

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, April 15, 2008 at 6:30 p.m.
At the Village Center

A Study Session was held at 6:00 p.m. with the South Metro Fire Rescue District to present and discuss a possible merger with the Parker Fire Protection District.

Mayor Mike Wozniak called the meeting to order at 6:34p.m.

ROLL CALL

Councilors Harriet LaMair, Marcia Frew, Mark Griffin, Mike Wozniak, Scott Roswell, and Russell Stewart 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, Public Works Director Jay Goldie, Interim Parks, Trails & Recreation Administrator Ryan Berninzoni, Crew Chief Ralph Mason, and City Clerk Melissa Formby.

Absent: Klasina VanderWerf

OATH OF OFFICE

City Clerk Melissa Formby administered the Oath of Office to Councilor Marcia Frew.

AUDIENCE PARTICIPATION PERIOD**Kerry Sullivan – 2260 E. Grand Ave., Cherry Hills Village**

Mr. Sullivan spoke on behalf of the Planning and Zoning Commission. He stated the Commission was initially intimidated by the Master Plan but have now become quite comfortable and experienced in the area of the Cherry Hills Village Master Plan. Mr. Sullivan asked for Council's consideration to allow those members whose terms are soon to expire be able to continue on the Board until the completion of the Master Plan.

Nancy Moskal – 4740 S. Lafayette, Cherry Hills Village

Ms. Moskal informed Council that last fall she was running with her dogs off leash and was cited by Animal Control Officer, Michelle Edwardson. She asked Ms. Edwardson how much her fine would cost and was told she would be charged \$300 at which point she came before Judge Turre who rescheduled because he was her neighbor. She added that she was treated horrendously by the City Prosecutor and Ms. Edwardson. She understands she was guilty of the charge but felt the treatment was unfair. She then explained to Council that she was turned in by someone for walking her dogs off-leash and was tracked down by the police. She wanted to inform Council that she felt the police were coming after her because her dogs were off-leash and stated it is disrespectful and unfair.

Mike Moskal – 4740 S. Lafayette, Cherry Hills Village

Mr. Moskal stated the basic feel of the Village has changed over the last few years. He added he feels the community spirit is waning and mentioned the aggressiveness of the enforcement of the statutes. He said that because of the enforcement, families are pitted against each other.

Public comment was closed.

**PRESENTATION FROM THE PARKS, TRAILS AND RECREATION COMMISSION
CONCERNING SIGNAGE OPPORTUNITIES FOR SPECIAL EVENTS**

Ms. Theresa Gilpatrick and Ms. Jane Soderberg of the Parks, Trails and Recreation Commission (PTRC) spoke on behalf of the Commission. Ms. Gilpatrick informed Council the Commission is requesting that City Council give its approval for the addition of a sign to be placed on Quincy Avenue, north of the City Center building, that will enable the City to inform its citizens of activities and information.

Ms. Gilpatrick discussed the reasons for the request and stated the Commission feels the sign will support several facets of City operations:

- Council and commission meeting dates
- Special meetings such as Citizens City Center Committee and Master Plan meetings
- Special events which are for the benefit of the citizens and the City, such as the movie and the race

Ms. Gilpatrick stated the Commission is most anxious to see the City install a sign as a permanent method to effectively reach its citizens. She added that while they see the sign benefiting a number of entities, the PTRC is anxious to be able to use a sign at the City Center to promote two upcoming events in which they have invested a great deal of time and effort: the summer movie in John Meade Park, and the Race for Open Space. She said they are hoping for a strong turnout at these events and see the sign as a key method to reaching citizens in addition to the Crier, City email blasts and news releases in the Villager newspaper.

Ms. Gilpatrick also stated the funds to create and install a sign were included in the 2008 PTRC budget. In closing, Ms. Gilpatrick, on behalf of the PTRC, asked for Council's consideration concerning signage opportunities for special events.

Mayor Wozniak asked if they have come up with a design for the signage.

Ms. Gilpatrick stated it was not brought back before Council because the proposal was rejected.

Mayor Wozniak stated they should bring the issue back before Council with proper preparation, design and a use plan.

Ms. Gilpatrick stated they will come up with a final plan and come before Council again.

Councilor LaMair stated she believes the sign is a good idea and will offer a large communication base to citizens. She also stated the sign should not be lit.

City Manager Eric Ensey stated the code provisions state they are limited to one sign not to exceed six square feet. He added he would look into it further and report back to Council.

Ms. Gilpatrick thanked Council for their time and consideration.

Mayor Wozniak thanked Ms. Soderberg for her hard work with the Cherry Hills Land Preserve History event.

CONSENT AGENDA

Councilor LaMair moved, seconded by Councilor Roswell to approve the following items on the Consent Agenda:

- a. Expenditure of Funds – Purchase of an Irrigation Tap (Dahlia Street Landscaped Islands)
- b. Expenditure of Funds – Purchase of an Irrigation Tap (Quincy Avenue at Happy Canyon Road Landscaped Islands)
- c. Resolution 8, Series 2008; a resolution appointing Jamie Seitz to the Board of Adjustment and Appeals

The following votes were recorded:

Scott Roswell	yes
Harriet LaMair	yes
Mark Griffin	yes
Marcia Frew	yes
Russell Stewart	yes

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

ITEMS REMOVED FROM CONSENT AGENDA

The following items were removed from the Consent Agenda:

Approval of April 1, 2008 Minutes

Councilor LaMair stated she was not present at the April 1st meeting and the votes show she was present.

Councilor LaMair moved, seconded by Councilor Roswell, to approve the April 1, 2008 minutes as amended.

The motion passed unanimously.

Council Bill 5, Series 2008; a bill for an ordinance amending Section 2-6-30 of the Municipal Code, concerning terms of office for the Planning and Zoning Commission on first reading

City Manager Eric Ensey presented CB 05-08, a bill for an ordinance amending Section 2-6-30 of the Municipal Code, concerning terms of office for the Planning and Zoning Commission.

Mr. Ensey stated the proposed bill amends the term of office for Planning and Zoning Commissioners. He added that each member shall be appointed for a three year term with terms expiring the third Tuesday in September of each year. He added the Code currently identifies the expiration of a P&Z Commissioner's term in May of each year.

Councilor LaMair stated she thinks it is smart to allow the term limited members of the Planning and Zoning Commission to stay on until the Master Plan is completed. She added she thinks it would be a good idea to appoint but wait to seat the new members until the term limited members have gone off the board.

Council Stewart stated it is a good idea.

Councilor Stewart moved, seconded by Councilor Roswell, to approve CB 05-08, a bill for an ordinance amending Section 2-6-30 of the Municipal Code, concerning terms of office for the Planning and Zoning Commission on first reading.

The following votes were recorded:

Scott Roswell	yes
Harriet LaMair	yes
Mark Griffin	yes
Marcia Frew	yes
Russell Stewart	yes

Vote on CB 05-08: 5 ayes. 0 nays. The motion carried.

Council Bill 6, Series 2008; a bill for an ordinance amending section 10-4-30 of the Municipal Code, concerning trespassing on first reading

City Manager Eric Ensey presented CB 06-08, a bill for an ordinance amending section 10-4-30 of the Municipal Code, concerning trespassing, on first reading.

Mr. Ensey stated the proposed bill amends Section 10-4-30 of the Municipal Code, which outlines provisions for trespassing. He said the proposed amendment adds a clause clarifying that presence on private property is not a general offense if it is done in accordance with the parameters of the code concerning door-to-door solicitation.

Mr. Ensey added that staff does not think it was Council's intent to think that lawful door-to-door solicitation would be a trespass violation. He mentioned that staff has discovered a literal conflict between the languages of the two ordinances and rather than have a challenge regarding the ordinances and waiting for a court's interpretation, staff presented this Council Bill as a suggestion for resolving the conflict in the code.

Councilor Roswell asked if the ordinance was being brought before Council because of the resident's complaint regarding items that were left on their property when they were not there. He added the current ordinance does not address the issue of items being left at the homes.

City Attorney Ken Fellman stated the Charter provides for someone leaving something at a homeowner's door. It could be changed but it is a different issue than that of this ordinance.

Mayor Wozniak asked Council what their thoughts were.

Councilor Roswell asked if commercial speech can be restricted. He added that is a violation of the first amendment.

Mr. Fellman confirmed that limiting commercial speech is a violation of the first amendment.

Councilor Roswell stated he supports CB 06-08.

Councilor LaMair also stated she supports CB 06-08.

Councilor Roswell moved, seconded by Councilor LaMair, to approve CB 06-08, a bill for an ordinance amending section 10-4-30 of the Municipal Code, concerning trespassing on first reading.

The following votes were recorded:

Scott Roswell	yes
Harriet LaMair	yes
Mark Griffin	yes
Marcia Frew	yes
Russell Stewart	yes

Vote on CB 06-08: 5 ayes. 0 nays. The motion carried.

Mayor Wozniak asked Council to discuss the issue of leaving fliers and pamphlets on homeowners' doors.

Councilor LaMair stated it can be frightening and uncomfortable for someone to approach their front door to leave materials.

Mayor Wozniak discussed the restrictions and limits of the first amendment rights and asked Mr. Fellman to look into it.

Councilor Stewart stated there are times when people are expecting packages which would require someone coming to the front door.

Mr. Fellman stated you may be able to be more restrictive when it comes to commercial speech.

Mayor Wozniak asked if materials could be left in or on the mailbox.

Councilor Roswell stated there are postal limitations.

Mr. Fellman stated items can be placed on the mailbox, but not in it.

Councilor LaMair asked Mr. Fellman to research how one might be cited and how the ordinance would be enforced.

Mayor Wozniak asked Mr. Fellman to research the item further.

REPORTS

Mayor's Report

Mayor Wozniak asked Chief of Police John Patterson to commend Code Enforcement Officer Chuck Friend for the good job he is doing.

He stated he attended the Metro Mayors Caucus where they discussed the Democratic National Convention and the coordination of police for all events. He mentioned they also discussed transportation issues. He informed staff and Council that the State will not assist local municipalities with infrastructure this year or next year.

He informed Council that he, Mr. Ensey and Mr. Peter Kenney met this week to prepare an agenda for the City Council retreat being held on May 3, 2008.

Council liaison assignments

Mayor Wozniak informed Council of the new Council liaison assignments. He told Council he feels these are the best positions for the people chosen. He mentioned he would consider changes to the assignments if requested.

Members of City Council

Councilor Frew asked where the history book can be obtained.

Councilor Roswell apologized for not attending the Cherry Hills Land Preserve event. He also mentioned that he and Councilor LaMair are continually communicating with constituents as to their concerns regarding construction.

Councilor Stewart stated the Cherry Hills Land Preserve event was tremendous. He also said he received a Master Plan survey and he said it was very well done and it really focused on key issues. Mr. Stewart mentioned he has talked to neighboring residents about staging issues with regard to landscape.

Councilor LaMair stated the Cherry Hills Land Preserve event was very successful and it was done very well. She added there were approximately 200 people there and she thanked Councilor Klasina VanderWerf for her hard work.

Councilor Griffin had no report.

Members of City Boards and Commissions

There were no reports.

City Manager & StaffDepartmental Monthly Reports

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

Mr. Ensey asked Council to complete the informational sheets left at their seats and return them to City Clerk Melissa Formby by the end of the evening.

He also mentioned the Colorado Municipal Leagues' Newly Elected Officials training in May and asked those interested in attending to let him know.

City AttorneySnow Removal on Sidewalks

Mr. Fellman stated that most communities require homeowners to remove snow from sidewalks within 24-28 hours depending on the circumstance. He added that there are many ordinances in different municipalities but no exceptions to those ordinances. He mentioned that if Council would like to make an exception to the ordinance he has provided verbiage that could be used for that purpose. He added there should be some limit and some demonstration made by residents to find an alternative person to take care of the snow removal, though that would allow people to come before Council when being cited. He also mentioned they could say there are no exceptions made as all communities require it. He said another option would be to create a policy where a warning is given to remove the snow prior to being cited. He said there are not a lot of good options to please everyone and protect public safety.

Councilor LaMair stated she is inclined to enforce a policy that residents are given the opportunity to receive a warning prior to being cited.

Mr. Fellman stated if the Council pursues the option of the City taking responsibility for clearing the sidewalk, by accepting that responsibility, the City also takes on potential liability for any injuries and/or accidents.

Councilor Griffin asked what the policy of the City is with regard to clearing sidewalks within the City.

Mr. Goldie stated the main thoroughfares, Belleview, Hampden and University, are cleared by the City as that is required by the State. The City also clears Quincy, Colorado and Holly as they are regional trails.

Mayor Wozniak explained the history of the issue to Councilor Griffin and Frew.

Councilor LaMair stated that as the traffic calming project was planned, the sidewalk was not uniformly agreed upon.

Councilor Roswell stated the City made the decision to have the sidewalk. He also stated the ordinance was put into place for a reason and it should be enforced the way it is written.

Councilor Stewart stated there is a good reason other municipalities follow similar ordinances and he feels the City's ordinance should be enforced. But he also feels the City should have the discretion of enforcement with regard to special circumstances.

Councilor Roswell agreed that discretion is important with regard to the snow clearing ordinance.

Mayor Wozniak stated he is not comfortable with the City taking on the responsibility of clearing the sidewalks. He also agreed discretion is key when enforcing the snow clearing ordinance.

Councilor LaMair stated there are special circumstances and discretion is important.

Mayor Wozniak stated that upon review of Mr. Chuck Friend's citation records, it shows that he has been using a lot of discretion.

Councilor LaMair asked how many warnings are given.

Mr. Fellman stated there is no standard to the number of warnings given. He added there are options to allow a sensitive way of warnings and enforcements. He recommended Council direct staff to look into this. Mayor Wozniak stated there should be a sensitive way of enforcing the issue.

Mr. Fellman informed Council about legal action taken recently with regard to the publication and postings of public meetings.

Mr. Fellman also informed Council that one of the things he was asked to do was review the contract the City has with the City Prosecutor. He stated he has looked into the contract and has asked Council if they feel they are receiving what they need to keep updated with regard to the Court.

Mayor Wozniak asked that he and Councilor Stewart meet with Mr. Fellman to review the contract and then the issue be brought forward to Council.

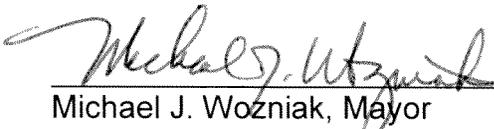
Mr. Fellman introduced Ms. Nancy Cornish to Council. He stated she is a member of his practice and would cover for him in his absence.

ADJOURNMENT

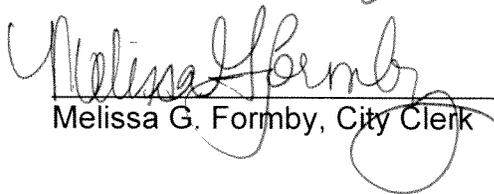
A motion was made by Councilor Stewart, seconded by Roswell to adjourn the regular meeting of the City Council.

The motion passed unanimously.

The meeting adjourned at 7:56 p.m.



Michael J. Wozniak, Mayor



Melissa G. Formby, City Clerk