

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, October 10, 2023 at 6:30 p.m.
City Hall, 2450 East Quincy Avenue, Cherry Hills Village, Colorado 80113

City Council held a study session at 5:00 p.m.

CALL TO ORDER

Mayor Brown called the meeting to order at 6:30 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 Interim City Manager Jim Thorsen, Deputy City Manager/Public Works Director Jay Goldie, City Attorney Kathie Guckenberger, Police Chief Jason Lyons, Finance Director Doug Farnen, Community Development Director Paul Workman, Police Commander Brennan Leininger, Parks Project & Operations Manager Emily Black, and City Clerk Laura Gillespie.

Absent: none

PLEDGE OF ALLEGIANCE

The Council conducted the pledge of allegiance.

MAYOR MOMENT OF PERSONAL PRIVILEGE

Mayor Brown shared grief for the loss of innocent lives as a result of the brutal terrorist attack on Israel over the weekend; it weighed very heavily in the hearts and minds of the community; unfortunately it appeared to be the next bloody chapter of what was already a very long and tragic tale; there was a lot of effort from the federal government and on a global scale; she wanted to take the opportunity to express prayers and support for the Jewish members of the community and anyone in the community who had friends, family, or ties to area during this very difficult time.

AMENDING THE AGENDA

Mayor Brown removed Item 9a from the agenda because in discussions with staff it was determined that a revocable encroachment license agreement was not necessary.

AUDIENCE PARTICIPATION PERIOD

Mark Griffin, 3236 Cherryridge Road, reported the second annual Cherry Hills Village Police Foundation Car Show had a wonderful turnout and close to 60 cars; Dr. Ted Parks and the Busted Bones entertained; the silent auction was successful; he thanked City staff for their help; they raised over \$14,000 for the Foundation.

Viki Thompson, 3 Winwood Drive, explained her concerns with construction projects, parking, access, and safety in her neighborhood; working with Code Enforcement had not helped; she asked for proactive solutions from the City to deal with a new construction project starting soon and provided several ideas.

Mayor Brown noted she had met with Ms. Thompson and connected her with Interim City Manager Thorsen.

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REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

Councilor Blum removed Items 6a and 6b from the Consent Agenda.

ITEMS REMOVED FROM CONSENT AGENDA

Item 6a. Approval of Minutes – September 19, 2023

Councilor Blum stated he was not at the last meeting and would abstain from voting on the minutes.

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to approve Item 6a.

The motion passed with 5 ayes and 1 abstention.

Item 6b. Resolution 36, Series 2023

Councilor Blum stated he did not understand the consequences of Proposition HH; he had spoken to Director Farmen and Councilor Hoellen; he suggested supporting Proposition HH might make sense financially to residents due to the difference between property tax reduction and TABOR refund amounts; he asked if the revenue reduction for the City if Proposition HH passed would be each year for the next 10 years.

Director Farmen replied it would although the exact amount would vary due to the way Proposition HH was structured; the current proposed budget included the assumption that Proposition HH would be approved.

Councilor Blum suggested residents might be in support of Proposition HH even if Council was not.

Councilor Eber stated Proposition HH was highly controversial; Council was able to say with confidence that Senate Bill 2023-213 was adverse for everyone in the City; he was unsure if was the right resolution for Council to take.

Councilor Hoellen indicated the draft resolution was the CML recommendation resolution; he agreed Proposition HH was complicated, but he opposed it because it was a workaround around TABOR; it was income redistribution; he agreed Council should take a position opposing Resolution HH but was not sure the draft resolution was worth passing.

Mayor Pro Tem Weil agreed Proposition HH was a slight of hand; it also affected state revenue versus local government revenue; he agreed with opposing Proposition HH; CML had a lot of credibility with him.

Mayor Brown indicated the main reason CML opposed Proposition HH was that property taxes funded local governments and special districts, while TABOR income taxes funded state government, and Proposition HH would basically take local tax dollars and give them to the state; while probably everyone agreed that property tax relief was in order, part of the objection to Proposition HH was that property tax relief could be given with no strings attached; if the state did not provide property tax relief there was nothing preventing local governments from acting in their own way to address property tax relief; the state legislature had passed legislation every year to override the way TABOR refunds were calculated in state statute; TABOR refunds were supposed to be given in proportion to the amount of taxes that taxpayers paid, but over the years the state legislature had changed the calculation so more refunds went to lower incomes

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and less refunds to higher incomes; Proposition HH provided some back fill for local municipalities but not for Cherry Hills Village due to size and income bracket; the estimated decrease for the City was \$183,000; it was not an enormous amount for the City and would not break the budget; she personally opposed Proposition HH and would support the resolution; Councilor Eber and Councilor Blum made good points.

Councilor Sheldon stated he was personally not in favor of Proposition HH, but suggested Council should not take any formal position if there was disagreement on Council and among residents.

Councilor Hoellen replied he was not sure the Council was split.

Mayor Pro Tem Weil added there would never be complete unanimity, and ultimately residents could vote however they chose; for him the loss of revenue for the City was a compelling reason to pass the resolution in opposition, apart from anything else.

Councilor Maguire indicated she did not like Proposition HH philosophy and was comfortable approving the resolution based on the negative impact Proposition HH would have on the City and on local government control; she would have liked to have seen the resolution worded differently.

Councilor Hoellen stated the resolution was not the City taking a position against Proposition HH, rather it was City Council urging residents to vote against Proposition HH.

Mayor Brown thanked Councilor Blum for removing the item from the consent agenda in order to express his opinion and thanked Council for the meaningful discussion; Council encouraged residents to vote their consciences.

Mayor Pro Tem Weil moved, seconded by Councilor Hoellen, to approve Resolution 36, Series 2023, opposing Proposition HH.

The motion passed with 4 ayes and 2 nays.

UNFINISHED BUSINESS

Resolution 29, Series 2023; Amending the City's Traffic Calming Policy

Deputy City Manager/Director Goldie presented Resolution 29, Series 2023 with the updated draft policy in accordance with Council direction at the September 19th meeting; changes included clarifying the policy was for a citizen initiated issue, HOAs would not be part of the impact areas, HOAs would be part of the notifications, after a speeding problem was determined the City would take over the process, the warrants had been rewritten for clarity, an explanation of the 85th percentile standard had been added to the warrant section.

Councilor Sheldon asked about a road with less than 100 vehicle trips per day.

Deputy City Manager/Director Goldie replied based on the data and engineering studies, traffic calming was not very effective on roads with less than 100 vehicle trips per day, and 200 vehicle trips per day was optimal; on roads with less than 100 vehicle trips per day education and enforcement were more effective.

Councilor Eber felt his concerns had been met.

Councilor Hoellen agreed but suggested the policy should be consistent in being called "citizen initiated" or "neighborhood".

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Mayor Pro Tem Weil moved, seconded by Councilor Blum, to approve Resolution 29, Series 2023; amending the Traffic Calming Policy as presented by staff, finding that the new policy supports the safety and welfare of all people utilizing the City's public roads, outlining a clear process for mitigating documented traffic problems in an objective and fair manner, with the addition of substituting Citizen Initiated Traffic Calming Policy throughout the text.

The motion passed unanimously.

Council Bill 7, Series 2023; Repealing and Replacing Section 4-1-50 of the Municipal Code Concerning the City's Capital Fund (second and final reading)

Director Farmen presented Council Bill 7, Series 2023 on second and final reading; the proposed ordinance would update the Code pertaining to the City's Capital Fund; currently the Capital Fund was blended with the General Fund for financial reporting and auditing purposes; the proposed bill would accomplish three main objectives: the Capital Fund would be a tool for long term financial forecasting, it would be separately reported and audited, and it would be part of the financial planning and reporting to the community; the Capital Fund would be the major source for the capital improvement program; revenue would come from the General Fund and Parks Fund; revenues could also include grants and legally restricted revenues such as the Highway User Tax Fund (HUTF); the proposed ordinance stipulated that any unexpended interfund transfers could be returned to the originating fund at Council's direction; in practice staff would transfer expended funds into the Capital Fund at the end of the year so there would be no unexpended funds in the Capital Fund; the proposed bill redefined that the revenues would be spent on capital asset acquisition, construction, and improvements in accordance with the City's Capital Improvement Program Policy.

Councilor Hoellen moved, seconded by Councilor Eber, to approve Council Bill 7, Series 2023; A Bill for an Ordinance of the City of Cherry Hills Village Amending Chapter 4, Article I Concerning the City's Capital Fund, on second and final reading.

The following votes were recorded:

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

Vote on Council Bill 7-23: 6 ayes. 0 nays. The motion carried.

NEW BUSINESS

Fence Discussion

Director Workman reminded Council of the study session in June regarding the City's fence requirements; Council discussion had primarily focused on the associated landscaping requirements that accompanied the fencing standards in certain circumstances; fencing located on properties between Colorado and Albion, north of Mansfield; and the opacity requirements in the R-1 zone district; Council's direction from the study session was not to rewrite the entire fence code but rather to make some strategic changes; staff was seeking Council direction on three things at tonight's meeting; first, removing the landscaping requirement for fencing in area 6; second, the addition of the properties between Colorado and Albion, north of Mansfield, to area 6; and third, feedback on some of the proposed diagrams to provide clarity on the different areas.

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Mayor Brown asked where the landscaping requirements would apply if not to area 6.

Director Workman replied they would still apply to area 5.

Councilor Sheldon asked for a reminder about why Council wanted to remove the landscaping requirements from area 4.

Director Workman replied there was concern that fences were not being repaired or replaced because the required landscaping was difficult to maintain or was not maintained.

Councilor Eber added the Parks, Trails and Recreation Commission had discussed that the external streets had not been intended to include landscaping requirements; he proposed clarifying the language describing the new properties being added to area 6 to be properties on the east side of Colorado, north of Mansfield.

Mayor Brown suggested the language could be further simplified as Colorado north of Mansfield since the properties on the west side of Colorado had the front of homes and also a trail; she reported she received three responses to her Crier article; one would be helped by the proposed changes, the second would be neutral, and the third was a unique circumstance and might need to go through the variance process.

Councilor Eber noted a fence around a batting cage in his neighborhood was more than 10 feet tall.

REPORTS

Mayor's Report

Mayor Brown reported she attended the west side Arapahoe County housing tour for state legislators including the two representing Cherry Hills Village; it was very well done; the County distributed a booklet of information on demographics and housing; most of the legislators expressed sentiments of recognizing the different layers required in housing projects and the need to work together; she had not been able to attend the east side tour; she attended the Metro Mayors Caucus last week; the new Denver mayor spoke about Denver's homeless initiatives; all the mayors and CML were still very committed to the principles of home rule authority related to any state housing proposals that might come forward in the future.

Councilor Hoellen asked if there was any evidence of state legislators meeting with and working with other groups.

Mayor Brown replied tentatively yes but not overwhelmingly yes; CML had stepped up their coalition and was planning to propose legislation; DRCOG was putting together a coordinated effort as was Colorado Counties; she noted several of CML's lobbyists had left or were leaving and she hoped CML would have people able to effectively fill those roles; she would attend the first CML policy committee meeting was on Friday; she attended the Dine for the High Line event; she attended the Cherry Hills Land Preserve's equestrian event at Quincy Farm; it was exciting to see people experiencing the property; she attended the Car Show, she won a series of paintings of cherries at the silent auction and planned to donate them to the City to hang in the council office; she was not available for a Council retreat during the day on February 20, 2024 and requested the date of the retreat be changed.

Members of City Council

Councilor Maguire had no report.

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Councilor Blum reported he attended the Car Show; he thanked Mayor Brown for her words at the beginning of the meeting.

Councilor Sheldon reported following the crime spree in early August the Charlou HOA had conducted a vote regarding security; the majority of residents voting chose no expenditure of funds, rather than hiring a security guard part time or full time; he was surprised by the results; there had not been any further crime spree in the past couple months and the neighborhood might have a sense of false security.

Mayor Pro Tem Weil reported he had attended a meeting sponsored by CML and DRCOG on the topic of housing; the consultant was California based and his idea was commercial corridors, streets with good public transportation lined by buildings with commercial business in the first two stories and residential housing in the third and fourth stories; bus rapid transit was much less expensive than train per mile to implement; he reported he heard Governor Polis speak at an event a week later and was still talking about duplexes.

Councilor Hoellen reported on his recent trip to Europe the people he spoke to were very supportive of Ukraine.

Councilor Eber thanked Mayor Brown for her comments at the beginning of the meeting; in May Council had passed a resolution countering antisemitism; the Cherry Creek School District Board had met recently to specifically address antisemitism on campus, it was an ongoing issue that continued to be addressed; he recognized the obituary for Heidi Hammell in the October issue of the Village Crier and noted staff had been unable to verify her creation of the City logo so that information was not included; he suggested adding batting cages to Council's noise discussion.

Mayor Brown added the air traffic noise had increased significantly; she had figured out the flights were coming from DIA and had filed a noise complaint; they replied and said one of their runways had been closed for construction and was supposed to be reopened by the end of October.

Councilor Eber noted he was the Council liaison to the Centennial Airport Community Noise Roundtable (CACNR) and had recently connected with the group to get notifications and attend meetings; he encouraged everyone to communicate issues to him.

City Manager

Interim City Manager Thorsen thanked Director Farnen for the work on the proposed budget, as well as the rest of staff and Council liaisons; he recalled the COP funds had been approved \$1 million below the estimate and not only had the projects met the smaller budget but there was \$500,000 left over; the 2024 proposed budget included an aggressive Capital Improvement Program; he was in contact with Ms. Thompson and had visited the area several times, he was working with Chief Lyons to aggressively address the issue and make sure the site triangle stayed open.

Councilor Hoellen restated his opposition to landscaping in public right-of-way that discouraged people from parking in public right-of-way.

City Attorney

City Attorney Guckenberger had no report.

City Staff

Police Commander Leininger reported on updates to the Police Department website and notifications.

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Deputy City Manager/Director Goldie reported the state had approved the City's grant for electrical vehicle charging stations.

Director Farmen reported if Proposition HH passed the County's deadline for certifying the assessed values would be pushed out to December 29, 2023, so Council might see some creative language in the budget council bills to account for the new deadline.

EXECUTIVE SESSION AND ADJOURNMENT

Mayor Pro Tem Weil moved, seconded by Councilor Sheldon, to move to go into Executive session pursuant to C.R.S. Sections 24-6-402(4)(b) and 24-6-402(4)(e) for the purposes of receiving legal advice on specific legal questions and determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators regarding communications with Colorado Open Lands regarding the conservation easement on the property known as Quincy Farm; and further to adjourn the City Council meeting at the conclusion of the Executive Session.

The following votes were recorded:

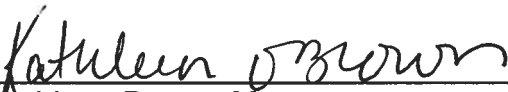
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|---------|-----|
| Eber | yes |
| Hoellen | yes |
| Weil | yes |
| Sheldon | yes |
| Blum | yes |
| Maguire | yes |

Vote on Executive Session: 6 ayes. 0 nays. The motion carried.

City Council entered into Executive Session at 7:52 p.m.

Executive Session ended and the meeting adjourned at 8:50 p.m.

(SEAL)


Kathleen Brown, Mayor


Laura Gillespie, City Clerk