

Minutes of the
 City Council of the City of Cherry Hills Village, Colorado
 Held on Tuesday, January 15, 2008 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, Mike Wozniak, Russell Stewart, and Klasina VanderWerf were present on silent roll call. Also present were City Manager Eric Ensey, City Attorney Thad Renaud, Finance Director Karen Proctor, Police Chief John Patterson, Public Works Director Jay Goldie, Parks, Crew Chief Ralph Mason, Open Space & Recreation Administrator Paul Burkholder, and City Clerk Melissa Formby.

Mayor Pro-Tem Doug Tisdale was absent.
 Councilmember Scott Roswell was absent.

Resolution 2, Series 2008; A resolution accepting the donation of certain real property known as the "Catherine Anderson Property" and expressing its gratitude to Ms. Catherine H. Anderson for the donation

Mayor Wozniak stated this donation was something that Councilors LaMair and VanderWerf have worked on for almost two years.

Councilor VanderWerf stated that when this Council was newly elected, they held a retreat and discussed the kinds of opportunities available to the community and the importance of those opportunities. She added that Councilor LaMair had a large hand in the process and the idea was really built on her suggestions. Councilor VanderWerf gave a history of Anderson Farms, she added that the things that mean the most to people about Anderson Farms have come together over the years; the beauty, the space, the history, nature.

Councilor VanderWerf said that Ms. Anderson has loved Anderson Farms the way it deserved to be loved. She added that because of Ms. Anderson's generosity, Anderson Farms would continue to be loved by the community and for generations to come. She thanked Ms. Anderson for her very generous donation.

Ms. Catherine Anderson thanked the community and the City Council for allowing her to donate her property and keep it the way she had always envisioned.

Councilor VanderWerf made a motion to approve Resolution 2-08 with gratitude and excitement. It was seconded by Councilor LaMair.

The following votes were recorded:

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

Vote on Resolution 2-08: 4 ayes. 0 nays. The motion carried.

AUDIENCE PARTICIPATION PERIOD**Stephanie Bluher – 82 Glenmoor Place, Cherry Hills Village, CO**

Ms. Bluher spoke on behalf of the Cherry Hills Land Preserve. She stated that with the passage of Resolution 2, one of the most beautiful and historic properties will be preserved for many generations to come. On behalf of the Cherry Hills Land Preserve, she thanked Catherine Anderson for her generosity.

Doug Hugh – 4021 S. Dahlia, Cherry Hills Village, CO

Mr. Hugh addressed the Council regarding the plowing of City sidewalks. He stated he understands that many other cities have a plowing requirement. He added that although the sidewalk on South Dahlia is widely used, he feels it is inappropriate to ask homeowners to care for that property. Mr. Hugh urged City Council to revise the policy regarding the plowing of City sidewalks.

Lori Hoffman - 3121 S. Dahlia, Cherry Hills Village, CO

Ms. Hoffman stated that Cherry Hills Village is a city of trails, not sidewalks. She added that any pathway that is paved along a priority street is plowed by the City. She said it is reasonable for the City to treat the homeowners along Dahlia consistently with the rest of the Cherry Hills Village residents.

Tom Hoffman – 3921 S. Dahlia, Cherry Hills Village, CO

Mr. Hoffman stated that when he shoveled his sidewalk, the City came by and plowed the snow right back onto the sidewalk. He requested the City look at the details of the ordinance.

Robbie Robinson – 4001 S. Dahlia, Cherry Hills Village, CO

Mr. Robinson commented that the public works staff work very hard during the winter months. He added that the residents did not ask for the sidewalk and stated he feels there is a problem.

Public comment was closed.

CONSENT AGENDA

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

- Approval of Minutes – December 11, 2007
- Intergovernmental Agreement – Fleet Vehicle Maintenance with the City of Englewood
- Contract for Services – Hazardous Waste Management with Curbside, Inc.
- Contract for Services – American Arbor Care
- Expenditure of Funds – Purchase of two public works trucks
- Expenditure of Funds – Purchase of a dump truck replacement bed
- Expenditure of Funds – Survey and inventory of the City's sanitary sewer lines
- Expenditure of Funds – Youth Adult Summit

The following votes were recorded:

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

Vote on the Consent Agenda: 4 ayes. 0 nays. The motion carried.

ITEMS REMOVED FROM CONSENT AGENDA

The following items were removed from the Consent Agenda:

- Expenditure of Funds – Purchase of a police department motorcycle

Councilor Stewart asked if the proposed motorcycle purchase was a lease. He also inquired as to why the motorcycle is coming from Grand Junction.

Chief of Police John Patterson stated the motorcycle is not a lease and would be purchased. He added that the motorcycle is coming from the Grand Junction Harley Davidson dealership because they deal with police vehicles on a regular basis.

Councilor Stewart made a motion to pass Consent Agenda Item 4G. The motion was seconded by Councilor Blum.

The following votes were recorded:

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

Vote on Consent Agenda Item 4G: 4 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. (final reading; public hearing)

Mr. Ensey stated that staff is presenting Council Bill 15, Series 2007 on second and final reading this evening. The proposed bill will adopt the 2006 International Building Code series along with the 2005 National Electrical Code.

The bill was presented to the Council on November 20th, 2007 on first reading. He stated that no subsequent changes have been made to the bill since it was presented on first reading.

Mayor Wozniak opened the public hearing.

No one wished to speak.

Mayor Wozniak closed the public hearing.

Councilmember Stewart 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:

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

Vote on the CB 15-07: 4 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. Mr. Ensey said that staff is presenting Council Bill 16, Series 2007 on second and final reading. The proposed bill clarifies the authority given to the City's code enforcement officer.

The bill was presented to the Council on December 11, 2007 on first reading. He added that no subsequent changes were made to the bill since it was presented on first reading.

Mayor Wozniak asked if the Code Enforcement Officer knows how to enforce storm water.

Mr. Ensey said that storm water enforcement is a learning process and the Code Enforcement Officer will learn how to enforce storm water.

Councilmember LaMair moved, seconded by Councilmember Blum, 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:

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

Vote on CB 16-07: 4 ayes. 0 nays. The motion carried.

Council Bill 11-07; A bill for an ordinance amending Chapter 17 of the Municipal Code, concerning Subdivisions, by amending Section 17-3-420, concerning Variance Procedures (first reading)

City Attorney Thad Renaud presented CB 11-07. He stated the genesis of this ordinance came from the Salazar request. On 9-18-07 Council tabled this item as more information was needed. The idea was to focus on the variance criteria that dealt with potential impacts of adjacent properties. Council was provided with a version of the ordinance based upon the previous discussion.

Mayor Wozniak inquired as to the third requirement. He asked how the third requirement would fit back into the Salazar requirements.

Mr. Renaud stated that Mr. Salazar was requesting two variances, the first was to create a substandard lot. Without a variance of some sort he would not have been able to make use of the second lot. He added that the other variance requested at the time was a variance with regards to the setbacks on the second lot. He mentioned there was a lot of discussion on that particular issue and that has now been addressed.

Mayor Wozniak stated there is so much reasonable use of the land that when it comes to the minimum variance, there is always something lesser you could do that would have a minimal impact.

Councilor LaMair said that her interpretation of the ordinance is that the minimum necessary, in the Salazar request, would not have been to require that both properties touch the highline canal. She added that she liked the language because she likes the idea of the Council being able to decide.

Councilor Blum stated that the BOA complains that they cannot use their discretion. She added that this can be rather frustrating for them.

Councilor Stewart recommended that requirement number three should instead say "the minimum variance required to cure the condition."

Councilor LaMair stated the verbiage allows Council to use more discretion if they are pushing too far with their request.

Mayor Wozniak asked Mr. Renaud to modify requirement number three.

Councilor Blum stated that the term "undesirable change" can be interpreted differently to people. She asked if it is necessary to use that term.

Mayor Wozniak stated the Council is going to have to be responsible for determining if the request really is an undesirable change.

Councilor Blum commented that future Councils may find themselves asking what it means.

Councilor LaMair stated the word undesirable should be rephrased. She suggested it be changed to something along the lines of "adverse impact."

Mayor Wozniak asked Mr. Renaud to modify the verbiage from undesirable change to adverse impact.

Mayor Wozniak asked Mr. Renaud to discuss item D.

Mr. Renaud said the idea on item D is that there are legal and illegal non-conforming lots. He stated that the City has now become express about the ability to grant variances due to size and is concerned that they don't set up a variance provision that would allow people to take illegal non-conforming, previously subdivided lots through a variance process in order to make the lot legal.

Mayor Wozniak clarified that if there was a one and a quarter acre lot in a two and a half acre zone, the property owner could not state they had a variance because of this provision.

Councilor LaMair inquired as to why the terms legal and illegal non-conforming lot were included:

Mr. Renaud stated the verbiage regarding a legal and illegal non-conforming lot was to prevent somebody who has a non-conforming lot from using these variance provisions to seek relief from the non-conforming status of the lot.

Councilor Stewart recommended the language state that no variance shall be granted to an illegal non-conforming lot.

Councilmember LaMair moved, seconded by Councilmember Blum, to approve, as amended, CB 11-07 on first reading. A bill for an ordinance amending Chapter 17 of the Municipal Code, concerning Subdivisions, by amending Section 17-3-420, concerning Variance Procedures.

The following votes were recorded:

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

Vote on CB 11-07 as amended: 4 ayes. 0 nays. The motion carried.

Resolution 1, Series 2008; A resolution designating the public place for posting notices of regular and special meetings

Mr. Ensey presented Resolution 1-08. He informed the Council that this resolution is done every year and is mandated by State Statute. He added that the City's public posting place is the board in front of the Village Center and public meetings are posted 24 hours in advance.

Councilor Stewart made a motion to approve Resolution 1-08. It was seconded by Councilor VanderWerf.

The following votes were recorded:

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

Vote on Resolution 1-08: 4 ayes. 0 nays. The motion carried.

Council Bill 1, Series 2008; A bill for an ordinance amending Section 2-4-130 of the Municipal Code concerning fees for jury service

Mr. Ensey presented CB 1-08. He said the Council Bill is being requested by Judge James Turre. Judge Turre has a jury trial in February and he is asking Council to approve an increase in the fees for jury service. Currently jurors who are asked to sit through a trial earn three dollars a day and Judge Turre would like to increase that fee to ten dollars a day for jury selection and fifteen dollars a day for jurors selected to sit through the trial.

Mayor Wozniak asked if the intent of this council bill included any portion of the day.

Mr. Ensey stated it includes any length of time if selected for jury service.

Councilor Stewart asked why the fee isn't consistent. He also asked why there is a ten dollar fee and a fifteen dollar fee.

Mr. Ensey stated the ten dollar fee is for those called to jury service and the fifteen dollar fee is for those who are selected.

Mayor Wozniak requested a survey be done for second reading on Englewood and Greenwood Village as to their jury fees.

Councilor Blum made a motion to approve CB 1-08. It was seconded by VanderWerf.

The following votes were recorded:

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

Vote on CB 1-08: 4 ayes. 0 nays. The motion carried.

REPORTS

Mayor's Report

Mayor Wozniak recommended cancelling the February 5th meeting due to the Colorado Caucus. After discussion with Council it was determined that the February 5th meeting would be cancelled. The next regularly scheduled meeting will be held on February 19th.

Mayor Wozniak strongly suggested the City not allow random calls to citizens at night from the Master Plan survey consultant. He also stated he was very concerned with the timeline of the Master Plan after seeing the first draft. He is skeptical that this will be done in March.

Mayor Wozniak mentioned that in previous years the City has worked with many communities to support grants and this year the City is going to ask for some grants.

He stated there have been a couple of Metro Mayors meetings. He added they have been very positive meetings.

Members of City Council

Councilmember VanderWerf stated the Legacy Foundation will be doing a presentation that follows the legacy grant given to the South Platte Working Group at the first meeting in February.

Councilmember Stewart had no report.

Councilmember Blum stated that Glenmoor is having their HOA meeting tonight. The residents are upset because they have lost five dogs in the last six weeks to coyotes. She has been asked by residents to pass along their concerns to Council. She stated they would also be discussing the fence situation at the HOA meeting.

Councilmember LaMair informed the Council that she would be attending the Denver Regional Council of Governments (DRCOG) annual retreat in February.

She added that she too is concerned with the Master Plan timing. She feels the Advisory and Planning and Zoning Commissions are working hard, but there is a lot of work left to be done on the final document. She suggested the City push the consultants further to get the work done properly.

She stated that Stephanie Blucher with the Cherry Hills Land Preserve took a very detailed approach to reviewing the survey after the Master Plan meeting.

She suggested the Council plan another retreat to discuss land acquisition.

Members of City Boards and Commissions

There were no reports.

City Manager & StaffFinancial Reports

The Financial Reports were included in Council packets. There were no questions from members of the City Council.

Departmental Monthly Reports

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

Snow Removal on City Sidewalks

Director of Public Works Jay Goldie made some clarifications to the staff memo issued to the Council. He said that there is a trail on Jefferson Avenue that the City does not plow and added that the church plows that trail.

He stated the City does take care of all of the sidewalks and/or trails in the right of way that are not used as a driven paved portion of the road. These trails are located on Hampden, Belleview and University. He added that they also remove snow on Colorado, Holly, Clarkson and Quincy as they are classified as regional trails. He mentioned that Holly does turn to concrete at the very south end of it but it is considered a trail. He stated that Dahlia is the City's first sidewalk; it was designed as a residential sidewalk and is four and a half feet wide. He mentioned that every other trail in the City is wide enough to use the City's equipment on.

He informed the Council that the smallest piece of equipment used for snow removal is 66" wide, which would not fit on the Dahlia Street sidewalk. He mentioned that if the equipment was used on the sidewalk, a portion of it would be in the front yards of residents.

He also clarified the reason they must clear curb to curb on each street is due to the ice and water flow problems from the snow. When they remove snow the equipment comes through at a given speed to remove the snow from the roadway and put it back onto the Dahlia Street sidewalk

Mayor Wozniak inquired as to when the ordinance was put into place. Mr. Goldie stated he would get back to the Mayor with that information.

Mr. Goldie added that he is not familiar with any Cities that do not require homeowners to shovel their sidewalks.

Councilor LaMair inquired as to the concern of using the current snow-plowing equipment.

Mr. Goldie stated there would be irrigation and sprinkler head damage on private property.

Councilor LaMair confirmed that there were numerous problems when putting the sidewalk in.

Mayor Wozniak asked who owns the sidewalk.

Mr. Goldie stated the sidewalk is in within the City right of way.

Councilor LaMair asked if there have been problems with irrigation with reference to the trails.

Mr. Goldie stated there are usually irrigation problems during the winter season. He added that residents are allowed to landscape and irrigate the right of way. A lot of people will install sprinkler heads against the trail facing the opposite direction and when watering of the trails occurs there are sprinkler heads being torn out of the ground.

He added that if it is determined that the landscape and irrigation is in the right of way, it is the resident's responsibility.

Councilor LaMair is concerned about using extra staff time to fix these sorts of things. She asked if there is any other kind of equipment to do this work.

Jay Goldie stated there is equipment that could clear this area but the City doesn't have that equipment.

Mayor Wozniak asked if it was discussed and/or understood that these types of things were going to be an issue when the sidewalk was put in place.

Councilor LaMair stated the issue was discussed, but the sidewalk was always on the back burner.

Mayor Wozniak asked if the sidewalk were to be plowed if it were larger than 66 inches in width.

Mr. Goldie said they would do whatever Council believes is best, but added that they just don't have the equipment to plow it.

Mayor Wozniak asked if the City holds any liability if someone is injured on the icy sidewalk.

Mr. Renaud stated there would not be any liability.

Mayor Wozniak stated he would be asking Mr. Goldie to put together further information regarding the man hours to hand shovel verses the purchase of the proper equipment.

Councilor Blum asked if there are any other places in the City that a new piece of equipment could be utilized.

Mr. Goldie stated there are not really any other areas that could utilize that piece of equipment.

Councilor LaMair stated that staff would never have put a sidewalk there if they new they would have to purchase new piece of equipment.

Mayor Wozniak stated this has to be looked at very carefully.

Councilor LaMair stated there is a burden on the neighbors that was not expected.

Mayor Wozniak stated that if this was taken on by the City we would have to take all future sidewalks into consideration.

Councilor Stewart stated the sidewalk was put into place to help keep children off the street. He then asked the length of the sidewalk.

Mr. Goldie stated the sidewalk is 1300 feet long.

Councilor Stewart suggested that resident's hire someone to remove the snow.

Mayor Wozniak suggested Council think about the issue and it be put on the next agenda.

Councilor VanderWerf stated they thought the sidewalk's purpose was for safety and added that it is not safe with snow on it.

Board of Adjustment and Appeals Vacancy

Mr. Ensey stated Mr. James Tarpey was appointed to the State of Colorado Public Utilities Commission and has submitted his resignation to the City. He asked if Council wanted the position posted to the website and a bulk email sent out.

Mayor Wozniak stated to post the opening.

2008 Grants for Parks, Trails and Recreation

Parks, Trails and Open Space Administrator Paul Burkholder stated he included in the packets a matrix of the grants that the City would like to take part in and described those grants.

Mayor Wozniak asked if applications would be placed for all the grants on the matrix.

Mr. Burkholder stated the matrix was narrowed down to a priority list of grants they think they can acquire. It is his intent to apply for each of these grants.

Councilor Blum said she is pleased to see the City is applying for these grants.

Councilor LaMair added that the Parks, Trails and Recreation Commission are very supportive.

Mayor Wozniak asked to proceed with these grant requests.

Highway User Tax Fund (HUTF) Certification

Mr. Goldie stated that each year the City is required to review the shape of their streets and highways. The criteria are based on the amount of roads the City has, as well as the amount of people they have. He added that there will not be any significant jump to the funds they already receive for the HUTF.

Mayor Wozniak asked Mr. Goldie to go ahead with the review.

Agreement to Connect to the City's Sewer Line – Armstrong Residence (4595 S. Vine Street)

Mr. Ensey stated there was a request to connect into the City's sewer line. The lot located at 4595 South Vine is in the Cherry Hills Village Sanitation District, but not in the City of Cherry Hills Village Sanitary Sewer District. The applicant has asked to tap into the City's sewer lines. He added that the Segelke residence has a similar arrangement with the City. Mr. Ensey asked if Council is interested in entertaining this option.

Mayor Wozniak said that as long as there is proper indemnification it is okay. He said it was okay to proceed but he would like to look at the agreement.

City Attorney

There was no report.

EXECUTIVE SESSION

Councilmember Stewart moved, seconded by Councilmember LaMair, 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) and further 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) and will then immediately adjourn the regular meeting.

The following votes were recorded:

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

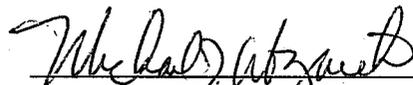
Vote to adjourn Executive Session and adjourn the regular meeting. 4 ayes. 0 nays.
The motion carried.

Council adjourned to an Executive Session at 7:58 p.m.

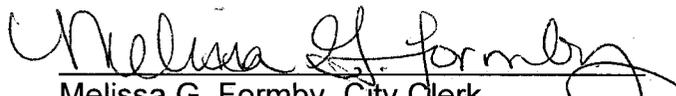
The Executive Session adjourned at 8:17 p.m.

ADJOURNMENT

The meeting adjourned at 8:17 p.m.



Michael J. Wozniak, Mayor



Melissa G. Formby, City Clerk