

City Council Meeting, April 21, 2014

Notes taken by Susan Shirley

□ Council Approves PPOT Sidewalks; All Trees to Remain in Park

□ All councilmembers were present: Mayor Marc Williams, Mayor Pro-Tem Mark McGoff, and Councilmembers Don Allard, Bob Dyer, Bob Fifer, Jerry Marks, and John Marriott.

□ Public attendance at 6 p.m. was approximately 40 people.

□ At 7 p.m., attendance was about 15 people.

□ Minutes from the April 7 meeting were approved with no changes.

□ Proclamation for Day Without Hate was presented by Councilmember Dyer. Day Without Hate this year will be April 25. From daywithouthate.org

□ "Day Without Hate is a student led, grassroots organization that promotes nonviolence, unity, and respect in our schools. After the shootings at Virginia Tech in 2007, students at Standley Lake High School asked their classmates to wear white in order to show a commitment and trust in each other to make their school a safer place. The day was an overwhelming success. Since then, students across Colorado and the nation have taken this incredibly positive day to their communities to say that we will not tolerate violence or hate, and we will reach out to friends and acquaintances and say, 'We're all in this together.'"

Three Standley Lake High School students accepted the proclamation.

□ Public Comment: Doug McGee, secretary of the Arvada Sustainability Advisory Committee, invited everyone to attend the second annual Sustainability Festival, May 3 from 10 to 3 in Wolff Park, which is a new location for that festival. The neighboring school, Arvada K-8 will have a booth, Mayor Williams will make opening remarks, and there will be a number of presentations: Beekeeping, Composting with Worms, Backyard Chickens, and Water Conservation, or Slow the Flow.

□ There will be vendors, music, food, and lots of family-oriented activities. For more info, visit the Arvada Festivals Commission website.

□ Nancy Young spoke briefly, thanking the Chamber of Commerce for inviting citizens to the State of Arvada speech at no charge, and hoping that next year, the invitation will come directly from the city.

□ New Business

□ Consent Agenda:

□ R14-058 is to authorize a \$68,620 agreement between the City and Southfield, Michigan accounting firm Plante and Moran, PLLC, for consulting services.

□ R14-059 accepts a utility easement from Apex Park and Recreation District pertaining to a sewer line at Sunset Mesa.

□R14-060 is for \$221,889 in purchase orders to Centennial, Colorado's AutoNation Toyota Scion for ten Toyota Tacoma Trucks for use by the Arvada Utilities Dept., Public Works Dept., and Parks Maintenance Division.

□R14-061 authorizes a \$264,153 contract between the City and Grand Junction, Colorado construction firm Tusca II, Inc., for the Lamar Street Sidewalk Extension.

□R14-062 is a resolution authorizing the first amendment to a promissory note between the City and Archway Housing and Services, Inc., a non-profit organization dedicated to providing quality affordable housing and supportive services to metro area families with very low to moderate incomes. The amendment is in regard to a request by Archway to consider amending terms of a balloon payment in connection with the financing of the Willow Green affordable housing development at 6985 Sheridan.

□R14-063 is for the adoption of City Council Policies.

□R14-046 was on the agenda for April 7, 2014, but was delayed until this week's meeting. It is to authorize an agreement for completion of Wolff Park, between the City, United Fire & Casualty Company of Westminster, Colorado, and Englewood's Valley Crest Landscape Maintenance. The original contractor for the park, Urban Farmer, filed for bankruptcy in July of 2013, and this agreement is for the purpose of completing construction and for reimbursing the bonding company, United Fire & Casualty.

□All items passed, 7 to 0.

□Resolutions:

□R14-064 is a resolution authorizing Kristan K. Wheeler as Relief Municipal Judge. From MalkinsonWheelerLaw.com

□"Kristan grew up in Golden, Colorado and has been in private criminal defense practice in Boulder since 2002 where she has earned the respect of Judges and District Attorneys as a passionate advocate. Kristan obtained her Doctor of Jurisprudence in 1996 from the highly rated University of Texas School of Law. It was in law school where Kristan developed her passion for fighting injustice in the criminal justice system. Kristan's career has been devoted to making sure her clients' rights are honored and protected. Kristan recently helped a man be released from prison who had served 20 years on a life sentence for a drug possession crime.

□Kristan started her criminal defense career as a member of the high profile Timothy McVeigh defense team. She then served as a Colorado State Deputy Public Defender in Denver and Boulder where she honed her trial skills. Kristan worked for Banashek & Talkington in Boulder for a year and when the firm dissolved, Kristan hung her shingle as the Law Office of Kristan Wheeler, LLC in 2002."

□Municipal Judge David Cooke introduced Ms. Wheeler and said that he had asked her to come and help with the court. He is impressed with her "steadfast insistence on adopting the highest level of integrity." He says she is very creative and has done wonders with some difficult cases; he also admires her understanding, no-nonsense attitude, and compassion. Appointment of Ms. Wheeler was approved 7 to

0, and she was sworn in on the spot by Judge Cooke. She thanked the city council for the opportunity to combine two things she loves--the law, and this city.

□The next resolution, R14-065, authorizes an intergovernmental agreement between the City and CDOT, pertaining to the construction grant for the bus transfer facility. It passed, 7 to 0.

□R14-066 is to accept a quitclaim deed from CDOT for property in the vicinity of Wadsworth Bypass and Grandview Avenue. It also passed by a margin of 7 to 0.

□R14-067: A Resolution Authorizing an Agreement By and Between the City of Arvada and Park Place Olde Town, Inc., for the Grant of a Revocable Encroachment License to Install Sidewalks within McIlvoy Park and for the Grant of a Temporary License for Construction Activities Within McIlvoy Park Associated with Adjacent Development. From Arvada.org

"Information about the Project or Request:

Park Place at Olde Town is a 153 unit, five-story, elevator-served apartment building project featuring four building masses surrounding three second-level courtyards. Park Place at Olde Town is located on a 2.89 acre tract of land located east

of and adjacent to McIlvoy Park, on the park's eastern edge.

Approval of this revocable encroachment license will grant permission to construct and subsequently maintain thirteen concrete sidewalk connections to facilitate entry into the park from the adjacent development and lessen wear and tear on park turf,

as depicted in the attached exhibit. The sidewalk connections will be five feet wide and vary in length depending on location.

A revocable encroachment license is required whenever a person seeks to erect a fence, wall, sign, or other structure on public property. An application for a revocable encroachment license may be approved by city council if the applicant agrees to the terms of a revocable encroachment license, including any provisions that indemnify the City and hold the City harmless from future damages or liability claims; the proposed structure complies with all applicable use, development, and design standards set forth in this Code, including applicable standards in Articles 6 and 7, that have not otherwise been modified or waived pursuant to this Article; and, if the proposed structure shall not interfere with street intersection visibility, or in any other way, adversely affect the public health, safety, or welfare (City of Arvada Land Development Code).

The agreement also provides for a temporary license for construction activities set out in Exhibit C of the agreement (for example: relocation of a light pole, installation of bus stop furnishings, etc). Staff recommends approval of this Resolution."

Director of Parks, Golf and Hospitality Gordon Reusink gave some background on the project, explaining that a construction fence will be installed, a retaining wall along the eastern property line of the park will be demolished, and one tree will be transplanted. The rest of the trees are to remain in place, the sidewalks designed to curve or bend around them; after the buildings are completed there will be thirteen new sidewalks as well as a 154-foot long, 6-foot-wide trail connecting PPOT with the RTD area. Reusink said that the main purpose of the sidewalks will be to protect the trees and irrigation, as well as providing better access to the bus stop.

City Attorney Chris Daly addressed the legal aspects: that a revocable encroachment license does not convey property nor transfer it in any way; it constitutes permission granted to perform an act upon the land of another. Arvada may terminate the license at any time if the licensee is found to be in violation of any terms of the agreement with the city; Daly said that the license is "inherently temporary from a legal perspective." He went on to say that the developer is required to insure the city against liability. He said that the sidewalks should be reasonably consistent with expected pedestrian patterns, and therefore protective of the park itself.

Cindi Kreutzer spoke briefly, saying that we all understand the law, but that there has to be a better way, and let's just do what is right.

Nancy Young, having been allotted fifteen minutes for a presentation, began by reviewing facts about McIlvoy Park; deeded to the city in 1919, it was Arvada's only park until the mid-1950's. Nancy listed some major concerns: the use of public land for a private purpose, placing on that land structures which are not easily removed, and setting a precedent; the removal of park land from public domain, which would normally require a vote of the people; hazards to children from replacing grass with concrete, which is much more likely to cause injury if fallen upon. Further, Nancy said that she had not been able to find online details of the "temporary construction activities" mentioned in the resolution. After Nancy's presentation, Gordon Reusink promised to make the drawings available to interested parties, and City Manager Mark Deven said that he is willing to meet the parties and go over the drawings.

Nancy requested a postponement of any decision until full information was made available, or if a decision was to be reached in the current meeting, that a condition be attached that the existing grassy areas would remain unchanged.

Questions followed from Mayor Williams and several councilmembers, with Gordon Reusink and Mark Deven providing clarification on a number of points. Councilmember Dyer said that it seemed to him that the people from the apartments would be wearing out the grass if not for the protection provided by the sidewalks. He asked if there were to be any additional concrete structures or other built in features in the park itself, or only the sidewalks. Mr. Deven replied that the permit is strictly for sidewalks.

Councilmember John Marriott asked if the park's landscaping would stay as it is today. Reusink said that all trees remain, although one will be moved. Some willows and dogwoods will be replaced. The trail remains six feet wide.

The total square footage of the sidewalks is 477.5. The park consists of over 108,000 square feet; therefore, the portion of land given over to the sidewalks amounts to something under one-half percent of the total area.

Councilmember Mark McGoff asked for some context as to whether revocable permits of this nature are something new, or have they been used frequently in the past. Deven said they are not new, that they have been used in many other instances such as allowing restaurants in Olde Town to set up tables on the sidewalk; that, in one instance the revocable permit was in fact revoked when the restaurant failed to comply with the city's conditions. Reusink said that the permits have not been used in large number with respect to parks, but they are sometimes used for gardens being set up along trails.

Councilmember Don Allard asked for confirmation that there will be absolutely no change in the public's ability to use or access the park, once construction is complete. Reusink said that is correct. Similarly, Mayor Williams asked if there will be gates or anything blocking public views of the park, and was told there will not.

Councilmember Marriott said that he would be voting for the resolution because he believes the sidewalks will be an improvement over what would happen to the park without sidewalks to protect the ground.

The vote to approve Resolution R14-067 was 7 to 0.

Ordinances (First Reading) Public Hearing for this item is set for May 5, 2014:

□CB14-019 is an ordinance authorizing an intergovernmental agreement regarding the Colorado Information Sharing Consortium, which is a statewide network designed to facilitate data and analysis sharing among law enforcement agencies. Eventually the hope is to bring all 154 police departments and 62 sheriffs offices into the consortium.

□Unfinished Business:

□CB14-013 was continued from the March 17 meeting, and is for the rezoning of land at 10625 W. 58th Avenue from Residential - Low Density to One and Two Family Residence, for a .28 acre site with an existing structure, to allow for a duplex. The planning commission voted in favor with five votes and two members absent; the property meets all requirements, and is adjacent to properties with existing duplexes. Property owner Roger Peterson appeared and was sworn in. He said that his plan has been to convert an unattractive house into a nice duplex. The ordinance passed, 7 to 0.

□Public Hearings:

□CB14-017 is to approve an amendment to the City's intergovernmental agreement with RTD, allowing the City to receive \$2.2 million in funds from DRCOG, for the design and construction of 56th Avenue between Vance St. and Wadsworth Bypass. Mayor Williams remarked that this item exemplifies why it's so very important that we have representation on DRCOG, and thanked Councilmember Bob Fifer for that work. This ordinance passed, 7 to 0.

□CB14-018 authorizes an intergovernmental agreement between the City and RTD for the redesigned Olde Town Station transit facilities. City Manager Mark Deven said that the facilities need to be substantially complete by October 1, 2015, which is the date Gold Line test runs are expected to begin. Following completion of the new bus facility, RTD will ask permission from the Federal Transit Authority to deed the current Park & Ride lot to the city. Councilmember Marriott asked if there is any chance that the FTA would not approve that transfer, and was told that the FTA actually proposed that plan, so there's no risk they will not accept it when the time comes. Deven said that this agreement is a good deal for both the city and RTD, that it represents a great deal of hard work and gave compliments to Director of Public Works Bob Manwaring and others for adhering to extremely complex and strict conditions when working with RTD. The Mayor agreed, saying that "what we've been able to show is that we can work with RTD...and I personally want to thank the staff." The ordinance passed, 7 to 0.

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Public Comment: Jerry Anderson of Arvada spoke in favor of the housing authority, asking the city's continued support, which the Mayor assured him will happen.

☐ Reports from City Council: Three appointments were proposed and unanimously approved: Jerry Marks replaces Mark McGoff on the Sustainability Committee; Mark Atwater is reappointed to three years on the Festivals Commission; and Michelle DeLauria remains on the AURA board.

☐ Councilmember Bob Dyer announced a petition drive for Historic Olde Town to join the business improvement district. He said response has been very positive. There is a meeting tomorrow night which is open to any business owners or owners of commercial property in Olde Town.

☐ Councilmember Marriott complimented the Sustainability Committee, and encourages everyone to come out to the Sustainability Festival May 3. He said that, like other things the Festival Commission does, it is guaranteed to be top-notch.

☐ Councilmember Fifer brought up some concerns and thoughts about DRCOG and a learning curve it is experiencing due to differences in the way some cities and counties operate compared to others' methods.

☐ Reports from City Manager: The City Council April 28 workshop will be about the plans for West 66th Avenue and Indiana Street, plus the last four city departments' strategic business plan relating to the new performance-based budget.

☐ Reports from City Attorney: None.

☐ The meeting adjourned at 7:30.