

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, May 5, 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, Harriet LaMair, 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 and Trails Administrator Ryan Berninzoni, and Deputy City Clerk Jessica Sager.

Absent: None

AUDIENCE PARTICIPATION PERIOD

Mark VanLoucks
1550 East Tufts Avenue
Cherry Hills Village, CO

Mr. Mark VanLoucks stated he would like to complain about the bicyclists in the Village. He said he realizes people come from other cities because the Village is so beautiful, but way too many of them ignore the traffic signs. He stated he has witnessed this first hand and suggested the Council require bicyclists register with the City and display a plate, similar to the license plate on a motorcycle, so they are easy to identify. He said he would be glad to assist staff in creating an ordinance.

Todd Wells
New Path Networks

Mr. Todd Wells advised the Council that he is an attorney representing New Path Networks. He has been working with City Attorney Ken Fellman and staff on bringing wireless communications into the City in an aesthetically pleasing way. He said a new technology has emerged called distributed antenna system. He explained the process would involve attaching a micro antenna to an Xcel pole as well as a fiber optic cable. He stated their intent was to improve and enhance the wireless service without affecting the aesthetics of the community. He advised the Council that New Path Networks has contracted with AT&T Wireless and they have identified nine poles they would like to attach the micro antennas to. He said while New Path currently has a contract with AT&T Wireless, they would also be willing to accommodate other carriers.

Mayor Wozniak commented the Council was very pleased when City Attorney Ken Fellman informed them of this new technology.

Jim Ruben
5 Random Road
Cherry Hills Village, CO

Mr. Jim Ruben advised the Council he is pleased with the changes staff has made to Council Bill 5. He stated it is a wonderful bill and is very much in favor of it.

2008 Audited Financial Statements

Councilor VanderWerf questioned a portion of the Village capital assets building and improvements and asked if it is a small amount because the building has depreciated.

Finance Director, Karen Proctor, stated that is correct.

Mayor Wozniak questioned a negative \$924,000.00 beginning fund balance for the Parks and Recreation Fund.

Ms. Proctor answered the Parks and Recreation Fund owes the General Fund \$1.5 million and at the time the 2009 budget was created, staff's best estimate of the ending balance for the 2008 Parks and Recreation Fund was a negative \$924,000.00.

Councilor Brown pointed out the actual beginning fund balance was a positive \$59,998.00.

Councilor Stewart noted the auditors mentioned former City Manager, Cheryl Kuechenmeister was still a signer on an account for the City and asked how staff plans to address their recommendation.

Ms. Proctor stated Ms. Kuechenmeister has been removed from the account and said she is creating a policy that will ensure former employees are removed immediately when they leave the City.

Councilor Stewart asked who is currently listed as a signer on the CSafe accounts.

Ms. Proctor answered she is listed as well as City Manager, Eric Ensey.

Councilor Russell Stewart moved, seconded by Councilor Scott Roswell, to approve the 2008 Audited Financial Statements

The motion passed unanimously.

Resolution 7, Series 2009; appointing a member to the Parks, Trails and Recreation Commission

Councilor LaMair stated she and Councilor Roswell interviewed six candidates for the open position on the Parks, Trails and Recreation Commission (PTRC). She said they had a hard time making a decision, as all of the candidates had great backgrounds, but stated they would like to appoint Jeff Ferrell and he has accepted the appointment.

Councilor Scott Roswell said he is in awe of the candidate's credentials and backgrounds. He believes Mr. Ferrell's experiences will be a good compliment to the current members of the Commission.

Councilor LaMair mentioned the PTRC Vice-Chair, Jane Soderberg, is very excited that Mr. Ferrell will be appointed to the Commission.

Councilor Harriet LaMair moved, seconded by Councilor Scott Roswell, to approve Resolution 7, Series 2009; appointing Jeff Ferrell to the Parks, Trails and Recreation Commission.

The motion passed unanimously.

UNFINISHED BUSINESS

Council Bill 5, Series 2009; a bill for an ordinance amending Chapter 16 of the Municipal Code, concerning Zoning, by amending Section 16-70-60, concerning Procedure for Development relating to bank stabilization within the floodplain (first reading; item tabled on April 21, 2009)

Mr. Rob Zuccaro stated subsection (d)(4) was modified so applicants would only be responsible for notifying adjacent property owners that have the floodplain boundary intersecting with their property. He stated there is no longer a provision that would allow the adjacent property owners to request a public hearing. He also stated it was also modified so the floodplain administrator could forward the request to Council for review. He said this would not be a full review so the hardship criteria would not be part of the review.

Councilor Stewart stated he is in favor of the bill, but questioned why the bill refers to the floodplain administrator in one section and then the City Manager in another.

City Attorney Ken Fellman answered there is a section in the code that says the City Manager is the floodplain administrator and the bill will be corrected to read City Manager for the next reading.

Mayor Wozniak asked if staff determined which body would hear an appeal, City Council or BOAA.

Mr. Zuccaro answered the appeal would be heard by BOAA.

Mr. Ensey stated the code is very strict and there cannot be an impact in elevation. He said if staff determines there is an abnormality in the application, they can request the Council review it.

Councilor Stewart said it has been suggested to define bank stabilization in the bill, but he believes it is better not to give an exact definition.

Mr. Ensey stated the Arapahoe County Drainage Manual defines bank stabilization.

Councilor Russell Stewart moved, seconded by Councilor Scott Roswell, to approve on first reading Council Bill 5, Series 2009; a bill for an ordinance amending Chapter 16 of the Municipal Code, concerning Zoning, by amending Section 16-70-60, concerning Procedure for Development relating to bank stabilization within the floodplain with the amendment that the term floodplain administrator in subsection (d) be changed to City Manager to be consistent with subsection (b).

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 Council Bill 05-2009: 6 ayes. 0 nays. The motion carried.

Council Bill 6, Series 2009; a bill for an ordinance amending Chapter 2 of the Municipal Code, concerning Administration and Personnel, by amending Section 2-6-10, concerning the Purpose of the Planning and Zoning Commission (final reading)

Mr. Ensey stated the bill will amend the code as it relates to the master plan process. The bill would give the Council the ultimate authority to adopt, reject or modify the Master Plan as it becomes necessary after a plan has been presented by P&Z. He mentioned there was one modification from the first reading with the inclusion of the severability section, but otherwise the bill remains the same.

Councilor Russell Stewart moved, seconded by Councilor Mark Griffin, to approve on second and final reading Council Bill 6, Series 2009; a bill for an ordinance amending Chapter 2 of the Municipal Code, concerning Administration and Personnel, by amending Section 2-6-10, concerning the Purpose of the Planning and Zoning Commission

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 Council Bill 06-2009: 6 ayes. 0 nays. The motion carried.

NEW BUSINESS

Resolution 7, Series 2009; a bill for an ordinance amending Section 16-16-130 of the Municipal Code concerning Wireless Communication Facilities, by amending Subsection (e)(2) and (3), concerning Wireless Communication Facilities in the public right-of-way

Mr. Zuccaro advised the Council the proposal will amend the City's regulations regarding wireless communication utility poles. He stated the code currently requires all wiring and cabling be confined inside the pole. The proposal would allow outside wiring as long as it is covered with a sheathing of the same color as the pole.

Councilor LaMair asked how quickly the project will be completed.

Mr. Zuccaro answered Cherry Hills Village is part of a larger project and New Path Networks will need to get approvals from two other cities: Greenwood Village and Centennial.

Councilor VanderWerf asked for clarification on the square footage of the pole.

Mr. Zuccaro answered all the utilities on the pole combined cannot exceed 15 square feet.

Councilor VanderWerf asked if the poles would only be along Quincy Avenue.

Mr. Zuccaro answered the poles would be spread out throughout Cherry Hills Village.

Councilor Scott Roswell moved, seconded by Councilor Mark Griffin, to approve Council Bill 7, Series 2009; a bill for an ordinance amending Section 16-16-130 of the Municipal Code concerning Wireless Communication Facilities, by amending Subsection (e)(2) and (3), concerning Wireless Communication Facilities in the public right-of-way

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 Council Bill 7, Series 2009: 6 ayes. 0 nays. The motion carried.

REPORTS

Mayor's Report

Mayor Wozniak mentioned he attended the Residential Standards Development Committee (RDSC) public hearing and said there was a good turnout. He stated the Committee had nine recommendations with charts to explain the recommendations and they also passed out a survey to the attendees. He said he is pleased with the group and is looking forward to the results of the survey. He thanked Chief John Patterson for the job that he and all the Police Officers do and mentioned he is constantly reminded of what a difficult job they have. He stated he is very impressed with the statistics reported by the Code Enforcement Officers. He asked staff to review the City's cable Channel 22 to see if some improvement can be made to make it quicker and easier to read. He requested staff include an article in the Village Crier regarding the survey conducted by the RDSC.

Members of City Council

Councilor Brown mentioned he met with two representatives from the Cherry Hills East Homeowners Association. He said they are excited about receiving the building permit data on a weekly basis. He mentioned Mr. Zuccaro is going to contact the homeowner's associations that staff has contact information for and will also submit an article for the next edition of the Village Crier. He said the RFP proposals have been reviewed and scored. From those proposals, the committee picked four companies to be interviewed. He stated they are continuing discussions with one company and hope to have a formal recommendation to bring forward at a future meeting.

Councilor VanderWerf mentioned she received her property value assessment and it has gone up slightly from the previous year.

Mayor Wozniak stated the value assessed is based off 2007 values and it could significantly decrease on the next assessment.

Councilor Stewart mentioned an article he saw in the Villager where the City of Greenwood Village is removing their state highways from the speed limit table so they can control their own speed limits. He stated he thought it was an interesting concept. He also mentioned the proposed police station for Greenwood Village is not going to go through.

Councilor LaMair asked if staff has followed up with Helen Freemeyer on the letter she submitted to Council regarding a dog park in the Village.

Mr. Ensey stated the issue will be brought before PTRC at their next meeting.

Councilor LaMair advised the Council DRCOG has restructured the way they are holding their meetings. The whole board is encouraged to go to the pre-meeting as well as the regular meeting. She mentioned she has registered for the National Association of Regional Councils Conference that is being held in Denver and said other Council members can attend some of the sessions if they would like.

Councilor Griffin mentioned the next BOAA meeting will be on Thursday. He stated he and Ms. Proctor have spent time reviewing the audit and stated she has done an excellent job with the City's finances.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

There were no reports.

City Attorney

Mr. Fellman advised the Council that Senate Bill 180 was amended and is now limited to a certain number of fire districts. He stated this bill pre-empts local authority and the Governor stated at a Colorado Municipal League meeting he would veto the bill, but that was before the bill was amended. He also advised the Council there was a Court of Appeals decision regarding the open meetings law and how an item is listed for executive sessions. He stated the current requirement is to list the reason for the executive session and the topic with as much detail as possible. He stated it is subjective on how much an executive session is described, but mentioned they will be very careful going forward.

EXECUTIVE SESSION

Councilor Russell Stewart moved, seconded by Councilor Scott Roswell, 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 land use approval and immediately upon ending the executive session the Council would be adjourned.

The following votes were recorded:

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

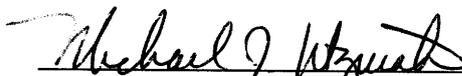
The motion passed unanimously.

Council adjourned to an Executive Session at 7:50 p.m.

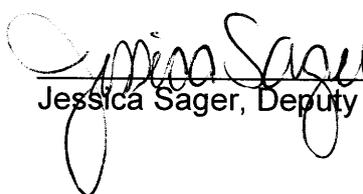
The Executive Session adjourned at 8:00 p.m.

ADJOURNMENT

The meeting adjourned at 8:00 p.m.



Michael J. Wozniak, Mayor



Jessica Sager, Deputy City Clerk