

# RECORD OF PROCEEDINGS

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Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, August 18, 2020 at 6:30 p.m.  
At the Village Center

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, Mike Gallagher, and Dan Sheldon were present on roll call. Also present were City Manager Chris Cramer, Deputy City Manager and Public Works Director Jay Goldie, 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 Al Blum

## **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 Sheldon to approve the following items on the Consent Agenda:

- a. Approval of Minutes – August 4, 2020
- b. Resolution 21, Series 2020; Approving an Intergovernmental Agreement with Arapahoe County for the November 3, 2020 Election
- c. Resolution 22, Series 2020; Entering into an Intergovernmental Agreement with the Cherryvale Sanitation District for Reimbursement of Costs for the Cherrymoor South Sewer Trunk Line Rehabilitation Project
- d. Resolution 23, Series 2020; Entering into an Intergovernmental Agreement with the Country Homes Metropolitan District for Reimbursement of Costs for the Cherrymoor South Sewer Trunk Line Rehabilitation Project
- e. Resolution 24, Series 2020; Approving a License Agreement with Denver Water for the Pedestrian Bridge for the High Line Canal Underpass at Hampden Avenue and Colorado Boulevard

The motion passed unanimously.

## **ITEMS REMOVED FROM CONSENT AGENDA**

None

## **UNFINISHED BUSINESS**

None

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### NEW BUSINESS

#### Preliminary Petition for the Vacation of Right-of-Way – 2 and 4 Cantitoe Lane

Deputy City Manager/Director Goldie explained staff had received a preliminary petition for the vacation of three bridle paths located on 2 and 4 Cantitoe Lane. Chapter 11, Article V of the City Code outlined the process for the vacation of a right-of-way. If Council found a preliminary petition lacked sufficient merit to justify further consideration, it would constitute a legislative finding that the requested vacation was not in the public interest and the petition would be rejected. If Council found the petition had merit, the process moved on to the formal petition process. The Council's decision that a preliminary petition possessed sufficient merit to justify further consideration would only authorize the further processing of a formal petition for vacation; such decision would not constitute a finding or imply that the vacation would be approved following such further consideration.

Kent Thiry, 2 Cantitoe Lane, petitioner, thanked Council for the opportunity to speak on the issue. He noted his wife Denise O'Leary was unable to attend tonight's meeting. He explained his objective was not to talk through any of the legal aspects of their preliminary petition but rather the practical aspects. He noted he and his wife had lived on the property for seven or eight years. He indicated he had five main points. He stated first, no one had ever used the trails in question, and it was clear from the state of the bushes and trees that nothing had been used in a long time. He continued second, the trails had never been maintained in any way by anyone except the property owners. He added third, a number of the trails had dead ends and there was no reasonable or useful access and therefore could not be used practically speaking. He questioned one of the solid lines on the map in the Council packet. He stated fourth, there were great alternatives close by in the form of the existing trail and bridge over the High Line Canal just south of the trails in question as well as another about a six-minute walk away. He continued fifth, even if there was access, he did not think there would ever be any new parking added to the area. He concluded the trails in question were never used or maintained and never would be.

Amy Brimah, 1888 Sherman Street, Suite 200, Denver CO 80203, attorney for the petitioners, thanked the Council for considering this issue. She asked Council to consider the petition per Article V of Chapter 11 of the Municipal Code. She stated they met the criteria for the preliminary petition to proceed as outlined in the Code and they met the criteria for the vacation to be approved by Council. She explained the vacation served the public interest because there had been no use by the public of the easements and no maintenance of the easements by the City. She continued the easements were of no value to the public or the City as they were not usable, were undeveloped, did not connect to other easements to allow use, and had no public access. She added vacation of the easements would not impact vehicular access to any other property. She indicated the petitioners were prepared to proceed with a formal petition and this was their formal request to move forward.

Councilor Gallagher asked City Attorney Guckenberger if Council could enter into executive session to receive legal advice on the City's property interests related to this issue.

City Attorney Guckenberger confirmed that was a right afforded the Council under the Open Meetings Law.

Councilor Gallagher moved, seconded by Councilor Safavi to move into Executive Session under Section 24-6-402(4)(b) CRS to receive legal advice on specific legal questions regarding the City's property interests pertaining to City bridle paths.

The following votes were recorded:

Safavi	yes
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Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes

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

The Council entered Executive Session at 6:44 p.m.

The Council returned to the public meeting at 7:18 p.m.

Mayor Stewart stated the participants in the Executive Session were all of City Council except Councilor Blum, City Manager Cramer, Deputy City Manager/Director Goldie, and City Attorney Guckenberger. He indicated if anyone believed anything in the Executive Session was not legal or otherwise improper, they should state it for the record now. Hearing none Council would continue with the public meeting.

Mayor Pro Tem Brown stated she appreciated the work that had gone into the proposal and understood the intent behind it, but she believed the Master Plan and the citizens of the Village had repeatedly expressed the importance of trails and open space to the City. She indicated she personally could not support any action to vacate public trails.

Councilor Sheldon moved, seconded by Councilor Weil that the City Council finds that the preliminary petition possesses sufficient merit to justify further consideration and authorizes the further processing of a formal petition for vacation, noting that such decision does not constitute a finding or imply that the vacation will be approved following such further consideration.

The motion passed with 4 ayes and 1 nay.

### Public Hearing – Cherry Hills Country Club Site Plan Amendment Application and Conditional Use Application for a Clubhouse Renovation

City Manager Cramer presented the Conditional Use Permit and Site Plan Amendment, including an associated Development Agreement, from Cherry Hills Country Club (CHCC) for Council's consideration. He provided information on the location and history of CHCC. He explained the applicant reported the southern part of the Clubhouse had become both operationally and functionally obsolete, they sought to replace and slightly enlarge that part of the Clubhouse and slightly modify and repave the main parking lot. He reviewed the proposal and noted the architectural style of the building as depicted in the design drawings was consistent with the original Tudor style of the Clubhouse. He indicated the proposal included 328 parking spaces with a parking reduction request of 47% as allowed by the Municipal Code. He explained staff's findings regarding the requirements as outlined in the Municipal Code for the Conditional Use Permit and Site Plan Amendment with associated Development Agreement and noted staff had found the application met all requirements as further outlined in the staff memo. He indicated staff would change the title of the agreement from "site plan" to "development." He noted the bulk plane standards in the staff memo did not include the correct setbacks and the actual proposal far exceeded the required setbacks.

Mayor Pro Tem Brown thanked him for the clarification.

City Manager Cramer stated the proposed lighting complied with the City's standards and the preliminary drainage analysis showed the existing facilities were sufficient for the increase in impervious area. He noted the building permit process would require a more in-depth analysis of drainage and water quality. He indicated the proposed Development Agreement included management of special events and the parking reduction request. The Planning and Zoning Commission (P&Z) had unanimously recommended approval. The public notice requirements outlined in the Municipal Code

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had been met and staff had not received any public comments for either tonight's public hearing or P&Z's public hearing.

Bill Bergner, co-chair of the Cherry Hills Country Club building committee, indicated CHCC's 100<sup>th</sup> anniversary would be in 2022. He explained a substantial portion of the Clubhouse was 60 years old and did not meet today's programming needs. He added maintenance costs were increasing exponentially for the old building. He indicated the CHCC membership approved the proposed renovations and CHCC also had approval from the residential neighbors of the Club. He stated the renovations were consistent with the Village vision of a safe, low-density, open, rural area. He indicated he was a property owner in the City and thanked current and past Councils for maintaining the Village vision.

Jay Valade, Mark-Finley Architects, architects for Cherry Hills Country Club, stated their intention with the renovations was to create a Clubhouse that felt like a second home for members, provided flexibility for programming beyond special events, maintain and enhance the history of the Clubhouse, and create something both CHCC and the City could be proud of.

John Woodward, co-chair of the Cherry Hills Country Club building committee, noted CHCC's proud history hosting national golf events. He explained they had conducted an extensive vetting and interview process before hiring Mark-Finley Architects. He noted 220 CHCC members were residents of the Village. He indicated the residents neighboring CHCC were in support of the proposal. He stated the City and CHCC had a terrific partnership. He submitted letters of support for Council's consideration.

Councilor Sheldon asked about the membership cap.

Mr. Woodward replied there would be no support from CHCC for a large increase in membership, and the proposed Development Agreement included the same membership cap as the 2004 Expanded Use Agreement.

Councilor Sheldon noted the membership cap was 720 and the current membership was about 700. He asked about the underground ramp in the drawings.

Mr. Woodward replied the underground ramp was for deliveries.

Councilor Sheldon asked if CHCC was aware of any opposition to the proposal.

Mr. Woodward replied they were not.

Councilor Gallagher asked when CHCC had started the planning process for this renovation.

Mr. Woodward replied CHCC had been through various iterations for at least the last five years, and this version had been in progress for the past 18 months.

Councilor Gallagher asked about the construction timeframe.

Mr. Woodward replied they hoped to complete construction within two years.

Mayor Pro Tem Brown thanked everyone for attending the meeting. She clarified Section 3.3(c) of the proposed Agreement stated the current membership was 720 and allowed for a 20% increase up to 860 members without prior approval.

Councilor Sheldon replied that was similar to what Council had allowed in the past.

Mr. Woodward agreed it was consistent with the current Expanded Use Agreement and the numbers had not changed.

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Mayor Pro Tem Brown noted the City was often concerned with parking and lighting and those issues were adequately addressed. She asked how CHCC would accommodate parking for larger events, but not referring to the national golf sized events, that might exceed the capacity of the paved parking spaces.

Mr. Woodward replied the grass area by the tennis courts could accommodate about 60 cars and the driving range could accommodate a couple hundred cars. He added using those spaces when necessary was part of the Development Agreement.

Mayor Pro Tem Brown asked how often those areas would likely be needed for parking.

Mr. Woodward replied in a pre-COVID world about three times a year.

Mayor Pro Tem Brown indicated her support of the parking plan and noted Council had discussed before how they would much rather have grassy areas available rather than a large paved area that was not often used. She stated membership numbers were staying the same, there was an existing traffic light at University and there was no change needed. She indicated the plan was exciting and congratulated CHCC.

Councilor Weil stated all his questions had been answered.

Councilor Safavi thanked CHCC for working closely with City staff. He noted it was a beautiful design and he wished CHCC a speedy and on time construction.

Mayor Stewart asked what member services would continue during construction.

Mr. Woodward replied golf would continue but beyond that CHCC was still determining what other services would continue.

Mayor Stewart opened the Public Hearing.

Mike Komppa, 5 Cherry Hills Drive, stated he was proud to be a resident of the City for 37 years, a member of CHCC for 20 years, and a nearby property owner for 12 years. He explained CHCC had been created in 1922 and 23 years later the Village was created. He indicated the City and CHCC's mission statements were very much alike and what benefited one benefited the other. He stated CHCC was proud to be a part of the City and he hoped the City was proud of CHCC. He explained the proposed plan would enhance members' experience and provide additional tax revenue for the City without adding demands on the schools, police or fire departments. He noted City staff and P&Z recommended approval. He indicated in his career he had attended many public meetings on land use projects and it was very unusual for there to not be any opposition, and noted it was the equivalent of overwhelming endorsement. He requested Council vote in favor of the proposal.

Buz Koelbel, 3751 S. Gilpin Street, explained his parents had lived in the Village for 45 years and he and his children currently live in the Village. He noted he was working on a heritage book for CHCC's 100<sup>th</sup> anniversary. He stated the purpose of the proposal was the same as the purpose of the 1961 remodel which was to stay on the cutting edge for CHCC members. He noted the Village and CHCC's visions went hand in glove and there was no more special place.

Mark Donnan, 14 Cherry Hills Drive, indicated he lived most proximate to CHCC on the north side and was in strong support of the project. He thanked the project committee and architects and expressed gratitude to City staff, P&Z and Council.

JoAnne Wattles, 16 Village Road, stated she had been a CHCC member for 25 years and a Village resident for 15 years and had moved to the Village because of CHCC. She encouraged Council to approve the proposal.

Hearing no further comments, the Public Hearing was closed at 8:20 p.m.

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Councilor Gallagher thanked the attendants and stated CHCC was a wonderful and long-standing member of the community and thanked them for investing the time and money for maintaining a first-class environment of the City.

Councilor Sheldon moved, seconded by Mayor Pro Tem Brown to approve the request by Cherry Hills Country Club for a Conditional Use Permit to allow for the Clubhouse renovation located at 4125 South University Boulevard.

The motion passed unanimously.

Councilor Sheldon moved, seconded by Mayor Pro Tem Brown to approve the request by Cherry Hills Country Club for the submitted Site Plan and associated Development Agreement to allow for the Clubhouse renovation located at 4125 South University Boulevard.

The motion passed unanimously.

### **REPORTS**

#### **Mayor's Report**

Mayor Stewart reported the Metro Mayors Caucus had discussed in-person versus virtual meetings and noted most municipalities were still doing virtual meetings and suggested the City could go back to all virtual meetings and only have in-person meetings for public hearings if Council agreed. He indicated the CDC was predicting a rise in COVID-19 cases in Colorado. He noted if the Gallagher Amendment referendum did not pass on the November ballot it would be very difficult for many municipalities' budgets. He stated most municipalities had seen a significant negative impact on their budgets due to COVID-19 and the City was fortunate. He asked for a report from staff on the Hillcrest Sanitation District meeting. He indicated he would be meeting with Councilors Blum and Weil about cell phone coverage. He noted the CML Virtual Conference was next week and the attorney session would be in September.

#### **Members of City Council**

Councilor Sheldon reported the High Line Canal Walk for the Canal was ongoing and an event would be held in Greenwood Village on Friday. He asked staff to report on the utility line undergrounding project along Quincy.

Councilor Gallagher reported he was working with City staff on procedures to promote good pollinator practices and there might be a future resolution for Council's consideration.

Mayor Pro Tem Brown had no report.

Councilor Weil noted the DRCOG meeting had been cancelled. He reported the Cherry Hills Farm HOA's recent survey showed strong support for the proposed new location for the comfort station.

Councilor Safavi highlighted commendations received by the Police Department from citizens including fostering safety and professionalism. He thanked the Police Department and he thanked the citizens for sending commendations.

#### **City Manager & Staff**

City Manager Cramer reported on August 7, 2020 Natalie Anderson submitted a letter of interest regarding the future of Quincy Farm, and the Quincy Farm Committee had recommended that Council suspend the Quincy Farm Master Plan while the City fully explored the opportunity. He noted the conservation easement would continue with the

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property regardless of property ownership. He stated it was very early in the process and Ms. Anderson was doing due diligence before any other steps could be taken. He indicated staff continued to maintain Quincy Farm and to work on gathering cost information regarding a caretaker and hoped to bring that back for Council discussion soon. He stated the Quincy Farm Committee recommendations would be on the September 1, 2020 Council agenda and Ms. Anderson would present to Council after she completed the due diligence.

Councilor Weil asked about the timeline for completion of the due diligence.

City Manager Cramer replied it could take a few weeks or up to a few months, and then the City could begin its evaluation process. He reported the Planning and Zoning Commission was considering suspension of the Master Plan Update project as the validity of the Plan was based on public involvement which was difficult during COVID-19. He noted schools were starting this week and start times would be staggered between Cherry Hills Village Elementary School (CHVE) and Kent Denver which would help traffic on Quincy Avenue. He stated the Police Department had done great work with CHVE. He reported there would be no additional cost to live-stream Council study sessions so they would be streamed beginning September 1, 2020.

Mayor Pro Tem Brown asked if the study sessions would be recorded as well as streamed.

City Manager Cramer confirmed that was correct.

Deputy City Manager/Director Goldie reported staff would bring the agreements with Xcel and CenturyLink to Council for consideration at the September 1, 2020 meeting for the Quincy Avenue utility line undergrounding project. He noted Comcast had already begun their portion of the project and Crown Castle would meet with Xcel next week. He reported the meeting with residents in the Hillcrest Sanitation District had gone well and staff would continue to help as they could.

Director Sager reported the City's CARES Act Business Assistance Program would start Monday and she has only been contacted by home-based business owners outside of the City. She has not been contacted by a home-based business owner inside the City yet, but she would keep Council updated throughout the process.

Coordinator Black reported the John Meade Park redevelopment project was in its final weeks of construction and the construction trailer had been removed from the City Hall parking lot. She explained due to COVID-19 the City would not be able to have a large grand opening event this year but hoped to have one next year. She indicated the Parks, Trails and Recreation Commission recommended a smaller scaled-back ribbon cutting with City Council during a Council study session time slot.

Councilor Gallagher asked when the fish would arrive.

Coordinator Black replied some small bass had found their way into the pond and staff was working with the State to repopulate the pond in stages over the next couple of years.

Mayor Pro Tem Brown stated the Park was looking great and asked if access would be restricted until the new grass had grown more.

Coordinator Black replied staff would be using the fencing to protect the new grass as long as needed and added the geese service was helping a lot.

Mayor Pro Tem Brown asked if CHVE allowed their students to visit the Park if the City would allow that.

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Coordinator Black replied they could as only permit needed would be to reserve the pavilion.

City Clerk Gillespie reported nomination petitions for the City's regular municipal election were due August 24, 2020 and the deadline for write-in candidate affidavits was August 28, 2020. She stated if there was no more than one candidate per position and no ballot measures then staff would present a resolution for Council's consideration at the September 1, 2020 meeting to cancel the City's election.

Chief Tovrea reported the Police Department would have training with the City Attorney's office later this week regarding the new legislation. She reported the Department had been pleased to receive a request to join a 90<sup>th</sup> birthday party parade in the City.

### **City Attorney**

City Attorney Guckenberger echoed Chief Tovrea's comments about training and noted Senate Bill 20-217 was a massive piece of legislation with significant consequences for the City. She commended the Police Department for requesting in-depth training to really understand the legislation at a more comprehensive level.

Mayor Stewart asked staff share the training with Council.

Chief Tovrea replied they were happy to share the syllabus and updated department policies, as well as go into more detail if requested.

### **ADJOURNMENT**

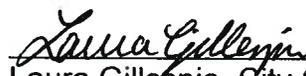
Mayor Pro Tem Brown moved, seconded by Councilor Sheldon to adjourn the meeting.

The motion passed unanimously.

The meeting adjourned at 8:46 p.m.

(SEAL)

  
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Russell O. Stewart, Mayor

  
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Laura Gillespie, City Clerk