

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, March 3, 2009 at 6:30 p.m.
At the Village Center

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

ROLL CALL

Councilors Alex Brown, Klasina VanderWerf, 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, Planning Manager Rob Zuccaro, Parks, Trails & Recreation Administrator Ryan Berninzoni, and City Clerk Melissa Formby.

Harriet LaMair arrived at 6:39 p.m.

AUDIENCE PARTICIPATION PERIOD

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

PRESENTATION

The scheduled presentation was postponed to the March 17th, 2009 meeting.

CONSENT AGENDA

Mayor Pro Tem Stewart moved, seconded by Councilor Brown, to approve the following items on the Consent Agenda:

- a. Approval of Minutes – February 3, 2009
- b. Expenditure of Funds – Printing of City Trail Maps for Public Distribution
- d. Contract for Services and Expenditure of Funds – Dispatch Services with Arapahoe County
- e. 2009 Amendment to City Attorney Contract

The following votes were recorded:

Scott Roswell	yes
Harriet LaMair	yes
Mark Griffin	yes
Alex Brown	yes
Russell Stewart	yes
Klasina VanderWerf	yes

Vote on the Consent Agenda: 6 ayes. 0 nays. The motion carried.

ITEMS REMOVED FROM CONSENT AGENDA

The following items were removed from the Consent Agenda:

Councilor Roswell pulled item 5c for further discussion.

Contract for Services – City Engineer, Icon Engineering

Mr. Ensey introduced Mr. Penn Gildersleeve and Troy Carmann, representatives from Icon Engineering. He said there was an extensive RFP process and after numerous interviews, Icon Engineering was chosen as the new City Engineer.

Mr. Gildersleeve said he is honored to assist the City with their engineering needs. He stated their firm currently supports similar entities and expressed his excitement to begin work with the City. He offered his services should anyone have questions and mentioned that Mr. Carmann would be the City's day-to-day representative.

Mr. Carmann introduced himself and said he would be available to the City on a daily basis for the City's engineering needs. He said he has lived in the Littleton area his whole life and is happy to be working with the City.

Councilor Roswell said he did not understand the risk transfer section of the contract and asked why there was no indemnification language on the part of Icon Engineering in the contract.

Mr. Fellman said if the indemnification language was not in there, it was an oversight on his part and suggested they research the matter further. He asked Mr. Gildersleeve if it was not in there, would they be comfortable adding indemnification language to the contract. He recommended the Council approve the contract and have an amended contract brought back at the next meeting.

Mr. Gildersleeve said he would be happy to add the indemnification language.

Mayor Wozniak stated he would like to table the item.

Mayor Pro Tem Stewart moved, seconded by Councilor Roswell, to table the Contract of Services for City Engineer, Icon Engineering, to the next regularly scheduled meeting.

The motion passed unanimously.

UNFINISHED BUSINESS

There was no unfinished business.

NEW BUSINESS

There was no new business.

REPORTS

Mayor's Report

Mayor Wozniak said he has received many calls regarding the land dedication ordinance. He added there would be a study session on March 17th to discuss the item, and further clarified no action would be taken at that study session.

Mayor Wozniak received a call and a letter from Jerry Walker; Kent Denver School, asking the City to enforce the leash law on the Kent Denver property. He said the City will begin enforcing the leash law after a warning period.

Mayor Wozniak stated the Metro Mayors Caucus met a couple of times over the last month to discuss the FASTER Bill and the Stimulus Package.

Mayor Wozniak commended Mr. Zuccaro for redesigning the building division's monthly reports.

Mayor Wozniak said he met with representatives from the Cherry Hills Country Club. The Country Club has been awarded the United States Amateur Open in 2011 or 2012. He said the Country Club is going to work out all the permitting issues in advance. He added it is a less intense event than the US Open, but said it would still be broadcast by NBC.

Members of City Council

Councilor Brown said he has included a draft RFP in the Council packet and welcomed any comments on the part of the Council and staff. He added he has seen coyotes in his neighborhood and has found the coyotes have been startled by the act of hazing.

Mayor Wozniak asked if Councilor Brown would have a list of firms the RFP is being sent to.

Councilor Brown said he would provide a preliminary list to the Council and then have a discussion with Council regarding the matter.

Councilor VanderWerf stated the Residential Development Standards Committee (RDSC) is working hard and are honing in on some recommendations. At this point, it looks like the committee will recommend a combination of ideas, such as the idea for a formula for setbacks, height, and floor area ratio. She distributed a handout from RDSC Chair, Andrew Nielsen, showing what an area would look like if residents built-out to the setback. She also said she attended the Colorado Municipal League (CML) Transit Issues Meeting, and stated they discussed budget issues, the FASTER Bill, and the Stimulus package. She added the Parks, Trails, and Recreation Commission (PTRC) is still discussing a proposed Mansfield Trail. Lastly, she mentioned that she and Councilor Brown attended the Coyote Symposium and she stated she feels the issue at hand is a matter of changing human behavior.

Councilor Roswell said he and Councilor Brown met with the Chief and Facilities Manager of the Parker/South Metro Fire Authority to discuss the proposed Village Center. He said he has also received numerous emails regarding the coyote issue. He added he has not been able to attend many RDSC meetings lately but will have breakfast with two of the members to touch base on the work being done.

Mayor Pro Tem Stewart stated the South Suburban Parks and Recreation District oral argument would be held on April 21st at 9:00 a.m.; he added the issue could be resolved within one to two months.

Councilor LaMair said she, Councilor VanderWerf, and City Manager, Eric Ensey, met to discuss a proposed open space incentive program and would bring forward the formal discussion at the next regularly scheduled meeting. She stated she has received some complaints regarding the tree trimming along the High Line Canal and would talk to Mr. Jay Goldie and Mr. Ryan Berninzoni to discuss a procedure to follow.

Councilor Griffin said he spoke with Finance Director, Karen Proctor, about obtaining purchasing cards which would allow staff to use the cards to automatically be included in the tax exempt status. He said they would review the possibility and see if the City meets the thresholds that are available.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Departmental Monthly Reports

Departmental Monthly and 2008 Annual Reports were included in Council packets. There were no questions from members of the City Council.

Modification to Fingerprinting Procedures

Chief of Police John Patterson informed the Council that the Police Department provides fingerprinting services to residents and individuals who work within the Village. Currently the City does not charge residents or those who work in the Village a fee for this service. Approximately 80% of our requests for this service come from individuals who work for the various churches and schools in the Village.

He also mentioned that based upon a survey of other agencies and an increase in required procedures, the City would begin charging residents a \$5.00 fee for the first two fingerprint cards and \$5.00 for each additional card (oftentimes an individual will need up to 4 cards completed). Individuals who do not reside in the Village, but do work here will be charged \$10.00 for the first two fingerprint cards and \$5.00 for each additional card. He stated the procedural change would become effective April 1, 2009.

Mayor Wozniak asked why residents generally need fingerprinting services.

Chief Patterson said the majority of people utilizing the service are generally church and school employees as they utilize the service for background checks and the like.

Coyote Hotline

Chief Patterson said there has been a lot of success with the City's code and traffic hotlines. As a result, of this success, Animal Control Officer, Michelle Edwardson, has created a coyote hotline that is currently receiving 6-8 phone calls a day. He stated the City is going to be much more proactive with coyote issues and the police department staff will be out offering information to citizens. He mentioned the City is creating a coyote management plan as well that will be presented to Council for consideration.

Councilor LaMair said she has had calls inquiring about birth control for coyotes and asked if the City has any information about it.

Mr. Patterson said he has discussed the birth control issue with Ms. Edwardson and research has shown it has not been very successful. He said the coyote issue needs to be dealt with in a similar manner as a crime issue, meaning residents need to be educated on living with coyotes. Shooting them may only be appropriate in very rare circumstances.

Councilor LaMair asked if the Police Department would be available to discuss the issue with her neighborhood. She also asked that Ms. Edwardson come to her area and share information with her neighbors.

Councilor Griffin asked if it is legal to discharge a weapon in Greenwood Village.

Chief Patterson said it is legal to discharge a weapon within Greenwood Village city limits and added that may a bigger safety concern than the coyote issue.

Councilor Brown asked if there is any mapping being done to track the coyotes.

Chief Patterson said the City is tracking the coyotes and they appear to be everywhere throughout the City as opposed to one specific area. He said the Division of Wildlife is currently trying to locate the coyote dens.

Councilor Brown said that in many communities where there are coyote problems, it has been determined that these problems may be a result of the intentional or unintentional feeding of coyotes. Coyotes come to see humans as a source of food, and this is what causes them to lose their fear and approach humans.

Mr. Ensey said a draft coyote management policy is going to be brought forward in a study session within the next month or so.

Kent Denver Request for Leash Law Enforcement

Mr. Patterson stated Kent Denver school has submitted a written request to the City requesting the police department begin enforcing leash law violations on their property. He said this request is the result of a change in policy by the Kent Denver Board of Directors and is based upon a significant increase in the number of dog owners who are frequenting their property.

Mr. Patterson told the Council that enforcement would begin this weekend by the Code Enforcement officers. The officers would be passing out fliers to people walking in the area and along the High Line Canal; signs will be posted in the upcoming week and citations would not be issued until April.

Councilor Brown asked if the City has an ordinance requiring dogs to be on a leash on private property.

Mr. Fellman said a person can be cited for an off-leash dog on private property, if it is not your own property.

Councilor Brown said he feels the enforcement of this matter should be the responsibility of Kent Denver, as opposed to leaving it to the City.

Councilor LaMair stated the importance of the City to assist Kent Denver with their request. The off leash nature at Kent Denver makes people feel more comfortable to let their dogs off leash than in other areas of the City. She said it would be good for the City to encourage Kent Denver to fence off the section of Dahlia that people utilize.

Mayor Pro Tem Stewart said that Kent Denver is a good resident and the City should help them.

Draft "Request for Proposal; Village Center Conceptual Plan"

Mr. Ensey stated staff prepared a draft Request for Proposal (RFP) for the development of a conceptual plan for the Village Center Project. The RFP will seek proposals from land planners, landscape architects, architects, or other qualified municipal facility design professionals to analyze the existing Village Center site and prepare a conceptual plan for the redevelopment of the Village Center site.

The RFP indicates an expectation that a report will be presented to the City Council at the September 15, 2009 meeting. Staff is seeking confirmation from the Council on this date.

Mr. Ensey said the 2009 Budget includes \$150,000 for this conceptual plan although staff did not include the amount budgeted in the RFP. He asked if the Council is comfortable leaving the budgeted number out of the RFP.

Mr. Ensey also asked the Council as to whether or not the Council would like to proceed with the RFP. In addition, staff welcomes any comments or suggestions that the Council might have on the RFP document itself.

Councilor Brown said he would not want a budgetary amount in the RFP.

Councilor Roswell felt the amount should not be included.

Councilor LaMair asked if everyone is comfortable with the date.

Councilor Roswell said he would not want to move the date further out and would like to see it due sooner if possible.

Mayor Wozniak also said he does not want a budgeted number in the RFP. He said the project should continue to move forward and stressed the importance of sending the RFP to the appropriate recipients.

Goldsmith Fence Issue

Mr. Ensey said it appears the fence on the new Charlou portion is on the Cherry Hills Village side and is the responsibility of individual property owners. The Goldsmith Metropolitan District has shown no interest in maintaining the fence and added that it now falls on the individual property owners. The issue has been resolved as far as the new Charlou portion goes.

The old Charlou area shows the fence is on the Denver side of the municipal boundary; the Goldsmith Metropolitan District does not allow wooden fences anymore and their architectural control committee would require a masonry or metal iron fence. Mr. Ensey said he has been trying to get in touch with the eight property owners on the old Charlou side to discuss the issue. The homeowners have asked the City to write a letter to the architectural control committee on their behalf and added that Goldsmith seems to be moving towards removing the fence.

City Attorney

Landscape Buffer Discussion in the R-3A Zone District

Mayor Pro Tem Stewart recused himself from the discussion as he said he is directly impacted by the issue.

Mr. Fellman introduced Deputy City Attorney, David Foster, and explained Mr. Foster would be discussing the land buffer discussion. Mr. Fellman further clarified that no action would be taken but the matter would be brought back to the Council after further direction was given.

David Foster, Deputy City Attorney

Mr. Foster informed the Council that staff has been contacted by members of the Buell subdivision to investigate the 50-foot internal landscaping buffer that is identified in the City Code. He stated it is a very limiting buffer and that means very little can happen within that buffer. It seems there is an opportunity to discuss ways to either eliminate the buffer or make modifications to the buffer that would help address the concerns with the residents. He said there are numerous options to choose from and are asking for direction from the Council as to what they would like to do.

Mayor Wozniak said there were numerous discussions, during the Buell subdivision platting, about the 100-foot buffer next to the reserve as well as the 50-foot internal buffer. There were numerous hearings about the importance of keeping buffers between the residences.

Mr. Foster mentioned the current issue is not just with the 100-foot buffer, but the 50-foot internal buffer as well. He also said it doesn't only relate to the Buell subdivision, but the Covington subdivision as well.

Mr. Ensey noted the only portion of the Covington subdivision that has a 50-foot buffer sits right along the property line along Hampden and added it is not yet developed.

Mr. Foster discussed the options before the Council.

- Option 1 – Removal of the buffer
- Option 2 – Change the definition of the buffer to allow for uses/structures within the buffer
- Option 3 - Reduce the width of the buffer to coincide with the front and side setbacks that naturally occur
- Option 4 – Take no action

Mr. Foster told the Council that staff is recommending option number one which would allow for the ultimate removal of the buffer. He said it would not be done in a piecemeal fashion; rather the entire buffer would be removed all at once. If someone wanted to advance the notion of removing the buffer, that would be handled in one application and one process.

Mayor Wozniak asked what the standards for removing the buffer would be.

Mr. Foster said they would look at the ultimate intent of the buffer, what is the nature of the improvements that would exist, and whether the removal of the buffer would impact the intent of the original buffer. He said he does not believe it is the intent to allow for homes to be expanded within that buffer but rather allow patios, decks, etc. to be considered.

Mayor Wozniak asked who owns the buffer right now.

Mr. Foster said the individual property owners own the buffer.

Councilor LaMair asked if staff has looked into the history of the approval of the open space in Buell and how the buffer might have related to that.

Mr. Foster said there was no credit given to the buffer and/or dedication of the buffer.

Councilor LaMair said she would like to know more about the approval of the subdivision, the role of the buffer, the intent of the buffer, and what the members of the Council at that time felt.

Mayor Wozniak said there was a lot of discussion between the R-1 lots, R-3A lots and the buffers in between them. He said the meeting minutes are not always reflective of what has happened and added that he endorsed the idea by Councilor LaMair to research the thoughts on the part of the Council at the time.

Councilor Griffin asked if staff has polled all the people who are affected by the buffer in the Buell subdivision.

Mr. Foster said staff has not polled the residents but have been told that people who have the buffer on their property or live adjacent to the buffer have had the discussions and believe it is worthwhile. He added the City has not polled the individual property owners.

Councilor Griffin asked if there is a way to see if that is in fact the case.

Mayor Wozniak said the question is whether the Council wants to change the code for this modification.

Mr. Ensey reminded the Council this impacts all the R-3A properties, not just the Buell subdivision.

Councilor Brown said he would like to learn more about the issue. He said it seemed like a good plan at the time it was considered, but said the Council and staff should continue to research the issue.

Mayor Wozniak asked staff to conduct more research and bring it back before the Council within the next couple of meetings.

Councilor Roswell clarified that the property owner owns the land.

Mr. Foster said that was correct.

Councilor Brown asked how it relates to the setback.

Mr. Foster said it depends on where the buffer sits on the lot. He added that in some cases it would be a side setback and in others it would be a rear setback depending on the specific lot.

Mr. Ensey explained that "buffer" as defined in the City Code allows for only trees, plants and trails.

Mayor Wozniak said things evolve over time and they need to understand the thought process at that time.

Mayor Wozniak requested the item be set as a study session item.

Land Dedication Issue

Mr. Fellman said there would be an upcoming study session with regard to the Land Dedication issue.

Mr. Fellman also reported on current legislation that could impact local governments.

Mr. Fellman thanked the Council for approving his current contract and said he is honored to work with the City.

EXECUTIVE SESSION

Mayor Pro Tem Stewart moved, seconded by Councilor LaMair, to hold an executive session for the purpose of receiving legal advice from the City Attorney concerning a pending legal matter pursuant to the provisions of C.R.S. § 24-6-402(4)(b), concerning a prior City agreement and pursuant to the provisions of C.R.S. § 24-6-402(4)(f), also concerning staff annual evaluations, and at the close of the executive session adjourn the regular meeting.

The following votes were recorded:

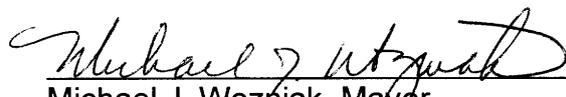
Scott Roswell	yes
Harriet LaMair	yes
Alex Brown	yes
Mark Griffin	yes
Russell Stewart	yes
Klasina VanderWerf	yes

The motion passed unanimously.

Council adjourned to an Executive Session at 7:42 p.m.

The Executive Session adjourned at 9:30 p.m.

The meeting adjourned at 9:30 p.m.



Michael J. Wozniak, Mayor

Melissa G. Formby, City Clerk