

## RECORD OF PROCEEDINGS

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Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, June 21, 2022 at 6:30 p.m.  
City Hall

The City Council held a Town Hall at 5:00 p.m.

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

### **ROLL CALL**

Mayor Russell Stewart, Mayor Pro Tem Katy Brown, Councilors Randy Weil, Afshin Safavi, 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 Jason Lyons, Finance Director Doug Farmen, Planning Manager Paul Workman, and City Clerk Laura Gillespie.

Absent: Councilor Dan Sheldon

### **PLEDGE OF ALLEGIANCE**

The Council conducted the pledge of allegiance.

### **OATH OF OFFICE**

City Manager Cramer indicated he was excited to have Chief Lyons join the City and believed he would be the kind of Police Chief the community deserved.

Municipal Judge Karen Barsch performed the Oath of Office for Police Chief Jason Lyons.

Chief Lyons thanked Council and his family; he stated that he was privileged and honored to be the Police Chief of Cherry Hills Village and expressed appreciation for all the City staff, Council, and residents he had met; becoming a Police Chief had been a long-term goal of his and he was proud to have three of his five children here tonight and thanked his wife for her support.

Mayor Stewart thanked Chief Lyons.

### **AUDIENCE PARTICIPATION PERIOD**

Laura Christman, 18 Cherry Lane Drive, indicated she planned to submit the petition for the Charter amendment initiative to require a vote before the City could sell, transfer, or gift public trails, parks, or open space early next week.

### **REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES**

Linda Behr, President of the Cherry Hills Land Preserve (CHLP), provided an update on programming at Quincy Farm; their monthly meetings with City staff had been very productive; they were raising awareness of Quincy Farm; they had established an ambassador program; they had met and had meetings scheduled with Colorado Open Lands regarding public access; they had two new board members, Earl Hoellen and Megan Walsh.

Kathie Fessler, Executive Director of CHLP, added they had increased their mailing list; they had strong partners for their 2023 programs; Parks staff had cleaned out the lean-to on the property to be used as an all-weather space; they had installed a sign on the High Line Canal; she played a video from the recent goat walk event.

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Earl Hoellen, CHLP Board Member, explained he was focusing on public access at Quincy Farm and noted past Councils had determined, rightfully so, that without reasonable public access there could not be significant public funds committed to Quincy Farm; CHLP believed without public access there would be no significant private funds donated to Quincy Farm; without private and public funds there would be no activation of Quincy Farm and no benefit to the public; for several years the City tried to work with Colorado Open Lands so that reasonable access was afforded to the public in a manner that Colorado Open Lands felt would not violate the conservation easement; CHLP was now working with the City to provide the leadership to activate Quincy Farm, including programming, budgeting, and resolving the access issue; CHLP was focusing on the conservation values in the conservation easement, as defined by the IRS code and Treasury regulations which governed conservation easements generally, and that were cited in the Quincy Farm conservation easement; the federal regulations stated there must be a significant public benefit with regular access for the public except in certain limited circumstances which did not apply to Quincy Farm in the view of CHLP; this was discovered by CHLP Board Member Judith Judd; CHLP was working with outside council; they were committed to a good faith effort to work with Colorado Open Lands; Colorado Open Lands seemed to be committed to a policy of no unstructured access which was tantamount to no public access; CHLP was hoping they could work through that issue with Colorado Open Lands; while Colorado Open Lands had enforcement remedies under the conservation easement, the remedies did not come into play unless and until there was a violation of the conservation values; there had never been any requirement that Colorado Open Lands approve the plans for Quincy Farm; CHLP was confident their plans would not cause a violation; if Colorado Open Lands believed a violation had occurred and pursued the remedies CHLP would respond accordingly; while not an ideal situation and one CHLP would work hard to avoid, it was not to be feared; CHLP believed public access was needed at Quincy Farm in order to enjoy the benefit intended when the conservation easement was granted; in order for the full benefit to be realized there must be an investment of funds; no public or private funds would be raised without public access.

Councilor Gallagher thanked the CHLP for moving forward with activating Quincy Farm; he asked that CHLP work closely with Colorado Open Lands in a very constructive way.

Mayor Stewart indicated he was delighted with CHLP's progress so far; he agreed working out the issues with Colorado Open Lands was the best course.

### **CONSENT AGENDA**

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

- a. Approval of Minutes – June 7, 2022
- b. 2021 Audited Financial Statements
- c. Resolution 13, Series 2022; Approving a Revocable Encroachment License Agreement Between Adam H. and Adrine S. Writer for the Installation, Construction, and Maintenance of Certain Improvements on City-Owned Property
- d. Construction Contract for the 2022 Concrete CIP - Essential Contractors

The motion passed unanimously.

### **ITEMS REMOVED FROM CONSENT AGENDA**

None

### **UNFINISHED BUSINESS**

None

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### **NEW BUSINESS**

#### **Resolution 14, Series 2022; Approving a Floodplain Variance for a New Accessory Structure at 7 Random Road (Public Hearing)**

Planning Manager Workman presented Resolution 14, Series 2022, approving a floodplain variance for a new accessory structure at 7 Random Road; the applicant had provided all necessary affidavits verifying the City's public notice requirements had been met; he reviewed definitions of relevant technical terms; the subject property was zoned R-1 and surrounded by lots zoned R-1; the subject property was entirely encumbered by the floodplain and a significant portion of the property was encumbered by the floodway; the applicant was requesting a floodplain variance to replace an existing detached garage from the 1950s with a larger garage to fit today's vehicles; the application stated the garage would have nine 16" vents installed in the walls to bring the building into compliance with current floodplain regulations for structures in the floodway; the application stated the garage would not be used for storage of any chemicals, fuels, and so forth, and would have no interior walls, absorbing insulation, electrical installations, or plumbing of any kind; the application stated the proposed garage would be approximately ten feet further from the edge of Blackmer/Quincy Gulch than the current garage; the application stated all alternative locations for the proposed garage had been considered but would require considerable earthwork, removal of trees, and negative aesthetics for the property and neighbors; Planning Manager Workman reviewed staff's analysis of the approval criteria from the Municipal Code, specifically Articles 5 and 7 of Chapter 16; in particular he noted the applicant had provided documentation from engineers stating the building would have low flood damage potential with respect to the structure and its contents; the elevation of the proposed structure would cause the least amount of disturbance in the floodway and/or floodplain, resulting in the least amount of impact to the floodway or floodplain; that criterion was a critical component for the Planning and Zoning Commission (P&Z) in their deliberation; other locations for the new structure would require new disturbance of the floodplain and/or floodway; the proposed building met the structural requirements of the Code; there was no electrical, plumbing, heating, or air conditioning proposed for the new building; the proposed building would include nine 16" x 8" of certified flood vents; the proposal would not increase the base flood elevation; the Code contemplated that there were circumstances where development in the floodplain may be appropriate and the applicant had demonstrated technical justification for issuing the floodplain variance; the proposal created the minimum disturbance necessary to achieve the goals of the applicant considering the flood hazard; staff believed failing to grant the floodplain variance would result in an exceptional hardship because the entirety of the property was encumbered by the floodway and/or floodplain, and denial of the request would deprive the applicant of the ability to construct a detached structure, an ability other similarly situated property owners had; there was no change to the danger to life and property as a result of the proposal; the Master Plan contemplated structures in the floodplain when they complied with the floodplain regulations; staff had received three letters of support for the application and no comments against the application; P&Z reviewed the application at their May 10, 2022 meeting; P&Z emphasized floodplain variance approvals were rare in the village as development in the floodplain was taken very seriously; P&Z wanted to ensure "extraordinary measures" were taken to determine no other alternatives were available; reasoning that because the property was entirely encumbered by the floodplain and a large portion was within the floodway, the proposal was for the least amount of disturbance in the floodway/floodplain and there was not an alternative location outside the floodway/floodplain, P&Z voted unanimously to recommended approval with three conditions which were included in staff's recommended motion for Council.

Councilor Blum asked about the original construction of the home in the floodway.

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Planning Manager Workman replied the home was constructed before the Village had floodplain regulations.

Councilor Blum asked about the size of the proposed garage.

Planning Manager Workman replied the proposed garage was a three-bay structure.

Councilor Blum asked how the existing garage was accessed.

Planning Manager Workman replied the exiting garage was accessed via a culvert covered by dirt.

Councilor Blum stated the analysis was well done and he supported approval.

Councilor Gallagher thanked staff for their quality analysis and presentation.

Mayor Pro Tem Brown asked about the remedies for not meeting the third condition of the recommended motion regarding storage of chemicals.

Planning Manager Workman replied all the remedies available to staff in the Code would apply to lack of compliance with the conditions.

City Manager Cramer added if there was no compliance after contact, the floodplain variance could be revoked and the proposed structure would have to be removed.

Mayor Pro Tem Brown indicated she knew the applicant was well aware of the condition but she was concerned with a future property owner not being aware.

Councilor Weil thanked staff for the presentation.

Mayor Stewart opened the Public Hearing at 7:10 p.m.

Eliot Wong, AWARE Engineering, consultant for the applicant, indicated the finished floor of the proposed structure would be elevated two feet above the 100-year floodplain.

Hearing no other comments Mayor Stewart closed the Public Hearing at 7:11 p.m.

Mayor Pro Tem Brown moved, seconded by Councilor Weil, to approve Resolution 14, Series 2022, a resolution to approve a floodplain variance for a new accessory structure at 7 Random Road, subject to the following conditions:

1. Prior to the final inspection for the proposed building the applicant shall provide the City with "as built" drawings, including an "Elevation Certificate," to ensure that construction of the garage was consistent with the approved plans.
2. The applicant and subsequent owners of the subject property may not install any electrical, heating, ventilation, plumbing, or air conditioning equipment, interior walls or insulation, or other service facilities without prior written approval of the City and proof from the applicant that they have been designed and located so as to prevent water from entering or accumulating within the components during conditions of flooding.
3. There shall be no storage of chemicals, including but not limited to; oil, gas, fertilizer, and anti-freeze, or other hazardous materials, at or below two (2) feet from the proposed concrete slab of the garage.

Mayor Stewart asked if the detention facilities if the High Line Canal would be considered in the future and reduce the floodplain.

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City Manager Cramer replied it was certainly possible, if the City were to make improvements and work with Mile High Flood District so they could model the new floodplain.

Mayor Stewart indicated the wording of the third condition in the motion was confusing.

Mayor Pro Tem Brown amended her motion so that number three would be changed to read: Any storage of chemicals, including but not limited to; oil, gas, fertilizer, and anti-freeze, or other hazardous materials, must be two (2) feet above the proposed concrete slab of the garage.

Councilor Blum seconded the amendment.

The amendment to the motion passed unanimously.

The main motion passed unanimously.

### **REPORTS**

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

Mayor Stewart reported he would attend the CML annual conference starting tomorrow; he attended the June 5<sup>th</sup> Mayor's Munch; he attended Walk for the Canal with Councilor Gallagher.

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

Councilor Blum asked for updates on the pole for the speed sign and the possible sale of 90 Meade Lane.

Deputy City Manager/Director Goldie replied staff was waiting to receive the pole from the manufacturer.

City Manager Cramer replied he and Deputy City Manager/Director Goldie were getting an accurate cost estimate for the possible sale of 90 Meade Lane to bring back to Council.

Councilor Gallagher had no report.

Mayor Pro Tem Brown had no report.

Councilor Weil reported good attendance and questions at tonight's Town Hall regarding the potential remote sales tax ballot issue; the last DRCOG meeting worked on federally mandated target setting activities, examined a variety of mitigation measures for greenhouse gasses, and received a presentation on establishing an economic development region; the last Arapahoe County Transportation Forum meeting finalized their transportation improvement project grant application; the Hampden mobility study had a survey for public input.

Councilor Safavi had no report.

#### **City Manager & Staff**

Deputy City Manager/Director Goldie reported he had attended a meeting for the Hampden mobility study and the link to the survey was on the City website.

Councilor Blum asked if the study was considering remediation for traffic issues and expressed concern that any improvements would be difficult with the physical limitations of the road.

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Deputy City Manager/Director Goldie replied everything was currently being considered; at the meeting he had expressed the City's priority of reducing congestion on Hampden in order to reduce cut-through traffic in the City; the group was looking at lane consistency and interactive signaling.

City Manager Cramer added access control would eventually be discussed by the group as well.

Deputy City Manager/Director Goldie noted the underpass under Broadway was being widened through a separate project.

Councilor Blum indicated the section of Hampden Avenue from Colorado Boulevard to I-25 was the big limitation.

Mayor Stewart noted there were areas not being used or not being used effectively in that section; Hampden could be improved aesthetically as well as functionally; he agreed cut-through traffic was a major issue for the City; there was potentially large amounts of funding to help fix the issues.

City Manager Cramer indicated the Hampden mobility study had significant questions to ask and answer.

Mayor Pro Tem Brown stated her neighborhood would appreciate a reduction in cut-through traffic.

Director Farmen reported the City had received confirmation that the entire first year costs of \$73,000 for the new body-worn cameras were covered by grants.

Planning Manager Workman reported P&Z had held a study session regarding the Master Plan update project last week and had begun considering draft language for goals and action strategies; staff would present to Council in the coming months.

Chief Lyons reported the Code Enforcement Officers would begin enforcement related to downed tree branches and limbs tomorrow.

City Manager Cramer reported he would attend the CML annual conference starting tomorrow; he would attend the State of the County breakfast next Wednesday; he would attend the executive committee meeting for the I-25/Belleview Interchange project next Wednesday; the next Council meeting would be July 19<sup>th</sup>; he would be on vacation for two weeks starting next Thursday.


### **City Attorney**

City Attorney Guckenberger had no report.

### **ADJOURNMENT**

Hearing no objection Mayor Stewart adjourned the meeting at 7:34 p.m.

(SEAL)

  
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Russell O. Stewart, Mayor

  
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Laura Gillespie, City Clerk