

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, August 2, 2022 at 6:30 p.m.
City Hall

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, and Al Blum 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, and City Clerk Laura Gillespie.

Councilor Dan Sheldon arrived at 6:31 p.m.

Absent: Councilor Mike Gallagher

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

Tory Leviton, 3901 E. Quincy Avenue, stated he currently served on the Parks, Trails and Recreation Commission and would be honored to represent District 2 for the next City Council cycle; it was imperative that he run unopposed; being asked to represent the community was quite different than seeking the position; if Council knew of other interested parties ask them to support his candidacy instead; he would gladly reciprocate when the time came for them; he was prepared for the candidate forum next week; with everyone's endorsements they could progress forward to a bright future for the community; if elected to City Council he vowed to proudly represent the Village's constituents, their shared values, interests, and common goals; he loved the City; if granted the opportunity to serve he would work his hardest to maintain and promote Cherry Hills Village as the finest home in all of the lands; he thanked Council for their hard work; he would continue to stand for and represent the City's success regardless of whatever changes may come in the future; he appreciated Council's time; in a world so often threatened by darkness and hatred, may the community shine as a beacon of collaborative civilization, sustainability, and conservation.

Trey Rogers, attorney for the initiative Charter amendment petitioners committee, indicated he had worked closely with City Attorney Guckenberger on the ballot title Council was discussing tonight; there were two points where the petitioners committee would change the proposed title; the Charter amendment would amend Section 3.9 to require a vote of the people before the City sold, vacated, or conveyed an interest in a trail or open space; first, the petitioners committee would like to eliminate the parenthetical which stated "(to include all property held for the use and enjoyment of the public but excluding 90 Meade Lane, public streets, and rights-of-way)"; the statute on setting title required a brief summary on the major elements of the measure, it did not require every detail, it required something short and simple that communicated to the voters the big issue in the measure; while the parenthetical language was accurate it was merely a detail, people generally knew what open space meant, and it was unnecessary to add those additional words into the title; second, the petitioners committee asked Council to delete the words after the parenthetical which stated "in addition to the current requirement for voter approval to pledge or convey City parks"; while that was an accurate statement of the Charter section as it read today, it had nothing at all to do with what this measure would do; the statutes that provided direction to Council on how to set a title told them they were to summarize the measure, not

RECORD OF PROCEEDINGS

existing law, or not what the effects of the measure would be, so the petitioners' committee thought that language was extraneous; City Attorney Guckenberger might say there might be confusion among voters between parks and open space but he did not share that opinion and believed people knew what parks were and what open space was; he believed it confused the issue when they tried to communicate there was already protection for parks.

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

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

- a. Approval of Minutes – July 19, 2022
- b. Resolution 16, Series 2022; Approving an Intergovernmental Agreement with Arapahoe County Regarding the Conduct and Administration of and the City's Participation in the November 8, 2022 Coordinated General Election

The motion passed unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

NEW BUSINESS

Discussion of Ballot Language for Potential Remote Sellers/Internet Sales Tax Ballot Issue

City Manager Cramer explained tonight's discussion could be considered a continuation of Mr. Blakely's final report presentation from the last Council meeting; the purpose of tonight was to discuss the draft ballot language; the issue was planned for a Council vote at the August 16th meeting.

Kyle Blakely, Blakely & Company, reviewed his company's work under the public affairs consultant contract for the City; they had researched three potential ballot measures and had recommended Council move forward with the remote sellers/internet sales tax issue; he had worked with Council and City staff on public education including producing FAQ and Key Points documents, presentations at community groups, content for the City website, social media, Village Crier, and the Villager Newspaper, the June 21st Town Hall, a forthcoming postcard mailing, and recruiting volunteers for the campaign committee; tonight's meeting was to review and discuss possible ballot language; the final vote was planned for August 16th and at that point the campaign committee would take over.

City Attorney Guckenberger explained the 2018 Supreme Court *Wayfair* decision which invalidated the physical presence portion of the City's sales tax code; any change to a tax policy that may result in a net revenue gain to the City requires voter approval; Council had several options of what to put on the ballot; Option A was to only put the TABOR issue on the ballot, and the implementing ordinance would follow in subsequent Council meetings; Option B was to refer the TABOR issue with proposed changes to the

RECORD OF PROCEEDINGS

Code; and Option C was to refer the TABOR issue with the entire ordinance; staff recommended Option A, which would help to ensure that the ordinance reflected the most recent Colorado law and practices which were still developing at the state level, and would provide additional public input opportunities during the two-reading ordinance process; the proposed ballot language was "SHALL THE SALES TAX CODE OF THE CITY OF CHERRY HILLS VILLAGE BE AMENDED, AS A VOTER-APPROVED TAX POLICY CHANGE, TO REQUIRE PERSONS "ENGAGED IN BUSINESS IN THE CITY," WHICH MAY INCLUDE PERSONS MAKING DELIVERIES TO CITY RESIDENTS, INCLUDING REMOTE SELLERS, TO COLLECT TAX, AND FURTHER SHALL ANY INCREASE IN REVENUES RESULTING FROM THESE CHANGES TO THE CODE, REGARDLESS OF AMOUNT, CONSTITUTE A VOTER APPROVED REVENUE CHANGE FOR THE CITY WITHIN THE MEANING OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?"; the ballot issue did not create a new tax, currently tangible personal property being sold at retail was subject to the tax, and tangible personal property being sold at retail would be subject to the tax if the ballot issue was approved; the ballot issue would not increase the tax rate of 3.5% currently in the City Code.

Mayor Stewart suggested beginning the ballot issue with language such as "Without changing the existing 3.5% sales tax rate"; he noted this question often came up when discussing the potential ballot issue with residents and adding it directly to the ballot language would help clarify.

Councilor Blum agreed that was an important clarification and would answer people's questions.

Councilor Sheldon indicated he was in favor of Mayor Stewart's suggestion; he asked City Attorney Guckenberger about the implementing ordinance should the ballot issue be approved.

City Attorney Guckenberger replied the implementing ordinance would get into the details of changing the Code as needed; there were model ordinances to join the state collection system which were getting some pushback from municipalities and so might be changing.

Councilor Sheldon asked if Council chose Option C to refer the entire ordinance and there were changes at the state level in the interim then Council would not be able to make any changes.

City Attorney Guckenberger replied Council would be more restricted in implementing a state model ordinance if Option C was approved by Council.

City Manager Cramer added Option A provided additional opportunity for public comment on the implementing ordinance.

Councilor Sheldon noted the ballot measure would have passed by then.

City Attorney Guckenberger added it would provide opportunity for increased public understanding.

Councilor Sheldon asked about joining the state collection system.

City Manager Cramer replied there were a few aspects still being worked out.

Mayor Stewart added Lakewood was currently in litigation regarding sales tax collection and that outcome might affect the language of an implementing ordinance.

City Attorney Guckenberger added Colorado had a unique system and had become a target.

RECORD OF PROCEEDINGS

Mayor Stewart added there was conversations between the retailers and the state about what was burdensome since that was the threshold set by the Supreme Court, so the City needed flexibility to craft the implementing ordinance around those issues.

Mayor Pro Tem Brown asked how much time Council would have to pass the implementing ordinance if the ballot issue was approved.

City Attorney Guckenberger replied there was no time requirement but she would imagine Council would proceed quickly unless there was a strong reason not to.

Mayor Pro Tem Brown expressed concern about the risk of a potential perception by the public that the implementing ordinance adopted did not reflect the voters' intent.

City Attorney Guckenberger explained the risk with referring the entire ordinance was a future obstacle in the collection mechanism; she added with Option A if the ballot issue was approved the City would work with all deliberate speed to implement the ordinance and enact the intent of the voters in a way that was effective and lawful.

Mayor Pro Tem Brown noted the only part of this requiring voter approval was the TABOR issue; even if voters felt the implementing ordinance included things that were not part of the ballot measure, those things did not require voter approval, such as a change to the City's business license regulations.

Councilor Sheldon added it was a similar issue to Mr. Roger's comments that not all the details could be included on the ballot.

City Manager Cramer indicated staff had already begun working on the draft language for the implementing ordinance so they would be able to bring it to Council for consideration shortly after the election if the ballot issue was approved; if any delay was needed due to external factors the City would communicate the process to residents and be as transparent as possible to maintain the good-faith effort entrusted by voters to the City.

Mayor Pro Tem Brown stated if she voted for the ballot issue and then the implementing ordinance had additional matters in it she would feel it was disingenuous; she was concerned with voters feeling if they had known more about the implementing ordinance they would have voted differently on the ballot issue.

City Attorney Guckenberger noted specific to business license changes were needed to the City Code based on state legislation from the last session but that legislation might change again because of push-back from other municipalities; it was unknown if obstacles would be present but Option A provided Council the best opportunity to proceed in all deliberate speed in a lawful fashion to implement the intent of the voters; if specific ordinance language was referred to the voters and then the City had to change the Code later because of external factors, that might be perceived as more disingenuous than Option A.

Mayor Pro Tem Brown reiterated her concern about the perception by the public that the implementing ordinance adopted did not reflect the voters' intent; one detail could make the difference between her vote on an issue.

Councilor Weil asked if the draft ordinance language could be circulated publicly with the understanding it was draft and tweaks could be needed based on the state.

City Attorney Guckenberger indicated she would think about that.

Councilor Weil confirmed only one vote was required for this issue; he asked if "City" should be added to Mayor Stewart's new language.

RECORD OF PROCEEDINGS

Mayor Stewart agreed it should be made as clear as possible.

City Attorney Guckenberger indicated with that change the language she had to add at the beginning of the draft ballot issue language was "Without changing the City's existing 3.5% sales tax rate."

Councilor Safavi agreed with the additional language.

Mayor Stewart noted the precise change was changing "place of business in the City" to "engaged in business in the City", and "engaged in business" was a well-understood term in case law, courts, and statutes; it was self-limiting; the other implementing regulations already in the Code were not TABOR issues and could be changed through the regular ordinance process; the process for this issue had been simple and clear and legally very understandable.

Councilor Weil thanked Council for their input and discussion on the draft ballot language; he asked for their support on the campaign committee as individual residents.

Resolution 17, Series 2022; Setting the Ballot Title and Placing an Initiated Charter Amendment Measure on the Ballot for the Coordinated Election Held November 8, 2022

City Clerk Gillespie explained the City was following state statute regarding an initiative petition for a Charter amendment; the statement of intent was filed on April 22, 2022; the petition was filed on July 12, 2022; the petition was certified as sufficient on July 20, 2022; Colorado State Statute (C.R.S.) Section 31-2-210(3) states "If the petition is sufficient, the governing body shall set a ballot title for the proposed amendment at its next meeting"; therefore Council was required to set the ballot title and to do so tonight; Council had discretion in the specific wording of the ballot title with guidance from C.R.S. Section 31-11-111(3); although the original Council packet had included a council bill staff was now presenting a resolution instead.

City Attorney Guckenberger indicated Council was charged with setting a ballot title that fairly and accurately represented the true intent and meaning of the proposed initiative, as Council understood it to be as submitted by the petitioners, and that avoided confusion that might be caused among the voting public by a misleading title.

Mayor Stewart asked City Attorney Guckenberger to address Mr. Roger's comments.

City Attorney Guckenberger explained the petition included underlines and strikethroughs but that formatting was not permitted to be on the ballot by the County; the petition required a lot of changes to Section 3.9 of the Charter if it was approved; the petition specifically referenced all property held for the use and enjoyment of the public; it specifically excluded 90 Meade Lane, public streets, and rights-of-way; it included a definition of "open space" that was fairly broad; trying to condense all of that while conveying an accurate and true understanding of the intent and effect and avoid confusion was the goal for adding the language in the parenthetical; the goal for including the language "in addition to the current requirement for voter approval to pledge or convey City parks" may also address confusion in the voting public because currently Section 3.9 prohibited conveyance or transfer of park property without voter approval; parks were specifically defined in the City Code by name; open space was not defined in the City Code; there was an open space definition in the petition; it was arguable that people used parks and open space interchangeably without understanding the distinction; to convey the true effect and intent of the measure, it was to protect open space which was distinguished from parks; so that was the intent of the language as proposed.

Councilor Blum asked Mr. Rogers to address the language under debate.

RECORD OF PROCEEDINGS

Mr. Rogers explained the reason to delete the language in the parenthetical was while there was a definition of open space in the measure, the parenthetical got down into the details and was unnecessary for the voter; the voter needed to know the measure would prohibit the sale, transfer, or conveyance of open space without a vote of the people; the reason the petitioners included the exclusion of 90 Meade Lane, public streets, and rights-of-way, was because of concerns raised by the City Attorney and members of the Council; it was not the petitioners' preference to include those exclusions in the language; they added them to address some good concerns that were raised; to put that level of detail into the title destroyed the brevity of the title and ran the potential of confusing voters because it was a bunch of detail they did not have context for; the petitioners thought it was sufficient to simply say this was a measure that prohibited the transfer of open space without a vote of the people; that is what the title should convey.

Mayor Pro Tem Brown asked if the ballot measure language from the petition would be printed anywhere.

City Attorney Guckenberger replied it was published once in a newspaper as part of the election notice.

Mr. Rogers added he would expect the City Clerk to put it in the election section of the City website; the campaign for the measure would put the language on its website; the law and tradition in Colorado was to condense lengthy measures into typically a single-sentence summary of the measure and it was left to the voter if they wanted to find the language and study it.

Councilor Blum indicated he thought including the language in the parenthetical clarified the ballot title.

Mr. Rogers stated it was a level of detail that was not necessary; he presented the example of a 2021 statewide measure in which the ballot title of 14 lines described a measure of 14 pages; that was the level of distillation the case law and statutes on title setting required; at the state level there would never be an effort to include details like excluding 90 Meade Lane, public streets, and rights-of-way; it was sufficient and easier for the voter to understand if the ballot title said this was a measure about open space. He continued with the second requested edit to remove the language immediately following the parenthetical which read "in addition to the current requirement for voter approval to pledge or convey City parks"; he believed that language was inserting an argument into the ballot title; if there was opposition to this measure the opposition may choose to say in their campaign literature that parks were already protected and that was enough; that kind of an argument had no place in the ballot title; the clause did not describe anything the measure did; it simply provided an argument that parks were already protected; it should be deleted.

Councilor Sheldon indicated he believed the terms parks and open space were regularly used interchangeably; he saw it in his industry all the time; people did not know the difference between the two; he asked for clarification on the inclusion of the language excluding 90 Meade Lane, public streets, and rights-of-way.

Mr. Rogers clarified the petitioners had submitted the proposed Charter amendment language to the City Clerk as required by state law; that led to discussions between Laura Christman and some Council members, and between himself and City Attorney Guckenberger; the petitioners added the specific exclusions of 90 Meade Lane, public streets, and rights-of-way, to address concerns brought up by Council members and the City Attorney in those discussions; the petitioners never envisioned that the detail of those exclusions would be in the ballot title; they were paying the price for being reasonable and making amendments to the language; they were now seeing it come back in a form that was a higher level of detail than he had ever seen in a ballot title.

RECORD OF PROCEEDINGS

Councilor Sheldon indicated if the petitioners' requested changes to the ballot title were adopted by Council and the measure was approved by the voters he was not worried about anyone claiming 90 Meade Lane was open space but he was concerned that someone would misunderstand what they were voting on.

Mayor Pro Tem Brown agreed that the language after the parenthetical was inserting an argument into the title and in fact a very misleading argument because the current Charter only protected the limited number of parks that were defined as parks in the City Code; Volunteer Park was not included; the intent of the measure was not to protect open space, it was to protect all parks, open space, and trails; saying some portion of that was already protected may be true but was not a distinction that the average City resident understood.

Councilor Blum asked what classification of parks and/or open space Quincy Farm was considered.

Mayor Pro Tem Brown replied it was not considered a park; she thought there were people in the City who thought Quincy Farm was a park and so saying parks were already protected would be very misleading; she felt strongly that language was inserting a misleading argument into the title; regarding the language in the parenthetical, the average resident might not even know the City owned 90 Meade Lane, much less what it was; there were people who did not understand what a right-of-way was and might confuse trails and rights-of-way; the language in the parenthetical required a level of understanding and sophistication about classification of public property that the average person did not have; Council should read the title by attributing the most common meaning to the terms; including the parenthetical made it more confusion rather than less; she supported removing the two phrases as requested by the petitioners.

Councilor Weil stated he had no problem with the deletion of the phrase following the parenthetical; his understanding was 90 Meade Lane was owned by the City as more or less a store of value, it was not intended to be a park, however there was a lot of ambiguity and many residents might not know the difference between 90 Meade Lane and Alan Hutto Memorial Commons, for example; he was concerned if the parenthetical was deleted and Council wanted to sell 90 Meade Lane that some residents would think they had voted for a protection of parks and open space including 90 Meade Lane.

City Attorney Guckenberger explained if the ballot title passed the voters were approving the full initiated Charter amendment ballot measure; the point Mr. Rogers was making on behalf of the petitioners the level of detail was not needed in the ballot title in order for the initiated Charter amendment to go into effect if the ballot title were approved.

Councilor Weil indicated he would support removing the phrase in the parenthetical "to include all property held for the use and enjoyment of the public" but was concerned about removing the language "excluding 90 Meade Lane" because he agreed there was ambiguity in voters' minds about parks and if the ballot title was not specific about that piece of property then he was worried it would be troublesome for Council in the future.

City Attorney Guckenberger added Councilor Weil's concern also addressed confusion of the voters and conveying the true intent and meaning of the ballot measure.

Councilor Blum noted if a voter did not see the initiative Charter amendment language they would not know about the exclusion of 90 Meade Lane, unless it was included in the ballot title; he indicated he shared Councilor Weil's concern.

Councilor Safavi asked for clarification on the ballot title versus the initiative Charter amendment language.

RECORD OF PROCEEDINGS

City Attorney Guckenberger explained if the ballot title was approved by the voters then the changes to the Charter as shown in the initiative petition would go into effect.

Councilor Safavi asked if the concern was that the proposed ballot title was inaccurate.

Mayor Stewart replied there was no concern it was inaccurate and Mr. Rogers had stated it was accurate; the question was if the ballot title language was confusing or clear, when it was voted on the voter would not be surprised by the full initiative Charter amendment text.

Councilor Safavi indicated he believed the average voter would have a lot of questions based on the ballot title and would not fully grasp the Initiated Charter amendment.

Mayor Stewart noted redlined ballot language was ideal but the County did not allow that; he agreed with Councilor Weil regarding 90 Meade Lane; people would think 90 Meade Lane was open space because open space was defined in the initiated Charter amendment as all public property in the City that people used and enjoyed; it was a very broad definition, unlike anything in the statutes or anywhere else, parks were just a small subset of that definition, a lot of property in the Village was potentially open space, it could include a vista, it could apply to Council Chambers; it would be dangerous for the City to not include the exclusion of 90 Meade Lane in the ballot title and then try to sell 90 Meade Lane and have to defend against a voter's understanding of the measure based on the ballot title; he also agreed with the City Attorney regarding the inclusion of the language after the parenthetical regarding the current requirement regarding parks; if the City could include the redline of the Charter amendment on the ballot then voters could see the existing protections in Section 3.9 of the Charter; without that language in the ballot title voters could think that the ballot measure would protect the City's major parks, without the knowledge that those five parks were already protected; the ballot title as proposed by the City Attorney was more accurate, was not that long, and as Mr. Rogers said it was accurate, explained to people what was changing, and was necessary to avoid misleading people into thinking this measure would protect all City parks; the petitioners wanted to get this passed and he understood it was a better way to pass it; he thought it was a valuable piece of information that parks were already protected; realistically the ballot title was the only information most voters would have; he urged Council to keep the ballot title as presented by the City Attorney; it was accurate and fair.

Mayor Pro Tem Brown stated it was nowhere in the initiative; it would insert personal rationale and logic into the title of a citizen initiative that appeared nowhere in the initiative; it was perhaps an argument for why the Charter amendment was not necessary and that could be made by a campaign committee; it was not appropriate for the Council to insert their own slant on the initiative into the title; the initiative talked about protecting all parks, the fact that some of them were already protected was irrelevant to this question.

Mayor Stewart indicated people signing the petition knew what the current language of Section 3.9 was and people voting on the question should know as well.

Councilor Blum clarified the Charter amendment would also apply to any open space the City bought in the future.

Mayor Stewart confirmed that was correct.

Councilor Blum indicated the reference to 90 Meade Lane should be in the ballot title but that it was superfluous to include the information about the current Charter language.

RECORD OF PROCEEDINGS

Councilor Sheldon stated it could be seen as misleading either way; he noted the City would not be able to sell 90 Meade Lane before the election in order to avoid confusion after the election if the measure passed.

Mayor Pro Tem Brown indicated the concern about 90 Meade Lane made sense to her and asked if Council would support changing the parenthetical to only address 90 Meade Lane; she did not believe public street needed to be included because most people would not think a public street was open space.

Councilor Sheldon replied it troubled him a little bit to separate it and would rather include all three exclusions or none.

City Attorney Guckenberger noted the initiative language included a definition of open space.

Mayor Pro Tem Brown replied if the issue came up voters could read the initiative language; the question was if a voter would think public streets were open space if they were not specifically excluded in the ballot title.

Councilor Sheldon indicated that made sense.

Councilor Weil asked about Council's opinion on changing the parenthetical to read "(excluding 90 Meade Lane, public streets, and rights-of-way)"; Council dealt with these terms all the time but thinking about it from a resident's perspective he was concerned that rights-of-way also posed a risk of misunderstanding; the petitioners and the petition signers accepted excluding rights-of-way so including that exclusion in the ballot title was not an attempt to misconstrue intent; he felt some obligation to be clear and communicative to limit risk and misunderstandings; Council was not trying to be tricky, they were trying to be straightforward.

Councilor Blum asked about changing the parenthetical to read "(but excluding 90 Meade Lane, public streets, and rights-of-way)".

Councilor Weil agreed and noted it was a lot less wordy and he did not know if the phrase "to include all property held for the use and enjoyment of the public" added much to the public understanding; he thought Council was in agreement that including the exclusion of 90 Meade Lane, public streets, and rights-of-way gave the City a firm footing should a debate ensue after the measure was passed.

Mayor Pro Tem Brown indicated she could support changing the parenthetical to read "(excluding 90 Meade Lane, public streets, and rights-of-way)".

Mr. Rogers addressed the question of the broadness of the definition of open space in the initiative language; when the courts looked at a term in the statute under the rules of statutory interpretation they gave words their plain and common meaning so a court would not look at this measure and say open space included the Council Chambers, streets, or rights-of-way; when the focus is on the words use and enjoyment of the public the fact that the item under discussion is open space; a court would look in the dictionary to determine how the term was defined.

City Attorney Guckenberger replied that was the rule if there was not a definition provided.

Mayor Stewart agreed when a definition was provided that was what the courts used.

Mr. Rogers indicated the definition of open space in the initiative language also included the word land, the City had to acquire it for the purpose of the use and enjoyment of the public; there was a lot in there that he believed meant a court would not determine the Council Chambers was open space; he agreed with Mayor Pro Tem Brown that no

RECORD OF PROCEEDINGS

citizen would think a street or right-of-way was open space and it made sense to exclude those words from the ballot title; he understood the argument about 90 Meade Lane and the confusion it could create; he reiterated the request to remove the language after the parenthetical as well.

Mayor Stewart stated the City still had streets and rights-of-way that were not developed and people might think they were open space.

Councilor Weil indicated he believed including the phrase public streets and rights-of-way did not conflict with the intent or message, did not add a large amount of encumbrance, and was one more opportunity to clarify what was being voted on and avoid future confusion.

Mayor Pro Tem Brown moved, seconded by Councilor Blum, to approve Resolution 17, Series 2022, setting the ballot title and placing an initiated Charter amendment on the ballot for the coordinated election held November 8, 2022, with the following change to Section 2, that the City Council hereby refers the following ballot language to the voters at said election: Shall Section 3.9 of the City of Cherry Hills Village Home Rule Charter be amended to require voter approval for the sale, vacation, or conveyance of any City property interest in any trail or open space within the City limits (excluding 90 Meade Lane, public streets, and rights-of-way) except that voter approval shall not be required for leases or licenses of less than five years that would not materially diminish the public's opportunity to use and enjoy the property?

The motion passed unanimously.

Board of Adjustment and Appeals Vacancy

City Clerk Gillespie explained Board of Adjustment and Appeals (BOAA) member Bill Rapson had notified the City that he was moving out of the City and therefore had to resign from the BOAA; staff had several applications from the recent vacancy on the Art Commission who had been interviewed by Mayor Pro Tem Brown and Councilor Weil; one of the applicants was also interested in serving on the BOAA; staff was asking for Council direction on appointing the applicant or soliciting applications.

Mayor Pro Tem Brown expressed support for appointing the applicant if the resident was still interested.

Council expressed their agreement.

City Clerk Gillespie indicated staff would bring back a resolution for formal appointment.

REPORTS

Mayor's Report

Mayor Stewart reported he had attended the July 20th Mayors Munch; the July 27th Hampden Mobility & Safety Study advisory committee meeting where he continued to raise the issue of cut-through traffic; on August 30th there would be an open house for the Hampden Mobility & Safety Study; tomorrow he would attend the Metro Mayors Caucus meeting; he would attend the August 4th kick-off meeting for the Region 9 opioid governance council; on August 10th he would attend the Mayor's Munch and meet with Xcel and CML on undergrounding issues; on August 12th he would attend the Arapahoe County mayors, managers, and commissioners meeting; the County commissioners would be sending a poll to local elected officials.

RECORD OF PROCEEDINGS

Members of City Council

Councilor Blum thanked Deputy City Manager/Director Goldie for the speed sign on Belleview; he relayed a compliment to the Police Department on their professional treatment of a sexual assault case.

Councilor Sheldon stressed the urgency of continuing the process of evaluating the possible sale of 90 Meade Lane; he thanked staff for their update on the Quincy undergrounding project and Zayo removing their lines next week; he had asked staff to look again into improving cell phone coverage in the Village.

Mayor Pro Tem Brown congratulated Chief Lyons and the Police Department on a lovely National Night Out; a news story had reported that Hoboken, New Jersey had not had a traffic-related fatality in four years and there might be some lessons to apply to the Hampden Mobility & Safety Study.

Councilor Weil reported DRCOG continued to work on finalizing the transportation improvement program, TIPS allocations, and modeling greenhouse gas emissions; the remote sales tax group had their first meeting and selected their official name, Villagers for Tax Code Clean Up; he invited all the Council members to participate as individual residents and stay informed; there was a great group of residents involved but they were still recruiting; they would retain Kyle Blakely through the election; they had two major goals of communication and fundraising; they would meet every other Thursday at 6pm at Buell Mansion.

Councilor Safavi asked about the progress related to electric vehicle charging stations.

Deputy City Manager/Director Goldie replied he had been looking into state funding and talked with Xcel; the Parks department had purchased electric trimmers and was looking at electric lawn mowers; they had looked into electric utility vehicles but there were none available that could run a plow system; adding electric vehicles to the Master Plan would help with applying for grants.

City Manager & Staff

Police Chief Lyons acknowledged the outstanding work the Police staff had done on National Night Out; the first monthly Coffee with a Cop would be August 24th.

Deputy City Manager/Director Goldie reported the Quincy undergrounding project would hopefully be completed soon; Denver Water would be starting a very prolonged and major replacement of their pump station at Quincy and Holly in the next month or two; staff was working closely with Denver Water to manage the project and would be communicating as much as possible with residents; staff had just received a market analysis for 90 Meade Lane and would schedule an executive session for the next meeting.

Council discussed communication with residents about the Denver Water project.

Director Farmen reported the Finance and Administration department had been busy with ballot measure language and preparing the draft 2023 budget; the City would have a new digital budget tool in the near future available on the City website to provide better communication with residents about the budget.

City Clerk Gillespie noted the candidate information session was August 9th and Movie Night was August 20th.

RECORD OF PROCEEDINGS

City Manager Cramer noted the City was a non-voting member on the opioid regional council and was not expected to attend every meeting; the study session on the Master Plan update would occur at the next meeting; the Citizens Advisory Taskforce met last week and had a productive meeting discussing draft goals and action items for the updated Master Plan; the purpose of the study session was to keep Council apprised of the progress but if Council felt strongly about anything staff would want to know; Councilor Gallagher often asked if the update was continuing down the same path the City had been going the last 50 years or was the update starting to change direction; City Manager Cramer replied the intent was to keep the same direction the City had been going, with some enhancements and clarifications; tomorrow he would send Council an email he had received from a resident who was frustrated with construction noise and that the City Code did not prevent a property owner from being issued consecutive building permits for a single long construction project; staff had reached out to the contractor to establish a relationship and get information for the frustrated resident on the construction timeline.

Mayor Pro Tem Brown recalled when Council amended the Code to the current system of two permit extensions of four months each before a new permit was required to continue a project to try to address this type of issue.

City Manager Cramer replied the frustrated resident was hoping staff or Council could come up with another mechanism to address this situation.

Mayor Pro Tem Brown recalled during the discussion someone on Council had stated the additional permitting and fees would not impact some property owners.

City Manager Cramer agreed and noted that applied to this case.

Mayor Stewart added he had also been on Council when the last amendments had been made and the Council discussion had been detailed and involved.

City Manager Cramer noted staff had investigated the noise issue and a lot of construction noise such as volume and frequency of the back-up beeper were regulated by OSHA and the City had no control. He reported staff had extremely productive meetings with the Cherry Hills Land Preserve and the Quincy Farm annual plan was scheduled for the September 6th study session and the September 20th regular meeting. He addressed Councilor Sheldon's comment about cell coverage in the City and reminded Council of the meetings Mayor Stewart, Councilor Weil, Councilor Blum, and staff had with Zayo last year regarding improving cell coverage in the City, which ended when Zayo had said they could not get any traction from the providers; once the Master Plan update was developed enough that priorities became clear, Council would have a starting place for the public input process for ARPA funding; staff had heard from enough Council members that cell coverage should be one of the projects considered for ARPA funding; in preparation for those discussions staff had been talking to the leading consultants on using ARPA funds to install fiber backbone, the group was scheduled for a study session with City Council this fall.

Councilor Sheldon asked about the role of cell coverage in the Master Plan update process.

City Manager Cramer replied the public input process had shown that residents wanted better cell coverage but wanted to pay for it as funds became available; there was not an appetite for large public subsidies of that cost.

Councilor Sheldon asked if the use of ARPA funds required a vote or if a public process with open houses and the like was sufficient.

City Manager Cramer replied a vote was not required and it was a Council responsibility to decide how the ARPA funds should be spent, within the regulations, but it was still an

RECORD OF PROCEEDINGS

extremely visible topic and he recommended a public input process along with education; he recommended the ARPA process not be started until the Master Plan update provided a list of priorities for Council to consider; he recommended that an extra step be taken with cell service to provide Council with background and context regarding what local jurisdictions could do and the most effective steps to increase service.

Mayor Stewart asked about the High Line Canal technical committee.

Deputy City Manager/Director Goldie replied he had been meeting with the technical committee and Parks Coordinator Black was on the recreation committee; staff was working on the maintenance agreement with Denver Water and on the City stormwater study with ICON Engineering; a draft of the City's High Line Canal stormwater study would go to the Planning and Zoning Commission and Parks, Trails and Recreation Commission in September and to a Council study session on September 20th, and the final study would come to Council at a later date.

City Manager Cramer reminded Council the purpose of the City's High Line Canal stormwater study was so that Council would have a better understanding of what the City's costs would be and what improvements would be needed so that City residents were protected in the event of flooding, and to give Council an idea of maintenance costs so that when the City took over maintenance responsibilities Council was aware of the capital costs and the annual maintenance costs; Denver Water thought this was the best way to move forward and was encouraging other jurisdictions to contact the City about the study.

Councilor Sheldon asked what maintenance items the City could coordinate with other jurisdictions on for cost savings and efficiency.

Deputy City Manager/Director Goldie replied maintenance of trees, vegetation, trash, the trail, and cleaning out the stormwater channel.

Councilor Sheldon reminded Council the Dine for the High Line event was September 16th.

City Attorney

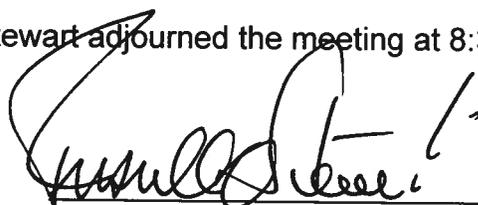
City Attorney Guckenberger recognized City Clerk Gillespie for her efforts with the ballot measure.

City Manager Cramer recognized City Attorney Guckenberger for her work on the ballot measure.

ADJOURNMENT

Hearing no objection Mayor Stewart adjourned the meeting at 8:33 p.m.

(SEAL)



Russell O. Stewart, Mayor



Laura Gillespie, City Clerk