

CITY OF LEADVILLE  
CITY COUNCIL REGULAR MEETING  
Tuesday, April 21, 2015

<u>City Council Members Present:</u>	<u>Staff Present</u>	<u>Others Present:</u>
Greg Labbe, Councilmember Luke Finken, Councilmember Gwen Shepherd, Councilmember Jake Mohrmann, Councilmember Max Duarte, Councilmember Jaime Stuever, Mayor Mike Canty, Councilmember	Joe Swyers, City Clerk Sarah Dallas, Planning Official, Deputy City Clerk and Administrative Services Manager (ASM) Mike Leake, Police Chief Roy McGinnis, Finance Director Jim Schneiter, Street Dept. Supervisor.	.

City Council met in a regular public session in the Council Chambers of City Hall.

Mayor Stuever called the meeting to order at 6:46 PM with the Pledge of Allegiance. Roll Call was taken.

(6:47 PM) Public comments on items not on the agenda:

Steve Prestash, 131 East 3rd Street, equated government with gang warfare, he recounted his experience in 1997 when an adversarial predatory developer came into his neighborhood. He asked councilmember if any of them felt that he had threatened them. There were no affirmative answers. He stated that he was not here to threaten councilmembers, or impede their vote. He assured councilmembers that regardless of how they feel or think about him, he wants them to vote their conscience. He said that if he disagrees then he has recourses in court. He explained confirmation bias as it applied to votes.

(6:50 PM) Agenda Revisions: None.

(6:50 PM) Approval of minutes of the special meeting of March 31, 2015.

Councilmember Canty moved to recommend approval of the minutes of Thursday, March 31, 2015. Councilmember Labbe seconded. Roll call: unanimous yes.

(6:51 PM) Approval of minutes of the regular meeting of April 7, 2015.

Councilmember Finken moved to approve the regular meeting minutes of Tuesday, April 7, 2015. Councilmember Canty seconded. Roll call: unanimous yes.

(6:52 PM) Drawing for real estate broker for the Chestnut property from among local realtors.

Miguel Martinez drew from the provided slips of paper with realtors business names. Chosen was Craig Reynolds of Reynolds Real Estate Group. There were no objections to the proposal to get it listed and sold.

(6:53 PM) Decision on brush attachment for street dept. front end loaders (continued from prior meeting).

After a half hour of discussion between Street Dept Supervisor, Finance Director and Councilmembers, Councilmember Shepherd moved to buy the new sweeper for up to \$24,000 immediately for the street department. Councilmember Canty seconded. Discussed was financing. Finance Director McGinnis said there would be no delay. Councilmember Labbe moved to amend the motion to give leeway to the finance department to make a decision whether to pay the entirety now or whether to fund it over three years assuming the interest rate is not more than three percent. Councilmember Canty seconded.

Roll call on the amendment: unanimous yes. Roll call on the main motion: unanimous yes.

(7:22 PM) Certificate of Appropriateness for 601 Harrison for windows on south side.

Councilmember Labbe asked for clarification about whether a motion to approve without conditions would be approving the original application and was told yes. Councilmember Labbe moved approve the Certificate of Appropriateness application for William Comcowich for 601 Harrison Avenue. Councilmember Canty seconded. Mayor Stuever suggested not adding more to burden to a business. Councilmember Mohrmann said the south face of the building looks like it could be part of a storefront and the proposed picture windows look great as is. Councilmember Labbe opined that there comes a point of trying to adhere to standards which are not very practical. He said the proposal is not a huge departure from the look of the building, there is contextual history to take into account and there is a variety of windows around the city, some huge and some small. Roll call: Councilmembers Labbe, Finken, Mohrmann, and Stuever voted yes. Councilmembers Duarte and Canty voted no. Councilmember Shepherd abstained [ she was absent from the earlier hearing]. Vote tally: 4 yes, 2 no. 1 abstention.

(7:29 PM) Temporary Use Permit for Firecracker 5K on July 4th.

Greg Sandoval, board member of the Leadville Lake County Sports Hall of Fame, described the event and what sports groups the proceeds go to. Councilmember Finken moved to approve the temporary use permit for the Leadville-Lake County Sports Hall of Fame Firecracker 5K event on 4th of July, 2015. Starting at Harrison & West 5th street and ending in front of the Lake County Courthouse lawn. Discussed was a requirement for recycling but because it is a small event it would not be required. Councilmember Canty seconded. Roll call: unanimous yes.

(7:34 PM) Temporary Use Permit for Bicycle Tour Colorado on June 21.

ASM Dallas and Councilmember Labbe described the event and that the applicant is standing by for a phone call if needed. Chief Leake stated that he has no concerns. Councilmember Labbe moved to approve the temporary use permit for the Bicycle Tour of Colorado to hold the 2015 road cycling tour through the City of Leadville on 6-21-15 through 6-22-15 and conditioned that they reach out to a recycling company to accommodate their recycling needs. Councilmember Stuever seconded. Roll call: unanimous yes.

(7:38 PM) Mayor Stuever adjourned city council and convened the City Board of Adjustment. Mayor Stuever declared a five minute recess.

(7:49 PM) Variance for setbacks for 526 West 6th Street.

Board Chair Finken explained hearing process. ASM Dallas answered yes to whether the notice requirements were satisfied. Evidence of notice, the application materials, the Leadville zoning ordinance, Leadville Comprehensive Plan, any correspondence received prior to the published deadline and in the course of the hearing, and any other documents, photographs, or other material introduced at the meeting were made a part of the record.

Applicants presentation:

Andy Hofer explained his request for a front 5 feet setback instead of 10 feet. He explained that blood testing of his daughter prior to moving here was negative for lead and after six months here she tested positive. The Kid's First Program has expired and EPA declined to help. The deck is to give her a place to play. Board members commented on the variety of setbacks on that street.

Public comments in favor:

Steve Prestash, 131 Front Street, spoke in favor of people being able to use their property.

Public comments against: none.

Boardmember Canty moved to close the public input portion. Boardmember Labbe seconded.

Roll call: unanimous yes.

Boardmember Labbe moved to approve Andy Hofer's variance request, in relief of section 17.20.010 of the Leadville Municipal Code, for the property at 526 West 6th Street, Leadville. The variance request is to allow the current municipal code front setback of ten feet to decrease, allowing for construction of a front porch that comes within five feet the property line. Boardmember Finken seconded. Roll call: unanimous yes.

Boardmember Finken moved to close the public hearing. Boardmember Canty seconded. Roll call: unanimous yes.

Boardmember Finken moved to adjourn. Boardmember Canty seconded. Roll call: unanimous yes.

(8:00 PM) Mayor Stuever adjourned the Board of Adjustment and convened Leadville Liquor Licensing Authority.

(8:00 PM) Special Event Liquor Permit for Leadville Lake County Sports Hall of Fame for beer garden at the H&R Block parking lot on June 20 for the marathoners.

Miguel Martinez, representing the Sports Hall of Fame, explained the event. Mayor Stuever explained that there is no reason for a requirement for insurance naming the city as additional insured since it will be held on private property. Contracting for recycling is provided by Lifetime Fitness. Mr. Martinez reported that the Sports Hall of Fame servers are sent to server training.

Councilmember Finken moved to approve the special event liquor permit for the Leadville-Lake County Sports Hall of Fame for a beer garden at the H&R Block parking lot from Noon to 5:00 p.m. on Saturday, June 20, 2015.

Councilmember Stuever seconded. Mr. Martinez explained that he primary purpose is to provide an amenity to the runners, but they will sell drinks to adult spectators. Roll call: Councilmembers Labbe, Finken, Mohrmann, Duarte, Stuever and Canty voted yes. Councilmember Shepherd voted no and explained that she opposed the event because of its location on 6th Street, not as opposition to the event.

(8:07 PM) Special Event Liquor Permit for Leadville Lake County Sports Hall of Fame for beer garden at the County Courthouse parking lot on August 15 for the bicycle racers.

Miguel Martinez, 920 Mountain View Drive, explained the event and what sports groups the proceeds go to.

Councilmember Labbe moved to approve the special event liquor permit for the Leadville-Lake County Sports Hall of Fame for a beer garden in the courthouse parking lot from Noon to 6:00 p.m. on Saturday, August 15, 2015.

Councilmember Canty seconded. Mayor Stuever explained that there is no reason for a requirement for insurance naming the city as additional insured since it will be held on county property. Chief Leake reported no concerns.

Councilmember Finken suggested that it be open long enough for the race finishers, such as at 8:00 p.m. City Clerk Swyers explained that those are the hours which were posted at the premises and thus for this year that is what we are stuck with. Roll call: Councilmembers Labbe, Finken, Mohrmann, Duarte, Stuever and Canty voted yes.

Councilmember Shepherd voted no and explained that she opposed the event because of its location on 6th Street, not as opposition to the event.

(8:14 PM) Special Event Liquor Permit for CMC Foundation at the Mining Museum on May 6, 2015.

Jan Krueger, representing Colorado Mountain College Foundation, describe the event for about three hundred CMC employees, staff and faculty. They've reserved most of the room in town and will have vans to take people to and from the dinner at the Mining Museum. Each employee will get two tickets and a cash bar after that. She had no answer regarding servers. She explained that recycling is a priority for the entire college. Chief Leake will have walk throughs by officers and did not foresee issues.

Councilmember Labbe moved to approve the special event liquor permit for the Colorado Mountain College Foundation to hold an event at the National Mining Hall of Fame and Museum from 5:00 p.m. to 10:00 p.m. on Wednesday, May 6, 2015. Councilmember Canty seconded. Roll call: unanimous yes.

(8:20 PM) Liquor License renewal for Scarlet Inn and Tavern (expires May 31).

Councilmember Finken moved to approve the tavern liquor license for LocoLee Owned LLC dba The Scarlet Inn and Tavern to sell Malt, Vinous, and Spiritous Liquors. Councilmember Labbe seconded. Roll call: unanimous yes.

(8:21 PM) Public Hearing for new Liquor License for Casa Sanchez 2, 422 Harrison Avenue.

Mayor Stuever explained the hearing process, opened the public hearing for the application by Luis Enrique Diaz dba Casa Sanchez 2, LLC for a hotel and restaurant liquor license at 422 Harrison Avenue, Leadville, Colorado. The police department has completed its background investigation and has prepared written findings. The complete application materials, including site plan, lease for the premises, and corporate documents are entered into and made part of the record. All other documents presented tonight are made part of the record. In order to evaluate the application against the criteria set forth in the Colorado Liquor Code, the designated neighborhood is determined to be the entire City of Leadville. Mayor Stuever asked the city clerk for any additional information to be presented. Clerk Swyers reported that the city attorney has advised not to deny the license based on the criminal convictions in the police chief's report.

Applicant's Presentation.

Luis Enrique Diaz reported that he has had a liquor license in Copper Mountain for two years without problems. He explained that he needs a liquor license because customers want drinks with their meals.

Public comments in favor:

Steve Prestash, 131 East 3rd Street, said he was in favor of the license, and stated that he has to improve the image of his property and, as an explanation for his concerns regarding trash, explained that he daily picks up trash on his street, his alley, and the alley behind Kum & Go. He expressed concern about a broken table on the sidewalk which was in front of the proposed premises and cautioned about beer bottles on the sidewalk in front of Casa Sanchez.

Public comments against: None.

Applicant's rebuttal.

Mr. Diaz expressed that he wants to be okay with the City.

Mayor Stuever asked the applicant about what happened in the past. Mr. Diaz said he was innocent and that he has not had any problems in the United States.

Chief Leake explained that the charges were by the U.S. Customs Service which predates the U.S. Immigration and Customs Enforcement (ICE) and he has had problems getting reports because of problems during the transition from Customs to ICE. He reported that an agent in Denver told him that the 1993 charge would have been a felony which would have prevented the applicant from coming back into the United States for twelve months.

Roger Sanchez, an employee of Casa Sanchez in Copper Mountain, speaking for Mr. Diaz, explained that Mr. Diaz had been driving in California with three illegal cousins and when Customs stopped Mr. Diaz they thought he was the person who crossed the border with them. When he went to court he proved those guys were family and that he was not a coyote. That the record was to be cleared. Chief Leake stated that the record shows that the second conviction in 1993 on aiding and abetting illegals entering the United States was a factual guilty charge on his criminal history, that it was a plea deal, that he was deported and not allowed back in the United States for twelve months. Mr. Sanchez said that this did not show up when they applied for the liquor license in Copper Mountain.

City Clerk Swyers reported that he had spoken with Summit County which licensed the applicant's restaurant in Copper Mountain and they had not reported any issues. Their Summit County license and State license have expirations in April of 2016 and thus they were just renewed. He reported that Summit County is waiting for our report. ASM Dallas had information which warranted a recess. Mayor Stuever called a five minute recess.

(8:42 PM) Mayor Stuever reconvened the liquor authority meeting.

Mr. Diaz explained that he has family members in Mexico who do not have papers and that he spends time with them there as well as time here. He does have a green card [permanent resident card].

Mayor Stuever read into the record the criteria from C.R.S. 12-47-307. Persons prohibited as licensees.

- (1) (a) No license provided by this article or article 46 or 48 of this title shall be issued to or held by:
  - (I) Any person until the annual fee therefor has been paid;
  - (II) Any person who is not of good moral character;
  - (III) Any corporation, any of whose officers, directors, or stockholders holding ten percent or more of the outstanding and issued capital stock thereof are not of good moral character;
  - (IV) Any partnership, association, or company, any of whose officers, or any of whose members holding ten percent or more interest therein, are not of good moral character;
  - (V) Any person employing, assisted by, or financed in whole or in part by any other person who is not of good character and reputation satisfactory to the respective licensing authorities;
  - (VI) Any person unless such person's character, record, and reputation are satisfactory to the respective licensing authority;

Councilmember Labbe moved that the Liquor Licensing Authority of Leadville approve a new liquor license application by Luis Enrique Diaz dba Casa Sanchez 2, LLC at 422 Harrison Avenue. Mayor Stuever seconded. Roll call: unanimous yes.

Mayor Stuever moved to close the public hearing. Councilmember Canty seconded. Roll call: unanimous yes.

(8:51 PM) Mayor Stuever adjourned the Leadville Liquor Licensing Authority and re-convened City Council.

(8:51 PM) Resolution 6, Series 2015, adopting the 2015 Leadville Comprehensive Plan.

Mayor Stuever read for the record a paragraph on page 3 of the comprehensive plan.

“The Comprehensive Plan is not regulatory and does not change existing regulations, nor does it create new regulations. It is an advisory document that charts direction for strategic, economic and infrastructure planning and provides guidance for changes to the Land Use and Development Code as a component of this strategic planning..”

Councilmember Shepherd questioned whether someone would use the plan to justify what they want to do. Mayor Stuever emphasized that it is not regulatory. ASM Dallas explained how changes to the code are done by ordinance. She stated that the comprehensive plan is referred to in conditional use permit criteria. The planning & zoning commission will consider changes to the plan as a “living document”.

Councilmember Labbe explained reasons for not ratifying the plan at this meeting because of considered changes. The plan is a Word.doc which we can edit. The maps we can't change until RPI sends us the maps in GIS shapefile formats. We will request those. Clerk Swyers explained other city mapping applications for the GIS software. Councilmember Canty moved to table Resolution 6, Series 2015. Mayor Stuever seconded. Mayor Stuever stressed to councilmembers to review and absorb the comprehensive plan. Roll call: Councilmembers Labbe, Shepherd, Mohrmann, Duarte, Stuever and Canty voted yes. Councilmember Finken voted no. ASM Dallas suggested that councilmembers should send proposed changes to her to include in the Word.doc so that changes can be tracked.

(9:04 PM) Upcoming meetings.

Mayor Stuever added the fire management group on May 14th at 9:30 a.m. in the county commissioners' room. He also added Saturday, June 6th at 10:00 a.m. at the courthouse for community cleanup day. Mayor Pro Tem Finken will prepare an agenda for April 28th special meeting to include ballot issues and the comprehensive plan.

(9:09 PM) Department reports.

Mayor Stuever moved to accept the police department report. Councilmember Finken seconded. Hiring a code enforcement officer won't be until the police dept has the personnel to train someone. Mr. Prestash stated he wants to apply for the code enforcement job. Councilmembers discussed loose dogs and dogs tethered on Harrison Ave. All councilmembers indicated being in favor of accepting the police dept report by a raise of hands.

Councilmember Finken moved to accept the animal shelter report. Councilmember Labbe seconded. All councilmembers indicated being in favor of accepting the report by a raise of hands.

Councilmember Finken moved to accept the fire department. Councilmember Canty seconded. All councilmembers indicated being in favor of accepting the fire dept report by a raise of hands.

Mayor Stuever moved to accept the street department report. Councilmember Labbe seconded. Councilmembers and Street Supervisor Schneider discussed overtime and moving snow, the snow report hotline and alley plowing. A business asked for two crosswalks per Harrison intersection. They had been removed to provide more parking. All councilmembers indicated being in favor of accepting the street dept report by a raise of hands.

Councilmember Finken moved to accept the administrative report. Councilmember Labbe seconded. All councilmembers indicated being in favor of accepting the administrative services report by a raise of hands.

Council discussed the City Clerk's business licenses aging list ordered by when businesses paid. Clerk Swyers explained that those three years behind will be served by the police. Clerk Swyers asked council to notify him of those doing business which are not on the list because he doesn't have the time or resources to run them down.

(9:38 PM) Financials:

Finance Director McGinnis explained the financial reports, expenditures and tax revenues. Councilmember Stuever moved to accept the financial reports. Councilmember Labbe seconded. Roll call: unanimous yes.

(9:45 PM) Bills:

Councilmember Labbe moved to approve the bills. Councilmember Canty seconded. Fire Department bills were questioned and discussed. Roll call: unanimous yes.

(9:47 PM) Mayor's Report included State Street Park signage, Tabor Home painting, Senior Center not closing, Tabor Opera House and History Colorado and National Treasure listing, meeting L.G. Everist for gravel pit property, interview with KDNK radio about St Vincent Hospital, Tabor Grand and the City.

(9:51 PM) Council Reports:

Councilmember Canty reported the Economic Development Corporations planter program.

Councilmember Labbe reported on receiving the grant for feasibility of combining city and council services.

Councilmember Labbe reported that citizens will be at the next council meeting regarding issues with dogs.

Councilmember Finken reported on KDNK radio discussing the 2015 City Comprehensive Plan.

(9:57 PM) Public Comments not on the agenda:

Mr. Prestash explained why the City should adopt policies on ethics, gentrification and protecting people's ability to keep their homes. He commented on lobbying by monied interests and real estate interests.

Councilmember Labbe asked Mr. Prestash to come to city council with specific recommendations to resolve things.

Mr. Prestash said he is pressed for time to do court filings; one of those issues is what was tabled at this meeting.

(10:01 PM) Mayor Stuever adjourned the meeting.