

**RECORD OF PROCEEDINGS**

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Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, April 17, 2007 at 6:00 p.m.  
At the Village Center

Mayor Mike Wozniak called the meeting to order at 6:02 p.m.

**ROLL CALL**

Councilmembers Bonnie Blum, Harriet LaMair, Scott Roswell, Russell Stewart, and Doug Tisdale 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, Crew Chief Ralph Mason, and City Clerk Karen Losier.

**ORDINANCES, RESOLUTIONS AND PLATS****Council Bill 05, Series 2007 – Wireless Communication Facilities (First Reading)**

Mr. Ensey presented Council Bill 05-07 on first reading and stated that the proposed ordinance contained several amendments to the Municipal Code. Mr. Ensey stated that this issue has been brought before the Planning & Zoning Commission ("P&Z") on several occasions, and that P&Z had recommended approval of the proposed ordinance. He introduced Attorney Ken Fellman of Kissinger & Fellman, P.C., who is assisting with the update to the City's wireless telecommunications facilities regulations.

Mr. Fellman stated that provisions of the City's existing code are inconsistent with the federal Telecommunications Act ("the Act"), which was passed in 1996. Mr. Fellman said that the Act does not allow local government to enact regulations that prohibit wireless services in the community. He stated that local government cannot make decisions based on the health effects of radio frequency emissions, because the Act reserves that right for the federal government. He suggested that, if citizens express concern over health effects, Council let them know that it is a decision that the federal government must make. He also suggested that Council let them know that, although Council shares their concern, they are not able to take such testimony into consideration when making a decision as it would leave grounds for appeal later.

Mr. Fellman outlined the proposed changes to the code, which would primarily be under Sec. 16-16-130, which is being repealed and reenacted. Mr. Fellman also stated that the proposed amendments will allow the City to administratively approve some types of wireless facilities without a public hearing process, as long as surrounding neighbors are notified and do not request a public hearing. Mr. Fellman added that co-location of multiple facilities is encouraged but not required.

Councilmember Stewart asked how the proposed changes would affect an application from a homeowner's association ("HOA"). Mr. Fellman responded that HOAs are not specifically addressed in the proposed changes. He added that, as long as there are no covenants prohibiting an application, it is up to the HOA and the wireless provider to submit an application.

Mayor Wozniak pointed out that it seems inconsistent that Sec. 16-12-30(a), 16-12-30(b), and 16-16-130(c)(17) each addressed height measurement differently. Mr. Fellman responded that Section 16, Article 12 of the Municipal Code does not specifically address wireless facilities. Mr. Fellman added that he had addressed similar concerns with P&Z and he would research the subject and provide more information between now and the public hearing.

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Councilmember Tisdale pointed out a typographical error under Sec. 16-18-60(2)(d) of the proposed ordinance, in which the word "meet" should replace "meets."

Councilmember Tisdale moved, seconded by Councilmember Roswell, to approve Council Bill 05-07 on first reading, as amended.

The following votes were recorded:

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

The motion passed unanimously.

**EXECUTIVE SESSION**

A motion was made by Councilmember Tisdale, seconded by Councilmember Blum, to convene to executive session in order to discuss specific legal questions with the City Attorney for the purpose of receiving legal advice pursuant to CRS §24-6-402(4)(b) concerning the pending Denver First Church of the Nazarene litigation.

The following votes were recorded:

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

The motion passed unanimously.

Council adjourned to Executive Session at 6:22 p.m.

The Executive Session ended at 6:34 p.m.

As a result of discussion held during the Executive Session, Councilmember Tisdale moved, seconded by Councilmember LaMair, to authorize Mayor Wozniak to execute a Tolling Agreement regarding the Denver First Church of the Nazarene litigation, pursuant to the terms presented by legal counsel, including amendments discussed during Executive Session.

The motion passed unanimously.

**AUDIENCE PARTICIPATION PERIOD**

Patricia Boulding, 1415 East Tufts Avenue, asked Council to consider the purchase of 4525 South Lafayette. She described the property, which was the home of former Mayor Robert St. Clair, and stated that the land is already in beautiful condition. She said that she was also representing the Katz and Kandel families. Mayor Wozniak stated that Council would consider the request and he explained that, if the City decided to purchase land, it would be a lengthy process and would have to go before voters in an election. Mayor Wozniak added that sometimes the City is aided by the Cherry Hills Land Preserve or residents who may choose to purchase or donate land for open space. Ms. Boulding asked Councilmember Roswell to keep residents informed.

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Susie Woodard, 1424 East Stanford, also asked the City to investigate the purchase of the above-mentioned property. She stated that she would do whatever she could to keep the property as it currently is. She said that she was also representing the Mares, Kuhlke, Griffin, Braucht, and Carter families.

Buck Frederickson, 80 Meade Lane, thanked Councilmember Stewart for his work on the South Suburban Parks and Recreation District exclusion litigation appeal. Mayor Wozniak also recognized Councilmember Stewart for his efforts.

**CONSENT AGENDA**

Councilmember Blum moved, seconded by Councilmember Tisdale, to approve the following items on the Consent Agenda:

- Approval of April 4, 2007 Minutes
- Expenditure of Funds and Service Contract – Purchase of Large Format Scanner/Plotter
- Expenditure of Funds – Purchase of Mowers
- Expenditure of Funds – Purchase of ESRI Geographic Information Systems (GIS) Software

The motion passed unanimously.

**ITEMS REMOVED FROM CONSENT AGENDA**

The following item was removed from the Consent Agenda:

**Expenditure of Funds – Purchase of Irrigation Taps**

Councilmember Tisdale questioned wording on the staff report regarding 2006 budgeted funds that had been “returned to” Arapahoe County Open Space Fund 14. Mr. Goldie clarified that the funds have simply been carried forward to the 2007 budget. Councilmember Tisdale stated that he wanted the record to reflect that the funds were not lost.

Councilmember Tisdale moved, seconded by Councilmember LaMair, to approve the expenditure.

The motion passed unanimously.

**UNFINISHED BUSINESS****Appointment of Members to the Master Plan Advisory Committee**

Mayor Wozniak thanked members of Council for providing names of potential candidates. He stated that seven very qualified people had been appointed to the Master Plan Advisory Committee, and the appointees are Ted Alpert, David Cooper, Lynn Hornbrook, John Love, Jacques Machol, Jeff Welborn, and Debbie Welles. He stated that Council will not appoint a committee chair. Mayor Wozniak added that the committee will have early discussions with other pertinent entities, such as schools within the City.

**REPORTS****Members of City Council**

Councilmember Tisdale brought up the subject of aggressive coyotes and suggested that the City address the growing problem. Mayor Wozniak said he had been approached by Mayor Nancy Sharpe of Greenwood Village about possibly sharing the cost of a coyote eradication program. He stated that he and Mr. Ensey had looked into it and received a quote of \$93,000 from a consultant and had decided against it at that time. Mayor Wozniak directed Mr. Ensey to review the estimate to determine if there is something that the City can do to address the issue.

Councilmember Stewart mentioned that there is a new principal at Cherry Hills Village Elementary, since former principal Trina Rich had moved to a supervisory position within the Cherry Creek school system. Mayor Wozniak said that he would try to meet with Ms. Rich's replacement when she is settled into her position.

Councilmember Blum stated that she was excited about the role of the Master Plan Advisory Committee. She said that the Master Plan kick-off meeting is scheduled for May 8, 2007. Councilmember Blum also asked when Council would be appointing someone to P&Z to replace Jacques Machol, who had recently stepped down due to his term limitation. Mayor Wozniak responded that interviews should be taking place prior to the May 8, 2007 P&Z meeting.

Councilmember LaMair asked if staff had looked into the cost of repairing damage to the Highline Canal that had been caused by recent snowstorms. Mr. Goldie responded that he had received an estimate that it would cost around \$30,000-\$40,000 to rebuild the trail. He stated that he was planning to have staff repair some of the damage within the confines of the budget, and would begin the repairs as soon as staffing allowed.

**Mayor's Report**

Mayor Wozniak mentioned that he had attended the Cherry Hills East HOA meeting and that Councilmember LaMair had done a good job responding to comments regarding the Dahlia Street traffic study.

Mayor Wozniak stated that he was planning to attend an April 19, 2007 tree planting that was in conjunction with the City of Denver's tree planting initiative.

Mayor Wozniak said he had attended the Metro Mayor's Caucus, and that the group had written letters to the governor regarding legislation that is affecting cities. He offered to get copies of the letters for anyone who would like to see them.

**City Manager & Staff**

Chief Patterson offered an update on the status of installation of cameras at the intersection of Belleview Avenue and University Boulevard, stating that American Traffic Solutions would be conducting traffic surveys this week.

**Departmental Monthly Reports**

Departmental Monthly Reports were included in Council packets. There were no questions from City Council.

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**Master Plan Kick-off Meeting Update**

Mr. Ensey mentioned again that the Master Plan kick-off meeting was scheduled for May 8, 2007, which will be held in place of the regularly scheduled P&Z meeting. He added that Mr. Dave Knopick of Gould Evans will also be at the Village Center the following day to schedule interviews with various community members.

**Update on Sewer Pipe Crossing at Little Dry Creek**

Mr. Ensey stated that staff was still trying to determine ownership of the exposed sewer pipe at Little Dry Creek, which was mentioned at the April 4, 2007 City Council meeting. He said that the pipe was not City owned, and it is not yet known if the sewer line is active or not. Councilmember Tisdale asked if any emergency measures had been taken. Mr. Ensey responded that no action had been taken yet, but something would need to be done such as stubbing off the pipe or securing it with concrete.

Mr. Goldie added that no more investigation could be done until the water level goes down. He stated that Cherry Hills Village Sanitation District was assisting in the investigation.

**City Attorney**

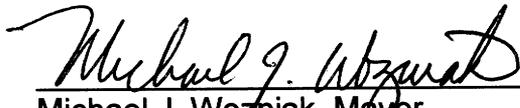
There was no report.

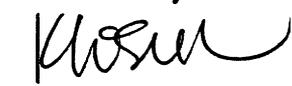
**ADJOURNMENT**

A motion was made by Councilmember Roswell, seconded by Councilmember LaMair, to adjourn the meeting.

The motion passed unanimously.

The meeting adjourned at 7:03 p.m.

  
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Michael J. Wozniak, Mayor

  
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Karen C. Losier, CMC, City Clerk