TOWN OF PARKER COUNCIL
MINUTES
NOVEMBER 21, 2022

REGULAR SESSION

Mayor Jeff Toborg called the meeting to order at 7:03 p.m. All Councilmembers were present except for Laura Hefta.

Mayor Toborg led the Council and audience in the Pledge of Allegiance.

SPECIAL PRESENTATIONS

Recognition of 2022 Parker Civic Academy Participants

Mayor Toborg and Cheri Sullivan acknowledged the 2022 Parker Civic Academy participants and presented them with certificates.

Certificate of Recognition - High School Art Educator of the Year - Micah Bernhardt

Mayor Toborg recognized High School Art Educator of the Year, Micah Bernhardt, from Ponderosa High School and presented him with a certificate.

PUBLIC COMMENTS

None.

REPORTS, ITEMS AND COMMENTS FROM MAYOR AND COUNCIL

Each Councilmember reported on meetings and activities they had attended since the last Town Council meeting.

CONSENT AGENDA

A. APPROVAL OF MINUTES - November 7, 2022

B. ORDINANCE NO. 1.568 - First Reading
A Bill for an Ordinance to Levy General Property Taxes for the Year 2022 to Help Defray the Costs of Government for the Town of Parker, Colorado for the 2023 Budget Year
Department: Finance, Jennifer Campbell
Second Reading: December 5, 2022

C. ORDINANCE NO. 1.561.1 - First Reading
A Bill for an Ordinance to Amend Ordinance No. 1.561, Series of 2022, Conveying Certain Real Property by Easement to Parker Water and Sanitation District for a Portion of Tract B, Mountain View Senior Center Filing No. 1, Minor Development
Department: Engineering and Public Works, Alex Mestdagh
Second Reading: December 5, 2022

D. ORDINANCE NO. 9.352 - First Reading
A Bill for an Ordinance to Approve the Intergovernmental Agreement By and Between the Colorado Department of Transportation and the Town of Parker Concerning PWQ Maintenance and Operations Responsibilities, Parker Road, Lincoln Avenue to Pine Lane, Project #AQC M039-007 (24455) / MTF M039-009 (24467) Region # 1 (VJM)
Department: Engineering and Public Works, Alex Mestdagh
Second Reading: December 5, 2022

E. ORDINANCE NO. 3.315.4 - First Reading
A Bill for an Ordinance to Amend the Hess Ranch Development, Town of Parker, Colorado, PD Development Guide – Third Amendment, and to Approve the North Parcel Development Plan - Amendment No. 4, Pursuant to the Town of Parker Land Development Ordinance, and Amending the Zoning Ordinance and Map to Conform Therewith
Department: Community Development, Bryce Matthews
Trakit No.: Z22-004
Second Reading: December 5, 2022

F. ORDINANCE NO. 8.33 - First Reading
A Bill for an Ordinance to Amend Chapter 4.03 of the Parker Municipal Code to Establish an Exemption from the Town's Sales and Use Tax for Certain Retail Delivery Fees and Carryout Bag Fees Enacted by the State of Colorado
Department: Finance, Linda Quade
Second Reading: December 5, 2022

G. RESOLUTION NO. 22-064
A Resolution to Approve the Second Amendment to Amended and Restated Employment Agreement for the Town Manager
Department: Town Council

H. RESOLUTION NO. 22-066
A Resolution Accepting the Conveyance of a Public Sidewalk and Pedestrian Lighting Easement from Lamberton Properties, LLP, for a Portion of Lots 1 and 2, Britt Subdivision Filing No. 1
Department: Engineering and Public Works, Nathan Klass

I. RESOLUTION NO. 22-067
A Resolution Accepting the Conveyance of a Public Sidewalk, Pedestrian Lighting and Artwork Easement from Orris Family L.L.C. for a Portion of Lot 2, Bridgeside Subdivision
Department: Engineering and Public Works, Nathan Klass

J. RESOLUTION NO. 22-068
A Resolution Accepting the Conveyance of a Public Sidewalk, Pedestrian Lighting and Artwork Easement from Mohr Connections LLC for a Portion of Lot 1, Bridgeside Subdivision Filing No. 2
Department: Engineering and Public Works, Nathan Klass

K. RESOLUTION NO. 22-069
A Resolution Accepting the Conveyance of Real Property From Rowley Downs Homeowner's Association for Open Space North of Block 26, Rowley Downs, and Open Space West of Block 1, Rowley Downs, for the Rowley Downs Trail
Department: Engineering and Public Works, Nathan Klass

L. PROCLAMATION - Small Business Saturday - Women Impacting Public Policy and Small Business Saturday Coalition

M. CONTRACTS OVER $100,000

1. Give 5 Productions, Inc. - Escape to Margaritaville
Amount: $120,000
Contractor: Give 5 Productions, Inc.
Department: Cultural, Carrie Glassburn

Joshua Rivero moved to approve Consent Agenda Items 5A through 5M.

Todd Hendreks seconded the motion.

A roll call vote was taken:
Joshua Rivero – yes
Cheryl Poage – yes
Todd Hendreks – yes
John Diak – yes
Anne Barrington – yes

The motion was approved unanimously.

PUBLIC HEARINGS

A. POPE PROPERTY ANNEXATION

Applicant: **David Brehm, Plan West**
Location: **Southwest corner of Twenty Mile Road and Dransfeldt Road**
Department: **Community Development, Stacey Nerger**
TRAKiT No.: **ANX22-009**

RESOLUTION NO. 22-061
A Resolution to Set Forth Town Council's Findings of Fact and Conclusions as to the Eligibility of the Pope Property for Annexation into the Town of Parker

On October 3, 2022, the Town Council approved Resolution No. 22-048 which determined that the Annexation Petition substantially complies with the Colorado Municipal Annexation Act of 1965 and which set the public hearing date of November 21, 2022, to determine eligibility for annexation into the Town.

The subject land, known as the Pope property, is an enclave parcel located in unincorporated Douglas County. The property is approximately 38.6 acres in total area and is currently used as Flat Acres Farm, an agri-tainment and commercial recreation business. The property is bordered to the north by commercial uses at the Parker Valley Center (Target), to the south by Cherry Creek open space and future Salisbury Park North, to the east by commercial uses at FlatAcres Marketplace (Kohls) and to the west by Cherry Creek open space. The property and adjacent areas in the Cherry Creek open space contain 100-year floodplain and habitat for the Preble's Meadow Jumping Mouse, a protected species under the Endangered Species Act.

The Town has identified the property as a candidate for future annexation within the municipal Planning Area (urban growth boundary) through the annual Three-Mile Area Plan and the Parker 2035 Master Plan. Therefore, the proposed annexation is consistent with the Town's land use policy as expressed in both plans. Further, the subject property is eligible for annexation because it is located within the Town's Planning Area (urban growth boundary) and satisfies the contiguity requirements of the Act. The Town is required to process the Annexation Petition subject to the Act and the standards of review contained in the Municipal Code and Town Charter. The Town Council has the final decision-making authority for the submitted Annexation Petition because annexation is a legislative act.

Resolution No. 22-061, determines that the Pope property is eligible for annexation into the Town as provided by the Act. In addition, the Town Charter requires that all properties annexed by the Town also be zoned at the same time. The property owner has submitted a Zoning Application that is being processed concurrently with the Annexation Petition. After the approval of Resolution No. 22-061, the annexation ordinance and zoning ordinance will be scheduled for Town Council consideration at the February 6, 2023 public hearing.

Applicant: David Brehm, Plan West, made a brief presentation and answered Council questions.

Public Comment: None.

Cheryl Poage moved to approve Resolution No. 22-061 and set the public hearing for the annexation ordinance on February 6, 2023.

John Diak seconded the motion.

A roll call vote was taken:
Joshua Rivero - yes
Cheryl Poage - yes
Todd Hendreks - yes
John Diak - yes
Anne Barrington - yes

The motion was approved unanimously.

ORDINANCES

A. ORDINANCE NO. 4.110.1 – Second Reading
A Bill for an Ordinance to Amend Chapter 11.19 of the Parker Municipal Code Concerning Contractor Registration
Department: Community Development, Dale Schmidt
Community Development, Randy Sale

The Town Council created the Contractor Registration program in 2014. The purpose of this requirement is to ensure that contractors are accountable for their work and to establish a minimum level of protection for the residents, property owners and businesses that hire them. When building permits are necessary, this provision ensures that contractors have at least the minimum insurance that is required and creates a record of the contractor performing construction work for their clients in Town.

Since 2014, the Building Division has taken on additional responsibilities such as administration of the Fire Code. As a result, Building staff identified the need to extend the Contractor Registration program to other types of contractors to ensure their accountability and provide certain protection(s) as referenced above. Staff proposed adding three categories of contractors to the Contractor Registration program: (1) fire contractors; (2) low-voltage contractors; and (3) conveyance contractors. The registration requirements for the new categories include insurance coverage similar to the current requirements for contractors subject to the program. The fire and conveyance contractors will not be charged a registration fee because they are required to be licensed through the State of Colorado, which collects license fees annually for their companies.

Public Comment: None.

Joshua Rivero moved to approve Ordinance No. 4.110.1 on second reading.

Todd Hendreks seconded the motion.

A roll call vote was taken:
Joshua Rivero - yes
Cheryl Poage - yes
Todd Hendreks - yes
John Diak - yes
Anne Barrington - yes

The motion was approved unanimously.

B. ORDINANCE NO. 1.571 - Second Reading
A Bill for an Ordinance to Vacate Slope Easements on Tract A-1, Parker Town Center First Amendment Exemption and Tract B, Parker Town Center, as Described in the Final Rule and Order Recorded at Reception No. 2005076961, Pursuant to Section 13.07.120(c)(5) of the Parker Municipal Code
Department: Engineering and Public Works, Alex Mestdagh

In 2005, the Town acquired right-of-way and slope easements necessary for the construction of Pine Drive south of Mainstreet. This included slope easements on two vacant properties along the west side of the roadway. The owner of the properties is requesting that the slope easements be vacated by the Town in order to locate buildings within these areas.

The purpose of slope easements is to ensure stability of roadway backslopes located on these properties. Since the site grading associated with the proposed developments will add fill to the areas along the roadway, removing the roadway backslopes and ensuring the stability of Pine Drive, there is no need to retain the slope easements.

The slope easements were acquired by the Town as part of an agreement in which the Town received right-of-way, easements, and other property in exchange for removal of the property's obligation for reimbursement for a portion of the cost to construct Pine Drive. Therefore, no reimbursement is proposed to be required for this vacation.

Public Comment: None.

Todd Hendreks moved to approve Ordinance No. 1.571 on second reading.

Joshua Rivero seconded the motion.

A roll call vote was taken:
Joshua Rivero - yes
Cheryl Poage - yes
Todd Hendreks - yes
John Diak - yes
Anne Barrington - yes

The motion was approved unanimously.

C. ORDINANCE NO. 9.335.1 - Second Reading
A Bill for an Ordinance Approving the First Amendment to Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for Cottonwood Meadows Tributary (Agreement No. 21-05.15A Project No. 108520) By and Between Urban Drainage and Flood Control District d/b/a Mile High Flood District and the Town of Parker
Department: Engineering and Public Works, Michael Grabczyk

The Town of Parker and the Mile High Flood District (MHFD), formerly the Urban Drainage and Flood Control District, have identified the Cottonwood Meadows Tributary as a reach of major drainageway requiring rehabilitation to support existing and future Town growth. To this end, the Town and MHFD have executed an intergovernmental agreement (IGA) for the design and construction of flood control improvements on Cottonwood Meadows Tributary. This ordinance proposes an amendment to this IGA which will bring in additional funds from the MHFD to complete funding for the construction of the project.

Public Comment: None.

Joshua Rivero moved to approve Ordinance No. 9.335.1 on second reading.

Cheryl Poage seconded the motion.

A roll call vote was taken:
Joshua Rivero - yes
Cheryl Poage - yes
Todd Hendreks - yes
John Diak - yes
Anne Barrington - yes

The motion was approved unanimously.

D. ORDINANCE NO. 9.338.1 - Second Reading
A Bill for an Ordinance Approving the First Amendment to Agreement Regarding Design and Construction of Drainage and Flood Control Improvements for Upper Jordan Road Tributary at Bradbury Ranch (Agreement No. 21-05.17A, Project No. 108522) by and between Urban Drainage and Flood Control District d/b/a Mile High Flood District and the Town of Parker
Department: Engineering and Public Works, Michael Grabczyk

The Town of Parker and MHFD have partnered previously to design and construct several major drainageway projects within the Town. This reach is located within the Bradbury Ranch development and has been identified as an area of concern for flood conveyance and long-term maintenance. The reach contains two in-line stormwater ponds and has experienced aggradation or sediment accumulation over time, as well as an immense growth of cattails causing a reduction in flood conveyance. Additionally, the elevation and design of the contributing storm

outfalls are not conducive to long-term maintenance. This project is anticipated to propose the installation of channel improvements such as outfall forebays, channel widening for increased flood conveyance, selective relocation and dredging of cattail areas, and retrofitting of existing concrete storm structures. This IGA amendment will fund the construction of the project.

Public Comment: None.

Todd Hendreks moved to approve Ordinance No. 9.338.1 on second reading.

Anne Barrington seconded the motion.

A roll call vote was taken:
Joshua Rivero - yes
Cheryl Poage - yes
Todd Hendreks - yes
John Diak - yes
Anne Barrington - yes

The motion was approved unanimously.

E. ORDINANCE NO. 1.572 - Second Reading
A Bill for an Ordinance Stating the Intent of the Town of Parker to Acquire Certain Property Interests for the Purpose of Constructing and Improving Pikes Peak Drive, a Town Roadway, Through the Utilization of the Town's Power of Eminent Domain, and Directing the Town's Staff and Town Attorney to Notify all Persons Affected Thereby of the Above-Stated Intent of the Town, and Thereafter to Comply with all Pertinent Provisions of C.R.S. 38-1-101, *et seq*., Relating to Good Faith Negotiations
Department: Engineering & Public Works, Chris Hudson

The Town is currently in the design phase for an upcoming capital improvement project known as the Pikes Peak Drive Sidewalks project (the "Project"). The Project proposes to make sidewalk and pedestrian lighting improvements to Pikes Peak Drive between Mainstreet and the Sulphur Gulch Trail. The Project's main goal is to widen the existing sidewalk which is not currently Americans with Disabilities Act (ADA) compliant and add pedestrian lighting to improve pedestrian mobility, capacity, and comfort along this stretch of Pikes Peak Drive. The improved sidewalk width will vary between six and eight feet, depending on existing site improvements and landscaping. Integral colored concrete sidewalks and pedestrian lighting like the adjacent section of Mainstreet will be utilized for consistency. The Town is currently anticipating construction of the improvements in 2023.

Town staff has already commenced coordination/discussion of the necessary easements with the adjacent property owners and the improvement designs have been modified based on individual property issues/constraints, such as landscaping (trees). In all, a total of fifteen parcels were identified that required easements. Due to the nature of the sidewalk improvements being seen as an improvement to the adjacent property owners, ten of the parcels have or are executing the appropriate documents for the project. The remaining five properties are currently unresponsive, which is why staff would like to proceed with this acquisition. A "Property Owner Legend" map

that highlights the remaining parcels requiring acquisition was attached to the staff report.

To accommodate the sidewalk and lighting improvements, acquisition of permanent easements (PE) and/or temporary construction easements (TCE) are required from the five remaining properties along the project limits. The PE language will be limited to sidewalk and lighting improvements. The TCE language will have a fixed time duration and terminate at the end of the time period established in TCE agreement. There are four remaining PE areas plus five remaining TCE areas identified and, included with this item, is a vicinity map with the affected parcels highlighted. As the sidewalk improvements are adjacent/parallel to Pikes Peak Drive, the easements needed result in a narrow strip of area being needed on each property.

The permanent easement acquisition will affect properties 5, 11, 12 and 14 (reference the vicinity map in the staff report) with the total permanent easement area for these four parcels totaling 633 square feet. The temporary construction easement acquisition will affect properties 5, 11, 12, 13 and 14 (reference the vicinity map in the staff report) with the total temporary construction easement area for these five (5) parcels totaling 1,063 square feet.

Town staff and the Town’s consultant will engage in good faith negotiations with the affected property owners. The Town will send a letter to the affected property owners about the Town's intent to acquire the property. This ordinance authorizes Town staff and/or consultants to initiate the acquisition of these needed permanent and temporary easements. If we are unable to come to an agreement with the property owner, Town staff will coordinate with Town Council prior to any eminent domain action.

Public Comment: None.

John Diak moved to approve Ordinance No. 1.572 on second reading.

Anne Barrington seconded the motion.

A roll call vote was taken:
Joshua Rivero - yes
Cheryl Poage - yes
Todd Hendreks - yes
John Diak - yes
Anne Barrington - yes

The motion was approved unanimously.

RESOLUTIONS

RESOLUTION NO. 22-065
A Resolution Approving Adjustment of Mill Levies Resulting from Legislative or Constitutionally Mandated Reductions
Department: Town Attorney, Kristin Hoffmann

In 1982, the State approved an amendment to the State Constitution called the "Gallagher Amendment" which required that residential property equal 45% of the statewide valuation for assessment and nonresidential property equal 55% of the statewide valuation for assessment, with the nonresidential assessment rate being set at 29%. Current language in the Town's service plans (often called "Gallagher Adjustment" language) allows metropolitan districts to increase or decrease their mill levies to ensure that, to the extent possible, the actual tax revenue generated by the applicable mill levy is neither diminished nor enhanced by changes to the residential assessment rate.

In November 2020, the State's voters approved Amendment B, which repealed the Gallagher Amendment and provided the General Assembly with the authority to decrease the assessment rate in the future. Since then, the General Assembly has passed legislation in each year that has reduced the assessment rate for different classes of property.

The Town has been approached by counsel for several metropolitan districts, which have service plans that were originally approved by the Town, requesting a solution to allow the districts to adjust their mill levies for legislative changes in the assessment rate, similar to how they are authorized to do so for constitutional changes.

The proposed resolution allows metropolitan districts with previously approved service plans to amend their existing service plans to include specific language to allow for a mill levy adjustment due to legislative changes, in addition to constitutional changes. The resolution also amends various sections of the Town's existing Model Service Plan to conform to the mill levy adjustment language. Any district that amends its service plan with the proposed language must furnish a copy of the district's resolution opting into the proposed language within 30 days of its adoption.

Dalton Kelly, attorney with Butler Snow, 1801 California Street, Suite 5100, answered Council questions.

Public Comment: None.

Joshua Rivero moved to approve Resolution No. 22-065.

Todd Hendreks seconded the motion.

A roll call vote was taken:
Joshua Rivero - yes
Cheryl Poage - yes
Todd Hendreks - yes
John Diak - yes
Anne Barrington - yes

The motion was approved unanimously.

ADJOURNMENT

Joshua Rivero moved to adjourn the Regular Meeting at 8:05 p.m.

Todd Hendreks seconded the motion.

A roll call vote was taken:
Joshua Rivero - yes
Cheryl Poage - yes
Todd Hendreks - yes
John Diak - yes
Anne Barrington - yes

The motion was approved unanimously.

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Susan L. Irvine, Deputy Town Clerk Jeff Toborg, Mayor