

**RECORD OF PROCEEDINGS**

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Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, March 20, 2007 at 6:30 p.m.  
At the Village Center

Mayor Mike Wozniak called the meeting to order at 6:31 p.m.

**ROLL CALL**

Councilmembers Bonnie Blum, Scott Roswell, Russell Stewart, and Klasina VanderWerf were present on silent roll call. Also present were Interim City Manager Eric Ensey, City Attorney Thad Renaud, Finance Director Karen Proctor, Police Chief John Patterson, Public Works Director Jay Goldie, Parks, Trails, and Recreation Administrator Paul Burkholder, Crew Chief Ralph Mason, and City Clerk Karen Losier.

**AUDIENCE PARTICIPATION PERIOD**

There was no one from the audience who wished to speak.

**CONSENT AGENDA**

All items were removed from the Consent Agenda.

**ITEMS REMOVED FROM CONSENT AGENDA**

The following items were removed from the Consent Agenda:

- Approval of March 6, 2007 Minutes
- Contract for Services – Gould Evans Associated (Master Plan)
- Contract for Services – Curbside Recycling Program

**Approval of March 6, 2007 Minutes**

Councilmember VanderWerf requested that the following wording be included regarding discussion on the South Platte Working Group: "Councilmember VanderWerf stated that the South Platte Working Group will apply for a Legacy Grant from Great Outdoors Colorado. Arapahoe County has already committed \$3 million dollars, monies which can be used as part of the GOCO grant match. Representatives from the SPWG will be making presentations to participating City Councils in April and May regarding the overall plan and final projects which are selected. One of the projects being considered is the completion of the trail along Little Dry Creek and which would involve the cities of Englewood, Cherry Hills Village, and Greenwood Village."

Councilmember Blum moved, seconded by Councilmember VanderWerf, to approve the March 6, 2007 minutes, as amended.

The motion passed unanimously.

**Contract for Services – Gould Evans Associated (Master Plan)**

Councilmember VanderWerf expressed concern that the Citizen's Advisory Group had been eliminated from some sections of the Scope of Services. She said she understands the concerns of the Planning & Zoning Commission ("P&Z") since they are charged with the responsibility of developing the Master Plan. However, she stated that she thought it was a mistake to have the Citizen's Advisory Group in a lesser role. She stated that she sees the group broadening the base by bringing in new ideas and

credibility, and the group can serve as a sounding board. She asserted that, not to the exclusion of P&Z, the Citizen's Advisory Group should be involved from the beginning and be an integral part of the Master Plan process.

Mayor Wozniak questioned what specific changes Councilmember VanderWerf was suggesting be included in the Scope of Services. Councilmember VanderWerf stated that under Phase 1: Project Kick-off, a sentence be added to the third paragraph which would state, "The Project Advisory Committee will be developed and utilized during this project and will also be available to assist the Planning & Zoning Commission." Councilmember VanderWerf suggested that the Advisory Committee be inserted under Section 1.2. She also suggested that the first bullet under Client Responsibilities on page 2 should mention hiring a consultant for the project. She said that there were other places in the document in which she felt the Advisory Committee could be included as well.

Councilmember Blum suggested that instead of very specific wording, the Scope of Services could say something like "may be decided in a meeting of P&Z together with City Council."

Mayor Wozniak stated that he felt Councilmember VanderWerf's suggested additions to the Scope of Services were easy fixes and that at this point, the roles should be undefined and we should not get into too many specifics. He stated his view that, statutorily, P&Z is required to make this decision. He stated that he does not expect this to come back to Council until P&Z has had a number of hearings and honed the plan down to something close to a final recommendation. Mayor Wozniak asserted that the Advisory Committee will evolve over time and it would be best to remain flexible.

Councilmember Stewart agreed and stated that he also did not see the Advisory Committee taking anything away from P&Z but would offer additional input.

Councilmember Roswell also agreed, stating that the torch should be carried by P&Z with the Advisory Committee there to assist them. He stated that he would not want the planning process to take place without an Advisory Committee.

Mayor Wozniak encouraged Council to select a committee size of approximately seven or eight persons. He stated that he liked Mr. Ensey's idea of selecting representation from each Council district. Mayor Wozniak asked for Mr. Renaud's help in making the discussed minor modifications.

Mayor Wozniak noted that the agreement did not specify that City payments would include payment to Gould Evans' subcontractors. He expressed concern that there was remote chance that the subcontractors could come back to the City and make claims that they were not paid for services rendered to the City. Mr. Renaud pointed out that Section 9 regarding Ownership of Documents addressed the issue. Mayor Wozniak asked that more specific wording be included so that it is clear payments made to Gould Evans include payments for work completed by Gould Evans' subcontractors.

Councilmember Stewart moved, seconded by Councilmember Blum, to approve the contract, as amended.

The motion passed unanimously.

#### Contract for Services – Curbside Recycling, Inc.

Mayor Wozniak thanked resident Jim Muhm for bringing this item forward. Mayor Wozniak said he understood there would be a \$20 resident co-pay for recycling of

hazardous substances, but asked for clarification on the City's per-pound fee for electronic recycling and whether or not the City should implement a deductible.

Mr. Goldie stated that he had suggested that electronic recycling not be a part of the City's curbside recycling program and should instead be in conjunction with the City's two week spring clean-up event. He said that, if the City opts out of the curbside e-recycling program, residents will be able to do curbside electronic recycling but at their own expense. He stated residents could also wait until the spring clean-up event and bring electronic recyclables to the Village Center for City staff to arrange onto pallets for which the City would pay \$0.33 per pound. Mayor Wozniak noted that the City would be subsidizing resident recycling costs to a great degree. Mayor Wozniak asked Mr. Goldie how he arrived at a 3% utilization rate estimate. Mr. Goldie responded that the figure was an estimate from Curbside based on their historic utilization rates.

Mayor Wozniak asked what Mr. Goldie's plan was in the event that the budgeted money ran out mid-year. Mr. Goldie stated that the program would be advertised as having a limited number of funds, and neighbors would be encouraged to combine items so that the City could minimize the number of curbside pick-up fees. Mr. Goldie explained that residents will be invoiced by Curbside for their \$20 co-pay and will pay it directly to Curbside. Mr. Goldie stated that he will notify Council if it appears the City is getting close to reaching the budgeted amount.

Councilmember Blum suggested that residents on the Special Needs Registry be eligible for staff assistance with their recycling needs during the spring clean-up event. Mayor Wozniak thanked Mr. Goldie for putting the program together. Mayor Wozniak stated that he was concerned about non-residents using City dumpsters during the spring clean-up event. Mr. Goldie stated that staff has no way to verify resident status because the dumpsters are open for drop-offs after business hours, but he stated he is not aware of a problem with it.

Councilmember Stewart moved, seconded by Councilmember Blum, to approve the contract.

The motion passed unanimously.

### **UNFINISHED BUSINESS**

#### **Rady Trail Vacation/Dedication Request (Public Hearing)**

- Development Agreement for Rady Easement Vacation
- Agreement and Easement for Non-Motorized Public Trail
- Council Bill 02, Series 2007 – A bill for an ordinance vacating the City's interest, if any, to an easement for a non-motorized public trail located between Lot 12, Cherry Hills Meadow and Lot 14, South Broadway Heights Addition (Second Reading)

Mr. Goldie stated that there was no new information regarding the request and that the applicant has met all five of staff's requirements.

Mayor Wozniak opened the public hearing at 6:56 p.m.

The applicant, Mr. Paul Rady, stated that he was available for questions or concerns.

No one from the public wished to speak.

Mayor Wozniak closed the public hearing at 6:56 p.m.

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Mayor Wozniak thanked Mr. Rady for his hard work on the project. He stated that he felt the project would be a positive benefit for the City's residents.

Councilmember VanderWerf moved to approve Council Bill 02-07 on second and final reading. Additionally, she moved to approve the Agreement and Easement for a Non-Motorized Public Trail, and the Development Agreement for the Trail Easement Vacation. The motion was seconded by Councilmember Blum.

The following votes were recorded:

Scott Roswell	yes
Bonnie Blum	yes
Russell Stewart	yes
Klasina VanderWerf	yes

The motion passed unanimously.

#### Discussion of Traffic Advisory Committee

Mr. Ensey asked Council for direction on whether or not they would like to pursue the establishment of a Traffic Advisory Committee in order to update the 2000 Traffic Management Plan. Mayor Wozniak stated that he does not want to usurp the Master Plan process but feels this is an important topic.

Councilmember Stewart asked the City's Master Plan consultant, Mr. Dave Knopick of Gould Evans, for his opinion.

Mr. Knopick responded that a number of traffic issues would be addressed during the Master Plan process. He stated he thought it would be a good idea if Council wanted to appoint people with related expertise or from a general public standpoint to a Traffic Advisory Committee, but would want to ensure that communication between the groups was thorough and that the project's timing would not be impacted.

Mayor Wozniak responded that he thought having the advisory committee would probably help with timing of the Master Plan process. Mayor Wozniak suggested having a very small sub-committee and invited Councilmember Stewart to chair the committee. Councilmember Stewart accepted. Mayor Wozniak suggested that Council invite Board of Adjustment & Appeals member Alex Brown and perhaps one other person to be a part of the committee as well.

#### **NEW BUSINESS**

##### Floodplain Development Permit – Request by Elizabeth Armstrong (4595 S. Vine Way) for approval of a Floodplain Development Permit to allow for installation of Bank Stabilization and At-Grade Low-Water Crossing of the Little Dry Creek (Public Hearing)

Mr. Ensey presented the application. He stated that the portion of Little Dry Creek that runs through the City suffers from severe erosion problems. Mr. Ensey said that the hardship experienced by the applicant is due to safety concerns related to continual erosion of the banks. He said that the City's engineer, Mike Dungan of Muller Engineering, has examined the application and supporting documentation and feels the proposed installation would not alter the floodplain elevation in either upstream or downstream areas. He stated that staff recommends approval, and stated that P&Z unanimously voted for approval as well.

Tom Fairley of Kiowa Engineering Corporation stated that Kiowa had prepared the application on behalf of the applicant. He stated that, in addition to Muller Engineering's

approval, the applicant has also received approval from Urban Drainage and Flood Control District ("UDFCD"), the Colorado Water Conservation Board, the U.S. Army Corps of Engineers, and the Colorado Department of Health and Environment. Mr. Fairley presented color photos of similar projects. He stated that the project will not involve a bridge, and that the land will be sloped down to the water to prevent further erosion. He added that stepping stones will be placed around the banks to allow for pedestrian access.

Councilmember Stewart asked if UDFCD was putting any money into the project. Mr. Fairley responded that they were not assisting with funding.

Mayor Wozniak pointed out that in some of the photos, it appeared that waterways were channeled while in other photos waterways were meandering. He asked what the proposed project would look like. Mr. Fairley stated that it would be a mixture of both.

Ty McClure of Designs by Sundown explained some logistics of the project.

Mr. Fairly confirmed that they had received permits from the U.S. Army Corps of Engineers and UDFCD.

Mayor Wozniak opened the public hearing at 7:13 p.m.

No one from the public wished to speak.

Mayor Wozniak closed the public hearing at 7:13 p.m.

Councilmember Blum asked what entity inspects the project and Mr. Ensey responded that the U.S. Army Corps of Engineers conducts the inspection.

Councilmember Stewart questioned whether or not the permit would expire. Mr. Ensey responded that the Municipal Code does not specify an expiration date for a floodplain development permit.

Councilmember Roswell moved, seconded by Councilmember Stewart, to approve the floodplain development permit to allow for the installation of a bank stabilization and creek-level crossing improvements for the property at 4595 South Vine Way.

The motion passed unanimously.

Council Bill 03, Series 2007 – A bill for an ordinance adopting a new Chapter 19 of the Municipal Code to provide a comprehensive storm water management program for the purposes of reducing the discharge of pollutants to and from the municipal storm sewer system, protecting water quality and satisfying the appropriate water quality requirements of the Colorado Water Quality Control Act (First Reading)

Mr. Goldie presented Council Bill 03-07. He explained that the City is classified as MS4 status, and thus the City is required to implement six minimum control measures. He stated that the City was granted its current stormwater permit in March of 2003 through the State of Colorado and at that time agreed to develop a program that would implement three of the six minimum control measures. He stated that the proposed ordinance and amendment to the Municipal Code would address the following three measures: illicit discharge detection and elimination, construction site stormwater runoff control, and post-construction stormwater management in new development and redevelopment. Mr. Goldie stated that the City is in the process of addressing the three remaining required control measures which consist of public education and outreach,

public involvement and participation, and pollution prevention and good housekeeping for municipal operations.

Councilmember LaMair arrived at 7:20 p.m.

Councilmember LaMair asked about whether the City had considered enacting an ordinance regarding water flowing off impervious surfaces to neighboring residences. Mr. Goldie stated water flowing from yard to yard would be a different issue from this proposed ordinance. Councilmember LaMair mentioned that Greenwood Village has such a plan. Mr. Ensey confirmed that Greenwood Village has enacted strict regulations regarding stormwater management for individual residential lots, but that the City's proposed ordinance is not intended to address residential lots. Mr. Ensey stated that he has heard concerns from other residents regarding drainage from impervious surfaces.

Mayor Wozniak stated that he thought if Council decides to pursue it, it should be separate from the proposed ordinance currently before Council.

Councilmember Stewart asked if staff had used a Colorado Municipal League ("CML") standard draft of a stormwater management ordinance as a model. Mr. Renaud replied that CML did not have a standard draft that he was aware of, but the proposed ordinance was modeled after ordinances adopted in Wheat Ridge, Palisade, and Grand Junction.

Councilmember Stewart moved, seconded by Councilmember VanderWerf, to approve Council Bill 03-07 on first reading.

The following votes were recorded:

Harriet LaMair	yes
Bonnie Blum	yes
Russell Stewart	yes
Klasina VanderWerf	yes
Scott Roswell	yes

The motion passed unanimously.

Council Bill 04, Series 2007 – A bill for an ordinance amending Chapter 16 of the Cherry Hills Village Municipal Code, concerning Zoning, by Amending Section 16-16-10, concerning off-street parking requirements (First Reading)

Mr. Ensey presented Council Bill 04-07. He pointed out the proposed changes to the Municipal Code, which would amend the off-street parking requirements in certain circumstances. He stated the proposed ordinance would allow for parking lots on adjoining lots zoned for non-residential uses, provided that the parking lot would serve that particular use. He also noted that the proposed Council Bill would allow the City the ability to increase the setback between parking areas and non-compatible adjacent lots. Mr. Ensey stated that this will go before P&Z at the first meeting in April and will come back for second reading before Council after notice for public hearing has been made.

A brief discussion was held regarding the proposed changes.

Councilmember LaMair moved, seconded by Councilmember Roswell, to approve the red-lined version of Council Bill 04-07 on first reading.

The following votes were recorded:

Bonnie Blum	yes
Russell Stewart	yes
Klasina VanderWerf	no
Scott Roswell	yes
Harriet LaMair	yes

The motion passed by a vote of 4 yes and 1 no.

#### Downing/Gilpin Sidewalk Feasibility Study

Mr. Burkholder presented the study regarding a 6-8 foot wide trail which would attach the bridle trail system from Clarkson Street to Hampden Avenue.

Mayor Wozniak stated that he was surprised at the estimated cost, which seems high. Councilmember VanderWerf said that the project has been discussed before and the estimates are never cheap. She stated that she was in favor of the project. She stated that she believes the City would be able to get grant money with a City match.

Councilmember Tisdale arrived at 7:38 p.m.

Councilmember Roswell stated that he was very disturbed by the estimated cost. He also expressed concern that not enough residents would use the sidewalk due to its close proximity to Hampden Avenue.

Councilmember Blum stated that she was also shocked by the estimated cost. She said she would like to see what grant money is available to the City. Mr. Burkholder stated that there are two grants possibly available to the City. One is a \$250,000 Arapahoe County grant and the other is a \$150,000 grant from Great Outdoors Colorado. He stated that if both grants were obtained, the City portion would be approximately \$62,000. Mayor Wozniak expressed concern that \$400,000 in grant money would probably be all the grant money the City would be eligible for this year.

Councilmember Roswell asserted that the University Underpass/Overpass should have a higher priority than a sidewalk on Downing/Gilpin.

Councilmember Blum stated that this topic will be covered in the Master Plan process and she does not want to see the City use grant money until we see what the Master Plan focus will be.

Councilmember LaMair suggested that the City look at a variety of things and try to flush out other grant ideas.

Mayor Wozniak asked Mr. Burkholder if he could compose a prioritized listing of a few different trail projects for Council to consider. Council directed Mr. Burkholder to provide staff's listing to the Parks, Trails & Recreation Commission ("PTR") and have them rank the proposed projects by priority and then bring their report back to Council.

## **REPORTS**

### **Mayor's Report**

Mayor Wozniak mentioned that he had met with Chief Patterson and Sergeant Jody Sansing regarding what other municipalities are doing for safety purposes at stop lights. He stated that some other municipalities, including Greenwood Village, had installed

video cameras to record drivers running red lights. Mayor Wozniak stated that a company installs the video at no cost to the City and the system pays for itself from the corresponding traffic ticket fees that are paid. Councilmember Blum questioned whether Colorado Department of Transportation ("CDOT") approves the systems. Chief Patterson stated that CDOT used to oppose the system, but has started to approve them and has been extremely pleased with their success. Mayor Wozniak stated that he was in support of installing a camera at the intersection of University and Belleview and saw no downside, to which Council collectively agreed.

Mayor Wozniak stated that he had spoken to the South Metro Realtors group on March 15, 2007. He said he had received several requests for the City to be more flexible with its zoning regulations.

Mayor Wozniak mentioned that he and Mr. Ensey had hosted the Arapahoe Metro Mayors and Managers group at the Cherry Hills Country Club on March 16, 2007. He said he had received positive comments regarding Councilmember Doug Tisdale's tenure as the City's Denver Regional Council of Governments ("DRCOG") liaison. Mayor Wozniak encouraged Councilmember LaMair as our DRCOG liaison alternate to attend DRCOG meetings since Councilmember Tisdale's term will expire in April 2008.

Mayor Wozniak mentioned that surplus funding left over from CDOT's T-Rex project originally promised to Greenwood Village for the Arapahoe Road interchange may no longer be available. He stated that Mayor Nancy Sharpe of Greenwood Village had asked if the City would consider sharing a study of traffic impacts on Belleview. Mayor Wozniak pointed out that the City does not control the land around Belleview, although Greenwood Village does control the south side of Belleview. He added that the Transportation Committee at DRCOG had said the entire sources of CDOT funding for non-state highway projects has been drastically cut.

Mayor Wozniak also stated that he had attended the Youth/Adult Summit on March 17, 2007 and met several fine young leaders. He mentioned that he had been approached by various groups asking for sponsorship and he had let them know that the City will consider sponsorship of groups that directly affect the entire City.

Mayor Wozniak said that he had received letters from Bob and Margo Sargent of 5900 East Piedmont Drive and Ray Lee of 5164 East Princeton Avenue, regarding yards damaged by City snowplows. Mr. Goldie responded that the damage has primarily been within the City's right-of-way, and the City's policy is not to repair damage within the City right-of-way. Mr. Goldie stated that he is strictly adhering to the City's policy. He said that Public Works employees drive the plows as slowly as possible and this type of damage is not due to operator error. Mayor Wozniak said that if damage is outside of the City's right-of-way, then the City should deal with it. Councilmember Stewart asked if the policy was in writing and Mr. Goldie said that it is a written policy and is available on the City's website. Mayor Wozniak asked Mr. Goldie to draft letters responding to both residents for the Mayor's review.

### **Members of City Council**

Councilmember Tisdale apologized for being late due to his appearance before the Greenwood Village Planning & Zoning Commission.

Councilmember LaMair reported that she and Mr. Burkholder had met with concerned residents regarding Volunteer Park. She said that residents were pleased about the attention, but had mixed views about how to move forward. She suggested that, in the future, if the City wants to do something positive for the community, the City should discuss it with affected residents first. Mayor Wozniak stated that previous Cherry Hills

Village Mayor Doug Scott had mentioned having discussions with residents on the subject of Volunteer Park. Councilmembers Tisdale and Blum stated that they remembered this as well.

Councilmember LaMair also brought up the subject of the Community Fair, which the City has budgeted \$5000 for in 2007. She stated that in the fall, PTR had discussed the fair with resident Scott Higgins who organized the fair the last few years, but at that point Mr. Higgins was not yet sure what he would like to do. She stated that Mr. Higgins had met with Mr. Goldie and Mr. Burkholder on March 8, 2007 and at that time Mr. Higgins provided an overview of what he would like to do and asked for a City contribution. Councilmember LaMair said that PTR had wanted to develop a community event themselves but they did not feel they could interject themselves into the planning process for this year's Community Fair. She stated that PTR has come up with a draft special events policy but they are not yet ready to bring it to Council. She said that PTR would like to contribute money towards the event since Mr. Higgins has moved forward, but not have the City in charge of the event this year. Councilmember LaMair stated that after this year's event, Council can hear PTR's ideas and decide whether they would like to interface with the fair or supersede it. Councilmember Blum noted that when PTR was reconvened as a commission, they were charged with the City's recreation. Mayor Wozniak added that PTR should propose recreational events and request budget money for them. Councilmember Tisdale agreed, stating that PTR should provide leadership and guidance on recreation events. Mayor Wozniak reminded staff to confirm that the event will have adequate insurance. Council agreed that the City would contribute money since this was already in the works, but future events should be coordinated by PTR.

Councilmember Roswell mentioned that the Citizen's City Center Committee would be meeting again soon and Mr. Ensey confirmed that the committee is tentatively scheduled to meet on April 4, 2007.

Councilmember Blum reported that Cherry Creek High School's After Prom had requested sponsorship. Mr. Ensey stated that he thought the City contributed \$500 last year to the event. Mr. Ensey stated that Donna Senn will make a formal request for funding at the next Council meeting.

### **Members of City Boards and Commissions**

There were no reports.

### **City Manager & Staff**

#### Departmental Monthly Reports

Departmental Monthly Reports were included in Council packets. Councilmember Tisdale pointed out two statistics on the Municipal Court report which looked as if they might be typographical errors. Ms. Proctor said she would look into it and have the report amended if necessary. Councilmember Tisdale asked Ms. Proctor to let Council know.

#### Technical Advisory Committee Report – Denver Water Rate Structure

Mr. Ensey presented the report and stated that he will let Council know when the next Technical Advisory Committee ("TAC") meeting is scheduled, which should be in April. Mr. Ensey also presented a draft letter that the TAC recommends the City send to Denver Water on behalf of the City and its residents, expressing concerns regarding significant rate increases.

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Mayor Wozniak stated that he had received a number of comments on the new rate schedule while attending the Cherry Hills Farm HOA meeting. He asked Mr. Ensey to forward the report to the three members of the board that had attended the meeting. Mayor Wozniak stated that he would like to read the draft letter carefully and have both he and Councilmember Tisdale sign the finalized version. Mr. Ensey said he would forward the letter to the Mayor.

**Police Department – Training Update**

Chief Patterson stated that Detective Will Sparks will be the City's new D.A.R.E. officer and is scheduled to attend D.A.R.E. training in Frisco, Colorado in June 2007.

Chief Patterson also stated that Police Technician Leslie Burton is currently attending FBI forensics training in Quantico, Virginia and was one of only twelve people selected nationwide for the training.

**City Attorney**

There was no report.

**EXECUTIVE SESSION**

A motion was made by Councilmember Roswell, seconded by Councilmember Stewart:

- To convene to an executive session for the purpose of discussing the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest pursuant to CRS §24-6-402(4)(a), and
- To adjourn the regular City Council meeting upon conclusion of the Executive Session.

The following votes were recorded:

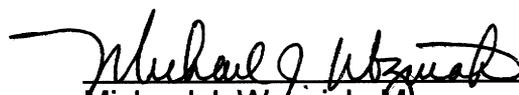
Russell Stewart	yes
Klasina VanderWerf	yes
Scott Roswell	yes
Harriet LaMair	yes
Doug Tisdale	yes
Bonnie Blum	yes

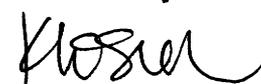
The motion passed unanimously.

Council adjourned to Executive Session at 8:20 p.m.

**ADJOURNMENT**

The Executive Session and regular City Council meeting adjourned at 9:25 p.m.

  
 Michael J. Wozniak, Mayor

  
 Karen C. Losier, CMC, City Clerk