

**A RESOLUTION
OF THE CITY COUNCIL
APPROVING A BALLOT ISSUE AND A BALLOT QUESTION
TO BE SUBMITTED TO THE VOTERS AT THE MUNICIPAL ELECTION
TO BE HELD ON NOVEMBER 5, 2002
RELATED TO THE CITY'S TRANSFER OF EXISTING TAXES
(NOT A TAX INCREASE) FOLLOWING EXCLUSION
OF THE CITY OF CHERRY HILLS VILLAGE
FROM THE SOUTH SUBURBAN PARKS AND RECREATION DISTRICT**

WHEREAS, for more than 20 years, various City Councils for the City of Cherry Hills Village have questioned the relative value received by the City's inclusion in the South Suburban Parks and Recreation District (the "District"); and

WHEREAS, following repeated requests for improvements in the level of service provided by the District for park, trail, and open space assets within the City, the City has not received an improvement in services commensurate with the relative revenue contributed to the District by property owners within the City of Cherry Hills Village; and

WHEREAS, in 1999, the City Council commissioned a report by BBC Research and Consulting (the "BBC Report") to evaluate the financial benefits derived from excluding (withdrawing) the City of Cherry Hills Village from the South Suburban Parks and Recreation District; and

WHEREAS, the BBC Report is available, and has been made available, to the public at the City Hall, 2450 East Quincy Avenue, Cherry Hills Village, Colorado 80110. The BBC Report concludes that:

- City residents pay nearly 3 times more per capita in South Suburban Parks and Recreation District property taxes than non-City residents for the same District services; and
- The City is capable of creating a recreational program that would provide or make available to City residents the same general recreational services as those services currently available from the District; and
- If the City implements a program to provide or make available to its residents the same general recreational services that are available from the District, the City can expect to save a total of \$27.0 million over the next 20 years (a net present value of \$13.0 million) from the amount of taxes that are currently imposed in the City by the District; and
- The City's financial savings can be applied toward a variety of public purposes, including capital improvement and rehabilitation of new and existing trails, parks, and open space within the City, the purchase of additional open space and parks within the City, or a reduction in the property tax mill levy rate for Cherry Hills Village property owners.

WHEREAS, the City thoroughly researched the effect of exclusion

upon the City residents' opportunities for recreational activities; and

WHEREAS, the City developed a preliminary plan that would ensure, *following exclusion*, that the City's residents could continue to generally enjoy the same recreational services available from the District at the same basic cost the residents currently pay; and

WHEREAS, the City Council sent a questionnaire to households in the City to assess whether the residents valued their participation in the District or whether residents desired to seek exclusion from the District; and

WHEREAS, more than thirty-one percent (31%) of the questionnaires were returned to the City by the residents; and

WHEREAS, approximately sixty-seven percent (67%) of the residents responding to the questionnaire expressed their desire to seek exclusion from the District; and

WHEREAS, the City Council held a public informational forum on August 8, 2001, to which the City residents were invited to attend and provide their feedback on the issue of the City's possible exclusion from the SSPRD; and

WHEREAS, people who spoke at the public informational forum voiced a desire to exclude from the District, remain in the District, or seek a negotiated resolution of the City's service issues with the District; and

WHEREAS, the City Council postponed its plans to commence the exclusion process in 2001 in order that the City, through an appointed subcommittee and its elected and appointed officials, could enter into good faith negotiations with SSPRD regarding the terms and conditions for a future contractual relationship between the parties which would address the City's concerns; and

WHEREAS, after more than eight (8) months of negotiations, the preparation of a detailed term sheet outlining the City's goals and requirements for an intergovernmental agreement, and a full discussion of the issues, SSPRD declared that it was unable to accede to the reasonable requests of the City and declared negotiations closed; and

WHEREAS, the City requested that SSPRD enter into negotiations for the terms and conditions of exclusion as contemplated by state law when municipalities seek exclusion from special districts; and

WHEREAS, SSPRD, by letter to the City Council, expressly rejected the City's invitation to further negotiate the terms and conditions of possible exclusion; and

WHEREAS, the question of whether to commence the legal proceedings necessary to exclude the City from the District does not require a public vote; and

WHEREAS, in order that the City will have sufficient funds to create, operate, and provide park and recreation services to City residents, the City must secure funding; and

WHEREAS, the funding would be obtained by increasing the City's

property tax rate while reducing in an equal amount the District's property tax rate applied to property within the City (effectively a transfer of the tax rate imposed by the District to the City); and

WHEREAS, due to limitations imposed by the Taxpayers Bill of Rights (TABOR), the City must submit a ballot question to the voters to approve any increase in taxes; and

WHEREAS, TABOR requires that the ballot question ask the voters to increase taxes, even though the net effect of the ballot question would be to maintain the same tax rate as that currently imposed by the District upon the City's residents; and

WHEREAS, approval of the ballot question to transfer taxes from the District to the City would be conditioned upon the City's successful exclusion of the City from the District; and

WHEREAS, the City Council now deems it in the best interests of the City to submit to the registered electors the necessary questions to authorize the transfer of taxes from the District to the City in order to permit the City Council to proceed with the exclusion of the City from the District; and

WHEREAS, the City Council called by Resolution No. 9, Series 2002, a municipal election to be held on the same date as the general election of November 5, 2002, and to have such election coordinated by the Clerk and Recorder for Arapahoe County with the general election,

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE:

Section 1. The City Council hereby refers and approves the following ballot issue for submission to the registered electors and to appear on the ballot for the City's municipal election to be held on November 5, 2002:

SHALL THE CITY OF CHERRY HILLS VILLAGE TAXES BE INCREASED (BY A TRANSFER OF AN EXISTING TAX IMPOSED BY THE SOUTH SUBURBAN PARKS AND RECREATION DISTRICT) A MAXIMUM OF \$1,800,000 IN THE FIRST FULL FISCAL YEAR AND BY WHATEVER AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY AN AD VALOREM PROPERTY TAX TO BE USED SOLELY FOR PARK AND RECREATION PURPOSES TO BE LEVIED AT A RATE OF 7.422 MILLS OR SUCH LESSER RATE AS THE CITY COUNCIL MAY DETERMINE, SUCH TAX TO BE TRANSFERRED ONLY WHEN THE FOLLOWING EVENTS HAVE OCCURRED:

- THERE IS A CORRESPONDING DECREASE IN THE EXISTING PROPERTY TAX MILL LEVY IMPOSED WITHIN THE CITY OF CHERRY HILLS VILLAGE BY THE SOUTH SUBURBAN PARK AND RECREATION DISTRICT SO THAT THE CITY'S NEW MILL LEVY INCREASE WOULD EFFECTIVELY BE A TRANSFER OF THE EXISTING DISTRICT MILL LEVY; AND
- THE PROPERTY WITHIN THE CITY OF CHERRY HILLS VILLAGE HAS BEEN EXCLUDED FROM THE

BOUNDARIES OF THE SOUTH SUBURBAN PARK AND RECREATION DISTRICT,

AND, FURTHER, SHALL THE REVENUE GENERATED FROM THE AD VALOREM TAX CONSTITUTE A PERMANENT VOTER-APPROVED REVENUE CHANGE AND BE COLLECTED AND SPENT BY THE CITY WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES _____

NO _____

Section 2. The City Council hereby refers and approves the following advisory non-binding ballot question for submission to the voters and to appear on the ballot for the special election to be held on November 5, 2002:

ADVISORY QUESTION: IF THE VOTERS APPROVE THE TRANSFER OF PROPERTY TAXES FROM THE SOUTH SUBURBAN PARKS AND RECREATION DISTRICT TO THE CITY OF CHERRY HILLS VILLAGE AS PROPOSED BY QUESTION _____ ABOVE, TO WHICH OF THE FOLLOWING SHOULD SOME PORTION OF THE AVAILABLE REVENUE SAVED BY THE CITY BE COMMITTED:

(CHECK ALL THAT APPLY)

_____ CAPITAL IMPROVEMENTS TO AND REHABILITATION OF NEW AND EXISTING TRAILS, PARKS, AND OPEN SPACE WITHIN THE CITY?

_____ PURCHASE OF ADDITIONAL OPEN SPACE AND PARKS WITHIN THE CITY?

_____ REDUCTION IN THE PROPERTY TAX MILL LEVY FOR CHERRY HILLS VILLAGE PROPERTY OWNERS?

Section 3. In the event that a majority of the registered voters approve the ballot issue presented in Section 1 above, the City Council would be authorized but not obligated to pursue the process for exclusion of the City from the South Suburban Parks and Recreation District.

Section 4. For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot issue and ballot question set forth herein and the ballot titles for such issue and question shall be the text of the issue and the question. Any protest to a ballot title shall be filed in writing with the City Clerk within five (5) business days following the date of adoption of this Resolution and shall be resolved thereafter by the City Council following a hearing with published notice.

Section 5. The City Clerk is authorized to correct typographical errors and omissions and to cause to be entered into the blanks of any of the ballot

questions the appropriate ballot question number or letter upon designation of the ballot number or letter by the Clerk and Recorder for Arapahoe County.

Section 6. The City Administrator and City Clerk are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Resolution including all reasonable and necessary action to cause such approved ballot questions to be printed and placed on the ballot for the City's election.

Section 7. If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining issues or provisions of this Resolution.

DONE AND RESOLVED this 3rd day of September, 2002.



Douglas Scott, Mayor

ATTEST:



Jennifer Pettinger, City Clerk

APPROVED AS TO FORM:



Robert C. Widner, City Attorney