

## RECORD OF PROCEEDINGS

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Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, October 15, 2019 at 6:30 p.m.  
At the Village Center

The City Council held a study session at 5:30 p.m.

Mayor Russell Stewart called the meeting to order at 6:32 p.m.

### **ROLL CALL**

Mayor Russell Stewart, Councilors Randy Weil, Afshin Safavi, Al Blum, 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: Mayor Pro Tem Katy Brown, Councilor Mike Gallagher

### **PLEDGE OF ALLEGIANCE**

The Council conducted the pledge of allegiance.

### **AUDIENCE PARTICIPATION PERIOD**

Steve Ferris, 820 S. Fillmore Street, Denver, CO 80209, representing Denver First Church, indicated that they had had productive meetings with City staff since the last Council meeting regarding parking requirements and thanked Council for consideration of amendments to the Code that would address the core issue of having a significant number of parking spaces that were not used on their property.

Susan Maguire, 14 Mockingbird Lane, Executive Director of the Cherry Hills Land Preserve (CHLP), provided an update on the CHLP's recent activities. She explained that they had hosted a star gazing event and a bird watching event at Quincy Farm, both of which had been well attended. She thanked Kent Denver for leading the stargazing event and for providing parking for both the events. She suggested that the CHLP could underwrite the installation of bird feeders at Quincy Farm. She indicated that the CHLP's annual Barn Party and Trail Walk had also been very successful. She noted that she was in conversation with Parks and Recreation Coordinator Emily Black about the possibility of using the remaining funds from the \$20,000 CHLP grant for maintaining the beehives on Quincy Farm.

### **REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES**

None

### **CONSENT AGENDA**

Mayor Stewart asked that the draft minutes be removed from the Consent Agenda.

Councilor Sheldon removed Item 6a. Approval of Minutes – October 2, 2019 from the Consent Agenda.

### **ITEMS REMOVED FROM CONSENT AGENDA**

Mayor Stewart noted some clarifying changes to the Mayor's Report section of the draft minutes.

Councilor Sheldon moved, seconded by Councilor Blum to approve the minutes as amended.

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The motion passed unanimously.

### **UNFINISHED BUSINESS**

#### Council Bills 6, 7, 8 and 9 of Series 2019; Amending Chapters 1, 16, 17, and 19, and Creating Chapter 20 of the Municipal Code (second and final reading)

Director Cramer presented Council Bills 6, 7, 8 and 9 of Series 2019, amending Chapters 1, 16, 17, and 19 and creating Chapter 20 of the Municipal Code, on second and final reading. He noted that the three amendments to Council Bill 6, Series 2019 approved by Council at first reading had been integrated into the council bill for second reading. He reminded Council that the three amendments had been the alteration of nonconforming structures, reasonable accommodations, and RV screening. He explained that staff had had numerous conversations and meetings with the representatives of Denver First Church which had been beneficial and productive. He indicated that he believed they had reached an agreement on a path forward to a better utilization of parking standards based on more accurate best practices within the industry that would also eliminate the need for excessive and unused parking spaces. He stated that staff was analyzing the effect of a possible Code amendment regarding the parking calculation ratio on all places of assembly in the City and planned to bring a Code amendment to Council for consideration in the next few months. He explained that for tonight's consideration of Council Bill 6, Series 2019 on second and final reading staff recommended one additional amendment to Section 16-4-10 to clarify how parking requirements were currently calculated. He indicated that Section 16-4-10 currently read "Off-street parking shall be provided in accordance with Table 16-4-10, Off-Street Parking Requirements. Where more than one use is conducted on a single lot, parking shall be required for each use, even if one use is accessory to the other" and staff proposed to amend the section by adding the word "Land" in front of "Use" and to delete the last phrase "even if one use is accessory to the other." He explained that the parking requirements in the current Code and in the proposed Chapter 16 as shown in Table 16-4-10 already stated the land uses for which parking requirements should be based on the primary use, such as places of assembly, versus land uses for which parking requirements should be based on an aggregate of all the uses, such as private clubs. He indicated that the phrase "even if one use is accessory to the other" had created ambiguity over the years and had resulted in an interpretation of the Code by previous staff that current staff believed was not the intent of the Code. He explained that after thorough internal discussions, staff believed that the phrase "even if one use is accessory to the other" was intended for situations that are not present often in Cherry Hills Village, such as shopping centers. He stated that staff recommended removing the phrase in order to clarify that the parking requirement Table contained all the information necessary to determine parking requirements. He noted that the addition of the word "Land" would bring the wording in agreement with the Table, which referred to "Land Use" rather than just "Use".

Councilor Blum asked how the parking requirements had been calculated and would be calculated in a situation where there was a gym inside a church and both the gym and church were being used at the same time.

Director Cramer replied that in the past staff had added the parking requirement for the church to the parking requirement for the gym, but after the recent review current staff would base the parking requirement on just the main assembly space. He added that the gym would not be taken into account to determine the parking requirement because staff believed the Code's intent for the places of assembly land use was that it was unlikely that both the main assembly space and the other spaces such as a gym, office or classrooms would be used to capacity at the same time. He explained that this was in contrast to the private club land use section of the Table which based the parking requirement on an aggregation of all of the various uses, meaning the size of the principal building, the size of the golf course and the number of employees would be used to determine the parking requirement.

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Councilor Blum asked how the parking requirement would be calculated for a club with a golf tournament and a wedding at the same time.

Director Cramer replied that the Code did not count the number of people coming to a wedding but would add together the aggregate uses of a private club to determine the parking requirement.

Councilor Sheldon indicated that he knew that the proposed change had been developed by staff in a relatively short time frame and appreciated Mr. Ferris working with staff on the proposed amendment. He asked if the proposed amendment had been considered by the Planning and Zoning Commission.

Director Cramer replied that it had not.

Councilor Sheldon indicated that while he was generally in favor of less asphalt as Council had discussed at the last meeting, he wanted to ensure that Council understood the magnitude of the proposed change. He stated that Denver First Church currently had over a thousand parking spaces and the proposed amendment would reduce their required parking to about 700 spaces.

City Manager Thorsen clarified that a calculation of aggregate uses resulted in about 1200 parking spaces for Denver First Church based on their 2013 application, versus a calculation of just their principal auditorium which resulted in 955 spaces. He indicated that the Code amendment that staff was working on and hoped to bring to Council for consideration in the next few months would change the ratio used to calculate parking spaces and that change would reduce the number of spaces for Denver First Church to about 700, but that was not the amendment proposed tonight.

Councilor Sheldon agreed that the intent of the Code was likely to use only the main land use to determine parking requirement for places of assembly, but he suggested that in the case of a large event other areas such as the kitchen or daycare would likely be used and therefore the people meeting in the main assembly room were not the only ones that would be using parking spaces.

Mayor Stewart indicated that basing parking requirements on only the main assembly space was easier and then adjustments could be made later when staff returned with the additional Code amendment for Council's consideration.

City Manager Thorsen added that for the event that Councilor Sheldon described it was likely that some of the people using rooms other than the main assembly space would share cars with people going to the main assembly space.

Councilor Sheldon explained that at his place of worship multiple services occurred in multiple rooms in the same building at the same time.

Todd Messenger, Fairfield and Woods, indicated that there were two ways to interpret the phrase under discussion. He explained that the first interpretation argued that the categories for which separate accessory uses should be counted towards parking requirements were specifically itemized in the parking Table, and the parking Table listed accessory uses for private clubs but not for places of assembly. He added that, according to that interpretation, accessory uses do not generate traffic on their own, so a classroom inside a church was not a separate land use and did not require separate parking from the main assembly space. The second interpretation was that each use of the property for a place of assembly counted as a separate land use and the parking requirements should be added together to arrive at the total. He indicated that he believed the proposed change was positive and would help the City avoid some misunderstandings going forward. He noted that the attorney of Denver First Church had mentioned that if they expected to have a service at 80% capacity then they would have a second service to accommodate. He added that because places of assembly

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were under common management it was less likely that they would create their own parking issues by scheduling multiple large events at the same time.

Councilor Weil moved, seconded by Councilor Blum to approve Council Bill 6, Series 2019; repealing Chapter 16, Zoning, of the Cherry Hills Village Municipal Code and replacing such chapter with an updated Chapter 16, Zoning; amending Section 1-1-80 of the Cherry Hills Municipal Code regarding fees on second and final reading.

Councilor Weil moved, seconded by Councilor Blum to amend Section 16-4-10 to insert the word "Land" in front of the two occurrences of "Use" and to strike the last phrase "even if one use is accessory to the other".

The following votes were recorded:

Sheldon	no
Blum	yes
Safavi	yes
Weil	yes

Vote on the amendment to Council Bill 6-2019: 3 ayes. 1 nay.

City Attorney Guckenberger confirmed that the motion failed per Section 4.2 of the Home Rule Charter which states "Every ordinance shall require the affirmative vote of the majority of the membership of the entire Council for final passage."

Councilor Sheldon indicated that he was interested in continuing discussion of the proposed amendment further.

*Vote on the main motion*

The following votes were recorded:

Safavi	yes
Weil	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 6-2019: 4 ayes. 0 nays. The motion carried.

Councilor Sheldon moved, seconded by Councilor Blum to approve Council Bill 7, Series 2019, repealing Chapter 17, Subdivisions, of the Cherry Hills Village Municipal Code and replacing such chapter with an updated Chapter 17, Subdivisions on second and final reading.

The following votes were recorded:

Weil	yes
Sheldon	yes
Blum	yes
Safavi	yes

Vote on the Council Bill 7-2019: 4 ayes. 0 nays. The motion carried.

Councilor Blum moved, seconded by Councilor Weil to approve Council Bill 8, Series 2019, repealing Chapter 19, Stormwater Quality and Control, of the Cherry Hills Village Municipal Code and replacing such chapter with an updated Chapter 19, Stormwater Quality and Control on second and final reading.

The following votes were recorded:

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Sheldon	yes
Blum	yes
Safavi	yes
Weil	yes

Vote on the Council Bill 8-2019: 4 ayes. 0 nays. The motion carried.

Councilor Blum moved, seconded by Councilor Weil to approve Council Bill 9, Series 2019, creating Cherry Hills Village Municipal Code Chapter 20, Wireless Telecommunications Facilities on second and final reading.

The following votes were recorded:

Blum	yes
Safavi	yes
Weil	yes
Sheldon	yes

Vote on the Council Bill 9-2019: 4 ayes. 2 nays. The motion carried.

City Manager Thorsen thanked Mr. Messenger for his outstanding services as the City's consultant for the Code Modernization project.

### **NEW BUSINESS**

None

### **REPORTS**

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

Mayor Stewart reported that the CHLP stargazing event at Quincy Farm had been wonderful and thanked Kent Denver for their participation and assistance. He reported that he had met with the homeowner of 1800 E. Sanford Avenue along with Councilor Weil; hosted the Mayor's Munch at Pino's Pizzeria; attended the CML Policy Committee meeting; attended Greenwood Village Mayor Rakowsky's retirement event at which he presented Mayor Rakowsky with a proclamation; would interview alternative municipal judge applicants along with Councilor Blum; would attend the CML Executive Board meeting; and reminded everyone of the volunteer appreciation event at Buell Mansion on December 5, 2019. He noted some interesting issues that had been discussed at the CML Policy Committee meeting included legislation for a bottle deposit program that CML opposed because it might negatively impact single stream recycling programs; a change to state statute that would allow local municipalities to ban specific plastics which CML supported; a proposal from the American Planning Association to require Master Plans to address water conservation which CML opposed; and a discussion of a fee or tax to upgrade 911 services. He added that although Master Plans were aspirational and not meant to be enforceable documents he did think it would be a helpful addition to include water conservation in the City's Master Plan.

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

Councilor Safavi had no report.

Councilor Weil reported that the homeowner of 1800 E. Sanford Avenue was interested in purchasing the adjacent property but the resident wanted to eliminate the public trail that was in between the two properties. He explained that Mayor Stewart had stated the City had no interest in vacating or selling the trail but that there was a possibility of relocating the trail in a way that would improve trail connectivity.

Mayor Stewart added that staff had also met with the resident's representative.

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Councilor Weil suggested that staff avoid future inconsistencies between the Wireless Communications Facilities Master License Agreement and the Code by having the Agreement reference the Code instead of restating City regulations.

Councilor Sheldon reported that he and Councilor Blum had interviewed three applicants for the Planning and Zoning Commission and would bring their recommendations to Council at the next meeting. He asked staff to provide information on the John Meade Park Open House. He suggested that the High Line Canal Working Group could meet in Council Chambers in December. He asked staff to inform Steve Ferris of the outcome of the vote on the amendment to Council Bill 6, Series 2019.

Councilor Blum had no report.

Councilor Weil reported that he would attend the DRCOG meeting tomorrow and would host the DRCOG Executive Director at City Hall on Thursday.

### **City Manager & Staff**

City Manager Thorsen reported that the John Meade Park redevelopment was progressing and the ponds continued to fill up and be drained. He indicated that the Open House would be held on October 22, 2019 from 8-10am.

Deputy City Manager/Director Goldie added that construction would be halted during the Open House so no hardhats would be required.

Chief Tovrea reported that she continued to coordinate with various entities regarding the new Red Flag law. She indicated that the next Coffee with a Cop would be November 5, 2019 at 9am at Caribou Coffee. She stated that recent mail theft had occurred in the southwest and central areas of the City, although it was an issue throughout the City, and the Police Department was working with Jefferson County Sheriff's Department on a recent arrest. She explained that staff worked hard to get the word out through the City website and Village Crier advising residents to check their mail every day, know what mail and packages they were expecting, install locking mail boxes, and stop their mail when they went on vacation.

City Clerk Gillespie noted that on October 26, 2019 the Drug Take Back event would be held at the Police Department and the Flu Shot Clinic would be held at City Hall.

### **City Attorney**

City Attorney Guckenberger had no report.

### **ADJOURNMENT**

Councilor Sheldon moved, seconded by Councilor Blum to adjourn the meeting.

The motion passed unanimously.

The meeting adjourned at 7:32 p.m.



Russell O. Stewart, Mayor



Laura Gillespie, City Clerk