

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
and of the Cherry Hills Village Charlou Park 3rd Filing
General Improvement District Board of Directors
Held on Tuesday, January 4, 2022 at 6:30 p.m.
City Hall

The City Council held a study session at 5:30 p.m.

Mayor Russell Stewart called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Russell Stewart, Mayor Pro Tem Katy Brown, Councilors Randy Weil, Afshin Safavi, Al Blum, Mike Gallagher, and Dan Sheldon were present on roll call. Also present were City Manager Chris Cramer, Deputy City Manager and Public Works Director Jay Goldie, City Attorney Kathie Guckenberger, Police Chief Michelle Tovrea, Planning Manager Paul Workman, and City Clerk Laura Gillespie.

Absent: none

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

Jenn Diffendal, 5701 E. Stanford Drive, stated it was a consequential year for the City; the most important decision was the hiring of a new Police Chief; the second greatest challenge was employee retention; she noted Council had discussed this issue during the 2022 budget discussion and had raised cost of living increases to 2.5% for all employees; this fell short of the rate of inflation; other cities had retention packages; the City needed to show its employees that they were valuable and irreplaceable; there was a mass exodus of workers from the workforce; the City could not run without its tenured, irreplaceable, cross-trained full-time staff; as heard in the Master Plan survey results the overall sentiment of how the City was functioning from residents was overall positive; she was not asking Council to amend the budget; her time volunteering with the Police Department would most likely end when a new Police Chief was hired; she offered to fundraise to pay all City employees a one time \$5,000 payment in 2022; she would need approval from Council, an office in City Hall, a computer, a resident directory, and a City bank account to receive donations from residents; she was willing to volunteer her time to show the staff that they were deeply appreciated, valuable and irreplaceable.

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

Councilor Blum removed Item 6a from the Consent Agenda

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

- b. Resolution 1, Series 2022; Designating the Public Place for Posting Notices of Regular and Special Meetings
- c. Resolution 2, Series 2022; Adopting a Budget Calendar for the 2023 Budget
- d. Highway User Tax Fund Mileage Certification

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- e. Agreement for Professional Services for Goose Deterrence in John Meade Park and Alan Hutto Memorial Commons
- f. Agreement for Professional Services for Chief of Police Recruitment Consulting Services

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

Item 6a. Approval of Minutes – December 8, 2021

Councilor Blum and Mayor Pro Tem Brown indicated they were not present at the December 8, 2021 meeting.

Councilor Weil moved, seconded by Councilor Sheldon, to approve the December 8, 2021 meeting minutes.

The motion passed with 4 ayes and 2 abstentions.

UNFINISHED BUSINESS

Council Bill 17, Series 2021; Declaring the Organization of the Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District (first reading)

City Clerk Gillespie presented Council Bill 17, Series 2021 on second reading. She indicated there had been no changes since first reading.

Mayor Pro Tem Brown moved, seconded by Councilor Sheldon, to approve Council Bill 17, Series 2021; declaring the organization of the Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District on second and final reading.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 17-2021: 6 ayes. 0 nays. The motion carried.

NEW BUSINESS

Council Bills 1, 2, 3, 4, and 5, all of Series 2022: Amending Chapters 2, 16, 17, 18 and 20 of the Cherry Hills Village Municipal Code (first readings)

Planning Manager Workman reminded Council of the study session on June 15, 2021 to conceptually discuss the proposed amendments; the Planning and Zoning Commission (P&Z) had reviewed and recommended approval of the proposed amendments at their December 14, 2021 meeting; the amendments were intended to be clarifications, to create consistency within the Code, or to provide additional information where beneficial; maintaining the Code language on a consistent basis was responsible management and ensured a built environment that reflects the desires of the community; he explained the proposed amendments: amending Section 2-6-10 of the Code to reflect P&Z's authority to make recommendations on issues located in Chapter 20; adding language to Table 16-2-120 that was inadvertently left out during the Code Modernization to clarify that horses and equestrian facilities are allowed in R-1 and R-2

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zone districts and in the R-3 and R-3A zone districts when properties are over one acre in size, consistent with historical uses and practices.

Councilor Sheldon asked for confirmation that the first footnote was not in the table because the entire table was not included in the staff memo.

Planning Manager Workman confirmed that was correct.

Mayor Pro Tem Brown asked for confirmation that proposed footnote #3 would allow horses owned by the property owner in R-3 and R-3A for lots over one acre and allow a maximum of two horses not owned by the property owner; she asked if the restriction of two horses not owned by the property owner only applied to R-3 and R-3A.

Planning Manager Workman confirmed that was correct and added the nuisance requirements for animals still applied regardless of zone district.

Councilor Gallagher asked about other hooved animals such as goats and llamas.

Planning Manager Workman replied they were still allowed and there had been no change to those regulations through the Code Modernization.

Mayor Pro Tem Brown asked if property owners could board other people's llamas on their property.

Planning Manager Workman confirmed that was correct as long as they met the nuisance requirements for animals.

Mayor Pro Tem Brown asked about the nuisance

City Attorney Guckenberger replied Section 16-2-250 stated "No agricultural use shall be permitted if offensive or injurious because of odor, noise, dust, fumes, smoke, or other nuisance."

Mayor Pro Tem Brown suggested a one-acre lot was small to have six horses, for example.

City Attorney Guckenberger explained the proposed language was a carry-over from before the Code Modernization.

City Manager Cramer suggested that issue could be added to the list for future consideration.

Councilor Sheldon asked if Todd Messenger had been involved in the proposed amendments, noting he was not suggesting that he should be.

Planning Manager Workman replied staff had been in contact with Mr. Messenger.

Councilor Weil asked staff to provide an overview of the Code regulations regarding farm animals to help Council understand the context for the proposed changes.

Planning Manager Workman continued to explain the proposed amendments: replacing "accessory dwelling units" with "guest house" in Section 16-2-740.

Councilor Blum expressed confusion with this proposed amendment in light of the next proposed amendment specifically allowing accessory structures on lots without a primary structure if certain conditions are met.

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Planning Manager Workman explained accessory dwelling units were not allowed in the Code but guest houses were; he added the next proposed amendment would align the Code with current practice.

City Attorney Guckenberger added the term “dwelling unit” was specific to a domicile as opposed to a structure that is auxiliary to a principal structure.

Mayor Pro Tem Brown asked if guest house could be rented for a long-term rental.

Planning Manager Workman replied it could not.

Councilor Sheldon noted all references of accessory dwelling unit were being removed from the Code to help clarify.

Mayor Pro Tem Brown indicated an accessory dwelling unit implied an extra house where someone lived.

City Attorney Guckenberger agreed and noted the definitions for dwelling unit and guest house were different, with the main policy distinction being commercial use.

Planning Manager Workman continued to explain the proposed amendments: adding language to Table 16-3-10.C.1. and 16-3-10.C.2. codifying the historical practice of allowing accessory structures on lots without a primary structure as long as certain conditions were met.

Councilor Sheldon asked if there was any restriction on lot size or zone district.

Planning Manager Workman replied there was not.

Councilor Sheldon asked what would happen if the property owner wanted to sell the lot with the accessory structure. He noted the City had existing issues with properties having an accessory structure and no principal structure.

City Manager Cramer suggested if a lot were sold the guest house or accessory structure would not be legally occupiable as a principal structure; he suggested to try to avoid this scenario, guest houses could be excluded from the amended language.

Mayor Pro Tem Brown expressed concern with this practice and the amendment and suggested property owners go through the lot consolidation process if they wanted to accomplish this.

City Manger Cramer explained the amendment came from the fact staff was unable to find Code language that allowed what had been done in practice over many years, and it was not staff's intent to make a policy decision; staff would be supportive if Council withdrew this amendment to hold a larger policy discussion at a future date.

Planning Manager Workman continued to explain the proposed amendments: adding language to Section 16-7-130 to require resolutions for discretionary land use approvals by City Council; amendments to Section 16-7-255 so that public notice requirements for land use applications were generally the same for all application types, were consolidated in Chapter 16, and change the publication requirement to the City's website rather than the newspaper.

Mayor Pro Tem Brown indicated a newspaper was a push notification while information on the website was a pull notification, where someone has to actively seek out the information rather than having it be delivered to them; she recognized the newspaper was not as effective as it used to be but was still better than expecting people to look at the website every day.

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Councilor Sheldon agreed and stated it was not fair to neighbors to have it be incumbent upon them to seek that information.

Councilor Weil expressed concern that not everyone was subscribed to the newspaper.

Councilor Sheldon agreed but noted the newspaper was standard for many legal notices.

Mayor Pro Tem Brown suggested both the website and newspaper be used.

Planning Manager Workman indicated staff currently did both; he reminded Council publication was one of three notice types, in addition to signage at the property and mailings to neighbors within 1,000 feet.

Mayor Pro Tem Brown stated there were many issues that would interest residents beyond the mailing radius; she added she was going to suggest increasing the mailing radius if publications were removed from the newspaper.

Councilor Sheldon agreed increasing the mailing radius was a good discussion considering the nature of the community. He asked what staff did versus the applicant.

Planning Manager Workman explained staff provided the letter and mailing list to the applicant and the applicant had to do the mailing.

Mayor Stewart asked what qualified for publication in a newspaper and if the Village Crier qualified.

Planning Manager Workman replied a newspaper of general circulation was required.

Mayor Stewart indicated public notices were moving away from newspapers in the legal community because no one looked there. He suggested a push notice from the City's website through NotifyMe.

Councilor Weil agreed the Crier would be a more effective communication tool.

City Attorney Guckenberger explained the Village Crier would not qualify as a newspaper of general circulation under state law so some changes would have to be made; to the Mayor's point the Open Meetings Law had been amended to encourage posting notice of public meetings on municipal websites; the Crier was only published monthly so specific notices would be difficult but a general notice directing people to the website could be included.

Mayor Pro Tem Brown suggested the Villager Newspaper's circulation was likely higher than the number of people who visit the City website.

Mayor Stewart agreed those would be helpful numbers to know.

Councilor Weil suggested publishing notices on the website and including the basic details in the Crier and then pointing people to the website for further information.

Mayor Stewart suggested sending public notices through NotifyMe would be the most effective communication method.

Councilor Gallagher agreed but asked how many residents were signed up for NotifyMe.

City Clerk Gillespie replied each notification list had a different number of subscribers with an average of about 300; notices could also be posted on the City's Facebook and Nextdoor accounts.

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Councilor Sheldon indicated there was no catchall so the more options the better while being reasonable with staff and the applicant.

Mayor Pro Tem Brown asked about the cost of posting in the Villager.

City Clerk Gillespie replied public notices were generally \$20-\$40.

City Manager Cramer suggested staff return with multiple options for second reading.

Councilor Sheldon suggested increasing the mailing radius for R-1 and R-2 zoning be increased to 1,500 feet.

Planning Manager Workman noted issues would come up with a lot that bordered two zone districts; he indicated he would research mailing radiuses for other jurisdictions for Council's consideration.

Mayor Pro Tem Brown indicated she would be supportive of Councilor Sheldon's suggestion or if that was too confusing then increase the radius for all zone districts.

Councilor Sheldon suggested final plats should be approved administratively rather than by Council as they were very technical, unless staff believed a particular plat should be considered by Council for a particular reason.

Councilor Weil asked how frequently final plats came to Council.

Mayor Pro Tem Brown noted she could think of three during her time on Council.

Mayor Stewart indicated councils had guarded that power over the years particularly for the opportunity to make sure the trails were established and maintained in the best interest of the City.

Councilor Sheldon stated the site plan would dictate the trail locations and would still come to Council; the plat dealt with the technicalities of dividing up the lots with the tangents, radii and legal descriptions.

City Manager Cramer agreed final plats were not discretionary, the findings were very technical and from that perspective the review could be administrative; Mayor Stewart was correct that councils were generally very reluctant to give up that authority and noted in general councils sometimes liked to use the opportunity to discuss land use and other things not meant to be addressed by the plat; if Council wanted to change review of final plats to be an administrative process an appeal process would also have to be added.

Councilor Sheldon indicated it could be the same process as for site plan amendments.

City Manager Cramer agreed if Council provided that direction to staff it would be fairly straightforward to bring back options for Council, outside of the housekeeping amendments process.

Mayor Pro Tem Brown agreed with Mayor Stewart that trail placement was the most important issue that Council would want the opportunity to discuss and asked when that discussion would take place if the final plat were administrative.

Planning Manager Workman explained the preliminary plat would still come to Council as well as the site plan amendment. He continued to explain the proposed amendments: amending Section 16-7-360 to correct a spelling error; amending Section 16-9-130 to clarify the definition for accessory structure related to certain improvements such as built-in fireplaces and grills.

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Councilor Weil asked about the word “reserved” in Section 16-7-255(f)(2).

City Attorney Guckenberger explained she thought it was better to hold that space for future changes as notification options were evolving quickly.

Planning Manager Workman continued to explain the proposed amendments: amending Section 16-7-360 to add a definition for animal husbandry, add a definition for principal structure.

Mayor Pro Tem Brown questioned the word “personal” in the definition and suggested “residential” instead.

Councilor Sheldon questioned the “administrative/registration purposes” for a country club.

City Attorney Guckenberger stated staff could tie the wording more closely to the uses explicitly permitted in the Code.

Planning Manager Workman continued to explain the proposed amendments: correcting the definition of short-term rental in Section 16-7-360; amending Section 17-2-50 to reference the “currently adopted version of the Master Plan” instead of a specific year; amending Sections 17-3-115, 17-3-120, 17-3-230, 17-3-350, and 17-3-520 to reference Chapter 16 for public notice requirements; amending Section 18-11-80 to continue to allow preapplication neighborhood input meetings to be held virtually as determined by the Director; correcting Section 20-3-125 so that the Applicant executes the escrow agreement rather than the Director. He noted P&Z recommended approval with three changes which had been integrated into the council bills presented to Council.

Mayor Pro Tem Brown moved, seconded by Councilor Weil, to approve, on first reading, Council Bill 1, Series 2022, a bill for an ordinance amending Article VI of Chapter 2 of the Cherry Hills Village Municipal Code concerning the powers and duties of the Planning and Zoning Commission.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 1-2022: 6 ayes. 0 nays. The motion carried.

Mayor Pro Tem Brown moved, seconded by Councilor Blum, to approve, on first reading, Council Bill 2, Series 2022, a bill for an ordinance amending Articles II, III, VII, and IX of Chapter 16 of the Cherry Hills Village Municipal Code concerning the City’s zoning regulations with the following changes:

- amendment #1 staff will provide additional information about other types of animals in the Village; and
- amendment #3 will be tabled for further policy discussions; and
- amendment #5 staff will provide alternative language to the publication notice type and consideration of the distance from the subject property for which notice is required; and
- amendment #7.3 staff will consider clarification of the language of the definition principal structure.

The following votes were recorded:

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Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 2-2022: 6 ayes. 0 nays. The motion carried.

Mayor Pro Tem Brown moved, seconded by Councilor Weil, to approve, on first reading, Council Bill 3, Series 2022, a bill for an ordinance amending Articles II and III of Chapter 17 of the Cherry Hills Village Municipal Code concerning the City's subdivision regulations.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 3-2022: 6 ayes. 0 nays. The motion carried.

Mayor Pro Tem Brown moved to approve, seconded by Councilor Gallagher, on first reading, Council Bill 4, Series 2022, a bill for an ordinance amending Article XI of Chapter 18 of the Cherry Hills Village Municipal Code concerning construction permit preapplication neighborhood meetings.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 4-2022: 6 ayes. 0 nays. The motion carried.

Mayor Pro Tem Brown moved to approve, seconded by Councilor Gallagher, on first reading, Council Bill 5, Series 2022, a bill for an ordinance amending Article III of Chapter 20 of the Cherry Hills Village Municipal Code concerning escrow for consultant review fees.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

Vote on the Council Bill 5-2022: 6 ayes. 0 nays. The motion carried.

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City Manager Cramer indicated second reading would be moved back to the February 1st meeting.

Mayor Stewart asked for a motion that the January 18, 2022 Council meeting be held by Zoom given the rise in COVID-19 cases, and also directed staff to bring amendments to City policies to allow for holding meetings virtually if needed, particularly to have a quorum.

Councilor Sheldon moved, seconded by Councilor Weil, to hold the January 18, 2022 Council meeting by Zoom.

The motion passed unanimously.

RECESS OF THE CITY COUNCIL TO CONVENE AS THE CHERRY HILLS VILLAGE CHARLOU PARK 3RD FILING GENERAL IMPROVEMENT DISTRICT BOARD

Mayor Stewart recessed the City Council Meeting and convened the meeting of the Cherry Hills Village Charlou Park 3rd Filing General Improvement District Board.

MEETING OF THE CHERRY HILLS VILLAGE CHARLOU PARK 3RD FILING GENERAL IMPROVEMENT DISTRICT BOARD

Mayor Russell Stewart, serving ex-officio as the GID Chairperson, called the meeting to order at 7:55 p.m.

ROLL CALL OF MEMBERS

The City Council for the City of Cherry Hills Village serving ex-officio as the Board of Directors of the Cherry Hills Village Charlou Park 3rd Filing General Improvement District: Mayor Russell Stewart, Mayor Pro Tem Katy Brown, Councilors Randy Weil, Afshin Safavi, Al Blum, Mike Gallagher, and Dan Sheldon were present on roll call.

Absent: none.

The administrative staff of the City serving as the administrative staff of the GID: City Manager Chris Cramer, Deputy City Manager and Public Works Director Jay Goldie, City Attorney Kathie Guckenberger, Police Chief Michelle Tovrea, Planning Manager Paul Workman, and City Clerk Laura Gillespie.

CONSENT AGENDA

Mayor Pro Tem Brown removed Item 12a from the Consent Agenda.

Councilor Gallagher moved, seconded by Councilor Weil, to approve the following items on the Consent Agenda:

- b. Resolution 1, Series 2022; Designating the Public Place for Posting Notices of Regular and Special Meetings
- c. Resolution 2, Series 2022; Adopting a Budget Calendar for the 2023 Budget

The motion passed unanimously.

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ITEMS REMOVED FROM THE CONSENT AGENDA

Item 12a. Approval of Minutes – December 8, 2021

Councilor Blum and Mayor Pro Tem Brown indicated they were not present at the December 8, 2021 meeting.

Councilor Sheldon moved, seconded by Mayor Stewart, to approve the December 8, 2021 meeting minutes.

The motion passed with 5 ayes and 2 abstentions.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

ADJOURNMENT

The Charlou Park 3rd Filing General Improvement District Board meeting adjourned.

RECONVENE MEETING OF THE CHERRY HILLS VILLAGE CITY COUNCIL

The meeting of the Cherry Hills Village City Council reconvened at 7:58 p.m.

REPORTS

Mayor's Report

Mayor Stewart reported he had participated in a mayors call regarding the tragic fires; he asked City Manager Cramer to provide an update on the Police Chief process; he noted Councilor Safavi had indicated his interest in participating and asked if any other Councilor would like to participate, he would be happy to participate if not; the Police Foundation was up to \$100,000 and he thanked Mark Griffin for his work; he thanked Ms. Diffendal for all of her volunteer work.

Members of City Council

Councilor Blum indicated he had brought up the idea with City Manager Cramer of using the 2021 surplus for employee bonuses in 2022.

City Manager Cramer stated he had discussed the idea with Director Sager; historically the surplus was used to fund the Capital Fund; a flat bonus of \$1,000 per employee would be a \$53,000 expenditure; a 1.5% bonus would be a \$71,000 expenditure; he recommended a flat bonus; they recommended waiting until mid-year to make sure the surplus was not needed for other capital projects.

Councilor Blum asked staff to return with recommendations.

Mayor Stewart agreed a mid-year review was appropriate.

City Attorney Guckenberger indicated she would provide legal advice on how to structure the bonuses to the best advantage of the City and in compliance with federal law.

Councilor Sheldon asked for an updated on the Quincy undergrounding project.

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Councilor Gallagher had no report.

Mayor Pro Tem Brown had no report.

Councilor Weil had no report.

Councilor Safavi had no report.

City Manager & Staff

Deputy City Manager/Director Goldie reported Xcel was continuing to move forward slowly; they were starting to pull the wires; after the wires were pulled they had a few more bores to finish the last hookups; staff had to stop work at the site recently because Xcel did not have traffic control; if there was some good weather in January the poles should come down in the next month or two.

Chief Tovrea reported Officer Cory Sack had tendered his resignation with a last day in mid-February.

City Clerk Gillespie reported recreation reimbursements for 2021 were due by January 15, 2022; holiday tree recycling was in John Meade Park through February 2nd.

City Manager Cramer reported the next step for the public affairs consultant was the telephone and text survey which was scheduled to begin tomorrow, with a report planned for the February 1st Council retreat; he asked for the second Council representative for the community panel for the Police Chief recruitment to be decided by January 18th; the consultant was already working and the position would be posted tomorrow; finalist interviews were planned for late February or early March; interviews would be with a community panel, a public safety panel, and a staff panel; exercises were planned for the applicants to ensure they were able to meet a variety of scenarios and perform various tasks; it would be a thorough process that fit the community; the application deadline would be in about a month.

Mayor Pro Tem Brown asked if regional applicants were expected.

City Manager Cramer replied national applications were expected but more local applicants were expected because they would know the reputation and value of the department and position. He reported COVID-19 cases were increasing; he would find out from other city managers what steps other local jurisdictions were taking; Council had taken action earlier to hold the next meeting virtually and that would be likely for the next couple or several meetings; his goal was to keep City Hall open but if that became challenging due to staffing levels the City could provide services virtually; the Council retreat might need to be held virtually or rescheduled; he asked for confirmation that boards and commissions should also meet virtually starting immediately.

Council agreed.

City Attorney

City Attorney Guckenberger had no report.

EXECUTIVE SESSION AND ADJOURNMENT

Mayor Pro Tem Brown moved, seconded by Councilor Sheldon, to go into executive session pursuant to C.R.S. Sec. 24-6-402(4)(f) for the purpose of discussing personnel matters related to compensation of the City Manager in relation to his performance, and upon conclusion immediately adjourning.

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The following votes were recorded:

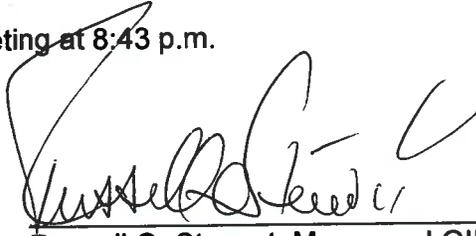
Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes
Blum	yes

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

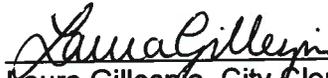
The executive session began at 8:13 p.m.

The meeting adjourned the meeting at 8:43 p.m.

(SEAL)



Russell O. Stewart, Mayor and GID Chairperson



Laura Gillespie, City Clerk and GID Secretary