

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, January 6, 2015 at 6:30 p.m.  
At the Village Center

**FINAL MEETING OF THE OUTGOING CITY COUNCIL**

Mayor Doug Tisdale called the meeting to order at 6:30 p.m.

**ROLL CALL**

Mayor Doug Tisdale, Councilors Mark Griffin, Russell Stewart, Alex Brown, Scott Roswell, Klasina VanderWerf, and Katy Brown were present on silent roll call. Also present were City Manager John Patterson, City Attorney Linda Michow, Deputy City Manager and Public Works Director Jay Goldie, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Barlow, Special Projects Coordinator Emily Kropf, Parks, Trails & Recreation Administrator Ryan Berninzoni, Public Works Project and Right-of-Way Manager Ralph Mason, and City Clerk Laura Smith.

Absent: none

**PLEDGE OF ALLEGIANCE**

The City Council conducted the pledge of allegiance.

**AUDIENCE PARTICIPATION PERIOD**

None

**APPROVAL OF MINUTES**

Mayor Pro Tem Stewart moved, seconded by Councilor VanderWerf to approve the December 9, 2014 City Council meeting minutes.

The motion carried unanimously.

**REPORTS OF OUTGOING COUNCIL MEMBERS**

Councilor Roswell expressed gratitude for his eight and a half years of service and indicated he had appreciated every opportunity to interact with members of the community. He indicated that he enjoyed working with staff and hoped he had not been too burdensome on them. He stated that he looked forward to Councilor-elect Gallagher serving on Council.

Mayor Pro Tem Stewart indicated it had been a privilege to serve and that Council had accomplished a significant amount in the last eight and a half years including the Master Plan, the code of ethics, construction staging for the building department, bulk plane and floor area ratio standards, retaining walls, and protecting trees among others. He gave credit to Councilor Roswell for spearheading the Joint Public Safety Facility with South Metro Fire Rescue. He expressed gratitude for the opportunity to serve and noted that he looked forward to continuing to assist with the Utility Line Undergrounding Study Committee and with the management of Quincy Farm.

Mayor Tisdale reported that he had talked with Denver Water Executive Director Jim Lochhead who was very supportive of the High Line Canal Working Group and looked

forward to working collaboratively with the Village and other communities in continuing the High Line Canal as a recreational amenity. He remembered his late wife and her influence on his civic involvement. He indicated that he genuinely appreciated the opportunity to serve as Mayor. He noted that he had endeavored to serve all, engage all and connect all, both within the Village and with the surrounding region. He indicated that the City was an important part of the region and could serve as a significant voice in the region. He indicated that if at any time during his tenure he had failed to fulfill those objectives he offered his apology, and that if he had succeeded then he shared his success with Council. He thanked Council for their patience and thanked the City board and commission members for their hard work. He thanked staff and wished sincere good luck to the new Mayor and Council members. He indicated that the outgoing Council was turning over the number one best suburb of America to live in and asked the new Council to keep it that way.

### **PRESENTATION BY CITY MANAGER**

City Manager Patterson presented awards to Mayor Tisdale, Mayor Pro Tem Stewart and Councilor Roswell on behalf of staff for their dedicated service to the Village. He indicated that over the course of their collective tenure the Village had made significant achievements and had significant events, including the construction of the Joint Public Safety Facility; the formation of the Village Center Conceptual Plan; the Citizen's City Center Committee Report; the creation and implementation of the Residential Development Standards Committee's (RDSC) recommendations through a series of ordinances; the adoption of the 2008 Master Plan; balanced budgets during the past eight plus years; the acquisition of park and open space land including 125 Meade Lane, Quincy Farm, Station 38, and the Alan Hutto Memorial Commons; the significant improvement in the appearance and maintenance of City parks since excluding from South Suburban; the creation and engagement of several committees and commissions including the Parks, Trails and Recreation Commission, the Public Art Commission, the RDSC and the Utility Line Undergrounding Study Committee; completion of the Public Works study; the letter of understanding from Denver Water for use of their Hillcrest site for the possible location of a future public works facility; the Quincy Farm Visioning Committee report; the establishment of several partnerships and projects involving the High Line Canal; the Wildlife Management Program; the US Amateur and BMW Championship golf tournaments; expansion of special events and community engagement; staff training; accreditation of the Police, Public Works, and Community Development Departments; infrastructure improvements particular with roads and drainage; updating and improving the City's software and technology; improved cell phone coverage in the Village; media outreach; Channel 22; and many other achievements that had enhanced the quality of life for Village residents. He stated that the outgoing Council members were leaving the City in better shape than when they had started on Council. He thanked them for their willingness to serve, their vision, leadership and support.

### **ADJOURNMENT**

The meeting adjourned at 6:46 p.m.

## **ORGANIZATIONAL MEETING OF THE NEW CITY COUNCIL**

### **OATHS OF OFFICE**

City Clerk Smith administered the Oath of Office for Mayor Laura Christman and Council members Earl Hoellen, Mike Gallagher and Katy Brown.

Mayor Christman called the meeting to order at 6:55 p.m.

### **ROLL CALL**

Mayor Christman noted that all members of Council were present.

### **APPOINTMENT OF MAYOR PRO TEM**

Councilor VanderWerf moved, seconded by Councilor Griffin to nominate Councilor A. Brown as Mayor Pro Tem.

The motion carried unanimously.

### **AUDIENCE PARTICIPATION PERIOD**

None

### **CONSENT AGENDA**

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

- a. Appointment of City Clerk, City Treasurer and City Attorney
- b. Appointment of Municipal Court Judge
- c. Resolution 1, Series 2015; Designating a Public Place for Posting Notices of Regular and Special Meetings
- d. Resolution 2, Series 2015; Re-establishing the Roles of Members of the Utility Line Undergrounding Study Committee

The motion carried unanimously.

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

None

### **UNFINISHED BUSINESS**

#### **Public Hearings – Utility Line Undergrounding**

Special Projects Coordinator Kropf presented Council Bill 12, Series 2014 and Council Bill 13, Series 2014 on second and final reading. She explained that Council Bill 12 would amend Section 16-16-200 of the Municipal Code to require the burial of utility service lines in conjunction with the development of new homes and institutional structures or the addition of 50% or more of existing square footage. She explained that Council Bill 13 would amend Section 17-5-50 of the Municipal Code to require the burial of existing overhead utilities in conjunction with the subdivision of land. She noted that both bills had passed on first reading at the November 18, 2014 Council meeting and there had been no changes since first reading. She added that both bills had been reviewed by the Utility Line Undergrounding Study Committee (ULUSC) and Planning and Zoning Commission (P&Z) prior to first reading by Council and recommended approval. She explained that the City currently requires the burial of new utilities with the subdivision of land but does not require the relocation or burial of utilities with other types of development. Council Bill 12, Series 2014 would require the burial of new and existing utilities in conjunction with all new homes, nonprofit institutions, private clubs, public recreational facilities and nonprofit recreational facilities. The burial of utilities

would also be required for the addition or replacement of 50% or more of existing square footage. Council Bill 13, Series 2014 would require that existing overhead utilities that are located on the subdivided property or in the public right-of-way immediately adjacent to the property between the street edge and the property be relocated underground. Existing overhead utilities may remain above ground if the City Council determines that the subdivider has provided acceptable documentation from a utility provider that states that relocation is not possible due to physical constraints or that the cost of undergrounding outweighs the public benefit and relocation is not necessary to meet the goals and strategies of the Master Plan.

Mayor Christman disclosed that she served as Chair of P&Z when both of these council bills had been discussed by the Commission and therefore recused herself from the Council's discussion and vote.

Mayor Pro Tem A. Brown noted that these council bills had come out of the work of the ULUSC and were consistent with the objectives of the Master Plan and other community surveys that indicated public support for undergrounding utility lines whenever possible.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve Council Bill 12, Series 2014 on second and final reading adding Municipal Code Section 16-16-200 as proposed as Exhibit B of the January 6, 2015 staff memorandum establishing utility line undergrounding requirements for new development and additions.

The following votes were recorded:

Katy Brown	yes
Mark Griffin	yes
Earl Hoellen	yes
Mike Gallagher	yes
Klasina VanderWerf	yes
Alex Brown	yes

Vote on the Council Bill 12-2014: 6 ayes. 0 nays. The motion carried.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve Council Bill 13, Series 2014 on second and final reading amending Municipal Code Section 17-5-50 as proposed in Exhibit C of the January 6, 2015 staff memorandum amending the design principles for utilities in conjunction with the subdivision of land.

Mark Griffin	yes
Earl Hoellen	yes
Mike Gallagher	yes
Klasina VanderWerf	yes
Alex Brown	yes
Katy Brown	yes

Vote on the Council Bill 13-2014: 6 ayes. 0 nays. The motion carried.

City Attorney Michow reminded Council that these council bills were the subject of public hearings and asked if anyone had signed up to speak during the public hearings.

City Clerk Smith replied that they had not.

Council Bill 15-2014; A Bill for an Ordinance Amending Section 2-3-40(b) of the Municipal Code Concerning Delegation of Duties and Powers of the Mayor to the City Manager (first reading)

City Attorney Michow presented Council Bill 15, Series 2014 on second and final reading. She indicated that the council bill was recommended by former Mayor Pro Tem Stewart and would clarify the administrative duties of the Mayor that were delegated to the City Manager.

Mayor Christman indicated that the bill paraphrased the Charter and suggested that instead it simply refer to Charter Sections 5.4(i) and (m) to read "As authorized by Section 5.7 of the Charter, the City Manager shall have all of the duties and powers enumerated in Section 5.4 of the Charter, except as set forth in Sections 5.4(i) and 5.4(m)."

City Attorney Michow concurred with the recommended revision.

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin to approve Council Bill 15, Series 2014, a Bill for an Ordinance of the City of Cherry Hills Village Amending Section 2-3-40(b) of Chapter 2 of the Municipal Code Concerning the Delegation of Duties and Powers of the Mayor to the City Manager, on second and final reading as amended per the language proposed by Mayor Christman.

The following votes were recorded:

Earl Hoellen	yes
Mike Gallagher	yes
Klasina VanderWerf	yes
Alex Brown	yes
Katy Brown	yes
Mark Griffin	yes

Vote on the Council Bill 15-2014: 6 ayes. 0 nays. The motion carried.

**NEW BUSINESS**

Public Hearing – Request by the Arapahoe Tennis Club for an Expanded Use Permit to Install a Paddle Court with Lights and a Paddle Hut

Mayor Christman advised the public that this was a quasi-judicial matter.

Director Zuccaro presented the request from the Arapahoe Tennis Club (ATC) to install a paddle court with lights and a paddle hut. He explained that the ATC was located south of East Quincy Avenue on the east side of South Dahlia Street surrounded by R-1 properties. He described the current set up and the proposed additions. He noted that P&Z had reviewed similar requests in April and June of 2014, but the applications had been withdrawn, revised and resubmitted. He explained that the current proposal placed a new paddle court with lights in the northwest corner of the property and a new paddle hut in the southeast corner. He noted that both the proposed structures were outside of the property's setbacks. He explained that the ATC also proposed planting trees as a buffer for the new structures and designating overflow parking. He noted that drainage improvement was not required for the proposed project. He indicated that P&Z had extensive discussions regarding the traffic and parking concerns. He noted that staff recommended a membership cap as an alternative to completing a traffic and parking analysis. He indicated that staff recommended that the language on the Development Agreement and site plan be updated to reflect the membership cap. He explained that

P&Z recommended approval with 11 conditions, all of which the applicant had met except turning off the new paddle court lights at 9 p.m. The applicant offered to plant 24 foot tall trees as landscape screening as an alternative to turning off the lights at 9 p.m. He indicated that staff recommended approval with the conditions that the lights on the new paddle court be turned off at 9pm every night and the language on the Development Agreement and site plan be updated to reflect the membership cap. He noted that tonight's public hearing had been noticed in the Villager Newspaper and at the property and certified letters had been sent to neighboring properties. He indicated that comment letters received by staff were included in the Council packet and on the dais.

Councilor Hoellen asked how the development plan related to the development agreement.

Director Zuccaro replied that the development plan would be recorded with the development agreement and would be enforceable by the City.

Mayor Christman asked when the applicant changed their proposal for landscape screening.

Director Zuccaro replied that the applicant proposed 24 foot pines after the P&Z meeting and before tonight's City Council meeting.

Mayor Christman asked about public notice of the change in proposed landscape screening.

Director Zuccaro replied that the proposed change was included in the plans that had been on file and available to the public at the Building Department during the public notice period.

Councilor Griffin asked about enforcement of the lights turning off at 9 p.m. and the membership cap.

Director Zuccaro replied that P&Z and staff recommended that the lights be installed with timers that would automatically shut them off at 9 p.m., and the City would investigate if they were notified of potential violations. He explained that the ATC would be required to report their enrollment numbers annually to the City to ensure compliance with the proposed membership cap.

Councilor Griffin asked about the overflow parking on the property.

Director Zuccaro replied that the overflow parking area was grass and there were no surface improvements proposed, therefore the area may not be usable for parking in inclement weather.

Mayor Pro Tem A. Brown asked why the new proposed lights would have back shields but the old lights would not be upgraded to include back shields.

Director Zuccaro replied that new lights were required to comply with the current Code but existing facilities were grandfathered in unless the Code specified otherwise. He noted that the applicant had offered to bring the current lights into compliance with the current Code but they were not required to do so.

Councilor Gallagher asked about the landscape screening.

Director Zuccaro explained that the landscape screening in the form of trees was proposed to block the light source from neighbors. He noted that the glow would not be blocked but that the trees would help to diffuse the glow.

Councilor K. Brown noted that there were two different membership numbers in the packet, 220 and 225.

Director Zuccaro replied that 220 was the membership number most recently given to staff by the applicant.

Councilor K. Brown noted that several of the current structures on the property appeared to be in the setback.

Director Zuccaro confirmed that several of the existing structures were in the setback and that variances must have been granted in the past.

Councilor K. Brown asked how much square footage was built in the setbacks.

Director Zuccaro replied he had not calculated that amount but that the structures extended approximately 25 feet into the 50 foot setback.

Councilor Griffin asked if the entire property was lit at night.

Director Zuccaro replied that only the paddle courts were lit at night.

Councilor K. Brown indicated that the addition of a four player paddle court would not seem to lead to an increase in traffic, but that if the new facility was to be used for events then capping the membership would not be a useful way of addressing traffic and parking issues.

Director Zuccaro replied that the applicants proposed the new paddle court for use by members when leagues use the existing courts.

Councilor K. Brown asked about the maintenance of the trees.

Director Zuccaro replied that the development agreement required the ATC to maintain the trees in good condition in perpetuity and replace them if they die.

Councilor Gallagher asked about the noise condition in the development agreement.

Director Zuccaro replied that a request during the public hearing at P&Z had resulted in the reference in the development agreement to the noise regulations in the current Code. He clarified that the reference was not intended to set a higher standard but rather to simply reflect and reiterate the current Code.

Mayor Christman expressed concern with the proposed LED lighting and asked if staff had looked into different colors of LED lighting.

Director Zuccaro replied that staff had not analyzed different LED colors.

Don MacKenzie, retiring president of the Arapahoe Tennis Club, explained that the ATC had been going through this process for more than a year and had received four to zero approval from the P&Z for the current proposal. He indicated that the ATC had maintained dialogue with its neighbors throughout the process. He noted that LED lights have one fifth the light flow of halogen lights, and that LED lights did not have multiple colors, are 15 times the cost but use one tenth the energy. He explained that the

landscaping changes between the P&Z meeting and the Council meeting were all in reaction to the P&Z public hearing and that the ATC proposed to mitigate the light by planting 24 foot tall trees so that the lights could stay on until 11 p.m. He explained that the initial proposal had been determined by the ATC membership to crowd too many structures in the proposed areas. He noted that the ATC had been established 50 years ago and in that time membership had gone incrementally from 150 families to the current 220. He indicated that the ATC was not often crowded and that adding one paddle court would not result in a significant increase in traffic. He stated that P&Z's motion for conditional approval had been vague and had not specified the species of tree for the landscape screening and had not mentioned the membership limit. He added that the focus of the membership cap was not the membership itself but parking, and the ATC had already agreed to add clear signage on the property to direct visitors to the overflow parking. He noted that in 2014 the ATC had used its overflow parking only four times. He indicated that the ATC had agreed to conform to the City's residential standards for noise and light even though they were specifically exempt. He stated that the ATC had worked with many neighbors over the course of the application process and had support from many of them. He expressed concern with the proposed membership cap.

Mayor Christman noted that she had been Chair of P&Z during the first two applications from the ATC and asked Mr. MacKenzie if the ATC intended to aggregate all three proposals for Council's consideration tonight.

City Attorney Michow clarified that only the latest proposal was being considered by Council tonight and therefore Mayor Christman was able to ask questions and participate in the discussion.

Mr. MacKenzie agreed that the ATC was only requesting Council's approval of the latest proposal. He noted that the leagues use the paddle courts from fall to spring on Monday-Thursday nights and were currently filled with members. He noticed that guests had to pay additional fees.

Councilor Griffin asked about league events.

Mr. MacKenzie replied that the ATC hosted paddle tournaments.

Councilor VanderWerf asked if the current paddle courts were utilized from sunrise to 11 p.m.

Mr. MacKenzie replied that it was rare for the courts to be used as late as 11 p.m. but it did happen.

Councilor VanderWerf asked if the ATC was adverse to the membership cap.

Mr. MacKenzie replied that was correct.

Councilor VanderWerf asked if the ATC was willing to conduct a traffic and parking study instead.

Mr. MacKenzie replied that the ATC had agreed to parking standards and did not have a parking problem.

Mayor Pro Tem A. Brown asked about the ATC's membership numbers.

Mr. MacKenzie replied that the ATC had increased its membership from 190 to 220 over four years about 10 years ago because of a rapid demographic shift.

Mayor Pro Tem A. Brown asked what recourse the City would have if the ATC increased membership again.

Mr. MacKenzie replied that the City would have no recourse if the membership increase were not attached to an expanded use permit. He noted that the ATC was a private club, the same as the others in the City. He indicated that it was not the ATC's intent to raise membership and that they did not have the staff to support more members.

Mayor Pro Tem A. Brown asked if the ATC had any expectation of increasing membership.

Mr. MacKenzie replied the current board of the ATC did not.

Mayor Pro Tem A. Brown asked if the paddle court lights stayed on when not in use.

Mr. MacKenzie replied that users turned off the lights when they were done and that this requirement had been added to the development agreement.

Mayor Pro Tem A. Brown suggested installing motion sensors that would turn off the lights if no motion was detected for a certain period of time.

Mr. MacKenzie replied that they could look into that but expressed concern with the lights turning off if a player was injured. He noted that the ATC had video cameras to help them enforce users turning off the lights when they left the courts.

Mayor Christman asked about different colors of LED lights.

Mr. MacKenzie replied that the lights were white by definition and no other colors were offered for this class of light.

Mr. Dan Sheldon from the ATC added that the ATC would consider any new technology as it became available but that these were the best lights currently available for this purpose.

Mayor Christman asked if the height of the lights was designated by the manufacturer.

Mr. MacKenzie replied that the height was designated by the United States Paddle Association.

Mayor Christman asked if the ATC was opposed to a membership cap so that membership could increase going forward at a similar rate as in the past.

Mr. MacKenzie replied that a membership cap had never been part of the dialogue surrounding the proposal and the staff report for tonight's meeting was the first time the membership cap was stated in a document.

Councilor Hoellen asked if the membership cap was staff's recommendation as an alternative to a parking study.

Director Zuccaro confirmed that was correct.

Councilor Hoellen stated that for the purposes of this hearing the ATC had to choose between the membership cap and a parking study unless staff had another basis upon which to waive the requirement for the parking study.

Mr. MacKenzie referred to P&Z's discussion and the staff memo for an earlier proposal.

City Attorney Michow advised that the earlier proposals were not relevant.

Mr. MacKenzie indicated that the previous proposal had been approved by P&Z.

Councilors Hoellen and K. Brown replied that the proposal had to be approved by Council separate from P&Z's recommendation.

Councilor Hoellen asked if the ATC believed a parking study had been completed or if it was unnecessary.

Mr. MacKenzie stated that a parking evaluation had been established as unnecessary by staff, P&Z and the City Attorney. He indicated that the membership cap was not included in P&Z's motion for recommendation. He noted that the ATC had agreed to the strictest parking regulations in the City Code which was the same parking as churches. He added that the dialogue the ATC had with their neighbors was about noise and light and not about parking.

Councilor VanderWerf asked if the ATC would agree that if their membership ever increased a parking study would have to be completed.

Mr. MacKenzie replied that he was worried about unintended consequences with the ATC constituents and other clubs.

Councilor VanderWerf noted that Council was restricted by the City Code.

Councilor Griffin indicated that it was not in anyone's best interest to attempt to restrict membership of private clubs. He suggested that Council stop discussing a membership cap and instead focus on the real issue, which was parking and traffic.

Councilor VanderWerf agreed.

Councilor Hoellen stated that the ATC needed to conduct a parking study or receive a waiver from staff or Council.

Mayor Christman indicated that the City's schools and churches had to complete parking evaluations for their expanded use permit requests.

Mr. MacKenzie replied that there were significant differences between the ATC and the schools and churches.

Mayor Christman called a break prior to the public hearing.

Mayor Christman opened the public hearing at 8:55 p.m.

Karyn Bristow, 5 Blackmer Road, stated that she also owned 1 Blackmer Road and was directly impacted by the ATC. She indicated that LED lights were intensely bright and that the species of tree chosen by the ATC for their landscape screening, Austrian Pines, did not have dense foliage. She noted that the previous proposal had been at a lower elevation. She asked why the lights were only back shielded and not fully shielded. She expressed concern with parking and traffic on Dahlia Street.

Pam Clute, 4300 S. Dahlia Street, stated that the previous plan had been better for the neighborhood because it was at a lower elevation and although the lights would have been visible they would not have been as noticeable or distracting. She indicated that

the current proposal had lights clearly visible from Quincy and constituted a nuisance not in keeping with the City's Master Plan or Dark Sky directives. She expressed concern that Austrian Pines do not have dense foliage and would not block the light. She asked Council to stipulate that the landscape screening have thick and dense vegetation and be difficult to see through.

Peter Clute, 4300 S. Dahlia Street, read Brad Calkins' email to Director Zuccaro into the record, which clarified that the Calkins' project had not received approval as Mr. MacKenzie had incorrectly stated; that the Calkins had never asked for the ATC's endorsement or public appearances on their behalf; that while the Calkins had been contacted about the previous proposal they had not been contacted about the current proposal; that the Calkins did not feel the proposed landscaping would be adequate and questioned if the ATC could access their courts if the appropriate amount of landscaping were planted, based on a history of the ATC accessing their courts through the Calkins property and threatening that trees would have to be removed when access through the Calkins property was not granted; that the previous proposal would have less of an impact and the Calkins would support that location, but did not feel the new court was appropriate in its current proposed location. Mr. Clute then made his own statements, and indicated that that the current overflow parking is a catchment for drainage. He indicated that the LED lights were very bright and would be higher in the current proposed location than the previous proposal. He stated that the ATC were bad neighbors and lacked respect for the neighborhood. He expressed concern with noise, shouting, cars speeding and not stopping at the Quincy/Dahlia stop signs, and playing past 11 p.m. He indicated that the ATC was a public nuisance and asked that no more development take place on the property.

Dale Deleo, 4980 E. Quincy Avenue, indicated that he had never been contacted by the ATC and the location of the public hearing sign was not easily visible to the public. He stated that he did not support a membership cap. He asked why lighting was allowed on paddle courts when it was not allowed on tennis courts and why they had to play until 11 p.m. He warned that the proposal would negatively affect the view corridor over Quincy.

Mayor Christman asked staff to address Ms. Bristow's question regarding shielding for the lights.

Director Zuccaro explained that per the City Code lights were fully shielded when the bulb was fully recessed and the shield was opaque.

Councilor Griffin asked about timing for lights.

Director Zuccaro replied that for recreational use lighting taller than 12 feet the City Code required that they be turned off from 11 p.m. until sunrise the next day. He noted that the lighting code referenced the expanded use criteria which referenced the lighting part of the Zoning Code, and the recreational use lighting was still relevant. He added that under the expanded use criteria the Council was allowed to impose reasonable conditions related to the health, safety and welfare of the City.

Councilor Griffin asked if other courts were lit in the City.

Director Zuccaro replied that paddle courts at the Village Club were lit.

Councilor Griffin asked how long the paddle courts at the ATC had been lit.

Director Zuccaro replied over 10 years.

Mayor Christman invited Mr. MacKenzie to respond to the comments from the public.

Mr. MacKenzie indicated that the ATC was flexible on the tree species for the landscape screening and that the Austrian Pine was chosen because it provided a middle canopy to help block the light. He stated that he understood the opposition and appreciated the different perspectives. He noted that the ATC had over-mailed the required notices to more residents than just the required adjacent neighbors and had attempted to promote and maintain open dialogue with neighbors throughout the process. He noted that some neighbors preferred the previous proposal. He indicated that the current proposal was only three feet higher than the previous proposal, was farther from the nearest existing house, was surrounded by existing established trees and occupied less land base. He stated that a lot of the traffic on Dahlia was going to the High Line Canal and while some cars sped it was not a high percentage. He added that Quincy was a major thoroughfare for the City. He stated that the ATC had existed for 50 years, had paddle courts since 1972, added two courts for a total of four in 1984, and the proposed fifth court was an important incremental improvement for the ATC.

Mayor Christman asked about the change in location of the proposed paddle court from the southeast corner in the previous proposal to the northwest corner in the current proposal.

Mr. MacKenzie replied that because of the existing pool and topography of the southeast corner an additional paddle court would have a higher impact and light would be more concentrated if located in that corner.

Hearing no further comments Mayor Christman closed the public hearing at 9:37 p.m.

Mayor Pro Tem A. Brown indicated that based on neighborhood concerns with traffic he had asked the Police Department for information on traffic issues in the area around the ATC.

Chief Tovrea reported that the Police Department had 12 entries regarding traffic issues and noise complaints in 2014 near the ATC and trailhead on Dahlia Street. Six of those were traffic related consisting of one failure to stop at a stop sign and no proof of insurance, one DUI but the violation occurred near Kent Denver, one traffic complaint, one hit and run at the High Line Canal trail head, one violation of a broken brake light, and one parking ticket for parking at the bridge. The other six entries consisted of three noise violations, one criminal trespass of a vehicle, one suspicious vehicle, and one extra patrol requested by the manager of the ATC to address neighborhood concerns with noise.

Councilor Hoellen indicated that the proposal was a legitimate use of the property. He noted significant neighborhood concerns, but warned against using the proposal to deal with other issues.

Councilor K. Brown thanked everyone for their patience and recognized that it was a long process. She noted that because of the quasi-judicial nature of the process the Council had not seen the previous applications. She added that although P&Z reviewed the previous application that residents preferred Council had not. She indicated that she did not feel the proposal would significantly impact parking and traffic and none of the 2014 traffic incidents in the area were related to the ATC. She noted that Council needed to be sensitive to the impact lighting would have on the view corridor in the evening, dusk and at night. She indicated that in the distant past the City had granted variances to allow the ATC to place structures in the setbacks of the property and she noted that if all the structures were moved within the setbacks there would likely not be enough space to build an additional paddle court. She stated that the Master Plan

directed Council to preserve the open character of the City and Council would not permit residents to build solidly from one property line to the other. She expressed concern that the lot was developed to this extent. She indicated that she was not in favor of restricting the ATC's membership but that if Council allowed the ATC to develop their entire lot then they may be able to support a higher membership. She noted that Council was charged with thinking long term for the City. She indicated that the ATC had been there for 50 years and while residents accepted the status quo when they purchased their properties they were not necessarily agreeing to amplification of the situation going forward. She noted that these were difficult issues.

Councilor Griffin indicated that Council wanted to encourage the City's quasi-commercial clubs, schools etc. to be good neighbors and work with the City. He noted that the ATC had made a good effort to be a good neighbor. He indicated he would not endorse a membership cap but supported Councilor VanderWerf's suggestion of a requiring a parking study if the membership was increased in the future. He noted that the existing situation was present when neighbors bought their properties so there was a level of implied consent. He stated that lighted courts had existed for over a decade, the ATC had done its best to mitigate the impacts of the proposed additional court, and they had a right to utilize their property.

Mayor Christman expressed concern that the future owners of the lot on the Calkins property would be directly affected by the new development which was not a consideration when the house was sited. She noted that the previous proposal was more acceptable to neighbors than the current proposal.

Councilor Gallagher stated that this was a tough decision with many stakeholders. He noted that the Master Plan directed Council to maintain the semi-rural character of the City. He agreed with Mayor Christman that the impact of the development on the property values of the Calkins lots was concerning. He indicated that the neighbors' concerns with lights and noise were valid. He added that there did not seem to be significant parking or traffic issues.

Councilor VanderWerf noted that the issues seen in this situation between the ATC and its residential neighbors were similar to issues seen by the Residential Development Standards Committee when two zone districts meet. She indicated that the club was convenient for families and its evolution over the years was understandable. She noted that no position would make everyone involved happy. She stated that she was a proponent of dark skies and was conflicted.

Mayor Pro Tem A. Brown indicated that Council referenced the City Code, considered public testimony and attempted to balance the desires of the property owner with the concerns of effected neighbors. He expressed concern that removing the membership cap would preclude any future discussion between the ATC and Council regarding membership, parking and traffic issues without another expanded use application. He added that he would find it difficult to support the request without the membership cap. He indicated that the light pollution was a great concern and suggested that staff and the applicant discuss further limits to the lighting. He stated that he was in favor of a continuance to allow staff and the applicant to explore mutually acceptable language for the development agreement.

Councilor Hoellen indicated he could understand the ATC's opposition to a membership cap. He noted that the citizens, HOAs, clubs, and retail were all important parts of the fabric of the City.

Councilor Griffin indicated he agreed with Councilor VanderWerf's suggestion of requiring a parking and traffic study if the ATC increased its membership in the future.

Mayor Pro Tem A. Brown clarified that it was not the intent of the language to prohibit the ATC from ever increasing its membership.

Councilor K. Brown suggested applying a requirement to all clubs that an increase in membership of a certain percentage would necessitate an expanded use permit.

Mayor Pro Tem A. Brown replied that it was more of a case by case issue.

Councilor K. Brown indicated that reviewing possible parking and traffic impacts of any club's membership increase could be beneficial for the City.

Councilor Gallagher noted that this situation was unique because recreational lighting is allowed until 11 p.m. on paddle courts per the City Code and that was a significant amount of night time light in the winter.

Mayor Christman suggested that a compromise might be that the lights were normally turned off at 9 p.m. as requested by the neighbors but could remain on until 11 p.m. in the case of a special event.

Councilor Griffin asked about the timing of the lights for other paddle courts in the City.

Mayor Christman replied that the Village Club paddle court lights stayed on until 10 p.m.

Councilor Hoellen indicated that there must be a solution that would make everyone less unhappy. He noted that the solution might involve returning to the previous proposal for the southeast corner or turning the lights off at 9 p.m.

Councilor K. Brown noted that tonight's hearing did not involve an alternate location to the current proposal.

Mayor Pro Tem A. Brown moved, seconded by Councilor Hoellen to continue consideration of the application by the Arapahoe Tennis Club for an expanded use permit to the next Council meeting on January 20<sup>th</sup>.

Councilor K. Brown asked if Council could give specific direction to staff.

Mayor Pro Tem A. Brown indicated that the purpose of the continuance was to allow continued discussion regarding the lighting and further mitigation options.

Mayor Christman added that the hours of lighting should be further considered.

Councilor Griffin added the discussion about membership should be considered.

Mayor Pro Tem A. Brown clarified that he was willing to consider a staff recommendation that would address the issue in another way.

City Attorney Michow asked for clarification if Council anticipated hearing further public comments at the next meeting.

Mayor Christman confirmed they would.

City Attorney Michow clarified the motion to include a start time of 6:30 p.m.

The motion carried unanimously.

### Board and Commission Vacancies

City Clerk Smith explained that due to the recent election and a resignation the City now had four open positions on boards and commissions. She noted that staff had posted notice of these openings in November as well as contacted previous applicants and currently had a pool of eight applicants. She asked that two Councilors be chosen to assist with the interview process and make recommendations for appointments to Council.

Mayor Christman and Councilor Hoellen expressed interest in assisting with the process.

Councilor K. Brown moved, seconded by Mayor Pro Tem A. Brown to appoint Mayor Christman and Councilor Hoellen to interview candidates for the open board and commission seats.

The motion carried unanimously.

Councilor Griffin advised that the new member of the Board of Adjustment and Appeals (BOAA) clearly understand the role of BOAA.

### City Council Study Sessions, Working Sessions and Retreats

Mayor Christman indicated that there were several topics that Council would benefit discussing in study sessions.

Council directed staff to schedule a study session for next week.

## REPORTS

### **Mayor's Report**

Mayor Christman asked for input regarding Council's annual review of the City Manager.

Mayor Pro Tem A. Brown indicated that last year all Councilors had participated and that had been an effective method. He noted they had conducted the review in Executive Session.

Mayor Christman asked if criteria for the review had already been created.

Councilor K. Brown replied that last year's criteria could be adjusted for this year.

### **Members of City Council**

Mayor Pro Tem A. Brown reported that the ULUSC would be sending out a Request for Information (RFI) letter to telecommunication experts to determine their interest and willingness to engage with the City. He clarified that this was not a request for proposals and there would not be an award as part of this process. He indicated that Council should approve the RFI as a matter of procedure at their January 20<sup>th</sup> meeting.

Councilor VanderWerf had no report.

Councilor Gallagher had no report.

Councilor Hoellen indicated he was honored to serve and hoped he could maintain the legacy of District 2 Council members.

Councilor Griffin stated he was happy to be working with the new Council members. He advised fiscal vigilance as reduced oil prices might negatively impact the real estate market and subsequently City revenues.

Councilor K. Brown reported the Centennial Airport Noise Round Table meeting scheduled for tomorrow had been cancelled. She noted Jan Wondra had written articles about the Round Table for the Villager Newspaper. She indicated that a possible change in takeoff patterns would divert traffic that currently flew over the City. She noted that Council should discuss their liaison assignments in the near future. She reported that the Parks, Trails and Recreation Commission (PTRC) would hold a public input session regarding John Meade Park on Thursday at 5:30 p.m. She asked City Attorney Michow if Councilors could attend these meetings without having to recuse themselves from any future Council discussions.

City Attorney Michow advised that Council should feel free to attend the meeting on Thursday and that quasi-judicial restrictions did not apply until an application was submitted, but she advised Council not to voice strong opinions in anticipation of an application eventually coming to Council for consideration.

#### **Members of City Boards and Commissions**

None

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

City Manager Patterson reported that Commander Weathers was back to work full time after extended leave for health reasons; the three art pieces by Emmett Culligan had been installed at the entry feature at Belleview and Holly; THK & Associates would hold a public input meeting on Thursday at 5:30 at the Village Center; the latest edition of the Village Crier was edited by Accounting Clerk Jessica Sager and Councilor VanderWerf with help from former editor Martha Welborn; staff had received \$97,000 in use tax from automobile purchases in December 2014.

#### **City Attorney**

City Attorney Michow had no report.

#### **ADJOURNMENT**

The meeting adjourned at 10:40 p.m.



  
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Laura Christman, Mayor

  
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Laura Smith, City Clerk