

## RECORD OF PROCEEDINGS

---

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
and of the Cherry Hills Village Southmoor Circle and Hudson Parkway  
General Improvement District Board of Directors  
Held on Tuesday, April 19, 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, 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 Commander Pat Weathers, Finance Director Jessica Sager, Planning Manager Paul Workman, and City Clerk Laura Gillespie.

Absent: Councilor Al Blum

### **PLEDGE OF ALLEGIANCE**

The Council conducted the pledge of allegiance.

### **AUDIENCE PARTICIPATION PERIOD**

Laura Christman, 18 Cherry Lane Drive, spoke about her draft initiative petition for a Charter amendment for the November 8, 2022 election that will require a vote of the citizens if the City elects to sell, transfer, or otherwise block the public use of trails, open space, or parks, specifically including Quincy Farm; she hired an attorney to help her with the process; the draft had been filed with the City Clerk who had responded with edits; and all the edits would be made before the final version was filed. She explained the Charter amendment initiative petition process as outlined in state statute. She noted the proposed Charter amendment language had been carefully drafted to exclude 90 Meade Lane; the City had acquired that property to do staging for a previous version of city hall; 90 Meade Lane was not used when the current City Hall had been built; as far as she knew 90 Meade Lane had never been used by the public; the Charter amendment language had been changed to specify the use of members of the public versus use by the City; they had not excluded 90 Meade Lane specifically in the language in order to avoid confusion if in the future the City did sell that property; most people did not know about 90 Meade Lane.

Earl Hoellen, 3 Vista Road, indicated he supported the intent of the proposed Charter amendment which was to ensure the protection of the City's parks, trails, and open space; he was concerned about the amendment's possible impact on 90 Meade Lane; he believed the language could be interpreted to apply to 90 Meade Lane and therefore require a vote to sell the property; 90 Meade Lane was acquired in 2004 as the staging area for a new city hall; the city hall project proposed at that time was ultimately never approved; multiple councils had discussed what to do with the property; to his knowledge it was never seriously considered to make it part of John Meade Park or to designate it as a park property; it was considered to be a good investment and a store of value; property values had increased greatly in the past several years; there had been discussion recently about the state of the City's finances; he had previously recommended the City sell 90 Meade Lane; he did not think the City should take the chance that the Charter amendment language, should it pass, would apply to 90 Meade Lane; he encouraged Council to take up the sale of the property before the next election.

## RECORD OF PROCEEDINGS

---

### REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

### CONSENT AGENDA

Councilor Sheldon removed Item 6a.

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

- b. Change Order #2 to the 2020 Chip Seal Contract for Services for the 2022 Chip Seal Program
- c. Agreement for Professional Services for Weed Control Services in City Parks
- d. South High Street Paving Agreement
- e. Change Order to Construction Contract for the 2021 Asphalt Capital Improvement Project to Pave South High Street

The motion passed unanimously.

### ITEMS REMOVED FROM CONSENT AGENDA

#### Item 6a. Approval of Minutes – April 5, 2022

Mayor Pro Tem Brown moved, seconded by Councilor Weil to approve Item 6a.

The motion passed with 4 ayes and 1 abstention.

### UNFINISHED BUSINESS

#### Public Hearing – Council Bill 7, Series 2022; Vacating the City's Interest in a Portion of the Crest Road Right-of-Way (second and final reading, Public Hearing)

Deputy City Manager/Director Goldie presented Council Bill 7, Series 2022 on second and final reading. He explained the owners of 3 Crest Road, Jordan and Kimberly Laycob, have requested the City vacate a portion of Crest Road that abuts their property; the Laycobs desired to make permanent improvements to the driveway and landscaping on their property; 3 Crest Road was the sole property accessed by Crest Road; the applicants were seeking a formalized vacation of the City's interest in a portion of Crest Road that currently cuts into the southwest corner of their property; the new proposed configuration would enhance the City's ability to maintain Crest Road more efficiently and allow the applicants to make permanent improvements; the current road was difficult to plow and maintain due to the manner in which the right-of-way extends into the corner of their property without a cul-du-sac, making plowing and road maintenance more difficult; if the vacation was approved, the length of the road would be cut in half, making it much easier for staff to back down when plowing snow was required or when maintenance of the gravel was needed; all existing utility easements would remain in place; staff also recommended as a condition of approval the applicant be responsible for the maintenance of the area outside of the approved road surface within a portion of the Crest Road right-of-way; the Planning and Zoning Commission agreed with and also made that recommendation; the proposed vacation would leave a strip of right-of-way that would make maintenance difficult; this would be accomplished through a license to maintain right-of-way that would run in perpetuity with the property; the agreement was included in Council packets; Council is authorized to impose reasonable conditions upon the vacation of any right-of-way, including but not limited to the payment of consideration by the land owners receiving benefit from the sale; staff and the City Attorney as directed by Council have negotiated cost for the proposed

## RECORD OF PROCEEDINGS

---

vacated parcel based on current relevant information that was obtained through an appraisal commissioned by the City Manager, an independent appraisal obtained by the petitioner, as well as relevant sale of similar comparable parcels; the recommended amount of this consideration is \$50,028 based on the calculations in Exhibit F to the staff memo; consistent with previous discussions the area proposed for vacation is drawn so that no private ownership other than that of the applicant is contiguous to the proposed vacation; as such if the vacation is approved title to the vacated right-of-way would vest in the applicants alone according to the Municipal Code and Title 43 of the Colorado Revised Statutes.

Jordan Laycob, 3 Crest Road, thanked Council for considering the proposal; he discussed the landscaping and improvements proposed to the road and driveway; he thought it would improve the look and feel of the driveway and be beneficial for the neighborhood.

Councilor Weil asked for clarification on the maintenance relative to the vacation.

Deputy City Manager/Director Goldie explained the City currently maintained the natural, unimproved vegetation in the right-of-way south of Crest Road; the proposal would transfer maintenance responsibility to the owner of 3 Crest Road; the City would still do the snow plowing and gravel maintenance on Crest Road to the new property line; gravel maintenance was needed infrequently since there was only one home at the end of the road.

Mayor Stewart asked for confirmation that the proposed vacation went before the Planning and Zoning Commission and they voted unanimously to recommend approval.

Deputy City Manager/Director Goldie confirmed that was correct.

Mayor Stewart opened the Public Hearing at 6:49 p.m.

Laura Christman, 18 Cherry Lane Drive, indicated she was not concerned with the vacation of the right-of-way but was concerned the way it was being done was wrong, even if technically legal; under Colorado law when a street was vacated the property owners to either side of the street each got half, but if only a portion of a street was vacated then no portion needed to be conveyed to the property owner not adjacent to the vacated street; the proposed vacation left a five foot strip of City right-of-way which defeated the property owner to the south of their right to have half the vacated land conveyed to them; the proposed vacation was a sham although it might be legal; this proposal implied the City did not want to deal with the southern property owner and was showing a preference for the applicant and the City wanted to receive the profit from the vacation that would otherwise have belonged to the southern property owner; the proposed vacation was inherently wrong in her opinion; the southern property owner should sign a waiver or quit claim deed; she questioned the license in perpetuity because of the rule against perpetuities; she proposed Council put the matter on hold, approach the southern property owner and get a waiver.

Rob Eber, 3 Middle Road, indicated his wife was supposed to attend tonight and he asked that he be given her five minutes.

Mayor Stewart stated he would allow it.

Mr. Eber indicated the red square on the aerial view included in Council packets of the 3 Crest Road area with the proposed vacation was inaccurate; he did not know the applicant, the owners of 10 Cherry Lane or 2 Cherry Lane; they were his neighbors; he was in opposition to the request because of the issues it raised; the five foot strip of City right-of-way that would be left from this proposal would be useless; no compensation was being given to the City for that land although it was effectively being given to the applicant; the standard for approval of a vacation was the public interest; the City did

## RECORD OF PROCEEDINGS

---

not get adequate public interest benefit in order to approve the vacation; to the west of the subject property was 2 Cherry Lane and to the south was 10 Cherry Lane, both of which had solid landscaping into the right-of-way; 10 Cherry Lane had also illegally placed a fence in the right-of-way; the proposed vacation included a maintenance license by the owner of 3 Crest Road for a small area of right-of-way in between right-of-way illegally taken and appropriated by the owners of 2 Cherry Lane and 10 Cherry Lane through landscaping and fencing; to his understanding neither 2 Cherry Lane or 10 Cherry Lane had a license for that right-of-way; to his understanding the area was a floodplain used for floodplain drainage through the northwest and passed to Volunteer Park on the other side of Parkway Avenue; he had spoken to City staff and was told the Village allowed landowners to landscape within the right-of-way; the right-of-way area for 2 Cherry Lane and 10 Cherry Lane was far bigger than the area under discussion for the proposed vacation; under the guise of what had been done at 2 Cherry Lane and 10 Cherry Lane, 3 Crest Road should withdraw their application and just commandeer the land; however the landowner at 3 Crest Road had taken the high road and had formally applied for vacation; he appreciated that and thought it was the right way to do it; however the maintenance license was in between two large areas of right-of-way not being properly addressed by the City; he contended the City should address the license in conjunction with addressing 2 Cherry Lane and 10 Cherry Lane's incursion into the right-of-way; therefore it was not in the public's interest to address the maintenance license as part of this vacation process; the staff memo said the City would benefit from not having to maintain or plow the area of proposed vacation; he contended that even if approved the City would still have to back into the right-of-way on Crest Road; it would be easier to just go forward and backward as it currently existed; the proposed landscaping on Crest Road was not that important from a public interest standpoint because everyone was required to take care of the right-of-way adjacent to their property; the City should address the entire right-of-way of the three properties rather than piecing it out with the proposed license; it was the fiduciary duty of the City to protect all the interests of the taxpayers and this only benefited the property owner at 3 Crest Road; it was all right-of-way and they wanted it back, even if it meant making 10 Cherry Lane take down their illegal fence; the irrigation at 2 Cherry Lane would not allow drainage flow to allow the right-of-way to handle an 100 year flood; the consideration for the proposed vacation was absurdly low; the public interest was not met by the proposed vacation; the applicant's appraisal was very low; the payment was calculated using 2018 data from a prior sale, not market value, and should not be considered; it used a low escalator which was not relevant to current conditions; it had a two-year calculation on timeframe, not the four years since it was originally done; after the consideration and the rebates for the maintenance that would take place and the fact that they have to take care of asphalt that the City did not put in there; real estate value in the Village had gone through the ceiling; \$380,000 was nowhere close to the market value of the land after it was annexed into 3 Crest Road; the fiduciary duty of the City was to protect taxpayers and get the maximum amount on this consideration; there had been a lot of discussion about the City's financial difficulties or potential financial issues; to give away even a penny let alone almost \$100,000 was not in the public interest; there should not be any discount or rebate; during discussion about Quincy Farm a realtor had asked the County assessor to value the land of Quincy Farm and it was over \$1 million per acre; the City's appraisal of the proposed vacation came in at \$1.1 million per acre; yet the sale was approximately \$380,000 per acre; he suggested the City get full value for the appraised piece of property; the City's appraisal almost questioned the validity of the applicant's appraisal; the alternative was to use the County assessor's value; the applicant's property was currently valued at \$1.2 million under the County's 2021 appraisal; the land owner did not appeal the property tax assessment; the proposed vacation yielded a \$109,338 value; he suggested using this as an independent number; he suggested getting rid of the license and address all the right-of-way together; he concluded this did not meet the standard of public interest because the right-of-way was not addressed, the City was not getting enough consideration, and the conveyance did not convey the underlying land; he encouraged Council to make sure they had a legal opinion that the City had the right to transfer this piece of property, let alone the questions it brought up for 10 Cherry Lane's owner; all

## RECORD OF PROCEEDINGS

---

these questions led to a conclusion that this deal was no where close to meeting the requirements for the public interest.

Mr. Laycob noted the aerial view with the red square was for presentation benefit only; the survey was more accurate; that corner of the lot was non-buildable land, was not being used by the City, and only had access to the one driveway; he had talked to the owner of 10 Cherry Lane in the past and the owner was fully aware of the plans and had received all of the required notices; neither neighbor had asked him any questions; he was happy to take care of the five foot sliver of right-of-way

Hearing no further comments, the Public Hearing was closed at 7:13 p.m.

Councilor Sheldon asked why the proposal included keeping the five-foot sliver as City right-of-way.

Deputy City Manager/Director Goldie replied staff had given the applicant the option and the applicant had not wanted to complicate the proposal and wanted to move forward with a single applicant proposal; the vacation process did not require the City to contact neighbors, rather it required the applicant to send notice to the neighbors; the City Code and Title 43 of the Colorado Revised Statutes allows the request to be from a single applicant since the proposed vacation was not contiguous to the other property.

Councilor Sheldon noted it did not seem logical for the City to own a five-foot strip of right-of-way. He asked what would happen if Council wanted the vacation to include the five-foot strip.

City Attorney Guckenberger replied she would have to look into that.

Councilor Sheldon questioned the geometry of the proposed vacation and noted it created an odd shape for the new property line and right-of-way. He indicated the applicant had submitted the request over a year ago but there might be a better solution. He did not feel the need to address the value but would like to see the five-foot area be included in the proposed vacation. He suggested Code Enforcement should be sent to the neighboring properties to evaluate those concerns. He might suggest a continuance.

Councilor Gallagher stated he appreciated the applicant's patience with the process; he thanked the public comments; he thought there were some legitimate questions; he hated to delay the process further but he would like to understand better and make sure it was done correctly. He questioned the legality of the fence at 10 Cherry Lane.

Deputy City Manager/Director Goldie replied it was not allowed; the fence had been put up 25 years ago; if at any time the property owners had come in for a building permit the fence would have to have been moved to the proper place; it had not been City policy to address historical fences in the right-of-way; the City ensured new fences were installed properly; there were no violations at 2 Cherry Lane; landscaping was allowed in the right-of-way no matter how wide it was.

City Manager Cramer added he had spoken to former right-of-way manager Ralph Mason about this property and learned there was a drainage ditch between the road and the trees at 2 Cherry Lane; it was often difficult to know where the property line was when staff was out in the field; trees did not require building permits; the City operated on complaint-driven Code enforcement.

Mayor Pro Tem Brown thanked the applicant for his patience and indicated her appreciation for the public comments; the compensation amount had been negotiated pretty heavily considering a lot of factors, not only the generic value of the land, but the fact that the little section of land could not be sold, and it did not have any use to the public, the only person it had any use to was the owner of 3 Crest Road; she

## RECORD OF PROCEEDINGS

---

understood the math involved but she was comfortable with the agreement; she appreciated the willingness of the applicant to negotiate in good faith with the City and she believed the City negotiated in good faith as well. She was concerned with the five-foot strip and the purpose of it being to not include the neighbor to the south in the negotiations; that was not the way she believed the City should operate; the owners of 10 Cherry Lane should be involved; at a minimum the City should get a written release from them; she did not think the City should continue to own a five-foot strip of land; that did not serve the public interest at all; what would serve the public interest would be cleaning the area up and not making it more complicated; cleaning it up was a legitimate benefit to the public. She agreed with Councilor Sheldon and would bring up some other issues during reports that were not relevant to the current discussion. She indicated she had reservations about the proposal at this point.

Councilor Weil echoed the thanks to the applicant and the public comments; it was a good and thoughtful discussion; he had the same concerns; there was potential for legal risk; the five-foot strip seemed like a problem waiting to happen; the owners of 10 Cherry Lane might file a lawsuit instead of attending the public hearing; the City should execute some legal documents to sort it out with that neighbor; he did not like doing things that were intended to be work-arounds; he would like to hear more debate about the valuation question; he suggested Council discuss the topic of rights-of-way and address in a more substantial way; being reactive and allowing historical encroachments to remain resulted in more violations; he questioned the City's right or intent to allow landscaping that blocked the right-of-way; he suggested Council develop a more comprehensive approach. He supported continuing the proposed vacation to a date in the near future and focus on it with a sense of urgency.

Councilor Safavi echoed the other comments and agreed with continuing the proposed vacation to a date certain.

City Attorney Guckenberger advised renoticing the public hearing per the Code which required 20 days' notice prior to the meeting, so the next available Council date was May 17<sup>th</sup>. She stated she had no indication there was any kind of subterfuge engaged in with the application; state statute provided if less than the entire right-of-way was vacated then title to the vacated portion shall vest in the owners of the land abutting the vacated portion.

Deputy City Manager/Director Goldie clarified at the time of the initial application there was no one living in 10 Cherry Lane, ownership was changing hands, there was no one there for the applicant to communicate with, they were not avoiding talking to the owners, they thought it would be a better process to leave a small strip and move forward so they could improve this area.

Councilor Sheldon asked about first reading.

Mayor Stewart noted first reading was only to set the public hearing and had not involved any Council discussion.

Councilor Sheldon stated he wanted to maybe retract his comment about the geometry; either the right-of-way or the lot had to be oddly shaped.

Mr. Laycob noted the line followed the natural curve of the road. He added the property line of 10 Cherry Lane curved up and did not touch his property line until the corner where his gate was; there was a strip of land they were trying to take into consideration that was the City's that did not touch 10 Cherry Lane; 10 Cherry Lane did not have access to Crest Road.

Councilor Weil questioned that the border of the proposed vacation seemed to follow 10 Cherry Lane's fence line rather than the right-of-way.

## RECORD OF PROCEEDINGS

---

Deputy City Manager/Director Goldie noted all those factors were taken into consideration.

City Manager Cramer indicated if further Council consideration resulted in another party being introduced into the process, the request would likely have to be reconsidered by the Planning and Zoning Commission.

City Attorney Guckenberger noted it would likely be an entirely new application.

Councilor Sheldon asked if Council could approve the application with the condition that the five-foot piece of land also be vacated.

City Attorney Guckenberger replied the property vacated would then be split between the two neighbors so there would be a different result.

Councilor Sheldon asked if the two and a half feet could be given to the owners of 10 Cherry Lane tonight without consulting them.

City Attorney Guckenberger replied Council could but the owners might not want it. She added Council had the option to deny this application and have the applicant come back with a new proposal.

Councilor Weil indicated he was interested in doing the process correctly.

Councilor Sheldon moved, seconded by Mayor Pro Tem Brown, to continue Council Bill 7, Series 2022 to May 17, 2022 and to have the appropriate notices posted and published as required by the Code.

The motion passed unanimously.

Council Bill 8, Series 2022; Amending the Budget for Fiscal Year 2022 by Creating a Fund for the Southmoor Circle and Hudson Parkway General Improvement District and Appropriating Funds Therein (second and final reading)

Director Sager presented Council Bill 8, Series 2022 on second and final reading. She explained the proposed bill would establish a fund and appropriate expenditures for the new general improvement district in the amount of \$182,061, which included Xcel's cost, reimbursement of the initial \$10,000 petitioner deposit, bond issuance fees, a construction reserve, and the debt service fund.

Mayor Pro Tem Brown moved, seconded by Councilor Weil, to approve Council Bill 8, Series 2022 amending the budget for fiscal year 2022 by creating a fund for the Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District and appropriating funds therein on second and final reading.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes

Vote on the Council Bill 8-2022: 5 ayes. 0 nays. The motion carried.

## RECORD OF PROCEEDINGS

---

### Council Bill 9, Series 2022; Amending Article III of Chapter 2 of the Municipal Code Concerning the Fidelity Bond Requirement for Employees that Handle City Funds (second and final reading)

Director Sager presented Council Bill 9, Series 2022 on second and final reading. She explained Section 13.4 of the Charter required a fidelity bond for any employee who handled funds at an amount to be fixed by the Council; Section 2-3-30(c) of the Municipal Code set the bond amount at \$20,000 to \$100,000; Council Bill 9, Series 2022 would amend the Code to set the bond amount to zero dollars if the City has approved and purchased insurance coverage that fulfills the same purpose in the amounts appropriate to the risk of loss from dishonest or fraudulent acts by City employees; the City currently purchased additional "excess crime coverage" from CIRSA on an annual basis in the amount of up to \$500,000.

Councilor Gallagher asked about the City's regular insurance.

Director Sager replied the City's base insurance covered up to \$5 million.

Mayor Stewart reiterated he was inclined to change the Charter as bonds were not useful as they were when the Charter was written and insurance coverage was better.

Mayor Pro Tem Brown moved, seconded by Councilor Weil, to approve Council Bill 9, Series 2022, a bill for an ordinance for the City of Cherry Hills Village amending Article III of Chapter 2 of the Cherry Hills Village Municipal Code concerning the fidelity bond requirement for employees that handle city funds on second and final reading.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Sheldon	yes

Vote on the Council Bill 9-2022: 5 ayes. 0 nays. The motion carried.

### Continuation of Amendment No. 1 and 6.2 from Council Bill 2, Series 2022

Planning Manager Workman explained staff continued to work on the amendments from Council Bill 2, Series 2022 from earlier this year but requested a further continuance.

Mayor Pro Tem Brown moved, seconded by Councilor Gallagher, to continue Amendment No. 1 and 6.2 of Council Bill 2, Series 2022, until the July 19, 2022, meeting date.

The motion passed unanimously.

### **NEW BUSINESS**

None

### **RECESS OF THE CITY COUNCIL TO CONVENE AS THE CHERRY HILLS VILLAGE SOUTHMOOR CIRCLE AND HUDSON PARKWAY GENERAL IMPROVEMENT DISTRICT BOARD**

Mayor Stewart recessed the City Council Meeting and convened the meeting of the Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District Board.

RECORD OF PROCEEDINGS

**MEETING OF THE CHERRY HILLS VILLAGE SOUTHMOOR CIRCLE AND HUDSON PARKWAY GENERAL IMPROVEMENT DISTRICT BOARD**

Mayor Russell Stewart, serving ex-officio as the GID Chairperson, called the meeting to order at 7:51 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 Southmoor Circle and Hudson Parkway General Improvement District: Mayor Russell Stewart, Mayor Pro Tem Katy Brown, Councilors Randy Weil, Afshin Safavi, Mike Gallagher, and Dan Sheldon were present on roll call.

Absent: Councilor Al Blum.

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 Commander Pat Weathers, Finance Director Jessica Sager, Planning Manager Paul Workman, and City Clerk Laura Gillespie.

**CONSENT AGENDA**

Councilor Sheldon removed Item 12a.

**ITEMS REMOVED FROM THE CONSENT AGENDA**

Item 12a. Approval of Minutes – April 5, 2022

Mayor Pro Tem Brown moved, seconded by Councilor Gallagher to approve Item 12a.

The motion passed with 5 ayes and 1 abstention.

**UNFINISHED BUSINESS**

Board Bill 1, Series 2022; Providing for the Issuance of a General Obligation Note (second and final reading)

Director Sager presented Board Bill 1, Series 2022 on second and final reading. She explained the proposed bill authorized the issuance of the Series 2022 Note, in a principal amount of up to \$150,000, along with additional proceeds in the amount of \$32,061 which would be generated from supplemental interest on the Note; if approved closing would be held in the beginning of May and the project should start at the end of May.

Mayor Pro Tem Brown moved, seconded by Councilor Weil, to approve Board Bill 1, Series 2022; A Bill for an Ordinance of the Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District, in the City of Cherry Hills Village, Colorado, providing for the issuance of a General Obligation Note of such District, Series 2022, in an aggregate principal amount not exceeding \$150,000, to finance the cost of certain improvements approved at a District election held November 2, 2021; ratifying actions heretofore taken; authorizing the execution by the District of the Note and related documents required in connection therewith; and making determinations as to other matters related to the Note on second and final reading.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes

## RECORD OF PROCEEDINGS

---

Stewart	yes
Gallagher	yes
Sheldon	yes

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

### **NEW BUSINESS**

None

### **ADJOURNMENT**

The Southmoor Circle and Hudson Parkway 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 7:54 p.m.

### **REPORTS**

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

Mayor Stewart reported he attended the April 6<sup>th</sup> Metro Mayors Caucus, discussion included using municipal bonds to construct more affordable housing; he attended the City's annual contractors meeting on April 7<sup>th</sup>; he attended the April 8<sup>th</sup> Arapahoe County Commissioners, Mayors, and City Managers meeting, discussion focused on the formation of the Arapahoe County Health Department.

City Manager Cramer added the County had expressed their willingness to present to Council when they had a few more answers.

Mayor Stewart reported he had attended two CML meetings on April 12<sup>th</sup> including the budget and audit committee; he hosted the Mayors Munch on April 13<sup>th</sup>; the first meeting of the High Line Collaborative Forum had been held; there was an upcoming meeting on the Hampden Avenue study; a DRCOG meeting on April 20<sup>th</sup>; an Arapahoe County CDOT meeting on April 21<sup>st</sup>; a CML executive board meeting on April 22<sup>nd</sup>; CML lost its appeal to the Governor to veto HB 22-1024 regarding imposing a sales tax exemption for public schools on local municipalities; the concern was the violation of home rule provisions of the Colorado Constitution and the precedent set to allow the state legislature to determine local tax exemptions; he would attend the April 25<sup>th</sup> Arapahoe County Open Space and Trails Advisory Board. He directed staff to send notice to homeowners anytime the City became aware of a fence in the public right-of-way instructing the fence to be moved onto private property.

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

Councilor Sheldon reported on Wednesday he toured the High Line Canal Conservancy's new office; on Thursday he attended the High Line Canal Collaborative's first meeting along with Mayor Stewart and Parks Coordinator Black, discussion included outlining roles, updates from the High Line Canal Conservancy and Denver Water, and Cherry Hills Village's stormwater engineering project. He asked about entering into an IGA with neighboring jurisdictions to accomplish economies of scale for maintenance of the Canal.

Deputy City Manager/Director Goldie noted that process was already moving forward; Greenwood Village, Littleton, and Denver had signed an IGA; Cherry Hills Village staff was watching that closely and hoped to be able to join once the City was ready to take on maintenance of the Canal.

## RECORD OF PROCEEDINGS

---

Councilor Sheldon reported September 16<sup>th</sup> was the Dine on the Canal dinner at the new headquarters; May 20<sup>th</sup> was the Cherry Hills Land Preserve's goat yoga event at Quincy Farm; he asked Deputy City Manager/Director Goldie for an update on the Quincy undergrounding project; he suggested Council members return packet items being continued to City Clerk Gillespie to use in the next packet.

Councilor Gallagher recognized Cherry Hills Land Preserve for coming up with a robust program schedule at Quincy Farm.

Mayor Pro Tem Brown agreed with Mayor Stewart's comment about the fence in the right-of-way; the City had a complaint-driven system and had now received a complaint about that fence; it was not fair to require new fences to meet the Code but allow another property owner to have hundreds of feet of right-of-way inside their fence; she was not suggesting the City start patrolling for fences in the right-of-way because the City did not have the resources to do that; but when the City received complaints the City should take action. She indicated Council should reconsider the new practice of not holding Council discussion on an item on first reading when there was a public hearing on second reading; what happened tonight was a travesty where two weeks of everyone's time were wasted before discussing the application and discovering the problems; now it was pushed out even farther; she felt terrible for the applicant and everyone involved; it was not uncommon for Council to look at applications and have questions that used to be addressed between first and second reading; under the current practice first reading had no discussion and basically served no purpose except to delay the timeline; the reasons the practice was changed still existed but she would like Council to reconsider that practice.

Councilor Weil reported the Belleview median project had been budgeted at \$100,000 with half from the City and half from the HOA, but the low bid came back at \$183,000; neither the City nor the HOA had extra money in their budgets; the HOA agreed to wait on this project until prices decreased. He reported he was on the regional transportation committee of DRCOG and their meeting this morning had focused on the application to lift the state's carbon monoxide, the result of a 20-plus year process, much of it attributable to regulations on the automotive industry; greenhouse gas regulations were currently being debated and would be a heavier lift to make progress; DRCOG would be returning to in-person meetings. He agreed with the others on fences and added his concern with allowing boulders to be placed in the right-of-way to prevent parking.

Councilor Safavi congratulated Dr. Todd Saliman for being the 24<sup>th</sup> president of the University of Colorado.

Mayor Stewart noted Colorado was still out of compliance with ozone regulations and discussion included RTD free days; ozone was now a bigger problem than carbon monoxide because there were a lot of natural sources for ozone; ultimately electric cars might be the way to solve these problems.

### **City Manager & Staff**

Planning Manager Workman reported staff had received positive feedback from the City's annual contractor's meeting; the Planning and Zoning Commission extended the deadline for the second Master Plan update survey to the end of the month, the City had received about 100 responses so far; CML had asked elected officials to ask their state representatives to vote no on HB 22-1362 that would mandate municipalities to adopt and enforce minimum energy codes without exception or consideration of local priorities.

Mayor Stewart expressed his support for a letter from the Council to state representatives requesting their no vote.

## RECORD OF PROCEEDINGS

---

Councilor Sheldon asked staff to provide a non-partisan summary of the bill for Council's review before a letter was sent on behalf of Council.

Deputy City Manager/Director Goldie reported staff had invited Liz Gardner, the City's new local government liaison at Xcel, to attend the May 17<sup>th</sup> Council meeting to discuss the Quincy undergrounding project. He explained Xcel had left the partial poles on Quincy because there was Zayo wireless equipment on them, but Xcel had never communicated that to the City; staff had made it clear to Xcel the timeframe and communication on this project were not acceptable; this was the worse project he had been involved with in his 30 years in public service; he had Xcel's promise to remove the poles once Zayo's equipment was removed; staff had given Zayo formal notice per their master license agreement with the City; Zayo had 90 days to remove their equipment; CenturyLink and Comcast would come back out to clean up and bury their remaining lines.

Councilor Sheldon asked about the plan for revegetation of the right-of-way.

Deputy City Manager/Director Goldie replied Xcel was responsible for the revegetation; after all the utilities and poles were removed Xcel would regrade the area, staff would inspect it, then Xcel would put down topsoil, staff would inspect it, then Xcel would hydro seed the area.

City Manager Cramer reported staff was in the middle of the follow up that resulted from the full day of police chief interviews; he hoped for resolution on that by next week in order to move forward with a finalist; the process of finding a new finance director was less positive; staff had reposted that position; the recruitment and retention issues were real for the City as well; these two processes had highlighted some ideas that he would likely be discussing with Council to make sure the City was staying competitive; staff would probably look into the option of hiring a recruiter for the finance director position next week.

Mayor Stewart noted a supplemental appropriation would be needed and suggested putting that on the next agenda.

City Manager Cramer reported the City had received an initial notice of an initiative petition for a Charter amendment; there was some interest in having a conversation with the petition committee about the proposed language and asked for a couple of volunteers from Council to join himself and City Attorney Guckenberger; he emphasized staff wanted to be respectful of the petition committee's timeline.

Councilor Gallagher and Councilor Weil volunteered to participate in that conversation.

Councilor Weil asked other Council members to send him their thoughts.

City Manager Cramer encouraged Council members to reach out to City Attorney Guckenberger with any legal questions. He reported the Cherry Hills Land Preserve would provide an update to Council at the next meeting about their activities. He noted he and City Attorney Guckenberger would discuss Mayor Pro Tem Brown's point about first and second reading.

Mayor Pro Tem Brown indicated she recalled the reason being not having Council discuss the same issue twice.

Mayor Stewart replied part of the reason had been not to require the applicant to come twice; discussion at both first and second reading created the ability for the testimony to be inconsistent and conflicting by having two meeting records instead of just one.

City Manager Cramer indicated his preference was to have the public hearing on first reading to ensure Council was informed and hear from the public early in the process;

## RECORD OF PROCEEDINGS

---

there were other considerations, and he would discuss with City Attorney Guckenberger and report back.

Mayor Pro Tem Brown noted this was not the first time Council had seen the application and perhaps mea culpa on all of them for not noticing the issue earlier.

City Manager Cramer reported staff had sent a letter requesting the governor veto HB 22-1024.

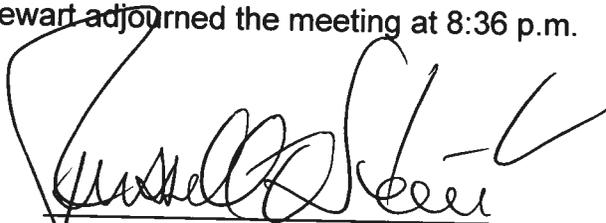
City Attorney Guckenberger reported on the opioid settlement MOU; the regional council for Arapahoe County was figuring out how the council would operate; they were seeking direction from local municipalities on plan for local municipality voting members: assigned seats for Aurora and Centennial, and two rotational seats that incorporate geography.

Mayor Stewart suggested the other municipalities might be better suited to be voting members initially.

### ADJOURNMENT

Hearing no objection Mayor Stewart adjourned the meeting at 8:36 p.m.

(SEAL)



Russell O. Stewart, Mayor and GID Chairperson



Laura Gillespie, City Clerk and GID Secretary