

MAY 24, 2016

**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 Hagan with Councilors Ferguson, Drexel, Morrison and Schwartz present along with City Attorney Fogo, Interim City Manager Achen, City Clerk Davidson, Finance Director Cowan, Community Development Director Westbay, Parks & Recreation Director Ampietro, Streets Superintendent Summer, several citizens and the press. A Council quorum was present.

PUBLIC HEARING

7:00 P.M.

Receive Public Input on Hotel & Restaurant Liquor License Application from ABCD Bikes LLC dba Double Shot Cyclery, 222 N. Main Street in Gunnison.

Mayor Hagan opened the Public Hearing and stated the time is now 7:00 P.M. on Tuesday, May 24, 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 Hotel & Restaurant Liquor License application from ABCD Bikes LLC, dba Double Shot Cyclery, 222 N. Main Street, in Gunnison, Colorado.

Present at the Public Hearing are myself, Mayor Richard Hagan, City Councilors Stu Ferguson, 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, the applicant and some citizens. Mayor Hagan asked the applicant to identify himself. Mr. Daniel Crean did so.

Mayor Hagan then called for City Staff comments and recommendations. City Clerk Davidson stated that Article 47, Title 12, of the Colorado Revised Statutes (CRS) sets the general rules and regulations for the 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 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 CRS sets the application requirements and process for each type of liquor license. The applicant is applying for a Hotel & Restaurant Liquor License for the premises located at 222 N. Main Street in Gunnison. 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 food available to eat in addition to the alcohol.

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. The principal in the LLC is Daniel Crean. 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 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.

Mayor Hagan called for the Determination of the Neighborhood. City Clerk Davidson stated that for the purposes of liquor licensing, the neighborhood is defined as the area within the incorporated boundaries of the City of Gunnison, Colorado.

Mayor Hagan then called for the applicant's testimony. Mr. Daniel Crean addressed Council. He stated he wants his business to be a community hang out. Being able to serve alcohol at his business will enhance that. Mr. Crean provided Council with 2 pages of citizen's signatures who are in favor of the issuance of the liquor license at the proposed location.

Mayor Hagan then called for testimony in favor of the application. There was no testimony.

Mayor Hagan then called for testimony in opposition of the application. There was no testimony.

Mayor Hagan then called for any final comments on the matter, and hearing none, stated Council will take the application under consideration for action during the Regular Session meeting. Mayor Hagan closed the Public Hearing at 7:08 P.M. and returned to the Regular Session meeting.

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 May 09, 2016, Special Session Meeting;
Minutes of May 10, 2016, Regular Session Meeting;
Minutes of May 17, 2016, Special Session Meeting;
Approval of Awarding 2016 Street Improvement Projects Contract to United Companies in an amount not to exceed \$655,000;
Appointment of Erin Carlson to City Challenge Grant Committee; and
Action on Gunnison Arts Center Multi-Day Event Permit for 2016 Sundays at 6 Music Programs at Legion Park.**

Councilor Ferguson moved and Councilor Drexel seconded the motion to approve the Consent Agenda as listed on the agenda.

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

Roll call vote, no: None.

Pre-Scheduled Citizens:

Presentation from Youth Challenge Grant Recipients for GHS Project Grad – Lilly Westbay and DeAndré Adamich. Recently graduated GHS student Lilly Westbay came forward and addressed Council. She informed Council that DeAndre is unable to be at the meeting this evening. Both students were members of the Student Leadership Class, DeAndre as President and Lilly as Secretary. Ms. Westbay informed Council that Project Grad was a success and a lot of fun. 30 students out of the graduating class of 61 students attended the event held at the Blue Mesa Recreation Ranch. There were a lot of great prizes given out that were paid for with money from local businesses, people and the City. Community Development Director Westbay informed Council the student’s parents were the main organizers of Project Grad and they pass along information to subsequent organizers. On a side note, Councilor Drexel asked Ms. Westbay about the status of the GHS horseshoes on the City streets. Ms. Westbay stated they will be repainted in the fall as a Homecoming activity and they run from Tomichi north to the High School along 11th Street. Council thanked Ms. Westbay for her report and wished her well in college next year.

New Business:

Action on Hotel & Restaurant Liquor License Application from ABCD Bikes LLC dba Double Shot Cyclery, 222 N. Main Street in Gunnison. Councilor Morrison moved and Councilor Schwartz seconded the motion that the Hotel & Restaurant Liquor License for ABCD Bikes LLC, dba Double Shot Cyclery, 222 N. Main St., Gunnison, CO 81230, be approved for the following findings of fact:

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 liquor by the drink for On-Premises consumption in the manner proposed in the 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 for on-premises consumption, does not appear to be within 500 feet 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:

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

6. All fees necessary for the application have been paid; and
7. According to the information obtained through testimony by the applicants before the Local Licensing Authority, the applicant is of good moral character and possesses the qualifications necessary to conduct the type of business proposed.

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

Roll call vote, no: None.

Appointment for Planning & Zoning Commission Vacancy with term to expire 05/2021.

Councilor Schwartz moved and Councilor Morrison seconded the motion to appoint Theresa Hanacek to the City Planning & Zoning Commission with a term to expire in May, 2021.

Councilor Schwartz stated he feels Ms. Hanacek has a longer term interest in the community and has been active in the Complete Streets Project. Councilor Morrison stated she also likes Ms. Hanacek's longevity in the Valley.

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

Roll call vote, no: None.

Action on Contract for Service with Gunnison County for Colorado Wildfire & Incident Management Academy in the Amount of \$1,000. This item was discussed at last week's Council Work Session meeting.

Councilor Drexel moved and Councilor Ferguson seconded the motion to approve the Contract for Service with Gunnison County for the Colorado Wildfire & Incident Management Academy in the amount of \$1,000.00, to authorize the Mayor to sign said Contract and authorize the release of the budgeted 2016 funds for the event.

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

Roll call vote, no: None.

Action to Set Public Hearing for The Pot Shop LLC, Retail Marijuana Store Application for 7:00 P.M., June 28, 2016.

Councilor Schwartz moved and Councilor Morrison seconded the motion to set the City's public hearing on the retail marijuana store license application from The Pot Shop LLC, dba The Pot Shop, 905B N. Main Street, in Gunnison for 7:00 P.M., Tuesday, June 28, 2016, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison.

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

Roll call vote, no: None.

Action to Set Public Hearing for Frozen Smoke LLC, Retail Marijuana Store Application for 7:15 P.M., June 28, 2016.

Councilor Schwartz moved and Councilor Ferguson seconded the motion to set the City's public hearing on the retail marijuana store license application from Frozen Smoke LLC, dba Frozen Smoke, 500 W Tomichi Avenue Unit 103, in Gunnison for 7:15 P.M., Tuesday, June 28, 2016, in the City Council Chambers of City Hall, 201 W. Virginia Avenue in Gunnison.

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

Roll call vote, no: None.

Action on Letter of Resignation from City Councilor Stu Ferguson with an Effective Date of May 31, 2016.

Councilor Morrison moved and Councilor Schwartz regrettfully seconded the motion to accept the letter of resignation from Councilor Stu Ferguson with an effective date of May 31, 2016.

Councilor Ferguson stated he has served the City in some capacity for 44 years, including as a Police Officer, Police Chief, on the Planning Commission, and on Council, including serving as Mayor. It has been great but it is now to spend time with the grandkids. All of Council thanked Councilor Ferguson for his service, for helping to keep them on track, bringing differing opinions together and wished him well in his new life adventure. Councilor Drexel related a humorous story about Councilor Ferguson when he was the Police Chief and Councilor Drexel was a school principal during the first Hells Angels visit to Gunnison.

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

Roll call vote, no: None.

Resolutions and Ordinances:

Resolution No 4, Series 2016, Re: Creating Parks & Recreation Advisory Committee.

Councilor Schwartz introduced Resolution No. 4, 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. 4, Series 2016, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, CREATING A PARKS AND RECREATION ADVISORY COMMITTEE**, be introduced, read, passed and adopted this 24th day of May, 2016.

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

Roll call vote no: None.

Resolution No. 5, Series 2016, Re: Cancellation of June 14, 2016, Regular Session Council Meeting. Councilor Drexel introduced Resolution No. 5, Series 2016, and it was read by title only by the City Attorney.

Councilor Drexel moved and Councilor Morrison seconded the motion that Resolution No. 5, Series 2016, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, CANCELING THE REGULAR SESSION MEETING THAT WAS SCHEDULED FOR JUNE 14, 2016**, be introduced, read, passed and adopted this 24th day of May, 2016.

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

Roll call vote, no: None.

Roll call vote, abstain: Ferguson. He will no longer be serving on Council at that time.

Resolution No. 6, Series 2016, Re: Setting Use of Public Rights-of-Way for Private Business Application Fee. Councilor Schwartz introduced Resolution No. 6, 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. 6, Series 2016, **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GUNNISON, COLORADO, ADOPTING FEES**, be introduced, read, passed and adopted this 24th day of May, 2016.

Local business owner TL Livermore asked for clarification about the fee. Director Westbay stated the fee is \$50 for the License Agreement application processing with the City for use of the sidewalk by private business and since License Agreements are valid for one year, it is an annual fee. Sandwich board signs are exempt from the fee but must meet the set size requirements.

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

Roll call vote, no: None.

Ordinance No. 4, Series 2016; Re: Use of Public rights-of-Way for Private Purposes; 2nd Reading. Councilor Schwartz introduced Ordinance No. 4, Series 2016, and it was read by title only by the City Attorney.

Councilor Schwartz moved and Councilor Morrison seconded the motion that Ordinance No. 4, Series 2016, **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GUNNISON REPEALING TITLE 8, CHAPTER 8.20, SIDEWALK VENDORS, AND REPEALING AND REENACTING TITLE 9, CHAPTER 9.40, USE OF PUBLIC RIGHTS-OF-WAY**

FOR PRIVATE PURPOSES, OF THE CITY OF GUNNISON MUNICIPAL CODE, be introduced, read, passed and adopted as amended on second and final reading this 24th day of May, 2016.

Business owner TL Livermore asked Council about the enforcement piece on the ordinance. What if he is the only business owner that pays the annual fee to place merchandise on the sidewalk and others do it for free without an agreement. Mayor Hagan stated Council recognizes the need for enforcement with this Ordinance. It needs to be fair and equal for all. Councilor Morrison suggested a flyer be developed explaining the requirements now that the Ordinance has been adopted. Mayor Hagan thanked Director Westbay and his staff for all their work on this process.

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

Roll call vote, no: None.

Ordinance No. 5, Series 2016; Re: Amending Gunnison Municipal Code Section 5.49.020 Animal Licensing; 2nd Reading. Councilor Drexel introduced Ordinance No. 5, Series 2016, and it was read by title only by Councilor Drexel.

Councilor Drexel moved and Councilor Ferguson seconded the motion that Ordinance No. 5, Series 2016, **AN ORDINANCE AMENDING SECTION 5.40.020 OF THE GUNNISON MUNICIPAL CODE RELATING TO LICENSING OF DOGS AND CATS**, be introduced, read, passed and adopted on second and final reading 24th day of May, 2016.

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

Roll call vote, no: None.

Ordinance No. 6, Series 2016; Re: Amending Gunnison Municipal Code Section 2.20 City Purchasing Policy; 2nd Reading. Councilor Morrison introduced Ordinance No. 6, Series 2016, and it was read by title only by the City Attorney.

Councilor Morrison moved and Councilor Drexel seconded the motion that Ordinance No. 6, Series 2016, **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 ordered adopted on second and final reading this 24th day of May, 2016.

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, 1st Reading. Councilor Schwartz introduced Ordinance 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 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 ordered published on first reading this 24th day of May, 2016.

Roll call vote, yes: Morrison, Schwartz, Ferguson, 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: the long line street painters finished striping yesterday; the streets and cross walks in the school zones will be painted in the late summer before school starts; both San Juan and North 14th won't be painted until after they are rebuilt this summer; and work on Highway 50 is underway outside of the City with resurfacing work taking place.

Acting City Manager: Finance Director Ben Cowan – Semi-Annual Department Report. Director Cowan informed Council he has completed one year with the City. His staff has many years of service with the City and they run a whole gambit of duties. He reviewed a quick list of what they accomplish in their department. He stated he has a great staff. Director Cowan reviewed a new database that was just completed to assist the Water Lab from testing through the invoicing

Process in the Finance Department. Council thanked Director Cowan for his report.

Parks & Recreation Director Dan Ampietro: reminded Council of the Growler Bike Races on both Saturday and Sunday this coming weekend.

City Clerk Gail Davidson: reminded Council about the 1:00 P.M. Council Special Session meeting tomorrow in the downstairs conference room. Municipal Court will be taking place in the Chambers.

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

Non-Scheduled Citizens: None.

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

Councilor Ferguson: reminded Council they will need to appoint a Council representative to the Firemen's Pension Board to replace him as "off he goes".

Councilor Drexel: reported he attended the Gunnison Housing Foundation meeting where they adopted a budget and then immediately changed it twice. That meeting will continue on Wednesday. He also attended the Habitat for Humanity groundbreaking. Lastly, he stated he has had some citizen complaints about traffic speeding on Spencer Avenue. Councilor Drexel thanked Director Westbay for printing the City maps depicting property available for possible land banking.

Councilor Morrison: reported she attended the One Valley Prosperity (OVPP) community meeting last week. It was well attended and the final strategic planning document is on the OVPP website. She attended the Chamber meeting this morning where they discussed the business plan being developed, the need for "way finding" to the Chamber building, and the upcoming Block Party that will take place on June 2nd downtown. The PD will be providing some training for the event marshals to be stationed around the perimeter of the event. There will be a Chamber golf tournament this fall at Dos Rios. Cottonwood Pass will open this Friday and the ICE House at Western hopes to open by fall.

Councilor Schwartz: reported he too attended the OVPP wrap-up event. They were pleased with the turn-out. He then attended a CBTF meeting the next morning where the group discussed devising measurements and metrics for the provisions of the final OVPP plan.

Mayor Hagan: reported he attended the OVPP wrap-up event as well. At the Habitat for Humanity groundbreaking, the house foundation and footer were framed and ready for concrete. The new homeowners attended the event and there are many new volunteers on the project. He and Leia met with Andie and they discussed the downtown sidewalk designs and placement of the bike corrals. Lastly, he attended the Upper Gunnison River meeting last night where it was reported the basin is at 98% average snowpack and Blue Mesa is projected to fill to 83% this summer.

Director Cowan informed Council about a potential workers strike being planned for Crested Butte during the busy July 4th holiday to protest the lack of workforce housing in the Valley. We need to be aware of the problem moving down to Gunnison. Attorney Fogo stated that rentals are tight down here even without the Vacation Rental By Owner issue that is occurring in CB.

Director Westbay reminded Council about the Lazy K Plan community meeting tomorrow night at 5pm and the Complete Streets Project Community meeting at 6pm on Thursday evening.

Adjournment: Mayor Hagan called for any further discussion from Council, Staff or the public, and hearing none, adjourned the Regular Session meeting at 8:08 P.M.

Mayor

City Clerk