

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, April 19, 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, Finance Director Karen Proctor, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Ducharme, and City Clerk Laura Smith.

Absent: none

PLEDGE OF ALLEGIANCE

Jack Furman, Colin Armould and Campbell Karofsky from the 6th grade basketball and lacrosse teams at St. Mary's Academy led the Council in the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

None

CONSENT AGENDA

Councilor VanderWerf commended staff on a successful audit.

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

- a. Approval of Minutes – April 1, 2016
- b. Approval of Minutes – April 5, 2016
- c. 2015 Audited Financial Statements
- d. City Manager Agreement Approval and Ratification of Mayor's Signature

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

NEW BUSINESS

Contract for Services with PLM Asphalt and Concrete Inc. for the 2016 Asphalt Mill and Overlay Project

Interim City Manager/Director Goldie explained that these street improvement contracts were more convoluted than normal because the City was working with Englewood on

the chip seal of Clarkson Street and with Denver First Church on the paving of Monroe Street.

Mayor Christman asked about the contingency that staff was asking Council to approve.

Interim City Manager/Director Goldie replied that the contingency was under the control of staff to use for change orders, and that the contractors did not control and were not necessarily aware of the contingency.

Councilor Griffin moved, seconded by Councilor VanderWerf to approve the contract for services with PLM Asphalt and Concrete Inc. in the amount of \$61,602.00 plus a 10% contingency for a total maximum expenditure of \$67,762.20 and authorize the expenditure of these funds.

The motion passed unanimously.

Contract for Services with Foothills Paving and Maintenance Inc. for the 2016 Chip Seal and Cape Seal Project

Councilor Gallagher asked about the chip seal over asphalt.

Interim City Manager/Director Goldie replied that the City normally used a chip seal over asphalt, but that Englewood preferred a slurry seal so the City would use a slurry seal for Clarkson Street. He explained that the City used chip seal because it took less time to dry than slurry seal. He noted the dry time would not be as much of an issue on Clarkson Street as for smaller residential streets because the larger street allowed staff more ability to move traffic and work in sections.

Councilor Gallagher asked about the material that was used on the City's trails.

Interim City Manager/Director Goldie replied that was micro seal.

Mayor Christman asked about the striping of a bike lane on Clarkson Street.

Interim City Manager/Director Goldie replied that Englewood was still working on securing funding from DRCOG for that project.

Councilor Gallagher asked if the street improvement would even out some of the bumps and undulations in Clarkson Street.

Interim City Manager/Director Goldie replied that staff was working on those issues on the City's side of Clarkson Street separately. He noted that this project would expand some of the shoulders slightly to maintain straight lines.

Councilor VanderWerf expressed pleasure that staff had not simply recommended the lowest bid as that had resulted in difficulties in the past.

Interim City Manager/Director Goldie agreed and noted that staff maintained an open dialogue with A-1 Chipseal. He explained the issue had been aesthetic only and staff continued to work with the contractor to rectify the odd striping.

Councilor Griffin noted that the chip seal was a good product but was rough on kids who fell while riding their bikes in the street.

Interim City Manager/Director Goldie agreed and noted that staff used the ¼" chip to try to minimize those types of issues.

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Councilor Gallagher asked about the timeframe for these street improvement projects.

Interim City Manager/Director Goldie replied they would be completed this season.

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin to approve the contract for services with Foothills Paving and Maintenance Inc. in the amount of \$254,621.36 plus a 10% contingency for a total maximum expenditure of \$280,083.50 and authorize the expenditure of these funds.

The motion passed unanimously.

Intergovernmental Agreement with Arapahoe County for a 24 Hour Ballot Drop-Off Box

City Clerk Smith explained that Arapahoe County had offered to install a 24 hour ballot box at the Village Center. The box would be located outside of the Village Center and be secured to concrete. The box would be monitored by 24 hour video surveillance recording system. The County would be responsible for all installation and maintenance of the ballot box and video surveillance system. The County would fund the entire cost for obtaining, installing and maintaining the ballot box and video surveillance system. The County would work with City staff to determine the best location for the ballot box and video surveillance system. The County is required by State Statute to run the video surveillance system from 60 days prior to and 30 days following an election. She noted that currently the City receives ballot boxes from the County for elections run by the County, including coordinated elections with the City. Ballots boxes are kept under City staff observation during business hours, and secured in a locked office after business hours. Additionally staff is required to be present on the Saturday before elections and from 7am to 7pm on Election Day in order to receive ballots. The installation of the 24 hour ballot box would remove the requirement for extra staff time on the Saturday before elections and early and late hours on Election Day, as well as increase convenience for Village residents and other Arapahoe County voters by extending the hours during which ballots may be dropped off throughout an election. Staff contacted other municipalities that have 24 hour ballot boxes. The City of Aurora reported that they have had no issues with their box. It is only open during election time and the slot is just big enough for a ballot so they do not often get other things put into the box. The County comes out at least once a day during elections to collect ballots and returns any bills or other mail to the City as necessary. Voters are very appreciative of the box. The City of Englewood and City of Centennial also reported great success and no problems with their 24 hour ballot boxes. If approved, staff will work with the County to install the ballot box and video surveillance system in time for the primary election.

Councilor K. Brown asked about relocating the box in the future if and when a new Village Center was constructed.

Councilor Hoellen agreed that the language was not clear in the Intergovernmental Agreement (IGA).

City Attorney Michow noted that staff had worked with the County on that language and was not concerned.

Councilor K. Brown asked if any of the other 24 hour ballot boxes had experienced issues with "smash and grab".

City Clerk Smith replied she was not aware of any issues.

Councilor Gallagher moved, seconded by Councilor Griffin to approve the Intergovernmental Agreement with Arapahoe County to install a 24 hour ballot box free of charge to the City.

The motion passed unanimously.

Chickens and Bees in R-3A, R-4 and R-5 Zone Districts

City Clerk Smith explained that at the March 15, 2016 Council meeting a resident in the R-5 Zone District requested that Council allow hens and bees to be kept in smaller Zone Districts. Currently the City Code identifies Agriculture as a permitted use in the R-1, R-2 and R-3 Zone Districts only. Agriculture is not a permitted use in the R-3A, R-4 and R-5 Zone Districts. The Municipal Code does not currently specifically address roosters or bees. To facilitate Council's discussion, staff researched the municipal codes of various other Denver Metro Area municipalities for regulations regarding chickens and bees and provided that information as exhibits to the staff memo. She noted that Animal Control and Code Enforcement's only concern is that nuisance issues, such as smell, would potentially be more concentrated on smaller lots. She asked if Council wished to direct staff and the Planning and Zoning Commission (P&Z) to formulate a draft ordinance that would allow residents in the R-3A, R-4 and R-5 Zone Districts to own chickens and bees, and, if so, did Council wish to provide any further direction to P&Z as to the parameters of a draft ordinance, or leave it to the discretion of P&Z. Possible parameters included inclusion of regulations for ducks, turkeys, roosters, or any other animal in the draft ordinance; the number of fowl or bee hives/colonies that would be allowed, and would this number depend on lot size and/or Zone District; inclusion of a permitting process for the keeping of chickens and/or bees in the draft ordinance. She noted that staff requested Council to consider postponing further work on a draft ordinance until a new Community Development Director had been hired at the City.

Mayor Christman suggested that Council wait until the City was more fully staffed.

Councilor K. Brown indicated that the majority of R-3A, R-4 and R-5 properties were covered by an HOA or covenants and the ones she could find online did not allow chickens or bees. She expressed concern that if the City allowed chickens and bees on these properties then the burden of enforcement transferred to the HOAs, or in the case of Mansfield Heights to the individual residents because Mansfield Heights had restrictive covenants but no HOA. She noted that because of these covenants simply changing the Code would not have the desired effect and may instead have negative consequences. She indicated that if even one HOA changed their rules then a Code change would facilitate those rules.

Mayor Pro Tem A. Brown noted that usually an HOA had to have 100% agreement to change covenants but that not all HOAs or neighborhoods enforced their covenants. He added that waiting for an HOA to change their covenants was unnecessary for any residents in the smaller zone districts who did not have covenants.

Councilor Hoellen questioned if there was even one property in R-3A, R-4 or R-5 that was not prohibited from having chickens and bees by covenants, and if so then Council should consider changing the Code. He indicated that covenants and HOAs were not the responsibility of the Council, although if Council could facilitate then they would consider doing so, but rather the Council was responsible for zoning to benefit as many people as possible in the entire City.

Mayor Christman indicated that there was a question as to whether apiary activities were included in agriculture, and if they were not then there were no restrictions of apiary activities in the City. She noted in that case, regulating bees in the R-3A, R-4 and

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R-5 Zone Districts would create a new apiary law and would affect all zone districts, not just the smaller lots, and thus would affect residents who already owned bees. She suggested that if the Council asked P&Z to draft an ordinance for chickens and bees that it would be comprehensive for the City and not just for the R-3A, R-4 and R-5 Zone Districts.

Councilor Hoellen questioned if the current City Code regulated apiary activities.

Mayor Christman replied that there was an argument to be made according to former Community Development Director Rob Zuccaro that bees were not referenced in the City Code and therefore they were neither regulated nor prohibited.

Councilor Hoellen questioned if the City would be legally liable for negligence by not having any regulations.

Mayor Christman added that if Council were to move forward with Code changes the City should discuss the issue with residents that already have bees to try to avoid any adverse effect on them.

Councilor Gallagher agreed that was an important point and that the Village currently had many conscientious and responsible bee owners.

Councilor K. Brown noted that if the City Code did not currently contain anything regarding bees then there was no need to create regulations.

Councilor Gallagher agreed and noted there were no problems with beekeeping in the Village and thus no need for regulations.

Councilor K. Brown noted that she did not feel the need for new bee regulations if there were none currently and indicated she agreed with the Mayor that new chicken regulations would affect residents throughout the City and not just those in the smaller zone districts. She added that the likelihood of a Code amendment resulting in new ownership of chickens in the smaller zone districts was low.

Councilor Hoellen agreed that no regulations were needed for bees and new regulations for chickens should be considered carefully.

Mayor Christman noted that much of the regulations in other cities involved ensuring that the animals were treated well.

Councilor Hoellen noted that the lack of those types of regulations in the City Code were not because the City did not care for the welfare of animals but rather because the community's culture and atmosphere of responsible residents made regulations unnecessary.

Councilor K. Brown noted that chickens were allowed in most of the City. She indicated that the following HOAs/neighborhoods did not allow chickens according to the covenants posted online: Buell, Mansfield Heights, Cherry Hills North, Mayor Pro Tem A. Brown's neighborhood, Bellaire, and Charlou. She added that she was unable to find online documents for Cherry Vale Meadows and Acres. She indicated that if chickens were allowed in these neighborhoods then Council might consider changing the Code.

Mayor Christman indicated she would call the family who had requested a change to the Code to explain the Council's discussion.

REPORTS

Mayor's Report

Mayor Christman reported that she had received a response from the United States Postal Service (USPS) to her request for an application to establish a unique zip code for the City. The response was that there was no application process. She indicated that she would try again. She also reported that she was working with staff and other agencies on the funding and agreements for the Colorado/Hampden underpass.

Members of City Council

Councilor Gallagher reported that the Parks, Trails and Recreation Commission (PTRC) had their first meeting with the John Meade Park consultant, Tina Bishop and it had gone very well. Everyone was excited to be moving forward.

Councilor Griffin reported that the Board of Adjustment and Appeals (BOAA) would be meeting in May. He noted that the City had been named the fourth most boring city in the country. He asked about the new "Do Not Block" signage on the pavement on Hampden at Devonshire Heights.

Interim City Manager/Director Goldie replied that a Devonshire Heights resident had arranged the painting with CDOT.

Mayor Pro Tem A. Brown reported that Congress was working on reauthorizing FAA legislation and there was some controversy about including language that would preempt local ordinances.

Councilor VanderWerf reported that the High Line Canal Working Group would meet tomorrow morning and the Land Preserves would hold its Conservation and Conversation gathering in the evening. She indicated that the Public Art Commission (PAC) would hold a dedication and reception for *Charlo* in mid-June and invitations would be sent to all the donors and City Council. She added that the reception would be held at a resident's home and for that reason the PAC wanted to keep the attendance numbers realistic.

Councilor K. Brown reported that she would attend the DRCOG award ceremony at the DIA Weston Hotel and would use the new light rail line from downtown Denver. She noted that she was working with Interim City Manager/Director Goldie on the traffic issue she had reported on previously. She asked about the plans for announcing the new City Manager.

Mayor Christman replied that he would attend the Council Retreat on May 14th and the reception the evening before with Council, Board and Commission members, and Directors. She indicated that she would write a press release for the Villager Newspaper and Village Crier.

Councilor K. Brown indicated that a neighbor was frustrated with the noise created by gas powered leaf blowers. She noted that some communities across the country had outlawed these machines because of the constant noise. She indicated that the City Code had some ambiguity regarding contractor activities versus landscape activities and both that and the City's noise ordinance had come up as issues before. She noted that she was not advocating a particular solution, but was reporting that the issue had come up again.

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Councilor Hoellen had no report.

Councilor Griffin asked Chief Tovrea about no-texting laws in Colorado and in the Village.

Chief Tovrea replied that Colorado did have a no-texting law and that staff was currently participating in distracted driving training from CIRSA.

Members of City Boards and Commissions

None

City Manager & Staff

Interim City Manager/Director Goldie reported that department monthly reports and unaudited financial statements were available in Council packets. He asked Council for direction on which members of staff should attend the May 14th Council Retreat.

Mayor Christman replied that Interim City Manager/Director Goldie should attend the retreat, but that City Attorney Michow and other members of staff did not need to attend.

Councilor Hoellen asked about the traffic light at Quincy and University.

Interim City Manager/Director Goldie explained that issues with the light had on Sunday and City police officers had called CDOT for repairs.

Chief Tovrea added that the light had gone out again yesterday and the City had again contacted CDOT. She noted that the light was currently cycling onto red properly.

City Attorney

City Attorney Michow noted that she would report on pending state legislation at the next meeting.

ADJOURNMENT

The meeting adjourned at 7:44 p.m.





Laura Christman, Mayor



Laura Smith, City Clerk