

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, February 4, 2020 at 6:30 p.m.
At the Village Center

The City Council held a study session at 5:32 p.m.

Mayor Russell Stewart called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Russell Stewart, Mayor Pro Tem Katy Brown, Councilors Randy Weil, Afshin Safavi, Al Blum, Mike Gallagher, and Dan Sheldon were present on roll call. Also present were City Manager Jim Thorsen, Deputy City Manager and Public Works Director Jay Goldie, City Attorney Kathie Guckenberger, Police Chief Michelle Tovrea, Finance Director Jessica Sager, Community Development Director Chris Cramer and City Clerk Laura Gillespie.

Absent: none

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

None

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

Mayor Pro Tem Brown moved, seconded by Councilor Gallagher to approve the following items on the Consent Agenda:

- a. Approval of Minutes – January 21, 2020
- b. Cherry Hills Village Master Plan Consultant Contract
- c. Agreement for Professional Services - StreetScan

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

NEW BUSINESS

Council Bill 2, Series 2020; Amending Sections 20-2-20 and 20-2-130 of the Municipal Code Concerning Wireless Telecommunication Facilities (first reading)

Director Cramer presented Council Bill 2, Series 2020 on first reading. He explained wireless telecommunication facility regulations had been disconnected from the variance procedures of Chapter 16 when they had been moved from Chapter 16 into the new Chapter 20 as part of the Code Modernization project, and the proposed

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amendment to Section 20-2-130 would provide flexibility for tower heights to be up to 70 feet. He added the proposed amendment to Section 20-2-20 was clean up following the Code Modernization project and had been discovered after the January 7, 2020 study session. He noted pictures of 70 foot monopine towers elsewhere in the Denver Metro area were included in the handout on the dais.

Councilor Blum asked what the 70 foot height limit was based on.

Director Cramer replied the 70 foot height limit captured most needs of terrain and landscaping.

Deputy City Manager/Director Goldie added 70 foot towers allowed for co-location because carriers on the same tower needed to be separated by 10 feet. He noted applicants would still need to prove the need for a tower height above 40 feet. He indicated staff had the option of hiring a consultant to help review the applicant's data and the applicant would pay for the cost of the consultant through their escrow account.

Councilor Sheldon stated 70 feet was significantly higher than 40 feet and he would expect resident complaints if a tower of that height were installed on a City right-of-way near private property, despite the understanding that was the cost of improved cell coverage. He noted Council had received an email from Verizon's attorneys requesting the amendment also apply to towers on private property. He suggested tabling consideration of the council bill until staff could vet the request.

Mayor Stewart noted this was only first reading and changes could be made before second reading if needed.

Mayor Pro Tem Brown clarified the City had no authority to require private property owners install towers on their property, but if property owners wanted to install towers there was a procedure for them to follow.

Councilor Gallagher warned preserving the feel of the Village was very important. He indicated he was in favor of multiple smaller poles rather than one large pole and was in favor of more poles at the periphery of the City rather than in the interior.

Councilor Sheldon suggested if a 70 foot monopine tower was grouped with real trees of the same height then the tower would not be as noticeable.

Mayor Pro Tem Brown agreed with Councilor Gallagher it was very important to preserve the feel of the Village but indicated she believed one large pole would be better than a bunch of smaller poles. She stated her biggest concern was a situation where Council did not have the ability to say no to something atrocious that would be horrible for the community. She indicated the criteria were subjective and difficult to articulate in the Code. She stated the strongest message she had heard from residents during her time on Council was to preserve the character of the Village, more than the desire for improved cell coverage.

Councilor Weil agreed with Mayor Pro Tem Brown. He suggested keeping the current restrictions and managing exceptions as they occurred.

Councilor Safavi agreed he wanted the technology to work but also wanted to preserve the character of the Village. He stated companies would build towers as high as allowed. He suggested if applicants wanted towers higher than 40 feet they should have to come to Council.

Mayor Pro Tem Brown asked if the City could require monopines rather than bare towers.

City Attorney Guckenberger replied Section 20-2-170 of the Municipal Code required a concealment plan. She noted the Code Modernization project had been finalized with

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the understanding that this issue would need to be addressed. She indicated applicants were required to demonstrate the technical need for the proposed height of a new tower. She noted the proposed relief to tower height was a policy decision.

Mayor Pro Tem Brown asked if the City could require landscaping around towers.

Deputy City Manager/Director Goldie replied the Code required screening and noted while the City could not say no to small cells, towers had a different set of rules and required a public hearing.

Councilor Sheldon noted multiple shorter towers might not be financially feasible for a provider and they might choose to not build in the City rather than adhere to the City's requirements.

Councilor Weil agreed but noted as 5G became more popular the size and density of the necessary towers would change.

Director Cramer clarified any application for a new tower required a public hearing at Council, and the current Code restricted tower height to 40 feet so currently Council did not have any flexibility to approve a taller tower. He explained the proposed language would allow Council to approve a tower height above 40 feet but approval or denial of new tower applications was at Council's discretion after the applicant demonstrated the technical need for a height above 40 feet.

Sarah Ames of Crown Castle explained they managed existing assets such as relocating the tower at the old firestation at 120 Meade Lane. She noted Crown Castle was very sensitive to matching the desires of the community. She warned a monopine would never look exactly like a real tree. She explained the best way to achieve coverage was to have a few hubs and then fill in with small cells in between. She agreed 70 feet was needed to allow co-location on a tower. She indicated the antenna in a monopine was 70 feet and then there was a top hat of branches. She stated the naked eye could not tell the difference between 60 and 70 feet. She noted Crown Castle's current proposal was to replace the 50 foot flagpole at the old firestation with a 65 foot monopine and a 70 foot monopine, and they currently only had T-Mobile as a carrier but the height of the monopines would allow for co-location.

Councilor Blum asked about the review process.

Deputy City Manager/Director Goldie explained because of the shot clocks the review process for small cell facilities was administrative, but macro towers on public or private property required a public hearing.

Councilor Sheldon suggested tabling the council bill to allow staff time to vet the request by Verizon's attorneys.

Councilor Sheldon moved, seconded by Mayor Pro Tem Brown to continue Item 9a to the next meeting.

Councilor Blum asked about approving the amendment to Section 20-2-20 now and continuing the amendment to Section 20-2-130..

Councilor Sheldon replied it was better to address the two amendments together.

The motion passed unanimously.

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Council Bill 3, Series 2020; Replacing References to Specific Dollar Amounts for Fees, Costs, Deposits, and Other Charges in the Municipal Code with References to a Fee Schedule Resolution to be Adopted by City Council (*first reading*)

City Clerk Gillespie presented Council Bill 3, Series 2020 on first reading. She explained the Code Modernization project had begun the process of removing fees from the Code and staff had been working to complete that throughout the rest of the Code. She noted the proposed council bill did not include amendments to fees for alcoholic beverages or to Chapter 18 because those were being amended through separate council bills. She added the draft fee resolution had been included as an exhibit to the staff memo but would not be considered by Council until second reading of the council bill to avoid confusion.

Councilor Sheldon indicated this process aligned with the goals of the Code Modernization project. He asked staff to verify the fee resolution contained the latest fees for the City.

Mayor Pro Tem Brown moved, seconded by Councilor Weil to approve Council Bill 3, Series 2020, replacing references to specific dollar amounts for fees, costs, deposits, and other charges in the Municipal Code with references to a fee schedule resolution to be adopted by City Council.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 3-2020: 6 ayes. 0 nays. The motion carried.

REPORTS

Mayor's Report

Mayor Stewart reported he had attended the Arapahoe County Transportation Forum with Councilor Gallagher; had attended the CML Executive Board meeting; and upcoming meetings included a meeting with Mayor Hancock's aid, the Mayor's Munch, the CML Legislative Workshop, the CML Policy Committee, and the CML Annual Conference. He noted there were several legislative items that might interest the City, including motor vehicle sales tax for transportation funding; traffic fines; cell phone use while driving; and regulation of plastics. He added several measures were expected to appear on the statewide ballot in November, including a referendum on the national popular vote; voter qualifications; reintroduction of grey wolves; repeal of TABOR; and approval voting. He asked staff about the City Attorney attending a commission meeting to answer questions about special event liquor permit requirements.

City Attorney Guckenberger replied she was working with staff on amendments to the City's liquor code, including special event liquor permits.

City Clerk Gillespie indicated staff planned to have the Art Commission submit their questions about special event liquor permits to staff rather than have the City Attorney attend a meeting.

Members of City Council

Councilor Blum reported the latest noise report from Arapahoe County showed twelve complaints from four houses in the City. He noted the lawsuit against the FAA regarding

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the Denver Metroplex looked like it would move forward. He noted the estimated construction amount in the unaudited December financials and asked if the final project required additional funding.

Director Sager explained the total expected expenditures for the final project was less than the original bid amount.

Councilor Sheldon noted a presentation about the Belleview/I-25 Interchange was on the next Council agenda. He expressed concern that the current design would significantly impact traffic in the City but the City's opinions on the design would not be given much weight. He suggested if the City contributed financially to the design then the City's opinion might have more impact.

City Manager Thorsen indicated that was a valid question to ask during the presentation. He noted he believed the City had influence without contributing financially to the design. He added he had emphasized the City's concerns with cut through traffic at every meeting of the Technical Advisory Committee, and the Mayor had done the same at the meetings of the Executive Committee. He noted no plan would move forward without approval from CDOT and there was currently no funding for the project which was estimated at \$100 million. He added CDOT might contribute \$50 million in five to ten years.

Councilor Sheldon respectfully disagreed about the timing given the urgency around transportation issues in the South Metro Denver region. He asked City Manager Thorsen to send the presentation to Council prior to the meeting so they had time to prepare questions. He asked who would be presenting.

City Manager Thorsen agreed and noted he had directed the presenters to focus on cut through traffic. He indicated the Greenwood Village traffic engineer and the project consultant would attend the Council meeting.

Councilor Sheldon stated this was a huge issue for the City.

Mayor Stewart agreed it was a big issue. He stated the City's support was important to the group for funding applications.

Councilor Sheldon respectfully disagreed the City had leverage. He asked if the group was halfway through the design process.

City Manager Thorsen replied they were farther along than that and were planning public input meetings.

Councilor Sheldon asked City Manager Thorsen to find out the boundaries of the Southeast Public Improvement Metro District.

Councilor Gallagher suggested including an article in the Crier about the Belleview/I-25 Interchange. He reported he had attended the Transportation Forum with Mayor Stewart and City Manager Thorsen and the discussion had been about the need for funds and how best to prioritizing projects. He noted there might be a statewide ballot measure in 2021. He reported he and Councilor Weil had attended the Cherry Creek School District's (CCSD) Civic Leaders Breakfast.

Mayor Pro Tem Brown noted CCSD had not de-Bruced and had a significantly lower mill levy rate than most other school districts in the state. She explained currently every school district set its own mill levy rate and the proposed mill levy equalization process would have the state set the mill levy rate, then each school district's voters would have to approve that rate and if they did not the school district would not receive the funding from the state to backfill their budget. She added CCSD estimated this would result in a \$10 million deficit for their district.

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Councilor Weil noted the breakfast had been held at the CCSD Innovation Center. He reported the Board of Adjustment and Appeals would meet on Thursday and DRCOG would meet tomorrow.

Councilor Safavi invited Council to a Persian breakfast at the State Capital on March 12th.

City Manager & Staff

City Manager Thorsen reported the City had ended 2019 with revenues exceeding expenditures by \$1.25 million due to conservative budgeting and careful spending. He noted this would help the City's long range financial plan as well. He indicated the original estimate for the COP projects had been \$12.9 million, the COPs had been issued for \$11.8 million, and the total project cost was within 1.5% of the budget. He congratulated Deputy City Manager/Director Goldie and all of staff.

Chief Tovrea reported staff had provided notice on the City's social media of the Xcel Energy Scam and of South Metro Fire Rescue's use of 4301 S. Holly Street for training until May. She advised everyone to never give credit card information to an incoming call, rather call the company directly to verify any charges.

City Attorney

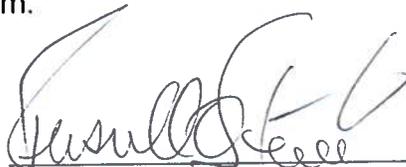
City Attorney Guckenberger had no report.

ADJOURNMENT

Mayor Pro Tem Brown moved, seconded by Councilor Sheldon to adjourn the meeting.

The motion passed unanimously.

The meeting adjourned at 8:02 p.m.



Russell O. Stewart, Mayor



Laura Gillespie, City Clerk