

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, July 1, 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

Councilors Klasina VanderWerf, Marcia Frew, Mark Griffin, Mike Wozniak, and Scott Roswell 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, Planning Manager Rob Zuccaro, Parks, Trails & Recreation Administrator Ryan Berninzoni, Crew Chief Ralph Mason, and City Clerk Melissa Formby.

Absent: Councilor Harriet LaMair
Councilor Russell Stewart

PRESENTATION

Former Mayor Pro-tem and Councilmember Doug Tisdale presented DRCOG's Local Government Award to the City of Cherry Hills Village. The award given was the "Gold Award for Collaboration on the South Platte Greenway: Expanding an Urban Oasis."

AUDIENCE PARTICIPATION PERIOD

Julie Savoie – 1550 E. Tufts Ave.

Ms. Savoie told Council she was in favor of Council Bill 11-08 and was disappointed to hear that it was tabled. She stated she would like the bill to come back before Council in the near future. She added they were very excited and encouraged that Council created the Residential Development Standards Committee.

Laurel Raines – 4850 S. Lafayette Lane

Ms. Raines stated she applauded the Council for their commitment to the City and encouraged Council to be as forward thinking as possible with respect to the master plan and adopting a creative sustainable community.

CONSENT AGENDA

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

- a. Minutes – June 17, 2008
- b. Intergovernmental Agreement with the City and County of Denver for Police Services associated with the Democratic National Convention
- c. Memorandum of Agreement concerning local jurisdiction regulation of conveyances pursuant to the Elevator and Escalator Certification Act; Title 9, Article 5.5, Colorado Revised Statutes

The following votes were recorded:

Scott Roswell	yes
Mark Griffin	yes

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Marcia Frew	yes
Klasina VanderWerf	yes

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

ITEMS REMOVED FROM CONSENT AGENDA

The following item was removed from the Consent Agenda:

License Agreement with Denver Water concerning the flashing pedestrian poles at the High Line Canal crossings at Quincy Avenue and Colorado Boulevard

Mayor Wozniak informed Council that he has spoken with a representative of Mayor Hickenlooper about his concerns with this issue. He stated they were very positive and stated that they agreed to waive the fee.

Councilor Roswell moved, seconded by Councilor VanderWerf, to approve the License Agreement with Denver Water concerning the flashing pedestrian poles at the High Line Canal crossings at Quincy Avenue and Colorado Boulevard.

The motion passed unanimously.

UNFINISHED BUSINESS

Council Bill 10, Series 2008; a bill for an ordinance amending Municipal Code Section 18-10-20, concerning construction practices definitions; and Section 18-10-30, concerning administration of construction practices (final reading, item continued from June 17, 2008).

Planning Manager Rob Zuccaro presented CB 10-08, a bill for an ordinance amending Municipal Code Section 18-10-20, concerning construction practices definitions; and Section 18-10-30, concerning administration of construction practices.

Mr. Zuccaro said that staff is presenting Council Bill 10, Series 2008 for consideration on second and final reading. The proposed bill was continued from the June 17th meeting with direction for staff to amend the language so that small do-it-yourself type projects and small landscape projects were exempt from the construction staging requirements addressed in the bill.

He stated the bill amends Section 18-10-20 of the municipal code, which includes the definition of construction staging so that all activities, regardless of whether or not they require a permit, are considered a construction activity and are subject to the construction staging requirements.

Mr. Zuccaro added that the exception for small do-it-yourself type projects and small landscape projects was added to Section 18-10-30 as proposed in paragraph E. He stated that any construction activity performed by a property owner or occupant of property without the assistance of a contractor, or any landscaping, planting, or grading work that disturbs less than 500 square feet of property area and less than 10 cubic yards of soil shall not be subject to the requirements of this Article.

He explained to Council that the 500 square feet and 10 cubic yards of dirt was based on a City of Greenwood Village standard.

Councilor VanderWerf said that two main concerns with construction are heavy machinery and construction related noise. She said because the City has a noise ordinance, the noise issues can be controlled. She asked about heavy machinery issues and how those would be alleviated.

Mr. Zuccaro stated those issues would fall under the construction activity definition and added that type of work would fall into the construction hours.

Mayor Wozniak asked for clarification as to whether a homeowner could plant a large tree on a Sunday.

Mr. Zuccaro stated a homeowner would be allowed to plant a tree on a Sunday as long as they did not violate the noise ordinance.

Mayor Wozniak said he believes this exception should alleviate concerns of the Sunday prohibition of outside construction.

Mr. Zuccaro stated a homeowner can currently have significant landscape work done on a Sunday morning. Mr. Zuccaro added that the article addresses construction staging, construction site maintenance and times.

Councilor Roswell said that one of the things trying to be accomplished through this ordinance was primarily large landscaping projects. He stated this ordinance is a step in the right direction and feels the Residential Development Standards (RDS) Committee should review the ordinance.

Mayor Wozniak stated that landscaping projects were never subject to permit requirements previously and this bill now takes care of that.

Councilor Roswell stated the City was not trying to prohibit a person from gardening, planting flowers, etc.

Mayor Wozniak said that part of sub-paragraph E of the ordinance reads "any construction activity performed by a homeowner without the assistance of a contractor." He asked if that exception only deals with planting and grading work.

Mr. Zuccaro said the verbiage is meant to cover any kind of work that the property owner might be doing such as installing a fence or painting their house.

Mayor Wozniak asked if a permit would be needed if a homeowner wanted to do a roof remodel, without a contractor, and prior to construction hours beginning.

Mr. Zuccaro stated a permit for a new roof is needed, regardless of who pulls the permit.

Councilor Roswell stated a homeowner would be allowed to build a tree house in the back yard and it could be argued that it is construction, but it would not be subject to these provisions.

Councilor Frew stated that because the RDS Committee is being formed, they should also be looking at these issues.

Mayor Wozniak stated the City needs to recognize that the RDS Committee could take a significant period of time before they come before Council with any recommendations. He stated he would rather put the Council Bill into effect and review it later, if needed.

Councilor VanderWerf stated her concern was whether this idea was captured appropriately. She added that she does not necessarily have a better solution, but said she is in support of it.

Councilor Roswell moved, seconded by Councilor Griffin, to approve CB 10-08, a bill for an ordinance of the City of Cherry Hills Village amending Chapter 18 of the Cherry Hills Village Municipal Code concerning building regulations by amending Section 18-10-20, concerning construction practices definitions; and by amending Section 18-10-30, concerning administration of construction practices on second and final reading.

The following votes were recorded:

Scott Roswell	yes
Mark Griffin	yes
Marcia Frew	yes
Klasina VanderWerf	yes

Vote on CB 10-08: 4 ayes. 0 nays. The motion carried.

Council Bill 12, Series 2008; a bill for an ordinance authorizing a supplemental appropriation for the Settlement Agreement and Release with Davis Partnership Architects (final reading).

Director of Finance and Administration, Karen Proctor presented CB 12-08, a bill for an ordinance authorizing a supplemental appropriation for the Settlement Agreement and Release with Davis Partnership Architects.

Ms. Proctor informed Council there have been no changes since the first reading of this item.

Councilor Roswell moved, seconded by Councilor Griffin, to approve CB 12-08, a bill for an ordinance of the City of Cherry Hills Village authorizing a supplemental appropriation for the Settlement Agreement and Release with Davis Partnership Architects for fiscal year 2008 in the amount of \$170,000 on second and final reading.

The following votes were recorded:

Scott Roswell	yes
Mark Griffin	yes
Marcia Frew	yes
Klasina VanderWerf	yes

Vote on CB 12-08: 4 ayes. 0 nays. The motion carried.

Council Bill 13, Series 2008; a bill for an ordinance amending Chapter 18 of the Municipal Code, concerning Building Regulations, by amending Section 18-2-10(22), concerning amendments to the fire sprinkler system requirements of the 2006 International Residential Code (final reading).

Mr. Zuccaro presented CB 13-08, a bill for an ordinance amending Chapter 18 of the Municipal Code, concerning Building Regulations, by amending Section 18-2-10(22), concerning amendments to the fire sprinkler system requirements of the 2006 International Residential Code.

Mr. Zuccaro told the Council that staff is presenting Council Bill 13, Series 2008 for consideration on second and final reading. The bill was approved on first reading at the June 17th meeting and no changes have been made since that time.

He said the bill amends Section 18-2-10(22) of the Municipal Code pertaining to fire sprinkler requirements for residential construction. The bill will allow an exception to the requirement that all new homes and additions to homes greater than 50% of the original floor area, have fire sprinkler systems when minimum fire hydrant flow and location requirements are met.

Councilor Frew asked if a developer would be required to install a fire hydrant.

Mr. Zuccaro stated it is the developer's responsibility to install fire hydrants.

City Manager Eric Ensey informed Council there is a requirement that sprinkler systems in new homes are preferred as opposed to fire hydrants. He added the sprinkler systems help to mitigate in the instance of a fire, especially in those parts of the City where water pressures are lower.

Mr. Zuccaro stated the preferred option for any new home is to have a fire sprinkler system.

Councilor Griffin asked what the flows of the fire hydrants are throughout the City.

Mr. Zuccaro said he could not give a definitive answer but said it is based on the size of the house.

Mayor Wozniak said it is a positive option as it is a health and safety issue. He asked if staff thought about requiring a fire sprinkler for any new construction.

Mr. Zuccaro stated the code currently requires a sprinkler system for any new construction. He added that the exception being proposed was implemented when the building code was adopted earlier in the year, but that there was confusion in its implementation.

Councilor Frew moved, seconded by Councilor VanderWerf, to approve CB 13-08, a bill for an ordinance of the City of Cherry Hills Village amending Chapter 18 of the Cherry Hills Village Municipal Code, concerning Building Regulations, by amending Section 18-2-10(22), concerning amendments to the fire sprinkler system requirements of the 2006 International Residential Code on second and final reading.

The following votes were recorded:

Scott Roswell	yes
Mark Griffin	yes
Marcia Frew	yes
Klasina VanderWerf	yes

Vote on CB 13-08: 4 ayes. 0 nays. The motion carried.

NEW BUSINESS

Council Bill 14, Series 2008; A bill for an ordinance amending Chapter 16 of the Municipal Code, concerning Zoning, by amending Section 16-16-50, concerning Exterior Lighting (first reading).

Mr. Zuccaro presented CB 14-08, a bill for an ordinance amending Chapter 16 of the Municipal Code, concerning Zoning, by amending Section 16-16-50, concerning Exterior Lighting.

Mr. Zuccaro stated that staff is presenting Council Bill 14, Series 2008 for consideration on first reading. The bill amends Section 16-16-50 of the Municipal Code concerning exterior lighting. He said the proposal is a follow-up to the discussion item that staff presented to the Council at the May 6th meeting regarding entry monument lights.

He said the proposed amendments are intended to provide an enforceable standard for exterior lights that continues to provide a high standard for mitigating the impacts of exterior residential lighting on adjacent properties, roads and trails.

He added that the proposal includes two standards that can be met for an acceptable exterior light fixture. The first is the use of fixtures with fully shielded bulbs that do not emit more than 900 lumens of light (60 watt bulb), or if the bulb is not fully shielded, the light emitted can not exceed 500 lumens (40 watt bulb).

In closing, he said the proposed changes were presented to the Planning and Zoning Commission at their June 16th meeting and they recommended approval of the proposed amendment.

Councilor Roswell asked what "fully shielded" means with regard to fully shielded fixtures.

Mr. Zuccaro said the Code reads "it does not emit light above the horizontal plane of the bulb." He showed Council some photos to demonstrate a fully shielded and non-fully shielded light.

Mayor Wozniak said he thinks it is nice to have lighting at the entrance to a property that also allows lighting for those residents taking walks in the evening and helps with safety. He added that the City does not have street lights and said he wants to make sure this proposal is needed.

City Attorney Ken Fellman reminded Council that after staff investigated complaints, they found that a significant percentage of the population of the Village is currently in violation concerning lighting. He said the issue presented to the Council was to either enforce the ordinance and find most of the Village in violation, or change the ordinance. He added that staff tried to draft language that would not result in most of the community being in violation of the Code.

Mayor Wozniak stated that when the Council talked about exterior lighting they thought residents were violating the Code because the light was shining onto the property of surrounding homeowners. He said he wonders if this is the right way to go about it.

Councilor Roswell stated that this type of lighting can be beneficial for walking in the evenings as well as for safety purposes.

Mr. Ensey suggested leaving in the first sentence of the proposal and striking the last clause that reads "street or public property." He mentioned there could be a different set of standards for the entry/monument light. He also said there would still be adequate lighting provided on the adjacent rights of way and trails, but it would be minimized and less offensive.

Mayor Wozniak stated he would be more comfortable with Mr. Ensey's option.

Councilor Griffin asked if carriage lights would be allowed.

Mr. Zuccaro said carriage lights would be allowed, but the City would mandate the amount of light emitted.

Mayor Wozniak stated he would like staff to do more research and come back before Council with different language.

Councilor Frew stated that the Glenmoor Homeowners Association requires that carriage lights be on at night.

Mayor Wozniak stated there are neighborhood covenants with regard to lighting and said the City needs to correspond with those as well.

Mayor Wozniak asked for further clarification and language to be brought back to Council.

No action was taken on the part of Council.

REPORTS

Members of City Council

Councilor Frew had no report.

Councilor VanderWerf stated the Catherine Anderson conservation easement celebration was held on June 21st and added it was a wonderful event.

Councilor Roswell stated the 12th annual Old Cherry Hills Fourth of July parade will be held on Friday, July 4th.

Councilor Griffin stated that he and Councilor LaMair have been interviewing candidates for the Planning and Zoning Commission. He said he has been very pleased with the candidates and their talents.

Mayor's Report

Mayor Wozniak stated that he met with Mayor Hickenlooper, and that Mayor Hickenlooper expressed his gratitude to the City for their police assistance with the Democratic National Convention.

Mayor Wozniak mentioned he would be meeting with Chief of Police, John Patterson to review the Police budget. He urged the Council to meet with their staff liaisons to begin the budgeting process.

Mayor Wozniak stated he attended the State of the City by Mayor Hickenlooper.

Mayor Wozniak said that Greenwood Village Mayor Sharpe encouraged the City to continue their participation with the Denver Regional Council of Governments.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Master plan joint study session and public hearing dates

Mr. Ensey discussed dates of availability for the Master Plan study session and public hearing dates. He asked the Council which dates would work best for them for the joint study session. He added that staff would like to meet the week of July 14 – July 18.

Staff and Council discussed dates.

Mayor Wozniak stated the joint study session would be held on July 15th after the regularly scheduled meeting.

Mayor Wozniak asked if staff is anticipating the adoption of the Master Plan in one evening.

Mr. Ensey said the Master Plan would be brought to Council for adoption, but could be brought back on another date for adoption if Council needed more than one evening.

Mayor Wozniak expressed his concern with adopting the Master Plan on the night of the hearing; he recommended two meetings, a study session as well as an opportunity for public comment.

Mayor Wozniak stated they would schedule the joint study session, but hold off on scheduling the second meeting.

Council packets online

City Manager Eric Ensey told Council that the Council packets, including agenda items and exhibits, are now available to view online. He asked the Council if there were any members who would prefer not to receive paper copies of the entire packet.

Mayor Wozniak mentioned that Channel 22 should be updated with larger print in order to make it easier to read.

City Attorney

Mr. Fellman had no report.

EXECUTIVE SESSION

Councilor Frew moved, seconded by Councilor VanderWerf, to hold an executive session for the purpose of discussing negotiating strategy and instructing negotiators and receiving legal advice concerning the South Suburban litigation as authorized by CRS §24-6-402(4)(b)&(e); and following the conclusion of the executive session, this Council meeting of July 1, 2008 be formally adjourned.

The following votes were recorded:

Scott Roswell	yes
Mark Griffin	yes
Marcia Frew	yes
Klasina VanderWerf	yes

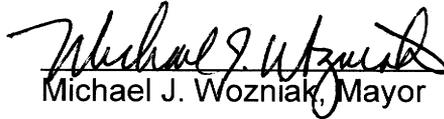
The motion passed unanimously.

Council adjourned to an Executive Session at 7:36 p.m.

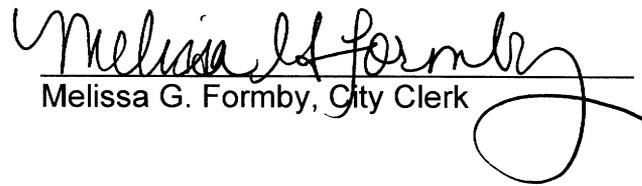
The Executive Session adjourned at 7:52 p.m.

ADJOURNMENT

The regular meeting adjourned at 7:52 p.m.



Michael J. Wozniak, Mayor



Melissa G. Formby, City Clerk