

March 23, 2021

5:30 P.M.

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

The City Council Regular Session was called to order at 5:31 p.m. on Tuesday, March 23, 2021, remotely and in Council Chambers located at 201 W. Virginia Avenue in Gunnison, Colorado, by Mayor Jim Gelwicks. Mayor Pro Tem Jim Miles, City Manager Russ Forrest, Councilor Diego Plata and City Clerk Erica Boucher were physically in Council Chambers. Councilor Mallory Logan, Councilor Boe Freeburn, City Attorney Kathy Fogo, and Western Liaison Adam Engleman attended the meeting remotely. Additional City staff, Public Works Director David Gardner, City Engineer Cody Tusing, Electric Superintendent Will Dowis, Streets and Alleys Superintendent Jason Kibler, Parks and Recreation Director Dan Vollendorf, Police Chief Keith Robinson, Community Development Director Anton Sinkewich, Senior Planner Andie Ruggera, and Finance Director Ben Cowan attended the meeting remotely. Housing consultant Willa Williford, John Stock of High Mountain Concepts, architect jv Desousa attended remotely. A dozen community members attended remotely and in Council Chambers. The press attended remotely. There was a Council quorum.

After stating which councilmembers were attending the Regular Session in-person and which councilmembers were attending online, Mayor Gelwicks stated that there would be a change to the agenda. Agenda Item F, regarding alcohol in City parks, will be moved up and follow the approval of the March 9, Regular Session meeting minutes. This change was made to hear members of the public in a timely manner. Council expressed no objection to the change in the agenda's schedule.

PUBLIC HEARING

Mayor Gelwicks called the public hearing to order on Tuesday, March 23, 2021, at 5:33 p.m. in Council Chambers located at City Hall, located at 201 W. Virginia Avenue in Gunnison, Colorado. Mayor Gelwicks indicated that the public hearing was being conducted in-person and via Zoom. Attending in-person were himself, Mayor Jim Gelwicks, Mayor Pro Tem Jim Miles, Councilor Diego Plata, City Manager Russ Forrest, and City Clerk Erica Boucher. Attending online were Councilors Logan and Freeburn, City Attorney Kathy Fogo, Community Development Director Anton Sinkewich, Senior Planner Andie Ruggera, and Finance Director Ben Cowan. Mayor Gelwicks stated that the purpose of this hearing was to receive public input on a Major Change to PUD Application, ZA 20-2 for Lazy K. Mayor Gelwicks stated that the City of Gunnison is the owner of the property. It is usual for the City to be both the applicant and with Council as the decision maker. Council has not had any direct participation in the process up to this point.

Mayor Gelwicks requested proof of publication. City Clerk Boucher confirmed that the hearing had been properly published in the newspaper, posted on City Hall bulletin boards and on the City's website.

Mayor Gelwicks called for staff comments. Senior Planner Andie Ruggera presented as both staff and the applicant. The area for discussion is currently zoned as PUD C (commercial), which allows for some cabins, a restaurant, and lodge. The proposed zoning would create two different zone districts. One would be a PUD RMU for residential mixed use and the other would be a PUD O for park and open space, which includes the pond and future nature play areas. The residential mixed use zone districts allowed for single family dwellings, duplexes, multifamily, and townhouses. The housing type is determined by the lot. The PUD O district followed the concept of the West Gunnison Park and site concept master plan. Within the Lazy K PUD Standards, there is a blanket statement that all development standards within the *Land Development Code* are applicable except for Use Standards, Dimensional Standards, Landscape and Fencing Standards, Deed Restrictions, and Park Improvements. Senior Planner Ruggera displayed a table that listed the lot number, zone, whether or not it is a deed restricted unit, square footage or acreage, maximum number of units, and minimum front, side, and rear setbacks. She highlighted that Lot 23 does not have standards for minimum setbacks or residential units because it is reserved for future public access. Fences are allowed in the PUD RMU site with a maximum height of 3 feet. There are limitations on the fencing materials. The landscaping standards are included to help

transition into the natural landscape of the park. Next, Planner Ruggera showed an image of the Final Plat associated with the site. Private driveways are proposed and will be owned and maintained by the City.

Mayor Gelwicks stated that the area along the eastern side of Lot 23 was supposed to be reserved for future use. It is a 50 foot area.

Housing consultant, Willa Williford, explained that the City intended to have the L shaped portion until it heard back from the three developer finalists. Based on their feedback, the acreage was shifted to make the lots deeper along the street and to be more cost effective. The Mayor added that this area was the only space that could be a land bank for affordable housing in the future. City Attorney Fogo reminded staff that this is a Public Hearing and the discussion is moving away from that purpose. This discussion could occur later in the agenda.

Senior Planner Ruggera transitioned to the West Gunnison Park. She started with a park overlay image. She noted that the trail system will come through the housing development. A slide of the budget for phase one of the park project was shown, but no specific details were given.

Willa Williford presented next. She showed a conceptual drawing of the final plat lot layout. She noted the existing structures, which are all proposed as deed restricted units, will have an 80% to 120% Area Medium Income (AMI). The next slide displayed the housing mix which the developer has confirmed as the final mix of 80% to 120% AMI and market rate units. 26 of the units will be at 80% AMI, 18 units will be 120% AMI, and 21 units will be at the market rate for a total of 65 residential units. This is about a 2 to 1 affordable housing ratio. Consultant Williford shared a breakdown of construction costs as they are currently known. The total cost of the housing project is \$14,384,198. She also reviewed the revenue.

Senior Planner Ruggera mentioned the wetlands on the property. The City is working with the Army Corps for a wetlands permit. Lots 7, 8, 13, and 1 have minor wetland impact. A 3-dimensional drawing of the project was shared. Staff had no additional comments.

The Mayor called for public comment from the audience. Housing project architect jv DeSousa asked if Council wanted any more information. Councilor Logan said that previous questions on fencing, solar access, and guest parking were addressed. Location of trash pick-up was also addressed.

The Mayor called for public comments. There were none. Staff had no other comments. Councilor Freeburn asked about parking on the south side of Lot 5. Staff replied that there is no planned parking for that area because that is the access point for the trails.

The Mayor called for final comments. With no further comments or discussion, Mayor Gelwicks closed the public hearing at 5:52 p.m.

Citizen Input. Mayor Gelwicks called twice for citizen comments from members of the audience in Council Chambers and those attending remotely. There were none.

Council Action Items:

Approval of the March 9, 2021, Regular Session meeting minutes. Councilor Miles moved and Councilor Plata seconded the motion to approve the March 9, 2021, Regular Session meeting minutes.

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

Roll call, no: None.

Due to the number of residents in physical attendance and online to address Agenda Item F, **Ordinance No. 3, Series 2021: An Ordinance of the City Council of the City of Gunnison, Colorado, Amending Section 5.10.220 Chapter 5.10, Title 5 of the Gunnison Municipal Code**, Mayor Gelwicks asked Council if they had any objections to addressing Agenda Item F next. Council had none. City Clerk Erica Boucher summarized to Council that at the February 23, 2021, Regular Session meeting, Council directed the Clerk to draft an ordinance that would repeal *Municipal Code 5.10.22* and allow consumption of alcohol in public parks with conditions and limitations. This direction was given after Council considered three options presented by the Clerk.

The options were to: 1) make no changes to current practices and ordinances, 2) the Clerk's Office could develop a Special Private Occasion Liquor Event Permit for small groups, like class and family reunions, who want to have liquor at their private event and would not be for sale, and 3) draft an ordinance allowing consumption of alcohol in parks by adults, based on conditions and limitations. The potential passage of the drafted ordinance and a recent article in the *Gunnison Country Times* motivated members of GCSAPP, Project Hope, Western Colorado University, Gunnison County Health and Human Services, Mentors, and parents to speak before Council in opposition to the drafted ordinance. Those in Council Chambers were: John Powell, PJ Brown, Tina McGuinness, Kari Commerford, Anne Mikkillea, and Matt Aronson. Those attending remotely were: Gary Pierson, Naiya Bude, Keir Wark, Marsha Thorson, Yamal Palacios, Veronica Wilde, and Shelby Schuppe. The common concerns were that parks should remain alcohol-free zones because it is considered a protective factor for youth and they are in close proximity to playgrounds. There was concern that allowing alcohol consumption in the parks promotes the idea of alcohol normalcy within the community. A few expressed concerns about making such public places open to drinking and how that could lead to the allowance of marijuana in the parks or increased domestic violence. Those speaking encouraged Council to not allow public consumption in parks. They understood that people may drink now in the park during the Sunday night concerts, but the law should not be changed to make it easier for the public, including college students, to drink at any time in the parks. The City should encourage and support substance-free areas and events. The City's policies and laws should reflect the community's values of family, health, and substance-free recreation. City Clerk Boucher noted that she had received letters in opposition to allowing alcohol in the parks from RE1J superintendent Leslie Nichols, Britta Hubbard, Margaret Schneider, Jennifer Oberling, and Grace Elliott. They expressed the same concerns as those stated in Chambers and online. Council thanked the public for attending and for their comments. Council said that the residents brought up many valid points. Council suggested that a permit system for small private parties should be considered for development.

Police Chief Robinson explained that the previous attorney's interpretation of the permit system was that once a permit was issued the event was considered to be private and therefore, alcohol could be served. However, staff did not receive clarification on how the event/gathering should be identified as private. Clarification needs to occur. Discussion ensued about how to proceed. Some councilmembers supported the status quo, which meant not changing the ordinance to allow alcohol in City parks, but with limited enforcement. City Clerk Boucher asked Council if they would like the Clerk's Office to develop a permit process for small private events where hosts who want to serve alcohol could by following clear guidelines. Other councilmembers suggested making some changes to "status quo" by clarifying and strengthening regulations around alcohol in parks. The event that is most challenging to address is Sundays at Six. The non-profit organization properly reserves the park, but does not provide or encourage anyone to bring alcohol to the Legion Park. If they were to get a Special Liquor Event Permit, then they would have to take action to have control over the serving of alcohol, which they do not want to do and cannot, if people are bringing their own. City Attorney Fogo explained where the City is now in policy and practice. Council directed staff to internally work through this issue more and return to Council with additional ideas.

Approval of Subdivision, Final Plat, SB 20-3 and Ordinance No. 3, Series 2021, First Reading: An Ordinance of the City Council of the City of Gunnison Approving a Major Change to an Existing Planned Unit Development for the Lazy K PUD. Councilor Plata introduced Ordinance No. 3, Series 2021, and read it aloud by title only. Councilor Freeburn moved and Councilor Miles seconded approval of Ordinance No. 3, Series 2021, on first reading. City Manager Forrest noted that the City thought there was to be a separate parcel on the property and currently, as designed and presented, that separate "dog-leg" parcel is not included. He presented a procedural avenue that could be taken to address the issue. The developer recommended that Lot 23 remain open as an access point into the site. City Attorney Fogo explained that tonight's purpose was to set the PUD zoning with PUD standards. Approval of the subdivision would be a separate motion with approval after it was again reviewed and approved by the Planning and Zoning Commission. On first reading of Ordinance No. 3, Series 2021, Council is setting the zoning and changing some of the park and open space area to the PUD RMU without creating an additional lot before second reading. If Council desires, it should establish it as an actual lot for future use. To do so, staff would take the plat back to the Planning and Zoning Commission for their review and approval and then make an additional recommendation to City Council. Staff could bring the final plat back to Council for approval in conjunction with second reading of Ordinance No. 3, Series 2021. The amendment to subdivision would be north of Lot 23. The right-of-way next to 4th Street would be classified as multi-family residential. For clarity,

the area will be the area west of vacated 4th Street. Councilor Miles moved and Councilor Logan seconded the motion to amend to Ordinance No. 3, Series 2021. Changing the zoning of this space from commercial to residential or open space zoning does not prohibit Council from changing the zoning in the future to use for affordable housing.

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

Roll call, no: None.

The main motion was amended.

Council voted on the Ordinance No. 3, Series 2021 as amended.

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

Roll call, no: None.

Council went into recess at 7:00 p.m. and returned to the Regular Session at 7:10 p.m.

Discussion Regarding Update to Title 12 of the *Municipal Code*. Public Works Director David Gardner recommended revisions to Title 12-Utilities of the *Gunnison Municipal Code* to improve and clarify the interpretation of the existing code by removing inconsistencies between how the City operates and maintains utility infrastructure in practice and in policy. Public Works and stakeholders also addressed sections of the *Code* that were outdated and no longer met industry standards. Specific points of discussion were the sewer and water lines and clarification around who was responsible for them and at what point. Overall, the department wanted to modernize the *Code*. The City hired Bret Guillory with J-U-B Engineers to assist and provide objective guidance through the review process. Mr. Guillory summarized the review process for Council. He highlighted that it was a collaborative process with all stakeholders. The recommended revisions contain feedback from many stakeholders including, but not limited to, city departments and contractors. Director Gardner shared a power point presentation displaying the process and recommended changes. He also informed Council of the Advisory Committee Approach and key accomplishments.

A key revision included clarification on distinction of ownership and maintenance responsibilities for sewer service lines in Chapter 12.10.010 D, 5. Prior to this revision, the City was responsible for ownership and maintenance of private sewer service lines from the sewer main to the building it served. This is not consistent with standard of practice in the industry. The code will provide clear direction that the sewer service line is the responsibility of the property owner for the length of the service line from the building to the connection with the City sewer main. The City is responsible for the actual physical connection to the sewer main. The Advisory Committee also suggested removing the annual fees from the ordinances and put them in a fee table, which can be annually updated and approved by Council via resolution. The department added a new chapter, 12.80 Industrial Pre-Treatment Program, at the recommendation of EPA. It outlined what one can discharge into the sewer from industrial businesses and agricultural. Notable revisions to Title 12-Utilities included, but were not limited to, updating the *Code* to reflect current rules and regulations, clarifying the tap fee by replacing it with the utility investment fee based on meter sizes, creating fixed fee for city construction taps to water/sewer main lines, reducing ADU Utility Investment Fee to 75% or 0.75 EQU calculation (Industry Standard), providing clear direction regarding responsibility for permitting and inspection, providing clear definition of responsibility for utility services, providing clear guidance to developers/contractors for access or use of City owned utilities, reorganizing a chapter index and providing separate chapters for administration and definitions; removing rates/fees and references to separate document for resolution in lieu of codification, providing guidelines on the abandonment of utilities, including an industrial pre-treatment regulation regarding toxic discharges to the system, establishing clearer guidelines on required oil and grease traps, and including reference to the City of Gunnison Construction Standards.

For more in-depth discussion about water and sewer revisions, Wastewater and Water superintendent Mike Rogers explained the Accessory Dwelling Units Utility Investment Fee and answered specific questions from Council. The utility investment fee will replace the tap free. It is a one-time fee and helps pay for capacity in sewer and wastewater system infrastructure. It is for capital expenses. Staff proposed having the ADU utility investment fee for water and sewer be based on a .75 equivalent residential units (EQU) calculation. Discussion also occurred about clarifying the responsibilities of the City and homeowners regarding water and sewer lines. The City is responsible from the water main to the nearest curb stop on the property line. The homeowner is responsible for repair, maintenance, and replacement of privately owned sewer service line from the home to the City main line. The most common damage done to water and

sewer lines is caused by root growth in the lines. This update applies to new construction or replacement work.

Superintendent Rogers informed Council that the City Attorney assisted the Advisory Committee in improving the definition of Abandonment of Utilities in the right-of-way. As it is now written, the utilities must be taken out or transferred to another entity. If abandoned, the City can require the utility to remove them or the City can take ownership. Council requested more clarity for when the City can take ownership of abandoned utilities by adding some language to address the possible loss of value when it was not removed by the previous owner.

Director Gardner introduced the topic of refuse and recycling. Major updates to refuse and recycling were: bear-proof cans, designating 2 trash can size requirements, authorizing up to seven recycle bins, guidelines on excessive overfill and proper sorting, requiring safe placement/location of can/bins suitable for equipment & operations, providing bi-weekly trash pickup for high volume users, following county guidelines on types of recyclables allowed, limiting service in some high density areas, and establishing guidelines for commercial refuse accounts. Staff has already completed or is practicing many of these updates. Staff recommended codifying these practices for clarity. Discussion occurred about bear-proof cans, recycling sorting, location of refuse cans for collection, and commercial refuse and recycling. Due to the resource and time impact on refuse crews, staff would like to examine the possibility of transitioning the collection of the City's 18 commercial recycling jobs to the private sector.

Next steps include staff recommending that Council adopt the updated Construction Standards, adopt an industrial enforcement ordinance, and adopt a fee resolution table for utilities.

Council and staff discussed an educational roll-out of these updates with builders, contractors, Community Development, and Public Works, through a "Kick-off to Construction" event this spring. These updates should have minimal financial impacts to developers and construction costs. It would be helpful to the construction industry to have fixed, known costs ahead of time. Council thanked Public Works staff for their work on Title 12.

Discussion on City's Annexation Process. City Manager Forrest introduced this agenda item. He informed Council that the City's current annexation process is tedious, complex and goes far beyond what is required in State Statute. It seemed like the annexation process was primarily established for Gunnison Rising in 2007. Staff recommended discontinuing Resolution No. 15, Series 2007. Staff would draft a new resolution that outlines an updated annexation process that parallels the state and contains additional safeguards for the City, such as retaining independent resources for the City to evaluate the engineering and financial impacts of a major project. Council directed staff to replace the current complex annexation process with a more streamlined process with reasonable safeguards for the City. The State Statute is clear on how an annexation should go and provides protections within it for municipalities and provides municipalities with the opportunity to add additional conditions for any annexation of land coming into the City. The revised annexation should go in the *Land Development Code* rather than in a Resolution once it is completed. Councilor Freeburn suggested continuing to promote quality developments and appropriate consideration for open space. The other councilors agreed with his comments and had no other comments. The State's Impact Assessment will be a helpful tool for the annexation process and agreement. An updated annexation process will allow for more flexibility and cater the application to each petition for annexation. Community Development Director Sinkewich said that using the state's annexation process as a guideline will typically result in a five to six month process.

Microsoft Exchange Incident Investigation. Information Technology Director Mike Lee informed Council that Microsoft announced a "Zero-day Vulnerability." By the time Microsoft identified the breach and got the fix out, tens of thousands of servers had been impacted, including the City's. Director Lee spoke to CIRSA, who recommended that the City do additional research to determine how deep the breach was. He recommended purchasing some additional forensic services, monitoring, and legal services from Lewis Brisbois Bisgaard & Smith LLP for an amount not to exceed \$13,000. CIRSA recommended this cyber security company. This breach impacted the City's email server. The City would pay for this expense from the Risk Management fund. Councilor Miles moved and Councilor Freeburn seconded the motion to authorize the expenditure of an amount not to exceed \$13,000 from the Risk Management Fund to both retain services of Lewis Brisbois Bisgaard & Smith LLP to conduct a forensic investigation.

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

Roll call, no: None.

Events Discussion. City Manager Forrest summarized a discussion that City staff had with the Chamber, I Bar, Gunnison Arts Center and TAPP. The group divided events into two categories. One category was economic development events. These events, such as the car show or the Growler, can be measured through lodging occupancy. They generate significant impressions and promotion of the Valley, and are authentic to our western/mountain brand. The other category was community events. Those events include Downtown Treat or Trick and the Night of Lights. The goals for community events were the creation of community connectivity, had consistent participation by the community, and created vitality and reinforced a sense of place. Staff recommended that the City use these goals when working with other event organizations and reviewing grant and budget requests. It was suggested that the City and organizations could possibly focus on fewer but bigger events. A winter fat tire bike event was suggested. Staff recommended that the City release the funding it has budgeted for the Chamber to use on three events in 2021. The events were Fourth of July, Halloween, and the Night of Lights. Council granted permission for staff continue working with the community's primary event organizers on improving and enhancing City events in the future.

Councilor Freeburn and Councilor Plata seconded the motion to release the \$11,336 to the Chamber to support the Fourth of July, Night of Lights, and Halloween events.

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

Roll call, no: None.

COVID-19 Update and Recovery. City Manager Forrest noted that the City is taking a hard look at the American Rescue Plan Act that will distribute \$19.5 billion dollars to towns with populations under 50,000 people. The funding distribution will be done through a formula. Funding distribution deadlines are May 10, 2021, and March 11, 2022. The Act is aimed to fund programs and work for infrastructure and transportation. The Mayor shared that Gunnison County's current COVID-19 positivity was at 4%; however, it is important that residents and visitors continue to keep their guard up against the virus. Community vaccinations are going well. One Valley Leadership Council is working with Community Builders on long-term recovery efforts. The local Public Health Order and mask mandate is scheduled to go through June 30, 2021. The State may be moving away from their orders this spring. Vaccination registration was encouraged and it is important for people to follow through and get the second shot for the most effective protection.

Community Development Semi-Annual Report. Community Development Director Anton Sinkewich highlighted the department's work over the last six months. Highlights were progress on large projects with Gunnison County, such as the Gunnison County Library, airport, and an update to the Three-Mile Plan. Other important projects have been Gunnison Rising and Lazy K redevelopment. Also notable was Fire Marshal Hugo Ferchau's work on designing a new fire house. Director Sinkewich shared with Council that some of the timelines for large and complex projects make it difficult to thoroughly review and comment on the applications and meet deadlines. Community Development is looking to create a text amendment to the *Land Development Code* that has more reasonable deadlines for larger development projects.

Staff and Council Reports. Staff, Council, and Western Liaison gave brief reports and committee updates.

With no further business for the Regular Session, Mayor Gelwicks adjourned the Regular Session meeting at 10:01 p.m.


Mayor

Attest:


City Clerk