

CHERRY HILLS VILLAGE
COLORADO

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City Council Agenda
Tuesday, August 2, 2016

6:30 p.m.

1. Call to Order
2. Roll Call of Members
3. Pledge of Allegiance
4. Audience Participation Period (limit 5 minutes per speaker)
5. Consent Agenda
 - a. Approval of Minutes – July 19, 2016
6. Items Removed From Consent Agenda
7. Unfinished Business
 - a. Public Hearing, continued - Council Bill 5, Series 2016; Amending Section 16-2-40 Concerning Procedures for Text Amendments and Rezoning of Property and Adding a Definition of Text Amendment to Section 16-1-10 (*Public Hearing, second and final reading, continued from July 19, 2016*)
8. New Business
 - a. Resolution 11, Series 2016; Approving an Intergovernmental Agreement with Arapahoe County for Participation in the November 8, 2016 Election
9. Reports
 - a. Mayor
 - b. Members of City Council
 - c. Reports from Members of City Boards and Commissions
 - d. City Manager and Staff
 - e. City Attorney
10. 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
11. Adjournment

Notice: Agenda is subject to change.
If you will need special assistance in order to attend any of the City's public meetings, please notify the City of Cherry Hills Village at 303-789-2541, 48 hours in advance.

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, July 19, 2016 at 6:30 p.m.
At the Village Center

The City Council held a study session at 6:03 p.m. regarding planning for John Meade Park and the Alan Hutto Memorial Commons.

Mayor Laura Christman called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Laura Christman, Councilors Mark Griffin, 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, Police Chief Michelle Tovrea, Special Projects Coordinator Emily Kropf, Human Resource Analyst Kathryn Ducharme, Parks, Trails & Recreation Administrator Ryan Berninzoni, Public Works Project and Right-of-Way Manager Ralph Mason, and City Clerk Laura Smith.

Absent: Councilor Earl Hoellen

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

Mayor Christman explained that the audience participation period was the opportunity for interested parties to address the Council on a topic that was not otherwise the subject of a public hearing. She indicated that speakers would be held to the five minute limit. She asked everyone to give their names and addresses before addressing the Council.

Councilor K. Brown noted that the issue likely to be discussed was in her District and offered her card to any resident who wished to contact her.

Dr. Richard Imber, 17 Covington Drive, explained that he had been a resident since 1979. He opposed moving the public works facility to the proposed lot at Jefferson and Colorado Boulevard. He indicated that he had confirmed that the lot was zoned for churches only before he had moved into his current home. He stated that residents lived in the Village for its bucolic setting and an industrial facility was not appropriate in a residential area.

Mark Denoy, campus pastor for the Harvest Bible Church, indicated he opposed the development. He noted that first impressions were lasting impressions and a public

works facility would be an eyesore. He added that the Harvest Bible Church enjoyed a working agreement with Denver First Church to use that lot as open space.

Winslow Waxter, 3625 S. Albion St., noted that she had been a resident for 11 years. She explained that the selling point of her home had been a large picture window with a view of the mountains. She indicated that her entire back yard faced the proposed property. She understood that the property was zoned for a church or residence, not an industrial facility. She expressed concern for her property value, for increase in heavy traffic affecting her sewer line which went under Colorado Boulevard, for additional cut-through traffic on Albion, and for the safety of the young children in the neighborhood. She indicated she was adamantly opposed to the development.

Patricia Haas, 3 Covington Drive, noted that she had purchased her home in the Village because of the residential zoning and the inability for commercial or industrial developments. She indicated that the proposal was a misuse of Council's power. She stated that the Council would not allow an outside entity or company to develop an industrial facility and that she opposed any rezoning by the City for its own use.

Katie Turner, 28 Covington Drive, indicated that this was a very emotional issue. She noted that she understood that the City wanted to expand John Meade Park but asked Council to consider the expense to residents of moving Public Works into a neighborhood that would have to deal with the gravel, dirt, sand, noise and drainage issues.

John Koslosky, 27 Covington Drive, explained that he had been a resident for 14 years and had been the first president of their Homeowners Association. He indicated that he was strongly opposed to the proposal. He noted that he had been a developer for 30 years in the commercial/industrial field. He stated that an outside entity would not be allowed to build an industrial facility on the proposed site and that it was not a compatible use for the site. He noted that in Denver a public works facility would be I-2 zoning.

Leah Bassof, 1 Covington Drive, indicated that she opposed the proposal. She explained that she had moved into the neighborhood for its serenity, quiet, views, and closed-off nature. She noted that children were not safe around an industrial facility. She added that she worked from home part-time and would be disturbed by the noise.

Branden Haddon, 41 Covington Court, indicated he was shocked by the proposal. He noted that he had lived in the neighborhood for a year but had been a resident of the Village since 2004. He stated that he never thought an industrial facility would be a possibility in the neighborhood. He suggested that this could not be the only option and that the City could consider other sites toward Broadway.

Jeremy Thurnau, 15 Covington Drive, explained that he had been a resident in the neighborhood for a few months and was opposed to the proposal. He noted it would negatively impact property values and result in excess traffic, and expressed concern

about the safety of special needs children in the neighborhood. He added that both the production of the facility and the use of the facility were concerning because of the heavy industrial traffic that would be involved.

Scott Rovira, 49 Covington Court, noted that he appreciated his fellow neighbors alerting him to this issue and he echoed their comments, especially regarding child safety. He added that the qualifications of the workers were of paramount concern. He explained that he worked in the oil and gas industry and was familiar with the rules and regulations involving setbacks and concerns with takings. He indicated that the City would be taking the residents' property values if they moved forward with the proposed facility. He added that the City was using taxpayer money to relocate the facility. He indicated that he strongly opposed the proposal.

Greg Stevinson, 22 Covington Drive, indicated that he had also been a developer for 40 years and was amazed that this particular use was under consideration. He noted that there had been very little specificity in the July 13th stakeholder meeting and asked for more information. He noted that metal roofs and siding was inconsistent with the neighborhood. He indicated that if Executive Session Item 10b on tonight's agenda was regarding this property then it was too late. He expressed concern with the noise caused by snow plows leaving the facility at 2am in the winter. He suggested that the City further examine what it would take to mitigate the floodplain issues within the Village Center campus to keep the public works facility there as it was the most appropriate location. He noted that while the City had plans to hide the proposed facility with berms and landscaping he knew that the trees would not be full-sized on the first day. He indicated that the City needed additional input and discussion.

Robert Rhyme, 40 Covington Court, noted that he had been a resident for one year and had flooding in his basement last year. He expressed concern that the proposed facility would exacerbate the existing floodplain and drainage issues in the area. He indicated that the stakeholder meeting had not provided clear answers. He expressed concern with the aesthetics of the proposed facility. He noted that the neighborhood had a natural and rural feel and the addition of an industrial facility would change the character. He indicated that the seriousness of this issue was underlined by the fact that the property would have to be rezoned. He opposed the proposal.

Mary Conroy, 3825 South Colorado Boulevard, explained that she lived three houses down from the proposed facility site and that her husband had been emailing with Councilor K. Brown. She stated that it was inappropriate to place the facility at an entrance to the Village and amongst expensive homes. She read from an email that her husband wrote to Councilor K. Brown that stated the proposed facility did not conform to the Master Plan; that there had been no warning about this proposal before the July 13th stakeholder meeting; the public works facility report indicated that there were up to 70 trips of heavy trucks per day; expressed concern about noise, traffic and child safety; expressed disappointment in the elected officials who had run on a platform of transparency and this was not transparency; suggested the City return to the previous

plan of placing the facility at the Denver Water site and litigate or resolve the issue as necessary; and expressed concern with floodplain issues.

Mayor Christman, hearing no further comments, noted that the Executive Session on tonight's agenda was not regarding this property. She explained that there was no requirement in the Municipal Code to hold public meetings before the rezoning, but Council had decided that holding public meetings would be the appropriate thing to do for the purpose of transparency. She added that the information gathered at the first public meeting would be incorporated into and addressed during the second public meeting which would be held in August. She noted that if the rezoning went forward that is when public hearings would be held as required by the Municipal Code.

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 – June 21, 2016

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

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

Special Projects Coordinator Kropf presented Council Bill 5, Series 2016 on second and final reading. She explained that the council bill would clarify the procedures for text amendments and rezoning of property and would update the notice requirements to be consistent with the City's current practices. Council approved the council bill on first reading at their June 7, 2016 meeting. The Planning and Zoning Commission recommended approval on June 14, 2016 with the addition of a definition of text amendment. Staff had made one additional change to the draft ordinance and a revised copy was available on the Council dais. The revised language stated that a public hearing would be held before the Planning and Zoning Commission (P&Z) for the rezoning of property. The previous version had only required a public meeting rather than a noticed public hearing. Notice of tonight's public hearing was published in the June 30, 2016 edition of the Villager Newspaper and staff had not received any comments from the public in response.

Councilor Gallagher asked about the requirement to hand deliver public notices.

City Attorney Michow explained that during a previous Council meeting the idea of requiring hand delivery of notices had been discussed, but staff had decided not to recommend that method be added to the proposed ordinance because it was not a requirement anywhere else in the Municipal Code, was not a common practice anywhere in the state, and was not a practical requirement given the fact that many residents are not full time or may live in gated communities or have gated driveways. She added that a revised version of the council bill was on the dais for Council's consideration and included redlines to add a requirement for a duly noticed public hearing during the Planning and Zoning Commission's consideration of a rezoning application. She noted that this was consistent with contemporary zoning codes in the Denver metro area.

Mayor Christman opened the public hearing at 7:08 p.m.

Greg Stevinson, 22 Covington Drive, suggested that Council consider a broader radius for notifications that would go beyond adjacent property owners and also include Homeowners Associations. He added that the City could send emails to residents who signed up at public hearings.

Eduardo Seda, 3795 South Colorado Boulevard, asked if there was a link between the Master Plan and zoning regulations. He asked if there was a requirement that zoning be consistent with the Master Plan. He asked how the Master Plan functioned to avoid "spot zoning".

Mayor Christman noted that Mr. Seda's comments seemed to be outside of the scope of the changes proposed by Council Bill 5, Series 2016 and related to the comments during audience participation. She suggested that Mr. Seda's comments could be addressed at the next public meeting on that matter.

Hearing no further comments, Mayor Christman closed the public hearing at 7:13 p.m.

Councilor VanderWerf indicated that the Council should consider Mr. Stevinson's suggestion for additional notification via email.

Councilor K. Brown noted that changes would be to section 16-2-40(c)(2) in the proposed ordinance.

Mayor Pro Tem A. Brown asked about the City's current email notification system.

City Clerk Smith explained that staff sent email notifications to those that had signed up for them when City Council, Board and Commission agendas were posted to the website rather than specifically identifying public hearings.

Councilor K. Brown noted that it might be difficult to gather everyone's email address but agreed that Council should consider a large radius for public notifications.

Councilor Gallagher asked about the notification radius in other cities.

Councilor K. Brown suggested that the Council approve the changes in this version of Council Bill 5, Series 2016 and give staff time to study the notification regulations in other cities and bring back further changes for Council's consideration.

Mayor Pro Tem A. Brown suggested that if Council wished to change the notification requirements then they should wait for additional information from staff in order to incorporate those further changes before passing the proposed ordinance on second reading.

Councilors VanderWerf, Gallagher and Griffin agreed.

Mayor Christman suggested that the information be gathered as soon as possible and be considered at the next meeting.

City Attorney Michow indicated that the public hearing and second reading of the council bill should be continued until the August 2nd meeting at 6:30 p.m. She noted that the City of Centennial had a broader radius of about 200 feet and one of the issues to determine was how to measure the radius. She added that staff would research notice requirements for Greenwood Village and other municipalities.

City Manager Thorsen suggested that Council continue the public hearing to the next Council meeting and indicated that during that time staff would research the notice requirements of surrounding municipalities and bring options for amending the proposed ordinance for Council's consideration.

Mayor Pro Tem A. Brown moved, seconded by Councilor VanderWerf to continue the public hearing and consideration of Council Bill 5, Series 2016 to the next regularly scheduled City Council meeting.

The motion passed unanimously.

NEW BUSINESS

Council Bill 6, Series 2016; Proposed Amendments to Article XI of Chapter 16 of the Municipal Code Establishing O-2, Open Space, Conservation and Historic Area District and Section 16-4-10 and 16-15-40 for Corresponding Changes to Open Space Zoning Regulations (first reading)

Special Projects Coordinator Kropf presented Council Bill 6, Series 2016 on first reading. She indicated that the proposed bill would amend Article XI of Chapter 16 of the Municipal Code by establishing the O-2, Open Space, Conservation and Historic Area Zoning District, and Sections 16-4-10 and 16-15-40 for corresponding changes to open space zoning regulations. She explained that in 2007, a conservation easement

was placed on Quincy Farm, 4400 E. Quincy Avenue, and donated to the City subject to a life estate. Creation of a zoning category applicable to the anticipated short and long-term uses of Quincy Farm was noted as an immediate need by the Quincy Farm Visioning Committee in the October 2014 final report to City Council. The Quincy Farm Committee (QFC) coordinated with the Parks, Trails and Recreation Commission (PTRC) and Planning and Zoning Commission (P&Z) to develop the draft council bill.

Mayor Pro Tem A. Brown questioned Section 16-11-140 "Oversight committee" of the proposed bill. He noted that Council already held the power to create oversight committees. He suggested editing the section and renaming it "Site and building improvements".

Mayor Christman explained that part of the intent was for the oversight committee to make budget recommendations.

Mayor Pro Tem A. Brown replied that this proposed bill was a land use ordinance and should be separate from the budget. He indicated that he was concerned the proposed ordinance would create confusion as to where the responsibility resides.

Councilor K. Brown indicated that the proposed wording allowed the Council to create a separate committee so that not everything was assigned to PTRC by default.

Mayor Pro Tem A. Brown replied that it did not need to be in the proposed ordinance because the authority to create a committee was already a general legislative power of Council. He added that improvement of a historical property could be controversial and he expressed concern that there was potential to interpret the second half of Section 16-11-140 in an unintended manner.

Councilor Gallagher asked how Council would address financial issues.

Mayor Pro Tem A. Brown replied that broadly speaking any financial issues would be addressed through the annual budget process.

Mayor Christman suggested deleting the entire section 16-11-140 of the proposed bill. She agreed that the references to historic designation and conservation easements was redundant and could create conflict.

Mayor Pro Tem A. Brown agreed that he did not believe anything would be lost by removing the section.

Councilor Griffin noted that he did not want to limit the power of future Councils.

Councilor K. Brown agreed that Council could put additional restrictions as needed on any property they accepted in the future.

City Attorney Michow noted that the City did not have any local historical designation criteria, but did contain several properties that were designated by the state as historical properties.

Councilor K. Brown indicated that the state historical designation could be added to the goals of the proposed ordinance or it could be left out to be evaluated on a case by case basis.

Mayor Christman noted that removing the section would give Council more flexibility while leaving it in could result in confusion.

Mayor Pro Tem A. Brown questioned Section 16-11-150 "Alternative off-street parking requirements" which had "off-street" in the title but "off-site" in the text body.

Special Projects Coordinator Kropf replied that both should say "off-site".

Mayor Pro Tem A. Brown suggested that the public might be more comfortable if there was a mandatory requirement for an off-site parking plan for events expected to attract in excess of a certain number of vehicles rather than leaving it to the City Manager's discretion.

Mayor Christman noted that most events would encourage participants to walk, ride bikes or horses, or use shuttles instead of driving and therefore would not need a parking plan regardless of the size of the event. She noted that this particularly applied to Quincy Farm because it had no parking.

Councilor Gallagher asked what kinds of events would be permitted.

Mayor Christman replied that hadn't been decided.

Mayor Pro Tem A. Brown noted that there was sensitivity to traffic in the immediate area around Quincy Farm. He added that he had faith in staff's judgement but had more faith in a mandatory requirement based on a threshold.

Councilor K. Brown indicated that future properties that would fall under this zone district may not need event parking. She asked if there were current parking regulations in the Municipal Code that would apply to open space.

Mayor Pro Tem A. Brown noted that the only trigger point currently in the Municipal Code was 2,000 or more people for a major event permit.

Councilor K. Brown indicated that she believed any parking regulations in the proposed ordinance should be standard daily parking regulations for all priorities in the O-2 zone district, perhaps with an opportunity to waive the requirements based on the specific property features.

Mayor Christman indicated there was no parking at Quincy Farm and staff should have flexibility based on the event.

Councilor K. Brown noted that there were no parking requirements for open space.

Mayor Christman replied that Quincy Farm was different than other open space areas because it had buildings.

Councilor K. Brown indicated that the proposed ordinance should either include standard parking requirements with allowed exceptions based on special circumstances, or should not include any parking requirements. She added that event oriented parking requirements were not appropriate in the proposed ordinance because it was not known if future properties in the O-2 zone district would have events.

Councilor Gallagher noted that the proposed bill was clearly written with Quincy Farm in mind.

Councilor K. Brown agreed and added that it was written with events in mind.

Mayor Pro Tem A. Brown agreed that the Municipal Code did not have event related parking requirements and the current parking requirements in Section 16-16-10 were based on use, square feet, number of seats etc. and any parking for a library or museum would have to be approved for increase of impervious surface.

Councilor Gallagher cautioned against parking issues arising from visitors parking in nearby neighborhoods and walking to Quincy Farm for events. He asked if current ordinances in the Municipal Code would cover this issue.

Councilor K. Brown indicated that the City already had the authority to manage that kind of issue.

Mayor Christman noted that Quincy Farm would have to be exempted from current City parking requirements.

Councilor K. Brown agreed.

Mayor Pro Tem A. Brown indicated he was fine with the language as written but believed it would benefit the public to have a requirement based on a threshold.

Councilor K. Brown agreed but opposed evaluating each event on a case by case basis. She suggested amending the existing parking ordinance to incorporate the new zone district.

Mayor Christman indicated that the intent was to encourage daily use of Quincy Farm by residents. She noted that the proposed bill was just for the zoning and that policies related to the use of Quincy Farm would come later.

Councilor K. Brown suggested exempting open space from the City's parking requirements and that at some point there should be a requirement for parking plans for events.

City Manager Thorsen indicated he was comfortable approving off-site parking requirements and suggested that the City did not want to require major event permits for these types of events. He suggested amending section 16-11-150 of the proposed ordinance to require events that exceed existing on-site parking to receive approval from the City.

Mayor Christman noted that there will not be any on-site parking for any Quincy Farm events. She suggested exempting all open space from the parking requirements and then the City could decide on required parking on a case by case basis.

Mayor Pro Tem A. Brown added that events on Quincy Farm would be reviewed by the City Manager regardless.

Mayor Christman noted that if five people wanted to walk onto Quincy Farm they shouldn't be required to provide a plan for five parking spaces.

Mayor Pro Tem A. Brown asked if section 16-11-150 should be removed from the proposed ordinance.

Councilor K. Brown replied that Quincy Farm should be exempt from the City's parking ordinance.

Mayor Christman indicated that would concern P&Z because they believed there should be an obligation to make a plan for off-site parking.

Councilor K. Brown suggested that it could be part of the City's special event permit policy.

City Attorney Michow advised that the Council not exempt all uses of properties in the proposed O-2 zone district from parking requirements as the ordinance would apply to potential properties besides Quincy Farm in the future. She suggested removing Section 16-11-150 from the proposed ordinance and adding language on parking in the O-1 and O-2 zone districts to the City's existing parking ordinance.

Mayor Christman expressed concern that Quincy Farm would be in violation of the parking requirements.

Councilor K. Brown noted that the Quincy Farm property would not be in violation until it was rezoned as O-2.

Mr. Seda noted that parking spaces did not necessarily have to be impervious.

Councilor K. Brown explained that parking was prohibited on Quincy Farm by the conservation easement. She questioned Section 16-11-160 "Area and dimensional requirements" being limited to R-1.

Mayor Christman noted that might be too restrictive.

Mayor Pro Tem A. Brown agreed.

Councilor K. Brown asked what zone districts were in the Buell.

QFC Chair Russell Stewart replied that there were R-3A and R-1 properties in the Buell.

Mayor Pro Tem A. Brown suggested that section be amended to allow for smaller lots.

Councilor K. Brown noted that some minimum lot size was advisable.

Mayor Pro Tem A. Brown suggested allowing R-1, R-2 and R-3.

QFC Chair Stewart agreed that Section 16-11-140 might create confusion and was unnecessary as Council already have the authority to create an oversight committee. He indicated that parking could be a sensitive topic but he believed it may be better addressed by rules and regulations than in the zoning code. He agreed that there was no reason to restrict O-2 zoning to R-1 sized properties. He added that rezoning Quincy Farm would be a long process and that the property couldn't be used until it was rezoned so it would be some time before these issues needed to be resolved.

Mayor Pro Tem A. Brown asked if the Quincy Farm Committee had discussed designating Quincy Farm as an official park.

QFC Chair Stewart replied that use of the property was determined by the conservation easement which was more restrictive than the City's park regulations.

Mayor Christman cautioned that if in the future Council changed the definition or regulations of official parks that the new regulations could conflict with the conservation easement. She added that O-2 properties may not be a good fit for the park designation.

QFC Chair Stewart noted that Quincy Farm had so many protections that designating it as a park was unnecessary.

Councilor K. Brown asked if Council wanted to revise Section 16-11-150 to exempt O-2 properties from the current parking regulations in Section 16-16-10, or revise Section 16-16-10 to include O-1 and O-2 parking regulations.

Mayor Pro Tem A. Brown suggested passing the proposed ordinance on first reading with deletion of sections 16-11-140, 150 and 160, and requesting additional staff input on parking in anticipation of second reading.

Councilor K. Brown noted that the City would have some time to revise Section 16-16-10 since it would not apply to Quincy Farm until the property was rezoned as O-2.

Mayor Pro Tem A. Brown moved, seconded by Councilor Griffin to approve on first reading Council Bill 6, Series 2016 as submitted in Exhibit A of the July 19, 2016 staff memorandum, with deletion of sections 16-11-140, 150 and 160, amending Article XI of Chapter 16 of the Municipal Code establishing the O-2, Open Space, Conservation and Historic Area Zoning District, and Sections 16-4-10 and 16-15-40 for corresponding changes to open space zoning regulations.

The following votes were recorded:

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

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

Resolution 10, Series 2016; Intergovernmental Agreement Regarding Cost Sharing and Collaboration on the High Line Canal Underpass Project at Hampden Avenue and Colorado Boulevard

Deputy City Manager/Director Goldie presented Resolution 10, Series 2016 for Council's consideration. He explained that the City had to meet deadlines for the funding for this project. He noted that the maintenance agreement was not finalized, but that the City would be responsible for only the daily and routine maintenance of the underpass and would not be obligated for any major maintenance or reconstruction. The resolution commits the City to obtaining the easement of the High Line Canal connecting through the Denver First Church property and that would not be finalized until both IGAs were fully executed. In the proposed agreement Arapahoe County committed to covering any cost overruns up to \$1 million. The agreement also stated that the City is not obligated to pay any cost overruns associated with the project.

Councilor VanderWerf asked if staff was expecting cost overruns.

Deputy City Manager/Director Goldie replied that staff had heard that construction costs were escalating but that staff had built contingency into the original budget of the project. It was unlikely that cost overruns would be more than the \$1 million contingency budgeted by staff.

Councilor Gallagher asked about the total costs for the project.

Deputy City Manager/Director Goldie replied that the City had budgeted \$218,000 and had received a \$130,000 grant for the trail construction, and had budgeted \$75,000 and had received a \$40,000 grant for the easement, and had agreed to contribute \$450,000 local match for the project.

Councilor K. Brown asked about the status of the maintenance agreement.

Mayor Christman replied that CDOT was negotiating responsibilities with Denver and Arapahoe County.

Councilor K. Brown expressed concern that if an agreement was not reached then the City could be stuck with a non-functioning underpass.

Mayor Christman replied that the IGA being considered by Council tonight was subject to the maintenance agreement, and that work on the project would not begin without a fully executed maintenance agreement.

Mayor Pro Tem A. Brown moved, seconded by Councilor VanderWerf to approve Resolution 10, Series 2016, approving an Intergovernmental Agreement Regarding Cost Sharing and Collaboration of the High Line Canal Underpasses Project at Hampden Avenue and Colorado Boulevard by and among the City of Cherry Hills Village, the City and County of Denver and the Board of County Commissioners of the County of Arapahoe.

The motion passed unanimously.

REPORTS

Mayor's Report

Mayor Christman reported that she would meet with Representative Kagan and CDOT regarding the proposed Glenmoor traffic light on Belleview. She noted that traffic at that intersection was an increasing safety issue and would become worse with the upcoming development along I-25.

Members of City Council

Councilor K. Brown reported that she attended the Centennial Airport Community Noise Roundtable (CACNR) last week and the CACNR had approved the memorandum of understanding (MOU) with the Arapahoe Airport Board, conditional upon no concerns from the FAA. She explained that this had been a two year project for the CACNR and was a giant step forward. She noted that the MOU included funding from participating municipalities and noted that the City would be asked to pay approximately \$1000 after

the FAA determined it had no concerns and the MOU was reviewed by the city attorneys of the participating municipalities.

Councilor VanderWerf reported that the Public Art Commission would hold a half-day retreat to redevelop its master plan in early September.

Mayor Pro Tem A. Brown had no report.

Councilor Griffin had no report.

Councilor Gallagher reported that the west side of the Village had a successful July 4th celebration. He noted that Clarkson was part of the greater Denver metro biking system and sharrows would be added as part of the repaving and restriping of the street. He added that notification would be given through signs and painting on Clarkson and through the Crier.

Members of City Boards and Commissions

PTRC Chair Robert Eber reported that PTRC would have a public meeting about the John Meade Park planning during the Annual Summer Movie Night on August 20th. PTRC was also working on ideas of how to use the park and rules of use, if any.

QFC Chair Stewart indicated that the founding resolution of QFC required a periodic report to Council. He noted that Cat Anderson had passed on June 2nd and that triggered a 90 day transition period for the property to change hands to be managed by the City. He noted that QFC was working with attorneys, Ms. Anderson's family and tenants and all was going well. He suggested that the City host a ceremony and invite Ms. Anderson's family to attend, perhaps in late September or early October.

Council discussed options for the ceremony.

QFC Chair Stewart reported that QFC was working on transferring the property's utility accounts to the City; working with tenants on residential leases; working with mowers, landscapers and arborists; coordinating with the horse club; prioritizing repairs; and researching water rights issues. He noted that the Cherry Hills Land Preserve Board was interested in helping with Quincy Farm.

Councilor Griffin thanked the Committee for their work.

City Manager & Staff

City Manager Thorsen had no report.

Police Chief Tovrea reported that the Police Department would again participate in National Night Out on August 2nd and hoped that Council members could attend. She

added that the Police Department had received many well wishes after the events in Dallas and Baton Rouge and appreciated the support from the community.

Deputy City Manager/Director Goldie reported that the chip seal project would be done at the end of next week and paving will be done in the next few weeks.

City Attorney

City Attorney Michow had no report.

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. Section 24-6-402(4)(f) concerning matters pertaining to an employee for which the employee has consented to the discussion in executive session; and 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 then upon conclusion of the Executive Session the Council adjourn.

The following votes were recorded:

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

Vote on Executive Session: 5 ayes. 0 nays. The motion carried.

The Executive Session began at 8:40 p.m.

The meeting adjourned at 9:26 p.m.

Laura Christman, Mayor

Laura Smith, City Clerk

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

ITEM: 7a

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: EMILY KROPF, SPECIAL PROJECTS COORDINATOR

SUBJECT: COUNCIL BILL 5, SERIES 2016; PROPOSED AMENDMENT TO MUNICIPAL CODE SECTION 16-2-40 CONCERNING PROCEDURES FOR TEXT AMENDMENTS AND REZONING OF PROPERTY AND ADDING A DEFINITION OF TEXT AMENDMENT TO SECTION 16-1-10 (SECOND AND FINAL READING, PUBLIC HEARING CONTINUED FROM JULY 19, 2016)

DATE: AUGUST 2, 2016

ISSUE:

Should the City Council approve on second and final reading Council Bill 5, Series 2016, amending Municipal Code Section 16-2-40 concerning procedures for text amendments and rezoning of property and adding a definition of text amendment to Section 16-1-10 (Exhibit A)?

DISCUSSION:

Staff is presenting for review a proposed amendment that clarifies the procedures for text amendments and rezoning of property and updates the notice requirements to be consistent with the City's current practices. The draft ordinance was approved by City Council on first reading on June 7, 2016 (Exhibit B). The Planning and Zoning Commission recommended approval on June 14, 2016 (Exhibit C). A memo from the City Attorney addressing state statutes and a redline copy of the ordinance are included as Exhibit D.

The City Council reviewed the draft ordinance on second reading on July 19, 2016 and continued the public hearing to August 2, 2016 in order for staff to gather other municipality noticing requirements for rezoning (see agenda item 5a from the City Council packet for draft minutes). The following table summarizes the mailing requirements for public notices for peer communities.

CHERRY HILLS VILLAGE
COLORADO

Municipality	Mailing Requirements for Rezoning
Boulder, CO (Exhibit E)	Written notice must be sent by first class mail at least 10 days before final action to property owners within 600 feet of the subject property and any mineral rights owners.
Castle Rock, CO (Exhibit F)	Written notice must be sent by first class mail at least 15 days prior to the hearing to owners of the subject property and to owners of property within 300 feet of the subject property; provided however, that the Director of Development Services, at his or her discretion, may require an expanded notification area.
Centennial, CO (Exhibit G)	Written notice must be sent by first class mail at least 14 days prior to the hearing to the owners of record of adjacent properties, registered neighborhoods, Centennial Council of Neighborhoods and participants who signed in to community meetings.
Greenwood Village, CO (Exhibit H)	<p>Within Council-approved development impact zones: written notice must be sent by first class mail at least 15 days prior to the hearing to the record owners of all real property within Council-approved development impact zones based upon the anticipated impact of the proposal as determined by the Community Development Director, to any properties outside the development impact zone or corporate boundaries of the City that lie immediately adjacent to the subject property and to any neighborhood groups or homeowners' associations registered with the City within the area of notification.</p> <p>Outside Council-approved development impact zones: written notice must be sent by first class mail at least 15 days prior to the hearing to the record owners of all real property within 2,000 feet of the property lines of the property and to any neighborhood groups or homeowners' associations and properties outside the corporate limits of the City that lie immediately adjacent to the subject property.</p>
Lone Tree, CO (Exhibit I)	Written notice must be sent by first class mail to all adjoining landowners, to homeowners' associations which have authority over property located within 200 feet of the land proposed for rezoning, to the mineral rights owners and lessees and to easement holders.

Finally, it is noted that all City applications require noticing only to the adjacent properties. The sole exception is a street right-of-way vacation which requires notification of all property owners within 500 feet of the affected street. It is staff's recommendation that if a larger noticing requirement is desired then that distance be limited to 500 feet to be consistent with a street right-of-way vacation.

CHERRY HILLS VILLAGE
COLORADO

PUBLIC NOTICE:

Notice of the public hearing was published in the June 30, 2016 edition of *The Villager*. Staff has not received any comments from the public in response.

RECOMMENDATION:

Staff recommends approval of Council Bill 5, Series 2016 amending Municipal Code Section 16-2-40 concerning procedures for text amendments and rezoning of property and adding a definition of text amendment to Section 16-1-10 on second and final reading. Should the City Council decide in its legislative discretion to amend the draft ordinance to change any mailing requirements for public notice, staff has provided possible text amendments in the "Recommended and Alternative Motions" section below with additions shown in underline and deletions shown in strike-through.

RECOMMENDED AND ALTERNATIVE MOTIONS:

"I move to approve on second and final reading Council Bill 5, Series 2016 as submitted in Exhibit A of the August 2, 2016 staff memorandum, amending Municipal Code Section 16-2-40 concerning procedures for text amendments and rezoning of property and adding a definition of text amendment to Section 16-1-10."

[or]

"I move to approve on second and final reading Council Bill 5, Series 2016 as submitted in Exhibit A of the August 2, 2016 staff memorandum, amending Municipal Code Section 16-2-40 concerning procedures for text amendments and rezoning of property and adding a definition of text amendment to Section 16-1-10, **with the following amendment to subsection (c) of Section 16-2-40 to read as follows:**

(2) For rezonings, in addition to newspaper publication, the applicant shall send written notices of the public hearing to all property owners located within a radius of [insert distance] feet from all points on the perimeter of the contiguous to, including across any street from, any portion of the subject property. Said notice must contain a typewritten identical copy of that notice required to be posted in the Village Center, and shall be mailed by certified mail and regular U.S. mail at least fifteen (15) days prior to the scheduled public hearing. In addition, any proposed rezoning must be advertised by a posted notice at least two (2) feet by three (3) feet in size and with a caption "NOTICE OF PUBLIC HEARING" or similar language, with each letter of the caption at least two (2) inches in height, containing the same data as above, posted continuously for at least fifteen (15) days prior to the hearing and located on the subject property in a conspicuous location clearly visible from an adjoining roadway, if practical.

[or]

CHERRY HILLS VILLAGE
COLORADO

(2) For rezonings, in addition to newspaper publication, the applicant shall send written notices of the public hearing to all property owners located within a radius of [insert distance] feet from all points on the perimeter of the contiguous to, including across any street from, any portion of the subject property, provided however, that the Director, at his or her discretion, may require an expanded notification area. Said notice must contain a typewritten identical copy of that notice required to be posted in the Village Center, and shall be mailed by certified mail and regular U.S. mail at least fifteen (15) days prior to the scheduled public hearing. In addition, any proposed rezoning must be advertised by a posted notice at least two (2) feet by three (3) feet in size and with a caption "NOTICE OF PUBLIC HEARING" or similar language, with each letter of the caption at least two (2) inches in height, containing the same data as above, posted continuously for at least fifteen (15) days prior to the hearing and located on the subject property in a conspicuous location clearly visible from an adjoining roadway, if practical.

[and/or]

And to add a new subsection (c)(3) to address substantial compliance standard for notices to read as follows:

(3) The standard for compliance with the notice provisions of this Section shall be substantial compliance. The City Manager shall determine if substantial compliance with these provisions has been demonstrated and that administrative decision shall be final and binding. In the event the City Manager determines that the notice does not meet the substantial compliance standard, such noticed hearing shall be vacated and the matter re-noticed.

ATTACHMENTS:

- Exhibit A: Council Bill 5, Series 2016
- Exhibit B: June 7, 2016 City Council Minutes
- Exhibit C: June 14, 2016 P&Z Minutes
- Exhibit D: June 7, 2016 City Attorney Memo
- Exhibit E: Boulder, CO Municipal Code
- Exhibit F: Castle Rock, CO Municipal Code
- Exhibit G: Centennial, CO Municipal Code
- Exhibit H: Greenwood Village, CO Municipal Code
- Exhibit I: Lone Tree, CO Municipal Code

COUNCIL BILL NO. 5
SERIES OF 2016

INTRODUCED BY: _____
SECONDED BY: _____

**A BILL FOR AN ORDINANCE
OF THE CITY OF CHERRY HILLS VILLAGE
AMENDING SECTION 16-2-40 OF CHAPTER 16 OF THE MUNICIPAL CODE CONCERNING
PROCEDURES FOR TEXT AMENDMENTS AND REZONING OF PROPERTY AND ADDING
A DEFINITION OF TEXT AMENDMENT TO SECTION 16-1-10 OF THE MUNICIPAL CODE**

WHEREAS, the City of Cherry Hills Village ("City" or "Village") is a home rule municipal corporation organized in accordance with Article XX of the Colorado Constitution; and

WHEREAS, pursuant to its Home Rule Charter and Title 31, Article 23 of the Colorado Revised Statutes, the City is authorized to adopt regulations governing the development of property within the boundaries of the City to further the health, safety and welfare of the citizens of the community; and

WHEREAS, the City Council has adopted zoning and land use regulations codified in Chapter 16 of the Cherry Hills Village Municipal Code, and has adopted an official zoning map for the City; and

WHEREAS, in accordance with Section 16-2-40 of the Municipal Code, the City Council desires to modify and update the procedures for amending the zoning map and making "text" changes to Chapter; and

WHEREAS, the Planning and Zoning Commission has considered such amendments and has recommended approval of the same to City Council; and

WHEREAS, the City Council conducted a duly noticed public hearing to consider the proposed amendments as set forth in this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL FOR THE CITY OF CHERRY HILLS VILLAGE, COLORADO, ORDAINS:

Section 1. Section 16-2-40 of the Cherry Hills Village Municipal Code, entitled "Amendments", is hereby repealed and reenacted to read as follows:

Sec. 16-2-40. Amendments.

(a) Amendments to Zoning Map and Text Amendments. Amendments to this Chapter or any section thereof (a text amendment) may be initiated by the City Council or by the Planning and Zoning Commission. Amendments to the official zoning map for a specific parcel, lot or property (a rezoning) may be initiated by application from a property owner seeking to rezone such owner's property in the City or by City Council by making application therefor on such a form as the Planning and Zoning Commission may prescribe.

(1) Rezoning Application. A rezoning application shall be filed with the Community Development Department, together with payment of the applicable fee. The following application materials are required for an application for rezoning:

a. Description of the land area to be rezoned and the requested new classification, along with a sketch, to scale, showing the boundaries of the area requested to be rezoned, along with the existing zoning on all adjacent sides of the area.

b. A statement of justification for the rezoning, including discussion of such of the following conditions as are applicable:

1. Change in area conditions;
2. Error in original zoning;
3. Conformance to the Master Plan for the area; and
4. Suitability of the site to the proposed use.

c. Description and sketches, if available, of structures or uses proposed if rezoning is granted, along with a description of uses within two hundred (200) feet of the boundary of the proposed area of change, in all directions, and the effect of the proposed use upon the adjacent areas.

d. Time schedule for any contemplated new construction or uses.

(2) Text Amendment Application. The City Council may amend any provision of this Chapter in its sole legislative discretion, subject to the limitations of the Colorado statutes that affect home rule municipalities and the Colorado and United States Constitutions.

(b) Referral to Planning and Zoning Commission. All applications for text amendments shall be referred to and considered by the Planning and Zoning Commission at a duly noticed meeting. All applications for rezonings shall be referred to and considered by the Planning and Zoning Commission at a duly noticed public hearing as prescribed in Section 16-2-40(c). The Planning and Zoning Commission shall examine the rezoning proposal or text amendment and its conformity to the intent of this Chapter and to the City's master plan. A recommendation shall then be made to the City Council, along with reasons therefor.

(c) City Council Public hearing process.

(1) The City Council shall hold a public hearing before any rezoning or text amendment is enacted through adoption of an ordinance by the City Council. Public notice of the time and place of such public hearing shall be published at least fifteen (15) days prior thereto, in one (1) newspaper with general circulation in the City and describing generally the matters involved in the proposed text amendment or rezoning.

(2) For rezonings, in addition to newspaper publication, the applicant shall send written notices of the public hearing to all property owners contiguous to, including across any street from, any portion of the subject property. Said notice must contain a typewritten identical copy of that notice required to be posted in the Village Center, and shall be mailed by certified mail and regular U.S. mail at least fifteen (15) days prior to the scheduled public hearing. In addition, any proposed rezoning must be advertised by a posted notice at least two (2) feet by three (3) feet in size and with a caption "NOTICE OF PUBLIC HEARING" or similar language, with each letter of the caption at least two (2) inches in

height, containing the same data as above, posted continuously for at least fifteen (15) days prior to the hearing and located on the subject property in a conspicuous location clearly visible from an adjoining roadway, if practical.

(d) Enactment. Such an amendment to be enacted shall receive the affirmative vote of the majority of the membership of the entire City Council.

(e) Certification of the amendment. If an amendment should receive the required vote for adoption by the City Council, a certified copy of the amendment shall then be filed with the City Clerk. Rezoning shall be documented on the City's official zoning map.

Section 2. A definition of the term "text amendment" shall be added to Section 16-1-10 of the Cherry Hills Village Municipal Code, to read in its entirety as follows:

Text amendment means any amendment to the text of this Chapter or any section thereof initiated by the City Council or the Planning and Zoning Commission in accordance with Section 16-2-40(a) of this Chapter.

Section 3. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion would be declared invalid.

Section 4. Effective Date. This Ordinance shall become effective ten (10) days after publication on second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. _____, Series 2016, by the City Council of the City of Cherry Hills Village, Colorado this _____ day of _____, 2016.

Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Smith, City Clerk

Linda C. Michow, City Attorney

Published in *The Villager*
Published: _____
Legal #: _____

RECORD OF PROCEEDINGS

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.

RECORD OF PROCEEDINGS

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.

Vice Chair Blum asked if the City was applying for the zoning change.

Commissioner Wyman replied yes.

Commissioner Wyman stated that there could be unknown costs. He continued to say that the pond on the property has high salinity and it could be costly to drain if it was ever needed.

Chair Savoie stated that the Commission cannot be concerned with any potential costs at this time. He continued to say that any other uses would have to come back to the Commission.

Ms. Greene stated that the QFVC report states that the R-1 zoning does not permit public access and that the property will require rezoning and that the O-1 zoning does not provide enough flexibility.

Commissioner LaMair stated that page one of the ordinance should be clarified for O-1 and O-2 zoning.

Commissioner Lucas stated that the language in Section 16-11-120 is directly from the QFVC report and that he agreed with Chair Savoie that this could not apply to John Meade park.

Vice Chair Blum stated that any other zoning changes would have to come before the Commission regardless.

Commissioner Kaplan stated that this is a carefully worded document that will not open any floodgates.

Commissioner LaMair made a motion, which was seconded by Commissioner Blum to approve the proposed amendment to Article XI of Chapter 16 of the Municipal Code Sections 16-4-10 and 16-15-40 for corresponding changes to open space zoning regulations with the addition of clearer language and distinction between O-1 and O-2 on page 1 of the draft.

The motion was approved with a 5-1 vote.

b. Proposed Amendment to Section 16-2-40 of Chapter 16 of the Municipal Code Concerning Procedures for Text Amendments and Rezoning of Property

Ms. Kropf stated that Staff is presenting for recommendation to City Council a draft ordinance concerning procedures for text amendments and rezoning of property. She stated that the intent of the ordinance is to clarify the procedures for text amendments and rezoning of property and update notice requirements to be consistent with the City's current practices.

Ms. Kropf stated that a draft ordinance was presented to City Council on June 7th and approved on first reading with one minor change to Section 16-2-40(a) that a property owner may only seek to rezone his or her own property. She continued to say that the draft ordinance will go back to City Council on July 19th for public hearing and second reading.

Chair Savoie asked for further explanation.

Deputy City Attorney McAskin stated that when a landowner initiates a rezoning there is a requirement to mail notices certified mail return receipt, and that often the applicant has trouble getting all of the mailing receipts back. He continued to say that the applicant should not be held accountable for those who are notified not picking up their mail.

Chair Savoie stated that this is a cleanup item.

Commissioner Wyman asked where in the code are text amendments defined.

Ms. Kropf replied there is no definition.

Deputy City Attorney McAskin stated that it would not be an issue to add the definition.

Commissioner Wyman made a motion, which was seconded by Chair Savoie, to recommend to the City Council approval of the proposed amendment to Section 16-2-40 of Chapter 16 of the Municipal Code concerning procedures for text amendments and rezoning of property with the addition of a definition of text amendment added in Chapter 16 Article I.

The motion passed unanimously.

NEW BUSINESS

Chair Savoie stated that the former mayor of the city, Doug Scott recently passed away and that the Commission would like to extend condolences to his family.

Commissioner LaMair stated that City Council unanimously denied the recommendation to lower the height limit on new homes.

Ms. Kropf stated that she would send the minutes of the meeting to the Commission.

Vice Chair Blum asked why did the Commission review the height limit.

Chair Savoie stated that it was brought to the Commission as a review after the standards had been in place.

Chair Savoie made a motion, which was seconded by Commissioner Kaplan, to reduce the overall height limit to 30 feet in all zone districts except for R-1.

Planning and Zoning Commission Meeting

June 14, 2016



TO: Honorable Mayor Christman and City Council

CC: Jim Thorsen, City Manager

FROM: Linda Michow, City Attorney

DATE: June 7, 2016

SUBJECT: Council Bill No. 5, Series 2016: Amending Section 16-2-40
Concerning Procedures for Text Amendments and Rezoning of
Property

ISSUE:

Section 16-2-40 of the Municipal Code sets forth the process for initiating a zoning map amendment (rezoning of property) and amendments to Chapter 16 (text amendment). Council Bill No. 5 proposes amendments to Section 16-2-40 to clarify the distinction between rezoning of property and text amendments, and to change the notice requirements to be consistent with current City practice.

BACKGROUND:

Chapter 16 of the City of Cherry Hills Village Municipal Code governs zoning and regulates the development of land within the Village. As a home rule municipality, the City has 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 follows state statute regarding the process for rezoning of property and amending the City’s zoning regulations. Section 16-2-40, titled “Amendments”, incorporates the state requirement for public hearing and newspaper publication of the public hearing, and also provides 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) apply to conditional use permits (see Section 16-18-60) and expanded use permits (see Section 16-20-40). It is City staff’s opinion that requiring an applicant to present evidence of signed return receipts is problematic and overly burdensome as an applicant cannot guarantee that a mailed notice will be signed for and picked up by the intended recipient. Moreover, it is not clear in Section 16-2-40 whether failure to meet this requirement is a jurisdictional prerequisite to conducting the public hearing on the scheduled application. Finally, it has not been the City’s practice to receive signed return receipts from adjacent property owners.

For these reasons, City staff is proposing amendments to Section 16-2-40 to:

- Maintain the requirement for certified mailing;
- Remove the requirement for return receipts and for evidence of signed return receipts; and
- Add delivery of mailed notice by regular U.S. mail.

In addition, staff has identified and proposes other “clean-up” changes in Section 16-2-40 to better differentiate between zoning map amendments (rezoning) and amendments to Chapter 16 (text amendments). All of the proposed changes are presented in Council Bill No. 5 for consideration by City Council.

RECOMMENDATION:

City staff recommends City Council approve on first reading Council Bill No. 5, Series 2016, subject to further discussion and revision as City Council may deem appropriate. Council Bill No. 5 maintains the City’s policy of providing enhanced notice requirements for zoning applications and encouraging community input.

PROPOSED MOTION:

“I MOVE 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”

ATTACHMENTS:

Exhibit A - Council Bill No. 5, Series 2016

Exhibit B - Section 16-2-40 – Legislative Version with proposed changes shown in strike through (deletions) and underline (additions).

SECTION 16-2-40
LEGISLATIVE VERSION WITH TRACK CHANGES

Section 16-2-40. Amendments.

(a) Amendments to Zoning Map and Text AmendmentsInitiation. In addition to amendments ~~Amendments to this Chapter or any section thereof (a text amendment)~~ may be initiated by the City Council or by the Planning and Zoning Commission. ~~, amendments to this Chapter or any section thereof, or to~~Amendments to the official zoning map for a specific parcel, lot or property ~~(a rezoning)~~, may be initiated by application from any person owning property in the City ~~or by City Council~~ by making application therefor on such a form as the Planning and Zoning Commission may prescribe.

(1) Rezoning Application. A rezoning application shall be filed with the Community Development Department, together with payment of the applicable fee.

The following application materials are required for an application for rezoning, which shall include ~~all of the following information, if applicable, in addition to such other data as the Planning and Zoning Commission may require:~~

~~(1a).~~ Description of the land area to be rezoned and the requested new classification, along with a sketch, to scale, showing the boundaries of the area requested to be rezoned, along with the existing zoning on all adjacent sides of the area.

~~(2b.)~~ A statement of justification for the rezoning, including discussion of such of the following conditions as are applicable:

- 1a. Change in area conditions;
- ~~b2.~~ Error in original zoning;
- ~~e3.~~ Conformance to the Master Plan for the area; and
- ~~d4.~~ Suitability of the site to the proposed use.

~~(3c.)~~ Description and sketches, if available, of structures or uses proposed if rezoning is granted, along with a description of uses within two hundred (200) feet of the boundary of the proposed area of change, in all directions, and the effect of the proposed use upon the adjacent areas.

~~(4d.)~~ Time schedule for any contemplated new construction or uses.

~~The application shall be filed with the City Clerk, together with payment of the applicable fee.~~

(2) Text Amendment Application. The City Council may amend any provision of this Chapter in its sole legislative discretion, subject to the limitations of the Colorado statutes that affect home rule municipalities and the Colorado and United States Constitutions.

(b) Referral to Planning and Zoning Commission. All applications for text amendments and rezonings zoning changes shall be referred to and considered by ~~referred by the City Clerk to the Planning and Zoning Commission~~ at a duly noticed meeting. ~~The Planning and Zoning~~

SECTION 16-2-40
LEGISLATIVE VERSION WITH TRACK CHANGES

~~Commission may, at its discretion and upon a vote of a majority of the Commission, hold a public hearing preceded by public notice thereof as provided in Subsection (c) below. The Planning and Zoning Commission shall in all cases examine the rezoning proposal or text amendment and its conformity to the intent of this Chapter and to the City's master plan. A recommendation shall then be made to the City Council, along with reasons therefor. The Planning and Zoning Commission may adopt reasonable rules and regulations for the conduct of its affairs consistent with the provisions of this Chapter.~~

(c) City Council Public hearing process.

~~(1) The City Council shall hold a public hearing before any rezoning or text such amendment is enacted by the City Council. a public hearing shall be held, pPublic notice of the time and place of such public hearing which shall be published at least fifteen (15) days prior thereto, in at least one (1) newspaper with general circulation in the City and describing generally the matters involved in the proposed text amendment or rezoning.~~

~~(2) For rezonings, it is the responsibility of in addition to newspaper publication, the applicant shall to send written notices, by certified mail, return receipt requested, of the public hearing to all property owners contiguous to, including across any street from, any portion of the subject applicant's property. Said notice must contain a typewritten identical copy of that notice required to be posted in the Village Center, and shall be mailed by certified mail and regular U.S. mail at least fifteen (15) days prior to the scheduled public hearing. Evidence of such mailing will be provided at the public hearing in the form of signed return receipts from each affected property owner. In addition, any proposed rezoning amendment to the map shall must be advertised by a posted notice at least two (2) feet by three (3) feet in size and with a caption "NOTICE OF PUBLIC HEARING" or similar language, with each letter of the caption at least two (2) inches in height, containing the same data as above, posted continuously for at least fifteen (15) days prior to the hearing and located on the subject property site, if practical, in a conspicuous location clearly visible from an adjoining roadway, if practical.~~

(d) Enactment. Such an amendment to be enacted shall receive the affirmative vote of the majority of the membership of the entire City Council.

(e) Certification of the amendment. If an amendment should receive the required vote for adoption by the City Council, a certified copy of the amendment shall then be filed with the City Clerk. Rezonings shall be documented on the City's official zoning map.

9-4-3. - Public Notice Requirements.

- (a) Process and Options: When a process or procedure identified in this title requires public notice, the city manager shall provide such notice according to table 4-2 of this section. If a code section does not reference a specific method, the city manager shall determine the most appropriate notification method to be used.

TABLE 4-2: PUBLIC NOTICE OPTIONS

<i>Public Notice Type</i>	<i>Type of Application, Meeting or Hearing</i>	<i>Mailed Notice</i>	<i>Posted Notice</i>
1	Administrative Reviews (except those identified below)	none	none
2	Subdivisions and Minor Subdivisions	To adjacent property owners and mineral rights owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
3	Good neighbor meetings	To property owners within 600 feet of subject property a minimum of 10 days before meeting	none
4	Solar exceptions, solar access permits, accessory units, cooperative housing	To adjacent property owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing

5	Applications requiring BOZA action, wetland permit and boundary determination	To property owners within 300 feet of subject property a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing
6	Development Review Applications (site review, use review, annexation, rezoning, concept plans)	To property owners within 600 feet of subject property and any mineral rights owners a minimum of 10 days before final action	Post property a minimum of 10 days from receipt of application and prior to final action or any hearing

(b) Mailed Notice: When mailed notice is required, the manager will notify by first class mail the owners of all property located within a radius specified in subsection (a) of this section from all points on the perimeter of the land included in the application. The notice will indicate:

- (1) That a review application has been filed,
- (2) The type of review requested,
- (3) That the application may be reviewed during the planning department's regular business hours,
- (4) A copy of the city manager's recommendation or decision on the application may be requested,
- (5) How comments or objections may be submitted, and
- (6) That public hearings may be held before the BOZA, the planning board, landmarks advisory board and/or the city council for which only published, rather than personal mailing will be provided.

(c) Posting: Posted notice shall meet the following standards:

- (1) The notice shall be on a sign provided by the City and posted by the applicant.
- (2) The notice shall indicate the type of review requested and where interested persons may obtain more detailed information about the request.
- (3) All such notice shall be posted no later than ten days after the date the application is filed to ensure that notice is posted early in the review process. Properties shall remain posted until any final action or public hearing.
- (4)

The signs shall be placed along each abutting street, perpendicular to the direction of travel, in a manner that makes them clearly visible to neighboring residents and passers-by. At least one sign shall be posted on each street frontage.

- (5) The signs shall remain in place during the period leading up to a decision by the approving authority, but not less than ten days.
 - (6) On or before the date that the approving authority is scheduled to make a decision on the application, the city manager will require the applicant to certify in writing that required notice will be posted according to the requirements of this section.
- (d) **Published Notice:** Published notice is required for all public hearings and good neighbor meetings. The city manager shall have the notice published in a newspaper of general circulation in the City within ten days of the receipt of the application and not less than ten days prior to any hearing or meeting. The notice will indicate:
- (1) That a review application has been filed,
 - (2) The type of review requested,
 - (3) That such persons may review the application during the planning department's regular business hours, and
 - (4) In the case of notice for a public hearing, the notice will indicate the time, date and place of the hearing, a summary of the proposed development, its location, and where interested parties may request a copy of the city manager's recommendation or decision on the application.
- (e) **Notice - Mineral Estate:** The purpose of this notice provision is to comply with the notification of surface development requirements in article 24-65.5, C.R.S. The city manager will waive the notice requirements for mineral estate owners under this subsection for use review applications that will not result in the construction of a new building. The applicant shall:
- (1) At least thirty days before a final decision on a development review application, send notice, by first class mail, to the mineral estate owner.
 - (2) Provide in the notice a statement about how the decision will be made, rights of appeal, the location of the property that is the subject of the application, and the name of the applicant, the City of Boulder as the approving authority, and the name and address of the mineral estate owner.
 - (3) Identify the mineral estate holder in a manner consistent with § 24-65.5-103, C.R.S.
 - (4) Certify, in a form acceptable to the city manager, that such notice has been provided to the mineral estate owner.
- (f) **Additional Notice:** The city manager may require the applicant to provide notice in addition to the requirements of this chapter.
- (g) **Omissions or Defects in Notice:** The purpose of public notice provided in this section is to reasonably inform surrounding property owners of a pending review application. No minor omission or defect in the mailed, published or posted notice shall be deemed to impair the validity of the proceedings to consider the application. If at or prior to the public hearing or final approval, an omission or defect in

17.04.050 - Notice requirements.

A. The notice requirements for public hearing on the designated applications shall be as follows:

<i>Application Type</i>	<i>Neighborhood Meeting</i>	<i>Mineral Rights Notice (17.04.080)</i>	<i>Website Notice (17.04.060)</i>	<i>Written Notice (17.04.060)</i>	<i>Posted Notice (17.04.060)</i>
Sketch Plan	Optional	None	Yes	Yes	Yes
Annexation ¹	Optional	None	Yes	Yes	Yes
Zoning/Rezoning	Optional	Yes	Yes	Yes	Yes
Planned Development Plan <i>(including Interchange Overlay)</i>	Optional	Yes	Yes	Yes	Yes
Planned Development Plan Major Amendment or Amending PD Zoning Regulations	Optional	Yes	Yes	Yes	Yes
Planned Development Minor Amendment (Non-Interface)	Optional	None	Yes	None	None
Site Development Plan or Major Amendment <i>(Residential,</i>	Optional	Yes	Yes	Yes	Yes

<i>Interface or Commercial over 10 acres/100,000 sq. ft.)</i>					
Site Development Plan - Administrative (Non-Interface Commercial under 10 acres and 100,000 sq. ft.) or Minor Amendment	Optional	Yes	Yes	None	None
Downtown: Site Development Plan and Major Amendment	Optional	None	Yes	Yes	Yes
Use by Special Review - Site Development Plan and Amendment	Optional	Yes	Yes	Yes	Yes
Skyline/Ridgeline Variance	Optional	None	Yes	Yes	Yes
Board of Adjustment Variance	Optional	None	Yes	Yes	Yes
Wireless Facility - New	Optional	None	Yes	Yes	Yes
Wireless Facility - Co-location	Not necessary	None	None	None	None

Infrastructure Construction Plans	Not necessary	None	None	None	None
Technical Criteria Variance	Not necessary	None	None	None	None
Final Plat/Amended Plat	Not necessary	Yes	Yes	Adjacent owners with application submittal	None

¹ Annexations require additional notice pursuant to Chapter 20.02, CRMC.

(Ord. 2012-18 §1, 2012)

17.04.060 - Notice for public hearing.

- A. All land use applications for which this Title mandates public hearings shall be subject to the requirements set forth in this Chapter. Noticing of public hearings is intended to provide for the opportunity for public participation or public information on land use and development applications within the Town.
- B. The applicant shall be responsible for providing written notice and posting of the property of the public hearing in accordance with these requirements.
 - 1. Written notice. Written notice of a public hearing shall be sent by first-class mail at least 15 days prior to the date on which the public hearing is to be held. Notice is considered sent on the date it is postmarked by the US Postal Service. Written notice shall be sent to owners of the property which is subject of the public hearing and to owners of property within three hundred feet of the subject property; provided however, that the Director, at his or her discretion, may require an expanded notification area. In compiling the names and addresses of the notice recipients, the applicant may rely on the accuracy of the public records of Douglas County, Colorado within 30 days of the hearing.
 - 2. Posted notice. The real property proposed to be developed shall be posted with signage at least 15 days prior to the date on which the public hearing is to be held, giving notice to the general public of the proposed development. For parcels of land exceeding ten acres in size, two signs shall be posted. The size of the sign is established in accordance with the standards set forth in the



D. Meeting Logistics.

1. If the application is for a public hearing development order, the Director shall set the application on the next available agenda of the next body that will consider the application, consistent with the legal requirements for public notice.
2. The Director shall coordinate with recommending and decision-making bodies to fix reasonable times for hearings.
3. The Director shall notify the applicant regarding the time and place of the public hearings.

Sec. 12-14-310 Referrals

- A. **Generally.** As part of the review process, referral agencies are notified and have the opportunity to respond in writing. The applicant may be required to pay any fees assessed by these referral agencies in advance of their review. This referral period is 21 days, which can be extended by up to 30 additional days by mutual consent of the applicant and the Director. Failure of an agency to respond within the prescribed time period (or extended period) shall indicate consent by that agency to the contents of the application.
- B. **Parcels Proposed for Development in an Airport Influence Area.** If the parcel proposed for development is within an Airport Influence Area (see Division 3-9, *Airport Influence Area*), then all applications for development approval shall be referred to the airport operator for review and comment at the time the proposal is referred to other agencies.

Sec. 12-14-311 Public Notice

- A. **Generally.** Public notice of public hearings required by this LDC shall be provided as required by Table 12-14-311, *Required Notice*.

Table 12-14-311 Required Notice			
Type of Public Hearing Development Order	Posted Notice	Publication Notice	Mailed Notice
General Requirements – All Applications	Signs must be posted on the property that is subject to the application at least 14 days before the hearing.	Publication in a newspaper of general circulation in the City of Centennial. The first day of publication must occur at least 14 days before each public hearing.	At least 14 days prior to the hearing date, notice must be mailed to the Owner(s) of Record of adjacent properties, registered neighborhoods (within the established threshold distances in Section 12-14-304, <i>Threshold Review</i>), CenCON, and participants who signed in to community meetings.
Conditional Use Permit; Temporary Conditional Use Permit; Site Plan; Pattern Book; Variance; Floodplain Variance	Required	NA	Required
PUD Conversions; Rezoning (including the establishment or	Required	Required	Required

Table 12-14-311 Required Notice			
Type of Public Hearing Development Order	Posted Notice	Publication Notice	Mailed Notice
addition to any overlay district, except for a City initiated rezoning)			
Text Amendment; Comprehensive Plan or Sub-Area Plan Amendment; Large Scale Legislative Rezoning	NA	Required ¹	NA
Small Scale City Rezoning	NA	Required	Required

¹Publication notice of Planning and Zoning Commission public hearings for text amendments to the LDC shall not be required.

B. **Technical Requirements for Notice.** All notices shall describe the action proposed to be taken and the date, time, and place of the public hearing. In addition, the following requirements apply based on the type of required notice:

1. *Posted Notice.*
 - a. Signs shall be of a size and design established by the Director, which shall be readily visible to passersby.
 - b. A minimum of one sign along each public thoroughfare bordering the property that is subject to the application shall be required. The Director may require additional signs at his or her discretion to provide adequate notice to the public of such application.
2. *Publication Notice.* Where publication is required, notice shall be published in a newspaper of general circulation in the City of Centennial or in the official journal of the City. Time requirements are based on the first day of publication.
3. *Mailed Notice.* Mailed notices shall be sent by the City via First Class mail at the applicant's expense.

Sec. 12-14-312 Hearing Procedures

- A. **Generally.** All public hearing approvals require a public hearing before the Planning and Zoning Commission, City Council, or Hearing Officer (see Section 12-14-204, *Public Hearing Development Orders*).
- B. **Hearing Procedures.** The Planning and Zoning Commission, City Council, and Hearing Officer shall adopt rules of procedure for the conduct of public hearings. The following general procedures shall be reflected in the adopted rules of procedure.
 1. Any person may appear at a public hearing, submit evidence, and be heard.

- a. The location of the project;
 - b. The proposed uses (in general terms);
 - c. The proposed arrangement of buildings, parking, access points, open spaces, and drainage facilities (including water quality and stormwater detention facilities);
 - d. The relationship to existing development;
 - e. Generally, the presence of natural resources, open water, floodplains, and floodways on the parcel proposed for development;
 - f. Any other conditions or items that the applicant believes are relevant to the processing of the application.
2. The responsible official may request that the applicant bring completed application forms (in draft form) for the types of permits being sought.

Sec. 12-14-304 Threshold Review

- A. **Generally.** Threshold review is required in order to determine whether an application for development approval will require a community meeting pursuant to Section 12-14-305, *Community Meeting*. However, nothing in this Section shall be interpreted to waive standard notice requirements for applications that do not meet the thresholds.
- B. **Timing of Threshold Review.** The Director shall conduct a threshold review determination at the pre-submittal conference.
- C. **Thresholds.** A community meeting shall be conducted pursuant to Section 12-14-305, *Community Meeting*, if:
 1. The parcel proposed for development is located within one mile of a registered neighborhood (see Section 12-13-109, *Centennial Council of Neighborhoods and Neighborhood Associations*) and the development involves:
 - a. More than 500,000 square feet of floor area; or
 - b. Trip generation that exceeds 5,000 trips per day as determined by the City Engineer; or
 2. The parcel proposed for development is located within 2,640 feet of a registered neighborhood (see Section 12-13-109, *Centennial Council of Neighborhoods and Neighborhood Associations*) and any of the following conditions apply:
 - a. The application is for development or redevelopment that will increase the height of buildings on the site to more than 30 feet;
 - b. The application is for a rezoning or PUD (except administrative amendments to existing PUD approvals);
 - c. A traffic study is required pursuant to Section 12-10-202, *Traffic Studies*;
 - d. The application is for a conditional use; or

3. The application is for a limited use and any of the following conditions apply:
 - a. The parcel proposed for development is adjacent to an NC or NI zoning district,
 - b. The use is proposed to occupy a land area greater than one-half acre; or
 - c. The use is proposed to occupy a floor area greater than 10,000 square feet.

Sec. 12-14-305 Community Meeting

- A. **Generally.** If the thresholds established by Section 12-14-304, *Threshold Review*, are met, then the applicant shall conduct a community meeting pursuant to this Section. A community meeting shall be held between the pre-submittal meeting and the submittal of the application.
- B. **Purposes.**
 1. The purpose of the community meeting is to inform the affected neighborhoods about the proposed development and seek comments about its design and potential impacts on the neighborhood which could reasonably be mitigated.
 2. The purpose of citizen participation is:
 - a. To educate and inform City residents of pending development proposals in and near their neighborhood;
 - b. To encourage applicants to pursue early and effective communications with the affected residents in conjunction with applications, giving the applicant an opportunity to understand and attempt to mitigate any documentable adverse impact of the proposed project on the adjoining community;
 - c. Provide citizens and property owners a forum to work together to resolve potential concerns at an early stage of the process; and
 - d. Facilitate ongoing communication between the applicant, interested citizens and property owners, the Director, and City officials throughout the application review process.
 3. Community meetings are intended to be forums in which the applicant and City residents work together in good faith. However, they are not required to generate complete consensus on all aspects of the applications, nor to supplant or add to the standards of this LDC.
- C. **Applicability.** This Section applies to any application that meets a threshold established by Section 12-14-304, *Threshold Review*.
- D. **Notice of Meetings.**
 1. *Required Notice to Registered Neighborhoods and Adjacent Property Owners.* Notice of a community meeting shall be provided to CenCON, registered neighborhoods within the threshold distances established by Section 12-14-304, *Threshold Review*, and adjacent property owners within two hundred feet (200) of the parcel proposed for development (measured from lot line to lot line). For wireless telecommunication facility/CMRS permits

Sec. 16-2-270. - Public notice.

- (a) Applicability. Notice of all public hearings under this Article shall be required as set forth in the Noticing Requirements table.
- (b) Notice by mail.
 - (1) Responsibility. For any application that requires notice by mail, the applicant shall be responsible for mailing the notice at the applicant's expense.
 - (2) Distance. Mailed notice shall be provided to the record owners of all neighboring real property as follows:
 - a. MDPs, SDPs, Rezoning, Subdivisions and SUPs.
 - 1. Mailed notice for rezoning, MDPs, SUPs, SDPs, major subdivisions (preliminary plats), SUPs and major or minor modifications to MDPs, SUPs or SDPs shall be provided at least fifteen (15) days prior to the hearing to the record owners of all real property within Council-approved development impact zones based upon the anticipated impact of the proposal as determined by the Director, to any properties outside the development impact zone or corporate boundaries of the City that lie immediately adjacent to the subject property, and to any neighborhood groups or homeowners' associations registered with the City within the area of notification.
 - 2. Mailed notice for rezoning, MDPs, SUPs, SDPs, major subdivisions (preliminary plats) and major modifications to MDPs or SDPs outside of Council-approved development impact zones shall be provided at least fifteen (15) days prior to the hearing to the record owners of all real property within two thousand (2,000) feet of the property lines of the property included in the application and to any neighborhood groups or homeowners' associations and properties outside the corporate limits of the City that lie immediately adjacent to the subject property.
 - 3. Mailed notice for minor amendments to MDPs, and SDPs outside of Council-approved development impact zones, shall be provided at least fifteen (15) days prior to the hearing to the record owners of all real property within one thousand (1,000) feet of the property lines of the property included in applications and to any neighborhood groups or homeowners' associations and properties outside the corporate limits of the City that lie immediately adjacent to the subject property.
 - b. PUDs. Mailed notice for PUDs and major modifications to existing PUD shall be provided at least fifteen (15) days prior to the hearing to the record owners of all real property within the corporate boundaries of the City within two thousand (2,000) feet of the property lines of the property included in the application, to any properties outside the corporate boundaries of the City that lie immediately adjacent to the subject property, and to any neighborhood groups or homeowners' associations registered with the City within the area of notification.
 - c.

Telecommunications SUPs shall be provided at least fifteen (15) days prior to the hearing to the record owners of all real property within the corporate boundaries of the City within one thousand (1,000) feet of the property lines of the property included in the application, to any properties outside the corporate boundaries of the City that lie immediately adjacent to the subject property, and to any neighborhood groups or homeowners' associations registered with the City within the area of notification.

- d. Variances. Mailed notice for a Variance shall be provided at least fifteen (15) days prior to the hearing to the record owners of all real property within the corporate boundaries of the City that lie immediately adjacent to the subject property.
 - e. Planned Sign Programs.
 1. Mailed notice shall be provided to record owners of all real property adjacent to any Planned Sign Program requests at least fifteen (15) days prior to the hearing.
 2. Mailed notice shall also be provided at least fifteen (15) days prior to the hearing to all record owners of residential property within 500 feet of a proposed sign that will be visible to said residential properties.
 3. Mailed notice shall also be provided at least fifteen (15) days prior to the hearing to the record owners of all residential property within 1,000 feet of a proposed sign that will be visible to said properties and which sign application requests a variation greater than 150 percent of standards otherwise allowed by this Code.
- (3) Manner. Notice by mail shall be sent by first-class United States mail.
- (4) Proof. The applicant shall file an affidavit of mailing with the Director, attached to a copy of the letter sent and the addresses to which the letters were sent. This affidavit and attachments shall constitute prima facie evidence of the fact that the notice by mail was done in the prescribed manner.
- (c) Notice by posting.
- (1) Responsibility. For posted notice, the City shall provide the required signs, but the applicant shall be responsible for posting the signs and ensuring that the signs remain posted and legible throughout the required time period.
 - (2) Manner. The signs provided by the City shall be posted on each street adjoining the property at the locations selected by the City, for a period of at least fifteen (15) days prior to the public hearing.
 - (3) Proof. An affidavit of posting signed by the applicant with a photograph of the signs shall constitute prima facie evidence of the required posting.
 - (4) Removal. Signs should be removed within three (3) days after the close of the hearing.
- (d) Notice by publication.
- (1) Responsibility. The City shall be responsible for notice of publication at the City's cost.
 - (2)

Sec. 16-25-100. - Public notice requirements; rezoning.

The applicant shall be responsible for public notification. In calculating the time period for public notification, the day of publishing, posting, or mailing shall be counted toward the total number of days required. The day of the hearing shall not be counted toward this total.

- (1) Mailed notice. At least fifteen (15) days prior to the Planning Commission hearing, and again fifteen (15) days prior to the City Council hearing, as specified in this Section (with reference to Section 16-15-60), the applicant shall mail a written notice of said hearing by first class mail to all adjoining landowners, to homeowners' associations which have authority over property located within two hundred (200) feet of the land proposed for rezoning, to the mineral rights owners and lessees and to easement holders. The mailed notice shall include:
 - a. A short description of the proposed rezoning in narrative form;
 - b. A site plan depicting the land proposed for rezoning; and
 - c. A vicinity map showing the land to be rezoned and the area surrounding this land within a one-mile radius.

An alphabetical list of the landowners and an affidavit of mailing shall be provided by the applicant to the Community Development Department at least five (5) days prior to the hearing.

- (2) Published notice. At least fifteen (15) days prior to the Planning Commission hearing and fifteen (15) days prior to the City Council hearing, the applicant shall:
 - a. Publish a notice in the Official Publication; and
 - b. Provide a publisher's affidavit of said published notice to the Community Development Department at least five (5) days prior to the public hearing.

The City Council may direct that the notice be published in one (1) or more additional newspapers of general circulation in the City. The notice shall read:

NOTICE OF PUBLIC HEARING BEFORE THE
(PLANNING COMMISSION OR CITY
COUNCIL) OF THE CITY OF LONE TREE

A public hearing will be held on (day of week), (date), at (time), or soon thereafter, in the City Council Hearing Room, 8527 Lone Tree Pkwy., City of Lone Tree, CO 80124, [or other designated place, if applicable] for a change in zoning from (zone district) to (zone district). The subject property is located approximately (distance and direction from nearest major intersection). For more information, call the Community Development Department [list the phone number provided by the City].

File Name and Number: _____

Legal Description: _____

Application Date: _____

CHERRY HILLS VILLAGE
COLORADO

2450 E. Quincy Avenue
Cherry Hills Village, CO 80113
www.cherryhillsvillage.com

Village Center
Telephone 303-789-2541
FAX 303-761-9386

ITEM: 8a

MEMORANDUM

TO: HONORABLE MAYOR CHRISTMAN AND MEMBERS OF THE CITY COUNCIL

FROM: LAURA SMITH, CITY CLERK

SUBJECT: RESOLUTION 11, SERIES 2016; APPROVING AN IGA WITH ARAPAHOE COUNTY FOR PARTICIPATION IN THE COORDINATED NOVEMBER 8, 2016 ELECTION

DATE: AUGUST 2, 2016

DISCUSSION:

The City of Cherry Hills Village will hold its regular municipal election as a coordinated election with Arapahoe County on Tuesday November 8, 2016. Staff is presenting the attached resolution approving an Intergovernmental Agreement (IGA) with Arapahoe County for participation in the coordinated November 8, 2016 Election.

BUDGET IMPACT:

The City has budgeted \$6,000 for the 2016 Election. Although final election costs will not be known until after the election, Arapahoe County has estimated that this election will cost the City \$3,939.14 (see Attachment A to the IGA) based on four Council positions (Mayor, District 1, District 3 and District 5) and no ballot measures for the City.

RECOMMENDED MOTION:

"I move to approve Resolution 11, Series 2016; approving an intergovernmental agreement with Arapahoe County for participation in the coordinated November 8, 2016 election."

ATTACHMENTS:

Exhibit A – Resolution 11, Series 2016 with IGA as Exhibit A to the Resolution

RESOLUTION NO. 11
SERIES 2016

INTRODUCED BY:
SECONDED BY:

**A
RESOLUTION
OF THE CITY COUNCIL
OF THE CITY OF CHERRY HILLS VILLAGE
APPROVING AN INTERGOVERNMENTAL AGREEMENT
WITH ARAPAHOE COUNTY FOR PARTICIPATION IN THE
COORDINATED NOVEMBER 8, 2016 ELECTION**

WHEREAS, Section 2.3 of the City of Cherry Hills Village Charter, states that, “[a] regular City election shall be held on the Tuesday following the first Monday in November commencing in the year 2014 and in each even numbered year thereafter;” and

WHEREAS, Section 2-1-10(c) of the Municipal Code states that “The City is authorized to...participate in elections coordinated by Arapahoe County”; and

WHEREAS, Tuesday, November 8, 2016 is the Tuesday following the first Monday in November 2016, and

WHEREAS, November 8, 2016, is a designated coordinated election date.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Cherry Hills Village, Colorado that:

Section 1. The City Council approves its participation in a coordinated election to be held on November 8, 2016 and conducted by the Arapahoe County Clerk and Recorder.

Section 2. The City Council hereby approves the attached Arapahoe County Intergovernmental Agreement by and between the City of Cherry Hills Village and the Arapahoe County Board of County Commissioners on behalf of the Arapahoe County Clerk and Recorder.

Section 3. The City Council hereby appoints the City Clerk as the designated election official for the City of Cherry Hills Village for the purposes of the coordinated election to be held on November 8, 2016.

This Resolution shall be effective immediately.

Introduced, passed and adopted at the
regular meeting of City Council this __ day
of ____, 2016, by a vote of _ yes _ no.

(SEAL)

Laura Christman, Mayor

ATTEST:

APPROVED AS TO FORM:

Laura Smith, City Clerk

Linda C. Michow, City Attorney

INTERGOVERNMENTAL AGREEMENT

BETWEEN

ARAPAHOE COUNTY CLERK AND RECORDER

AND

CITY OF CHERRY HILLS VILLAGE

REGARDING THE CONDUCT AND ADMINISTRATION OF THE

**NOVEMBER 8, 2016
GENERAL ELECTION**

**PREPARED BY:
MATT CRANE
ARAPAHOE COUNTY CLERK AND RECORDER
5334 S. PRINCE STREET
LITTLETON, COLORADO 80120
303-795-4239**

THIS AGREEMENT is made by and between the Board of County Commissioners of the County of Arapahoe, State of Colorado, on behalf of the Arapahoe County Clerk and Recorder (hereinafter referred to as the "County") and City of Cherry Hills Village (hereinafter referred to as the "Jurisdiction") (hereinafter collectively referred to as the "Parties"); and

WHEREAS, pursuant to the Uniform Election Code of 1992 (Articles 1 to 13 of Title 1, C.R.S.) as amended, governmental entities are encouraged to cooperate and consolidate elections in order to reduce taxpayer expenses; and

WHEREAS, pursuant to section 1-7-116, C.R.S. if more than one jurisdiction holds an election on the same day in November and the eligible electors for each such election are the same or the boundaries overlap, the County Clerk and Recorder is the coordinated election official and, pursuant to section 1-5-401, C.R.S. shall conduct the elections on behalf of all jurisdictions whose elections are part of the coordinated election utilizing the mail ballot procedures set forth in article 7.5 of title 1; and

WHEREAS, the County and Jurisdiction have determined that section 1-7-116, C.R.S. applies and it is in the best interest of the taxpayers and the electors to enter into this Agreement to conduct a Coordinated Election on November 8, 2016; and

WHEREAS, such agreements are authorized by State law.

NOW, THEREFORE, for and in consideration of the promises herein contained, the sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

This election shall be conducted as a Coordinated Election in accordance with the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.). The election participants will execute agreements with Arapahoe County for this purpose and may include municipalities, school districts, and special districts within the Arapahoe County limits and the State of Colorado.

The Arapahoe County Clerk and Recorder shall be designated as the Coordinated Election Official (hereinafter "CEO") and the Jurisdiction hereby identifies Laura Smith as its Designated Election Official (hereafter "DEO").

FURTHER, the Parties agree as follows:

SECTION I. PURPOSE AND GENERAL MATTERS

1.01 DEFINITIONS:

- A. "Address Library Report" means the address report from the Secretary of State voter registration system that defines street addresses and precincts within the jurisdiction.
- B. "Coordinated Election Official" (hereinafter "CEO") shall mean the County Clerk and Recorder who shall act as the "coordinated election official," as defined within the

Code and Rules and, as such, shall conduct the election for the Jurisdiction for all matters in the Code and the Rules which require action by the CEO.

- C. **"Colorado Election Code"** or **"Code"** means any part of the Uniform Election Code of 1992, (Articles 1-13 of Title 1, C.R.S.) or any other Title of C.R.S governing participating Jurisdiction's election matters, as well as the Colorado Constitution, and the State of Colorado Secretary of State (SOS) Rules.
- D. **"Coordinated Election"** means an election where more than one jurisdiction with overlapping boundaries or the same electors holds an election on the same day and the eligible electors are all registered electors, and the County Clerk is the Coordinated Election Official for the jurisdictions.
- E. **"Contact Officer"** means the individual who shall act as the primary liaison or contact between the Jurisdiction and the County Clerk. The Contact Officer shall be that person under the authority of the County Clerk who will have primary responsibility for the coordination of the election for the Jurisdiction and the procedures to be completed by the County Clerk hereunder.
- F. **"Designated Election Official"** (hereinafter **"DEO"**) means the individual who shall be identified by the Jurisdiction to act as the primary liaison between the Jurisdiction and the Contact Officer and who will have primary responsibility for the conduct of election procedures to be handled by the Jurisdiction hereunder. To the extent that the Code requires that an Election Official of the Jurisdiction conduct a task, the DEO shall conduct same.
- G. **"IGA"** or **"Agreement"** means this Intergovernmental Agreement between the County and the Jurisdiction for election coordination.
- H. **"Jurisdiction"** means a political subdivision as defined in § 1-7.5-116, C.R.S. and referenced in the Code and, in this Agreement, is interpreted to refer to [Coordinating Entity Name].
- I. **"Mail Ballot Packet"** means the packet of information provided by the CEO to eligible electors in the mail ballot election. The packet includes the ballot, instructions for completing the ballot, a secrecy envelope, and a return envelope. § 1-7.5-103(5), C.R.S.
- J. **"Post Election Audit"** means such audit as set forth substantially in the Colorado Election Code.
- K. **"Precinct"** means an area with established boundaries within a jurisdiction used to establish election districts.
- L. **"Proposed Jurisdiction"** means a jurisdiction which may be formed pursuant to this election which is not yet identified by a tax authority code in the County Assessor database. When the context of this Agreement so requires, a Proposed Jurisdiction will simply be referred to as a Jurisdiction.
- M. **"SOS"** means State of Colorado Secretary of State.

- N. **“SOS Election Calendar”** means the most recent election calendar as published on the SOS website located at www.sos.state.co.us and attached hereto as Attachment B and incorporated herein by this reference.

1.02 JOINT RESPONSIBILITIES

- A. All parties shall familiarize themselves with all statutory and regulatory requirements impacting coordinated elections and TABOR notices if required.
- B. Nothing herein shall be deemed or construed to relieve the CEO or the Jurisdiction from their official responsibilities for the conduct of the election as generally set forth in the Colorado Election Code.
- C. All parties shall adhere to all applicable provisions of the Colorado Election Code which are necessary or appropriate to the performance of the below duties, as well as to the time guidelines schedule as attached hereto as these relate to the election.
- D. All parties shall enforce all provisions of the Fair Campaign Practices Act as they may apply to the conduct of the election.

1.03 JURISDICTIONAL LIMITATION

- A. The Jurisdiction encompasses territory within Arapahoe County. This Agreement shall be construed to apply only to that portion of the Jurisdiction within Arapahoe County.
- B. Where the Jurisdiction is entirely contained within Arapahoe County, the CEO has authority in setting ballot order and number. When the Jurisdiction is split among more than one county, the Jurisdiction agrees to coordinate with the CEO prior to agreeing upon ballot order or numbering.

SECTION II. COUNTY/JURISDICTION RESPONSIBILITIES

The County and the Jurisdiction shall each perform their respective duties and/or functions within the context of this Agreement:

2.01 THE COUNTY SHALL PERFORM THE FOLLOWING TASKS IN RELATION TO SAID ELECTION:

- A. Give assistance and information to the DEO of the Jurisdiction on any matter related to elections to ensure the smooth and efficient operation of the election. Such information shall not include legal advice.
- B. Designate a Contact Officer with the specific duty of assisting with the election of the Jurisdiction. Such oversight shall not preclude such Contact Officer from assisting with the elections of other jurisdictions or from performance of other tasks as delegated by the CEO.
- C. Adhere to all applicable provisions of the Colorado Election Code that are necessary or appropriate to the performance of its duties.

- D. Use the Address Library Report and any documents provided regarding annexation, inclusion and or exclusion, to identify eligible electors within the Jurisdiction.
 - a. Provide the Jurisdiction with an Address Library Report and link to a digital boundary map which defines Jurisdictional boundaries in terms of residential street ranges based on County Assessor data.
 - b. County will verify errors, omissions, and/or corrections identified by the Jurisdiction against County Assessor data, and where appropriate, modify street ranges to accurately define the eligible electors within the Jurisdiction.
- E. Make available a certified list of registered voters upon request.
- F. Deliver a proposed election plan to the Secretary of State no later than 90 days prior to the Election.
- G. Contract for Mail Ballot Packets with a vendor acceptable to the CEO and remit payment directly to the vendor.
- H. Lay out the text of the official ballots in a format that complies with the Code. (See also Section 1.03 (B) herein).
- I. Provide ballot printing layouts and text for proofreading and signature approval by the Jurisdiction prior to final ballot printing.
- J. Mail the ballot packets as required by the Code.
- K. Appoint, instruct, oversee, and administer the payment of the judges of the election.
- L. Prepare and run the required Logic and Accuracy test deck, along with a test deck completed by the Jurisdiction.
- M. If applicable, provide daily business day pick-up of the sealed ballot container(s) containing voted ballots from all assigned locations. Provide replacement sealed empty ballot container(s).
- N. Publish and post the required legal notices pursuant to § 1-5-205(1) and § 1-7.5-107(2.5)(a)(I), C.R.S. Notice shall be published for the Jurisdiction's ballot issues, ballot questions, and/or candidates on or before the deadline as set forth within Attachment B.
- O. CEO will refer members of the public and press to the DEO regarding specific questions about candidates or ballot questions.
- P. Provide the necessary electronic voting tabulation equipment, personnel properly trained in electronic tabulating equipment, programming of the vote tabulating equipment, and the facility to conduct the ballot tabulation.
- Q. Establish and maintain mail ballot drop-off locations and designate and operate Voter Service and Polling Centers as required by and in conformance with the Colorado Election Code.

- R. Maintain a list of names and precinct numbers of eligible electors together with the date on which the mail ballot was sent and the date on which the mail ballot was returned or cast.
- S. Conduct and oversee the process of counting the ballots and reporting the results by Jurisdiction.
- T. Conduct a recount of the ballots where the final ballot tabulation results are close enough to require a recount by law, or if not required by statute, upon the request of the Jurisdiction, for any reason. In either scenario, the cost of the recount will be charged to the Jurisdiction. If more than one Jurisdiction is involved in the recount, the cost will be pro-rated among the participating Jurisdictions equally.
- U. Provide unofficial results of the election on election night by electronic transmittal upon request.
- V. In conjunction with the Jurisdiction, prepare and run the required Post Election Audit before certifying election results.
- W. Conduct a canvass of the votes and certify the results of the Jurisdiction's election within the time required by law and forthwith provide the Jurisdiction with a copy of all election statements and certificates which are to be created under the Code.
- X. Submit to the Jurisdiction an itemized invoice for all expenses incurred under this Agreement. Within sixty (60) days from the date of receipt of such invoice, the Jurisdiction shall remit to the County the total payment.
- Y. Keep a careful and accurate accounting of time, supplies, printing costs and salaries attributable to the County's administration of the election for the Jurisdiction. The Jurisdiction's proportional share of actual costs shall be based on County expenditures relative to the election.
- Z. Store all election records as required by the Code in such a manner that they may be accessed by the Jurisdiction, if necessary, to resolve any challenges or other legal questions that might arise regarding the election.

2.02 THE JURISDICTION SHALL PERFORM THE FOLLOWING TASKS IN RELATION TO SAID ELECTION AND TABOR NOTICE (IF REQUIRED):

- A. DEO shall familiarize themselves with all statutory and regulatory requirements impacting the Jurisdiction.
- B. Identify a DEO to act as liaison between the Jurisdiction and the CEO.
- C. Identify immediately to CEO if Jurisdiction is shared by any additional county. Procedures will be followed as per SOS Rule 4.2 to determine controlling county for purpose of setting up shared races, issues, and questions in coordinated elections. (See Section 1.03 (B) herein).

- D. The Jurisdiction confirms that it has sufficient funds available and appropriated in its approved budget to pay its prorated election expenses for this Coordinated Election. See Attachment A.
- E. The IGA must be returned to the CEO with all signatures executed on or before the deadline as set forth within Attachment B in order to enter into an intergovernmental agreement, per the Code.
- F. Use the Address Library Report and map provided by the County to identify eligible electors within the Jurisdiction. In order for the CEO to provide correct ballots to electors, the information contained in the Address Library Report must be accurate. If the street list information and/or certification are not provided by the date specified in Attachment B, the Jurisdiction may not participate in this Coordinated Election.
- G. Identify any errors, omissions, and/or corrections to the street ranges used to define Jurisdictional boundaries in writing eighty (80) days prior to Election Day.
- H. Provide CEO certification of the accuracy of the Address Library Report including any changes, additions, or deletions to be made to the street ranges and return with signed IGA on or before the deadline as set forth within Attachment B.
- I. To the extent applicable, a Proposed Jurisdiction, not already identified by a tax authority code in the County Assessor's records, will provide the CEO's office with a certified legal description, map, and a street list, identifying the street ranges for all streets within the Proposed Jurisdiction on or before eighty (80) days prior to Election Day. In the event residential addresses are not available, the Proposed Jurisdiction agrees to provide a list of the land parcel numbers that are within the boundaries of the Proposed Jurisdiction.
- J. Provide the CEO certification of any annexations, inclusions, and/or exclusions to the Jurisdiction, including all supporting documents, on or before eighty (80) days prior to Election Day.
- K. For petitions filed with the DEO per § 1-4-907, C.R.S., review and verify all petition information and verify the information against the registration records, and, where applicable, the county assessor's records as per § 1-4-908, C.R.S. After review, the DEO shall notify the candidate of the number of valid signatures and whether the petition appears to be sufficient or insufficient. Upon determining that the petition is sufficient and after the time for protest has passed, the DEO shall certify the candidate to the ballot and, if the election is a Coordinated Election, so notify the CEO.
- L. Jurisdiction is strongly encouraged to write initiatives in plain, non-technical language, worded with simplicity and clarity in compliance with all statutory requirements as per § 1-40-105(1), C.R.S.
- M. Respond to inquiries as follows: The CEO shall respond to all correspondence and calls within its expertise relating to election procedures. The DEO shall refer correspondence and calls relating to election procedures, and which are outside of the DEO's expertise, to the Contact Officer for response. The CEO and Contact

Officer shall refer correspondence and calls concerning the substance of the ballot issues or the operations of the Jurisdiction to the DEO or a person designated by the Jurisdiction to respond to correspondence and calls, which person the DEO shall identify and designate at least forty-five (45) days prior to the election. The DEO and/or the person so designated by the DEO shall respond to correspondence and calls within a reasonable time after being notified of the same by the CEO.

- N. Determine the ballot title and text. Certify, if applicable, the candidate, the list of ballot issues and/or ballot questions electronically (with receipt confirmed by the County Election Department) in a plain text format on or before the deadline as set forth within Attachment B. The ballot content must be certified in the order in which it will appear on the ballot. The certified list of candidates (order determined by lot drawing, or if applicable, city/town charter), ballot issues, and/or ballot questions shall be final and the CEO will not be responsible for making any changes after the certification, except those prescribed by statute. The CEO will not accept text that includes, but is not limited to, bold, italic, underline, bullets, tables, strikethrough or indentations. All caps are reserved for TABOR issues only per the Code.
 - a. The Jurisdiction shall defend and resolve at its sole expense all challenges relative to the candidates, ballot issues and/or ballot questions as certified to the County for inclusion on the ballot.
- O. Jurisdiction is to provide the phonetic pronunciation of each candidate's name to assist with the preparation of the audio ballot at the time ballot content is certified to the County. This information shall be left in a voice message recording at (303) 734-5365 and shall include the candidate name, jurisdiction and title of office. Candidate information must be provided by the date specified in Attachment B.
- P. Jurisdiction must indicate whether question(s) are a referred measure or an initiative from a citizen petition. The Jurisdiction understands and agrees that any ballot content submitted to the CEO after the ballot content has been certified, may result in its candidates, issues, or questions not being on the ballot for the election.
- Q. Within one business day of receipt, proofread the layout and the text of the Jurisdiction's portion of the official ballots and TABOR notice (if applicable) and provide written notice (electronic format) of acceptance before the printing of the ballots and TABOR notice (if applicable).
- R. Prepare, hand-count, and deliver to the CEO, the required test deck of ballots for testing the electronic vote counting equipment by the date specified.
- S. For elections where owning property in the Jurisdiction is a requirement for voting in the election, utilize the online inquiry terminal to access the State of Colorado and Arapahoe County voter registration records to confirm voter registration and verify "property ownership" information.
- T. Provide the CEO with an initial and supplemental certified list of "property owners" (if applicable) eligible to vote in the election, as determined by the Jurisdiction, who:

- a. Own property within the Jurisdiction, appear on the State of Colorado list of registered voters, reside at an address as shown, that is not within the boundaries of Arapahoe County (“Out of County” property owners); or,
 - b. Own property within the Jurisdiction, appear on the Arapahoe County list of registered voters, reside at an address that may not match the property address as shown on the County Assessor’s list, but is within the boundaries of Arapahoe County (“In County” property owners).
 - c. The lists shall be submitted as an electronic copy. The electronic copy shall be submitted to the CEO using Microsoft Excel format. The spreadsheet shall contain no more than one (1) eligible elector’s name per line. Each line shall consist of the following separated fields: eligible elector’s voter identification number (if applicable), last name, first name, middle name, mailing address, city, state, zip, parcel number, phone number, if available, and Arapahoe County precinct number, if applicable.
- U. Publish and post any required legal notices for the Jurisdiction’s candidates, ballot issues and/or ballot questions, other than the notice required by § 1-5-205, C.R.S. A copy of such published legal notice shall be submitted to the County for its records.
- V. Notify the CEO within twenty-four hours of the completion of the final ballot tabulation whether a recount is required or desired. The Jurisdiction shall reimburse the County for the full cost of the recount. If other Jurisdictions are included in the recount the cost of the recount will be pro-rated among the participating Jurisdictions as per § 1-10.5-101, C.R.S.
- W. Within sixty (60) days from the date of receipt of an invoice relating to the Jurisdiction’s prorated share of costs for the printing and mailing of ballots, TABOR Notice (if required), and all other election expenses, the Jurisdiction shall remit to the County the total payment.
- X. Pay any additional or unique election costs resulting from Jurisdiction delays and/or special preparations or cancellations relating to the Jurisdiction’s participation in the Coordinated Election.

2.03 TABOR

- A. If the election includes a ballot question and/or issue governed by Colorado Constitution, Article X, Section 20, (“TABOR”), the County shall perform the following tasks in relation to the TABOR Notice:
 - a. Certify the complete number of registered electors and/or household addresses with one or more active registered voters, within the Arapahoe County portion of the Jurisdiction in accordance with the dates in Attachment B.

- b. Determine the “least cost” method for mailing the TABOR Notice package. Nothing herein shall preclude the County from sending the TABOR Notice or Notice package to persons other than electors of the Jurisdiction if such transmittal arises from the County’s efforts to mail the TABOR Notice package at the “least cost.”
 - c. Include the text, and provide a proof as written and in the order submitted, in accordance with the TABOR requirements for the TABOR Notice. Coordinate and mail the TABOR Notice package in the time frame as required by law.
 - d. Keep a careful and accurate accounting of time, supplies, printing costs and salaries attributable to the County’s TABOR Notice services for the Jurisdiction. The Jurisdiction’s proportional share of actual costs shall be based on the County’s total expenditures relative to the TABOR Notice.
- B. If the election includes a ballot question and/or issue governed by Colorado Constitution, Article X, Section 20, (“TABOR”), the Jurisdiction shall perform the following tasks in relation to the TABOR Notice:
- a. Publish all required legal notices for the Jurisdiction’s ballot questions/ballot issues, other than the notice that is required by § 1-5-205, C.R.S. that is published no later than 10 days before the election, which covers all pertinent information required by statute. A copy of such published legal notice shall be submitted to the County for its records.
 - b. Comply with the provisions of the Uniform Election Code of 1992 (Articles 1-13 of Title 1, C.R.S.), and the time guidelines schedule, as these relate to the election in the Jurisdiction, unless superseded by other legal authority.
 - c. Receive petition representative’s written summary of comments relating to ballot issues/ballot questions.
 - d. The Jurisdiction shall certify a final and exact text and summary of comments concerning its ballot issues and/or ballot questions, along with the required fiscal information to the County, on portable data storage device or email (with receipt confirmed by the Election Department) in Microsoft Word and with a paper copy, within one business day of receipt, for inclusion in the TABOR Notice mailing as required by Section 20 of Article X of the Colorado Constitution. The process of receiving written comments relating to ballot issues/ballot questions and summarizing such comments, as required by Section 20 of Article X of the Colorado Constitution, is the sole responsibility of the Jurisdiction. The certified text, summary of comments and fiscal information shall be final and the County will not be responsible for making any changes after the certification.
 - e. The Jurisdiction shall defend and resolve, at its sole expense, all challenges relative to the TABOR Notices certified to the County for inclusion in the TABOR Notice package for its election.

4.03 AMENDMENT.

- A. This Agreement may be amended only in writing, and following the same formality as the execution of the initial Agreement.

4.04 INTEGRATION.

- A. The Parties acknowledge that this Agreement constitutes the sole and entire Agreement between them relating to the subject matter hereof and that no Party is relying upon any oral representation made by another Party or employee, agent or officer of that Party.

4.05 CONFLICT OF AGREEMENT WITH LAW, IMPAIRMENT.

- A. In the event that any provision in this Agreement conflicts with the Code or other statute, this Agreement shall be modified to conform to such law. No resolution of either party to this Agreement shall impair the rights of the CEO or the Jurisdiction hereunder without the consent of the other party to this Agreement.

4.06 TIME OF ESSENCE.

- A. Time is of the essence for this Agreement. The time requirements of the Code shall apply to completion of the tasks required by this Agreement. Failure to comply with the terms of this Agreement and/or the deadlines in Attachment B or the Code may result in consequences up to and including termination of this Agreement.

4.07 GOOD FAITH.

- A. The parties shall implement this Agreement in good faith, including acting in good faith in all matters that require joint or general action.

4.08 NO WAIVER OF GOVERNMENTAL IMMUNITY ACT.

- A. The Parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents, and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities, protections or defenses provided by the Colorado Governmental Immunity Act (the "CGIA"), §§ 24-10-101 to 120, C.R.S., or otherwise available to the County or the Jurisdiction. To the extent the CGIA imposes varying obligations or contains different waivers for cities and counties, both the Jurisdiction and the County agree that they will remain liable for their independent obligations under the CGIA, and neither party shall be the agent of the other or liable for the obligations of the other.

4.09 NO THIRD PARTY BENEFICIARIES.

- A. The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the County and the Jurisdiction, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement.

4.10 GOVERNING LAW: JURISDICTION AND VENUE

- A. Unless otherwise agreed in writing, this Agreement and the interpretation thereof shall be governed by the laws of the State of Colorado. Venue for any and all legal actions arising under this IGA shall lie in the District Court in and for the County of Arapahoe, State of Colorado.

4.11 SEVERABILITY

- A. Should any provision of this Agreement be determined by a court of competent jurisdiction to be unconstitutional or otherwise null and void, it is the intent of the parties hereto that the remaining provisions of this Agreement shall be of full force and effect.

4.12 ATTACHMENTS.

- A. The following attachments are incorporated herein by this reference.

Attachment A - 2016 Cost Estimates

Attachment B - Key Dates for Coordinating Jurisdictions (subject to updates)

END OF PAGE

ARAPAHOE COUNTY

Nancy Doty, Chair, Board of County Commissioners

Date

Matt Crane, Coordinated Election Official
Clerk and Recorder

Date

CITY OF CHERRY HILLS VILLAGE

By:
Title:

Date

Laura Smith, Designated Election Official

Date



ARAPAHOE COUNTY
CLERK AND RECORDER

ATTACHMENT A
CITY OF CHERRY HILLS VILLAGE
2016 ELECTION COST ESTIMATE

ESTIMATE

Costs Based On:

Active Registered Voters	4,707
Voter Turnout	3,766
UOCAVA Voters	39
Households for TABOR Notice	-
Coordinating Entities	13

Ballot Materials & Processing

	<u>Qty.</u>	<u>Unit Cost</u>	<u>Total</u>
Outer Envelopes	4,707	\$ 0.046	\$ 216.52
Return Envelope	4,707	\$ 0.038	\$ 178.87
Ballot Packets	4,707	\$ 0.640	\$ 3,012.48
Instruction Sheets	4,707	\$ 0.054	\$ 254.18
Secrecy Sleeve	4,707	\$ 0.033	\$ 155.33
UOCAVA Online Ballot Marking Tool	39	\$ 0.306	\$ 11.93
		Sub Total	\$ 3,817.38

Mail Ballot Postage

Freight Charges	4,707	\$ 0.0380	\$ 178.87
Postage Out-Bound	4,707	\$ 0.120	\$ 564.84
		Sub Total	\$ 743.71

VSPC Costs

	<u>Qty.</u>	<u>Total</u>	<u>Divided Cost</u>
WIFI Connection	1	\$ 1,620.00	\$ 124.62
Laptop Computers	1	\$ 17,225.00	\$ 1,325.00
iPad Rental	1	\$ 3,300.00	\$ 253.85
Machine Seals	1	\$ -	\$ -
Dymo Labels	1	\$ -	\$ -
VSPC Supplies	1	\$ 8,000.00	\$ 615.38
VSPC Ballots	1	\$ -	\$ -
Blank Stock for BOD	1	\$ 6,000.00	\$ 461.54
Toner for BOD	1	\$ -	\$ -
Provisional Ballot Envelope	0	\$ -	\$ -
Machine Delivery	1	\$ 4,000.00	\$ 307.69
		Sub Total	\$ 3,088.08

<u>Personnel Costs</u>	<u>Qty.</u>	<u>Unit Cost</u>	<u>Total</u>
Ballot Processing and VSPC Election Judges	3,766	\$ 0.81	\$ 3,050.14
Temp Staff Background Check	3,766	\$ 0.03	\$ 112.97
		Sub Total	\$ 3,163.10

<u>Additional Costs</u>	<u>Qty.</u>	<u>Total</u>	<u>Divided Cost</u>
Ballot Bridging	1	\$ -	\$ -
Ballot on Demand Setup	1	\$ -	\$ -
Pre-Marked Test Deck	1	\$ 3,000.00	\$ 230.77
Car Rental	1	\$ 9,267.00	\$ 712.85
Ballot Team Mileage	1	\$ 500.00	\$ 38.46
		Sub Total	\$ 982.08

<u>Notices</u>	<u>Qty.</u>	<u>Unit Cost</u>	<u>Total</u>
TABOR Printing	0	\$ 0.43	\$ -
TABOR Postage	0	\$ 0.10	\$ -
Notice of Election	1	\$ 300.00	\$ 23.08
		Sub Total	\$ 23.08

Total Election Expense	\$ 11,817.42
Less Cost Shared by Other Coordinating Entities	\$ (7,878.28)

Total Due to Arapahoe County \$ 3,939.14

Attachment B
2016 Key Dates for Coordinating Jurisdictions

Resource provided by Arapahoe County Elections. Use this as a reference guide only.

Always refer to the Colorado Constitution, Revised Statutes and Secretary of State rules for applicable provisions.

See the official 2016 Election Calendar: <http://www.sos.state.co.us/pubs/elections/calendars/2016ElectionCalendar.pdf>

Date	Event	Reference	Accountable
July 2016			
29-Jul	Last day to notify County Clerk of intent to participate in the General Election (100 days prior)	1-7-116(5); 1-1-106(5); IGA Agreement	Jurisdiction
29-Jul	County Clerk to provide copy of legal boundaries to jurisdiction	IGA Agreement	County Clerk
August 2016			
30-Aug	Jurisdiction to certify legal boundaries to County Clerk	IGA Agreement	Jurisdiction
30-Aug	Last day for county clerk and coordinating jurisdictions to sign intergovernmental agreement (70 days prior)	1-7-116(2)	Jurisdiction, County Clerk
September 2016			
9-Sep	Deadline to cancel participation in a coordinated election (63 days prior)	1-5-208(1.5)	Jurisdiction
9-Sep	Last day for coordinating jurisdictions to certify ballot content to county clerk (60 days prior)	1-5-203(3)(a)	Jurisdiction
9-Sep	Candidates must record their name exactly as it appears on the statement of intent, and must provide the recording to the county clerk no later than the deadline to file the statement of intent.	Rule 4.6.2	Candidate
24-Sep	Deadline to transmit ballots to overseas and military voters (45 days prior)	1-8.3-110(1) Rule 16	County Clerk
27-Sep	Deadline for jurisdiction to file TABOR issue notices with county clerk (42 days prior)	1-7-904	Jurisdiction
27-Sep	Public Logic and Accuracy Test of Voting Equipment (No later than the 18th day before election day)	Rule 11.3.2(a)	County Clerk
October 2016			
7-Oct	Deadline to mail TABOR notices (30 days prior)	Article X, Sec. 20(3) (b); 1-1-106(5)	County Clerk
17-Oct	Deadline to register to vote by Voter Registration Drive	1-2-201(3)(b)(I)	Voters
17-Oct	First day mail ballots may be sent to voters, excluding UOCAVA (22 days prior)	1-7.5-107(3)(a)	County Clerk
17-Oct	County ballot drop-off locations and pick-ups begin		County Clerk
19-Oct	Last day for designated or coordinated election official to publish notice of Coordinated Election (20 days prior)	1-7.5-107(2.5)(a)(I)	County Clerk, Jurisdiction
24-Oct	Counting of ballots may begin (15 days prior)	1-7.5-107.5	County Clerk
24-Oct	County Voter Service & Polling Centers (VSPCs) open	1-5-102.9(2)	County Clerk
31-Oct	Last day to register to vote through the mail, agency, motor vehicle, or online and receive a ballot by mail	1-2-201(3)(b)(III)	Voters

November 2016			
8-Nov	General Election Day (Voter Service and Polling Centers and Ballot Drop-Off locations open 7 a.m. - 7 p.m.)	1-1-104(17); 1-4-201; Rule 7.9.1(b)	County Clerk, Voters
16-Nov	Last day for military and overseas ballots to be received by Clerk in order to be counted (8 days after election)	1-8.3-111; 1-8.3-113; Rule 16.1.5	Voters
16-Nov	Last day for electors to cure signature discrepancy or missing signature, or to provide missing ID for mail and provisional ballots to be counted. (8 days after election)	1-7.5-107(3.5)(d); 1-7.5-107.3(2)(a); 1-8.5-105(3)(a); Rule 7	County Clerk, Voters
25-Nov	Deadline to complete the canvass for the Coordinated Election. (17 days after election)	1-10-102(1) Rule 10	County Clerk
December 2016			
9-Dec	Last day for interested party to request a recount at its own expense.	1-10.5-106(2)	Any
15-Dec	Last day to complete a requested recount.	1-10.5-106(2)	County Clerk