

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, December 11, 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 Gerald Dahl, Finance Director Karen Proctor, Police Chief John Patterson, Public Works Director Jay Goldie, Parks, Open Space & Recreation Administrator Paul Burkholder, and Deputy City Clerk Sarah Henderson.

AUDIENCE PARTICIPATION PERIOD

Jack Lynn – 2501 South Leyden Street, Denver, Colorado

Zach Fedor – 5564 South Uravan Court, Centennial, Colorado

Jack Lynn and Zach Fedor spoke on behalf of the Youth Adult Summit, which is scheduled for March 8th at Grandview High School. They discussed the developmental assets that youth need to succeed both academically and socially. They mentioned that the Youth Adult Summit is geared towards 6th to 12th graders, as well as adults. Zach Fedor added that last year approximately 600 people attended the summit and their goal this year is to have 800 people attend. Jack Lynn requested the City contribute a \$1500 donation to the Community Asset Project to help with the estimated \$26,000 cost of the summit.

Mayor Wozniak stated that the City has supported the Youth Adult Summit for many years and that he and Councilmember Tisdale both attended past summits. Mayor Wozniak noted that the summit does provide opportunity for children, parents, teachers, and administrators to share and learn from each other.

Pat Boulding – 1415 East Tufts Avenue, Cherry Hills Village, Colorado

Ms. Boulding stated she was speaking on behalf of her neighbors: Suzie Woodward, Sam Kaufman, Sy and Ellie Katz, Lyndia McNeive and Lynn Hornbrook, Robert and Jacque McIntyre, Caroline and Joseph Kandel, and Cathy and Ted Pomeroy.

Ms. Boulding said that when they last approached the City about the St. Clair property at 4525 South Lafayette Street, it was their hope to raise a significant portion of the money needed to purchase the property, and to ask the City to financially join in that effort. She noted that they were unable to secure the \$3.2 plus million needed to purchase the approximately 3 acre property and that it was sold to an unidentified buyer, via sealed bid, on November 29th.

Ms. Boulding requested the City adopt a leadership role to help preserve a portion of the property at 4525 South Lafayette Street. She also urged the city to approach the buyer with a proposal to purchase as much of the northern acre as possible. Ms. Boulding further stated that the City could potentially create a pocket park and/or protect wildlife habitat.

Ms. Boulding urged the Councilmembers to summon the City's resources to find a way to preserve something natural, open, quiet, and rare for the ultimate benefit for the citizens that cherish the rural character of the community.

Councilmember VanderWerf inquired if a developer bought the property. Ms. Boulding stated she thought it was probably purchased by an individual. VanderWerf also inquired if the property was already subdivided into 3 lots.

City Manager Ensey said the information regarding this property is vague. Mr. Ensey stated a complete title history of the property would need to be done to determine if the property is subdivided.

Councilmember LaMair questioned if the proposed purchase of real property would need to be done in executive session and Mayor Wozniak stated it would.

Councilmember LaMair thanked Ms. Boulding for bringing this issue to the attention of the City Council.

Caroline Bliss-Kandel – 1700 East Stanford Avenue, Cherry Hills Village, Colorado

Ms. Bliss-Kandel said she felt saddened by the fact that she and her neighbors were unable to purchase the St. Clair property. She discussed her thoughts regarding other land that has been bought in the City and how it is often incorporated into gated estates and not public parks. Ms. Bliss-Kandel also stated it is time for the City government to take a leadership role in preserving the rural atmosphere of Old Cherry Hills and that it is her hope that the City is able to find the money to purchase the north portion of the St. Clair property.

Lynn Hornbrook – 1100 East Stanford Avenue, Cherry Hills Village, Colorado

Mr. Hornbrook stated he frequently walks his dog past the St. Clair property and that he is saddened by the changes in the nature of the community over the past 18 years. He mentioned that he recently served on the Master Plan Advisory Committee and he became cognizant of the fact that the citizens are very proud to have open space and parks such as Woodie Hollow, Three Pond Park, Meade Park, and the Highline Canal in the community. Mr. Hornbrook stated that the citizens would like to have more open space, and he understands that due to budget considerations, the Councilmembers needs to set priorities regarding acquiring more open space.

Proposed 2008 Budget

- a) 2008 Proposed Budget for the City of Cherry Hills Village
- b) 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
- c) Council Bill 14, Series 2007; A Bill for an Ordinance Authorizing Appropriations for Fiscal Year 2008

Finance Director Karen Proctor, introduced CB-13 and CB-14 on second 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. Ms. Proctor noted that the budget changes from the first reading only differed by a total of \$10,506 from first reading.

Mayor Wozniak stated he was initially concerned with some of the recent changes to the budget, until he noted that the final number had only been changed by approximately \$10,000.

Councilmember VanderWerf inquired about item # 24, which showed \$60,000 budgeted for the Woodie Hollow Shelter and the removal of an earlier proposed \$15,000 for the Little Dry Creek Master Plan.

A discussion ensued regarding the Woodie Hollow Shelter and the Little Dry Creek Master Plan. Mayor Wozniak noted that the Parks, Trails, and Recreation Commissioners made the recommendation to build the Woodie Hollow Shelter.

Councilmember Tisdale noted that further dialogue regarding Little Dry Creek is needed in the future, since it is a great asset. Tisdale noted that if neighbors in the area came forward, then the Council would be more than responsive in regards to this issue.

Councilmember Stewart inquired about the decrease of the sales tax revenue shown in the proposed budget compared with last years numbers. Ms. Proctor stated that last year the Women's Golf Open brought in additional sales tax and she also stated that the proposed budget numbers are conservative.

Councilmember Tisdale moved, seconded by Councilmember Roswell, 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 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 13-07. 5 ayes. 0 nays. The motion carried.

Councilmember Tisdale moved, seconded by Councilmember Roswell, 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 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 14-07: 5 ayes. 0 nays. The motion carried.

CONSENT AGENDA

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

- Approval of Minutes – November 13, 2007
- Expenditure of Funds and Contract for Services – Police Department Record Management System (2008 Budget)
- Resolution 10, Series 2007; A resolution authorizing the April 8, 2008 Cherry Hills Village Municipal Election
- Expenditure of Funds – Purchase of two patrol SUVs (2008 Budget)

The following votes were recorded:

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

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

NEW BUSINESS

Request by Jeff Johnson for approval of a floodplain development permit to allow construction of a garage addition within the designated 100-year floodplain for the property located at 1721 E. Stanford Avenue

City Manger Eric Ensey presented the request by Jeff Johnson for approval of a floodplain development permit to allow construction of a garage addition within the designated 100-year floodplain for the property located at 1721 E. Stanford Avenue. Mr. Ensey stated that the applicant's property is located almost entirely within the designated 100-year floodplain of Little Dry Creek, with only an "island" located higher than the base flood elevation, which is where the applicant's house is located.

Mr. Ensey noted that the applicant has submitted a copy of the Federal Emergency Management Agency regulations allowing for the construction of garages below the base flood elevation with the addition of appropriate ventilation in the foundation, which will still allow water to flow during the 100-year event. Mr. Ensey mentioned that the City's floodplain management regulations, which are based on FEMA's regulations, also allow for garage areas to be excluded from the requirements that other habitable structures would have concerning the lowest floor.

Mr. Ensey added that staff provided the Council with a detailed analysis of the criteria that must be considered in determining whether or not to approve this request. In this case, staff found that the request is consistent with the review and approval criteria as outlined in Chapter 16, Article 17 of the Cherry Hills Village Municipal Code and as described in the "Staff Findings" section of the staff memorandum. However, staff recommended that a condition be included as part of the approval requiring that ventilation in the garage foundation be installed in accordance with the FEMA Technical Bulletin 1-93 and such ventilation be reviewed and approved by the City as part of the building permit review.

Mayor Wozniak inquired if the application is for a garage only or for a garage and swimming pool. Mr. Ensey responded that the application was for both a garage and a pool.

Jeff Johnson – 1720 East Stanford Avenue, Cherry Hills Village, Colorado

Mr. Johnson stated he had been working on this proposal with his team unsuccessfully for two years. He mentioned that it has been a challenge to find a place to build due to the pond on the property and the floodplain issues. Mr. Johnson stated they were concerned about the impact of construction on the Little Dry Creek area, but have determined their proposed construction would not impact the Little Dry Creek.

Tom Fairley – Kiowa Engineering, 7175 W Jefferson Ave, #3400, Lakewood, Colorado

Mr. Fairley discussed the water flow around the house. Mr. Fairley stated the proposed garage is slightly lower than the house.

Mayor Wozniak and Mr. Fairley discussed FEMA venting regulations regarding garages that are below base flood elevation.

Mayor Wozniak asked Mr. Johnson to address the hardship issue in regards to his application.

Mr. Johnson said that the proposed location of the garage and pool is the best for their property. He further stated that it has been a hardship waiting for FEMA to adopt revisions to their regulations, which were delayed by Hurricane Katrina.

Councilmember Tisdale noted that the timing of the floodplain process is not fair, since it is the end of 2007 and FEMA still has not approved revisions to the 2003 floodplain.

Mayor Wozniak also stated that the applicant's property is 100% within the floodplain, which he noted was unusual.

Mayor Wozniak opened the public hearing.

No one wished to speak. The public hearing was closed.

The Councilmembers discussed the uniqueness of the property and application.

Councilmember Tisdale moved, seconded by Councilmember VanderWerf, to approve the request by Jeff Johnson regarding the property located at 1721 E. Stanford Avenue for approval of a floodplain development permit to allow construction of a garage addition within the designated 100-year floodplain, on the condition that ventilation in the garage foundation be included as a part of the building permit submittal process in accordance with FEMA technical bulletin 1-93, and that such foundation ventilation be clearly depicted on the building permit for the garage, and also that the floodplain development permit would be allowed for construction of the swimming pool, as reflected in the plans, and that the proposed floodplain development permit is consistent with, as stated above with the review and approval criteria for such applications as specifically outlined in Chapter 16, Article 17 of the Cherry Hills Municipal code, and as described in the staff findings section of the staff memorandum dated November 14th, 2007, which likewise is incorporated herein by this reference as contained in the December 11th staff memorandum.

The following votes were recorded:

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

Vote on the request by Jeff Johnson: 5 ayes. 0 nays. The motion carried.

Council Bill 15, Series 2007; A bill for an ordinance repealing and re-enacting Articles I through VIII of Chapter 18 of the Cherry Hills Village Municipal Code, concerning building regulation; adopting by reference, with certain amendments, the 2006 International Building Code, the 2006 International Residential Code, the 2006 International Mechanical Code, the 2006 International Plumbing Code, the 2006 International Fuel Gas Code, the 2006 International Energy Conservation Code, the 2005 National Electrical Code, and the 2006 International Fire Code; repealing all ordinances in conflict therewith; providing penalties for violation thereof; and amending Section 18-11-20(a) to increase the service expansion fee

City Manager Eric Ensey presented CB 15-07 on first reading. Mr. Ensey stated that the proposed bill repeals certain sections of the current Chapter 18 of the Municipal Code, regarding Building Regulations. Mr. Ensey further stated that the proposed bill would adopt the 2006 International Building Code, the 2006 International Residential Code, the 2006 International Mechanical Code, the 2006 International Plumbing Code, the 2006 International Fuel Gas Code, the 2006 International Energy Conservation Code, the 2005 National Electrical Code, and the 2006 International Fire Code

Additionally, Mr. Ensey stated the proposed bill includes certain amendments to the various building codes. Many of the various amendments proposed in this bill are similar to the amendments approved when the 2000 International Code series was approved by the Council.

Mr. Ensey introduced the City's Building Official, Mr. Steve Thomas.

Mr. Thomas gave a presentation regarding the major changes between the 2000 and 2006 series of International Code series. Mr. Thomas said the codes are updated every three years to address changes in new technology, new ideas, and new problems.

A discussion ensued regarding why amendments are issued. Mr. Thomas said that most of the amendments are related to administration related issues. He gave an example of fee schedules, which he said the codes do not address. Mr. Thomas further stated that there are not many technical amendments.

Mr. Thomas spoke about the Fire Code and explained the amendment regarding the requirement for sprinkler systems in single family homes.

Mr. Howard Harvey, the Fire Marshall from South Metro Fire Department, joined in the discussion and explained that sprinkler systems are an important life/safety issue. Mr. Harvey also discussed the radio alarm amplification system and the regional fire appeal board.

Councilmember LaMair asked Mr. Thomas about the State legislation that was passed last year regarding the International Energy Conservation Code. Mr. Thomas explained that the legislation adopts the 2003 or any new version, so that we would be in compliance with the state. Mr. Thomas said the Energy Conservation code provides for three options, which includes a prescriptive method, an envelope energy loss and efficiency of appliances program, and the third option is to follow a nationally recognized program such as Energy Star.

Ms. LaMair stated that the Council would like to take more aggressive actions regarding Energy Conservation in the future, including using the new village center as a teaching model for the community.

Mr. Ensey stated the City held a public open house on August 22nd for any contractors that were interested in the proposed code revisions. Mr. Ensey added that about 5 people attended the August 22nd meeting. Mr. Ensey further stated that notice regarding this evening's meeting was also posted.

Councilmember Tisdale moved, seconded by Councilmember LaMair, to approve CB 15-07, A bill for an ordinance repealing and re-enacting Articles I through VIII of Chapter 18 of the Cherry Hills Village Municipal Code, concerning building regulation; adopting by reference, with certain amendments, the 2006 International Building Code, the 2006 International Residential Code, the 2006 International Mechanical Code, the 2006 International Plumbing Code, the 2006 International Fuel Gas Code, the 2006 International Energy Conservation Code, the 2005 National Electrical Code, and the 2006 International Fire Code; repealing all ordinances in conflict therewith; providing penalties for violation thereof; and amending Section 18-11-20(a) to increase the service expansion fee

The following votes were recorded:

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

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

Council Bill 16, Series 2007 – A bill for an ordinance amending Chapter 2 of the Municipal Code, concerning Administration and Personnel, by amending Section 2-3-50, concerning Code Enforcement

City Manager Eric Ensey presented CB 16-07 on first reading. Mr. Ensey stated that the proposed bill clarifies the authority given to the City's Code Enforcement Officer's ("CEO") by providing the CEO the authority to enforce the provisions of the City's recently adopted Stormwater Management Regulations, which is Chapter 19 of the Municipal Code, and clarifying that the CEO may be assigned the enforcement of certain traffic regulations, including the enforcement of parking violations and assistance with traffic control.

Councilmember Tisdale moved, seconded by Councilmember VanderWerf, to approve CB 16-07, a bill for an ordinance amending Chapter 2 of the Municipal Code, concerning Administration and Personnel, by amending Section 2-3-50, concerning Code Enforcement.

The following votes were recorded:

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

Vote on CB 16-07: 5 ayes. 0 nays. The motion carried.

REPORTS

Members of City Council

Councilmember VanderWerf stated a 5.25 million dollar grant for the South Platte Greenway project was awarded by Great Outdoors Colorado (GOCO). Ms. VanderWerf stated the County might try for a similar effort regarding the Highline Canal. Ms. VanderWerf mentioned that she hoped that the Council and City would continue to be involved.

Ms. VanderWerf also provided an update on the history book and mentioned that a portion of it is ready for review.

Councilmember Stewart said the South Suburban briefs have been filed and he suggested they be posted on the website. Mayor Wozniak agreed they should be posted.

Mayor Pro-tem Tisdale stated he was delighted the budget included the Union Avenue crossing to help unite the east and west sides of Cherry Hills Village.

Councilmember LaMair attended the last Master Plan meeting with the Planning & Zoning and the Advisory Committees. Ms. LaMair mentioned that the group seemed very committed and she believes they will make good progress with the Master Plan.

Councilmember Roswell had no report.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Departmental Monthly Reports for November 2007 & Financial Reports for October 2007

City Manager Eric Ensey said the staff and departmental reports and unaudited financial statements were included in the packets.

Fairfax Street Water Line Extension

Director of Public Works Jay Goldie reported that in 1994 the City of Cherry Hills Village committed to installing a waterline extension from Fairfax Street under Bellevue Avenue to complete a loop in the supply system. Mr. Goldie discussed a letter written in 1994 by former City Manager, Charles Coward, which explained the reasons why the City is responsible for this project. Mr. Goldie stated there is an escrow account regarding this matter that currently has \$29,116.50 left, which is earmarked for this project. Mr. Goldie further explained that at one point the account held \$69,420.00, but

apparently \$36,303.50 was expended in 1994. Mr. Goldie stated that Denver Water has asked the City to follow through with the installation of the Fairfax water extension. Mr. Goldie added that Muller Engineering has prepared a preliminary cost estimate for this project of \$109,000.00, which does not include engineering fees. Mr. Goldie stated that staff has budgeted \$120,000.00 as part of Fund 20 (Water and Sewer) plus the \$29,119.50 in the escrow to pay for this project.

A discussion ensued regarding the unique nature of this situation, including the history of payments and expenditures into the escrow account.

City Manager Eric Ensey noted that the City's policy has been changed regarding the issuing of checks, so now that any expenditure over \$5000 must be approved by the City Council.

Parks, Trails, Recreation Commission Master Plan Position Statements (White Paper)

Mr. Eric Ensey stated that Staff was presenting Master Plan Position Statements/White Papers on behalf of the Parks, Trails, and Recreation Commission and they were seeking council approval to post them on the City's website, along with presenting them to the Master Plan consultants.

Mayor Wozniak thanked Councilmember LaMair on the good job she and the PT&R Commissioners did on the position statements. Mayor Wozniak agreed that they should be posted on the website and presented to the Master Plan consultants.

Upcoming City Council Meetings – January 15, 2008 (Regular Meeting), January 29, 2008 (Joint study session with Greenwood Village City Council at 6:00 p.m. at the GV City Hall Building; 6060 S. Quebec Street)

Mr. Eric Ensey informed the Council up the upcoming City Council dates for 2008. Mr. Ensey also informed the Council that candidate packets for the April elections are available.

Master Plan FAQs

Mr. Eric Ensey said the Master Plan "Frequently Asked Questions" was brought before the Planning and Zoning Advisory Committee. Mr. Ensey noted that the Committee spent a significant amount of time on the FAQ's. Mr. Ensey also mentioned that the P&Z Committee would like to post the FAQ's on the website after their next meeting, when they have a chance to make a few more revisions.

A discussion ensued regarding the Master Plan Consultants and the quality of work being provided by them. Mr. Ensey stated he spoke with the Master Plan Consultants regarding the quality of work concerns and the Consultants will be prepared to address the Committee during the next meeting regarding this issue.

City Attorney

There was no report.

EXECUTIVE SESSION

Councilmember Tisdale moved, seconded by Councilmember Stewart, to hold an executive session to discuss the purchase, acquisition, transfer or sale of real property interest pursuant to the provisions of CRS 24-6-402(4)(a); and to determine positions relative to matters that are subject to negotiations, develop strategies for negotiations, and instruct negotiators with regard to acquisition of certain real property pursuant to the provisions of CRS 24-6-402(4)(e), following conclusion of this executive session this body then return to its regular session for purposes of any further action that might be taken based upon the executive session

Councilmember Stewart recused himself from the first Executive Session.

The following votes were recorded:

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

5 ayes. 0 nays. The motion carried.

Council convened the first Executive Session at 8:23pm.

Council adjured from the first Executive Session at 8:43pm.

Councilmember VanderWerf moved, seconded by Councilmember LaMair, to approve the closing of the Anderson transaction pursuant to the terms of the documents presented to Council during Executive Session of December 11, 2007, and to direct Staff to bring to Council after the closing a resolution by which the Council may formally accept the conveyance of the Anderson property to the City.

Councilmember Stewart recused himself from voting on the motion.

The following votes were recorded:

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

4 ayes. 0 nays. The motion carried.

Councilmember Tisdale moved, seconded by Councilmember Stewart, to hold an executive session to determine positions relative to matters that are subject to negotiations, develop strategies for negotiations, and instruct negotiators with regard to the City Attorney RFP pursuant to the provisions of CRS 24-6-402(4)(e), following such Executive Session the Council will be adjourned.

The following votes were recorded:

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

5 ayes. 0 nays. The motion carried.

Council convened the second Executive Session at 8:46pm.

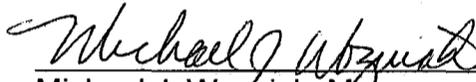
Council adjured from the second Executive Session at 9:26pm.

Mayor Wozniak noted that Councilmember Stewart recused himself from the first Executive Session and the motion regarding the first Executive Session.

ADJOURNMENT

The meeting adjourned at 9:26 p.m.




Michael J. Wozniak, Mayor


Sarah Henderson, Deputy City Clerk