

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, April 7, 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 Deputy City Manager and Public Works Director Jay Goldie, City Attorney Linda Michow, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Special Projects Coordinator Emily Kropf, and Accounting Clerk Jessica Sager.

Absent: none

**PLEDGE OF ALLEGIANCE**

Ellie Parsons, Kemper Parsons and Arwen Dougherty from St. Gabriel's Church led the Council in the pledge of allegiance.

**AWARD PRESENTATION**

Mayor Christman indicated the award presentation would be postponed until the April 21<sup>st</sup> meeting.

**AUDIENCE PARTICIPATION PERIOD**

None

**CONSENT AGENDA**

Councilor K. Brown removed Items 6c and 6d from the Consent Agenda.

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

- a. Approval of Minutes – March 17, 2015
- b. Resolution 11, Series 2015; Planning and Zoning Commission Rules of Procedure Amendment Concerning Meeting Dates

The motion carried unanimously.

**ITEMS REMOVED FROM CONSENT AGENDA**

**Resolution 12, Series 2015; Appointing Members to the Quincy Farm Committee**

Councilor K. Brown expressed concern that Resolution 10, Series 2015 passed by Council at the March 17<sup>th</sup> meeting establishing the Quincy Farm Committee (QFC) did not grant Council the authority to appoint a chair, but rather states that the Committee shall appoint a chairperson at its inaugural meeting. She suggested tabling Resolution 12, Series 2015 until the establishing Resolution 10, Series 2015 could be amended.

Mayor Pro Tem A. Brown suggested amending Resolution 12, Series 2015 to appoint Russell Stewart to the Committee without the designation of chairperson.

Councilor K. Brown noted that the establishing resolution also stated that there would be up to five members, but identified the three positions of chairperson, vice-chairperson and recording secretary. She stated that she had no issue with the recommended appointment but wondered why Council would appoint one member now and others later.

Mayor Christman agreed that the establishing resolution should be amended. She noted that the reason for appointing Mr. Stewart as chair was due to his extensive knowledge of the Quincy Farm process and appointing him now would allow him to participate in the process of further appointments on the QFC.

Councilor K. Brown indicated that Mr. Stewart could assist with the appointment process without being chair of the QFC.

City Attorney Michow indicated that if Council wished to appoint Mr. Stewart as chair then the establishing resolution should be amended.

Mayor Christman asked if it was necessary that a member of the committee be the recording secretary.

City Attorney Michow replied that it was not necessary.

Councilor K. Brown agreed that a chair, vice-chair and any other positions as the committee may deem appropriate would be sufficient.

Councilor Hoellen indicated that he had thought the committee would consist of five members.

Councilor K. Brown suggested that the establishing resolution could be revisited at the April 21<sup>st</sup> meeting.

Councilor VanderWerf indicated that five members was a good number to develop a healthy discussion with different perspectives, as well as to keep the work load reasonable and create a support system for the members.

Councilor Griffin suggested amending Resolution 12, Series 2015 to appoint Mr. Stewart as a member of QFC without designating him as the chair.

Councilor Gallagher suggested that while the establishing resolution states that all members should be residents of the Village there may be some people with a relationship to Cat Anderson who reside outside the Village who would bring value to the discussion.

Mayor Christman suggested that non-residents could be made a non-voting member of the committee.

Councilor K. Brown indicated that voting members would be stewards of a City asset and should be residents. She noted that the establishing resolution addressed ex-officio members. She stated that her personal preference would be to clarify the establishing resolution first and then address appointments.

Mayor Pro Tem A. Brown agreed that he would prefer to address the establishing resolution first if there was no urgency in approving Resolution 12, Series 2015.

Councilor K. Brown moved, seconded by Councilor VanderWerf to table Resolution 12, Series 2015, concerning the appointment of members to the Quincy Farm Committee, until the establishing Resolution 10, Series 2015 passed on March 17<sup>th</sup> had been revised to address both the number of members and the desire of City Council to be able to appoint the inaugural chair of the committee.

The motion carried unanimously.

Resolution 13, Series 2015; Appointing Members to the Board of Adjustment and Appeals

Councilor K. Brown noted that the third Whereas clause stated that applications had been reviewed by the City Council and asked if that had happened.

Mayor Christman indicated that was a misstatement and that the applications had been reviewed by herself and Councilor Hoellen during the last round of vacancies and they had made their recommendation to Council based on those applications.

Councilor K. Brown moved, seconded by Councilor Griffin to approve Resolution 13, Series 2015, concerning the appointment of members to the Board of Adjustment and Appeals, amending the third Whereas clause to read "applications to fill the position on the Board were reviewed by Mayor Christman and Councilor Hoellen".

The motion carried unanimously.

**UNFINISHED BUSINESS**

Council Bill 6, Series 2014; Proposed Amendment to Municipal Code Section 16-20-10 Establishing Expanded Use Review Criteria (first reading, tabled from October 7, 2014)

Special Projects Coordinator Kropf presented Council Bill 6, Series 2014 on first reading. She explained that under the current Code, the Planning and Zoning Commission (P&Z) reviews applications to establish, expand or increase institutions, clubs and facilities, and the Parks, Trails and Recreation Commission (PTRC) reviews applications for public recreational facilities. The respective Commission determines whether an application meets the requirements of the zoning ordinance based on the application, evidence and testimony presented at a public hearing and makes a recommendation to Council. Council then determines whether the application meets the same requirements based on the application, evidence and testimony and the recommendations of P&Z and/or PTRC. Currently, there are no other specific review criteria to base decisions on other than the technical zoning standards and submittal requirements. A typical planning review process should include more specific criteria so that Council can make more consistent and legally defensible decisions. A memorandum from the City Attorney discussing the need for such review criteria was provided as part of staff's memorandum. Council reviewed a proposed draft on October 7, 2014 and asked staff to revise the amendment to incorporate more objective language and to receive input from PTRC. Staff presented a revised draft to PTRC on February 12, 2015, which recommended approval to Council. P&Z also reviewed the draft and recommended approval on August 12, 2014. Staff's memo includes a summary of peer communities and recommendations for review criteria.

Councilor Hoellen suggested that 16-20-10(b)(5) "Any increase or modification to a previously approved use that would result..." be reworded to state "...use that might result..."

Mayor Christman stated that a more appropriate word would be "could". She noted that Greenwood Village had included the impact to view corridors and noise to their review criteria.

Special Projects Coordinator Kropf replied that noise was included in the seventh criteria as 16-20-10(c)(7) of the proposed ordinance.

Mayor Pro Tem A. Brown added that the first review criteria stated "The proposed use is consistent with and furthers or implements the goals and strategies of the Master Plan, including preservation of the semi-rural character of the City" and that the Master Plan speaks to scenic corridors and vistas.

Director Zuccaro added that if Council wanted to specifically identify view corridors instead of referring to the Master Plan that language could be added to the proposed ordinance.

Councilor K. Brown asked if the proposed ordinance allowed for consideration of the Blue Ribbon Panel Report as part of the review criteria.

Director Zuccaro replied that the Master Plan references the Blue Ribbon Panel Report.

Mayor Pro Tem A. Brown moved, seconded by Councilor K. Brown to approve on first reading Council Bill 6, Series 2014 as submitted in Exhibit A of the April 7, 2015 staff memorandum, amending Municipal Code Section 16-20-10 to establish general review criteria for the expanded use permit process with a change to 16-20-10(b)(5) changing the word "would" to "could".

The following votes were recorded:

Gallagher	yes
Griffin	yes
A. Brown	yes
VanderWerf	yes
K. Brown	yes
Hoellen	yes

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

**NEW BUSINESS**

**Public Hearing – Minor Amendment to Lot 1, Block 1 Highline Meadows Lot Consolidation Plat to Vacate 20-Foot Drainage and Utility Easement**

Mayor Christman indicated that this was a Public Hearing and asked if anyone wished to sign up to speak.

Director Zuccaro presented the proposal from Denver First Church of the Nazarene (DFC) for a minor subdivision amendment to vacate a drainage and utility easement. He noted that the easement had been platted in 1997 as part of the original Highline Meadows Subdivision as a perimeter easement between Lots 4 and 5 in order to convey utilities and drainage. He explained that neither lot had been developed and drainage infrastructure was never put in place. The lots are owned by DFC and in 2013 DFC applied for an expanded use permit. As part of that process DFC consolidated Lots 1 through 5 in 2014 and the property is currently under development as a parking lot. The easement is no longer needed due to the changed use of the property. The lot consolidation was an administrative plat approval process and did not provide the ability

to remove an easement as that requires a public hearing. DFC was now proposing an amended subdivision plat in order to vacate the easement. To comply with the City Code referrals on this, application letters were sent to the City Engineer, CHV Sanitation District, Denver Water, Xcel, Comcast, and CenturyLink. No objections were made to the easement vacation. The new drainage plans have drainage going to an underground vault and then to the north to the Wellshire Golf Course. The standards for approval of minor plats provided in the Code along with staff's recommended findings were included in the staff memorandum. Staff recommended approval of the request.

Mayor Christman asked if the parking lot was completed.

Director Zuccaro replied that the pavement in the parking lot was completed and the landscaping and other features would be installed shortly.

Councilor Griffin asked about the lights in the parking lot.

Director Zuccaro replied that parking lot lights would be installed.

Councilor Griffin asked about the hours for the parking lot lights.

Director Zuccaro replied he did not know.

Councilor Griffin asked if the lights conformed to the City's dark sky ordinance.

Director Zuccaro replied that the lights would conform to the dark sky ordinance.

Director Zuccaro noted that a representative for the applicant was present.

Mayor Christman asked if the representative would like to make a presentation.

The representative declined to make a presentation.

Mayor Christman closed the Public Hearing.

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin to approve the request by Denver First Church of the Nazarene for a minor subdivision amendment to vacate an unused 20-foot wide drainage and utility easement located within Lot 1, Block 1, Highline Meadows in Cherry Hills Lot Consolidation, based on the findings outlined in Table 1 of the April 7, 2015 staff memorandum.

The motion carried unanimously.

#### George W. Calkins Trust Subdivision Final Plat (5100 E. Quincy Avenue)

Director Zuccaro presented the George W. Calkins Trust Subdivision final plat. He explained that the preliminary plat was reviewed and approved by Council at the May 6, 2014 meeting. The final plat was the last step in the process and included formalizing all the final documentation for the subdivision. The final plat was to be consistent in every significant respect with the approved preliminary plat and any Council adopted conditions of approval. The final plat was reviewed by the City Attorney, City Engineer, and P&Z, who all recommended approval. The applicant requested that the subdivision improvement deadline be set at 10 years from the Council's approval of the final plat. A typical subdivision improvement deadline would be one to two years with an opportunity for extension, but the applicants might not develop the property for several years and have asked for flexibility on that timeframe. Because of the unique nature of this request, the applicant had agreed to include a restriction on the property prohibiting

conveyance or issuance of building permits on any of the lots until the City approves final construction documents, issues a development permit for the subdivision improvements and obtains a performance security. The applicant had further agreed that if the subdivision improvements were not commenced within ten years that the City Council may vacate the final plat by resolution, but retain all of the public easements dedicated to the City. Staff recommended approval of the final plat as submitted. There was one comment letter submitted after the May 6, 2014 public hearing that was included in Council packets.

Councilor K. Brown asked about an affidavit missing from the packet.

Director Zuccaro replied he could make copies of the affidavit for Council.

Mayor Christman asked if other Council members had questions for staff.

Councilor Hoellen indicated that because of the unusual configuration of some of the lots the City may receive variance requests from future homeowners. He asked if the lot configuration was a typical consideration during a subdivision process.

Director Zuccaro noted that different lot shapes were more often seen in larger lots throughout the City and lot configuration was considered at the staff level when reviewing a subdivision plat. He added that he did not believe the Board of Adjustment and Appeals (BOAA) could grant variances to a subdivision plat so future property owners would have to try to amend the plat if they wanted to change their setbacks.

Mayor Christman indicated that this was an unusual subdivision plat and that the site plan that included houses did not come from P&Z but rather from the developer in order to maximize the value of each home. She added that future homeowners would have to comply with their own covenants in addition to the setbacks on the plat.

Councilor VanderWerf noted that she lived on a similar lot with an odd shape and a view corridor. She indicated that the large size of the new lots would be helpful in giving people more options to place their homes within the setbacks.

Councilor Hoellen replied that he hoped that was the case but was sensitive to the issue after serving on BOAA for so long.

Director Zuccaro noted that Section 17-5-40 of the Code included design principles of subdivision lots.

Councilor VanderWerf asked what might constitute an infrastructure update.

Director Zuccaro replied that the scope of infrastructure was set but an example would be if the City were to change its drainage criteria then the applicants would be required to update to those current standards.

Councilor Griffin noted that the property was taxed as agricultural and asked if it would be taxed as residential once the final plat was approved.

Director Zuccaro replied he did not know.

Mayor Pro Tem A. Brown indicated that Council was not changing the zoning, and that the taxation classification was determined by the County assessor.

Mayor Christman stated that the property could be zoned residential by the City but be taxed as agricultural by the County.

Councilor K. Brown asked about the certificate of taxes included in Council packets.

Director Zuccaro replied that it was part of the City's submittal requirements.

Keith Neal, 5291 E. Yale Ave., representative of the applicant, indicated that any changes to the setbacks or view corridors would have to be done through a future public hearing process. He added that the covenants would be an additional requirement for future property owners. He noted that the tax classification was through the County assessor.

Mayor Christman called a five minute break at 7:20 p.m. in order for copies of the affidavit to be made.

The Council reconvened at 7:24 p.m. Director Zuccaro distributed the affidavit to Council.

Councilor Griffin moved, seconded by Council VanderWerf to approve the George W. Calkins Trust Final Plat application as submitted based on the findings and analysis in the April 7, 2015 staff memorandum.

The motion carried unanimously.

## **REPORTS**

### **Mayor's Report**

Mayor Christman reported that she had received a letter from History Colorado stating that the Francis Petry House would be considered for the State Register Review Board for inclusion in the Colorado State Register of Historic Properties. The City Council was invited to attend the State Review Board meeting on May 15th.

Councilor VanderWerf noted that the house was in the High on Country book.

### **Members of City Council**

Councilor Hoellen had no report.

Councilor K. Brown reported she was unable to attend the first meeting in June.

Councilor VanderWerf had no report.

Mayor Pro Tem A. Brown reported that the Utility Line Undergrounding Study Committee (ULUSC) survey was completed and the ULUSC had found the open-ended comments very helpful. He noted that the ULUSC continued to meet twice a month and had a self-imposed goal to provide Council with a final report by June. He indicated that they were finding a cost problem emerging. He noted that Xcel Energy's attitude had changed over the course of the ULUSC's dealings with them and the cost estimate was now substantially higher than the initial estimate. When Deputy City Manager/Director Goldie asked Xcel for a breakdown of the estimated cost they responded that the City could audit the project after it was completed. He noted that this was a complex issue and other communities had begun the process and dropped it for various reasons. He stated that there were multiple reasons to conclude that undergrounding utility lines might be more of a challenge than the City wanted to take on. He indicated that he was proud of the work the ULUSC has done but that it was frustrating not to be able to obtain concrete information. This would make it difficult to go to the voters with any

reasonably conclusive cost estimate. The ULUSC would continue to seek more clarification from Xcel and would present the most current cost estimates and options to Council in June. He noted that he would contact former Mayor Jeff Welborn with the hope that he had more background information on the ballot issue from 2000.

Mayor Christman noted that Greenwood Village was in litigation with Xcel, and Xcel might be in litigation with Sheridan and Boulder in the near future as well.

Councilor VanderWerf asked if Xcel answered to a utility commission and asked if there was any headway to be made through those channels.

Mayor Pro Tem A. Brown replied that the ULUSC benefited from participation by Jim Tarpey, an attorney with a long background in utility matters and a former member of the Public Utility Commission, who had advised the ULUSC on how to proceed with Xcel including allowing the City to manage some aspects of the construction work in order to keep costs low.

Councilor Griffin reported that the BOAA had met and approved a variance, and things were progressing well on the Board.

Councilor Gallagher reported that the PTRC is working on an ordinance addressing fencing along trails on direction from Council. He added that the John Meade Park Master Planning process public input meeting was on Thursday at St. Mary's Academy at 5:30 p.m.

Councilor K. Brown noted that the proposed options were available on the City website.

**Members of City Boards and Commissions**

None

**City Manager & Staff**

Deputy City Manager/Director Goldie noted that the ULUSC survey results were in the packet.

Mayor Pro Tem A. Brown added that there were 193 responses and that this had not been a scientific poll. He noted he was pleased with the number of responses.

Councilor Hoellen noted that the responses contained a lot of comments for Council to consider when establishing priorities.

Mayor Christman indicated that the survey was not presented as being about priorities.

Deputy City Manager/Director Goldie reported that the City was waiting to hear from Arapahoe County on three Open Space grants for irrigation and tree planting in Three Pond Park, overlay and slurry for City trails, and a trail inventory. He explained overlay and slurry would be no rougher than asphalt and would make trails safer for horses. He added that staff would hear back on the applications in May, and staff would bring the overlay and slurry contracts for Council's approval at a future meeting along with a possible supplemental appropriation.

Mayor Christman asked how much of the project cost the grants would cover.

Deputy City Manager/Director Goldie replied that the City was requesting \$25,000 for Three Pond Park with \$3,000 matching from the City; \$50,000 for the overlay project

with \$41,000 match; and \$50,000 for the trail inventory with \$5,750 match. The grant was for the City to gather all recorded documents in one place.

Mayor Christman asked if the trail inventory would include waterways, wetlands and floodplains.

Deputy City Manager/Director Goldie replied that this would simply be a trail map to understand the locations of all the City's easements and rights-of-way. He noted that it would be easy to add a layer of waterways, wetlands or floodplains to the map using GIS but it wasn't part of this process.

Councilor VanderWerf noted that South Suburban had done the same thing for their trails.

Deputy City Manager/Director Goldie noted that South Suburban's project had been rudimentary and not electronic.

Councilor VanderWerf asked about the final product.

Deputy City Manager/Director Goldie replied the final product would be an electronic map with attached documents and parts of the map would be available online. He reported that staff was working with the City Engineer on a traffic study data collection process. Data and baselines would show movements including where people enter and exit the City and who are residents based on license plates. He reported that he, Director Zuccaro and Marty Zeller had met with the Sanctuary Church at Clarkson and Hampden who welcomed public use of the property including the City's special events but were not interested in any formal agreements at this time. He reported that the Cherry Hills North HOA meeting was tomorrow night and the John Meade Park Master Planning public input meeting was Thursday night.

### **City Attorney**

City Attorney Michow gave an update on pending legislation. She reported that Senate Bill 212 would address regional stormwater facilities and their impact on water rights was supported by CML. Senate Bill 61 dealing with disclosure statement triggers for issues committees during elections was postponed indefinitely. House Bill 1098 prohibiting photo red light systems was sitting in appropriations. House Bill 1197 was on its way to the Governor for signature and would impact the way the City negotiates contracts with the City Engineer and Architect. She noted that she and Deputy City Manager/Director Goldie would review the City's standard contracts to make sure the City was in compliance. She added that there were 8-10 public safety law enforcement bills but would wait to update Council on those until there was more information.

### **ADJOURNMENT**

Councilor K. Brown moved, seconded by Mayor Pro Tem A. Brown to proceed into Executive Session pursuant to CRS Section 24-6-402(4)(b) for purposes of discussion with the city attorney to receive legal advice on specific legal questions related to new litigation involving three City employees; pursuant to C.R.S. Sec. 24-6-402(4)(f) for the purpose of discussing personnel matters related to the annual review of the City Manager to which the City Manager has consented to being conducted in 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 stand adjourned.

Mayor Pro Tem A. Brown indicated that each executive session would be held separately with a separate record established for each since some involved legal advice and others did not.

Mayor Christman noted that each executive session should be commenced and ended individually.

The following votes were recorded:

Griffin	yes
A. Brown	yes
VanderWerf	yes
K. Brown	yes
Hoellen	yes
Gallagher	yes

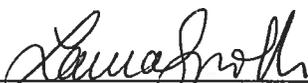
Vote on the Executive Sessions: 6 ayes. 0 nays. The motion carried.

The Executive Sessions began at 7:54 p.m.

The meeting adjourned at 9:15 p.m.



  
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Laura Christman, Mayor

  
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Laura Smith, City Clerk