

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, May 2, 2023 at 6:30 p.m.
City Hall, 2450 East Quincy Avenue, Cherry Hills Village, Colorado 80113

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

CALL TO ORDER

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

ROLL CALL

Mayor Katy Brown, Mayor Pro Tem Randy Weil, Councilors Earl Hoellen, Dan Sheldon, Susan Maguire, and Robert Eber were present on roll call. Also present were City Manager Chris Cramer, Deputy City Manager/Director Jay Goldie, City Attorney Kathie Guckenberger, Police Chief Jason Lyons, Finance Director Doug Farnen, Community Development Director Paul Workman, and City Clerk Laura Gillespie.

Absent: Councilor Al Blum

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

None

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

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

- a. Approval of Minutes – April 18, 2023
- b. Resolution 16, Series 2023; Reappointing a Member and Appointing a New Member to the Board of Adjustment and Appeals
- c. Resolution 17, Series 2023; Reappointing Members to the Cherry Hills Village Art Commission
- d. Construction Contract for the 2023 Slurry Seal Project with A-1 Chipseal Company

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

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NEW BUSINESS

Resolution 18, Series 2023; Accepting a Donation from the Cherry Hills Village Police Foundation on Behalf of the Cherry Hills Village Police Department

Chief Lyons presented Resolution 18, Series 2023 for Council's consideration. He explained the donation from the Police Foundation would be used to purchase tire deflation devices for each patrol vehicle and for training on the new equipment.

Councilor Maguire asked how the equipment worked.

Chief Lyons explained the equipment; he noted stolen vehicles entered the City every day.

Councilor Hoellen moved, seconded by Mayor Pro Tem Weil, to approve Resolution 18, Series 2023; accepting a donation from the Cherry Hills Village Police Foundation on behalf of the Cherry Hills Village Police Department, with the amendment that in Section 1 the words "with gratitude" be added after the word "Council".

The motion passed unanimously.

Council Bill 2, Series 2023; Repealing and Re-enacting Articles I through IX of Chapter 18, Concerning Building and Fire Regulations; Adopting by Reference, with Certain Amendments, the 2021 International Building Code, the 2021 International Existing Building Code, the 2021 International Residential Code, the 2021 National Green Building Standard, the 2021 International Mechanical Code, the 2021 International Plumbing Code, the 2021 International Fuel Gas Code, the 2021 International Energy Conservation Code, the 2023 National Electrical Code, and the 2021 International Fire Code; Repealing all Ordinances in Conflict Therewith; and Providing Penalties for Violations Thereof (first reading)

Director Workman presented Council Bill 2, Series 2023 on first reading. He explained the International Code Series, the National Green Building Standard, and the National Electrical Code were updated every three years to keep pace with new technology and knowledge in construction practices; the City adopted the codes with customized amendments to meet the City's unique needs; Council had reviewed the amendments at the April 4, 2023 study session.

Steve Thomas, Shums Coda Associates and the City's chief building official, explained the major changes to this version of the codes included egress windows, emergency storage systems, stairway safety, and energy efficiency; adoption of the energy code now would allow the City to evaluate the state's new energy requirements rather than being forced to adopt them this year.

Councilor Maguire asked if most houses in the City were completed within the project completion timeframe of 18 months.

Director Workman replied it depended on the complexity of the home; larger homes with more complex HVAC and electrical generally needed permit extensions; homes without those complexities generally completed work within the 18 months.

Mayor Brown asked if the building or fire codes limited the number of people allowed to live in a residential structure; limits related to familial status would be prohibited if Senate Bill 23-213 passed.

Mr. Thomas replied there was no limit in the residential codes but the health and safety standards were designed to accommodate one person per 200 square feet; residential occupancy limits were generally found in property maintenance codes or zoning codes.

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Councilor Eber asked if there was a safe electrical draw per house per person.

Mr. Thomas replied electrical draw was generally based on the appliances being used in the home rather than number of occupants.

Councilor Sheldon noted he was aware of a small project that was not being completed in a timely manner and asked about a tiered system of permit timelines based on the complexity of the project.

Councilor Maguire noted the code stated a permit would expire if work was suspended for a period of time.

Mr. Thomas explained the base code did not have permit timelines; the City's amendments implemented an 18-month permit timeline to incentivize timely project completion; it would be challenging to come up with a good system to categorize projects for different permit timelines; it might be based on valuation or square footage; it would also need to be fairly applied to all projects.

Councilor Hoellen asked if a project did not start 18 months after the permit was issued if they had to reapply.

Mr. Thomas confirmed that was correct.

Councilor Hoellen asked how the initial 18-month permit timeline was enforced.

Director Workman explained every permit issued regardless of type of project was good for 18 months; if a project was not completed at the end of the 18 months the Code said it was eligible for a four-month extension with a fee of 50% of the permit fee; after that there was a second four-month extension with a fee of 25% of the permit fee; after that the permit holder had to reapply for a new permit for the remaining scope of work; regarding permit timeframes or a tiered system, the City did not want to deny permits and have unfinished projects; it was a balancing act to motivate permit holders to complete their projects while leaving time and flexibility to get the work done.

City Manager Cramer recalled a project that had gone through the 18-month permit, both extensions, and was on its second permit, and a neighbor came to staff and Council asking that something be done; the only thing the City could do was not approve the permit, but that was not an option or a solution; the City wanted to incentivize timely project completion but should never get to the point where someone could not finish their project.

Councilor Sheldon noted the situation he was talking about might be an outlier.

Mayor Pro Tem Weil indicated intuitively a small project should be completed faster, however contractors were not always responsive to small projects.

Mr. Thomas added supply chain issues also made things very difficult.

Councilor Maguire noted the Code stated a permit would expire if work was suspended or abandoned for 90 days.

Mr. Thomas explained the base code was 180 days and the City's amendment was for 90 days.

Councilor Eber suggested unless good cause was shown the permit extensions should be more of a financial disincentive.

Director Workman replied that was a policy discussion for Council; most of the time the extensions were needed due to a legitimate reason such as unforeseen circumstance in the

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supply chain for specialized materials; contractors were normally very motivated to complete projects.

City Manager Cramer added the Cherry Hills Country Club had to get an extension and that cost was painful; making that cost higher for projects that needed extensions by necessity would be more painful.

Mayor Brown suggested Councilor Eber meant charging the lower cost for the first extension and the higher cost for the second extension.

Councilor Eber clarified he meant a larger financial disincentive for an egregious situation.

Director Workman noted determining what constituted egregious would put staff and the City Attorney in a difficult position.

Mayor Pro Tem Weil moved, seconded by Councilor Maguire, to approve, on first reading, Council Bill 2, Series 2023, a bill for an ordinance to repeal and replace, with amendments, Articles I through IX of Chapter 18 of the Municipal Code concerning building and fire regulations.

The following votes were recorded:

| | |
|---------|-----|
| Eber | yes |
| Hoellen | yes |
| Weil | yes |
| Sheldon | yes |
| Maguire | yes |

Vote on Council Bill 2, Series 2023: 5 ayes. 0 nays. The motion carried.

Council Bill 3, Series 2023; Amending Chapter 4, Article IV Concerning Retail Sales Tax Definitions and Exemptions (first reading)

Director Farmen presented Council Bill 3, Series 2023 on first reading. He explained the City's exemptions needed to be finalized before the City could join the State's Sales and Use Tax System; staff drafted the proposed council bill based on the Council discussion at the April 18, 2022 study session; the new exemptions included the state retail delivery fee and carryout bag fee, food for home consumption, newspapers, prescription drugs for animals, and garage sales; staff proposed a \$1,000 threshold for the garage sales exemption.

Councilor Maguire suggested the proposed \$1,000 threshold for garage sale exemptions was too low; she mentioned estate sales.

Councilor Hoellen asked if estate sales were exempted.

City Attorney Guckenberger clarified estate sales, yard sales, and block sales were included in the standard definition of garage sales.

Mayor Brown agreed with Councilor Maguire.

Councilor Maguire suggested limiting the number of sales events per year.

Mayor Brown suggested an amount of money threshold was easier to administer than a number of sales events.

City Manager Cramer agreed and noted cities that limit number of sales events had difficulty enforcing the regulation; some jurisdictions required licensing all garage sales so they could track the number of events.

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Mayor Pro Tem Weil indicated the intention of a limit was to distinguish between an infrequent garage sale from someone running a business.

City Attorney Guckenberger explained the standard definition specified the property being sold was “originally purchased for use by members of the household where such sale is being conducted.”

Mayor Brown asked if frequent garage sales had ever been an issue in the City; if there ever was a problem the definitions provided the tools to address an issue.

Councilor Maguire stated she thought the dollar amount should be removed from the exemption so that all garage sales were exempt.

Councilor Sheldon agreed.

Councilor Eber noted according to the IRS the first \$600 of a garage sale was a nontaxable event, but above that was reportable income; he suggested the City could also use that threshold for when sales tax was charged.

Mayor Brown agreed with Councilor Maguire.

City Manager Cramer noted the proposed threshold had been included based on the Council discussion in the study session but the amount, if any, was at Council's discretion.

Director Farmen continued his presentation with the new exemption for occasional sales of food and beverages by City residents.

Mayor Brown asked how this intersected with special event liquor permits.

City Clerk Gillespie replied a resident would need a state license to sell anything with alcohol.

Mayor Pro Tem Weil asked about girl scout cookies.

City Attorney Guckenberger replied they were exempt because they were a charitable organization.

Director Farmen continued his presentation with information that Denver was the only neighboring jurisdiction that exempted diapers, feminine hygiene products, and incontinence products, so those were not included in the proposed bill; the proposed bill also contained two items identified by Councilor Hoellen and Mayor Pro Tem Weil, the addition of dissolution of LLCs to the list of items not included in the definition of purchase and sale, and making the language for the current services exemption consistent.

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to approve Council Bill 3, Series 2023; A Bill for an Ordinance of the City of Cherry Hills Village Amending Chapter 4, Article IV Concerning Retail Sales Tax Definitions and Exemptions, on first reading.

Mayor Pro Tem Weil moved, seconded by Councilor Maguire, to amend the motion by amending Section 4-4-210(j) to read “Garage Sales, as defined in this Article, shall be exempt from taxation.”

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The following votes were recorded on the amendment to the motion:

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|---------|-----|
| Eber | yes |
| Hoellen | yes |
| Weil | yes |
| Sheldon | yes |
| Maguire | yes |

Vote on the amendment to the motion for Council Bill 3, Series 2023: 5 ayes. 0 nays.
The motion carried.

The following votes were recorded on the main motion:

| | |
|---------|-----|
| Eber | yes |
| Hoellen | yes |
| Weil | yes |
| Sheldon | yes |
| Maguire | yes |

Vote on Council Bill 3, Series 2023: 5 ayes. 0 nays. The motion carried.

REPORTS

Mayor's Report

Mayor Brown reported she had been at the Capital all day to testify against Senate Bill 23-213 and had also attended the senate appropriations committee hearing on Senate Bill 23-303, regarding property tax relief; Senate Bill 23-303 proposed a reduction in the residential assessment rate and a \$40,000 reduction in value for primary homes; every taxpayer would have to file an affirmative statement indicating their primary residence to qualify for the discount; secondary homes would not receive the \$40,000 reduction; the bill was predicated on passage of a ballot initiative in November called Proposition HH which would increase the amount of revenue the state was allowed to keep, so the voters had to agree to give up part of their TABOR refund in order to get property tax relief.

Councilor Hoellen indicated the state legislature was setting things up for future precedent regarding TABOR.

Mayor Brown added the bill had a time limit of 10 years; if at that point the general assembly opted not to continue the property tax reductions then Proposition HH additional revenue went away.

Mayor Pro Tem Weil asked if the assessed value would go back up in that case.

Mayor Brown replied she was not sure; the revenue would also be used to backfill loss of revenue for local governments, special districts, and school districts that rely on property tax; the legislature was acknowledging reducing the residential assessment rate and making the \$40,000 property valuation reduction would take money away from local governments, special districts, and school districts.

Council Hoellen noted the news articles focused on the example of a \$500,000 home; in the City would probably not have a concern with the revenue loss; Cherry Creek School District probably would have a concern.

Councilor Sheldon asked if the special districts would increase their mill levy if the assessed value rate went down.

Mayor Brown replied there was a cap on how large of a mill levy override was allowed.

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Councilor Hoellen added a mill levy increase would be a TABOR issue that would need to be approved by the voters of the special district.

City Manager Cramer noted a number of special districts and school districts attempted to increase their mill levy every year and the voters rejected it every year.

Councilor Hoellen stated a lot would depend on how the legislature was allowed to phrase Proposition HH on the ballot.

Mayor Brown agreed and added those types of measures historically did not perform well in Colorado; if Proposition HH failed then Senate Bill 23-303 would not go into effect and none of the property tax relief measures would occur.

Mayor Brown explained Senate Bill 23-213 was currently in the House committee where it was likely the preemptions would be added back in; it would then go to the House appropriations committee, then the House floor for two readings; if the House amended the bill it would have to go back to the Senate; if the Senate did not agree with the amendments from the House then the bill would go to a conference committee; the resulting bill would have to go back to both houses; all this had to happen before midnight on Monday May 8th.

City Manager Cramer suggested Council thank the senators who approved the amended bill for their support thus far and encourage them to stand firm in their resolve.

Mayor Pro Tem Weil asked if there was any action the City should be taking or encouraging.

Mayor Brown replied she believed the City's legislators needed to hear from Council and residents; Representative Froelich had sent an email stating her support of transit-oriented development and accessory dwelling units; Senator Bridges had been instrumental in the amendments in the Senate, but he should be reminded how important this was to City residents; they were all together in the room when he expressed support of residents' message.

City Manager Cramer indicated the City would do another social media post tomorrow.

Councilor Eber noted the transit-oriented development piece of the bill was very impactful and suggested it be included in the social media post; if passed it would create an unintended hierarchy in the Village. He asked if CML was still opposed.

Mayor Brown confirmed CML was still opposed, Metro Mayors Caucus was still opposed, there were more and new organizations testifying at the House committee hearing today who were opposed.

Councilor Eber indicated if the bill moved forward, the one amendment he would like to encourage would be that the half-mile radius for transit-oriented development be measured by walking distance rather than as the crow flies; that would at least provide comfort for those sections of the Village currently affected that the Council was not selling them out.

Mayor Brown agreed but noted the wording of the bill was unclear; she believed at this time the intent of the language was to measure by walking distance, but there was serious question about what the wording actually said.

City Manager Cramer added staff would work with CML general council to determine what the current amendment said.

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Councilor Hoellen stated his view was Council needed to stand against any preemption of local control whether it affected the City or not because it would be a multiyear process of erosion, and the principal was there should be no preemption of local control of zoning and home rule; controlling their land and policing and securing their people were the main functions of the Council.

Mayor Brown agreed but still believed Council and City staff wanted to understand what the bill would mean for residents in order to accurately communicate; she remained opposed to the bill regardless of small changes; she had been told by Senator Bridges that the walking distance issue had been addressed so she believed that was his intent.

Mayor Pro Tem Weil talked about the bill amendment language he was familiar with.

Mayor Brown quoted the latest amendment that was going to be proposed in the House committee tonight that addressed density in transit-oriented areas.

City Manager Cramer stated he believed the intent of the language was to suggest local municipalities could use alternative measures or definitions, but later in the bill the wording suggested the municipality had to implement that density although they could choose other places to put that density; these amendments were created on such a short timeframe it was understandable that some wording and cross references would be missed and create unintended consequences.

Councilor Hoellen complimented City staff and the City Attorney for their careful attention to detail when preparing amendments to the City's ordinances.

Councilor Eber commented that a similar bill died in New York.

Members of City Council

Councilor Eber had no report.

Councilor Hoellen asked if staff had received an updated estimate of 2024 property tax revenue from the County Assessor's Office.

City Manager Cramer replied staff would get an updated estimate.

Mayor Pro Tem Weil reported there was a special board meeting for DRCOG tomorrow asked for confirmation that Council still wanted him to vote that DRCOG oppose Senate Bill 23-213.

Council confirmed.

Mayor Pro Tem Weil noted the only reason the last amendment from the Senate was so good was that the original bill was so bad.

Councilor Hoellen indicated the reporting and studies in the amended bill were under the state's purview but preemption was an entirely different thing.

Mayor Pro Tem Weil reported Cherry Hills Farm HOA was considering a special assessment to pay for the Belleview median project and asked staff to send him the most recent cost estimate information; the HOA was reviewing their covenants and regulations; he had encouraged them to refer to the City Code wherever possible; he asked staff for help determining where that would make the most sense; the HOA had questions about the FLOCK camera system.

Chief Lyons replied there were six neighborhoods in the City with FLOCK cameras and two more that were interested; there were seven City-funded cameras and three coming

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soon; the four City cameras averaged around 100 hits per week; some were repeats, some were stolen license plates.

Mayor Pro Tem Weil suggested publicizing the FLOCK information to the community.

Councilor Sheldon reported a housing-displaced person had slept on a resident's porch in Charlou; roughly a week later they found a small encampment of two or three tents just on the other side of eastern wall of the Charlou neighborhood which was the City boundary; it was unknown if the two incidents were connected; he thanked the CHV Police Department, the Denver Police Department, and the Goldsmith Metropolitan District who owned the ground where the encampment had been. He thanked Chief Lyons for the information on the tire deflation devices being purchased with the donation from the Police Foundation; a presentation about the Police Department's pursuit policy had been rescheduled from the previous meeting to the next meeting; he hoped the new equipment would help prevent the criminals from getting away without any punishment. He noted he was disappointed that Arapahoe County residents received a postcard with summary assessed valuation information instead of the full information of calculations and comparisons; he thanked Public Works for keeping the Denver Water project at Holly and Quincy on track.

Councilor Maguire thanked Parks Manager Emily Black for updating the information on the City website regarding funds spent on Quincy Farm; she asked for an update on the status of the tenant at Quincy Farm.

City Manager Cramer replied the tenant had vacated the property but had left some items in the home.

City Manager & Staff

Director Farmen reported the 2022 audit would be presented to Council in June; staff was answering a lot of phone calls and emails about sales tax accounts.

Director Workman reported staff was spending a lot of time and resources on Senate Bill 23-213, rightly so; the annual FEMA community rating standards audit was complete and he would report the results to Council once they were known.

Chief Lyons reported in January he rolled out a new statistically-driven monthly report format; his understanding of the report format may have fallen short of Council expectations; for the May report Council would receive a more robust report with the same statistical data but also a summary of the ongoings within the organization including accomplishments and department business; historical data was derived from handwritten paper reports compiled by the clerk and transferred between several filters, resulting in some unintended inconsistencies and redundancies; the new system directly transferred CAD dispatch information into an analytical software program; he wanted to collect a years' worth of data with the new system to present to Council. He reported the department would be fully staffed as of May 15th; staff was engaged in very serious conversations with Kent Denver for a full-time school resource officer; due to the new scheduling model the department would have its first ever full-time traffic unit; those officers would increase enforcement and education at the high frequency crash locations and City-wide, as well as handle complaints from residents which did not get the attention they deserved because of the nature of patrol work; the department now had its own Facebook page.

Councilor Hoellen stated anecdotally it seemed the new staffing and scheduling plan was working as he saw police officers on the road everywhere he went.

Mayor Brown agreed.

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Deputy Manager/Director Goldie reported the Public Works department was not fully staffed, they were down two people in the Parks division and one person in the Streets division; the RFP for the real estate broker for 90 Meade Lane had closed earlier today and the City had received four proposals; he would send the proposals to Council.

City Manager Cramer recognized City staff for their work on several unanticipated and high-profile projects this year in addition to daily operations.

Council thanked City staff.

City Attorney

City Attorney Guckenberger had no report.

EXECUTIVE SESSION AND ADJOURNMENT

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to go into Executive session pursuant to C.R.S. Sections 24-6-402(4)(b) and 24-6-402(4)(e) for the purposes of receiving legal advice on specific legal questions and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators regarding the contents of a letter from Colorado Open Lands to the City regarding the conservation easement on the property known as Quincy Farm, and further to adjourn the City Council meeting at the conclusion of the executive session.

The following votes were recorded:

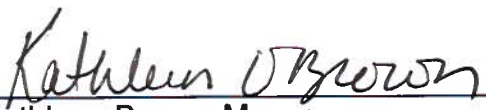
| | |
|---------|-----|
| Eber | yes |
| Hoellen | yes |
| Weil | yes |
| Sheldon | yes |
| Maguire | yes |

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

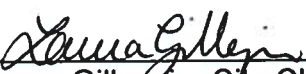
Council entered Executive Session at 8:09 p.m.

The Executive Session ended and the meeting was adjourned at 9:25 p.m.

(SEAL)



Kathleen Brown, Mayor



Laura Gillespie, City Clerk