

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, October 16, 2007 at 6:30 p.m.
At the Village Center

Mayor Mike Wozniak called the meeting to order at 6:35 p.m.

ROLL CALL

Councilmembers Harriet LaMair, Scott Roswell, Russell Stewart, Doug Tisdale, and Klasina VanderWerf were present on silent roll call. Also present were City Manager Eric Ensey, City Attorney Thad Renaud, Finance Director Karen Proctor, Public Works Director Jay Goldie, Parks, Open Space & Recreation Administrator Paul Burkholder, and City Clerk Melissa Formby.

AUDIENCE PARTICIPATION PERIOD

Jane Soderberg – 3 Sunset Dr., Cherry Hills Village, CO 80113

Ms. Soderberg, Co-Chair of Parks, Trails and Recreation Commission (PTR), presented the commission's approved special events for 2008. She shared that an outdoor movie is the first event planned. She stated a vendor has been found that will supply all the equipment needed to produce an outdoor movie. She confirmed that the City staff will need to pick up and return the equipment as well as assist with set up and take down. She suggested a City staff person will be needed to help plan these events. She mentioned "The Race for Open Space" is the second event proposed and that the Land Preserve has agreed to be a co-sponsor. The race is proposed to be held on the second Sunday in September. She added that a list has been compiled of the positions needed for these events and recommended a committee be set up for the special events. She commented that all funds collected from the race would go to an open space fund and suggested a dedicated fund be created for this sort of thing.

Councilmember LaMair clarified there is \$15,000 in the PTR budget for special events. She asked if additional resources would be needed to cover the events.

Parks, Open Space and Recreation Administrator, Paul Burkholder said there is enough money in the budget.

CONSENT AGENDA

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

- Approval of October 2, 2007 Minutes
- Addendum to Intergovernmental Agreement with the Denver Regional Council of Governments – Elevator and Escalator Safety Inspection Program

Vote on the Consent Agenda: 5 ayes. 0 nays. The motion carried.

Council Bill 09-07; A bill for an ordinance repealing and re-enacting Article II of Chapter 5 of the Municipal Code, to approve a Gas and Electric Franchise Agreement by and between the Public Service Company of Colorado, d/b/a Xcel Energy and the City of Cherry Hills Village (second and final reading)

City Manager Eric Ensey, presented CB 09-07. City staff has been negotiating the terms of the revised franchise with representatives of Xcel Energy. As a result of those

discussions, staff is presenting Council Bill 9, Series 2007, which is a new franchise agreement between the City and Xcel Energy, for Council consideration on second and final reading. The franchise agreement referenced in the Bill and attached thereon, in staff's opinion, is consistent with other franchise agreements between Xcel and other municipalities, including the City and County of Denver. In addition to the franchise agreement, Xcel Energy has provided a letter outlining provisions for providing the City the right of first purchase on any real property owned by the Company and located within the territorial boundaries of CHV before the Company may offer the property for sale to an unaffiliated third party.

City Attorney Thad Renaud suggested public comment be opened.

Mayor Wozniak opened the item for public comment.

Public Comment: No one wished to speak.

Public Comment was closed.

Tom Ashburn, (Area representative for Community and Local affairs with Xcel energy), asked the Council for their approval of the Xcel franchise. He added the approval of the ordinance will provide gas and electricity for Cherry Hills Village residents for years to come.

Councilmember Tisdale moved, seconded by Councilmember Stewart, to approve CB 09-07, subject to the changes made by Xcel energy representatives, A Bill for an Ordinance repealing and re-enacting Article II of Chapter 5 of the Municipal Code, to approve a Gas and Electric Franchise Agreement by and between the Public Service Company of Colorado, d/b/a Xcel Energy and the City of Cherry Hills Village on second and final reading.

The following votes were recorded:

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

Vote on CB 09-07: 5 ayes. 0 nays. The motion carried.

NEW BUSINESS

Proposed 2008 Budget

- (i) 2008 Proposed Budget for the City of Cherry Hills Village
- (ii) Council Bill 13, Series 2007; A Bill for an Ordinance Adopting a Budget and Levying Property Taxes for the City of Cherry Hills Village, Colorado for the Fiscal Year 2008 (first reading)
- (iii) Council Bill 14, Series 2007; A Bill for an Ordinance Authorizing Appropriations for Fiscal Year 2008 (first reading)

Finance Director Karen Proctor, introduced CB-13 and CB-14 on first reading.

Ms. Proctor informed the Council of changes that had been incorporated into the budget since their previous discussions. She also asked the Council to approve the 2008 proposed budget.

As no one wished to speak on the item, Mayor Wozniak opened the public hearing.

Public Comment: No one wished to speak.

The public hearing was closed.

Councilmember Tisdale moved, seconded by Councilmember VanderWerf, to approve CB 13-07, A bill for an ordinance adopting a budget and levying property taxes for the City of Cherry Hills Village, Colorado for Fiscal Year 2008 on first reading.

The following votes were recorded:

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

Vote on CB 13-07. 5 ayes. 0 nays. The motion carried.

Councilmember Tisdale moved, seconded by Councilmember LaMair, to approve CB 14-07, A bill for an ordinance of the City Council of Cherry Hills Village, Colorado authorizing appropriations for Fiscal Year 2008 on first reading.

The following votes were recorded:

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

Vote on CB 14-07. 5 ayes. 0 nays. The motion carried.

Council Bill 15, Series 2007; A bill for an ordinance repealing Section 11-3-50 of the City Code, concerning a permit requirement for public meetings, and adding a new Article IV to Chapter 11 concerning special event permits

City Attorney, Thad Renaud, presented CB 15-07. Mr. Renaud explained that CB 15-07 prohibits, with limited exceptions based on First Amendment considerations, the conduct of various sorts of special events unless and until a permit for the event has been issued by the City. He added that under the ordinance, the Chief of Police would have the primary responsibility for the review and approval of permit applications and an applicant would have a right to appeal the Chief's decision to the City Manager. He mentioned the ordinance provides procedures for the City's consideration of a special event permit application, and also provides the basis upon which a permit application may be denied or conditioned. He stated that with respect to permits for activities that do not implicate First Amendment rights, the ordinance provides the City with the ability to recover its costs for supplemental police protection at special events as well as costs in connection with the clean up and restoration of City property after a special event. He said the ordinance contains provisions concerning indemnification and insurance requirements for certain types of events.

Councilmember LaMair suggested the Parks, Trails and Recreation Commission (PTR) be included in the approval of special events. She added the verbiage to the ordinance should be more brief and general.

Mayor Wozniak stated the specificity of the ordinance is good for the protection of the City. He also asked about the decision to allow an applicant to appeal a denial to the City Manager rather than the Council.

Mr. Renaud said the Chief of Police has previously approved these permits.

Mayor Wozniak asked if this ordinance would apply to events on private land that could possibly have an effect on streets.

Mr. Renaud stated the ordinance would not apply to events on private land.

Mayor Wozniak asked if a permit would be required at private clubs for the use of the City streets.

Councilmember Tisdale said the ordinance regarding Major Event Permits would come into effect for a major event such as the U.S. Open.

Mr. Renaud commented that a large event would not need a special event permit. He added that this type of permitting is meant for public forums.

Mayor Wozniak added that it may be easy for someone to argue the verbiage in the ordinance.

Councilmember Stewart asked how many permits have been issued over the last few years.

Mr. Renaud stated the City has approved only one permit within the last few years.

Mr. Ensey added that block party applications are submitted frequently.

Councilmember LaMair reiterated that PTR should have the opportunity to be involved in the permitting process, though they are not asking for permitting authority.

Mayor Wozniak questioned whether this type of permit is needed.

Councilmember Stewart stated that history may suggest that a change is not necessary regarding the permitting process.

Councilmember LaMair added that the idea of a permitting process could be prudent.

Mayor Wozniak suggested that certain types of permits should require indemnification and insurance.

Councilmember Tisdale confirmed that the ordinance does not apply to events sanctioned by the City. He asked if the City could be held liable.

Mr. Renaud clarified that the liability issue is not what is driving this ordinance. The Chief of Police would be concerned with traffic control issues and that is part of why the ordinance is being proposed. He added that the ordinance is also about regulating competing uses for public areas as well as public safety and management.

Mayor Wozniak agreed the regulation and public safety aspects are legitimate reasons. He added that the legal verbiage is good, but asked if it was necessary. He also asked if other municipalities utilize similar permit requirements.

Councilmember LaMair recommended PTR be allowed to meet with the event planner to discuss their plans.

Mayor Wozniak asked why PTR would need to give input for an event such as a block party.

Mr. Renaud stated the verbiage does not keep PTR from being involved and that they would be involved in applicable permits.

Councilmember LaMair stated it would be okay if PTR was allowed to make decisions based on the type of application.

Councilmember Tisdale confirmed that the Police Chief would be able to make choices based on the protection of the City.

Councilmember Roswell stated events such as block parties do not need to be approved and perhaps it is an issue of over legislating.

Mayor Wozniak asked what would happen if the discussion on events on city owned land was deleted from the code.

Mr. Renaud said a permit would not be required if it were deleted.

Councilmember LaMair asked if it would be possible to only require a form to be completed.

Mr. Renaud said there needs to be a legislative basis to the process to approve or deny the form.

Councilmember Stewart suggested the process could be on a first come first serve basis.

Councilmember Tisdale suggested that PTR have involvement when the permit requires usage of the parks system.

Mayor Wozniak added that park permits should go through PTR, and a permit for a public right-of-way should go through the Chief of Police. He suggested the verbiage in the ordinance needs to provide more emphasis and detail.

Councilmember Tisdale moved, seconded by Councilmember VanderWerf to table Council Bill 15, Series 2007, a bill for an ordinance of the City of Cherry Hills Village amending Chapter 11 of the Cherry Hills Village Municipal Code, concerning streets, sidewalks and public property, by repealing section 11-3-50, concerning a permit requirement for public meetings, and adopting a new Article IV of Chapter 11 to provide for procedures and standards of approval for granting permits to use public property for special events.

The following votes were recorded.

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

Vote on the motion to table CB 15-07. 5 ayes. 0 nays. The motion carried.

Ms. Soderberg stated the form PTR wants to use in the permitting process is for the purpose of people applying for funds. She added that they don't necessarily want to approve the events, but would like to utilize a form when looking at financial requests.

REPORTS

Mayor's Report

Mayor Wozniak mentioned that the City of Littleton asked if Cherry Hills Village would like to help support their fireworks. He mentioned that South Suburban had donated \$2000 to the fireworks display. He then asked what Council's thoughts were on donating to the fireworks display.

Discussion ensued on the donation for fireworks and the decision was made not to contribute.

Mayor Wozniak informed the Council that he and Councilmember Stewart had been going through the City Attorney proposals and have narrowed the choices down to MDKR Law, Kissinger & Fellman, P.C., and Widner and Michow, LLP. He added that Council will be presented with information and be invited to the interviews.

Members of City Council

Councilmember Roswell had no report.

Councilmember LaMair had no report.

Councilmember Tisdale informed the Council that DRCOG would be meeting on October 17, 2007 regarding the Urban Growth Boundary. The idea of expanding the Urban Growth Boundary is the core question of the meeting. He stated he is, on behalf of Cherry Hills Village, trying to avoid unnecessary expansion, though it is difficult to do when dealing with Arapahoe County. He advised the Council that Cherry Hills Village is trying to chart a middle course to work cooperatively with the County.

Councilmember Stewart reminded the Council that South Suburban briefs are due October 24th.

Councilmember VanderWerf had no report.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Mr. Ensey stated the departmental monthly reports are in the packet. He also reminded the Council of some upcoming events.

- The Master Plan Advisory Committee workshop will be held on October 17th.
- The second Master Plan Public Meeting/Open House will be held on November 7th.
- The Recognition party will be held on November 9th.
- The Holiday party will be held on December 1st.

Parks, Trails and Recreation Administrator, Paul Burkholder, presented the PTR Commission's proposed priority list for 2008.

He commented that the list is broken into four categories: Maintenance, Enhancement, Connectivity, and Special Events. Each category is subsequently broken into Budget Items (immediate) and Vision Items (future), which are to be theoretically financed and pursued differently.

He added that the PTR hopes to use this list during the November 13th working session with Council in hopes of receiving greater direction from Council and to provide insight into PTR's greatest concerns.

Departmental Monthly Reports

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

City Attorney

There was no report.

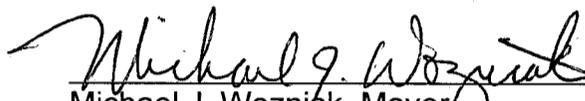
ADJOURNMENT

A motion was made by Councilmember Tisdale, seconded by VanderWerf to adjourn the meeting at 7:40 p.m.

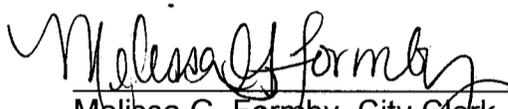
Vote to adjourn meeting. 5 Ayes. 0 Nays. The motion carried.

The meeting adjourned at 7:40 p.m.





Michael J. Wozniak, Mayor



Melissa G. Formby, City Clerk