

June 9, 2020

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

5:30 P.M.

The City Council Regular Session meeting was called to order on June 9, 2020, at 5:30 p.m. in Council Chambers located at 201 W. Virginia Avenue, Gunnison, Colorado, by Mayor Jim Gelwicks with Councilor Boe Freeburn and Councilor Diego Plata physically present in Chambers along with City Manager Russ Forrest and City Clerk Erica Boucher. Finance Director Ben Cowan and Community Development Director Anton Sinkewich were also in Chambers. Councilor Mallory Logan was present remotely along with City Attorney Kathy Fogo, Senior Planner Andie Ruggera, Public Works Director David Gardner, City Engineer Cody Tusing, Police Chief Keith Robinson, Interim Parks and Rec Director Dan Vollendorf, and Events Coordinator Andy Eflin. Alex Joyce of Cascadia Partners attended remotely. Also physically in Council Chambers were Dick Bratton, Ron Welborn, and Byron Chrisman of Gunnison Valley Properties for the public hearing. A handful of interested citizens and guests attended the meeting online. The press was present online. A Council quorum was present. Mayor Gelwicks stated that because of his allergic bronchitis his ability to wear a face covering for an extended length of time is limited; therefore, instead of wearing a mask he is practicing social distancing as outlined in the guidelines of the Public Health Orders.

**PUBLIC HEARING**

Mayor Gelwicks called the public hearing to order on Tuesday, June 9 at 5:32 p.m. in Council Chambers located at 201 W. Virginia Avenue. This is a continuation of the May 26, 2020 public hearing on the merits of a Major Change to a PUD application, ZA 20-1, to revise zoning designations and amend the Gunnison Rising PUD Development Standards. Mayor Jim Gelwicks, Councilor Boe Freeburn, and Councilor Diego Plata were physically present in Council Chambers along with City Manager Russ Forrest and City Clerk Erica Boucher. Finance Director Ben Cowan and Community Development Director Anton Sinkewich were also physically present. Councilor Mallory Logan was present remotely along with City Attorney Kathy Fogo and Senior Planner Andie Ruggera. Alex Joyce of Cascadia Partners attended remotely. Also physically in Council Chambers were Dick Bratton, Ron Welborn, and Byron Chrisman of Gunnison Valley Properties.

Mayor Gelwicks stated that the purpose of the public hearing was to receive input on the merits of a Major Change to a PUD application, ZA 20-1, to revise zoning designations and amend the Gunnison Rising PUD Development Standards. This hearing will review topics introduced at the May 26 public hearing on the existing annexation agreement, affordable housing, and land dedications. The mayor confirmed with the Clerk that the public hearing was properly noticed.

Community Development Director Sinkewich introduced the applicants in the room. They were Dick Bratton of Gunnison Valley Properties, his partner Bryon Chrisman, and General Manager Ron Welborn. Director Sinkewich gave a summary of the public hearing process up to tonight's meeting and the dates of the previous hearing. He stated that the public hearing will be continued until Council is prepared to move forward with decisions. Following the June 1 public hearing on the existing annexation agreement, affordable housing, and land dedications, Council requested more time to process the information presented. He mentioned the current annexation agreement does not include requirements for affordable housing, but the proposed annexation agreement does through land dedication for 200 deed-restricted units. The location(s) for the affordable housing is flexible and not limited to one district. Additionally, the current agreement stated that the developer would cover all infrastructure costs. The proposed agreement did not include such a rigid requirement and offered a Good Faith Effort statement from the City as a possible collaboration. Through the Good Faith Effort statement, City staff would dedicate time to seek out and apply for funding opportunities to support infrastructure for Gunnison Rising. Director Sinkewich also mentioned the Real Estate Transfer Assessment (RETA) fee as a highpoint from the June 1 session. The RETA is a 1.5% fee on all real estate sales. The funding generated from the fee would be used for public infrastructure development and improvements within Gunnison Rising. Staff recommended that some of these funds be used to enhance Georgia Ave's connectivity to Gunnison Rising. Land dedications would include a two-acre site for an emergency service facility or Public Works facility, or a combination of the two. Ten acres would be dedicated for schools. At least 100 acres would be dedicated to open space, not including parks. The applicant proposed that residential units would be near pocket and/or community parks with additional land dedicated

to open space. Next steps would include a discussion of the fiscal impact analysis. The 2008 fiscal impact analysis is out of date. Staff recommended having more flexibility regarding land dedications in order to meet varying needs in the future. Mayor Gelwicks asked if staff suggested that a certain percentage be flexible. Director Sinkewich said that proposed land dedication acreage is appropriate, but that language should be added to the agreement allowing the City to have some flexibility of how to use some of the acreage.

For the record, Mayor Pro Tem Jim Miles joined the meeting. Councilor Logan asked what percentage of the total housing units would be the 200 affordable housing units. Director Sinkewich stated that the 200 affordable housing units would be 12.5% of the housing. She also asked, based on staff's experience, if land dedications are an acceptable deliverable. Mr. Sinkewich responded that land dedications are ideal in phased housing projects because it ensures the appropriate people are doing the right steps at the right time for the right needs of the community. Land dedications allow for the City and developer to collaborate with the right organizations best suited to address the community's needs. City Manager Forrest concurred those thoughts and thought the applicant's proposal was reasonable. He spoke in favor of land dedications and for staff to have flexibility with them. He asked the arching question of how aggressive does Council want to be regarding affordable housing. Councilor Logan reminded everyone that affordable housing is a part of Council's strategic plan and wondered what would be the fiscal impact to have more or less affordable housing built. Director Sinkewich stated that 12.5% affordable housing units is mid-range and is what the south valley can manage.

Alex Joyce of Cascadia Partners joined the discussion. He supported Willa Williford's conclusions about local affordable housing. He would like to speak more with staff about the flexibility of the land dedications, as that was a new idea to him. He can see the value in the idea for additional residential units.

Mayor Gelwicks stated that this work is to establish the guidelines for which building permits are to be issued, but not the actual building permits. Mr. Forrest said that 90% of the documents that Council has reviewed focus on physical planning and that this proposed PUD was an improvement from the previous version. It is better in physical appearance and improves the development's ability to respond to the market. Planning and Zoning confirmed their comfortability with the project. If final questions are asked tonight, staff may be able to return with a final draft of the annexation agreement at the next meeting.

Councilor Miles apologized for being late. He would like to see the financial impact report, which hopefully identified the long-term costs of the project. He is particularly interested in the long-term cost of the infrastructure for the project and how the revenue will support it. He stated that 200 affordable housing units seemed appropriate out of the 1700 proposed units. Councilor Freeburn had no questions. Councilor Plata would also like to see a financial impact analysis and review it prior to making any decisions. He would like to have the applicant's fiscal impact report reviewed by a third party or the City to ensure there are matching data points. He supported maximum flexibility regarding land dedications so the development can be proactive and can properly use the land, as needed. Councilor Plata asked if the 1.5% RETA fee is within the industry standard. Dick Bratton responded that there was not a specific industry standard discussed. City Manager Forrest confirmed that this percentage amount is in range with what he has seen. Mayor Gelwicks noted that this tax would be on a special district. Mr. Bratton stated that the intention of the RETA fee was to be included in every sale.

Mayor Gelwicks asked, because of the demand and desire for solar accessibility in the PUD, if it made sense to add in that variety of options for solar when applying for building permits. Mr. Joyce stated that there is nothing in the PUD that prohibits a builder from adding solar to housing units or commercial or industrial structures. He typically has seen incorporating solar panels into design as incentives. Mayor Gelwicks also mentioned previous discussions about the lack of ADA accessibility in housing and wondered if the PUD would help make that happen more readily. Mr. Joyce stated that like encouraging solar in design, a city-wide policy encouraging ADA accessibility in design would be most effective. He added that addressing ADA accessibility housing could possibly be done through the affordable housing land dedication in the PUD. The Mayor stated that the city should better consider the need for ADA accessibility housing throughout the city.

Gunnison resident Ralph “Butch” Clark asked for clarification on the number of proposed housing units in the documents. In one place, he saw 734 proposed housing units and another place he saw 1700 proposed housing units. Staff clarified that the 734 units were included in the current PUD and the 1700 housing were included in the proposed agreement. Mr. Clark noted that there would be a need for more infrastructure and public service facilities with the addition of 1700 units. Mr. Joyce noted that the impact analysis took into account the larger number of units. Another question Mr. Clark asked was if there was any planning occurring around the closure of this project. He expressed concern about the social, financial, and mental impacts of the community if the development stopped. Mr. Joyce stated that they are not planning for closure. Mr. Joyce stated that more people are traveling domestically and there is an increase in people working remotely in communities, like Gunnison, that have a high quality of life, and they anticipate growth. City Manager Forrest noted that applicant’s suggestion of phased development based on market demand will benefit the applicant, potential residents, and the City. Mr. Clark’s final thought included encouragement of using plasma arc to dispose of solid waste and provide electricity and heat for the community. Mayor Gelwicks said that as a City, staff needs to learn more about plasma arc, but land dedication for such a facility could be a possibly within Gunnison Rising, especially if land dedications have some flexibility. The Mayor thanked Mr. Clark for his comments.

Mr. Forrest asked Council if they wanted to see any other changes. Mayor Gelwicks stated that the City Charter requires that annexations include dedications to park lands, therefore that must be included. He mentioned a consideration of a proportional limit for park land. Any new developments should experience pressure for dedicated park lands.

Councilor Freeburn supported the development in phased stages. He would also like to learn more about plasma arc and he supported flexibility on ADA accessibility housing.

The applicants had no additional comments. Cascadia Partners is finalizing the fiscal impact report and staff will work with the applicant on the final annexation agreement.

City Clerk Boucher confirmed that the Clerk’s Office did not receive any additional comments on Gunnison Rising.

City Engineer Cody Tusing asked if there would be specific direction to staff regarding the Good Faith statement for infrastructure. It was stated that those discussions would be handled internally when the time comes. The purpose of the Good Faith statement is to help address the \$7 million needed for infrastructure and to allow staff to actively pursue public funding opportunities when and as needed.

Mayor Gelwicks called for final comments. Written comments may be submitted to the Clerk’s Office. Hearing no additional final comments the mayor continued the public hearing to the certain time and date of 5:30 p.m. on Tuesday, June 23, 2020. The public hearing was continued at 6:41 p.m.

Council transitioned to the Regular Session. The Mayor stated that he is not wearing a face-covering due to his severe allergies. He is practicing social distancing.

#### **Citizen Input:**

Mayor Gelwicks reminded the audience that Citizen Input is reserved for the public to speak with Council about non-agenda items. No one came forward.

#### **Action Items:**

**Approval of the May 26, 2020, Regular Session meeting minutes.** Councilor Miles moved and Councilor Freeburn seconded the motion to approve the May 26, 2020, Regular Session meeting minutes.

Roll call, yes: Freeburn, Miles, Gelwicks, Logan, and Plata. So carried.

Roll call, no: None.

**Update on Water Rights from the City of Gunnison Water Attorney Jennifer DiLalla.** Attorney DiLalla thanked Council for inviting her to give a general summary and update on the City’s water rights. She introduced the five topics to be covered. They were: 1) the City’s pending water court case for finding reasonable diligence for the Reservoir #4 conditional water right; 2)

water right issues associated with the Lazy K property; 3) the City's statutory maintenance obligation related to the Cemetery Ditch and proposed agreement with respect to those requirements; 4) CPW pending court case for Tomichi Creek water rights for irrigation and stock watering and wildlife use at the Van Tuyl state wildlife area; and 5) an update on the stressed Gunnison River system.

First, Gunnison Reservoir #4 Diligence Case #120-CPW-3029. The conditional water right that is decreed to Reservoir #4 is the only storage water rights outside of the small ponds that the City acquired through the Gunnison Rising Annexation. This conditional water right is decreed to store 3,000 acreage feet (af) and is filled under a 1981 priority. The original intention was to build a large reservoir on Antelope Creek; however, that is no longer the intention. If the City would build a reservoir in a different location, it would need to present its case in water court. The water rights in Gunnison Reservoir #4 are conditional and not absolute. If the City determines that there is not a need to store the 2500 af of the 3000 af there could be a potential abandonment case in court. Attorney DiLalla stated that the City has shown reasonably diligent activities with this water right, but in the next 6-12 years the Division Engineer and Water Commissioner may notice the five alternate points of storage (Van Tuyl Ranch Pond #1, #2, and #3, Pac Man Pond, and the Community Center Irrigation Pond) and ask what is the intended use of the other 2500 af. She recommended to Council and staff to determine if there is a need in the municipal supply for the water during the next conditional diligence phase. She noted that currently the Gunnison Basin only has 15% of medium snowpack. Overall, Gunnison has a robust water supply. Discussion occurred about possible future locations of usage for the 2500 acreage reservoir to push the water into the municipal system in the future. The three ponds at Van Tuyl are decreed to store a total of 480 af. The Community Center Pond and Pac Man Pond together are decreed to store a total of 8.4 af. The decree for the 3000 acreage feet entitles the City to refill the buckets when the water right is in priority. It was recommended that municipalities participate in water planning and focus on water usage and storage for the next 50 years considering potential population growth and climate change. It was mentioned that the City may want to look into acquiring additional argumentation supplies with the Lazy K property being developed. She talked about the difference between the City's conditional water right vs an absolute water right as it pertains to this case. The City's application to make the water right absolute was delayed because the City has not been able to gather the accounting information needed since resources were diverted to addressing the pandemic. However, no harm has been done because the City can go to water court at any time to request an absolute water right. The case is pending and waiting to see if there are any objectors. The next step is for the Division Engineer to file his Summary of Consultation and identify any technical concerns or concerns for the City to maintain the right for another conditional period of six years. No objections or issues are expected to arise. The City must keep good accounting records of the water storage and what is done with the water.

Second, Attorney DiLalla spoke about the water rights associated with the Lazy K property. The City does not hold any water rights associated with the ponds on the Lazy K property. As the City continues to develop the property it needs to be determined how the ponds are filling up, whether that is through exposing groundwater, accepting run-offs from another sources, or if water is being diverted into them. Water Division engineers and commissioners are checking to see that such ponds are in compliance. Discussion occurred about how the ponds are filled, the length of time water is in the ponds, and how they are operated seasonally and managed by the City. Mike Rogers, the City's Water Superintendent, said water in the ponds is run-off from the main town ditch. The water just flows through the ponds back to the Gunnison River within less than 72 hours. However, there may be a groundwater flow into the ponds and more research needs to be conducted. All water headwater gates within City limits are owned and operated by the City.

Third, Attorney DiLalla spoke about the City's statutory maintenance requirement on the Cemetery Ditch, also known as the Tomichi and Gunnison Valley Ditch Association Ditch. A proposed agreement was sent to Attorney DiLalla from the City that reported proportional maintenance and repair responsibilities of various owners of the ditch. The Cemetery Ditch is a privately owned ditch. Colorado Statute requires co-owners of a ditch to maintain and repair the ditch in proportion to their ownership interest to the point that their water is taken out. The City received ownership interest in the ditch with Gunnison Rising. It required a total of 24 cfs out of 94 cfs that is in the ditch. The City also acquired a conditional use that could be used to fill the gateway ponds in Gunnison Rising. Revisions need to be made to the draft agreement. If the City wants to partake in the agreement, it should clearly document the ownership interests for each party. Because there

are multiple owners of the ditch, the attorney recommended the City complete detailed mapping of the ditch that shows everyone's take-out point. This issue came to the surface with a request from the Guerrier's in relation to Lot 22. In exchange for being able to move the ditch, it was suggested that the City take ownership of a greater portion of the ditch. There is not a large benefit to participating in the agreement because statutorily the City already has to fulfill its maintenance responsibilities to the ditch. The draft agreement also discussed easement interests, which could be problematic for the City. The City owns 26% of the ditch. For clarity and before proceeding on any agreement, detailed mapping of this ditch should be completed so ownership proportions are accurately identified.

Fourth, Mrs. DiLalla spoke about the CPW pending court case (19CPW-3101) for Tomichi Creek water rights for irrigation and livestock watering and wildlife use at the Van Tuyl state wildlife area. CPW will be taking 15 cfs out of Tomichi Creek. Due to the amount of water being taken out of Tomichi Creek, DiLalla recommended the City be involved to be sure that the final decree contains all of the needed terms and conditions so no harm is done to Gunnison's downstream water rights. This case is in its initial steps. The key piece of these rights is that the priorities will be administered as 2019 priorities to ensure that Gunnison's senior water rights maintain in place.

Lastly, Attorney DiLalla gave an update on the 2020 water conditions. Water and precipitation levels are low throughout the state. Due to Gunnison's robust water system, it should not have concerns locally. Brief discussion occurred on the City's irrigation system, water rights, the upcoming Water Master Plan. It was mentioned that the City's updated Water Master Plan should include concepts for dealing with wildfires or other natural disasters and how they could impact the safety of source water and the security of Gunnison's water. Council thanked Attorney DiLalla for her time.

Mayor Gelwicks stated that there is a possible change to tonight's agenda, which should have been stated at the beginning of the meeting. Council may go into an executive session to receive legal advice from the City Attorney. No action would be taken or decisions made during the executive session. Action or decisions may occur after the executive session.

**Council took a recess at 7:56 p.m. and returned at 8:07 p.m.**

**2020 Ice Melt Building Project.** City of Gunnison Events and Jorgensen Facility Manager Andy Eflin told Council that the staff received a bid from Stryker & Company, Inc. for the Ice Melt Building project for \$320,212.10. Mayor Gelwicks noted that staff will also be asking Council to approve the contingency amount of \$3,976.00. These two amounts together total the approved budgeted amount for the project. Council and staff discussed the health and safety needs of this project at the previous meeting on May 26, 2020.

Councilor Freeburn moved and Councilor Plata seconded the motion to give authorization to the City Manager to sign a form of contract approved by the City Attorney between the City of Gunnison and Stryker & Company Inc. in an amount not to exceed \$320,212.10.

Roll call, yes: Miles, Gelwicks, Logan, Plata, and Freeburn. So carried.

Roll call, no: None.

Councilor Freeburn moved and Councilor Miles seconded the motion to give authorization to City staff to spend the additional budgeted amount of \$3,976 on the project, if needed for contingency, making the total approved budget for the project \$324,188.

Roll call, yes: Gelwicks, Logan, Plata, Freeburn, and Miles. So carried.

Roll call, no: None.

**Discussion on the City Right of Way Uses.** Police Chief Keith Robinson joined the Council meeting remotely. Staff is seeking direction on how to proceed with City Right of Way uses regarding camping, RV parking on City streets, and storage of vehicles on streets. Councilmembers have received complaints about the people camping and having large vehicles parked for extended amounts of time on the streets. Councilor Freeburn made a few suggestions of how to address these issues. For example, he suggested a permit process or a limit for how long people can camp on neighborhood streets. Keith Robinson provided Council with a little background information. Chief Robinson presented options on how these issues could be addressed holistically. For on-street camping, he suggested a limit to the amount of time someone can camp next to a house. He would like feedback from Council as to what is a reasonable amount of time. Another issue related to camping was transients or residents sleeping in parks throughout town. The third issue is the

storage of vehicles on city streets. In the winter, the police department asks people to move their vehicles so snow plowing can occur and they post “No Parking” signs. Most of the time vehicle storage issues are addressed by asking the owners to move their vehicle to a place that won’t result in complaints. Campground owners believe allowing visitors to camp on the streets could be considered unfair competition. City Attorney Fogo noted that the previous memo focused more on long-term parking, rather than camping, and heavy equipment being parked on city streets. She presented more of an enforcement approach to how long a vehicle or heavy equipment can be parked in a city right of way. The current memo pivoted towards camping and storage, but long-term parking remains an issue. Discussion occurred about what issues should be addressed and how those issues should be handled now. It was recommended that staff start with addressing the issue of camping first. Enforcement would primarily be done on a complaint basis after the allowed number of days had expired. Staff recommended allowing people to camp on a city street for 7 days within a 30-day period. This is in line with camping on private property as outlined in the *Land Development Code*. City Attorney Fogo noted that this suggestion may not result in immediate removal of the campers because the City would have to prove that the person is camping and bring them into court. This also does not address the long-term parking issue and enforcement would continue to be difficult. Discussion occurred about developing a broader definition of camping within the City. It is important to keep the current definition of camping in place, but also broaden the definition of camping to include an inhabitable space that may or may not be currently used. Council was comfortable with a timeframe of 7 days within a 30-day period. Chief Robinson thanked Council and will focus on camping at this time.

**Award Bids for Slurry Seal.** Public Works Director explained to Council that the city received three bids for the slurry seal project. A-1 Chip Seal came in at \$449,760.00, which was considered a good bid. Director Gardner reviewed the streets planned to get slurry seal. They are high traffic areas. This bid included 250 feet of curb and gutter work and valley pan work and some base repair or patch work. The City has worked with A-1 before and has been pleased with their work. Director Gardner reminded Council that streets get paint striped twice a year, once in the spring and once in the fall. All slurry seals areas will be repainted.

Councilor Plata moved and Councilor Freeburn seconded the motion to authorize the City Manager to execute all documents to enter into a contract with A-1 Chip Seal for the 2020 Slurry Seal and Street Improvements Project in an amount not to exceed \$449,760.

Roll call, yes: Plata, Freeburn, Miles, Gelwicks, and Logan. So carried.

Roll call, no: None.

**Discussion on Drainage Work for Public Works Construction Yard.** Public Works Director David Gardner stated that the department received the bids today to fix the drainage at the Public Works facility. Staff estimated the bids to come in between \$175,000 and \$200,000. The actual bid came in at \$224,240. Rather than accepting this bid, staff recommended scaling down the scope of work for this project and just completing the area that controls the Public Works gates with Chris Green, for a price closer to \$40,000-\$50,000. Staff can roll the drainage work to next year in hopes of getting a better price. Director Gardner recommended not to accept the bid from United Companies at this time.

Councilor Logan moved and Councilor Miles seconded the motion to authorize Public Works to use an amount not to exceed \$50,000 to complete the gate repair at the Public Works facility.

Roll call, yes: Freeburn, Miles, Gelwicks, Logan, and Plata. So carried.

Roll call, no: None.

Mayor Gelwicks asked Council if they are interested in having an executive session and if so, this would be a good time for Councilor Logan and City Attorney to come to Council Chambers. They wanted an executive session. City Attorney Fogo went off line to come to Council Chambers. Councilor Logan remained online for the next agenda item.

**Appoint Gunnison Councilor as the Colorado Municipal League (CML) Voting Delegate.**

Mayor Gelwicks mentioned that CML will not be holding the annual meeting, but will have the annual business meeting as required by their by-laws. Prior notification to CML is required. Councilor Logan nominated Mayor Gelwicks to be appointed as Gunnison’s Colorado Municipal League (CML) voting delegate at the annual CML business meeting on Thursday, June 25, 2020. Mayor Gelwicks summarized the responsibilities of the voting delegate.

Councilor Logan moved and Councilor Miles seconded the motion to appoint Mayor Gelwicks as the voting delegate at the 2020 Annual CML Business Meeting on June 25, 2020.

Roll call, yes: Miles, Gelwicks, Logan, Plata, and Freeburn. So carried.

Roll call, no: None.

Public Works Director Gardner departed the meeting and no semi-annual Public Works report was given verbally.

**Council recessed at 9:06 p.m. in order for Councilor Logan to physically come to Council Chambers. Council returned from recess at 9:12 p.m. with Attorney Fogo and Councilor Logan in Council Chambers.**

#### **COVID-19 Recovery Response.**

Finance Director Ben Cowan gave Council an update on the CARES Act and the possibility that the City could be reimbursed \$220,000 for the COVID-19 Business Relief Grant program. Gunnison County will be receiving nearly \$1.5 million and \$476,000 of the \$1.5 million could be allocated to the City of Gunnison. The remaining funding could be allocated for contact tracing, hiring of a consultant to assist with economic recovery, or creating additional grant programs for businesses. Gunnison County, City of Gunnison, and Crested Butte would be working together on this funding. The funds must be spent by December 30, 2020. A cooperative agreement must be signed by all parties by June 30, 2020. Discussion also ensued about past due City utility bills. Director Cowan mentioned that his department sent Past Due notices to customers to encourage payment. Director Cowan also mentioned the additional funding programs that help residents with energy bills. The Recovery Team is working with Community Builders to focus on scenario-planning for the future.

Finance Director Cowan departed the meeting so Council could go into an executive session. Mayor Gelwicks stated that the Gunnison City Council would like to go into executive session. No formal action may or will be taken during the executive session. This executive session is to gather information only. After the executive session, additional action or discussion may take place. Mayor Gelwicks stated that he needed a motion to move into executive session pursuant to CRS 24-6-402 (4) (b) to receive legal advice from the City Attorney. Councilor Logan so moved and Councilor Miles seconded the motion to go into an executive session for the purpose of receiving legal advice from the City Attorney under Section 24-6-402 (4) (b) of the Colorado Revised Statutes.

Roll call, yes: Freeburn, Miles, Gelwicks, Plata, and Logan. So carried.

Roll call, no: None.

The City Clerk was asked to excuse herself for the executive session. Mayor Gelwicks stated that it is Tuesday, June 9, at 9:36 p.m. Mayor Gelwicks is the presiding officer and as required by the Open Meetings Law this executive session is being electrically recorded. Mayor Gelwicks stated that in the executive session is Mayor Gelwicks, Pro Tem Miles, Councilor Freeburn, Councilor Plata, City Attorney Fogo, and City Manager Forrest. The purpose of the executive session is to receive legal advice from the City Attorney under 24-6-402 (4) (b) of the CRS. He cautioned each participant to confine all discussion to the stated purpose of the executive session, and that no formal action may occur in the executive session. If, at any point in the executive session, any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection. The City Attorney advised that the discussion constituted a privileged attorney-client communication. Therefore, no further record be kept of this executive session until Council returns to the regular session. The recording was stopped.

The time is now 10:26 p.m. The City Clerk returned to Council Chambers. The participants in the executive session were: Mayor Jim Gelwicks, Mayor Pro Tem Miles, Councilor Freeburn, Councilor Plata, Councilor Logan, City Attorney Kathy Fogo, and City Manager Russ Forrest. The Mayor announced that no recording of the session was required, therefore there is no recording to keep. He stated 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 sessions 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. Hearing no objections, the Mayor closed the executive session at 10:27 p.m. and returned to the regular session. He asked for Councilmember's thoughts for the record.

Councilor Miles shared that residents he had spoken with do not like the order from Gunnison County mandating the wearing of masks partly because is not consistent with other counties in the state. Concern was also stated about the length of the Public Health Order, which remains in effect until December 31, 2020. He suggested Council write a letter to Gunnison County Health and Human Services stating any concerns about the Order and its duration. Mayor Gelwicks expressed concern about long-term credibility, especially when/if there is a second strike of COVID-19 cases, and how credibility could be impacted if there is a resurgence of COVID-19. He noted difficulties with putting enforcement and education of wearing face-coverings in the hands of business owners. Asking business owners to require their customers to wear masks may make compliance more difficult because not all residents agree with wearing masks. Council expressed concern about having a face-covering mandate at this time as the situation has seemed to stabilize. Requiring masks at a time when things seem to be stable could be a deterrent to visitors and have a negative economic impact throughout the County. He supported recommending using face-coverings at the blue level of the corona meter. If the County moves to yellow level or higher on the corona meter established by the County, then requiring masks would seem more appropriate. The lack of consistency around mask wearing at the national, state, and regional level is problematic. Questions were raised about how the local police department will enforce the Public Health Order. Councilor Freeburn also had concerns about clarity of communication and enforcement. Council Logan would have liked to have more direct acknowledgement from the County that this order contained or mandated wearing face-coverings by those who physically can and then be given an opportunity to discuss it amongst themselves first to develop a consensus to share with the County. Councilor Logan noted that she has heard many of the concerns already shared by Council members and had concerns about enforcement. She supported communicating concerns with Gunnison County. Councilor Plata concurred with previous comments. He wondered how the County would like Gunnison Council to communicate and support the health order so there is a common message around the mandate. Councilor directed staff to arrange an in-person meeting with Joni Reynolds, Director of Gunnison County Health and Human Services, to discuss concerns and the best ways to move forward.

Gunnison County Commissioner Jonathan Houck called in to make himself available to answer any questions about the health order and the face-covering mandate. Commissioner Houck shared that because of the increased numbers of visitors and travelers coming into and going out of Gunnison County, requiring those physically capable of wearing face-coverings is an additional method the county can use to help the community be as safe as possible. Using all tools available, including mask-wearing, can help limit the spread of COVID-19, which allows businesses to remain open as the County moves into the summer season. The County did not aim to “punish” people, but its goal was to keep businesses open and the community as healthy as possible. Commissioner Houck and Council thanked each other for their hard work.

**Reports:** Staff and Council gave brief reports.

With no further business for the Regular Session, Mayor Gelwicks adjourned the Regular Session Meeting at 11:08 p.m.

Attest:

*E. Baugh*  
City Clerk



*Jon Gelwicks*  
Mayor