

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, June 15, 2021 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, Councilors Randy Weil, Afshin Safavi, Al Blum, and Mike Gallagher 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, Finance Director Jessica Sager, Parks and Recreation Coordinator Emily Black, Senior Planner Paul Workman, and City Clerk Laura Gillespie.

Absent: Mayor Pro Tem Katy Brown and Councilor Dan Sheldon

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

Tory Leviton, 3901 E. Quincy Avenue, indicated he was speaking as a private resident and not a representative of the Parks, Trails, and Recreation Commission. He explained the property across the street from him, 4001 E. Quincy Avenue, was for sale, and as an advocate for wilderness and wildlife he wanted to promote community interest in the property. He indicated a lot of wildlife lived in the City and wildlife was mandatory to maintain the City as semi-rural. He noted much of the City was wild already and he would continue to advocate for community health. He encouraged City commissions to express similar interest in 4001 E. Quincy Avenue, and encouraged City Council to promote responsible property management. He asked City Council to offer solutions to maintain community equality, biodiversity, health, safety, and growth. He stated the City was the best place on earth. He thanked Council for their hard work.

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

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

- a. Approval of Minutes – June 1, 2021
- b. 2020 Audited Financial Statements

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

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UNFINISHED BUSINESS

Council Bill 5, Series 2021; Repealing and Replacing Article II of Chapter 6 of the Municipal Code Regarding Alcoholic Beverages (second and final reading)

City Clerk Gillespie presented Council Bill 5, Series 2021 on second and final reading. She noted no changes had been made since first reading.

Councilor Blum moved, seconded by Councilor Weil, to approve Council Bill 5, Series 2021, repealing and replacing Article II of Chapter 6 of the Municipal Code concerning Alcoholic Beverages on second and final reading.

The following votes were recorded:

Safavi	yes
Weil	yes
Gallagher	yes
Blum	yes

Vote on the Council Bill 5-2021: 4 ayes. 0 nays. The motion carried.

Restarting the Master Plan Process

Senior Planner Workman explained the Master Plan update had begun in late 2019 and early 2020, and a lot of background work had been done but the process had reached a point where public input was needed; the process was suspended in October 2020 due to restrictions on in-person gatherings because of the pandemic; public health restrictions were now loosening and in-person meetings were allowed; the Planning and Zoning Commission (P&Z) had discussed the issue last week and agreed it was an appropriate time to restart the process while still being thoughtful about large in-person gatherings; if approved by Council staff would put notices about the project restarting in the Crier and on the City website and social media, the Citizen Advisory Taskforce would begin meeting in the next couple months, the survey would be released, and the first open house would likely be held in the fall; P&Z believed higher participation would be more likely in the fall as many residents were travelling during the summer.

Councilor Blum asked how many public meetings would be held for the Master Plan process.

Senior Planner Workman replied three or four public meetings were planned during the process.

Councilor Gallagher asked how long the process would take.

Senior Planner Workman replied the process was likely to take another 13-15 months.

Councilor Safavi asked if the project would be complete with the current Council.

Senior Planner Workman replied that it would.

Mayor Stewart noted the majority of the Master Plan work was assigned to P&Z and it was not intended for Council to make a lot of changes.

Councilor Weil moved, seconded by Councilor Gallagher, to approve the restart of the Master Plan process and to direct staff to provide written notice to RICK Engineering to recommence performance of the services set forth in the Cherry Hills Village Master Plan Update 2020 professional services agreement.

The motion passed unanimously.

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NEW BUSINESS

Public Hearing Concerning the Organization of the Proposed Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District and Council Bill 6, Series 2021; Making Findings and Determinations with Respect to a Petition Concerning the Organization of the Proposed “Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District” Pursuant to § 31-25-601, et seq., C.R.S., and Providing for the Question of the Organization of Such District to be Referred to the Electors Thereof Along with Additional Ballot Issues Authorizing the Issuance of Bonded Indebtedness and Imposition of General Property Taxes to Accomplish the Purposes of Said District (first reading)

City Clerk Gillespie presented the public hearing for the proposed Southmoor Circle and Hudson Parkway General Improvement District (GID); she stated the total number of electors was 30; the total assessed valuation of the properties was \$1,111,115.00; the petition was sufficient; the proposed improvements adhered to the Master Plan goal to “promote the overall semi-rural character of Cherry Hills Village through design and maintenance of streetscapes, public lands and public facilities” which included a directive of “burial of above-ground utility lines on public and private lands”; and the improvement cost was \$120,000 or approximately 10.8% of the total assessed valuation of the properties. She explained after the public hearing Council would consider Council Bill 6, Series 2021 on first reading which set out Council’s findings, ordered an election to be held for the organization of the proposed district, and referred ballot measures to the electors of the proposed district.

Councilor Weil asked where exactly the utility line was located.

City Clerk Gillespie replied she believed the utility line went through the proposed GID property backyards, starting at Quincy Avenue and going north to Oxford Avenue, but asked the petition representative to state if that was incorrect.

Mayor Stewart opened the public hearing at 6:47 p.m.

RD Sewald, 5607 Southmoor Circle, asked for Council’s support of the proposed GID. He indicated undergrounding the utility line would not only benefit the 11 properties of the proposed GID, but also the hundred or so neighbors who were also impacted when the power went down. He explained he had experienced power outages since he had moved to this property in 2017. He noted the neighbors at the far north end of the proposed GID had to go to a hotel for four days because of a power outage. He added the neighbors were so familiar with the issues during an outage that they could explain to the utility crews where the transformers were located that needed to be repaired. He indicated Xcel was going to cut down the trees and with Councilor Sheldon’s help the neighbors had begun discussions with City staff and Xcel about undergrounding the utility lines to preserve the trees and solve the power outage problem. He explained they believed it would be an improvement for many more households than just the 11 property owners in the proposed GID. He noted the petition was signed by 100% of the property owners of the proposed GID and they understood the financial responsibility should the GID be approved.

Brian Searles, 5623 Southmoor Circle, indicated he had been a resident for 35 years and had experienced many power outages in that time. He noted this project would continue the City’s current project undergrounding utility lines along Quincy. He agreed he would like to keep the trees for the shade and privacy they afforded and have more reliable utilities for all the neighbors. He indicated his support for the proposed GID. He suggested the City could spend some of the COVID-19 federal relief funds on the administrative costs of forming a GID.

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Devin Odom, 5633 Southmoor Circle, explained the transformers on his property were often the ones causing the power outages and he was very supportive of undergrounding the utility line.

Hearing no further comments Mayor Stewart closed the public hearing at 6:55 p.m.

Councilor Blum moved, seconded by Councilor Safavi, to approve Council Bill 6, Series 2021; making findings and determinations with respect to a petition concerning the organization of the proposed "Cherry Hills Village Southmoor Circle and Hudson Parkway General Improvement District" pursuant to § 31-25-601, et seq., C.R.S., and providing for the question of the organization of such district to be referred to the electors thereof along with additional ballot issues authorizing the issuance of bonded indebtedness and imposition of general property taxes to accomplish the purposes of said district, on first reading.

The following votes were recorded:

Weil	yes
Gallagher	yes
Blum	yes
Safavi	yes

Vote on the Council Bill 5-2021: 4 ayes. 0 nays. The motion carried.

Cherry Hills Village Art Commission Recommendation for Sculpture-on-Loan

Director Sager presented the Cherry Hills Village Art Commission (CHVAC) recommendation for the next sculpture-on-loan, *Windsong III* by Robert Mangold, to replace the sculpture entitled *Really*, on Quincy Avenue across from Cherry Hills Elementary School. She explained the cost of the two-year loan would be paid from the CHVAC line item in the Parks and Recreation Fund and included a new base pedestal, installation, payment to the artist, and a plaque. She stated an article about the potential loan was included in the June issue of the Village Crier and no negative feedback had been received. She noted Commissioner Morrow was present to help answer any questions.

Councilor Gallagher asked about CHVAC's budget.

Director Sager replied the CHVAC budget was normally \$21,000 but Council had approved an additional \$10,000 for 2021 carried over from 2020.

Councilor Weil asked if the sculpture was kinetic.

Director Sager replied that it was.

Councilor Gallagher moved, seconded by Councilor Weil, to approve the expenditure of not to exceed \$11,680 for the delivery, installation, two-year loan, and removal of *Windsong III* by Robert Mangold to be installed in the City's property on the Quincy Avenue side of City Hall, and authorize the Mayor to sign the Art Loan Agreement once signed by the artist.

The motion passed unanimously.

Resolution 17, Series 2021; Amending the Fee Schedule

City Clerk Gillespie presented Resolution 17, Series 2021 for Council's consideration. She explained the first fee schedule resolution had been approved by Council in early 2020 and the proposed update would add the City's current liquor fees.

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Councilor Blum asked if the proposed resolution covered staff costs.

City Clerk Gillespie replied the fee schedule had been reviewed to make sure the City's fees cover staff's costs, and no other changes were needed at this time.

Councilor Safavi asked how the City's fees compare to other municipalities of similar size.

City Clerk Gillespie replied staff had not compared City fees to other municipalities as they were more focused on making sure the fees cover staff costs.

Councilor Safavi asked if the fees would be increased over time to cover inflation and salary increases.

City Clerk Gillespie replied fees such as building department fees that were based on consultant costs would certainly be updated as those costs increased over the years, but fees such as business license fees were unlikely to increase as frequently.

City Attorney Guckenberger added having the City's fees in a resolution instead of the Municipal Code facilitated a more flexible and responsive process.

Councilor Weil asked if these fees were subject to TABOR.

City Attorney Guckenberger replied they were not; TABOR referenced taxes; there was a lot of case law that established the difference between fees and taxes; assessing fees that were tied to the City's costs incurred in managing its programs helped support the construction of these costs as fees and not taxes, in addition to the fact they were imposed for specific reasons and not on a general basis. She noted there was a constant legal and semantic battle on this issue that had been especially evident in the state legislature this session.

City Manager Cramer added this type of fee schedule for applications and staff time was a very well established and protected process throughout the state.

Councilor Weil stated his concern was that the City's fees be expressed in a way that would prevent the City having to go to the voters for small changes.

City Attorney Guckenberger replied TABOR was imbedded in the Constitution and while decisions by courts could impact things, a cost would only be covered by the provisions of TABOR if it were determined to be a tax.

Councilor Gallagher moved, seconded by Councilor Blum, to approve Resolution 17, Series 2021, amending the fee schedule.

The motion passed unanimously.

REPORTS

Mayor's Report

Mayor Stewart reported Councilor Weil had attended the Arapahoe County Transportation Forum executive committee meeting on June 3rd while Mayor Stewart had attended the High Line Canal underpass opening with Councilor Gallagher and many members of staff. He noted it was a well-attended event. He stated the total cost of the underpass project had been more than originally estimated.

Deputy City Manager/Director Goldie replied the original DRCOG grant with all of the entities pitching in was about \$7 million, Arapahoe County Open Space added \$1 million, and the final cost was about \$1 million dollars over that estimate.

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Mayor Stewart noted the state general assembly ended last week and reviewed some legislation that would effect the City such as changing the requirement to publish multiple finalists for a chief executive officer position to just one finalist; allowing elected officials to communicate via email for scheduling or to forward information; requiring HOAs to permit display of any noncommercial flag or sign, subject only to content-neutral limitations such as number, size, or placement; and prohibiting harassment and threat of elected officials and their families.

Mayor Stewart reported he attended the Arapahoe County Open Space and Trails Advisory Board meeting on June 14th, they made a final recommendation to the County Commissioners to place the question of extending the open space sales tax on the ballot and allow funds to be used for open space maintenance; he would attend the Mayors Munch tomorrow and the Mayors Managers meeting on Friday; the CML business meeting would be June 21st, he was on the ballot to be re-elected to the CML executive board, and he was the voting delegate for the City; CIRSA's annual meeting would be June 22nd and he would attend with City Manager Cramer; the John Meade Park/Alan Hutto Memorial Commons celebration was June 26th; he congratulated Chief Tovrea for the great work on apprehending the burglary suspect.

Members of City Council

Councilor Blum thanked Chief Tovrea for attending the HOA meeting. He asked City Manager Cramer for an update on the Public Affairs RFP and an update on the American Rescue Plan Act (ARPA) funds.

City Manager Cramer replied the submission deadline for the Public Affairs RFP was June 25th and noted staff had reached out to some firms specifically in addition to posting the RFP. He indicated final guidance on use of ARPA funds would not come until after public comment closed July 16th. He stated the City had until the end of 2024 to earmark the ARPA funds and staff's recommendation was to wait in order to take advantage of the maximum flexibility to spend those funds.

Councilor Gallagher asked for an update on the graffiti on the Cherry Hills Farms East subdivision spillway.

Chief Tovrea explained the property was owned by the HOA rather than the City, the Public Works Department and the Police Department both notified the HOA of the issue, she had worked with HOA Board member Doug Tisdale, more work might need to be done to completely clean off the graffiti, and no suspects had been identified.

Councilor Gallagher asked about plans to track traffic on the High Line Canal now that the underpass was open.

Deputy City Manager/Director Goldie replied staff had been discussing that, had done a test with the City's traffic counters but they only picked up bicycles going 10 mph or more; staff was researching counters that would work for pedestrians and slower bicycles. He agreed staff would like to know the amount of use on the trail.

City Manager Cramer added more and permanent signs would be added about speed, rules, and etiquette, as part of the entire sign package in partnership with the High Line Canal Conservancy.

Councilor Weil reported the Arapahoe County Transportation Forum executive committee meeting had included discussion of the transportation bill, funds, and project status, none of which had a direct impact on the City. He noted the major topics for the DRCOG meeting tomorrow would be TIP projects and federal funds for COVID-19 support.

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Councilor Safavi reported baby ducks had been caught in the spillways in his neighborhood multiple times and asked if something could be put over the drain entrances to prevent that in the future.

City Manager & Staff

Deputy City Manager/Director Goldie reported staff would meet with Xcel again tomorrow, they continued to have trouble finding a clear path to bury their lines along Quincy Avenue, and staff was working diligently to move the project forward. He indicated the sewer project continued to progress and explained the recent issue with Denver Water on Vine Street was a result of the utility locate being eight feet from the actual water line, and staff and the City's contractor tried to work with Denver Water to repair the issue quickly, but Denver Water did not allow the City to help, resulting in residents' water being shut off multiple times.

City Manager Cramer emphasized Deputy City Manager/Director Goldie had gone above and beyond to try to resolve the issue on behalf of City residents.

Director Sager reported the John Meade Park/Alan Hutto Memorial Commons celebration would be June 26th from 9 a.m. to noon with many fun activities planned for kids. She indicated the 75th Anniversary Committee members had not been available to attend tonight and had asked staff to report on their plans. The Committee had set the date for their event for Saturday August 28th from 3-7 p.m., it would be an all-ages event with a theme of "summer chic BBQ", there would be a tent in the City Hall parking lot serving alcoholic and non-alcoholic drinks, various food, ice cream trucks, live musical performances at Alan Hutto Memorial Commons, and a time capsule/vault dedication. The vault would include historically significant items and items relevant to 2020; it would include a graved commemorative message; the Committee proposed to mount the vault in the City Hall breezeway subject to City Council approval; the Committee proposed to open the vault on the City's 100th anniversary. Pre-COVID, the Committee had planned to charge for tickets to help offset some of their costs; the approved 2021 budget included \$30,000 in ticket revenue and \$43,500 in expenses for the event; the Committee now planned to spend no more than the difference of \$13,500; the Committee would solicit donations from vendors to help keep costs low. Director Sager asked for feedback from Council.

Councilor Gallagher thanked the Committee for continuing to work on the event.

Senior Planner Workman reported Denver First Church had completed the good neighbor agreement with Covington and the new lots would be included in the Covington HOA, but the Church was still negotiating with Brave Church on the shared parking agreement and would be returning to Council to request an extension for that condition of approval. He asked Council to be cautious of ex-parte communication about the project.

Councilor Weil asked if staff knew the cause for the delay.

Senior Planner Workman replied he believed negotiations were progressing in good faith but there had been some unforeseen circumstances at one or both churches that needed to be resolved before they could make commitments in the form of the shared parking agreement.

Chief Tovrea reported the Police Department had been focusing on traffic enforcement along Hampden and Belleview and officers were on the trails on bicycles when possible. She indicated she was very proud of the work the Department had done staying late on Friday, June 4th to process a warrant for the burglary suspect and the subsequent week of intense investigation by the entire Department; the suspect was arrested without incident last Friday by Black Hawk Police Department and had since been transferred to Arapahoe County jail; the CHVPD had secured some evidence that she expected would

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be very helpful to their case; she thanked City Clerk Gillespie for helping communicate to residents through the City website and social media; she had received supportive feedback from residents when she was out in the Village.

City Manager Cramer recognized staff for their work on the Code, completion of the High Line Canal underpass on time and on budget, the audit, and the apprehension of the burglary suspect. He also recognized Mayor Stewart for speaking at the underpass opening event.

Mayor Stewart noted the next Council meeting would be July 20th.

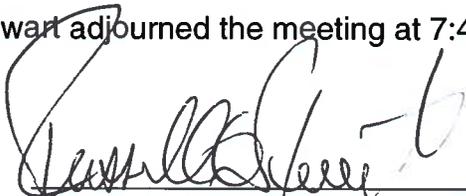
City Attorney

City Attorney Guckenberger reported her office was finalizing their summary of new legislation of significance to the City and wanted to bring HB 21-1314 to Council's attention. She explained the bill repealed the state Department of Revenue's ability to suspend or hold drivers licenses for non-payment of municipal court fees and fines. She noted this would likely have a significant impact on the City and she was in communication with Judge Welborn. She added CML had fought in opposition to the bill and was able to include a provision that required a commission to be established to study other means by which municipalities can add some teeth for collection of these fines.

ADJOURNMENT

Hearing no objection Mayor Stewart adjourned the meeting at 7:44 p.m.

(SEAL)



Russell O. Stewart, Mayor



Laura Gillespie, City Clerk