

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, June 6, 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 6:31 p.m.

ROLL CALL

Mayor Katy Brown, Mayor Pro Tem Randy Weil, Councilors Earl Hoellen, Al Blum, Susan Maguire, and Robert Eber were present on roll call. Also present were City Manager Chris Cramer, Deputy City Manager/Director Jay Goldie, Assistant City Attorney Joshua Myers, Finance Director Doug Farmen, Community Development Director Paul Workman, Police Commander Brennan Leininger, Public Works Manager Ryan Berninzoni, Parks Manager Emily Black, and City Clerk Laura Gillespie.

Absent: Councilor Dan Sheldon

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

EXECUTIVE SESSION

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 communications with Colorado Open Lands regarding the conservation easement on the property known as Quincy Farm.

The following votes were recorded:

Eber	yes
Hoellen	yes
Weil	yes
Blum	yes
Maguire	yes

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

Council entered Executive Session at 6:33 p.m.

AUDIENCE PARTICIPATION PERIOD

Council returned to the open meeting at 7:05 p.m.

None

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

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CONSENT AGENDA

Councilor Eber removed Item 7a from the Consent Agenda.

Councilor Maguire removed Item 7e from the Consent Agenda.

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

- b. Approval of Minutes – May 25, 2023
- c. Change Order #001 and Letter of Amendment to Construction Contract with Essential Contractors to the 2022 Concrete Construction Contract for the 2023 Concrete Construction Contract Construction Project
- d. Construction Contract for Street Striping with Road Safe Traffic Systems

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

Item 7a. Approval of Minutes – May 16, 2023

Councilor Eber suggested a change to page 2 of the minutes.

Mayor Pro Tem Weil moved, seconded by Councilor Blum, to approve the minutes as amended.

The motion passed unanimously.

Item 7e. Resolution 23, Series 2023; Approving a Fee Agreement with Hamre, Rodriguez, Ostrander & Prescott, P.C.

Councilor Maguire stated she would like to see the Fee Agreement reflect the billing increment.

City Manager Cramer replied staff had discussed that issue with the consultant and the consultant's standard practice was to bill in six minute increments.

Councilor Maguire moved, seconded by Councilor Blum, to approve Resolution 23, Series 2023, approving a fee agreement with Hamre, Rodriguez, Ostrander & Prescott, P.C., giving staff the authority to add in the incremental billing period.

The motion passed unanimously.

UNFINISHED BUSINESS

Continuation of Public Hearing – 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 (second and final reading, Public Hearing)

Director Workman explained adoption of codes by reference required a public hearing on second reading per state statute following two publications in a newspaper of general circulation, once at least fifteen days preceding the hearing, and once at least eight days preceding the hearing; the Villager published the public hearing notice in the

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May 18th issue but failed to publish the notice in the May 25th issue, resulting in the need to continue the public hearing; the Villager will publish notice of the hearing in the June 8th issue for the hearing on June 20, 2023.

Mayor Pro Tem Weil moved, seconded by Councilor Eber, to continue the public hearing and second and final reading of 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 to June 20, 2023, because The Villager failed to publish notice of the hearing.

The motion passed unanimously.

Council Bill 4, Series 2023; Amending the Budget for Fiscal Year 2023 and Approving Supplemental Appropriations for a Street Paving Project and a Cellular Communications Study (second and final reading)

Deputy City Manager/Director Goldie presented Council Bill 4, Series 2023 on second and final reading; there were no changes since first reading.

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to approve Council Bill 4, Series 2023; Amending the Budget for Fiscal Year 2023 and Approving Supplemental Appropriations for a Street Paving Project and a Cellular Communications Study on second and final reading.

The following votes were recorded:

Eber	yes
Hoellen	yes
Weil	yes
Blum	yes
Maguire	yes

Vote on Council Bill 4, Series 2023: 5 ayes. 0 nays. The motion carried.

NEW BUSINESS

Public Hearing – Resolution 24, Series 2023; Approving a Site Plan Amendment to Convert Existing Grass Fields to Synthetic Turf at 4545 South University Boulevard (St. Mary's Academy)

Mayor Brown opened the Public Hearing at 7:15 p.m.

Director Workman presented the site plan amendment application from St. Mary's Academy; the applicant had met all the public notification requirements; the scope of work was to replace two grass fields with synthetic turf; the dimensions and locations of the fields would remain the same; Municipal Code Section 16-7-320(c)(3)(e) required that the modification of an outdoor recreational facility within 100 feet of the property line must be approved through a public hearing process at City Council; the six approval criteria had been met and the City Engineer indicated the application complied with drainage standards; the conversion from grass to turf would significantly reduce the water, fertilizer, pesticides, and maintenance needs of the fields; the public comment received was included in the Council packet and consisted of one letter of support and two letters with no objection but some operational concerns;

Councilor Hoellen asked about the status of the operational concerns identified in the letters.

Director Workman replied St. Mary's had entered into development agreements in the past as a result of previous site plan amendments or expanded use permits; the terms

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of the development agreements were still in effect; the City would still enforce the terms if there was a violation. He continued his presentation that the Planning and Zoning Commission held a public hearing on the application in May and recommended approval with one condition; the condition had been met as the applicant had received approval from the Cherry Hills Village Sanitation District.

Councilor Hoellen asked about the form of the site plan amendment, as the resolution did not have a site plan attached.

Director Workman replied the resolution approved the site plan amendment which was Exhibit C to the staff memo in the Council packet.

Mayor Pro Tem Weil stated he had been a trustee at St. Mary's Academy for nine years until June 2022; he believed he could be impartial on this issue.

Mayor Brown asked if anyone had any concerns about Mayor Pro Tem Weil's participation; none were stated.

Councilor Eber asked what the water volume was on an average year precipitation and if there was a reuse that St. Mary's could produce that would be environmentally beneficial.

Director Workman replied he would defer to the applicant's engineer.

Todd Smith, engineer for St. Mary's Academy, replied to Councilor Eber's question that the changes would not increase flow, water would still go to the pond in the northwest corner, the turf would be more porous and would decrease run-off.

Roger Brown, representing St. Mary's Academy, replied to Councilor Hoellen's question that he was in frequent communication with the neighbors to make sure their concerns were addressed regarding the location of the buses and how late the lights were on.

Mayor Brown noted another resident had emailed her about the toxicity of turf; Mr. Brown had replied the fill material would be organic cork instead of chemical rubber; the resident had forwarded articles regarding the plastic of the blades of grass; the City did not prohibit turf so it was not a condition of approval but she asked the applicant to address their consideration of that issue.

Mr. Brown replied St. Mary's had entered into a very deliberate process; they collaborated with Stanford University on the specifications on the synthetic turf, the pad, and the fill material; they believed they had made a very good decision related to their athletes being on these surfaces.

City Manager Cramer indicated staff had not received that email and asked that it be read into the record and forwarded to staff for the record.

Mr. Brown read the email received yesterday evening at 8:13 p.m. from Rene Sheikh: "I noticed St. Mary's is on the agenda for tomorrow's CHV City Council Meeting regarding an application to convert your existing grass fields to synthetic turf. I do not know the details of the turf product you are planning, but feel obligated to point out through the below articles the general concerns to children surrounding the petroleum chemicals of standard turf. Synthetic turf appears to be harmful to humans, to the environment, and to our water through rain runoff into public waterways. There are dozens of similar articles; these two just came up first on my search. Thank you very much for your time and consideration.

Mr. Brown read his reply from 8:30 a.m. this morning: Good Morning. I want to thank you for your email. Thank You, for bringing your concerns forward. I appreciate the opportunity to clarify some of the features of the new athletic surface proposed for St.

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Mary's Academy. The new playing surfaces, at St. Mary's Academy, will not include any Crumb Rubber Turf Infill. All infill properties, of the new playing surfaces, will be organic in composition. The primary material used for the infill property is Cork. Thereby, protecting the groundwater, stormwater run-off and athletes participating on the playing surface. St. Mary's Academy was provided with an opportunity to collaborate with Stanford University before specifying the materials to be installed on our playing surfaces. Stanford has recently completed an extensive study surrounding artificial playing surfaces, groundwater safety and athlete safety. I have physical samples of the infill materials, playing surface and Pro Play Pad that I would be happy to review with you should you be interested. In closing, please be assured that St. Mary's Academy has undertaken a deliberate and thoughtful process in concluding to install the playing surfaces. Please feel free to contact me directly if you want to discuss this in more detail. I am happy to provide additional details as you may desire.

Mayor Brown opened the public comment period.

Doug Robinson, 11 Huntwick Lane, stated he was a neighbor of St. Mary's; he had lived there for 27 years; he and his neighbors supported the application; they enjoyed their relationship with St. Mary's; the HOA had not taken an official vote but this was anecdotal information.

Hearing no further comments Mayor Brown closed the public comment period at 7:39 p.m.

Councilor Hoellen moved, seconded by Councilor Blum, to approve Resolution 24, Series 2023, approving a site plan amendment at 4545 South University Boulevard (St. Mary's Academy) to convert two existing athletic fields from grass to synthetic turf.

Mayor Brown stated she would forward the email she received and encouraged everyone to read the articles; it raised an interesting question; there were several cities on the eastern coast that were banning artificial turf; it was not applicable to this application.

The motion passed unanimously.

Council Bill 5, Series 2023; Repealing and Replacing Section 4-4-30 of the Municipal Code Concerning Local Retail Sales Tax Licenses (*first reading*)

Director Farmen presented Council Bill 5, Series 2023 on first reading; he explained the sales tax licensing requirements in Section 4-4-30 needed to be updated to conform with the recent sales tax code updates and with Senate Bill 22-032; Senate Bill 22-032 prohibited local jurisdictions from requiring remote vendors to apply separately for a local sales tax license, and from charging for a local sales tax license; additional proposed changes including removing the expiration of sales tax licenses, exempting garage sales and occasional sales from sales tax licenses, and having no fee for sales tax licenses; there were no changes to business licenses which were in Chapter 6 of the Code.

Councilor Hoellen asked what form the sales tax license would take.

Director Farmen replied it would just be an account number.

Mayor Pro Tem Weil asked about businesses with a physical presence in the City.

Director Farmen replied they would get a sales tax license.

Mayor Brown asked for confirmation that a photographer sending photos into the City under the economic nexus threshold would not be required to get a sales tax license; and a photographer sending photos into the City who met the economic nexus threshold

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would be part of SUTS and the City would process their sales tax license based on the information from SUTS.

Director Farmen confirmed that was correct.

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to approve Council Bill 5, Series 2023, Repealing and Replacing Section 4-4-30 of the Municipal Code Concerning Local Retail Sales Tax Licenses, on first reading.

The following votes were recorded:

Eber	yes
Hoellen	yes
Weil	yes
Blum	yes
Maguire	yes

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

REPORTS

Mayor's Report

Mayor Brown reported she would attend the Metro Mayors Caucus meeting tomorrow to discuss how the MMC planned to move forward with address the issues of land use and zoning reform.

Members of City Council

Councilor Maguire had no report.

Councilor Blum had no report.

Mayor Pro Tem Weil reported he would attend the DRCOG working group meeting tomorrow, they planned to work with CML to create guidance for the state regarding land use and collateral impacts; he received a call about property tax encouraging the City to think about what would be done with a windfall of revenue.

Councilor Hoellen complimented the Police Department on their fast response to a trespasser on the driveway of a residence in his neighborhood.

Councilor Eber asked if the federal debt discussions regarding rescission of unallocated funds would affect the City's ARPA funds.

City Manager Cramer replied the National League of Cities had determined the ARPA funds allocated to local jurisdictions were not at risk of rescission by the federal government; ARPA funds that had not yet been committed to federal agencies such as FEMA and FCC were at risk of rescission.

Councilor Eber reported on an incident on his road where a young driver had gotten stuck in the ditch after showing off for his friends by doing fishtails and driving into a neighbor's front yard following high school graduation; people were driving too fast in the Village; this was the fourth issue in twelve months in his neighborhood and his neighborhood would fit the traffic calming policy warrants; he reminded people that everyone needed to think before doing something dangerous.

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City Manager & Staff

Director Workman reported the Cherry Hills Country Club had begun to advertise the amateur event and Council was free to discuss it as the permit had been issued.

Deputy City Manager/Director Goldie had no report.

Director Farmen had no report.

Commander Leininger reported the Police Department had new uniforms.

City Clerk Gillespie reported National Night Out would be August 1st starting at 4:30pm so Council could visit before that night's Council meeting.

City Manager Cramer reported he would attend the State of the County was tomorrow morning; the Cherry Hills Land Preserve's presentation of the outline for the 2024 annual plan for Quincy Farm had been rescheduled for July 18th; the cell coverage study was progressing and the community survey would go out in a month.

City Attorney

Assistant City Attorney Myers had no report.

EXECUTIVE SESSION

Mayor Pro Tem Weil moved, seconded by Councilor Blum, to move into Executive Session pursuant to C.R.S. Sections 24-6-402(4)(a), 24-6-402(4)(b), and 24-6-402(4)(e) for the purposes of discussing matters related to the sale of the residential property known as 90 Meade Lane, for receiving legal advice on specific legal questions related thereto, and to determine positions relative to matters that may be subject to negotiations, develop strategy for negotiations, and instruct negotiators relating to the sale of such real property.

The following votes were recorded:

Eber	yes
Hoellen	yes
Weil	yes
Blum	yes
Maguire	yes

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

Council entered Executive Session at 8:00 p.m.

BUSINESS CONTINUED

Council returned to the open meeting at 9:14 p.m.

Resolution 25, Series 2023; Approval of Contract to Buy and Sell Real Estate for 90 Meade Lane

Councilor Maguire moved, seconded by Councilor Hoellen, to approve Resolution 25, Series 2023, a resolution of the City Council of the City of Cherry Hills Village, approving the contract to buy and sell real estate (land) 90 Meade Lane, subject to the following amendments: title will be conveyed by bargain and sale deed, the first sentence of Section 29.20 will be deleted, the City will pay the cost of owners extended

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coverage title insurance; and further to authorize the City Attorney to make such changes as may be needed to correct any nonmaterial errors or language or to negotiate such changes to the contract that may be appropriate and do not materially increase the obligations of the City; and authorize the Mayor, City Manager, and City Clerk to execute such contract when in final form; all in accordance with direction provided in the Executive Session.

The motion passed unanimously.

Council Bill 6, Series 2023; Authorizing the Sale and Transfer of Certain City-Owned Property Known as 90 Meade Lane (first reading)

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to approve Council Bill 6, Series 2023, a bill for an ordinance of the City of Cherry Hills Village authorizing the sale and transfer of certain City-owned property (90 Meade Lane), with the following amendments: in the seventh whereas include the words "as amended" between the words "approved" and "by Resolution 25", and include the words "bargain and sale" in the blank in the last whereas and in the blank in Section 2, on first reading.

The following votes were recorded:

Eber	yes
Hoellen	yes
Weil	yes
Blum	yes
Maguire	yes

Vote on Council Bill 6, Series 2023: 5 ayes. 0 nays. The motion carried.

Councilor Eber moved, seconded by Councilor Blum, to authorize the City Manager to negotiate a backup offer consistent with the discussion in Executive Session.

The motion passed unanimously.

ADJOURNMENT

The meeting was adjourned at 9:18 p.m.

(SEAL)



Kathleen Brown, Mayor



Laura Gillespie, City Clerk