

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, June 20, 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 6:34 p.m.

ROLL CALL

Mayor Katy Brown, Mayor Pro Tem Randy Weil, Councilors Earl Hoellen, Al Blum, Susan Maguire, Dan Sheldon, and Robert Eber were present on roll call. Also present were City Manager Chris Cramer, Deputy City Manager/Public Works Director Jay Goldie, Assistant City Attorney Joshua Myers, Police Chief Jason Lyons, Finance Director Doug Farmen, Community Development Director Paul Workman, Parks Project & Operations Manager Emily Black, Human Resources Manager Kathryn Ducharme and City Clerk Laura Gillespie.

Absent: None

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

PRESENTATION – GRAVES CONSULTING – COMPENSATION STUDY

Human Resources Manager Ducharme explained the consultant was unable to attend tonight's meeting and asked if Council would like to review the presentation individually or if Council would like to appoint two members to meet with the consultant virtually; it was just informational at this point.

Council agreed to all review the presentation and direct any questions to Manager Ducharme.

AUDIENCE PARTICIPATION PERIOD

None

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

Councilor Maguire removed Item 7a.

Councilor Hoellen removed Item 7b.

Staff requested that Item 7e be removed from the Consent Agenda.

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

- c. Contract Extension for Sculpture on Loan – Windsong III by Robert Mangold

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- d. Resolution 26, Series 2023; Accepting a Bench Donation in Memory of Kathy Scott

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

Item 7a. Approval of Minutes – June 2, 2023

Councilor Maguire proposed a change to the draft minutes on page 2.

Mayor Pro Tem Weil moved, seconded by Councilor Eber, to approve the minutes with the edit that in the last sentence at the bottom of page 2 the word “fee” be changed to “billing”.

The motion passed unanimously.

Item 7b. 2022 Audited Financial Statements

Councilor Hoellen asked for confirmation that the \$18 million number for land, listed in Capital Assets, was at cost and when the sale of 90 Meade Lane went through that number would be reduced by \$1.9 million but the cash would go up by \$4 million, and the City’s balance sheet would look substantially improved.

Director Farmen confirmed that was correct.

Councilor Hoellen questioned the Capital Projects Fund being under restricted funds on page 15; funds in the Capital Fund came from the General Fund and should be able to come back to the General Fund as needed; he did not believe funds transferred into the Capital Fund were restricted.

Director Farmen replied that restriction was very old and in the audit workpapers, he was not sure where it came from; he noted there were two buckets of restrictions, one for capital projects and one for the COP funds.

Mayor Brown indicated she would not want anything to move forward that might in the future be brought back to say the City spent money it should not have because the audit stated the funds were restricted; she asked if Councilor Hoellen was comfortable with the audit.

Councilor Hoellen replied his question had been answered and Council was informed that the Capital Fund policy needed to be addressed.

John Cutler, Cutler and Associates, the City’s auditor, explained the term restricted was used for funds that were limited by something like a ballot issue or a grant; the term committed was used for funds that that were limited by Council.

Director Farmen added Council could adopt a committed fund balance at the same time they adopted the budget.

Mayor Pro Tem Weil asked if the balance of the Capital Fund was restricted.

Mr. Cutler replied it might have changed over time and it needed to be clarified for next year’s audit.

Councilor Hoellen noted the wording was probably leftover from previous audit statements but he did not believe those funds had ever been restricted by a resolution or other document.

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City Manager Cramer indicated the topics of the Capital Fund and the Reserve Policy which had been brought up at the Council Retreat had been scheduled for further Council discussion at future meetings.

Director Farmen added the Capital Fund was scheduled for discussion at the August 1st meeting and the Reserve Policy was scheduled for discussion at the November 7th meeting.

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to approve the Audit of the Financial Statements of the City of Cherry Hills Village for year-end December 31, 2022.

The motion passed unanimously.

Item 7e. Resolution 27, Series 2023; Approving a Non-Budgeted Transaction in Accordance with the City's Purchasing Policy

City Manager Cramer explained the resolution had been drafted with a whereas clause that assumed the agreement with Kent Denver was in place, however they were still working on signatures so the language of the whereas clause needed to be changed.

Assistant City Attorney Myers explained the wording in the third whereas clause should be changed from "have entered" to "are in negotiations to enter".

Councilor Blum asked how long it would take to hire the new staff person.

Chief Lyons replied typically the time to hire a new police officer was about four months, but in this case a member of the Police Department staff who started as a sworn officer and was now in a civilian position had asked to return to a sworn position, so this position was already filled.

Councilor Blum asked if the officer would be used by the City when not used by Kent Denver.

Chief Lyons confirmed that was correct, particularly during Kent Denver's school breaks the officer would come back to the City as a resource.

Mayor Brown asked if the appropriation could be undone if for some reason the agreement was not finalized.

Chief Lyons confirmed that was correct; he had spoken to the managers at Kent Denver today and his understanding was the contract was waiting for signatures but expected it to be completed by the end of the week.

Councilor Hoellen noted the agreement had not been attached as Exhibit B to the staff memo; he asked if the term of the agreement was to the end of the year with automatic renewal.

Chief Lyons confirmed that was correct and added if either party wanted to terminate it was with six months' notice, similar to the same agreement with St. Mary's.

Councilor Hoellen asked if the agreement stated the officer would be used by the City when not needed at Kent Denver.

Chief Lyons confirmed that was correct.

Councilor Hoellen noted the six month notice timeline contractually committed the City to the agreement through June 2024; he questioned committing future Councils; the

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City would never breach a contract without good cause, therefore it was a commitment beyond December 31st.

Mayor Pro Tem Weil indicated usually the contracts included language that the contract could be terminated by the City with or without cause at any time.

Director Farmen added all the City's contracts included TABOR language stating contracts are subject to annual appropriations.

Councilor Hoellen stated he believed that should be explicit in the contract.

Councilor Eber indicated Council did not need to come up with the language but could direct the City Attorney to include the language in the contract.

Chief Lyons stated the contract had been vetted multiple times by the City Attorney's office; the language of concern was in the contract; the billing was in six-month increments because Kent Denver's fiscal year was June to July instead of January to December.

Mayor Pro Tem Weil asked about the billing.

Chief Lyons explained it was in six-month increments; the City would bill Kent Denver for the last six months of the year after the appropriation was approved by Council; the City would bill Kent Denver for the first six months of next year right after the first of the year.

Councilor Maguire asked if the billing was done in arrears or in advance of services rendered.

Director Farmen replied the schools are billed in advance.

Mayor Pro Tem Weil asked what the appropriation included.

Chief Lyons replied it included the officer's salary, benefits, training, and equipment; the car would be used from the City's existing fleet.

Mayor Pro Tem Weil moved, seconded by Councilor Maguire, to approve Resolution 27, Series 2023, with an edit to the third whereas clause, deleting the phrase "have entered" and replacing it with "are in negotiations to enter"; approving a non-budgeted transaction in accordance with the City's Purchasing Policy.

The motion passed unanimously.

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UNFINISHED BUSINESS

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 presented Council Bill 2, Series 2023 on second and final reading; Council held a study session on April 4th and first reading on May 2nd.

Councilor Eber asked if there was an estimate of what the additional cost of construction would be if the City were forced to adopt the state's energy code.

Steve Thomas, Shums Coda, the City's building consultant, replied the estimates were 10 to 20%; one of the large cost items in the state's code was the requirement to build solar-ready.

Mayor Brown noted Council had discussed the council bill at length during prior meetings; she opened the public comment section of the hearing at 7:03 p.m.; hearing none the public comment section was closed.

Councilor Eber moved, seconded by Councilor Maguire, to approve 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 on second and final reading.

The following votes were recorded:

Eber	yes
Hoellen	yes
Weil	yes
Sheldon	yes
Blum	yes
Maguire	yes

Vote on Council Bill 2, Series 2023: 6 ayes. 0 nays. The motion carried.

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

Director Farmen presented Council Bill 5, Series 2023 on second and final 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 Sheldon thanked Mayor Pro Tem Weil and all of Council and staff for their work on this project.

Mayor Brown agreed.

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Mayor Pro Tem Weil moved, seconded by Councilor Blum, 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 second and final reading.

The following votes were recorded:

Eber	yes
Hoellen	yes
Weil	yes
Sheldon	yes
Blum	yes
Maguire	yes

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

Resolution 28, Series 2023; Amending the Fee Schedule

Director Farmen presented Resolution 28, Series 2023 for Council's consideration; the only proposed change to the fee schedule was to have no fee for sales tax licenses and maintain the current \$25 fee for business licenses.

Mayor Brown indicated she was pleased with the way the City had moved forward to not discourage small businesses or make things too onerous for them.

Mayor Pro Tem Weil thanked Director Farmen for his work on the project.

Director Farmen also thanked City Clerk Gillespie.

City Clerk Gillespie also thanked City Attorney Kathie Guckenberger and Councilor Hoellen.

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to approve Resolution 28, Series 2023; amending the fee schedule.

The motion passed unanimously.

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

Deputy City Manager/Director Goldie presented Council Bill 6, Series 2023 on second and final reading.

Councilor Maguire asked if the only changes since first reading were to add "as amended" before "Resolution 25" in the seventh whereas clause and to add of "bargain and sale" in the blanks in the last whereas clause and in Section 2, per Council direction.

Deputy City Manager/Director Goldie confirmed that was correct.

Councilor Sheldon thanked Council for moving forward with this project.

Councilor Maguire asked about the status of due diligence.

Deputy City Manager/Director Goldie confirmed it was progressing; staff was responding to the title company's requests; staff was determining if Mayor Brown or Interim City Manager Jim Thorsen would be the signor.

Councilor Hoellen moved, seconded by Councilor Sheldon, to approve Council Bill 6, Series 2023, a bill for an ordinance of the City of Cherry Hills Village authorizing the

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sale and transfer of certain City-owned property (90 Meade Lane), on second and final reading.

The following votes were recorded:

Eber	yes
Hoellen	yes
Weil	yes
Sheldon	yes
Blum	yes
Maguire	yes

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

NEW BUSINESS

None

REPORTS

Mayor's Report

Mayor Brown reported Senate Bill 23-213 was still a topic of discussion for the various organizations such as CML, Metro Mayors Caucus, Arapahoe County, and DRCOG; it was expected to come back in the 2024 legislative session as a series of individual bills; that would probably make it more challenging to oppose because one of the failures of Senate Bill 23-213 was that it was so big that everyone had something to hate; breaking it down into smaller pieces would isolate individuals with opposition; there were very concerted efforts to put forth a solution that municipalities and local government in general collectively feel they could support, things they felt would address affordable housing in a way that respected local government and might actually be successful; she would keep Council apprised; some things being discussed were proposing a state-wide housing needs assessment study to understand the problem before proposing solutions, focusing on incentive-based programs where municipalities would make commitments in exchange for receiving state-wide funding or support for the housing initiatives, construction defects, transportation funding, were some of the elements likely to be brought forth by this group in hopes that if they could not get the governor's team on board at least the legislature would have two alternative solutions.

Councilor Hoellen viewed that as a separate and important effort; another important effort was a process to say whatever was done, local control and home rule authority was sacrosanct; irrespective of the details of the proposal, the people of Colorado still stood for local control and home rule authority.

Mayor Brown agreed and added nothing being proposed or discussed was in any way a compromise on that principle; home rule authority was still always the bottom line; the concern was it might be harder to rally enough votes on each individual issue unless an alternative was provided; the strategy was to provide alternatives that did not encroach on local control to give people the chance to address the problem.

Councilor Eber indicted there were two important things to do during this lull in the action; first Council should direct the City Attorney and everyone's thoughts to figure out the legal argument that Cherry Hills Village did not fit into the Tier 1 category, and the City was very different from the other communities and should not be treated the same; he urged everyone to come up with an answer to what the City was doing to help support affordable housing and why the City was part of the solution rather than potentially allowing others to argue the City was unresponsive to the problem of homelessness, such as sustainable practices to address climate change.

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Mayor Brown agreed and her response had been that every community was not the answer to every problem; the City was six square miles with 6,000 residents and could not solve every single problem; while the City might not have a lot of impact on affordable housing, the City provided open space and conservation, which were equally important, and the City was in a position to provide more than other communities; Proposition 123 was approved by the voters and provided funding for affordable housing; cities could opt in to participate in the program; most of the cities opting in were building affordable housing; opting into Proposition 123 allowed third parties such as builders, contractors, and developers to be eligible for money for affordable housing developments in those communities; she did not know that it would cost the City a lot to opt into Proposition 123 and she would at least like to say the City was not creating obstacles.

Councilor Blum agreed with Councilor Eber and brought up electric vehicles; South Pasadena, California, went 100% electric; NYPD just bought 200 electric cars; he saw a demonstration of a Mustang converted for police; the City could be the leader on this; he asked to have a study session.

Mayor Pro Tem Weil stated he appreciated the progress and enthusiasm from Deputy City Manager/Director Goldie and Chief Lyons regarding electric vehicles but wanted to ask that the City move towards an implementation plan; there might be grant money the City was missing.

Councilor Blum added ARPA funds could be used.

Mayor Brown agreed that could be part of the answer to the question; also water conservation; the City could address the underlying issues rather than affordable housing.

Members of City Council

Mayor Pro Tem Weil read a proclamation reviewing City Manager Cramer's accomplishments at the City and wishing him the best of luck on his leave of absence.

Council thanked City Manager Cramer.

Councilor Sheldon asked for an update on the transition to electronic packets.

City Clerk Gillespie replied staff was working on setting up some iPads for Council to test and also working on the policy with City Attorney Guckenberger.

Councilor Sheldon asked that staff have a map of the City prepared to be on the screens during Council meetings.

Mayor Brown asked that maps of the City be posted in the Council Office.

Mayor Pro Tem Weil reported he attended a DRGOC/RTD/CDOT meeting; they were doing a study about developing a light rail extension on the northwest side; partnering with Santa Fe, the NSF, and use their tracks; providing service up north; it was in the study phase; there was also work on front range rail happening at the same time and at about the same state; zero fare for cleaner air was in effect for July and August; the respect the ride program was trying to improve the ambiance of RTD so people felt comfortable and safe riding; bike to work day was June 28th; there was continued discussion on what role DRCOG might play in the land use issue; there was dialogue between DRCOG, CML, and Metro Mayors; DRCOG was trying to service a lot of fact based information in advance of the next legislative session to understand the root causes of the issues.

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City Manager & Staff

Director Workman asked if Council wanted a half hour or full hour for the study session on the July 18th meeting.

Council replied a half hour.

Director Farmen reported staff would seek Council direction on the public engagement process for ARPA funds at the next meeting.

Councilor Maguire asked if the City was receiving more revenue from sales tax following the ballot measure and Code update.

Director Farmen replied the City had just joined SUTS so payments had not yet increased.

Deputy City Manager/Director Goldie reported the speed sign would be posted on the High Line Canal tomorrow or Thursday; staff had submitted a grant application for the electric charging station at City Hall.

Chief Lyons reported the Police Department was fully staffed; four officers were in their field training program; the traffic unit, community partnership unit, and bicycle unit programs would begin the middle of July.

Councilor Maguire asked how the stop sticks were deployed.

Chief Lyons explained the stop sticks and how they were deployed.

City Manager Cramer thanked Council and shared the proclamation with all of staff.

City Attorney


Assistant City Attorney Myers had no report.

Councilor Eber thanked Assistant City Attorney Myers for his advice during the executive session at the last meeting.

ADJOURNMENT

The meeting was adjourned at 7:54 p.m.

(SEAL)



Kathleen Brown, Mayor



Laura Gillespie, City Clerk