Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, June 7, 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 City Manager Jim Thorsen, City Attorney Linda Michow, Finance Director Karen Proctor, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Ducharme, Parks, Trails & Recreation Administrator Ryan Berninzoni, Public Works Project and Right-of-Way Manager Ralph Mason, Accounting Clerk Jessica Sager and City Clerk Laura Smith.

Absent: none

## PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

## AUDIENCE PARTICIPATION PERIOD

Thomas Logan, 17 Martin Lane, explained that he was a rising sophomore at Mullen High School, taking AP Government next year and was attending the meeting to observe what goes on in local government.

Benjamin Logan, 17 Martin Lane, explained that he was also a rising sophomore at Mullen High School, taking AP Government next year and was attending the meeting to observe what happens on City Council.

## CONSENT AGENDA

Mayor Christman noted that amendments to the May 24, 2016 draft minutes were on the dais for Council's consideration.

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

a. Approval of Minutes – May 17, 2016
b. Approval of Minutes – May 24, 2016
c. Ratification of Agreement to Buy and Sell Real Estate
d. First Amendment to Development Agreement for Monroe Street Paving, Change Order #001 for Contract #2016-001, and Change Order #001 for Contract #2016-003

The motion passed unanimously.

## ITEMS REMOVED FROM CONSENT AGENDA

None

## UNFINISHED BUSINESS

Candidate Profiles in the Village Crier

City Clerk Smith explained that staff was returning for further direction from Council on candidate profiles in the Village Crier. She noted that historically the city had provided information about municipal candidates for city elections in the Village Crier, but that controversy during the 2014 election had caused staff to review and revise the format that candidate information would be gathered and presented. She indicated that staff had presented this item at the April 5, 2016 meeting and had received feedback from Council which had been integrated, and had further worked with Councilors K. Brown and Hoellen on revisions to the new candidate profile format and instructions. She added that staff had neglected to include the mock-up of the new format and distributed the example to Council.

Mayor Christman added that the controversy during the 2014 election had involved different candidates submitting their information in different formats and the information not appearing the same in the Crier. She noted that the issue was being revisited in anticipation of the 2016 election.

Mayor Pro Tem A. Brown asked how candidates would receive the instructions.

City Clerk Smith replied they would be included as part of the candidate packets.

Councilor Gallagher noted that the new format did not include questions for candidates to answer and indicated that he had found the questions helpful both as a candidate and as a voter because they made the profiles easier to read and draw conclusions.

Mayor Christman agreed.

Councilor Hoellen noted that he also thought the questions were helpful but noted that the City did not want to influence the candidates.

Councilor K. Brown suggested including wording in the instructions such as "You might consider addressing" followed by a list of topics.

Councilor VanderWerf suggested adding wording "In the past, candidates have addressed" followed by a list of topics.

Mayor Christman asked about the prohibition of inappropriate language in the instructions.

City Attorney Michow suggested striking that bullet point or changing "inappropriate" to "obscene" in order to be more specific.

Council discussed the definition of "inappropriate".

City Attorney Michow explained that any obscene language, hate speech, or language threatening violence or a crime would be prohibited and suggested prohibiting "obscene or unlawful" language.

Mayor Pro Tem A. Brown noted that some states had laws prohibiting the statement of a lie in the context of elections and asked if Colorado had any similar laws.

City Attorney Michow replied she was not aware of any.

Councilor K. Brown suggested adding an affidavit certifying veracity of information to the profile for candidates to sign.

Mayor Christman asked if the instructions and format should be put in a policy format.

City Clerk Smith replied that staff could create a policy that Council would approve by resolution and noted that changes to the instructions and format would then have to be approved by Council.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve the Candidate Profile format and instructions included as Exhibit C to the June 7, 2016 staff memorandum with the inclusion of:

- A certification verifying the veracity of information
- Changing the wording in bullet number six from "inappropriate" to "obscene or unlawful"
- Suggested topics in the Information from the Candidate section based on previous candidate responses

The motion passed unanimously.

**NEW BUSINESS**

Council Bill 4, Series 2016; Amending Sections 2-1-10, 2-1-40 and 2-1-50 of the Municipal Code Concerning Elections (*first reading*)

City Clerk Smith explained that Council Bill 4, Series 2016 would amend the Municipal Code to refer to the state statutes for write-in candidate and cancellation of election timelines. She noted that Senate Bill 16-142 had cleaned up the Colorado Municipal Election Code after House Bill 15-1130 necessitated the extension of timeframes by requiring that municipalities sent ballots to UOCAVA voters.

Councilor Gallagher moved, seconded by Councilor Griffin to approve Council Bill 4, Series 2016, a bill for an ordinance of the City of Cherry Hills Village amending sections 2-1-10, 2-1-40 and 2-1-50 of the Municipal Code concerning elections on first reading.

The following votes were recorded:

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

Vote on the Council Bill 4-2016: 6 ayes. 0 nays. The motion carried.

Council Bill 5, Series 2016; Amending Section 16-2-40 Concerning Procedures for Text Amendments and Rezoning of Property (*first reading*)

City Attorney Michow explained that Chapter 16 of the City of Cherry Hills Village Municipal Code governed zoning and regulated the development of land within the Village. As a home rule municipality, the City had broad legislative authority to adopt zoning regulations. In accordance with Colorado Revised Statutes, C.R.S. § 31-23-204, a municipality may adopt and amend zoning regulations and zoning district boundaries, provided however, "no such regulation, restriction, or boundary shall become effective until after a public hearing [is held] thereon at which parties in interest and citizens have

an opportunity to be heard" ... and "at least fifteen days' notice of the time and place of such hearing is published in an official paper or a paper of general circulation in such municipality." In all respects, the City followed state statute regarding the process for rezoning of property and amending the City's zoning regulations. Section 16-2-40, titled "Amendments", incorporated the state requirement for public hearing and newspaper publication of the public hearing, and also provided enhanced notice requirements by mandating individualized mailed notice to adjacent property owners sent via certified mail, return receipt requested, and posting of the property subject to rezoning. Under Section 16-2-40(c), "evidence of mailed notice must be provided at the public hearing in the form of signed return receipts from each affected property owner." Notably, the notice requirements set forth in Section 16-2-40(c) applied to conditional use permits (see Section 16-18-60) and expanded use permits (see Section 16-20-40). It was City staff's opinion that requiring an applicant to present evidence of signed return receipts was problematic and overly burdensome as an applicant could not guarantee that a mailed notice would be signed for and picked up by the intended recipient. Moreover, it was not clear in Section 16-2-40 whether failure to meet this requirement was a jurisdictional prerequisite to conducting the public hearing on the scheduled application. Finally, it had not been the City's practice to receive signed return receipts from adjacent property owners. For these reasons, City staff was proposing amendments to Section 16-2-40 to maintain the requirement for certified mailing and remove the requirement for return receipts and for evidence of signed return receipts. In addition, staff had identified and was proposing other "clean-up" changes in Section 16-2-40 to better differentiate between zoning map amendments (rezoning) and amendments to Chapter 16 (text amendments). Mayor Pro Tem A. Brown had further suggested an amendment to clarify that a rezoning of property can be initiated by a property owner of the subject property or the City. The current ordinance read that any property owner could initiate a rezoning of any property which clearly was not the intent of the ordinance.

Mayor Christman asked about the proposed additional requirement of delivery by regular U.S. mail.

City Attorney Michow confirmed that the proposed changes also included the addition of delivery of mailed notice by regular U.S. mail. She explained that many people were more likely to receive a notice by regular mail than by certified mail because certified mail required an additional step on their part. She noted that this change to the code was an enhancement of the notice requirements.

Councilor VanderWerf indicated her support for the addition of notice by regular mail. She suggested acknowledging in the notice that the same notice was mailed by regular and certified mail.

Mayor Pro Tem A. Brown noted that nothing regarding the core criteria was changing and that the council bill was mainly to clean up the Code.

City Attorney Michow replied that was correct and in fact the notice requirements would be enhanced by the proposed addition of notice by regular mail. She explained that the current requirement to present evidence of signed return receipts was overly burdensome and sometimes impossible. She noted that staff would publish notice for a public hearing for second reading of the council bill if Council approved the council bill on first reading.

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin to approve Council Bill 5, Series 2016, amending Section 16-2-40 of the Cherry Hills Village Municipal Code concerning procedures for text amendments and rezoning of property on first reading.

The following votes were recorded:

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

Vote on the Council Bill 5-2016: 6 ayes. 0 nays. The motion carried.

**REPORTS**

**Mayor's Report**

Mayor Christman welcomed City Manager Thorsen to his first Council meeting. She reported that long-time resident Cat Anderson had passed away and that Council would have to consider an appropriate way to honor such an amazing citizen. She noted that this commenced the timeline for the City's formal management of Quincy Farm. She added that the Planning and Zoning Commission would be considering the O-2 zoning ordinance at their next meeting. She indicated that the Quincy Farm Committee may ask Council to approve additional funds.

Mayor Christman reported that she and Mayor Pro Tem A. Brown had met with State Representative Daniel Kagan regarding the proposed traffic light at Glenmoor and Belleview. She indicated that they would meet with CDOT and Greenwood Village on July 11th. She noted that Mayor Pro Tem A. Brown had an interesting article about a mobile device application for cut through traffic. She added that she would attend a Denver Water meeting this Friday. She reported that she had volunteered through the Arapahoe County Mayors and Managers group for the City to sponsor a meeting of parks and recreation staff to discuss best practices for managing the Japanese Beetle and the Emerald Ash Borer sometime in October.

**Members of City Council**

Councilor Gallagher had no report.

Councilor Griffin had no report.

Mayor Pro Tem A. Brown reported that resident and former Mayor Doug Scott had passed away unexpectedly on Friday from a massive heart attack at the age of 51.

Councilor VanderWerf reported that the dedication of *Charlo* would take place on Thursday June 16th. She asked Council to RSVP if they had not already done so and were planning to attend. She noted that in addition to the ceremony by the sculpture, attendees would have a chance to view the new plaque containing all the donor names and then attend the reception hosted by the Diecidues.

Councilor K. Brown reported that the Centennial Airport Noise Roundtable had met last week and noted that a few more complaints had been filed in May than in previous months. She encouraged residents to report complaints as it was difficult to make a case for noise issues if no one reported complaints.

Councilor Hoellen had no report.

**Members of City Boards and Commissions**

None

**City Manager & Staff**

City Manager Thorsen indicated it was a great pleasure to be with the City and noted that staff had given him a warm welcome. He reported that he and Special Projects Coordinator Emily Kropf had a productive meeting with PLAN and Norris Design to begin the public works facility project. He noted that he and Finance Director Proctor would meet with the City's financial group to discuss future options.

City Clerk Smith reported that Public Art Commissioner Doug Smooke's first full term would end next month. She noted that a recruitment process was not triggered and Commissioner Smooke had indicated his desire to continue serving. She asked for Council's direction in bringing a resolution back to Council to reappoint Commissioner Smooke.

Council had no objections.

**City Attorney**

None

**EXECUTIVE SESSION AND ADJOURNMENT**

Councilor Hoellen moved, seconded by Councilor K. Brown to go into Executive Session pursuant to C.R.S. Section 24-6-406(4)(b) for the purposes of seeking legal advice regarding pending litigation.

The following votes were recorded:

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

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

The Executive Session began at 7:20 p.m.

The meeting adjourned at 7:45 p.m.

Laura Christman, Mayor

Laura Smith, City Clerk