

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, January 20, 2015 at 6:30 p.m.
At the Village Center

Mayor Laura Christman called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Laura Christman, Councilors Mark Griffin, Earl Hoellen, Alex Brown, Mike Gallagher, 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

Alanna Crook, Samantha Flower, Allie Putze and Maddie Castle, members of the cast and crew of Janie B. Jones at St. Mary's Academy, led the City Council in the pledge of allegiance.

POLICE DEPARTMENT PRESENTATIONS

Chief Tovrea presented the Chief's Commendation to Animal Control Officer/Code Enforcement Officer John Newhouse, Police Technician Nathalie Klasens, Police Clerk Sarah Henderson for their exceptional work; and to Deputy City Manager/Director Goldie, Director Proctor, Director Zuccaro, Officer Paul McCarthy, Sergeant Pat Wilson, Sergeant Paula Balafas, Sergeant Curt Wood, Police Commander Pat Weathers, Support Services Supervisor John Reynolds, and City Manager Patterson for their work to make the 2014 BMW Golf Tournament a successful event.

Mayor Christman thanked Chief Tovrea for recognizing staff and for bringing staff's exceptional work to Council's attention.

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. Approval of Minutes – January 6, 2015
- b. Resolution 3, Series 2015; Approving a Second Amendment to the Intergovernmental Agreement Between the City of Cherry Hills Village and the South Metro Fire Rescue Authority for the Administration and Operation of a Joint Service Facility
- c. Request for Information for Improved Telecommunications Infrastructure Analysis

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

RECOMMENDATION FROM THE PUBLIC ART COMMISSION – DEBORAH BUTTERFIELD

Director Proctor explained that the Public Art Commission (PAC) was requesting Council's approval to move forward with fundraising efforts to obtain a Deborah Butterfield piece. She introduced Chair Ann Polumbus.

Chair Polumbus introduced resident Tracy McInnes who had volunteered to assist the PAC with the project, and PAC Commissioner Teresa Harbaugh who was also present. She indicated that a horse would be the perfect representational signature piece of art for the City, as many of the residents enjoyed caring for, riding or just looking at horses. She noted that this was one of the privileges of living in a semi-rural area. She explained that a Deborah Butterfield horse would fit well with the City's character, Butterfield's pieces were abstract but realistic, and it would go well in front of the Joint Public Safety Facility (JPSF) which was a beautiful building. She noted that Butterfield horses were loved, cared for, strong, beautiful, powerful, and a little edgy. She indicated that the PAC did not want to be stuck in the past. She explained that the horses were made out of bronze but looked like wood and each was one of a kind and could not be replicated. She indicated that the PAC had discussed this possibility with gallery owners, curators and private collectors and everyone was supportive and enthusiastic. She noted that the Denver Art Museum had three Butterfield horses and that the Denver Botanic Gardens would showcase the artist's work beginning in May. She noted that this would give the PAC free publicity and allow both the PAC and residents to see examples of Butterfield's work in a natural setting.

Ms. McInnes added that Butterfield was a nationally recognized artist with pieces featured in museums around the country. She noted that Butterfield horses appealed to a broad audience because they were a blend of modern and traditional.

Chair Polumbus explained that the PAC would have to fund raise \$400,000 to purchase, deliver and install a Butterfield horse. She added that they had received offers of help from several private collectors and curators.

Councilor Hoellen asked if the PAC had received permission from the South Metro Fire Rescue (SMFR) to place a Butterfield horse in front of the JPSF.

Chair Polumbus replied that they had received permission from SMFR through Chief Tovrea.

Councilor Griffin asked about the durability of the piece, and whether the PAC would pursue purchase a standing horse or one lying down.

Chair Polumbus replied that the pieces were very durable and meant to be outside, and that the PAC would pursue obtaining a standing horse.

Councilor VanderWerf added that originally Butterfield had created her horses using wood but because they were not durable switched to bronze.

Councilor Griffin expressed concern with vandalism.

Chair Polumbus replied that vandalism of public art was not an issue in the City and was not an issue in many cities with public art.

Ms. McInnes added that placing the piece in front of the JPSF might also help to deter vandalism.

Mayor Christman indicated that discussion of public art might be part of the John Meade Park Master Plan process and asked if the piece could be moved in the future.

Chair Polumbus confirmed that the piece could be moved and noted that the recommended motion for Council's approval placed the piece in the Village Center campus rather than specifically in front of the JPSF.

Councilor Gallagher asked about the time frame for obtaining the piece.

Ms. McInnes replied that they expected the process to take two years.

Commissioner Harbaugh added that the PAC would keep in touch with staff and the Parks, Trails and Recreation Commission regarding the John Meade Park planning process to determine if placing the piece in John Meade Park would be preferable to placement in front of the JPSF.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve the Cherry Hills Village Public Art Commission project of beginning to raise money to purchase a Deborah Butterfield horse to be placed on the Cherry Hills Village campus property.

The motion passed unanimously.

UNFINISHED BUSINESS

Public Hearing - Council Bill 14, Series 2014; Amending Chapter 16 of the Municipal Code Concerning Legal Nonconforming Uses, Short Term Rental of Single Family Dwellings and Associated Provisions (Public Hearing and second and final reading)

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin that the City Council enter into Executive Session pursuant to CRS 24-6-402(4)(b) for the purposes of obtaining legal advice concerning the pending Cooper litigation and the pending ordinance concerning nonconforming uses and short term rentals.

The following votes were recorded:

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

Vote on the Executive Session: 6 ayes. 0 nays. The motion carried.

The Council entered into Executive Session at 7:05 p.m.

The Council returned to the regular meeting at 7:45 p.m.

Director Zuccaro explained that Council Bill 14, Series 2014 would update the City's nonconforming use standards, including the creation of a certification process for legal

nonconforming uses and licensing requirements for legal non-conforming short term rental of single family dwellings. He noted that Council had passed the bill on first reading at the November 18th Council meeting. He indicated that there had been four changes to the bill since first reading. First, the licensing requirement for short term rentals to comply with a minimum building code standards to protect the health, safety and welfare of occupants was amended to reference the more specific standard of "Residential Group R-3 Boarding House" with exclusions for Chapter 13, Energy Efficiency; Chapter 14, Exterior Walls; and Chapter 16, Structural Design of the International Building Code. Second, the licensing requirement for short term rentals to have a local property manager available to respond to tenant and neighborhood concerns was amended to require the property manager to reside or be physically located within 60 miles of the rental. Third, the licensing requirement for short term rentals to have the owner provide copies of government issued identification for each occupant has been amended to require that the primary adult occupant of the rental be responsible for supplying identification upon reasonable request by the City. Fourth, the licensing requirement for short term rentals was amended to reference applicable penalties for any violations of the requirements.

Director Zuccaro explained that the bill could be divided into two parts. The first part contained amendments to the nonconforming use provisions by establishing legal nonconforming use standards, criteria and processes. The burden of proof to meet the criteria for a legal nonconforming use was placed on the owner instead of the City. The amendment proposed categorizing the legal nonconforming use as abandoned after six months of discontinued use. The second part of the bill established guidelines for certifying short term rentals as a legal nonconforming use.

Director Zuccaro indicated that staff knew of several properties throughout the City that were being used as short term rentals and noted that this was an ongoing issue not limited to any single property. He explained that the purpose of the bill was to limit the negative impacts of short term rentals on the health, safety and welfare of the community. He noted that the occupants were transitory and the property operated similarly to a hotel. Issues involved noise, parking, traffic, trash, and loss of investment in the neighborhood. He added that City Council and Planning and Zoning Commission meeting minutes from 2012 including testimony from residents regarding negative experiences with short term rentals in their neighborhoods were on the dais for Council's consideration.

Director Zuccaro added that the health, safety and welfare considerations for the renters were also a primary purpose of the licensing requirements. As many in Colorado are aware, a tragedy occurred in 2008 when a family of four from Denver died from carbon monoxide poisoning in a short term rental house near Aspen that did not have carbon monoxide detectors installed. Use of single family residences for transient occupancy is similar to a commercial hotel, motel or boarding house use for which renters are accustomed to minimum safety and building codes. Thus, staff recommended that the proposed licensing standards require that legal nonconforming short term rentals meet the Group R-3 Boarding House occupancy requirements of the International Building Code, with exclusion for certain energy efficiency, exterior wall and structural design standards that could be considered unreasonable upgrades on an existing residence. The City's Chief Building Official provided a summary of the minimum code requirements for the Group R-3 Occupancy that the City would verify as part of the licensing requirement as an exhibit to the staff memorandum in Council packets. These requirements included carbon monoxide detectors, smoke detectors, fire sprinklers, and proper egress. Director Zuccaro noted that the City already required several of these safety standards for single family residences.

Director Zuccaro indicated that since first reading of the bill the City of Boulder had begun studying issues surrounding the short term rental of single family homes. The Boulder City Attorney's office recently issued a policy summary on short-term rentals which was included as an exhibit to the staff memorandum in Council packets, noting that short-term rentals have the structure of a hotel or motel and are illegal in many of the City's zone districts. The policy statement also notes that legally operating hotels and motels are subject to code inspections, licensing, property taxes and lodging taxes which illegally operating short-term rentals are not currently subject to. Director Zuccaro concluded that notice of the public hearing was published in the January 1, 2015 edition of The Villager and staff had received one comment letter attached as an exhibit to the staff memorandum in Council packets.

Steve Thomas, Colorado Code Consulting, Chief Building Official for the City, explained that the main concerns addressed by the bill were life safety issues. He indicated that renters were likely unfamiliar with the emergency features of a rental home such as exits and emergency escape openings. He explained that the International Building Code required a higher level of safety including carbon monoxide and smoke detectors and alarms. He noted that the City already required that all new single family residents have sprinkler systems and that short term rental properties would be required to retrofit sprinkler systems under the proposed bill. He noted that staff had determined to exempt short term rental properties from complying with the structural chapters included in the Group R-3 Occupancy code requirements of the International Building Code.

Cherry Hills Village Police Sergeant Pat Wilson reported to Council the impacts that the Police Department had seen on neighborhoods with short term rental properties. He explained that noise was a significant issue, with large numbers of people arriving late at night. Renters often parked on both sides of the street creating a safety hazard if emergency vehicles needed to access the street, or parked on neighboring properties because renters arrived at night, were not familiar with the area, and City neighborhoods are dark by design. Renters sometimes put trash outside the residence which would attract wildlife. Sergeant Wilson noted that renters were not invested in the neighborhood or community the way permanent residents are and were less likely to consider their noise level or driving speed. He reported that the Police Department was aware of multiple short term rental properties throughout the City, and that they had responded to 12 calls for service at one short term rental property between June 2012 and November 2013, which was a high number of calls for any residence in the City. He indicated that the current wording of Chapter 16 of the Code made it difficult for the Police Department to mitigate these impacts and address the issues with the property owner as opposed to the renters, and that Council Bill 14, Series 2014 would help put the burden on the home owner where it belonged. He noted that there were likely more issues in the City than staff was aware of, such as one property at which four weddings had been held last year.

Councilor Griffin asked if the property with four weddings was being use for commercial purposes.

Sergeant Wilson replied that the property had not been investigated for commercial use.

Mayor Pro Tem A. Brown asked if the same issues could be seen with long term rentals.

Director Zuccaro replied that he was not aware of any complaints related to long term rentals.

Mayor Christman opened the Public Hearing at 8:13 p.m.

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

Vote on the Council Bill 14-2014: 6 ayes. 0 nays. The motion carried.

Public Hearing and Request for Continuance - Request by the Arapahoe Tennis Club for an Expanded Use Permit to Install a Paddle Court with Lights and Paddle Hut (continued from January 6, 2015)

Director Zuccaro explained that at the January 6th Council meeting the Arapahoe Tennis Club's (ATC) request for an expanded use permit had been continued by Council to tonight's meeting, and that the ATC had requested an additional continuance to the February 17th meeting as they worked on addressing Council's concerns.

Councilor Griffin moved, seconded by Councilor VanderWerf to continue the public hearing for the Arapahoe Tennis Club Expanded Use Permit request to construct a paddle court with lights and paddle hut to the February 17, 2015 City Council meeting at 6:30 p.m.

The motion carried unanimously.

NEW BUSINESS

None

REPORTS

Mayor's Report

Mayor Christman reported that she would attend the DRCOG meeting tomorrow along with Deputy City Manager/Director Goldie and Special Projects Coordinator Kropf where the City's grant application for the High Line Canal connection project at Colorado and Hampden would be considered.

Members of City Council

Councilor Gallagher reported on the passing of resident Stanley Colburn who had been an artist, poet, gardener, and mother of four children.

Councilor Griffin had no report.

Mayor Pro Tem A. Brown had no report.

Councilor VanderWerf reported that the John Meade Park Master Planning public meeting last week had been very well handled and had involved good discussions. She added that the Residential Development Standards Committee met and discussed distributing a questionnaire for residents as well as holding public meetings. She reported that the High Line Canal Working Group would meet tomorrow.

Councilor K. Brown had no report.

Councilor Hoellen reported that he and Mayor Christman would be interviewing applicants for the board and commission openings later this week.

Members of City Boards and Commissions

Councilor K. Brown asked why the board and commission reports had been moved on the agenda.

Mayor Christman replied that reports could be moved to the top of the agenda by request.

City Manager & Staff

City Manager Patterson indicated that department monthly reports and unaudited financial statements were included in Council packets. He reported that board and commission interviews would take place on Friday; the City was processing several applications for Police Officer positions; Officer John Bayman would transition to be the new Code Enforcement Officer/Stormwater Technician; the Parks, Trails and Recreation Commission would meet with the John Meade Park consultants next Monday from 8-10 a.m.; an article in the Denver Post reported state property values were increasing; the City would receive updated property assessments from Arapahoe County later this year; Council would hold a study session at the Village Center next Tuesday January 27th from 4-5:30 p.m.; Director Proctor estimated that 2014 revenues would exceed expenditures by \$1.3 million and he recognized staff for this significant achievement; the Mayor and staff would attend the DRCOG board meeting tomorrow during which the City's grant application for the High Line Canal connection project would be considered.

City Attorney

City Attorney Michow asked if Council wished to pursue creation of Quincy Farm Foundation 501c(3) organization as introduced late last year by former Mayor Pro Tem Russell Stewart.

Mayor Christman replied that Council had discussed the issue in its last study session and determined not to move forward with creation of a 501c(3) at this time.

City Attorney Michow indicated that staff would bring a resolution for Council's consideration at the February 3rd meeting to establish license application fees for legal nonconforming short term rentals.

Mayor Pro Tem A. Brown noted that the state legislature was considering a bill regarding photo red light systems and asked if the City's photo red light at University and Belleview was operational.

Chief Tovrea replied that it was in the process of being reinstalled after CDOT's work on that intersection.

City Attorney Michow noted that the state legislature was considering a bill regarding urban renewal and she would report further at a future Council meeting.

ADJOURNMENT

Mayor Pro Tem A. Brown moved, seconded by Councilor K. Brown to proceed into Executive Session pursuant to CRS 24-6-402(4)(a) and (e) for the purpose of discussing matters related to the possible acquisition of real property and to develop

strategy for negotiations and to instruct negotiators relating to such real property and immediately thereafter to stand adjourned.

The following votes were recorded:

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

Vote on the Executive Session: 6 ayes. 0 nays. The motion carried.

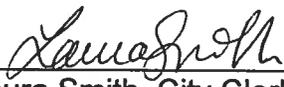
The Executive Session began at 8:35 p.m.

The meeting adjourned at 9:10 p.m.





Laura Christman, Mayor



Laura Smith, City Clerk