

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, February 2, 2016 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 roll call. Also present were Interim City Manager and Public Works Director Jay Goldie, City Attorney Linda Michow, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Ducharme and City Clerk Laura Smith.

Absent: none

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

South Metro Fire Rescue District Director Hank Eng introduced himself to Council. He explained that he represented District 1 or A (the name had not been finalized) and that Cherry Hills Village was entirely in his district.

Councilor Hoellen asked if South Metro had re-districted.

Director Eng replied that they had been an Authority before the consolidation of South Metro Fire Rescue District with Parker, but now that the consolidation was finalized they were officially a single District again.

Mayor Pro Tem A. Brown asked if the District Board anticipated any measures on their May ballot.

Director Eng replied there were no plans to place any measure on the May ballot. He noted that Directors were elected district-wide but represented particular areas. He indicated that South Metro had a strong safety foundation and offered to provide certification classes to Council.

Mayor Christman asked if that offer extended to citizens.

Director Eng confirmed it did.

Mayor Christman noted that should be included in the Crier.

Council thanked Director Eng for his service.

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 19, 2016
- b. Approval of Minutes – January 25, 2016

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

Public Hearing - Council Bill 10, Series 2015; Repealing and Reenacting Municipal Code Section 16-16-40 Concerning Fences (Public Hearing, second and final reading)

Director Zuccaro presented Council Bill 10, Series 2015 on second and final reading. He noted that notice of tonight's public hearing had been published in the Villager, at the Village Center and on the City's website. He indicated that two public comment letters had been received by staff after Council packets had gone out on Friday and they were on the dais for Council's information. No comments had been received by staff prior to Friday. Council approved "Version 2" of Council Bill 10, Series 2015 on first reading at the January 5, 2016 meeting with the following amendments, which had been incorporated into the council bill for second and final reading:

- Revise the definition of *public trail* to exclude on-street trails.
- Further define the 25% repair criteria to clarify that it applies to a single lot line and not the entire property boundary.
- Change the height of fences parallel to public trails, parks or open space in all residential zone districts to be 6 ft. maximum height and less than 40% solid.
- For fences in rear and side yards add a separate category for the R-1 zone district allowing 6 ft. maximum height and less than 50% solid, and in other zone districts 6 ft. maximum height and up to 100% solid.
- For fences in rear or side yards adjacent to public roads add a distinction in the R-1, R-2, R-3 and R-3A zone districts to allow 6 ft. maximum height and less than 25% solid or 4 ft. maximum height and less than 60% solid; and a category in the R-4 and R-5 zone districts allowing 6 ft. maximum height and up to 100% solid and subject to the landscaping and setback standards.

Staff also recommended and incorporated the following additional amendments:

- The definition of *public trail* was amended to exclude trails and sidewalks located in road rights of way. Fences adjacent to roads would generally contain more restrictive regulations than the restrictions proposed for fences along trails. This change in the definition would help clarify which fence regulation will govern.
- Language was added providing authority to the Community Development Director to determine the applicable standard based on whichever standard is the most restrictive if more than one fence requirement applies.
- Language was added to the regulations for fences located between front façade line and front property line and fences located adjacent to public roads clarifying that fences adjacent to State Highways and fences adjacent to S. Clarkson Street and E. Happy Canyon Road fall under a separate regulation.
- Language was added to the regulations for fences located adjacent to a public road in the R-4 and R-5 zone districts and adjacent to S. Clarkson Street and E. Happy Canyon Road to clarify and reflect the current regulation that fences less than four feet in height may be solid and fences up to six feet in height and 50% open may be allowed, all in addition to allowing six-foot tall solid fences subject to the minimum setback and landscaping standards.

- Both E. Quincy Avenue and S. Colorado Boulevard were removed from the exception for fences adjacent to designated arterials. This was inadvertently included in "Version 2" of the ordinance that was approved on first reading and staff's understanding of Council's direction from the meeting was that only S. Clarkson Street and E. Happy Canyon Road should be subject to the special allowance.
- The allowance for vehicular gates was changed from a maximum height allowance of 10 feet to a maximum height allowance of 4 feet greater than the otherwise applicable height limitation for the fence. This would allow gates up to 8 feet in height for vehicular access to front yards and gates up to 10 feet in height for vehicular access to side or rear yards.

Councilor K. Brown asked how the front façade line would apply to a house built diagonally on a lot.

Director Zuccaro replied that the most forward point of the home would designate the front façade line, which would remain parallel to the lot line and would, in that case, not be parallel to the orientation of the house.

Councilor Hoellen noted two typos in the council bill.

Director Zuccaro replied staff would correct the typos.

Councilor K. Brown noted that one of the public comment letters expressed concern that the resident's current 6 ft. fence on a rear yard adjacent to a public road would have to be reduced to a 4 ft. fence. She asked if the resident would still have the option of a 6 ft. fence.

Director Zuccaro indicated that property was in Zone District R3 and those residents would still have the option of a 6 ft. fence on a side or rear yard adjacent to a public road but the 6 ft. fence could not be solid.

Mayor Pro Tem A. Brown noted that this property was an illustration of the need for staff's recommended amendment to the definition of public trail to exclude trails and sidewalks located in road rights of way.

Director Zuccaro agreed that without staff's proposed amendment there would be confusion for properties adjacent to a road with a trail such as Colorado Boulevard as to which fence regulation would govern.

Councilor VanderWerf asked about the additional staff time that would be needed to enforce the proposed regulations.

Director Zuccaro explained that the proposed code was considerably more complex than the current fencing code. Because of this complexity, staff anticipated that additional staff time would be needed to administer the code. This would include additional time in reviewing permits and conducting inspections to verify compliance, assisting contractors and home owners in making applications and understanding the new code and updating application forms and application review procedures. Additional code enforcement actions on non-conforming fences were also anticipated. If the council bill was approved, staff would evaluate the impact to staff and City resources and may recommend a change to the City's fence permit fee structure to ensure the

cost of implementing the code was adequately covered. Staff did not anticipate that additional personnel would be needed to administer the proposed code.

Councilor Gallagher asked how many fence permit applications were currently pending.

Director Zuccaro replied that staff had not been accepting fence permit applications during Council's consideration of the new code and that ten to fifteen properties had expressed a desire to build fences and were waiting for Council's final decision in order to apply for fence permits.

Councilor K. Brown asked what "minimum" referred to in the phrase "minimum rear or side yards" in the council bill.

Director Zuccaro replied that the minimum yard was the section of property between the property line and the setback line.

Mayor Christman opened the public hearing at 6:58 p.m.

Bill Lucas, 42 Sedgwick Drive, explained that he lived adjacent to the High Line Canal. He noted that he was present as a resident and not as a member of the Planning and Zoning Commission. He indicated that a fellow resident, Kevin Iverson, had written a letter opposing the new fence code because it would negatively impact safety, noise mitigation, privacy and property values. He explained that he had compared crime statistics of Cherry Hills Village to a neighborhood in Greenwood Village, Green Oaks, where there were no fences and found no difference between the two areas. He noted that some experts believed that safety was most positively impacted by eyes on the street. He provided burglary statistics. He noted that there was no hard evidence to support the idea that fences positively impacted property values. He indicated that he did not agree with the concerns raised and encouraged openness in the City.

Josh Howell, 1 Vista Road, explained that he had lived adjacent to Quincy Avenue for 20 years and that privacy was a huge issue. He indicated that the proposed code would eliminate the functionality of fences. He expressed concern with the lack of security against coyotes provided by a 4 ft. fence. He indicated that raising his fence from 5 ft. to 6 ft. had made a significant improvement in noise mitigation. He noted that fences along public roads were important for property values.

Lucinda Greene, 2855 Cherryridge Road, explained that she was a citizen of the Village and speaking on behalf of the Cherry Hills Land Preserve (CHLP) Board. She indicated that the CHLP was formed in 2005 to protect and enhance the open lands and the rural character that define the community, and to encourage wise management of these scenic treasures as valuable assets for the future. She noted that CHLP was pleased with the careful thought and attention that went into the drafting of the proposed ordinance with the combined effort of the Council, PTRC, P&Z, and City staff, and believed the proposed ordinance reflected the intent to preserve the natural open space and view corridors that citizens value in the City while not adversely impacting private property rights. She indicated that CHLP believed this ordinance was in keeping with the guiding documents of the Blue Ribbon Panel and Master Plan and represented an important commitment by the City and its citizens to incent good stewardship of the natural assets that the community enjoys within a dense urban corridor.

Jared Hobson, 1510 E. Layton Avenue, explained that he lived on a corner lot and had a pool with two young daughters in his backyard, which was adjacent to a public road. He expressed concern with the cost of landscaping that would be needed to maintain the privacy of a solid fence. He agreed that the proposed code might negatively impact property values in some areas.

City Attorney noted that staff had not received the letter referenced by Mr. Lucas and asked if Council had received the letter.

Council indicated they had not received the letter.

City Attorney asked Mr. Lucas to provide staff with a copy of the letter for the record.

Hearing no further comments the public hearing was closed at 7:14 p.m.

Mayor Pro Tem A. Brown asked about 6 ft. solid fences with setback and landscaping requirements allowed by the proposed code.

Director Zuccaro replied it depended on the Zone District, and that in R1 there would be no 6ft. solid fence allowed on any property boundary.

Councilor Gallagher noted that 6 ft. solid fences were not allowed between the property line and setback line, but farther into the property they were allowed.

Mayor Pro Tem A. Brown asked if fences around pools were covered by a separate section of the code.

Director Zuccaro replied that was correct and that fencing for pools would not be impacted by the proposed regulations.

Councilor K. Brown asked if the pool fencing could be on the perimeter of a lot.

Director Zuccaro replied that the fencing could be within the setback but the pool itself could not.

Councilor Griffin moved, seconded by Councilor VanderWerf to approve Council Bill 10, Series 2015 repealing and replacing Section 16-16-40 of the Cherry Hills Village Municipal Code concerning fences, as proposed in Exhibit A of the February 2, 2016 staff memorandum.

The following votes were recorded:

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

Vote on the Council Bill 10-2015: 6 ayes. 0 nays. The motion carried.

Council Bill 3, Series 2016; Amending Article VII of Chapter 7 Concerning Unmanned Aircraft Systems (second and final reading)

City Clerk Smith presented Council Bill 3, Series 2016 on second and final reading. She explained that the bill would amend the City's registration requirement for drones to agree with the federal threshold of 0.55 pounds, and clarify the City process for federally registered drone owners. She noted that the amendments to the council bill identified by Council during first reading had been incorporated into the council bill for second and final reading.

Mayor Pro Tem A. Brown moved, seconded by Councilor VanderWerf to approve Council Bill 3, Series 2016; amending Article VII of Chapter 7 concerning Unmanned Aircraft Systems on second and final reading as submitted in Exhibit A of the February 2, 2016 staff memorandum.

The following votes were recorded:

Griffin	yes
A. Brown	yes
VanderWerf	yes
K. Brown	no
Hoellen	yes
Gallagher	yes

Vote on the Council Bill 3-2016: 5 ayes. 1 nays. The motion carried.

NEW BUSINESS

Public Hearing – Resolution 3, Series 2016; Approving a New Hotel and Restaurant Liquor License for Cherry Hills Sushi Co at 1400 E. Hampden Avenue Suite 110

City Clerk Smith presented an application for a new hotel and restaurant liquor license for Cherry Hills Sushi Co LLC at 1400 E. Hampden Ave. Suite 110. She explained that the application had been reviewed by staff and was found to be complete and without any issues. She indicated that tonight's public hearing had been noticed in the Villager, at the Village Center, on the website, and at the premises. She explained that applicants could circulate and submit a petition to demonstrate the needs of the neighborhood but this applicant had not chosen to do so. She noted that a map showing all existing licensed premises and this proposed premises was included as Exhibit E to staff's memo. She indicated that the applicant was present to answer any questions and staff recommended approval of the application.

Mayor Christman opened the public hearing at 7:22 p.m. Hearing no comments, the public hearing was closed at 7:23 p.m.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve Resolution 3, Series 2016, Approving a New Hotel and Restaurant Liquor License for Cherry Hills Sushi Co LLC at 1400 East Hampden Avenue Suite 110 in the City of Cherry Hills Village.

The motion passed unanimously.

Transportation Assessment Proposal - FHU

Interim City Manager/Director Goldie explained that on October 20, 2015 staff presented to City Council the initial Transportation Analysis proposal submitted by Felsburg Holt and Ullevig (FHU). This original proposal was based on the RFQ that was advertised by the City as a Comprehensive Traffic Analysis within the Village. Focused on feedback from City Council, staff has worked with FHU to change the proposal to an intensive data collection project. The current proposed program was designed to gather baseline information to be used as a tool to document current traffic issues and give the City the ability to make informed decisions as how to best mitigate future issues and needs. The System Assessment has three major components as outlined in the revised scope:

- Task 1: Intersection Data Collection and Analysis
- Task 2: School Evaluation

- Task 3: Cut Through Traffic Assessment

The assessment would give the City the knowledge necessary to address residents' concerns about traffic congestion and the true origin of the vehicles traveling through Cherry Hills Village. Without collecting this data staff could only make assumptions as to the effect of cut through and school traffic on the congestion and volume related issues that are occurring in the interior of the Village. The cost for the project would be \$74,040.00. The 2016 budget for the project was \$75,000.00.

Councilor Hoellen acknowledged staff's work in cutting the proposal cost in half. He reiterated his concern from the October meeting regarding the value of the project if no changes would actually be made that could impact traffic in the City.

Interim City Manager/Director Goldie indicated that the proposed study was purely for data collection and would not propose any mitigation measures.

Mayor Pro Tem A. Brown noted that the proposal did include some recommendations but not the full analysis that the original proposal had included. He suggested that one recommendation could involve the stop light at University and Quincy as it related to school traffic.

Councilor VanderWerf indicated that she was interested in the study as a baseline for cut through traffic and the projections that the consultant would develop to see how future development surrounding the City would influence traffic. She indicated she was very supportive of the study.

Councilor K. Brown indicated she shared Councilor Hoellen's concerns, but suggested that information about cut-through traffic versus residential traffic might be helpful in determining traffic calming measures.

Councilor Hoellen questioned the importance of vehicle origin on traffic calming measures.

Mayor Christman noted that there would be significant development in the areas surrounding the City over the next two to three years and suggested postponing the study until after that time.

Mayor Pro Tem A. Brown indicated that information increased his sense of urgency to complete this study now in order to have baseline data to compare in the future. He noted that the current proposal had three clear focal points which he believed was more appropriate at this time than the more involved first proposal.

Interim City Manager/Director Goldie noted that follow-up studies would not be as expensive as this initial study. He suggested that one mitigation measure that might be suggested based on the data would be to install a stop light similar to the one in Belmar which prohibited left turns during rush hour.

Councilor Hoellen noted that the Master Plan and Blue Ribbon Panel Report emphasized an open community with no gates or private roads and so it was highly unlikely that the Council would approve draconian measures regardless of the data. He added that any safety issues would be addressed immediately by the Police Department and would not wait for a study.

Councilor VanderWerf suggested that if traffic issues deteriorated enough a future City Council might consider more draconian measures.

Councilor Gallagher indicated that increased traffic would occur and would affect residents' lifestyles. He noted that apps showing the fastest routes often used small neighborhood streets.

Councilor Hoellen noted that Quincy was already at maximum capacity during rush hour.

Councilor Griffin indicated that he had mixed feelings about the study since the City had no control over University, Hampden or Belleview.

Mayor Pro Tem A. Brown noted that the Master Plan identified cut-through traffic as a major concern.

Councilor Hoellen indicated that if there were issues they could be addressed now without a study.

Councilor K. Brown noted that while traffic on Quincy was fairly constant, that was not the case on other streets in the City.

Mayor Christman indicated that the data would be valuable to share with residents, although \$74,040 was still a high price. She added that a baseline would be helpful to compare to future studies if the future studies were significantly less costly.

Councilor VanderWerf stated that the data could be used to justify future action.

Councilor Gallagher asked about the history of the speed humps on Albion.

Interim City Manager/Director Goldie explained that the City's Traffic Calming Policy requires a majority of properties within the impact area in order for the City to conduct a speed survey. If the speed survey indicates a speeding problem then improvements will be paid for by the City. If no speeding problem is indicated then residents may choose to pay for improvements themselves if 80% support from the impact area is documented.

Mayor Pro Tem A. Brown indicated that a speeding problem had been documented on Albion so the City had paid for the speed humps.

Councilor Griffin asked if the traffic study data would be helpful to the Police Department.

Chief Tovrea replied that it would not be directly helpful since officers wrote tickets regardless of the origin of the vehicle, and that the study would likely support what the officers already knew through anecdotal evidence.

Interim City Manager/Director Goldie noted that in the past the schools had offset starting times but now started at the same time and that was an impact to traffic.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve the contract for services with Felsburg Holt and Ullevig in the amount of \$74,040.00 for the completion of the Traffic Analysis as outlined in the attached proposal and scope of work.

The motion passed 5 yes, 1 no.

REPORTS

Mayor's Report

Mayor Christman noted that the March 1st Council meeting was also Caucus Night for Colorado. She asked if Council would have a quorum that evening.

Council determined they would not have a quorum for March 1st.

Mayor Christman noted that a public hearing was scheduled for March 1st.

Director Zuccaro indicated that the public hearing could be continued to a future meeting.

Mayor Christman reported that resident Alice Abrams had written a love letter to the City Council in Cherry Hills Living Magazine. She indicated that she would contact St. Mary's Academy about holding the May 14th Council retreat at their facility.

Members of City Council

Councilor Gallagher noted that he had seen his neighbors running early this morning and commented on what a wonderful place the Village was to live in.

Councilor Griffin reported there was no Board of Adjustment and Appeals meeting for February. He added that he had received several complaints from his neighbors about coyotes.

Chief Tovrea reported that there had been one dog attack by coyotes so far this year. She noted that the dog had lived and the Police Department was addressing the issue.

Mayor Pro Tem A. Brown reported that he and Mayor Christman had met with the CDOT Commissioner and had reviewed several City issues including the paving of University.

Mayor Christman added they had discussed the curb and gutter issue on University as well.

Councilor VanderWerf had no report.

Councilor K. Brown noted there was a Centennial Airport Noise Roundtable meeting tomorrow but she was unable to attend. She added that the group had asked her to serve as their Vice Chair and she was considering the position and flattered to be asked. She reported that there was an FAA session on the new noise impact maps but these would have no impact on the City. She indicated that she would attend the Colorado Municipal League's legislative workshop next week for her own interest. She reported that when she had first joined Council about four years ago a constituent had brought to her attention an issue with turning left onto Dahlia from west bound Hampden and expressed the need for a turn signal at that intersection. She noted that the intersection was in Denver and the City's Mayor at the time had met with the Denver Council person but the data had not warranted a turn signal. She noted that at the time other residents had expressed concern that a turn signal might result in increased cut-through traffic on Dahlia. She indicated that in the past month she was aware of two major accidents at that intersection and suggested that it might be a safety issue that was worth re-evaluating. She noted that City residents frequently used that intersection.

Mayor Pro Tem A. Brown noted that CDOT was very reluctant to take any time away from the light cycle.

Mayor Christman questioned if the accidents had involved left turns.

Councilor K. Brown agreed that she did not know if the accidents had involved left turns. She suggested that another study might be done to evaluate the safety of the intersection.

Councilor Hoellen reported that he had been meeting with Interim City Manager/Director Goldie regarding the Public Works Facility Plan and was pleased with staff's work. He noted that the next step was to finalize the Englewood property.

Members of City Boards and Commissions

None

City Manager & Staff

Interim City Manager/Director Goldie had no report.

City Attorney

City Attorney Michow reported that the Colorado Supreme Court had decided the case of Stephen Ryals v. City of Englewood which was a legal challenge to the city's sex offender registration program. The Court had ruled that the city ordinance was not preempted by state statute and that the issue was of mixed state and local concern. She noted this was considered a win for home rule municipalities.

Councilor Hoellen asked if the City had an ordinance related to where sex offenders were permitted to live.

Chief Tovrea replied there was not a City ordinance but that sex offenders had to register annually with the Police Department.

City Attorney Michow indicated the concern was that all home rule municipalities would prohibit sex offenders and therefore they would concentrate in statutory towns or areas with no regulations. She added that the case also involved some constitutional challenges that the Court had not addressed.

ADJOURNMENT

The meeting adjourned at 8:11 p.m.





Laura Christman, Mayor



Laura Smith, City Clerk