

**TOWN OF PARKER COUNCIL
MINUTES
NOVEMBER 7, 2022**

Mayor Jeff Toborg called the meeting to order at 5:00 p.m. All Councilmembers were present.

Town Attorney Kristin Hoffmann announced the topics for discussion in the Executive Session were five items. Under C.R.S. § 24-6-402(4)(b), the first item was regarding Amendment B (repeal of Gallagher amendment) and C.R.S. § 32-1-207 concerning service plan mill levy adjustment, and the second item was concerning SB21-260, HB21-1162, and Chapter 4.03 of the Parker Municipal Code concerning retail delivery and carryout bag fees. Under C.R.S. § 24-6-402(4)(e) there were three items. The first was about a proposed sixth amendment to the Anthology North Annexation Agreement; the second was regarding proposed acquisition of permanent easements and temporary construction easements for the Pikes Peak Drive sidewalk project (Mainstreet to Sulphur Gulch); and the third item was related to the Municipal Court Judge vacancy.

EXECUTIVE SESSION

Joshua Rivero moved and Todd Hendreks seconded to go into Executive Session at 5:01 p.m. to hold a conference with the Town's attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b) and to determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e).

The motion was approved unanimously.

Cheryl Poage moved and Anne Barrington seconded to come out of the Executive Session at 6:34 p.m.

The motion was approved unanimously.

Joshua Rivero moved and Anne Barrington seconded to recess the meeting until 7:00 p.m.

The motion was approved unanimously.

REGULAR SESSION

Mayor Toborg reconvened the regular Town Council meeting at 7:00 p.m.

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

PUBLIC COMMENTS

Written comments were received, distributed to Council and entered into the record.

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 - October 17, 2022 and November 1, 2022*
- B. *ORDINANCE NO. 4.110.1 – First Reading*
A Bill for an Ordinance to Amend Chapter 11.19 of the Parker Municipal Code Concerning Contractor Registration
Department: Community Development, Randy Sale
Second Reading: November 21, 2022
- C. *ORDINANCE NO. 1.553.2 - First Reading*
A Bill for an Ordinance to Adopt the 2022 Revised Budget for the Town of Parker and to Make Appropriations for the Same
Department: Finance, Jen Campbell
Second Reading: December 5, 2022
- D. *ORDINANCE NO. 1.571 - First 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
Second Reading: November 21, 2022
- E. *ORDINANCE NO. 9.335.1 - First 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
Second Reading: November 21, 2022
- F. *ORDINANCE NO. 9.338.1 - First 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
Second Reading: November 21, 2022

- G. *ORDINANCE NO. 1.572 - First 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
Second Reading: November 21, 2022
- H. *RESOLUTION NO. 22-058*
A Resolution Accepting the Conveyance of a Drainage Easement From Senderos Creek Retail, LLC, for a Portion of Lot 3, Olde Town at Parker 1A, First Amendment
Department: Engineering and Public Works, Alex Mestdagh
- I. *RESOLUTION NO. 22-059*
A Resolution Accepting the Conveyance of a Drainage Easement From Senderos Creek Condos, LLC, for a Portion of Tract F, Clarke Farms Subdivision Filing No. 2A
Department: Engineering and Public Works, Alex Mestdagh
- J. *RESOLUTION NO. 22-060*
A Resolution Accepting the Conveyance of a Public Sidewalk Easement From Clarke Farms Community Association, Inc., for a Portion of Tract F, Clarke Farms Subdivision Filing No. 2A
Department: Engineering and Public Works, Alex Mestdagh
- K. *RESOLUTION NO. 22-062*
A Resolution Accepting the Conveyance of a Drainage Easement From Mainstreet Developers LLC for Mark Six Business Subdivision, 2nd Amendment
Department: Engineering and Public Works, Alex Mestdagh
- L. *CONTRACTS OVER \$100,000*
1. *Traffic Signal Control Cabinets Contract*
Amount: \$112,258.00
Contractor: Traffic Signal Controls, Inc.
Department: Engineering and Public Works, Alisa Babler
 2. *Crowfoot Valley Road - Bayou Gulch/Chambers Road Traffic Signal (CIP 22-002)*
Amount: \$332,334.00
Contractor: Interface Communication Company
Department: Engineering and Public Works, Alisa Babler

3. *Harvie Open Space Electric Line Lowering with CORE Electric Cooperative Contract*

Amount: \$173,693.00
Contractor: CORE Electric Cooperative
Department: Parks, Recreation and Open Space, Brett Collins

M. *PROCLAMATION - National American Indian Heritage Month - National Society Daughters of the American Revolution American Indians Committee*

N. *PROCLAMATION - Extra Mile Day - Extra Mile America Foundation*

Joshua Rivero moved to approve Consent Agenda Items 4A through 4N.

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

Laura Hefta - yes

The motion was approved unanimously.

AGREEMENTS

A. Development and Financing Agreement Between the Town of Parker, the Parker Authority for Reinvestment, and CD-Parker, LLC

Department: Town Attorney, Jim Maloney

On September 6, 2022, the Town and PAR entered into Purchase and Sale Agreements with Confluence Companies, LLC, for the sale of six (6) parcels of real property (the “Parcels”). One of the conditions to close the sale of these Parcels was the approval of a Development Agreement for the development of these Parcels by Confluence Companies. The Development Agreement between the Town, the Parker Authority for Reinvestment and CD-Parker, LLC (“Confluence Companies”) defines the Project, the performance deadlines for obtaining governmental approvals for each Parcel of the Project, the performance deadlines for commencing construction on each Parcel of the Project, the public investment tools to be used to fill the financial gap based on the gap analysis prepared by Economic & Planning Systems, Inc. (the “Consultant”) on behalf of PAR, a cap on the total amount of revenue to be shared from these public investment tools, and specific caps on the period of time that the public investment tools described below will be shared with Confluence Companies.

The Project as described in the Development Agreement provides for the development of each Parcel as follows:

1. East Main Parcel: A mixed-use, multistory development containing 19,000 square feet of commercial retail space; 300 multiple-family dwelling units; and parking as required by the Town Code.
2. Schoolhouse Parcel: A multistory development of 10,000 square feet of retail and office space; building height of up to two (2) stories; and parking as required by the Town Code.
3. PAR Parcel: A multistory development of 28,000 square feet of commercial retail and office space; and parking as required by the Town Code.
4. PACE Lot 2A Parcel and the PACE Lot 2B Parcel: A mixed use multistory development of the PACE Lot 2A Parcel and the PACE Lot 2B Parcel, which includes: 36,000 to 50,000 square feet of commercial retail; at least one (1) restaurant with outdoor seating; one (1) public plaza with amenities that may span both PACE Parcels; 120 multifamily residential dwelling units that are designed, constructed and platted as condominiums; and parking as required by the Town Code.
5. Pine Curve Parcel: a mix of 1-story to 4-story buildings that include in the aggregate 154 apartment/residential units and 28,500 to 34,000 square feet of commercial retail. The development will also include a 10-acre park, open space and buffer to the Parker Vista neighborhood.
6. Parking Garage: 3- or 4-story garage to replace the parking that will be eliminated on the PACE Lots 2A and 2B. Construction of the Parking Garage will proceed concurrently with the development of the East Main Parcel. Development of the PACE Lots 2A and 2B will not commence until the Parking Garage is constructed, provided that the Town Council authorizes the construction of the Parking Garage prior to December 31, 2026.

PAR's Consultant prepared a gap analysis for the Project (the "GAP Analysis"), which analyzed the cost of the Project, the overall Project return and a reasonable rate of return to Confluence Companies for developing the Project, with consideration given to current financial conditions and the associated level of risk. The Consultant concluded that the Project is not financially feasible without public investment to fill the financial gap (the "Financial Gap"). The Financial Gap for the Project is \$57,300,000. The public investment used in the GAP Analysis to fill the Financial Gap is a combination of property tax increment (through PAR-87.485 mills), sales tax share back (2.5%, which excludes 0.5% for Parks), Public Improvement Fee (2%), and general improvement district revenues (45 mills). The proposed Development Agreement contains a "windfall" provision, which is intended to protect the Town and PAR from the Developer enjoying the benefits of the public investment tools, and then selling components of the Project for a high rate of return – essentially using the public investment tools to receive a disproportionate profit.

The Project represents the private sector investment contribution to Mainstreet placemaking. The Project's value of placemaking extends beyond direct financial investment. Through actions that bring activity to public and private spaces, stimulate reinvestment in properties and streetscapes, improve business viability and public safety, placemaking investments also bring residents together to gather, celebrate, and create. Placemaking is the difference between merely providing housing and retail establishments and instead developing a clear local identity that is unique, memorable, and desirable. Through placemaking efforts, the Project will enhance the brand that is Mainstreet Parker, which, in turn, sustains existing businesses and investment, fosters

reinvestment, and creates local economic resiliency.

Cheryl Poage moved to defer a vote on this item until January 17, 2023.

Laura Hefta seconded the motion.

A roll call vote was taken:

Joshua Rivero -no

Cheryl Poage -yes

Todd Hendreks - no

John Diak -no

Anne Barrington -no

Laura Hefta -no

The motion failed on a 1-5 vote with Joshua Rivero, Todd Hendreks, John Diak, Anne Barrington, and Laura Hefta opposing.

Public Comment: The following, all of Parker, spoke in favor of this item: Kris Schnell, Theresa Hawkins-Carcea, T.J. Sullivan, Susan Bertocchi, Mike Waid, Amy Holland, Omar Castillo, Brandi Wilks, and Cory Wilks.

The following, all of Parker, spoke in opposition to this item: Jennifer Green, Joy Overbeck, Albert Thompson, Aleta You, Frederick Freund, Terry Dodd, and Michael Roueche.

Joshua Rivero moved to approve the Development and Financing Agreement between the Town of Parker, the Parker Authority for Reinvestment, and CD-Parker, LLC.

Todd Hendreks seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - no

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved on a 5-1 vote with Cheryl Poage opposing.

The Mayor recessed the meeting for five minutes at 10:06 p.m.

The Mayor reconvened the meeting at 10:13 p.m.

PUBLIC HEARINGS

A. ORDINANCE NO. 1.567 - First Reading

A Bill for an Ordinance to Adopt the 2023 Budget and to Make Appropriations for the Same

Department: Finance, Mary Lou Brown

Second Reading: December 5, 2022

The Public Hearing was opened at 10:13 p.m.

Internal work on the 2023 Town of Parker budget began in mid-July and was followed by three Council study sessions on October 7, 10 and 24, 2022. The 2023 Budget was posted to the internet on Tuesday, October 11, 2022. This is the first public hearing for the 2023 Budget, and the second public hearing is scheduled for December 5, 2022.

The 2023 Budget was prepared in conjunction with seven overall guidelines:

- Meet the General Fund's required cash balance percentage
- Calculate the Cultural and Recreation Fund cash balances in the same manner as the General Fund
- Sustain level of funding for community programs
- Maintain Repair and Maintenance programs at the current activity levels
- Plan for expected compensation study recommendations
- Fund performance pay and PD officer step plans in line with other area agencies
- Contain growth in discretionary expense items

The Town is in a unique position coming into the 2023 budget preparation. Sales tax revenue, the primary source of revenue for the General Fund, has recorded very strong growth of 12% year-to-date. While the Town continues to grow and increased shopping opportunities exist for citizens, we have reflected a lower growth rate of eight percent for year-end 2022 and the 2023 budget; this is more in line with historical growth rates.

In the General Fund, which is the main operational fund of the Town, operating expense growth is 15% percent due to continued recovery to pre-Covid levels and the impacts of inflation on Town purchases. Eight additional full-time employees are being added to the General Fund, with five of those positions in the Police Department, two in Parks and one in Public Works. An additional position has been added to the Parks and Recreation Department.

Public Comment: None.

The Public Hearing was closed at 10:35 p.m.

John Diak moved to approve Ordinance No. 1.567 on first reading and schedule the second reading for December 5, 2022.

Laura Hefta seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

B. COYLE PROPERTY ANNEXATION AND ZONING *(To be continued to February 21, 2023)*

Applicant: Avalon Bay Communities, Inc.
Location: Southwest corner of Stroh Ranch and Crowfoot Valley Road
Department: Community Development, Stacey Nerger
TRAKiT No.: ANX22-006

ORDINANCE NO. 2.281 - Second Reading
A Bill for an Ordinance Approving and Accomplishing the Annexation of
Contiguous Unincorporated Territory Known as the Coyle Property in Douglas
County

Mayor Toborg advised that staff requested to continue the Public Hearing to February 21, 2023.

Joshua Rivero moved to continue the Public Hearing to consider Ordinance No. 2.281 to February 21, 2023.

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

Laura Hefta - yes

The motion was approved unanimously.

ORDINANCES

A. ORDINANCE NO. 1.569 - Second Reading

A Bill for an Ordinance Granting a Combined Drainage Facility and Access Easement to the Board of County Commissioners of Douglas County, Colorado for the Pine Drive Water Quality Pond Located Adjacent to Lincoln Avenue

Department: Engineering and Public Works, Chris Hudson

This ordinance proposes to dedicate a combined drainage facility and access easement over Town-owned property at the northwest corner of Lincoln Avenue and Pine Drive. This easement has been requested to accommodate installation, maintenance and access to a necessary drainage facility.

Public Comment: None.

John Diak moved to approve Ordinance No. 1.569 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

Laura Hefta - yes

The motion was approved unanimously.

B. ORDINANCE NO. 3.363 - Second Reading

A Bill for an Ordinance to Amend Sections 13.01.140, 13.07.080, 13.07.090 and 13.07.100 of the Parker Municipal Code Concerning Expirations of Approvals

Department: Community Development, Bryce Matthews

The Parker Land Development Ordinance (the LDO) contains standards for the time period(s) that a land use approval is in effect until the applicant must record documents or receive permits. If an applicant does not complete required actions within the established time period(s), the approval expires per the LDO. When this happens, they must resubmit their application for development, repeat the development review process and hope to obtain Town approval again.

During the past few years, staff has observed that a number of applicants have had difficulty in meeting the LDO standards for the time period(s) of approval with their projects. The proposed amendment to the LDO will address this by:

- Establishing longer initial approval time periods;
- Establishing longer administrative extension time periods; and
- Creating a formal extension approval process by Town Council with criteria.

Public Comment: None.

Cheryl Poage moved to approve Ordinance No. 3.363 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

Laura Hefta - yes

The motion was approved unanimously.

C. ORDINANCE NO. 1.570 - Second Reading

A Bill for an Ordinance Stating the Intent of the Town of Parker to Acquire Certain Property Interests for the Purpose of Widening, Constructing, and Improving a Portion of Dransfeldt Road, 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 and Public Works, Bob Exstrom

This ordinance provides notice of the Town's intent to acquire right-of-way and easements necessary to construct the Dransfeldt Road Widening Project (Pony Express Drive to Mainstreet).

Public Comment: None.

Joshua Rivero moved to approve Ordinance 1.570 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

Laura Hefta - yes

The motion was approved unanimously.

D. ORDINANCE NO. 1.391.3 - Second Reading

**A Bill for an Ordinance to Amend Section 2.03.020 of the Parker Municipal Code
Concerning Town Administrator; Functions And Duties**

Department: Town Attorney, Kristin Hoffmann

This ordinance amends Section 2.03.020 to add a new function concerning approving agreements for gifts and donations made by the Town and clarifies that such gifts and donations are approved by adoption of the ordinance approving each annual budget.

Todd Hendreks moved to approve Ordinance No. 1.391.3 on second reading.

Public Comment: None.

Laura Hefta seconded the motion.

A roll call vote was taken:

Joshua Rivero - yes

Cheryl Poage - yes

Todd Hendreks - yes

John Diak - yes

Anne Barrington - yes

Laura Hefta - yes

The motion was approved unanimously.

ADJOURNMENT

John Diak moved to adjourn the Regular Meeting at 10:56 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

Laura Hefta - yes

The motion was approved unanimously.

Susan L. Irvine, Deputy Town Clerk

Jeff Toborg, Mayor