

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, March 16, 2021 at 6:30 p.m.
Electronic Meeting

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 Michelle Tovrea, Finance Director Jessica Sager, Police Commander Pat Weathers, Parks and Recreation Coordinator Emily Black and City Clerk Laura Gillespie.

Absent: Councilor Dan Sheldon

AUDIENCE PARTICIPATION PERIOD

Laura Christman, 18 Cherry Lane Drive, thanked Council for being proactive on having the Parks, Trails and Recreation Commission (PTRC) address the issue of e-bikes. She stated studies showed less aggressive users of trails stopped use when more aggressive users increased their use. She added the studies showed posting speed limits, that they would be enforced, and who has right-of-way was important in controlling more aggressive behaviors. She noted she believed City trails were meant for less aggressive users. She indicated e-bike rentals were increasing in the Denver metro area. She thanked Council for taking this issue seriously and listening to all the citizens who also took it seriously.

Judith Judd, 3 Cantitoe Lane, thanked Parks Coordinator Black for her work to distribute all the public comments to PTRC and present them fairly and accurately in the staff memorandum, and noted everyone got a fair chance to be heard at the meeting and it was a wonderful feeling to be a citizen of the City with such a responsive situation.

REPORTS FROM CITY BOARDS, COMMISSIONS AND COMMITTEES

None

CONSENT AGENDA

Councilor Gallagher removed Item 5c from the Consent Agenda.

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

- a. Approval of Minutes – March 2, 2021
- b. Construction Contract with Ideal Fencing LLC to Install New Guardrail on Quincy Avenue at Little Dry Creek

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Blum	yes

The motion passed unanimously.

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ITEMS REMOVED FROM CONSENT AGENDA

Resolution 10, Series 2021; Accepting an Anonymous Donation on Behalf of the Cherry Hills Village Parks Division

Councilor Gallagher recognized the two generous donations from the anonymous donor, the climbing tree in John Meade Park playground and the duck house.

Councilor Gallagher moved, seconded by Councilor Weil, to approve Item 5c.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Blum	yes

The motion passed unanimously.

UNFINISHED BUSINESS

Council Bill 2, Series 2021; Authorizing a Supplemental Appropriation in the Arapahoe County Open Space Fund for Fiscal Year 2021 for the Hampden Underpass Trail Connection (second and final reading)

Parks Coordinator Black presented Council Bill 2, Series 2021 on second and final reading. She noted the bill was a reallocation of funds and not a request for additional funds. She added there had been no changes since first reading.

Mayor Pro Tem Brown moved, seconded by Councilor Blum, to approve Council Bill 2, Series 2021, authorizing a supplemental appropriation in the Arapahoe County Open Space Fund for fiscal year 2021 for the Hampden underpass trail connection on second and final reading.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Blum	yes

Vote on the Council Bill 2-2021: 5 ayes. 0 nays. The motion carried.

Parks, Trails and Recreation Commission Update Regarding Motorized Vehicle Use on Trails Related to 1) Temporary Access to Trails, and 2) E-Bikes on Trails

Parks Coordinator Black explained Council directed the Parks, Trails and Recreation Commission (PTRC) and staff to consider developing a policy for appropriate use of motorized vehicles on City trails, separate from the City's current right-of-way permit policy, and PTRC considered this issue at their January meeting. She indicated the second issue PTRC considered was whether to allow e-bikes on City trails; they formally discussed this issue at their November and January meetings and then requested public feedback for their February meeting; PTRC received over 100 letters from residents, all of which were included in the Council packet; she thanked Ms. Judd for her kind comments and credited Public Works Clerk Pamela Broyles with her work on the meeting minutes. She noted across the three meetings PTRC heard from the

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Police Department, the nonprofit Bicycle Colorado, and the High Line Canal Conservancy (HLCC).

PTRC Chair Stephanie Dahl explained PTRC had a lengthy discussion that involved several issues regarding developing a policy for temporary access to trails; they particularly focused on the fact that the City is rural and that is an important factor to residents; allowing motorized vehicles on trails would disturb the sanctity of the trails and their use and enjoyment by residents; there was not a need which outweighed that value; PTRC declined to move forward to create a permitting system. She explained the PTRC had informal discussions regarding e-bikes for the last year or two leading up to this formal discussion; they considered that e-bikes are present and the need to work with them; focusing on the values of residents and why they move to the City and use the trails; the public comments overwhelmingly indicated the desire to preserve the City trails; for those members of the community who supported e-bikes it was often due to needing additional physical assistance to get onto the trails which prompted discussions about the ADA; PTRC determined bicycle speed is an issue on City trails in general and is not unique to e-bikes so while that factored into the discussion it was not the reason PTRC declined to make a recommendation to change the Municipal Code; at the January PTRC meeting Sergeants Stremel and Roling discussed the feasibility of enforcement on City trails and that enforcement on City trails would necessitate either more funding or taking away from traffic enforcement on streets; PTRC considered the slippery slope of e-bikes, golf carts, scooters and other motorized vehicles on trails; about 70% of the public that PTRC heard from were against e-bikes on City trails; motorized vehicles are allowed on bike lanes painted on roadways; PTRC focused on the sanctity of trails and why residents use the trails; there was nothing provided to PTRC that they felt necessitated allowing e-bikes; based on all these reasons PTRC declined to make a recommendation to change the Municipal Code to allow e-bikes on City trails.

Councilor Blum asked about more specifics on the ADA rules related to e-bikes.

Parks Coordinator Black explained motorized items being used as a mobility device are permitted on trails per the Municipal Code; the ADA guidance basically stated any motorized or power-driven device being used as a mobility aid would be allowed on City trails; the ADA had limited allowances for prohibiting certain types of devices that were too big for a given space; the City was required to allow motorized items being used as a mobility device on City trails in order to provide equal access to trails.

Councilor Blum noted it would be difficult to monitor and seemed inconsistent for someone to use an e-bike for mobility. He asked what the speed limit is on City trails.

Parks Coordinator Black replied it is 15 miles per hour.

Councilor Gallagher indicated addressing biker etiquette in a thoughtful and meaningful way was the larger issue of concern, especially speed and announcing passing, regardless of the kind of bicycle, in addition to pedestrians wearing headphones and not being able to hear oncoming cyclists. He expressed concern with how to manage and enforce speed on City trails; the Hampden Underpass would bring more cyclists; this discussion should not stop with tonight's meeting; he suggested lowering the speed limit on trails to try to address the speeding issue, similar to the strategy on Mansfield; coordinate with the HLCC's campaign on bicycle etiquette; signage; suggested sending the issue back to PTRC; getting the Police Department involved; noted some of the issue were cyclists on a long ride on the High Line Canal (HLC) and the portion through the City was just a small part of their trip; the need to encourage behavioral change; the concern was particularly HLC; he agreed with PTRC's recommendation at this time; the City should continue to discuss the issue; he agreed e-bikes were a trend not a fad.

Chair Dahl agreed and noted PTRC had heard several complaints about speed, and they seemed to be increasing, probably due to more people being on the trails because

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of COVID-19 and more people commuting via bicycle, particularly on the HLC. She indicated she would bring Councilor Gallagher's comments back to PTRC to discuss what the City could do to effect change on City trails; she agreed it was an etiquette issue so had to with education; it might be challenging as it was a combination of residents and nonresidents passing through.

Councilor Gallagher asked Chief Tovrea about changing the speed limit and enforceability.

Chief Tovrea discussed narrowing the issues to certain areas that could be patrolled; what traffic calming on trails might entail; and determining priorities and distributing resources.

Chair Dahl asked for clarification on the ability for officers to enforce the speed limit on City trails.

Commander Weathers stated speeds on trails was not addressed in the Model Traffic Code, but Council could pass an ordinance to allow the Police Department to enforce speed limits on City trails.

Chief Tovrea added if there was an accident involving bicycles the details of the investigation would inform what citation the Police Department could issue.

Mayor Pro Tem Brown agreed the public comments were overwhelmingly against e-bikes and which carried a lot of weight for her; the majority of the concern was about the HLC but that was only one trail in the City; any new policies would be City-wide and affect dirt, crusher-fine, and paved trails; she agreed that allowing e-bikes was a slippery slope for other motorized vehicles; she agreed there was not a strong reason to make a change at this time; she noted the concerns from the public comments focused more on speed and dangerous use of the trail rather than e-bikes specifically; she expressed concern with redirecting Police Department resources from street enforcement to trail enforcement; she recalled former Councilor Alex Brown had suggested a citizen led bicycle patrol; she agreed continued discussion was important and suggested PTRC could consider all the ideas presented tonight.

Councilor Weil noted the issue might be people travelling a lot more than 15 miles per hour and suggested enforcement, education, and signage before reducing the speed limit. He added e-bikes did not seem consistent with the Master Plan.

Councilor Safavi referenced studies that showed e-bikes were not louder than regular bikes; beginner cyclists could go 10-14 miles per hour, intermediate cyclists could go 15-18 mph, which was already above the City's speed limit, and e-bikes were 15-20 mph. He agreed the issues were speed and etiquette and ongoing discussions were important. He noted cyclists may not be aware of how fast they were going and suggested installing speed signs on the trails that showed cyclists their speeds.

Parks Coordinator Black noted speed signs did exist for bicycles and PTRC and staff had begun discussions about how to place them appropriately.

Councilor Weil asked for clarification on enforcing the speed limit on trails.

Parks Coordinator Black replied the speed limit was found in Chapter 11 of the Municipal Code.

City Attorney Guckenberger confirmed Municipal Code Section 11-3-140 identifies the speed limit for bicycles is 15 miles per hour and right-of-way to pedestrians and equestrians; Section 11-3-20 states it is unlawful for any person to fail to observe or obey any sign posted in any park or trail; without further research she would say a citation could be written for that Section into Municipal Court.

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Councilor Safavi noted most bicycles did not have speedometers and so reducing the speed limit may not be impactful.

Mayor Pro Tem Brown asked about on-street trails.

Parks Coordinator Black explained e-bikes were not allowed on paved trails separated from the road, such as the Quincy trail in front of Kent Denver; but they were permitted on bike lanes painted immediately adjacent to the street, such as Quincy Avenue in front of Quincy Farm.

Mayor Pro Tem Brown suggested PTRC could consider identifying a route through the City for commuters on e-bikes as an alternative to other trails.

Councilor Gallagher suggested coordinating with Greenwood Village on that project. He added this was a wonderful opportunity to coordinate with the HLCC.

Councilor Blum noted e-bikes were allowed on Clarkson which ran the length of the City.

Mayor Stewart noted the ADA regulations may need to be further examined.

City Attorney Guckenberger clarified the ADA stipulated it had to be for mobility reasons that the motorized device is needed; public entities can limit the type of device depending on the context; regarding enforcement there were limited questions that could be asked; any limitations or restrictions should be carefully considered.

Mayor Stewart noted the HLCC may already have best practices. He added the question of enforceability of the Municipal Code related to this issue should be further examined.

NEW BUSINESS

Council Bill 3, Series 2021; Repealing and Re-enacting Article 1 of Chapter 8 of the Municipal Code Entitled Model Traffic Code Concerning Vehicles and Traffic, Adopting by Reference the 2020 Edition of the Model Traffic Code for Colorado, with Certain Amendments, and Adopting Penalties for Violations Thereof (first reading)

Commander Weathers presented Council Bill 3, Series 2021 on first reading. He explained the City was currently operating under the 2010 edition of the Model Traffic Code (MTC) and the proposed bill would adopt the 2020 edition of the MTC. He explained the MTC was based on state statutes and was designed to ensure that basic driving rules and regulations are uniform statewide for the protection of Colorado drivers and pedestrians. He indicated the MTC was utilized by a majority of municipalities in Colorado. He stated the 2020 edition of the MTC was reviewed by the Police Department, City Attorney's office, Municipal Court prosecutor, and Public Works Director. He added the proposed bill had noted revisions to tailor it to local needs and practices, including parking restrictions, gross vehicle load weight limits, offence classifications, and setting fines for violations as authorized by state statute.

Councilor Safavi asked about the municipalities that did not adopt the MTC.

Commander Weathers replied those were mainly small municipalities who relied on county sheriff departments.

Mayor Pro Tem Brown moved, seconded by Councilor Weil, to approve Council Bill 3, Series 2021; A Bill for an Ordinance of the City of Cherry Hills Village Repealing and Re-enacting Article 1 of Chapter 8 of the Cherry Hills Village Municipal Code Entitled Model Traffic Code Concerning Vehicles and Traffic, Adopting by Reference the 2020

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Edition of the Model Traffic Code for Colorado, with Certain Amendments, and Adopting Penalties for Violations Thereof on first reading and set the public hearing and second and final reading for the April 6, 2021 City Council meeting.

The following votes were recorded:

Safavi	yes
Weil	yes
Brown	yes
Gallagher	yes
Blum	yes

Vote on the Council Bill 3-2021: 5 ayes. 0 nays. The motion carried.

REPORTS

Mayor's Report

Mayor Stewart noted a takeaway from the e-bike issue was the importance of City trails and the HLC to the residents. He reported he had received positive calls from residents about staff's work on snow removal; he attended the March 4th Arapahoe County Transportation Forum which allocated funding for transportation projects; he suggested Councilor Weil should be the liaison because of the overlap with DRCOG; the Mayors Munch last week was cancelled; COVID-19 numbers continued to improve, and the Swedish Medical Center COVID-19 ICU unit was empty.

Members of City Council

Councilor Blum reported he and Mayor Pro Tem Brown, along with City staff, had met with three public relations firms regarding potential ballot issues related to sales and use tax. He indicated he now believed it would take two years to do it correctly and Council would only have one chance. He reported he and Councilor Weil, along with City staff, had a meeting with Zayo Group regarding cell coverage yesterday; Zayo was still working on possible small cell towers and collaborating with AT&T; the next meeting was set in April.

Councilor Gallagher asked if the public relations consultants had expressed an opinion on putting more than one issue on the ballot at a time.

Councilor Blum replied they had not gotten to that level of specificity. He noted one of the consultants had questioned if the sales tax change is really a TABOR issue or if City Council could make that change without an election.

Councilor Gallagher had no report.

Mayor Pro Tem Brown noted they had spoken to three different consultants and received three different opinions; the meetings had just been introductory so the consultants did not have enough information to make specific recommendations; generally all three agreed taking a little more time to reach out to the community, get citizen input, and get people involved would probably have a better chance of success; they had differing opinions about odd numbered years versus even numbered years; doing all the questions together or separate; the next step was for her, Councilor Blum and City Manager Cramer to meet to organize their thoughts to present to Council.

City Manager Cramer added although the consultants all had different strategies they agreed on the importance of doing market research, including the consultant who was not available to work with the City; their suggestions on how to conduct the research ranged from a committee to a focus group to a City Council led effort; regardless of the model all the consultants identified a two-stage process with market research on the

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front-end which would help answer questions such as one question versus all three questions; during the second phase after the ballot issues were placed on the ballot and the City was more hands-off due to Fair Campaign Practices Act regulations, a citizen group would take over promoting the ballot issues; the first part with the City might be the cheaper of the two.

Mayor Pro Tem Brown indicated although the City could not do anything in an official capacity to support the ballot issues once they were placed on the ballot, Council members as individuals would be expected to be knocking on doors, talking to residents, having meetings, and making cold calls, which was not something the community traditionally did.

City Manager Cramer added the consultants agreed this was a commitment and if City Council decided to try for this November, it would take the majority of staff and Council's time until the ballot issues were placed on the ballot.

Councilor Weil reported he spent several hours with Director Sager reviewing the long-range financial forecast. He encouraged other Councilors to look at the scenarios they ran. He noted there were three pieces: the sales tax, the use tax, and the Parks Fund vs General Fund; looking at them one at a time, if the sales tax ballot issue was passed that would push the year the City is in violation of the Charter way out; if the use tax ballot issue was passed, that would put the year the City is in violation of the Charter out of the long range time horizon; it also would have the effect of balancing the Parks Fund and General Fund; that would possibly eliminate one of the three ballot issues; his second hand information was that some of the public relations consultants had TABOR lawyers on staff who raised the question of whether the City actually needed to go to the voters for the sales tax issue or not, which was not a matter of trying to be obscure, but just procedurally; he supported researching that possibility because the City might be down to one ballot issue; viewing the forecast this way might lead Council to redefine the problem, which would affect the solution; he suggested adding it as a topic of discussion on an upcoming agenda. He reported DRCOG had discussed greenhouse gas rulemaking and some preliminary ideas for Metro Vision; the meeting tomorrow would be the formal public hearing on the 2050 Metro Vision regional plan and the associated air quality conformity determinations; and a public hearing on the draft for the transportation improvement programs. He apologized for being late on getting his edits for the Quincy Farm RFP to staff; the draft created by staff was very well done but was over 20 pages and he believed Council was in a place that was simpler than that; he received help from several other people to create a new draft of the RFP which he would characterize as much shorter and more open ended, providing an opportunity for people to submit multiple proposals for different aspects of Quincy Farm, which would hopefully result in more submittals.

City Manager Cramer noted staff had been working on a different version of the RFP based on Council's feedback and staff would work on synthesizing that version with Councilor Weil's version to present to Council for discussion at the April 6th study session.

Councilor Safavi indicated it would be great to see the work Councilor Weil and Director Sager had done.

City Manager & Staff

City Manager Cramer thanked Deputy City Manager/Director Goldie and his staff for their work on the snowstorm; he noted Arapahoe County has been moved to Level Blue status on the COVID-19 dial; he asked Mayor Stewart about scheduling a discussion about long-range financial forecast scenarios for a future Council meeting.

Mayor Stewart agreed it was a good topic for a study session.

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City Manager Cramer indicated staff would schedule a meeting with Mayor Pro Tem Brown and Councilor Blum to discuss the public relations consultants. He noted the District Attorney was scheduled to present at the April 6th meeting.

Chief Tovrea reported the Police Department had been prepared for the snowstorm but Public Works had made the storm very easy for the Police Department by keeping the emergency routes open. She thanked the City Attorney's office and Commander Weathers for their work on the model traffic code council bill.

Deputy City Manager/Director Goldie explained the thanks should go to Project Coordinator Ralph Mason and the crews for their work on the snowstorm. He noted crews would continue to work throughout the week. He thanked the Police Department for determining true emergencies during the snowstorm.

City Attorney

City Attorney Guckenberger reported her office had been working with City staff on the model traffic code council bill; a governmental immunity case from Boulder would be going to appeal; she continued to work on the Comcast franchise agreement and other contracts; she would be working with City Clerk Gillespie on updates to the liquor regulations in the City Code for an upcoming study session; she had provided training to the Parks, Trails and Recreation Commission at their last meeting.

Mayor Stewart noted there were potentially some issues with Comcast that may need to come to Council.

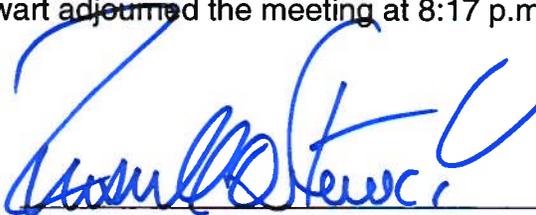
City Attorney Guckenberger replied she had just received the revised draft from Ken Fellman, and Deputy City Manager/Director Goldie was collecting information from other municipalities; after that it would be brought back to Council for further direction.

Mayor Stewart noted it would likely be an executive session.

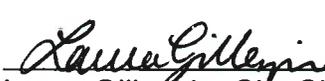
ADJOURNMENT

Hearing no objection Mayor Stewart adjourned the meeting at 8:17 p.m.

(SEAL)



Russell O. Stewart, Mayor



Laura Gillespie, City Clerk