

**RECORD OF PROCEEDINGS**

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, March 4, 2008 at 6:30 p.m.  
At the Village Center

A Study Session was held at 6:00 p.m. with the City's Animal Control Officer and a representative from the Colorado Division of Wildlife to discuss co-existing with wildlife.

Mayor Mike Wozniak called the regular meeting to order at 6:37 p.m.

**ROLL CALL**

Councilors Bonnie Blum, Harriet LaMair, Mike Wozniak, Scott Roswell, Russell Stewart, Doug Tisdale, and Klasina VanderWerf were present on silent roll call. Also present were City Manager Eric Ensey, City Attorney Ken Fellman, Finance Director Karen Proctor, Police Chief John Patterson, Police Lieutenant Jody Sansing, Public Works Director Jay Goldie, Parks, Interim Open Space & Recreation Administrator Ryan Berninzoni, Crew Chief Ralph Mason, and City Clerk Melissa Formby.

**AUDIENCE PARTICIPATION PERIOD**

There was no one from the audience who wished to speak.

**CONSENT AGENDA**

Councilor Tisdale moved, seconded by Councilor VanderWerf, to approve item 4c of the Consent Agenda:

Item 4c - First Amendment to Agreement with American Traffic Solutions, Inc. for Photo Red Light System.

The following votes were recorded:

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

Vote on item 4c of the Consent Agenda: 6 ayes. 0 nays. The motion carried.

**ITEMS REMOVED FROM CONSENT AGENDA**

The following items were removed from the Consent Agenda:

- Item 4a - Minutes – February 19, 2008
- Item 4b - Intergovernmental Agreement with the Colorado Department of Transportation for installation of automated vehicle identification equipment (photo red light system)
- Item 4d - Expenditure of Funds – Buell Lake Open Space Tree Plantings

Approval of February 19, 2008 Minutes

Mayor Pro-tem Tisdale requested the word "compromising" on page 10 in the motion for the floodplain development request be replaced with the word "requiring."

Mayor Wozniak asked that "Bill Clinton" on page 11 of the meeting minutes be replaced with "Senator Clinton."

Councilor Roswell requested the opportunity to redline his comments during the discussion of the Floodplain Development Request as he felt his comments were not noted in its entirety.

Mayor Wozniak suggested the February 19<sup>th</sup> meeting minutes be amended and brought back for approval at the March 18<sup>th</sup> meeting. The Council agreed to bring the minutes back for approval.

Intergovernmental Agreement with the Colorado Department of Transportation for installation of automated vehicle identification equipment (photo red light system)

Mayor Pro-tem Tisdale asked if staff believes the photo red light systems the City currently has are working. He then asked about the upgrade of the automated vehicle identification system.

Lieutenant Jody Sansing informed Council that the automated vehicle identification system is part of the photo red light system. He further added that there are two different vendors for the system. He told Council that American Traffic Solutions was selected because their units are more discreet.

Councilor Tisdale moved, seconded by Councilor VanderWerf, to approve Item 4b on the Consent Agenda.

The following votes were recorded:

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

Vote on Item 4b: 6 ayes. 0 nays. The motion carried.

Expenditure of Funds – Buell Lake Open Space Tree Plantings

Director of Public Works Jay Goldie stated the Buell Mansion Owners Association has been working with City staff on upgrading and improving the area around Buell Lake. The area around the lake is part of the City's trail system. The City maintains the trail as well as a portion of the grassy areas around the lake. He added that the City maintains the irrigation around the lake. The Buell Mansion Owners Association approached the City about further enhancing this area. He mentioned to Council that as part of this improvement project the Owners Association is requesting that the City fund the \$9,000.00 tree planting cost that is part of the proposed project.

Mayor Wozniak inquired as to the request for \$9,000.00 because the two separate bids state \$8,000.00 and \$9,800.00.

Mr. Goldie said the \$9,000.00 request was a modification between the two bids.

Councilor LaMair asked who will pay for the irrigation of the trees.

Mr. Goldie stated there is irrigation already in place but it will need to be extended to the trees. He added the Buell Lake HOA will be paying for the extension.

Councilor LaMair asked if the trees are native to the area.

Mr. Goldie informed Council the tree species will be similar to the others that surround the lake. He mentioned they are trees that survive very well in this environment.

Councilor Tisdale asked if there are other gated communities that have park sites within them.

Mr. Goldie stated there are no other gated communities that have public parks within them. He continued by stating that there is public access through the front gate and the south side of the subdivision.

Councilor Tisdale asked if there is a large amount of public use around Buell Lake.

Mr. Goldie said there is limited use but there are people from outside of the community who come to walk around the lake.

Mayor Wozniak asked Mr. Goldie if staff was comfortable using \$9,000.00 of the \$38,000.00 allocated for the planting of trees for this project.

Mr. Goldie states staff believes it is an appropriate amount to spend on the planting of these trees.

Mayor Wozniak thanked the Buell Mansion Home Owners Association (HOA) for their contributions to the tree planting.

Councilor Stewart informed Council that the water comes from the High Line Canal, though the residents will pay for the water.

Councilor Roswell inquired as to using an automobile to access the lake.

Mayor Wozniak said the only way to access the lake is by walking, biking, or horseback riding.

Councilor Roswell mentioned he thought tree planting should be done through the HOA rather than the City. He added he is concerned that the City will spend a quarter of their tree planting budget for a gated community.

Mr. Goldie stated the City has worked with the HOA and the security guards to ensure that anyone can visit the lake by entering through the front gate.

Councilor Tisdale moved, seconded by Councilor VanderWerf, to approve Item 4d on the Consent Agenda.

The following votes were recorded:

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

Vote on Item 4d: 6 ayes. 0 nays. The motion carried.

Council Bill 2, Series 2008; A bill for an ordinance authorizing a supplemental appropriation for fiscal year 2008 [for the evaluation of the City's sanitary sewer infrastructure] (final reading)

Mr. Goldie presented CB 02-08, a bill for an ordinance authorizing a supplemental appropriation for fiscal year 2008 [for the evaluation of the City's sanitary sewer infrastructure]. He informed Council there have been no changes to this Council Bill since the first reading.

Councilor Tisdale moved, seconded by Councilor Stewart, to approve CB 02-08, a bill for an ordinance authorizing a supplemental appropriation for fiscal year 2008 [for the evaluation of the City's sanitary sewer infrastructure] in the amount as recommended which is \$31,212 relative to the assessment of the Cherryridge, Cherrymoor and Cherry Hills Rancho sanitary district sewer lines on second and final reading.

The following votes were recorded:

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

Vote on CB 02-08: 6 ayes. 0 nays. The motion carried.

Council Bill 3, Series 2008; A bill for an ordinance authorizing a supplemental appropriation for fiscal year 2008 [for the costs associated with the Anderson Conservation Easement] (first reading)

Director of Finance and Administration Karen Proctor presented CB 03-08, A bill for an ordinance authorizing a supplemental appropriation for fiscal year 2008 [for the costs associated with the Anderson Conservation Easement].

Ms. Proctor stated that Resolution 02-08 was approved on January 15<sup>th</sup>, 2008, accepting the donation of real property known as the "Catherine Anderson Property." She added that Council discussed and agreed to reimburse The Conservation Fund and Colorado Open Lands. At the time of those discussions, the costs were estimated to be approximately \$200,000 and the summary of actual costs submitted by the Conservation Fund and Colorado Open Lands was \$204,636.32. She informed Council that these funds were not appropriated in the 2008 budget and, as a result, a supplemental appropriation of funds is required.

Mayor Wozniak inquired as to Exhibit C and asked if there are any invoices and/or backup to the cost being discussed.

Mr. Ensey stated Sydney Macy would discuss those items.

Councilor Stewart asked if the direct cost would include legal expenses and said that if it did include legal expenses he would recuse himself from the issue.

Councilor Roswell asked about apportioning among the three funds available.

Ms. Proctor stated apportioning the funds is possible and is an option. She told Council she would look into it.

Councilor Roswell asked if there are projects coming along in 2008 that funds would be available for in the case of depleting one fund for the reimbursement.

Mr. Ensey said the accounts could be allocated between two separate accounts based on what the accounts are generating annually. He added he would look into apportioning the funds and discuss it on second reading.

Councilor LaMair stated it is important to see which fund has the most flexibility.

Mayor Wozniak stated the analysis needs to be done in order to figure out where the most flexibility comes from.

Ms. Sydney Macy informed Council that all legal costs were paid by Katherine Anderson. She added that the Stewardship Endowment cost of \$15,000 is really more of a contribution to the Endowment. She also said the \$5,000 cost is to cover the administrative cost; this cost is a one time flat fee charged to everyone and is not a transaction fee.

Councilor VanderWerf asked if part of the \$15,000 would be transferred over if the Cherry Hills Land Preserve took it over.

Ms. Macy stated that part of the \$15,000 might be transferred over. She added that is usually the sort of thing that is negotiated between the land trusts.

Mayor Wozniak inquired as to the conversation fund overhead.

Ms. Macy said the group has a policy that is based upon analysis of the cost to do these projects. The group charges anywhere between one (1) and five (5) percent; on smaller transactions the charge is normally about 5 percent and as they get larger the transaction fee gets smaller. She used Greenwood Ranch as an example and mentioned the transaction was \$70 million and they were charged under less than one (1) percent for the transaction fee. She added the fee is based on experience.

Councilor VanderWerf asked who paid the baseline.

Ms. Macy said the baseline was paid for by Katherine Anderson.

Mayor Wozniak asked if there is an appraisal to get to this number.

Ms. Macy stated a preliminary appraisal has been done and it was around \$8 million.

Councilor LaMair asked where the overhead money from the conservation costs goes.

Ms. Macy confirmed the overhead goes to administrative fees and support of regional office operations.

Mayor Wozniak apologized to Council because he thought these fees were out of pocket costs.

Councilor LaMair knew there would a contribution the Village would need to be made based on the size of the transaction.

Mayor Pro-tem Tisdale asked what extent of the fee is a negotiable number. He added it was not quoted as a transaction fee in the beginning and asked if there was a number given at an earlier date.

Ms. Macy stated there was not a number stated previously and that is why they gave a ballpark figure. She added the fee might be negotiable if it needs to be paired down to \$200,000.

Mayor Pro-tem Tisdale understands they did a lot of work and are entitled to a fee. He asked if a two (2) percent fee is the best fee available.

Mayor Wozniak stated he didn't realize this was what the transaction fee would be.

Ms. Macy mentioned the setting of the fee is difficult because the amount of the appraisal is unknown. She also said the fee is based on a sliding scale because of numerous factors.

Mayor Wozniak added that Council needs to be careful with how citizen's money is spent and needs to recognize the value of the gift received from Katherine Anderson.

Councilor LaMair moved, seconded by Councilor VanderWerf, to approve CB 03-08, A bill for an ordinance authorizing a supplemental appropriation for fiscal year 2008 [for the costs associated with the Anderson Conservation Easement].

The following votes were recorded:

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

Vote on CB 03-08: 6 ayes. 0 nays. The motion carried.

## **REPORTS**

### **Mayor's Report**

Mayor Wozniak recognized Mayor Pro-tem Tisdale for his work with DRCOG and asked Mr. Tisdale to continue as a representative for the City. He asked City Attorney Ken Fellman to look into the possibility of it.

Mayor Wozniak thanked Ms. Jane Soderberg for hosting the Land Preserve event in honor of Katherine Anderson.

Mayor Wozniak informed Council the First lady of Mexico is in the Village visiting this evening. He recognized Chief Patterson and the Police Department for handling these events with such grace and little disruption to the Village.

### **Members of City Council**

Councilor VanderWerf questioned whether the City might benefit from having a new master plan schedule since it has been indicated there is more time needed with regard to the master plan. She suggested a week by week schedule of what has occurred and what is going to happen next.

Mayor Wozniak asked who would do the weekly report.

Councilor VanderWerf suggested the consultant should do it.

Mayor Wozniak stated he and Mr. Ensey have been discussing the timing of the master plan. He said he does not want to bring new issues before Council until after the new councilors have been sworn in. He added there is a new survey just going out and there is not a second draft of the initial draft.

Councilor VanderWerf stated the consultant needs to understand that the City wants a good product.

Mr. Ensey informed Council that staff is currently working very closely with the consultant and the consultant is working on an outline of dates and timing. He mentioned the updates won't be weekly but will include various key points on the process. He also said there is another draft going around which hasn't been brought to Council because it is not yet complete. He said staff will share it with Council as soon as it is complete.

Councilor LaMair inquired as to circulating draft versions of the master plan to the Parks, Trails and Recreation (PTR) and Planning and Zoning Commissions prior to the survey going out.

Mr. Ensey said there are components of the survey that will need to be included in the master plan. He added that by the time the survey comes back, there will be minor tweaks and the results will be explained to the Commissioners at that time.

Councilor LaMair stated the process seems backwards.

Mayor Wozniak stated the survey is important and feels Council should have results from the survey before circulating another draft.

Councilor LaMair stated she is concerned because there will be a public hearing before PTR in the coming week and they will need more information before addressing the issue.

Mayor Wozniak said the City wants the best product they can get in a timely manner even if it needs to be pushed out a little. He invited Mr. Kevin Iverson of the Planning and Zoning Commission to discuss the master plan project.

### Mr. Kevin Iverson - Planning and Zoning Commission

Mr. Iverson stated the Commission members are all a little disappointed with the pace of the master plan project. He mentioned the pace of the project is not from lack of commitment or diligence on the part of the Commission. He said they have made significant progress over the last 30-45 days and have made a lot of changes to the

master plan draft. The Commission has passed their concerns on to staff and those were then shared with the consultant. He reminded Council there will be significant turnover to the Planning and Zoning Commission in May and the current members are concerned the master plan will not be complete by then.

Mayor Wozniak agreed there needs to be an end result prior to the Planning and Zoning Commission turnover. He said that the master plan will go to Council for review in May or June.

Mr. Iverson mentioned there were a lot of non-contentious items in the plan that could be reviewed by the Commission. He added that the results of the survey will guide them in the paths to take from here-on-out.

Councilor Stewart had no report.

Councilor Blum had no report.

Mayor Pro-tem Tisdale shared with Council how wonderful the Colorado Springs DRCOG retreat was. He said Councilor LaMair attended the retreat as well and mentioned there were a large amount of people and lots of wonderful information.

Mayor Wozniak thanked Councilor LaMair and Mayor Pro-tem Tisdale for going to the DRCOG retreat.

Councilor LaMair said she learned a lot at the retreat and it gave her the opportunity to get up-to-speed with DRCOG.

Councilor Roswell had no report.

### **Members of City Boards and Commissions**

There were no reports.

### **City Manager & Staff**

#### Snow Removal on City Sidewalks

Mr. Goldie informed Council staff researched policies of other municipalities and found their policies to be in line with staff's recommendations.

Mayor Wozniak mentioned that he walked the entire sidewalk to find out how many sprinkler heads were adjacent to the sidewalk. He said the majority of the lawns have sprinkler heads and believes they are going to have serious issues with hitting about 60 percent of the sprinkler heads on the lawns.

Councilor LaMair admitted the situation has bothered her. She recommended that while residents are getting used to the new snow plowing requirement, she believes the residents should have 48 hours to clear the snow rather than 24 hours.

Councilor Blum said that she is able to see both sides of the issue also. She said that she too thinks residents should have 48 hours so as to avoid having to shovel more than once due to the snow plows.

Mayor Wozniak stated it is a concern if the street is plowed and the snow put right back onto the sidewalk.

Mayor Pro-tem Tisdale wondered if rather than saying 48 hours for snow removal, the policy could allow for snow to be removed as soon as is reasonably practical.

Councilor Blum asked if that would apply to all future sidewalks.

Mayor Pro-tem Tisdale said he felt it would be a citywide ordinance.

Mr. Fellman suggested a variation on those ideas. He mentioned that the verbiage "as soon as reasonably practicable" is open for too much interpretation. He stated he would look into it and report back to Council.

Councilor Roswell said he was troubled that the neighbors were concerned for pedestrian safety, but yet don't want to shovel these sidewalks, which places the pedestrians back into the street

Councilor LaMair said she wondered if these residents felt they were being treated differently from others in the community.

Mayor Wozniak said this is the only place in the Village the City plows that causes problems because of the damage to irrigation. He also said he agrees with Mr. Fellman in offering a certain amount of time for shoveling but allowing for circumstantial time constraints.

Councilor VanderWerf stated that in the future Council should consider setting any new sidewalks back from the street so the snow from the snowplow does not become an issue.

Mayor Pro-tem Tisdale recommended Council be a part of the planning for all future sidewalks.

Councilor Stewart said the sidewalk is an amenity that the City gave residents and it comes with an obligation for the resident to maintain it. He asked what the definition of a sidewalk is.

Mayor Pro-tem Tisdale stated a sidewalk is something adjacent to the street; he said a walkway from a resident's front door to their driveway is not considered a sidewalk.

Mayor Wozniak asked Mr. Fellman to consider revising the language to define a sidewalk as something adjacent to the street.

Mr. Fellman assured Council he would look into it and will direct staff to come back with options in memo form as to what the language for an amendment might look like.

### **City Attorney**

Mr. Fellman requested Council have an executive session regarding the Davis partnership as he is concerned about what kind of communication was going on at the time.

**EXECUTIVE SESSION**

Councilor Tisdale moved, seconded by Councilor LaMair, to hold an executive session for the purpose of discussing personnel matters pursuant to CRS §24-6-402(4)(f), concerning department head annual evaluations *and* following the conclusion of that executive session, this Council meeting of March 4, 2008 be formally adjourned.

The following votes were recorded:

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

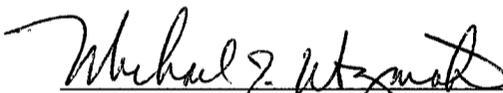
The motion passed unanimously.

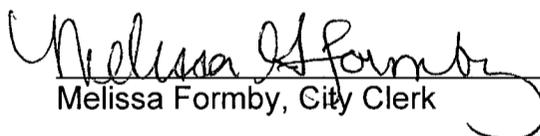
Council adjourned to an Executive Session at 7:56 p.m.

The Executive Session adjourned at 8:14 p.m.

**ADJOURNMENT**

The meeting adjourned at 8:14 p.m.

  
\_\_\_\_\_  
Michael J. Wozniak, Mayor

  
\_\_\_\_\_  
Melissa Formby, City Clerk