingsley also stated that he will have dedicated appointment times for some of his customers as well. Council thanked Mr. Billingsley for his comments.

Mayor Hagan called for any comments in favor of the application. There were no comments. Mayor Hagan then called for any comments in opposition of the application. There were no comments. The Mayor asked if any letters, emails or other comments from the public were received regarding the application. City Clerk Davidson stated that other than the verbal comments already mentioned, no written comments were received. Mayor Hagan called for any other comments on the application and hearing none, closed the Public Hearing at 7:10 P.M.

Consent Agenda:

The listing under "CONSENT AGENDA" is a group of items, which Council has already reviewed, to be acted on with a single motion or vote. This agenda is designed to expedite the handling of limited routine matters by Council. The Mayor will ask if any Councilor or Citizen wishes to have any specific item removed from the Consent Agenda and acted upon individually.

**Minutes of June 14, 2016, Special Session Meeting;
Action to Accept Amended City Employee Handbook;
Action to Accept Amended City Standby Policy;**

**Action to Accept Amended Disciplinary Guidelines;
Approval of Amendment to Gunnison Chamber of Commerce MOA; and
Direct Staff to Pursue GOCO Grant for Char-Mar Park Upgrade.**

Mayor Hagan asked if anyone would like any item removed from the Consent Agenda. Councilor Schwartz asked that consideration of the City Employee Handbook be removed from the Consent Agenda for separate consideration.

Councilor Drexel read the items on the Consent Agenda then moved and Councilor Morrison seconded the motion to approve the Consent Agenda as amended.

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

Roll call vote, no: None.

Action to Accept Amended Employee Handbook

Councilor Schwartz stated he had a couple of wording changes to the Employee Handbook. In Section 8.2, he would like to make the wording clearer by removing “of regular full time, part-time and temporary employees” and add “of current employees” after the words “of relatives”. In the Acknowledgment of Receipt, in the 2nd paragraph he wants to add “City Council or” before City Manager in the second line and again in the 4th line. Council agreed with the suggested changes.

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the Employee Handbook as newly amended this evening.

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

Roll call vote, no: None.

Consideration of Minutes:

Minutes of May 24, 2016, Regular Session Meeting.

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the May 24, 2016, Regular Session Meeting, as presented.

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

Roll call vote, no: None.

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

Minutes of May 25, 2016, Special Session Meeting.

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the May 25, 2016, Special Session Meeting, as presented.

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

Roll call vote, no: None.

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

Minutes of May 27, 2016, Special Session Meeting.

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the May 27, 2016, Special Session Meeting, as presented.

Roll call vote, yes: Drexel, Hagan, Morrison. Motion carried.

Roll call vote, no: None.

Roll call vote, abstain: Schwartz, Sovick. They were not in attendance at the meeting.

Minutes of June 13, 2016, Special Session Meeting.

Councilor Morrison moved and Councilor Drexel seconded the motion to approve the minutes of the June 13, 2016, Special Session Meeting, as presented.

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

Roll call vote, no: None.

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

Minutes of June 15, 2016, Special Session Meeting.

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the June 15, 2016, Special Session Meeting, as presented.

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

Roll call vote, no: None.

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

Minutes of June 21, 2016, Special Session Meeting

Councilor Morrison moved and Councilor Schwartz seconded the motion to approve the minutes of the June 21, 2016, Special Session Meeting, as presented.

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

Roll call vote, no: None.

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

Pre-Scheduled Citizens: None.

New Business:

Action on The Pot Shop LLC Retail Marijuana Store License Application.

Councilor Schwartz moved and Councilor Morrison seconded the motion that the Retail Marijuana Store License for The Pot Shop, LLC dba The Pot Shop, 905B N. Main Street, 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 establishment.
- (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 does 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 and Marijuana associated products are proposed to be sold, there are the following existing other licensed marijuana establishment:
8 – Retail Marijuana Stores
- (6) Based on the petitions of adult inhabitants of the City of Gunnison, the license applied for will meet the desires of the adult inhabitants of the City of Gunnison.
- (7) 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) The licensed retail marijuana establishment premises shall be equipped with a carbon monoxide detector.
- (4) A minimum of 3 exterior parking spaces with one handicap accessible space shall be dedicated to this retail Marijuana establishment operation.
- (5) Building occupancy for the licensed retail marijuana establishment shall be subject to final inspection and approval by the Building Official, Fire Marshal and Community Development Director.

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

Roll call vote, no: Drexel.

Action on High Alpine Brewing Company Water Line Request.

Discussion ensued. Interim City Manager Achen informed Council that Finance Director Cowan looked into setting up a revolving loan fund of some kind for this type of request. In his research, both the City Charter and the State Constitution prohibit municipalities to loan money. Certain types of districts generally do this type of business improvement loan. City Attorney Fogo addressed Council's liability if they approved the water connection with the adjacent business. Council would be covered by the Governmental Immunity Act. They wouldn't be covered if they knowingly and wantonly approved an action that caused harm.

Councilor Drexel mentioned he had talked with both the owners of the High Alpine Brewing Company and Region 10 staff members regarding potential methods to get funding to cover the installation of the water line. That may be the best way to proceed. No Council action was taken on the request.

Action on Award of 2016 Slurry Seal Contract to Intermountain Slurry Seal in an Amount not to exceed \$150,000 and Action on 80% Labor Waiver.

Councilor Morrison moved and Councilor Drexel seconded the motion to approve the Contract for the 2016 Slurry Seal project to Intermountain Slurry Seal in an amount not to exceed \$150,000 and to approve the 80% Labor Waiver for the project.

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

Roll call vote, no: None.

Action to Award 2016 Small Bucket Truck Purchase to Terex in an Amount not to exceed \$101,825.00

Councilor Schwartz moved and Councilor Morrison seconded the motion to award the 2016 small bucket truck purchase to Terex, in an amount not to exceed \$101,825.00.

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

Roll call vote, no: None.

Resolutions and Ordinances:

Resolution No 7, Series 2016, Re: Employee Hiring/Nepotism.

Councilor Schwartz introduced Resolution No. 7, Series 2016, and it was read by title only by the City Attorney.

Councilor Schwartz moved and Councilor Morrison seconded the motion that Resolution No. 7, Series 2016, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, PROVIDING CONSENT TO THE HIRING OF RELATED PERSONS IN DEFINED CIRCUMSTANCES.**

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

Roll call vote no: None.

Ordinance No. 7, Series 2016; Re: Amending Municipal Code Section 4.10 Municipal Court, 2nd Reading. Councilor Drexel introduced Ordinance No. 7, Series 2016, and it was read by title only by the City Attorney.

Councilor Drexel moved and Councilor Morrison seconded the motion that Ordinance No. 7, Series 2016, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, AMENDING TITLE 4 JUDICIARY, CHAPTER 4.10 MUNICIPAL COURT, SECTION 4.10.040 MUNICIPAL COURT CLERK**, be introduced, read, passed and adopted on second and final reading this 28th day of June, 2016.

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

Roll call vote, no: None.

Executive Session: Pursuant to C.R.S. §24-6-402(4)(e) the purpose of which is for determining positions relative to matters that may be subject of negotiations; developing strategies for negotiations; and instructing negotiators. Not open to the public.

Councilor Drexel moved and Councilor Schwartz seconded the motion to go into Executive Session the purpose of which is pursuant to C.R.S. §24-6-402(4)(e) for determining positions relative to matters that may be subject of negotiations; developing strategies for negotiations; and instructing negotiators.

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

Roll call vote, no: None.

Council went into Executive Session at 7:48 P.M.

Council returned to open Regular Session. Mayor Hagan stated the following: the time is now 8:11 P.M., and the Executive Session has been concluded. The participants for the Executive

Session were himself, Mayor Richard Hagan, Mayor Pro Tem Robert Drexel, Councilor Leia Morrison, Councilor Matt Schwartz, Councilor Andy Sovick, City Attorney Kathy Fogo, Interim City Manager Mark Achen, City Clerk Gail Davidson, Finance Director Ben Cowan, and City Manager Applicant Russ Forrest. For the record, if any person who participated in the Executive Session believes that any substantial discussion of any matters not included in the motion to go into executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the Open Meetings Law, I would ask that you state your concerns for the record. No comments were made.

Action to Appoint City Manager.

Councilor Schwartz moved and Councilor Morrison seconded the motion to appoint Russ Forrest as City Manager with an effective date in 60 days or sooner if it can be arranged.

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

Roll call vote, no: None.

Action on City Manager Employment Contract

Councilor Drexel moved and Councilor Sovick seconded the motion to approve the City Manager Employment Contract with Russ Forrest as written by City Attorney Kathy Fogo.

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

Roll call vote, no: None.

Action to Appoint “Gap” City Manager

City Attorney Fogo stated that “Gap” is not an official term but the City Charter requires a full City Manager be appointed within 180 days from the resignation of the previous manger, and since Russ Forrest is unable to start work for approximately 60 days, there is a gap in the appointment timeline.

Councilor Schwartz moved and Councilor Drexel seconded the motion to approve the City Manager Employment Contract with Mark Achen for two months or until Russ Forrest is able to assume the City Manager duties.

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

Roll call vote, no: None.

Council thanked Mark Achen for his willingness to stay on board during the transition period.

Action on “Gap” City Manager Employment Contract. City Attorney Fogo stated that Mark will continue to receive the same level of housing allowance for the next two months and the other provisions will remain the same.

Councilor Schwartz moved and Councilor Drexel seconded the motion to approve the City Manager Employment Contract with Mark Achen to be in place until Russ Forrest assumes the duties of City Manager.

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

Roll call vote, no: None.

Reports:

City Attorney Kathleen Fogo: nothing to report.

Interim City Manager Mark Achen: Interim City Manager Achen reported on the following: sewer slip lining as started. Citizens in the affected areas will be notified and asked to minimize water usage for 4 to 5 hours to allow for the new pipe to cure; the electric car charging station will be located in the City Hall parking lot in the spaces closest to the sidewalk by the existing utility pole; this will minimize cost with available services already in place; he has been doing ride-alongs with each of the Public Works Superintendents gaining information to help with the new Public Works Director selection process; that process will probably take 5 to 6 months; and the criminal process to recoup the \$20,000 down payment on the Legion Park restroom has not been productive thus far. The City Attorney and Staff will continue to pursue the refund.

Acting City Manager/City Clerk Gail Davidson: Semi-Annual Department Report. Informed Council her report was included in their packets. She reviewed a couple of points and asked Council if they had any questions. There were none.

Police Chief Robinson: gave Council a quick overview of the stop sign placement that is taking place around town. The changeover is due to on-going complains over the years of people not yielding both in vehicles and on bikes. Councilor Sovick stated he thought the yield signs give a small town feel and wondered why change them out if they were working. Police Chief stated that while there are not a lot of accidents reported he still gets a lot of complaints over the years about the yield signs. Councilor Sovick stated yield signs are easier for biking. City Attorney Fogo mentioned in the new Model Traffic Code there is a provision allowing bicyclists to roll through a stop sign if there is no on-coming traffic, much like a yield sign. The City is looking at adopting the updated MTC in the future. A brief discussion ensued on signs.

Western State Colorado University Student Liaison: absent until fall semester.

Non-Scheduled Citizens: None.

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

Councilor Schwartz: reported on the following: he attended the CML Conference last week and one session reviewed the legislative session and bills that were passed; the legislative session also discussed two propositions for the November ballot, Amendment T and Amendment 69; and he also attended the Town-Gown session. Councilor Schwartz then asked that a formal mentorship program for new councilmembers be placed on a future work session agenda. City Clerk Davidson said she would do so.

Councilor Morrison: reported she too attended the CML Conference and will give her report and the next Council meeting.

Councilor Drexel: reported he will attend the Region 10 meeting on Thursday, and attended the Gunnison Valley Housing Foundation meeting. That group discussed a 2 acre parcel in CB South that could possibly be used for a housing project. The GVHF is working on their policies.

Councilor Sovick: had nothing to report.

Mayor Hagan: reported he attended the CML Conference and will report at a future meeting as well. He attended the Upper Gunnison Water meeting last night where they seated new and returning Board Members. The Blue Mesa Reservoir water level is 15' higher than expected at this time but run-off is dropping. Taylor Park Reservoir is within 7' of full.

Adjournment: Mayor Hagan called for any further discussion from Council, Staff or the public, and hearing none, adjourned the Regular Session meeting at 9:03 P.M.

Mayor

City Clerk