

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, July 16, 2019 at 6:30 p.m.
At the Village Center

The City Council held a study session at 6:00 p.m.

Mayor Russell Stewart called the meeting to order at 6:35 p.m.

ROLL CALL

Mayor Russell Stewart, Councilors Randy Weil, Al Blum, Mike Gallagher, Dan Sheldon, and Mayor Pro Tem Katy Brown were present on roll call. Also present were City Manager Jim Thorsen, City Attorney Kathie Guckenberger, Police Chief Michelle Tovrea, Finance Director Jessica Sager, Parks and Recreation Coordinator Emily Black and City Clerk Laura Gillespie.

Absent: Councilor Afshin Safavi

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

POLICE DEPARTMENT AWARDS

Chief Tovrea presented the following awards regarding the incident at 7 Sedgwick Dr. on August 20, 2018:

- Arapahoe County Sheriff's Office – Sherriff Tyler Brown - Plaque
- Arapahoe County Sheriff's Office – Detective Antonio Hernandez - Plaque
- Arapahoe County Sheriff's Office – Criminalist CheyAnne Stjernquist - Plaque
- Regional Anti-Violence Enforcement Network – Lieutenant Mark Hildbrand, Aurora Police Department - Plaque
- Regional Anti-Violence Enforcement Network – Plaques
 - a. Special Agent Mark Slonnendecker, Bureau of Alcohol, Tobacco, Firearms and Explosives
 - b. Officer Andy McDermott, Aurora Police Department
 - c. Officer Ernie Sandoval, Denver Police Department
- Cherry Hills Village Police Department – Evidence Technician Nathalie Klasens – Chief's Commendation
- Cherry Hills Village Police Department – Detective Lenny Abeyta – Chief's Commendation
- Cherry Hills Village Police Department – Officer Nate Fischer – Distinguished Service Award
- Cherry Hills Village Police Department – Officer Brent Hokanson – Distinguished Service Award
- Cherry Hills Village Police Department – Sergeant Curt Wood – Distinguished Service Award
- Cherry Hills Village Police Department – Officer Cory Sack – Distinguished Service Award and Purple Heart

Officer Sack stated that the City's residents came first for the Police Department and that the award was for the City, the victims and the citizens. He thanked everyone for all the assistance he had received during and following the incident and thanked all the investigators who worked to bring justice for him and the victims on 7 Sedgwick.

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Chief Tovrea recognized the entire Police Department for their work during this time. She thanked Commander Weathers for coordinating with all the outside agencies who assisted with the incident and investigation. She thanked all the outside agencies for all of their assistance. She thanked the City Council, City Manager, and other City departments for their support. She thanked everyone who donated to the GoFundMe page for Officer Sack and his family. She stated that she was very proud to be the Chief of Police and to honor all of these people.

Mayor Stewart thanked Chief Tovrea and the Police Department. He stated that the City had a superb Police Department that the City was proud of.

AUDIENCE PARTICIPATION PERIOD

Robert Eber, 3 Middle Road, thanked the Police Department and stated that Village residents were blessed. Regarding the Council's study session on undergrounding utility lines he questioned if it was worthwhile spending the money that would be required for just an aesthetic project. He stated that he was excited that the John Meade Park redevelopment project contract was being considered by Council. He cautioned that the Council's executive session regarding bridle trails might be premature since the issue had not first come to the Parks, Trails and Recreation Commission for consideration.

Laura Christman, 18 Cherry Lane Drive, indicated that the Police Department was exemplary and Chief Tovrea and the Department had handled the August 20th incident wonderfully. She thanked Chief Tovrea for hiring the greatest Police Department ever. Regarding the Council's executive session on bridle trails she quoted the Master Plan regarding trails. The 2005 Blue Ribbon Panel Report states "The legacy of open space in Cherry Hills Village is our present source of inspiration and creates in us all a responsibility to protect and preserve our meadows, trails, wetlands and mountain vistas." The guiding principles on page 7 include "As the Village becomes more developed, it should explore new ways to acquire public open space and encourage private protection of open areas..." and "The Open Space, Parks, Trails and Recreation system in the Village should be compatible with the natural landscape and be designed to take into account the ecological functions of the particular locale..." The goal with respect to trail systems stated "Preserve the existing Village trail system and design and pursue opportunities to enhance and expand the trail system that are practically and economically achievable." The strategies for that goal include "Identify and investigate opportunities to fill in gaps in the trail system..." She also encouraged Council to think of the trail system outside of the High Line Canal as the Canal was getting busier and residents might be using the City trails more.

Earl Hoellen, 3 Vista Road, thanked Chief Tovrea, Commander Weathers and the Police Department and noted that it was an exemplary force.

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

Councilor Gallagher removed Item 7a from the Consent Agenda.

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

- b. Resolution 21, Series 2019; A Resolution Delegating the City's Damage Prevention Safety Program Related to the Location of Underground Facilities to the State Underground Prevention Safety Commission

The motion passed unanimously.

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ITEMS REMOVED FROM CONSENT AGENDA

Item 7a. Approval of Minutes – June 4, 2019

Councilor Gallagher noted a correction to page 7 of the draft minutes.

Mayor Pro Tem Brown moved, seconded by Councilor Sheldon, to approve the minutes as amended.

The motion passed unanimously.

UNFINISHED BUSINESS

None

NEW BUSINESS

Council Bill 4, Series 2019; Amending the Municipal Code to Decrease the Maximum Period of Incarceration and to Increase the Maximum Fine for Municipal Ordinance Violations in Conformance with State Law (first reading)

City Attorney Guckenberger presented Council Bill 4, Series 2019 on first reading. She explained that the bill would bring the Municipal Code into compliance with a recent change in state law regarding the maximum period of incarceration for municipal ordinance violations. She noted that the bill would also clarify the maximum fine that the Municipal Judge could impose.

Councilor Weil asked for the reason for the change in the maximum period of incarceration.

City Attorney Guckenberger replied that her understanding was that a fine of one year of incarceration triggers immigration services and the state legislature wanted to avoid that trigger.

Mayor Stewart asked if the Municipal Judge had ever given a fine of one year of jail time.

City Attorney Guckenberger replied that she did not believe so.

Councilor Blum moved, seconded by Mayor Pro Tem Brown to approve Council Bill 4, Series 2019 on first reading, amending provisions of the Municipal Code to decrease the maximum period of incarceration and to increase the maximum fine for municipal ordinance violations in conformance with state law.

The following votes were recorded:

Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 4-2019: 5 ayes. 0 nays. The motion carried.

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Resolution 22, Series 2019; Approving a Contract for Services with HPM, Inc. for the John Meade Park/Alan Hutto Memorial Commons Construction

City Manager Thorsen indicated that the resolution and contract for Council's consideration tonight were the culmination of the City's three large capital projects, starting with the new Public Works Facility in Sheridan, the new City Hall construction, and now the redevelopment of John Meade Park and Alan Hutto Memorial Commons. He recognized the work of present and past members of the Parks, Trails and Recreation Commission, the Planning and Zoning Commission, and City Council.

Coordinator Black stated that she was excited and honored to present Resolution 22, Series 2019 for Council's consideration. She explained that the community process for the Park redevelopment had begun in 2014 with the John Meade Park Master Plan involving extensive public input. She noted that the design for the Park was a fantastic space for residents including a playground, performance area, and open space. Staff received four bids for the project with HPM Inc as the low bid. Unfortunately all bids exceeded the construction estimate provided by the design firm. HPM Inc's low bid of \$3,026,700 plus staff's recommendation of \$25,000 for material testing and engineering costs and \$125,000 in contingencies resulted in a total project cost of \$3,176,700. Current funds available for the project included the remaining COP funds, UDFCD grant funds and Arapahoe County Open Space grant funds for a total of \$2,883,408. At the November and December 2018 City Council meetings, staff was directed by Council to investigate the possibility of dredging the ponds at the same time as the Park improvements. The dredging was not included in the Park design or scope. The ponds had not been dredged in approximately 20 years. This work would improve the health of the ponds and provide a better habitat for fish and other wildlife. The engineering study for dredging was completed after the bidding of the project. HPM, Inc. provided staff with a cost estimate for this work and it ranged between \$200,000 and \$235,000. For budgeting purposes, staff estimated a total cost of \$280,000 until all details could be worked out including the cost to dispose of the silt as disposal was not included in the estimate. If City Council wished to move forward with the dredging, staff would work with the contractor to finalize the cost of dredging. As an alternative, dredging could be done in future years, but it may disturb some of the proposed improvements.

Coordinator Black explained that staff had met with HPM, Inc. to discuss value engineering and potential project changes that could cut costs by utilizing different materials or methods. Without substantial change to the design, there were only incremental savings by changing materials. In addition, approximately 25% of the project costs involved grading work within the floodplain and that work had to be completed as designed in order to complete the City's floodplain permit and obtain a Letter of Map Revision (LOMR) from the Federal Emergency Management Agency (FEMA). Staff looked at deleting or delaying certain project items such as the shelter/restroom, play areas and equipment, and other amenities. One of the easiest items to delete would be the shelter/restrooms. The total cost of the shelter/restrooms was \$357,000 with an additional \$20,000 for extending the utilities to the site. It would still be recommended to extend the utilities at this time so that the Park would not need extensive trenching if and when the shelter was constructed. Therefore, the \$357,000 in savings would provide sufficient funds to complete the remaining portions of the project. As for other items to delete, such as play area and equipment, that too would save nearly \$300,000 and would allow the remainder of the project to be completed. It was noted that playground work was included as part of the City's grant request to Arapahoe County Open Space. Staff felt that for this option, the City would need to discuss with Arapahoe County the potential to reallocate how the grant funds would be used. As an example, if the playground was eliminated with this construction project, staff would need to discuss with Arapahoe County their willingness to reallocate those funds to the shelter/restrooms. There were clear advantages to completing all work at once: cost savings in mobilization, limiting the amount of disruption to Park users, and being able to complete dredging work prior to establishing new Park landscaping. If City Council chose to fully fund the project as designed, without the elimination of design features,

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there were multiple funding sources available including the General Fund, the Parks and Recreation Fund, and the Arapahoe County Open Space Fund. The fund balances for all three funds were sufficient to fund any additional costs and would continue to be substantial in the future. Staff believed that if City Council would like to allocate funds to cover the entire project and the additional dredging at this time, it would not have a significant impact on long term fund balances.

Councilor Weil asked about PTRC's motion regarding the funds.

PTRC member Grodinsky explained that PTRC's concern was that taking the required funds from the Parks and Recreation Fund would result in a low fund balance for 2020.

PTRC Chair Eber agreed and added that the PTRC believed taking the required funds from more than one source would help the Parks and Recreation Fund to remain flexible.

Mayor Pro Tem Brown thanked PTRC for driving the process forward during all these years and noted that it was wonderful to see the project come to fruition. She also thanked staff for all of their work leading to this point. She indicated that she was disappointed that the bids had come in so much higher than the original design estimate. She noted that this was a lot of money for the City to spend and indicated that she wanted to consider it thoroughly. She asked Director Sager to remind Council what the Conservation Trust Fund was used for.

Director Sager explained that the City was required to have the Conservation Trust Fund in order to receive the state allocated revenue, primarily from the Colorado Lottery. She noted that expenditures from that fund in 2019 included trail restoration and maintenance.

City Manager Thorsen added that revenue for the Colorado Trust Fund was about \$60,000 annually and the fund was expected to have a balance of \$750,000 in 2030.

Mayor Pro Tem Brown asked for confirmation that the 2030 projections in Table 3 of the staff memo were based on current expenditures and did not include any big or new projects such as open space acquisition.

Director Sager confirmed that was correct.

Mayor Pro Tem Brown asked for more information on the general requirements section of Exhibit B.

City Manager Thorsen replied that the general requirements included the costs for the contractor to mobilize to get on-site.

Mayor Pro Tem Brown asked about the notation "by owner" in the site amenities section of Exhibit B.

Coordinator Black explained that line included items such as the picnic tables for the shelter.

Mayor Pro Tem Brown asked about the notation "fence provided by owner" next to the wood rail fence removal and installation line of Exhibit B.

Coordinator Black replied that part of the fence would be new but part would be removed and then reinstalled by City staff.

Mayor Pro Tem Brown asked about the electrical and lighting cost in Exhibit B.

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Coordinator Black replied that the PV system was the solar energy system for the shelter.

City Manager Thorsen added that there would be wiring to Alan Hutto Memorial Commons to allow for lighting of the performance area.

Mayor Pro Tem Brown asked what would happen if the City did not receive the Arapahoe County Open Space grant.

City Manager Thorsen replied that in that case staff would bring the item back to Council for further discussion and consideration.

Mayor Pro Tem Brown asked PTRC Chair Eber if the only reason PTRC was reluctant to use the Parks and Recreation Fund was the fund balance.

PTRC Chair Eber replied that was correct.

Councilor Gallagher asked about the previously discussed option of having outside groups pay for tree installation.

Coordinator Black replied that staff had included all trees for the purposes of the bid, but there were still opportunities for outside groups to pay for trees and that the City had received a \$10,000 grant from the Cherry Hills Land Preserve for trees in John Meade Park.

Councilor Gallagher thanked present and past members of PTRC for their work on this project and stated that he was pleased to be at this point. He indicated his support of funding the dredging of the ponds.

Councilor Sheldon stated his appreciation for the efforts of PTRC and staff on this project. He asked if the fund balances in Table 3 of the staff memo included the costs of maintaining the newly redeveloped John Meade Park and Alan Hutto Memorial Commons.

Director Sager confirmed that those maintenance costs were included in the projections for the Parks and Recreation Fund balance.

Councilor Sheldon indicated his support of funding the entire scope of the project. He asked about the feasibility of phasing the pond dredging over the next year or two.

Coordinator Black replied that staff had discussed that possibility with the contractor but due to the size of the equipment and the amount of dewatering required as part of the pond dredging it was not feasible to phase it without disturbing other parts of the project.

Councilor Sheldon noted that the public bid process prevented the City from negotiating price with the contractor and required that the City accept the lowest qualified bid.

City Manager Thorsen confirmed that was correct.

Councilor Sheldon indicated his support of funding the full project including the pond dredging. He stated that he believed the funds should come from the correct source which was the Parks and Recreation Fund, but suggested that the General Fund could loan money to the Parks and Recreation Fund to be paid back over the next two to five years in order to address the concerns raised by PTRC.

Councilor Blum asked about the original cost estimate for this project in relation to the COP funds.

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City Manager Thorsen explained that staff had originally presented a COP amount of \$12.9 million to City Council for consideration, and Council had reduced that to \$11.8 million. The cost estimate for John Meade Park at that time had been \$3.7 million, which was very close to the amount the bids had come in at. Currently \$2.1 million in COP funds remained. The Public Works Facility had been under budget and the cost of the City Hall building had been higher than expected.

Councilor Blum asked about the timeline for the project and noted that he felt that a year was longer than necessary.

Coordinator Black replied that the contractor would start within 45 days of signing the contract and staff anticipated that the project would be completed by September 2020.

Councilor Blum agreed that Council should discuss potential options between the funds and indicated his support of funding the entire project.

Mayor Stewart noted that the Parks and Recreation Fund would have a high fund balance over time. He indicated that he was confident that the City would receive the grant from Arapahoe County Open Space. He asked how staff would account for the use of the grant funds.

Coordinator Black replied that the City's grant application had detailed the budget and explained that the first step after receiving notification of the grant award would be to reconcile the grant award with the bid. She noted that it appeared to match up well but that the first step for the grant project was to reconcile the estimated budget from the grant application with the actual construction budget.

Mayor Stewart asked if staff had been surprised by any particular items in the other bids.

City Manager Thorsen replied that there had not been anything in particular. He noted that HPM Inc had many questions and it had been clear they had thoroughly reviewed the project.

Coordinator Black agreed and added that HPM Inc had submitted the most detailed questions of any of the contractors.

Councilor Sheldon indicated that it was impossible to know exactly what costs were included in individual line items of a bid.

Mayor Stewart noted that the contract stated work would begin within 15 days.

Coordinator Black agreed but added that the addenda included the posting which stated 45 days because staff had received feedback that the 15 day timeline was very short and might discourage bidders.

Mayor Stewart noted that Part 8 of the contract regarding liquidated damages referred to the General Conditions but did not state what amount the liquidated damages would be.

City Manager Thorsen replied it was a formula.

City Attorney Guckenberger agreed it was a standard formula.

Mayor Pro Tem Brown indicated that it was important to recognize that the numbers that had been used to form the COP budget were very rough estimates. She explained that the original COP amount had been higher and part of Council's discussion when it was lowered involved the understanding that the cost of the Park redevelopment would be supplemented by grants and the General Fund. She added that she had been

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comfortable lowering the COP amount because she felt those other funding sources would be sufficient to complete the Park redevelopment project. She indicated that the lowered COP amount should not be interpreted as a reason to not fully fund the Park project. She stated that staff had done an incredible job managing the COP projects to keep costs close to the estimated numbers. She indicated that she wished the construction bids for the Park were closer to the design estimate but that it was still a very important project for the City and would be an incredible amenity for the community. She stated that she was all in favor of proceeding with the full project.

Mayor Stewart noted that the voters had spoken forcefully in favor of redeveloping John Meade Park when the City excluded from South Suburban.

Councilor Sheldon indicated his support for Option 1 to fully fund the project and the pond dredging, but to have the Parks and Recreation Fund borrow the required amount from the General Fund and pay it back over two to five years in order to address PTRC's concerns.

Mayor Stewart suggested that there were sufficient funds in the Parks and Recreation Fund for this project.

Mayor Pro Tem Brown added that other funds such as the Conservation Trust Fund and the Arapahoe County Open Space Fund also paid for expenses associated with the City's parks, trails and recreation.

Mayor Stewart noted that the payments to South Suburban would be completed this year resulting in a decrease in expenditures and an increase in revenue for the Parks and Trails Fund.

Mayor Pro Tem Brown moved, seconded by Councilor Weil to approve Resolution 22, Series 2019; awarding the bid for the John Meade Park/Alan Hutto Memorial Commons, Project No. 2019-003, and approving the form of construction contract; authorizing the Mayor to sign the final contract with HPM, Inc. in the amount of \$3,026,700 for completion of the Park project plus an additional amount up to \$280,000 for dredging of the ponds, contingent upon the City receiving notice of award of the anticipated Arapahoe County Open Space grant; and authorize a contingency in the amount of \$125,000 to pay for any additional unforeseen change orders that could occur during construction and up to \$25,000 for materials testing and engineering oversight for a total maximum expenditure of \$3,456,700; and authorize up to \$573,300 in additional funds to be utilized for the project from the existing Parks and Recreation Fund.

The motion passed unanimously.

REPORTS

Mayor's Report

Mayor Stewart reported that he had met with the Greenwood Village mayoral candidate; attended the CML Annual Conference along with City Manager Thorsen and Deputy City Manager/Director Goldie; attended the tour of the Arapahoe County Jail with other Council members and noted a Citizen's Committee had been formed regarding building a new jail; attended the Arapahoe County Open Space study session to advocate for the City's grant application and noted staff had done a great job on the application; met with the new City Manager at Englewood and the new City Attorney at Littleton. He noted that issues that might affect the City included a court case in Castle Rock regarding restrictions on peddlers, a ballot measure in Lakewood regarding limits to growth, and a Supreme Court case regarding state remedies on city ordinances. He noted Kevin Bommer was the new Executive Director of CML. He stated that the Lakota Ride had been last Sunday; he had attended Denver Mayor Hancock's inauguration on Monday; there would be a Code Modernization Steering Committee meeting the

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following day; the Cherry Hills Village Art Commission's event would also be held the following evening; an Arapahoe County Commissioners, Mayors and Managers meeting on Friday; the Arapahoe County Fair would be held July 25th-28th; and the Arapahoe County Transportation Forum would meet on August 1st and 29th. He asked the City Attorney to update the Council on the court case between the former Mayor of Glendale and the Independent Ethics Commission.

Members of City Council

Councilor Weil had no report.

Mayor Pro Tem Brown had no report.

Councilor Gallagher reminded Council members they have an opportunity to write articles for the Village Crier, in addition to the Mayor's regular article. He thanked Coordinator Black for her help organizing the Lakota Ride this year, thanked the Cherry Hills Land Preserve for funding the dinner, and thanked Susan Maguire and Laura Christman especially for their work on the event.

Councilor Sheldon reported that a Sheridan Council member had stated, during the tour of the Arapahoe County Jail, that he enjoyed having the Cherry Hills Village Public Works Facility in Sheridan. He stated that he had met with Mayor Stewart last Tuesday to discuss parliamentary procedure and created a framework to help the Council avoid the confusion that occurred at the last Council meeting. He thanked Mayor Stewart for that dialogue and indicated that the Council was moving in the right direction.

Councilor Blum reported that one of the main runways at Centennial Airport was closed resulting in more air traffic than normal. He indicated that Centennial Airport had filed a petition against the FAA in the Washington D.C. courts and were asking the Denver metro area cities to participate. He noted that there had been one noise complaint from Cherry Hills Village in the past six months. He stated that traffic was increasingly using Santa Fe, Broadway and Belleview to access the Tech Center instead of using I-25, and that was an additional reason to get the new traffic signal installed at Glenmoor and Belleview.

City Manager & Staff

City Manager Thorsen reported that the latest sculpture-on-loan, *Really* by Wayne Salge, had been installed on the north side of City Hall; the chip seal project was complete; the Red Cross would hold a training at City Hall on Thursday; and staff was in contact with a potential candidate to be an alternate municipal judge.

Chief Tovrea added that National Night Out would be August 6th.

City Attorney

City Attorney Guckenberger reported that the Colorado Independent Ethics Commission was appealing to the Colorado Court of Appeals regarding a case with the former Mayor of Glendale.

EXECUTIVE SESSION AND ADJOURNMENT

Mayor Pro Tem Brown moved, seconded by Councilor Sheldon to enter into Executive Session pursuant to C.R.S. Section 24-6-402(4)(a) regarding the potential acquisition or transfer of real property interests pertaining to City bridle paths and immediately upon conclusion to adjourn.

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The following votes were recorded:

Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

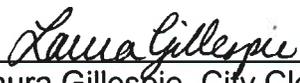
Vote on the Executive Session: 5 ayes. 0 nays. The motion carried.

The Executive Session began at 8:46 p.m.

The meeting adjourned at 9:10 p.m.



Russell O. Stewart, Mayor



Laura Gillespie, City Clerk