

**AGENDA
CITY OF VICTOR
REGULAR COUNCIL MEETING
JULY 21, 2022 – 6:00 P.M.
REMOTE AND IN-PERSON**

The Victor City Council encourages and appreciates the community's interest in attending City Council meetings. Members of the public who are called to speak on an agenda item will be limited to a three-minute presentation.

- I. CONVENE REGULAR MEETING
PLEDGE OF ALLEGIANCE
INVOCATION**
- II. ROLL CALL**
- III. CONSENT CALENDAR:** *(These items will be acted on as a whole, unless a specific item is called for discussion by a Council member or Mayor)*
 - A. Minutes of Regular City Council Meeting: June 16, 2022** ☒
 - B. Financial Statement: July, 2022** ☒
- IV. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA**
- V. PUBLIC PRESENTATION:**
 - A. Gold Rush Days, 2022 – Sue Kochevar**
- VI. REPORTS**
 - A. Mayor and Councilor Reports**
 - B. Mainstreet – Kim Lottig**
 - C. Public Works – Nathan Henderson**
 - D. ORC – Henry Cole**
 - E. City Administrator – Glori Thurston**
- VII. PUBLIC COMMENT WITHOUT PRIOR APPOINTMENT**
- VIII. OLD BUSINESS:**
- IX. PUBLIC HEARING:**
- X. ORDINANCES AND RESOLUTIONS:**
 - A. SECOND READING – ORDINANCE NO. 516 – An ordinance of the City of Victor, Colorado authorizing the city administrator to sell certain city-owned property and execute related documents necessary for the sale of the property.** ☒
 - B. A RESOLUTION of the City Council of the City of Victor making certain findings of fact regarding the denial of a rezoning request for 120 S. 3rd St.** ☒
- XI. NEW BUSINESS:**
- XII. ADJOURNMENT:**

***To access the work session and meeting remotely, go to www.cityofvictor.com home page, click on "Departments" tab located at the top of the home page, scroll down and click on "Mayor and City Council", and follow pop-up window instructions.**

WORKSESSION STARTING AT 5:00 P.M. PRIOR TO REGULAR COUNCIL MEETING

Note: Any item on this agenda may be subject to a vote by City Council. Assistance for the hearing, visually, or physically impaired may be provided upon request. Please inquire at the office of the City Clerk, 1-719-689-2284, or to P. O. Box 86, Victor, CO 80860.

For persons with hearing impairments, please call RELAY COLORADO at 711 or 1-800-659-2656 and request "City of Victor at 719-689-2284."

The City of Victor supports efforts to affirmatively further fair housing.

THIS INSTITUTION IS AN EQUAL OPPORTUNITY PROVIDER AND EMPLOYER.

**MINUTES
CITY OF VICTOR
REGULAR COUNCIL MEETING
JUNE 16, 2022 – 6:00 P.M.
REMOTE AND IN-PERSON**

- I. CONVENE REGULAR MEETING:** Mayor Brandon Gray called the meeting to order at 6:01 p.m. and led the assembly to recite the Pledge of Allegiance followed by invocation by Mr. Aikens..
- II. ROLL CALL:** Present were Mayor Brandon Gray, Mayor Pro tem Buck Hakes, Councilor Mark Gregory, and Councilor Barbara Manning. Also, present was City Clerk, Clark Eastin. Absent was Councilor Connie Dodrill.
- III. CONSENT CALENDAR:** *(These items will be acted on as a whole, unless a specific item is called for discussion by a Council member or Mayor)*

A. Minutes of Regular City Council Meeting: May 19, 2022

B. Financial Statement: May 2022

A motion by Councilor Manning to accept the Consent Calendar and was seconded by Councilor Gregory. All were in favor and the motion carried.

IV. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA:

V. PUBLIC PRESENTATION: None

VI. REPORTS

- A. Mayor and Councilor Reports:** Mayor Pro tem Hakes provided an update on the dam project with regards to procurement of materials and weekly meetings with the contractors and engineers. Councilor Manning reported on summer school and the bus pickup and drop off times.
- B. City Clerk/Treasurer – Clark Eastin:** Mr. Eastin notified Council of his resignation from the City Clerk position and indicated he will stay in until Council finds a replacement.
- C. Main Street – Kim Lottig:** Ms. Lottig reported on the National Main Street Conference and indicated she would be providing a report on what she and Ms. Ashton learned that is applicable to this community. She also provided an update on the community garden phase one improvement project including new drip lines, new raised beds and a new cover on the greenhouse. Ms. Lottig also provided an update on Main Street community meeting schedules and EV charging stations, specifically the Gold Belt Byway.
- D. Building Department – Vera Pratt:** Ms. Pratt provided an update on 311 Victor Ave and stated the structural engineer has deemed the building structurally safe. However, Shums Coda disagrees and has a few open issues the structural engineer has not yet addressed. Ms. Pratt was advised not to take down the Do Not Occupy sign until Shums Coda can fully evaluate. Vera Pratt also provided information on the city zoning codes, cemetery updates and code enforcement.
- E. Fire Department – Fire Chief Haines:** Mr. Haines provided an update on the hydrant flushing program which included finding a leak, which has now been repaired. Mr. Haines thanked the crews and volunteers for their help with the High Park Fire. Mr. Haines provided updates on their monthly training, hose testing, vehicle servicing and medical training for bunker gear of which some are outdated.
- F. City Administrator – Glori Thurston:** Ms. Thurston reported that the city is in the process of setting up an ACH program to pay vendors. Ms. Thurston reported on a water surge than consisted of melting snow and rain which broke 3 beaver dams and damaged the inlet. She stated Public Works has cleaned debris, repaired the road and placed large rocks along the side. Glori provided an update on the upcoming weekend events and the dam project. Ms. Thurston also provided updates on the Gold Rush Days event, including an available vendor booth for locals to sign up for reverse 911 notifications.

VII. PUBLIC COMMENT WITHOUT PRIOR APPOINTMENT:

- A. Bruce Davis at 109 S. 2nd St. –** Bruce Davis stated he was the prior Mayor and put up with a lot of harassment about his prior residency, including a FBI investigation, the state Attorney General was looking at him for voter fraud, and mortgage fraud which are all false. Mr. Davis wonders why in the last 6 or 7 months, we have not heard one word about Mayor Gray, who moved out of town. Mr. Davis expressed his concerns with Mayor Gray and believes Mayor Gray has not fulfilled his duties. Mayor Gray explained the timeline of their home purchase and moving their children out of the CCV School District. Mr. Gray also explained he was advised by the City Attorney, Jeff Parker, to stay in his position until tonight's meeting is done. Mr. Davis asked if tonight will be Mayor Gray's last night and Mayor Gray said probably. Mr. Davis said if not, under state statute 31-4-08, he would ask City Council to vote Mr. Gray out of office.
- B. Annie Durham at 309 Aspen St. in Cripple Creek –** Ms. Durham provided updates on the Rise Grant. Ms. Durham explained that all the culinary students passed their Serve Safe Food card certifications and the 2nd year students will pursue their manager card next year. In the Fire Science Program, two

students passed their Firefighter I state written exam earlier in the year and have both deployed to New Mexico. Ms. Durham reported on the Construction Trades building and that it would be going up, breaking ground in August and should be completed by February 2023. The building will also include a garden for the Culinary program and possibly offer a farmers market. The auto shop program is coming back in the fall and will offer diesel technology. Ms. Durham also provided updates on the adult education center. As part of the Rise Grant, they will offer internships with local businesses. Kim Lottig with Victor Main Street spoke specifically on event coverage, social media, communications, revitalization and community development and the opportunity for an intern to assist VMS.

- C. Chris Allen provided an update on the Fortune Club restaurant and indicated they have some exciting people they are interested in possibly running the business but want to find the right fit.
- D. Beth Hoover provided updates on the mountain renaming with two good name submissions; Evening Star and Bristlecone Mountain. Ms. Hoover stated they are planning on having a dedication renaming ceremony on the second Saturday of August at the old city dump with a potluck, teaching and education activities for the children and they can speak with Ute tribe council representative. Ms. Hoover stated there will be music at the Plaza that evening as well.

VIII. ORDINANCES AND RESOLUTIONS:

- A. **ORDINANCE NO. 516 – An ordinance of the City of Victor, Colorado authorizing the City Administrator to sell certain city-owned property and execute related documents necessary for the sale of the property:** A motion by Councilor Gregory to accept Ordinance No. 516 was seconded by Mayor Pro tem Hakes. All were in favor and the motion carried.
- B. **RESOLUTION NO. 2022-06-16.01 – A resolution electing to opt the City out from participation in the State of Colorado Family and Medical Leave Insurance Program:** A motion by Mayor Pro tem Hakes to accept Resolution No. 2022-06-16.01 was seconded by Councilor Gregory. All were in favor and the motion carried.

IX. OLD BUSINESS: None

X. PUBLIC HEARING:

- A. **GRAY REZONING REQUEST – 120 S. 3rd St.** – Mayor Gray recused himself. Mayor Pro tem Hakes opened the public hearing at 7:04pm. Vera Pratt presented the staff report, which was reviewed by Ms. Pratt, City Administrator Glori Thurston and the city attorney.

Ms. Pratt provided a historical summary of the building, explained the criteria for rezoning, per Victor Municipal Code chapter 16, and detailed the purposes and objectives of the Commercial 1 zone district. Ms. Pratt presented the staff findings, which includes the following observations. Currently the rear of the building is used as a residence, which was added in 2019 and 2020 without a zoning variance request. The building was remodeled by a former owner between 2019 and 2021 without any permits other than a 200 amp service installed to the exterior of the building. It appears that electrical, plumbing and mechanical improvements were completed without the appropriate plans and permits. Ms. Pratt stated the change in use from business to residential requires the building to be in compliance with the 2012 building code and the 2018 electrical and mechanical codes. Vera provided staff recommendations including staff concerns with the proliferation of residences and loss of historical storefront businesses in the downtown corridor. Staff is also concerned this case will set a precedent for other longtime commercial buildings to turn residential and will have a very negative impact on the long-term economic viability of the city.

Mayor Pro tem Hakes asked if there were any questions for staff. Mr. Hakes asked if there was ever a certificate of occupancy issued. Per Ms. Pratt there was not.

Tasha Gray stated that she and her husband Brandon are the owners of 120 S. 3rd St. Ms. Gray provided information as to why they are requesting rezoning. She explained the difficulty and complications of getting commercial loans and stated commercial values average from \$50-\$100 per square foot and residential is \$200+ per square foot. Ms. Gray stated that her and her husband feel the highest and best use of this building financially is residential and want to use this building as a vacation rental. Tasha also addressed some of the concerns noted in the staff report, such as foot traffic, parking and noise. Ms. Gray expressed her concerns regarding comments posted by the city's third party electrical inspector about a video on the Gray's public Facebook business page.

The city attorney asked Ms. Gray to clarify she is requesting rezoning and not a variance. Ms. Gray stated they want to use it as 100% residential. The attorney stated this is a rezoning request and that a use variance is not allowed under the city code.

Vera Pratt presented letters that were provided by local residents and business owners.

- Gold Camp Bakery strongly oppose the rezoning, believes Victor needs a strong business base and has too many buildings in the historic downtown area where the main level is not being used commercially.
- Jim Munsert strongly opposes the rezoning and feels the lower levels need to remain commercial use. Allowing residential use on the first floor of commercial buildings will decrease parking for visitors and locals who supports these businesses.
- Karen Munsert is against the rezoning request, believes the lower levels of core downtown commercial buildings should remain as business use and allowing residential use on the first floor will decrease parking for visitors. Parking on this block is already an issue.
- Ruth Zalewski's main concerns are that converting the lower levels of commercial buildings to residential will impact the future development of businesses in downtown. Long and short term rentals allowed in lower levels will directly impact any future potential for business growth and will tie up potential retail and office space.
- Sandy Honeycutt wrote it is important the City Council to consider the long-term ramifications of approving this zoning change. Fifteen years ago, the city developed and implemented a plan to revitalize the downtown commercial district as part of a Main Street community. The city municipal code was adopted to protect the city from non-compliant use of buildings and lots, restrict to commercial occupation of the first floor and prevent the loss of the historic downtown area.
- Victor Lowell Thomas Museum board of directors feel the lower levels of downtown commercial buildings, in the core business district, should remain as retail or other business use and should not be rezoned as residential use. The board believes allowing residential use will decrease parking for visitors and locals. VLTM Treasurer Watson and Connie Dodrill abstained from commenting due to conflicts of interest.
- Historic Victor Bowl (text message) owners denounce and strongly advise against allowing first floor commercial properties be used as residential housing and believe the downtown district to be a historic place of commerce.
- Sam provided historical information on this building, believes changing the zoning is counterproductive, would create parking issues and the city would lose a commercial tax base.

City Administrator Glori Thurston presented her side of the story regarding the comments posted about the video on the Gray's Facebook page. Several people in the audience expressed their opinions regarding this matter.

Kim Lottig spoke and asked Council and Administration why the revitalization department of the city, which is the Main Street program, was not brought into this conversation.

Public Comments were presented.

- Chris Hanks, owner of the Victor Laundromat and previous owner of the gallery at 102 S. 4th St., reported they have rehabilitated two historic buildings in Victor. Mr. Hanks explained they had to self-finance as there was no commercial paper available for either renovation. Mr. Hanks stated many of the local buildings are in need of major repairs and in order to maintain the historic downtown, the buildings need to be maintained and brought to code. Mr. Hanks recommends decisions be made on a case to case basis and consider a mixed use scenario.
- Karen Morrison at 114 S. 3rd St. is opposed to the rezoning and is of the opinion residential units will hurt other businesses and does not want to see more commercial space lost.
- Adam Zimmerli stated we are at a crossroads in our business district and mentioned how several commercial spaces have been lost due to poor conditions. Mr. Zimmerli supports the rezoning and believes commercial main floor uses are not viable right now as we do not have the population or tourism to support as many small businesses as there are empty store fronts. Many of the buildings need substantial renovations and the buildings need to generate the types of revenues to be able to pay for the renovation costs.
- Violet Yeater at 126 S. 4th St. supports the rezoning. Ms. Yeater spoke of other's concerns regarding, trash, parking and foot traffic and indicated she would like as much foot traffic as possible. She believes residential would bring more people to town.
- Chris Allen recommended the audience and Council allow the people up here making investments to do whatever they want to with their properties. Mr. Allen feels this property is a much better property than it was, supports the rezoning and addressed the Gray's concern regarding the Facebook post. Erika indicated large investments need to be made into this town and believes if the property were rezoned as residential, its use as an Airbnb would be a business.
- Terry Aikens at 707 Victor Ave. stated when he was on the building department committee, it was to make it easier for people to redo houses but that it has become worse. Mr. Aikens supports the rezoning.

Mayor Pro tem Hakes closed the public hearing at 8:40pm.

- B. SPECIAL EVENTS PERMITS – VICTOR MAIN STREET: Gold Bowl Athletic Field (7/16/2022 and 7/17/2022); Pinnacle Park Plaza (7/15/2022, 7/16/2022 and 7/17/2022).** – Ms. Lottig presented the request. Public comments were presented with concerns regarding the liquor boundary, serving and security.

XI. NEW BUSINESS:

- A. GRAY REZONING REQUEST – 120 S. 3rd St.** - A motion by Councilor Manning to reject the Gray rezoning request for 120 S. 3rd St. was seconded by Mayor Pro tem Hakes. A roll call vote was taken. Councilor Manning voted in favor of the motion. Mayor Pro tem Hakes voted in favor of the motion. Councilor Gregory voted to reject the motion. The application failed and the property will remain its current zoning.
- B. SPECIAL EVENTS PERMITS – VICTOR MAIN STREET: Gold Bowl Athletic Field (7/16/2022 and 7/17/2022); Pinnacle Park Plaza (7/15/2022, 7/16/2022 and 7/17/2022).** - A motion by Mayor Pro tem Hakes to approve the special events permit for Victor Main Street for the Gold Bowl Athletic Field (7/16/2022 and 7/17/2022); Pinnacle Park Plaza (7/15/2022, 7/16/2022 and 7/17/2022), with conditions for tips training, security, signage and law enforcement, was seconded by Councilor Gregory. All were in favor and the motion passed.

Mayor Gray opened Public Hearings (A) Gray Rezoning Request, (B) Special Events Permit – Victor Main Street: Gold Bowl Athletic Field (7/16/2022 and 7/17/2022); Pinnacle Park Plaza (7/15/2022, 7/16/2022 and 7/17/2022), and (E) Selection of Real Estate Agent and listing price for sale of property located at 208 W. Diamond Ave. at 9:06pm and closed all three at 9:07pm as they have already been discussed.

- C. GAMING IMPACT GRANT PROGRAM APPLICATION 2022 - \$275,000.00** – A motion by Councilor Gregory to accept the gaming impact grant program application for 2022 in the amount of \$275,000.00 was seconded by Mayor Pro tem Hakes. All were in favor and the motion passed.
- D. CHANGE ORDER – Water Main Replacement Project – SGM, Inc. - \$10,894.00** – A motion by Councilor Manning to change the order for the water main replacement project through SGM, Inc. to \$10,894.00 was seconded by Mayor Pro tem Hakes. All were in favor and the motion passed.
- E. Selection of Real Estate Agent and listing price for sale of property located at 208 W. Diamond Ave.**
- F. TOWER STRUCTURE LEASE AGREEMENT – Commnet Wireless, L.L.C.** – A motion by Councilor Gregory to approve the tower structure lease agreement with Commnet Wireless, L.L.C. was seconded by Mayor Pro tem Hakes. All were in favor and the motion passed.

XII. ADJOURNMENT: Meeting adjourned at 9:11 p.m.

ATTEST:

Brandon Gray, Mayor

Clark Eastin, City Clerk/Treasurer

**CITY COUNCIL OF THE
CITY OF VICTOR, COLORADO**

ORDINANCE NO. 516

**AN ORDINANCE OF THE CITY OF VICTOR, COLORADO
AUTHORIZING THE CITY ADMINISTRATOR TO SELL CERTAIN
CITY-OWNED PROPERTY AND EXECUTE RELATED DOCUMENTS
NECESSARY FOR THE SALE OF THE PROPERTY**

WHEREAS, the City of Victor owns and no longer has use for certain property in the City, more particularly described in **Exhibit A** (the "Property");

WHEREAS, City Council desires to authorize conveyance of the Property;

WHEREAS, the Property is no longer used or held for any governmental purpose and, as such, City Council finds and determines that the City, in disposing of the Property, is acting in its proprietary capacity and not in its governmental capacity, pursuant to the holding in *New Stanley Associates, L.L.P. v. Town of Estes Park*, 200 P.3d 1118 (Colo. App. 2008); and

WHEREAS, City Council desires to authorize the sale and disposal of the Property, as it is authorized to do pursuant to C.R.S. § 31-15-713(1)(b).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTOR, COLORADO, AS FOLLOWS:

Section 1. The City of Victor City Council hereby authorizes the City Administrator to list for sale, negotiate, and execute all documents necessary for the sale of the Property with no further approval or action of the City Council required.


Section 2. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Victor, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that this Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. Effective Date. This Ordinance shall become effective thirty (30) days after final publication.

INTRODUCED, FIRST READ, PASSED AND ORDERED PUBLISHED IN FULL ON FIRST
READING THIS 16TH DAY OF JUNE, 2022.

CITY OF VICTOR, COLORADO


Brandon Gray, Mayor

ATTEST:



~~Clark Eastin, City Clerk~~
Nancy J Hanks, Deputy City Clerk

PASSED, ADOPTED, APPROVED AND ORDERED PUBLISHED BY TITLE ONLY
ON SECOND READING THIS 21ST DAY OF JULY, 2022.

CITY OF VICTOR, COLORADO

Brandon Gray, Mayor

ATTEST:

Clark Eastin, City Clerk

PUBLISHED: _____

Exhibit A

Legal Description of Property

Legal: L1-4 B11, Victor Original, Teller County

Parcel ID No.: 5003.322030130

Schedule No.: S0005001

Street Address: 208 W. Diamond Ave., Victor, CO 80860

Ordinance No. 516 passed with the following provisions:

Section 9.3 Broker Marketing.

9.3.1 Adding: REColorado as follows: The following specific marketing tasks will be performed by Broker: Brokers shall place sign(s) on the property and submit the listing to the Pikes Peak MLS and REColorado MLS. All other marketing shall be at Broker's discretion.

Section 11. Price and Terms

11.1 Amend Price. From U.S. \$400000. to \$100.00 per foot which equals \$440600.

Section 14. Title and Encumbrances

14.3 Conveyance. Amending general warranty deed to special warranty deed as follows: In case of Sale, Seller agrees to convey the Property, by a good and sufficient: special warranty deed. If title will be conveyed using a special warranty deed or a general warranty deed, unless otherwise specified in 28 (Additional Provisions) below, title will be conveyed "subject to statutory exceptions" as defined in 38-30-113 C.R.S. Seller's conveyance of the Property to a buyer will convey only that title Seller has in the Property.

Section 18.2. Seller's Obligations

18.2.1. Seller's Property Disclosure Form: Amending Agrees to Does Not Agree as follows: Seller Does Not Agree to provide a Seller's Property Disclosure form completed to Seller's current, actual knowledge. Colorado law requires Seller to disclose certain facts regardless of whether Seller is providing a Seller's Property Disclosure form. Typically, the contract requires disclosure of adverse material facts actually known by Seller.

Reject Handyman Agreement

All attachments available at Victor City Hall, 500 Victor Ave., Victor CO

RESOLUTION NO. 2022-07-21.01

CITY OF VICTOR

A Resolution of the City Council of the City of Victor Making Certain Findings of Fact Regarding the Denial of a Rezoning Request for 120 S. 3rd St.

WHEREAS, an application was received by the property owners to rezone their property, more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, (the "Property");

WHEREAS, the application proposed to rezone the Property from C-1, Commercial to R-1, Residential; and

WHEREAS, at a properly noticed public hearing held on June 16, 2022, the City Council passed a motion to deny the rezoning application because the applicant did not demonstrate any evidence in support of the applicable criteria for rezoning under the Victor City Code.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VICTOR, COLORADO, AS FOLLOWS:

Section 1. The applicable provisions of § 16-14-30 of the Victor City Code have not been met; specifically, the rezoning was not demonstrated to be consistent with the public health, safety and welfare nor in substantial conformance with the Victor City Code nor the existing zoning to be erroneous nor the conditions in the area materially changed since the area was zoned.

Section 2. The applicant did not demonstrate that the applicable criteria in § 16-14-30 of the Victor City Code was met, in fact the applicant did not even address such criteria whatsoever, therefore the City Council finds that the application necessitated denial.

Introduced, read, signed, and approved this _____ day of _____, 2022.

ADOPTED THIS ____ DAY OF _____, 2022, AT A REGULAR MEETING OF THE CITY OF VICTOR CITY COUNCIL

CITY OF VICTOR, COLORADO

Byron L. Hakes, Mayor Pro Tem

ATTEST:

Clark Eastin, City Clerk and Treasurer

EXHIBIT A

Legal Description:

L21-22 B22 VICTOR ORIGINAL