

## RECORD OF PROCEEDINGS

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Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, September 6, 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, Deputy City Manager and Public Works Director Jay Goldie, City Attorney Linda Michow, Finance Director Karen Proctor, Police Chief Michelle Tovrea, Community Development Director Rachel Hodgson, Human Resource Analyst Kathryn Ducharme, and City Clerk Laura Smith.

Absent: none

### PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

### POLICE DEPARTMENT PRESENTATION

Chief Tovrea explained that Council had approved revitalizing the Police Department's motorcycle unit this year with funds for two new motorcycles. She noted that the motorcycles had come from a neighboring police department fully equipped and that the City had saved a lot of money with their purchase. She explained that the Department's motorcycle unit had been solely maintained by Officer Kevin Nagy for many years but that this year he was joined by Officers Jeremy Gunther and Eric Stremel. She indicated that Officers Gunther and Stremel had attended an intense two week training course. She stated that they had both worked hard and she was very proud of them. She presented all three Officers with Winged Wheel pins. She explained that the wings on the pin were for swiftness, the arrow was for precision, and the wheel was for motion. She added that to complete their training the officers would have to work with Commander Weathers who had been a motorcycle officer for many years. She noted that all the City's Police Officers operated by the three E's: enforcement, education and engineering, and the motorcycle officers were no exception.

Council congratulated the officers.

Mayor Christman noted that an article about the motorcycle unit should be included in the Village Crier.

Councilor Griffin stated that they appreciated the officers' hard work and that the most important concern was their safety.

### CANDIDATE LOT DRAW FOR THE NOVEMBER 8, 2016 BALLOT

City Clerk Smith explained that the City was holding its regular municipal election on November 8, 2016 in coordination with Arapahoe County. She indicated that the candidate petition period was complete and that the City had three uncontested positions – Laura Christman for Mayor, Randy Weil for District 1, and Dan Sheldon for District 5. She explained that the City had two candidates for District 3 and per state statute a lot draw was used to determine the order of their names on the ballot.

City Clerk Smith and City Attorney Michow conducted the Candidate Lot Draw for the District 3 candidates. Al Blum's name was drawn first and Rose Lynch's name was drawn second.

### **AUDIENCE PARTICIPATION PERIOD**

Winslow Waxter, 3625 S. Albion Street, thanked the Council for their time, effort and patience during the last meeting. She indicated that she and her neighbors appreciated the Council listening and that they felt they had been heard. She noted that Council had asked informally how the neighbors would feel about the City administration building being relocated to the Colorado/Jefferson property instead of the public works facility. She explained that upon further reflection she and the neighbors that she had spoken to would still oppose this proposal. She noted that she had been paying a lot more attention to the area lately and that there was already high traffic from cars, pedestrians, and bikers in that area and she felt that the neighbors would be trading increased public works vehicle traffic for passenger vehicle traffic with the administration building. She noted that the traffic issues on Colorado just south of Hampden were already substantial and that she would love to see a traffic study of the area to see what would be best for the Colorado/Jefferson property and what could be done to alleviate some of the traffic congestion. She also expressed concern with the noise and nighttime lights of an administration building in that area. She expressed support of the contract between the City and Cushman and Wakefield on the consent agenda to look at properties outside of the City. She indicated her support of keeping all facilities at their current location, or if necessary locating one outside of the City. She noted that she was engaged and prepared to be part of the process and thanked Council for the opportunity to speak.

Rich Imber, 17 Covington Drive, agreed with Ms. Waxter's compliments to the Mayor and Council. He indicated that he appreciated the public comment session at the last meeting and that Council handled it well. He asked if his interpretation was correct that relocating public works to the Colorado/Jefferson site was now a dead issue.

Mayor Christman replied that there had been no vote taken on that issue.

Mr. Imber explained that he had discussed the suggestion of relocating the administration building to the Colorado/Jefferson site with many residents throughout the City. He noted that Council had successfully re-engaged its constituents. He stated that relocating the administration building to the proposed site and away from the Police Department would be inconvenient for staff. He indicated that the administration building would bring the same issues of traffic, noise and lights as the public works facility would have. He noted that it would also still require rezoning of the property which would still set a precedent that any other residential property could be rezoned for municipal uses. He noted that everyone he had spoken to was equally opposed. He indicated that the 2013 Public Works Survey had demonstrated that residents wanted the facilities to remain at their current location. He acknowledged the floodplain issues at the current location but noted that the 2014 Public Works Facility Study had examined ways to mitigate the floodplain. He expressed concern with the cost of redeveloping John Meade Park and suggested those funds could be better spent elsewhere. He noted that the three options were to mitigate the floodplain and keep the facilities at their current location; move all of public works to a site outside the City; or move part of public works outside the City. He restated his appreciation for Council's engagement of the public on this issue. He asked that the costs, pros and cons associated with the various parts of the projects be made more available to the public. He noted that a lot of residents were paying attention now.

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### CONSENT AGENDA

Councilor Hoellen removed Item 7b from the 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 – August 16, 2016

The motion passed unanimously.

### ITEMS REMOVED FROM CONSENT AGENDA

#### Item 7b. Approval of Exclusive Right-to-Buy Listing Contract and Ratification of City Manager's Signature

Councilor Hoellen stated that Council was entering into the contract in order to engage a broker to assist the City, once again, as previous Councils had done, to look for a property off-site that the City might be able to utilize for these various projects. He added that if the City was successful in finding a property then the broker would also be engaged to help the City negotiate successfully. He asked for clarification that the Colorado/Jefferson site was not included in this contract.

City Manager Thorsen confirmed it was not and that the Colorado/Jefferson property was addressed in a separate option agreement with Denver First Church.

Mayor Pro Tem A. Brown indicated his support of engaging a broker because it would hopefully provide more options for all of the facilities that could then be presented together to the whole community for feedback.

Councilor Hoellen noted that the public input at the last meeting had been great and noted that it was often concrete steps such as the option agreement with the Church that best generated input, rather than abstract ideas. He indicated that he was excited to have Dave Bess' assistance on this issue.

Mayor Pro Tem A. Brown moved, seconded by Councilor K. Brown to approve Consent Agenda Item 7b.

### UNFINISHED BUSINESS

None

### NEW BUSINESS

#### Resolution 13, Series 2016; Declaring the City's Intent to Reimburse Itself from the Proceeds of a Lease Purchase Financing for Expenditures Incurred with Respect to a New City Hall, Public Works Facility and Park Improvements, and Providing Certain Matters in Connection Therewith

Director Proctor presented Resolution 13, Series 2016 to Council. She explained that the City intends and expects to obtain tax-exempt lease purchase financing, or Certificates of Participation, referred to as COPs, for the Project, in a maximum principal amount not to exceed \$15 million. She noted that the total Project cost was currently projected to be about \$12.9 million based on cost estimates received. She stated that the City has already incurred some expenses related to the Project and in order to continue moving forward will likely have additional expenses prior to issuance of the

COPs, expected in December 2016 and/or January 2017. She explained that the reason for the possible two issuances would be to attract different investors for the amounts of each issuance being under \$10 million. She indicated that when the COPs were issued the Capital Fund would be reimbursed for the expenses already incurred and all future expenses related to the Project would be paid from the remaining COP proceeds. She indicated that the next big step in the process would be first reading of the bond ordinance that would be brought to Council in October or November. During that same timeframe the City would begin to go through a rating process. The second reading of the bond ordinance should occur in November or December.

Mayor Pro Tem A. Brown indicated that the resolution did not commit or obligate the City but rather created the opportunity for funding, and was a safeguard rather than a decision.

Councilor Hoellen suggested that the second whereas clause of the resolution be amended to add the wording "in the event" to emphasize that no decision had been made.

Mayor Christman indicated that the City would incur costs and expenses just to evaluate the options, regardless of making a future decision.

Bond Counsel Dan Lynch discouraged the suggested amendment as the statement of present intent was needed to satisfy IRS regulations.

Mayor Christman noted that the wording was needed for the City to ensure that its expenses were tax exempt.

Councilor K. Brown stated that although the resolution approved an amount not to exceed \$15 million that did not mean Council was approving expenditures of \$15 million. She explained that the project estimate of \$12 million was based on significant work by staff and members of Council on the City's strategic financial plan and was not a random number.

Councilor Hoellen emphasized that Council had not approved any construction project and that the resolution was for financing if and when it was needed.

Councilor Griffin indicated it was to recover the City's expenses.

Councilor Gallagher asked if the expenses were now being paid out of the City's Capital Fund.

Director Proctor confirmed that was correct.

Councilor Griffin moved, seconded by Councilor K. Brown to approve Resolution 13, series 2016 declaring the city's official intent to reimburse itself from the proceeds of the lease purchase financing for expenditures incurred with respect to a new City Hall, Public Works Facility and park improvements, and providing certain other matters in connection therewith.

The motion passed unanimously.

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### REPORTS

#### **Mayor's Report**

Mayor Christman reported that she had been researching formation of community foundations and would organize a public study session for Council to review the information. She indicated that she believed informal discussion with both this Council and with the new Council next year would be beneficial before any formal decisions were considered. She reported that Public Service had entered into a settlement agreement about solar energy and that they had made clear that solar energy was a large expense. She indicated that she suspected Public Service was passing this expense on to the City and that was why they would not give the City a solid cost estimate for burying utility lines. She stated that she would gather more information and organize another study session.

Councilor VanderWerf asked if this was based on the ballot measure in Colorado several years ago when the state had voted that a certain percentage of energy should come from alternative sources.

Mayor Christman confirmed it was and additionally some federal regulations had further required that Public Service use alternative sources of energy.

#### **Members of City Council**

Councilor Gallagher thanked staff for the decorations, signs and welcoming feeling at the recent Farmers Market. He noted it had been well attended.

Councilor Griffin noted that the annual Exotic Car Show was Sunday September 11<sup>th</sup> from 10am to 1pm and there were several exciting entries. He thanked staff for their work at the event.

Mayor Pro Tem added that there would also be food and drink at the Car Show.

Councilor VanderWerf reminded Council that the dedication for Emmett Culligan's *Rubric* series piece would be October 6<sup>th</sup>, beginning at 4pm outside the Joint Public Safety Facility and continuing at a private home.

Councilor K. Brown thanked staff for a fabulous movie night. She asked staff for help in determining and pursuing the next steps in the process of evaluating a proposed new pedestrian crossing on Dahlia at Hudson. She noted that an initial meeting with the neighbors had been positive although some of them had concerns about signage.

Councilor Hoellen thanked staff for everything they did.

#### **Members of City Boards and Commissions**

None

#### **City Manager & Staff**

City Manager Thorsen introduced the City's new Community Development Director, Rachel Hodgson. He indicated that she had come from Elizabeth, Colorado where she had also been the Community Development Director. He noted that she had received her Bachelor's in Architecture from the Roger Williams University in Rhode Island and her Master's in Urban and Regional Planning from Eastern Washington University in Washington State. He stated that staff was happy to have her.

Director Hodgson indicated she was looking forward to working for the City and happy to be part of the team.

#### Public Art Commission Vacancy

City Clerk Smith explained that Commissioner Trish Green had resigned from the Commission. She noted that the vacancy was posted on the City's website and published in the Crier. She asked for two Councilors to conduct interviews of the applicants.

Councilor Griffin suggested that the City should do something to show its appreciation for Commissioner Green's work.

Councilor VanderWerf and Mayor Pro Tem A. Brown volunteered to conduct interviews.

#### Planning and Zoning Commission Member Term

City Clerk Smith explained that Commissioner Niederman's first partial term was ending. She stated that a recruitment process was not triggered and that Commissioner Niederman had indicated his desire to serve another term. She asked Council for direction to reappoint Commissioner Niederman to his first full three year term.

Council had no concerns.

#### **City Attorney**

City Attorney Michow reported that the City was one of thirty municipalities which had received a letter from the ACLU demanding a repeal of regulations prohibiting begging. She noted that the letter specifically referenced Municipal Code Section 10-5-40(b)(1) which made it unlawful to "loiter for the purpose of begging." She explained that this was based on a recent court decision, *Brown v. City of Grand Junction*, which determined begging to be protected under the First Amendment. She indicated that she would work with staff on an amendment to the City Code for Council's consideration.

Chief Tovrea noted that a couple of summons had been issued in 2011 related to the ordinance under discussion, but that the Police Department had other ways of ensuring safety without that particular ordinance.

City Attorney Michow agreed that other sections of the Code could be used to address any problem behaviors and that staff would likely recommend deleting subsection 10-5-40(b)(1) of the Code entirely. She added that CIRSA had volunteered five hours of free legal advice to cities on this matter with one of their attorneys who was well versed in these issues.

Mayor Christman asked if the court decision would affect the City's prohibition on commercial solicitation.

City Attorney Michow agreed that was an important question and that she would discuss it with the CIRSA attorney. She added that the *Reed v. Town of Gilbert* decision from 2015 had been referenced in the *Brown v. City of Grand Junction* case and that it may impact no solicitation as well.

Councilor Hoellen asked about the history of the law that had led to the determination that begging was free speech.

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City Attorney Michow replied that the letter from the ACLU outlined the progress of the determination and indicated that staff would distribute the letter to Council.

Councilor Griffin noted that the City of Denver had passed an ordinance that prohibited people from stepping into the street to take money.

City Attorney Michow noted that regulation was passed because the people were impeding traffic.

Mayor Christman indicated that staff and Council should gather the pertinent information and evaluate the issue to address it appropriately.

**EXECUTIVE SESSION AND ADJOURNMENT**

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin that City Council enter into Executive Session pursuant to C.R.S. Sec. 24-6-402(4)(a) for the purpose of discussing matters related to the acquisition of real property and pursuant to C.R.S. Sec. 24-6-402(4)(e) to develop strategy for negotiations and to instruct negotiators relating to possible acquisition of real property; and pursuant to CRS 24-6-402(4)(b) for purposes of receiving legal advice concerning bridle paths in Cantitoe subdivision, and further upon completion of the Executive Session that the Council will be adjourned.

The following votes were recorded:

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

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

The Executive Session began at 7:27 p.m.

The meeting adjourned at 9:36 p.m.



*Laura Christman*

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Laura Christman, Mayor

*Laura Smith*

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Laura Smith, City Clerk