

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, May 1, 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, Harriet LaMair, Scott Roswell, Russell Stewart, Doug Tisdale, 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, Open Space & Recreation Administrator Paul Burkholder, and City Clerk Karen Losier.

AUDIENCE PARTICIPATION PERIOD

Theresa Gilpatrick and Jane Soderberg, speaking in their capacity as commissioners for the Parks, Trails, & Recreation Commission ("PTR"), offered an update on the commission. Ms. Gilpatrick, 4940 S. Lafayette Lane, pointed out that the trail application process was unclear. She mentioned that PTR is excited about creating a neighbor notification process and a citizen ad-hoc committee for trail maintenance awareness. She stated that PTR did not see a need for large-scale recreational facilities, but does see a need for low-key recreational activities such as organized runs, equestrian events, and hikes for kids. Ms. Gilpatrick mentioned that PTR planned to develop an education program and a wish list of potential open space acquisitions, and they will look at financing options as well.

Ms. Soderberg, 3 Sunset Drive, stated that PTR sees a need for developing neighborhood and pocket parks. She said that PTR plans to have a special events plan prepared for distribution at the next City Council meeting. Ms. Soderberg also stated that they plan to propose a part-time administrator as well as signage near the Village Center which will communicate recreation information to residents. Ms. Soderberg confirmed that PTR is creating a potential parks prototype list in the event that the Council needs to make a quick decision regarding the purchase of available land.

PRESENTATIONS

Citizen's City Center Committee Update

David Cooper and Richard Diecidue of the Citizen's City Center Committee ("CCCC") presented an update on behalf of the committee. Mr. Cooper stated that the CCCC plans to have a report ready for the Council by the first of July. Mr. Cooper stated that the current building is far too small for its current use and is overwhelmed with staff and storage. He added that it will only get worse with the addition of parks, trails, and recreation staff and equipment. He added that, if the building was to be expanded and remodeled rather than replaced, it would be very expensive because the entire building would have to be brought to current code standards. Mr. Cooper added that the proposed Village Center consists of a reasonable number of square feet and would accommodate some additional staff over time, but not much. Mr. Cooper outlined several reasons that the City needed a new Village Center, including the poor state of the current building due to deferred maintenance in recent years, the building being located in the floodplain, and its inability to accommodate disabled persons. He explained that the CCCC had attributed project cost escalation to the acquisition of City land, Hurricane Katrina's impact on construction costs nationwide, and inflation. Mr. Cooper and Mr. Diecidue mentioned that the CCCC had discussed the possibility of

moving the Public Works department to a more industrial area, and the committee members agreed that it would offer more flexibility with the use of the land.

Councilmember VanderWerf asked if the CCCC had considered other sites for the relocation of the Public Works department. Mr. Diecidue responded that the CCCC had looked at a couple of potential areas, and discussion was held regarding the logistics of moving the department. Mayor Wozniak asked that Mr. Goldie be kept informed.

Councilmember LaMair asked if the CCCC had looked at the effects of a cul-de-sac on surrounding traffic. Discussion took place regarding how a cul-de-sac entrance feature might ease traffic congestion.

Councilmember LaMair stepped away from the meeting at 6:45 p.m.

Mayor Wozniak asked what the next step would be and Mr. Cooper responded that they would be coming back with a written report including recommendations. Discussion was held regarding whether the report should include finance options. Councilmember Stewart pointed out that he had suggested that the CCCC leave financial discussions out, as that is a decision that the Council should make.

Mr. Bill Cook, also a member of the CCCC, mentioned that the proposed design would quite possibly allow construction in phases. Mayor Wozniak pointed out that this would result in substantial cost savings since staff could potentially still occupy the existing building while the new building is being constructed.

CONSENT AGENDA

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

- Approval of Minutes - April 17, 2007
- Expenditure of Funds – Flashing Pedestrian Crosswalk Signals

The motion passed unanimously.

Mayor Wozniak commended the Public Works and Police Departments for the installation of the City's first flashing pedestrian crosswalk signals at the Highline Canal at Quincy Avenue and Colorado Boulevard.

ORDINANCES, RESOLUTIONS AND PLATS

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 (Final Reading, Public Hearing)

Mr. Ensey presented CB 04-07, A Bill for an Ordinance on First Reading. He stated that the bill was approved on first reading and the Planning & Zoning Commission ("P&Z") voted unanimously to recommend approval of the proposed ordinance. He added that there have been no changes to the bill since first reading and he stated that staff also recommends approval.

Mayor Wozniak opened the public hearing at 7:05 p.m.

No one wished to speak.

Mayor Wozniak closed the public hearing at 7:05 p.m.

Mr. Renaud stated that he had just realized that the attached Council Bill was an incorrect version. Mr. Renaud and Ms. Losier left the meeting to get the correct version. Mayor Wozniak tabled the item to be reopened following discussion regarding the Crescent Gardens Minor Subdivision request.

Crescent Gardens Minor Subdivision – A request by Crescent Development LLC for approval of a minor subdivision to subdivide one 5-acre parcel of land into two 2 ½-acre parcels located at the northeast corner of E. Quincy Avenue and S. Franklin Street; formerly 1689 E. Quincy Avenue (Public Hearing)

Mr. Ensey presented the application, which he said complied with all requirements for a minor subdivision application. He stated that staff recommended approval of the application. Mr. Ensey outlined options available to the Council, including requiring the applicant to dedicate land or cash-in-lieu of land.

Mr. Ensey pointed out that the location of the potential land dedication could help provide a trail corridor to Humboldt Street at some point in the future. Mr. Ensey noted that PTR had recommended that the Council require a trail sixteen feet in width, an easement for a pocket park to be dedicated at the south entrance to the trail, as well as consideration for a land buffer along Quincy Avenue. He stated that P&Z had not recommended a trail in the proposed location, but had recommended a 25 foot landscape buffer along Quincy Avenue. Mr. Ensey stated that the applicant no longer desires the dedication of a trail easement.

Councilmember Tisdale questioned the location of potential trail easements. Mr. Ensey pointed out potential trail easement locations on a large-scale trail map. Councilmember Tisdale questioned why staff was recommending that the Council require cash-in-lieu rather than land. Mr. Ensey responded that staff had looked at the issue in terms of cost maintenance and viable open space and that, in staff's opinion, there may be better options for land dedication than a visual buffer in front of a fence. Mr. Ensey added that staff felt that the cash could be better spent on acquisition of another parcel of land that more closely matches the City's open space objectives.

Applicant Michael Leede of Crescent Development stated that, in his latest letter, he had proposed the setback option with the balance to be paid in cash. He offered a brief background of the application process since his original application was submitted in November of 2004. Mr. Leede presented large-scale photographs to the Council depicting other fence examples along Quincy Avenue. He reiterated that staff and P&Z had not recommended that a trail be constructed.

Councilmember Roswell asked if a 25-foot setback would be equal to a 7.5% land dedication, and Mr. Leede responded that it would fulfill approximately half of the requirement. Councilmember Roswell asked if a trail on the west side of the property would comply with the 7.5% land dedication requirement, and Mr. Leede replied that a 13.5-foot trail would comply with the requirement. Mr. Leede confirmed that if he dedicated a 25-foot setback, he would maintain landscaping, irrigation, and maintenance of the land, and the City would still receive about \$126,000.

Councilmember Tisdale pointed out that, when he had performed the calculation of the cash-in-lieu equivalent, he had come to the amount of \$272,100.

Mayor Wozniak opened the public hearing at 7:40 p.m.

Councilmember LaMair returned to the meeting at 7:41 p.m.

Theresa Gilpatrick, 4940 S. Lafayette Lane, and Jane Soderberg, 3 Sunset Drive, spoke

on behalf of PTR. Ms. Gilpatrick stated that PTR did not see the potential trail as a duplication, but as an enhancement. She encouraged the Council to take the long view of trail development and to consider the proposed trail as critical to the City's trail system.

Jim Muhm, 4951 S. Holly Street, asked the Council to accept the proposed trail easement on the west side of the property. Mr. Muhm pointed out that Resolution 18 of 2006 established the PTR rules of procedure, which specifically recommend actions to protect and maintain existing trails and acquisition of additional trails and trail connections. Mr. Muhm asserted that the proposed trail dedication is the best hope of extending the Little Dry Creek corridor. He pointed out that the Council should ask for land rather than the cash equivalent because cash will lose its value while land will continue to appreciate. Councilmember Tisdale asked how many feet separated the proposed trail from the Humboldt Street trail and Mr. Muhm responded that it was 330 feet.

Jim Walker, 4305 S. Franklin Street, stated that he was a neighbor and was in favor of the proposal made by Mr. Leede in which there would be a setback along Quincy Avenue and not a trail on the west side of the property.

Mayor Wozniak closed the public hearing at 7:54 p.m.

Mayor Wozniak stated that the Council had reviewed all of the information in the staff report and all of the other packets. Mayor Wozniak invited a member of the Council to reiterate the issues mentioned in the staff report, and Councilmember Tisdale volunteered to do so. Councilmember Tisdale pointed out that some of the requirements under Section 17-3-340 are not applicable in this situation. He also stated that the most important issues are that there would be a single ownership turned into two legal lots, that the subdivision would comply with the zoning requirements for the R-1 zone district, and that the application meets all applicable requirements of the Municipal Code. Councilmember Tisdale pointed out that the Council has an obligation to require land dedication, and has the discretionary option of whether or not to accept cash-in-lieu of land dedication.

Councilmember Tisdale questioned why there is opposition to having a trail on the west side of the property. Mr. Leede responded that he would prefer not to dedicate a trail, but in the event that he is required to, his strong preference would be not to see the trail. Councilmember Tisdale pointed out that none of the citizens who had been opposed to a trail on the west side of the lot were present.

Discussion was held regarding potential trail width and whether the Council was willing to accept cash-in-lieu of land donation. Further discussion was held regarding the width that the Council might require a trail to be. Councilmember Roswell stated that he had difficulty saying no to the acquisition of land, and spoke in favor of a trail dedication even if there would not yet be a trail connection to Humboldt.

Councilmember LaMair stated that she would be recusing herself from the vote since she had not been present during most of the discussion. She added that she was disappointed that no notice had been given to surrounding neighbors during the PTR review process. She stated that there was a strong public preference to take land dedication rather than cash.

Councilmember Blum stated that the City's trail system is its top asset and the best in the state. She said she would like to see the trail and setback.

Councilmember Stewart pointed out that the setback would add value to the lots, and he

asserted that Section 17-30-30 made it mandatory that the Council require a land donation unless there was a compelling reason not to.

Councilmember VanderWerf said that she has never seen a land acquisition wish list without this potential trail on it. She pointed out that the trail system is not as developed on the west side of the City and the proposed trail would be an asset.

Mayor Wozniak observed that it had been quite a while since the Council had not followed a P&Z recommendation. He suggested that the Council consider incorporating both PTR and P&Z recommendations. Mr. Renaud recommended that the amended plat be brought back before the Council.

Councilmember Tisdale moved, seconded by Councilmember VanderWerf, to approve the request by Crescent Development LLC for approval of the Crescent Gardens Minor Subdivision plat to allow for the subdivision of one 5-acre lot into two 2½ acre lots in the configuration as set forth in the minor subdivision application. Such approval would be subject to the following conditions:

1. The development agreement shall be revised so as to include the conclusion set forth in the Phase III Drainage Erosion Control Report for Crescent Gardens Minor Subdivision as prepared by HCL Engineering & Surveying dated November 28, 2006.
2. Land dedication shall be provided by the applicant in accordance with Section 17-3-30 of the City Code, such land being equal to the 7.5% land dedication requirement and consisting of (a) a 16-foot trail dedication running from the north property line to the south property line on the west side of the parcel, suitable for equestrian, pedestrian, and other non-vehicular traffic, and (b) approximately 330 feet of setback on the south side of the lot and the north side of East Quincy Avenue, to be calculated in a manner that satisfies the balance of the 7.5% land dedication requirement. The Crescent Gardens Development Agreement (Exhibit D) between Crescent Development and the City shall be subject to landscaping, irrigation, and maintenance of the setback requirement, shall be revised in accordance with the land dedication required by the Council, and shall be presented to the Council at the next meeting following the draft of the development agreement.
3. The Crescent Gardens Minor Subdivision plat document shall be revised to reflect that the trail easement shown along the west property line will be 16 feet rather than 10 feet in width.

Councilmember Tisdale added that the application meets the requirements as identified within the staff report and stipulated earlier in the course of the Council's deliberation.

Mr. Leede requested that the development agreement stipulate that no trail be built on the dedicated land until there is a connecting trail to Humboldt Street. Councilmember Tisdale responded that he was uncomfortable changing his motion to include such a stipulation, as he does not want to restrict the Council.

The following votes were recorded:

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

The motion passed unanimously.

(Reopened) 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 (Final Reading, Public Hearing)

Following discussion of the Crescent Gardens Minor Subdivision, Ms. Losier distributed the correct red-lined version of the Council Bill to the Council, and Mayor Wozniak reopened discussion of Council Bill 04-07. Councilmember Stewart confirmed that the newly distributed version was in fact correct.

Mayor Wozniak reopened the public hearing at 8:30 p.m.

No one wished to speak.

Mayor Wozniak closed the public hearing at 8:30 p.m.

There were no questions from the Council.

Councilmember Stewart moved, seconded by Councilmember Tisdale, to approve Council Bill 04-07 on Final Reading.

The following votes were recorded:

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

The motion passed by a vote of 5 to 1.

Council Bill 06, Series 2007 – A bill for an ordinance amending Chapter 11 of the Cherry Hills Village Municipal Code, concerning Streets, Sidewalks & Public Property; by amending Section 11-5-50, concerning procedures for vacation of public rights-of-way (First Reading)

Mr. Ensey presented Council Bill 06-07 on First Reading. He outlined several of the proposed changes to the Municipal Code, including a public notice requirement for meetings of PTR and P&Z at which vacation requests are being considered. He stated that the proposed ordinance would require that a public meeting sign be posted on the subject property and certified mail notices be sent to property owners within 500 feet of the property. Mr. Ensey also noted that one of the proposed changes would be that certified mail return receipts are no longer required, since a property owner's refusal to sign could prevent a public hearing process from taking place. He mentioned that, instead, the proposed ordinance would require a receipt from the post office as proof that the certified mail had been sent. Mr. Ensey stated that staff recommends approval and the proposed ordinance will not require a public hearing.

Brief discussion was held regarding the public hearing notification process.

Councilmember Tisdale moved, seconded by Councilmember LaMair, to approve Council Bill 06-07 on First Reading.

The following votes were recorded:

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

The motion passed unanimously.

REPORTS

Members of City Council

Councilmember VanderWerf gave an update regarding the Platte Corridor Working Group and said that the group was planning to present some of their findings to the Council at the next Council meeting.

Councilmember Tisdale reported that he had attended the Denver Regional Council of Governments’ Annual Awards Dinner, where former U.S. Secretary of Transportation Federico Pena was honored.

Councilmember Roswell mentioned that he would be meeting with Ms. Proctor regarding the unaudited financial reports. He inquired about the status of the potential University Boulevard underpass/overpass and Mr. Goldie responded that he hoped to have reports ready by the next Council meeting.

Councilmember LaMair asked about the Dahlia Street Traffic Calming project. Mr. Goldie stated that he should have feedback from Mr. Renaud by the beginning of June, and construction would likely begin in July.

Mayor’s Report

Mayor Wozniak said that he had spoken at the Kempe Foundation’s groundbreaking ceremony for “The Kempe Villa of Dreams” home at 1013 East Belleview Avenue. He said that the foundation was grateful to have moved through the zoning issues so quickly.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Financial Reports

Unaudited Financial Reports were included in Council packets. Mr. Ensey stated that staff hoped to have audited financials very soon and will bring them to the Council after Ms. Proctor and Councilmember Roswell have met.

Analysis of Red Light Violations at Belleview at University and Colorado at Hampden

Mr. Ensey stated that the analysis indicates that there is a large amount of red light violations at each intersection, and that Chief Patterson is working with Colorado Department of Transportation on the issue.

Coyote Control Proposal

Mr. Ensey stated that the proposal received from Jay Stewart of Animal Damage Control was very vague and needed more detail. Mayor Wozniak agreed that the proposal was unclear since it was based on dollars per hour. Mayor Wozniak said that he felt the City should provide some level of response to residents, but he asked Mr. Ensey to have Mr. Stewart include more detail in his proposal. Mr. Ensey mentioned that Mr. Stewart is currently contracted privately to trap coyotes within the City. Discussion was also held regarding the proliferation of rabbits in the City and the potential effects of coyote control on the rabbit population.

City Attorney

There was no report.

EXECUTIVE SESSION

Councilmember Tisdale moved, seconded by Councilmember Blum, to:

- Hold 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 the provisions of C.R.S. § 24-6-402(4)(a); to discuss and provide direction for negotiators pursuant to the provisions of C.R.S. § 24-6-402(4)(e); and to discuss specific legal questions with the City Attorney for the purpose of receiving legal advice pursuant to the provision of C.R.S. § 24-6-402(4)(b),
- Hold an executive session to discuss specific legal questions with the City Attorney for the purpose of receiving legal advice pursuant to the provisions of C.R.S. § 24-6-402(4)(b) concerning the Sie Litigation and the Denver First Church of the Nazarene Litigation, and
- Adjourn the regular City Council meeting following the conclusion of the Executive Session.

The following votes were recorded:

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

The motion passed unanimously.

Council adjourned to Executive Session at 8:47 p.m.

ADJOURNMENT

The Executive Session and regular City Council meeting adjourned at 9:39 p.m.

Michael J. Wozniak, Mayor

Karen C. Losier, CMC, City Clerk