

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, June 2, 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 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, Crew Chief Ralph Mason, Lieutenant Jody Sansing, and Deputy City Clerk Jessica Sager.

Absent: None

Mayor Wozniak asked Director of Public Works, Jay Goldie, to discuss concerns residents have regarding the 2009 Chip Seal project.

Mr. Goldie explained there have been questions on the part of residents as to the practices of the Public Works Department. He stated the chip seal is cost effective and extends the life of the pavement. He mentioned they have tried other seals, but they did not last as long as the chip seal. He said chip seal is a quick application with minimal traffic disruption. He added Council approved the 2009 Street Improvement Project on April 7, 2009 and there were no comments or objections heard until Sunday, May 17, 2009, one week prior to the start of the project.

Councilor Harriet LaMair advised the Council the Public Works Department has been using chip seal for five years and has had very few complaints in the past. She asked Mr. Goldie to explain what happened with a chip seal project in Mansfield Heights 10 years ago.

Mr. Goldie explained the contractor that was hired did not stop in time for bad weather and the chip seal caused major damage to homes. He said they did not fix the streets to the City's standards so the streets were paved six years ago.

Councilor LaMair asked if there were any streets Mr. Goldie would not recommend using the chip seal on.

Mr. Goldie answered he would use it on all streets. He stated new technologies have been introduced, but because Cherry Hills Village is so small; he would prefer to let the bigger cities test those products first.

Councilor Klasina VanderWerf asked how long it would take the streets to smooth out.

Mr. Goldie answered it would start to lie down after six to eight months and will completely lie down after one year.

Mayor Pro Tem Russell Stewart asked the status of the project.

Mr. Goldie answered they have laid the chip seal on all the streets, but everything needs to be swept except the Mansfield Heights area.

**AUDIENCE PARTICIPATION PERIOD**

Chuck Schloss  
801 East Radcliff Avenue  
Cherry Hills Village, CO

Mr. Chuck Schloss suggested the City work with South Metro Fire to extend the height of the pole on the fire station to improve the cell service. He stated he would like to follow up on a memo he sent Council regarding a cement water pipe. He reminded Council of the potential health hazard of having residents get their drinking water from an asbestos cement pipe. Mr. Schloss offered to assist the Residential Development Standards Committee (RDSC) if they desire. He mentioned he is part of the Astrophysical and Planetary Sciences Department for the University of Colorado at Boulder and advised the Council they will be holding four lectures during the summer and invited them to attend.

Mayor Wozniak advised Mr. Schloss there is currently a cell tower in the flag pole at the fire station. He added there is an ordinance further along on the agenda for final reading regarding wireless service. He asked Mr. Goldie to follow up with Denver Water regarding the cement pipe issue. He stated the RDSC came up with seven major ideas, but would love any input. He also mentioned there is a survey residents can take and is available on the City's website. He said the astrophysics lectures are a good idea and hopes Mr. Schloss can get a sponsor to host the event.

Judy Trimble  
6499 Plateau Drive  
Cherry Hills Village, CO

Ms. Judy Trimble stated she was concerned with the Denver West fence issue. She mentioned some of the neighbors have already been robbed and is concerned what will happen if the fence is taken down. She doesn't believe the City or the neighbors should have to pay for the fence. She said Goldsmith didn't construct the fence correctly to begin with and asked staff to conduct more research to find the agreements.

Mayor Wozniak said staff has done research by searching through old files, but cannot find anything that reflects the old agreements. He stated the City will do the best it can to get Goldsmith to keep their end of the agreement.

Pat Adam  
4950 South Birch Street  
Cherry Hills Village, CO

Ms. Pat Adam mentioned she has seen a big difference in the behavior of the coyotes in the area. She stated she has lost four cats in five years and their dog was attacked a few weeks ago. She feels the neighborhood has become infested and stated it is only a matter of time before a human or child is attacked by a coyote. She would like the City to be more proactive and would appreciate the Council revisiting the issue or giving her an update on their stance.

Mayor Wozniak advised Ms. Adams the City has adopted a coyote management plan. He also mentioned the Division of Wildlife has attended Council sessions and advised the Council on issues related to coyotes. He said they will continue to work with Animal Control Officer, Michelle Edwardson, and hopes the plan will work, but if not it will be revisited.

Andy Nielsen  
4061 South Cherry Street  
Cherry Hills Village, CO

Mr. Andy Nielsen stated he is upset about the process for the chip seal project. He said he is skeptical of the cost savings presented to the Council and is frustrated the residents were not able to air their frustrations before the project happened. He asked the Council to review the chip seal process.

Mayor Wozniak stated the Council works with the Public Works Department on all their projects and the timing was typical of their notices. He said they were not aware there were concerns until they received the complaints from Mansfield Heights, but the contract was already signed. He will ask staff to reexamine all their options. He said he appreciates all the input.

Michael Barney  
4000 South Cherry Street  
Cherry Hills Village, CO

Mr. Michael Barney asked how many complaints the Public Works Department received.

Mr. Goldie answered he has complied all the e-mails and there were 17 household complaints out of the 336 houses that were noticed.

Mr. Barney asked the Council to look at alternatives and said the surface is not appropriate for kids on scooters or for street hockey. He asked if there were any additional options available for the residents now that the chip seal has already been laid down.

Mayor Wozniak stated it is a reasonable request and will have the Public Works Department review all options.

Jamie Lynch  
South Cherry Street  
Cherry Hills Village, CO

Mr. Jamie Lynch mentioned he is new to the area. He stated it is a stretch to compare the current street to an asphalt street. He said the process is troubling and underlined there has to be a way to make it better because it is unacceptable right now.

Don Pierini  
3981 South Birch Street  
Cherry Hills Village, CO

Mr. Don Pierini stated the chip seal cannot compare to asphalt. He requested the Public Works Department give more notice to the residents as he found out about the project five days before it started.

Mayor Wozniak stated the City tries to get information out ahead of time and said staff will do a better job of trying to anticipate these types of problems. He added they will look at all options and try to address the issues.

Chris Norin  
6400 Manor Drive  
Cherry Hills Village, CO

Ms. Chris Norin inquired about the Goldsmith fence issue and mentioned there are numerous security issues with removing the fence.

Mayor Wozniak said the fence issue will be on the agenda for a following meeting and reiterated the City is trying to get Goldsmith to honor their commitments.

Councilor LaMair stated she did not know the chip seal project would be an issue for the Mansfield Heights area. She said she found it difficult to see a significant difference between Viking Drive and Cherry Street as it is. She would like to understand what the neighbors see as a significant difference.

Councilor Scott Roswell stated he did not get any complaints in his neighborhood when the chip seal was done last year. He said he received several compliments from his neighbors commenting on how nice the streets looked after the chip seal. He added he and his kids ride bikes and roller blade on the street and does not see a problem with it.

### **CONSENT AGENDA**

Mayor Wozniak thanked Merle Chambers for her generous donation to the City.

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

- a. Approval of Minutes – May 5, 2009
- c. Urban Area Security Initiative (UASI) Intergovernmental Agreement
- d. Expenditure of Funds and Contract for Services – Village Center roof replacement
- e. Merle Chambers Bench Donation

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:

Resolution 8, Series 2009; appointing a member to the Parks, Trails and Recreation Commission (PTRC).

Councilor LaMair informed the Council that Ms. Heidi Schmidt Hammell did not reapply for the PTRC Commission. She added there were no applicants with equestrian background. She advised the Council she and Councilor Roswell conducted interviews and recommended appointing Ms. Katy Brown. She added Ms. Brown is energetic and very interested in the events aspect of the PTRC.

Councilor Roswell stated Ms. Brown brings a new perspective to the Commission and added he was also very impressed with her.

Mayor Wozniak thanked Ms. Schmidt Hammell for all of her work on the PTRC.

Councilor Harriet LaMair moved, seconded by Councilor Scott Roswell, to approve the Resolution 8, Series 2009; appointing a member 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 16-17-60, concerning Procedure for Development relating to bank stabilization within the floodplain (final reading, public hearing)

Planning Manager, Rob Zuccaro, presented Council Bill 5, Series 2009. He said the proposed bill was approved on first reading at the May 5, 2009 City Council meeting with the amendment that the term "floodplain administrator" be replaced with "City Manager" throughout the Council Bill. The proposed bill adds a separate administrative review procedure to the City's Floodplain Development Regulations for bank stabilization projects.

Mayor Wozniak opened the public hearing. There was no one from the audience who wished to speak.

Mayor Pro Tem Russell Stewart moved, seconded by Councilor Klasina VanderWerf, to approve on second and final 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.

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 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 (final reading, public hearing)

Mr. Zuccaro presented Council Bill 7, Series 2009. He stated the bill was approved on first reading at the May 5, 2009 City Council meeting. He mentioned there have not been any changes since the first reading. The proposed bill would amend the City's regulations for wireless communications facilities to allow any necessary wiring and cabling to be on the exterior of the utility pole and provides specific design guidelines for enclosure of the wiring and cabling within sheathing.

Mayor Wozniak opened the public hearing. There was no one from the audience who wished to speak.

Councilor Scott Roswell moved, seconded by Councilor Klasina VanderWerf, to approve on second and final reading 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 subsections 16-16-130 (e)(2) and (3), concerning wireless communication facilities in public rights-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 07-2009: 6 ayes. 0 nays. The motion carried.

### **NEW BUSINESS**

Council Bill 8, Series 2009; a bill for an ordinance authorizing a supplemental appropriation transferring money from the General Fund to the Catherine H. Anderson Land Donation Fund

Finance Director, Karen Proctor, presented Council Bill 8, Series 2009; at the request of Councilor LaMair, to transfer \$500,000.00 from the General Fund to the Catherine H. Anderson Land Donation Fund. She stated should the Council approve the proposed bill, the General Fund balance would be reduced to \$10,874,135.00 while the Catherine H. Anderson Land Donation Fund balance would be increased to \$684,400.00. She stated staff is not in favor of transferring the money at this time due to the uncertainties with property taxes in the coming years, the uncertainty of the South Suburban Exclusion and the possibility of building a new Village Center.

Councilor LaMair asked Ms. Proctor if the money were transferred, could it be withdrawn at the request of City Council if the funds had not been spent.

Ms. Proctor answered it could be moved.

Councilor LaMair stated the Catherine H. Anderson Land Donation Fund is an incentive program and the City should show the residents it is committed. She reminded the Council even though the money is transferred, it is still available. She stated this fund is a way to open up the process for people to apply to the City for funds to purchase property. She said passing the resolution to create the fund was a great first step, but now the City needs to try to draw in residents to match the funds.

Councilor VanderWerf stated she doesn't see transferring the funds as a big risk since the money will still be there. She said transferring the funds will show the City can be an active partner.

Mayor Wozniak stated he is not in favor of transferring the funds at this time. He would prefer to take the issue to the voters. He said that moving the funds would only leave \$1.3 million in the General Fund, after the City pays South Suburban, and is concerned if that modest amount is sufficient. He stated if there is a property the City would like to purchase, the funds can be taken from the General Fund. His primary concern is the

health and safety of the residents and mentioned several items for the Police Department were removed so the 2009 budget would balance. He would support a smaller amount going into the budget for 2010, but believes it is fiscally irresponsible to take \$500,000.00 and earmark it.

Councilor Roswell stated he supports the concept of open space, but does not support the amount requested.

Councilor Alex Brown stated this issue is a high priority for the community and is not a spending the money. He said it could lead to opportunities and suggested the City be a more proactive. He said he is not opposed to transferring the funds and thinks it is something they can continue to look at.

Councilor Mark Griffin stated he wholly supports open space, but \$500,000.00 is a large amount. He suggested taking a more cautious approach and believes the City has a responsibility to the residents to resolve South Suburban.

Mayor Pro Tem Stewart indicated that the Village budget for 2010 and future revenues are uncertain, and a smaller amount should suffice to assist in facilitating transactions like the Catherine Anderson property.

Councilor LaMair said she does not believe this issue needs to go to the voters. She stated she has heard from a number of residents that there is a strong support for the fund and the City has been asked to be a leader in open space. She said she agrees with some of the points brought up by Mayor Wozniak and suggested bringing the Council Bill back to a future meeting.

Councilor Brown said it is more of a discussion of timing and amount rather than support of the actual fund.

Mayor Pro Tem Russell Stewart moved, seconded by Councilor Harriet LaMair to table Council Bill 8, Series 2009.

The following votes were recorded:

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

Vote to table Council Bill 8, Series 2009: 6 ayes. 0 nays. The motion carried.

Council Bill 9, Series 2009; a bill for an ordinance amending Chapter 7 of the Municipal Code by adding Section 7-5-160, concerning the prohibition of feeding wild animals

Lieutenant Jody Sansing presented Council Bill 9, Series 2009 on first reading. He stated the adoption of the coyote management plan requires the modification of Section 7-5-160 to promote a more aggressive stance toward the purposeful feeding of wildlife within the City.

Mayor Pro Tem Stewart stated he would rather modify the language in Section 7-5-50 to read "it shall be unlawful for any person to feed, own, possess, maintain, shelter or trade in any of the following species of animals" and add coyotes to that list.

Mayor Wozniak said he did not like the language in the proposed Council Bill either.

Mayor Pro Tem Stewart indicated that he would like to proceed on amending the Council Bill with the new language, but inquired if it would be better for all to consider the changes and take up at the next Council meeting.

Mayor Wozniak suggested tabling and revising the proposed Council Bill and bringing it back to the next meeting.

Mayor Pro Tem Stewart moved, seconded by Councilor Alex Brown to table Council Bill 9, Series 2009.

The following votes were recorded:

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

Vote to table Council Bill 9, Series 2009: 6 ayes. 0 nays. The motion carried.

Council Bill 10, Series 2009; a bill for an ordinance amending Chapter 10 of the Municipal Code by amending Section 10-5-100, concerning throwing stones or missiles

Lieutenant Jody Sansing presented Council Bill 10, Series 2009 on first reading. He stated with the adoption of the coyote management plan which allows residents to throw stones or missiles when hazing coyotes, the current code needs to be modified. He said the proposed Council Bill would allow residents to throw stones, rocks or missiles when hazing coyotes.

Mayor Pro Tem Stewart suggested eliminating the statute.

Mayor Wozniak asked, if the statue was eliminated and the coyote management plan encourages the behavior, would someone would be in violation of another code referenced elsewhere.

Lieutenant Sansing said it is a minimal ordinance that someone could be charged with and the Police Department doesn't use it very often.

City Attorney Ken Fellman suggested amending the missile ordinance to define it as a way that causes a threat to human safety.

Mayor Pro Tem Russell Stewart moved, seconded by Councilor Mark Griffin to table Council Bill 10, Series 2009.

The following votes were recorded:

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

Vote to table Council Bill 10, Series 2009: 6 ayes. 0 nays. The motion carried.

## **REPORTS**

### **Mayor's Report**

The Mayor had no report.

### **Members of City Council**

Councilor Brown stated he hopes to have a formal recommendation for selection of a consultant on the Village Center project at the next meeting.

Councilor VanderWerf stated RDSC is moving along. She said she attended the Goldsmith fence meeting that was held at the City. Goldsmith proposed a synthetic fence to replace the existing fence.

Councilor Roswell reported he attended a meeting with the South Metro Fire about the consolidation of several of their stations. He said the discussion included closing Station 37, pulling an engine out of Station 38 and having the area serviced by other stations. He added it should be taken seriously that South Metro is looking at fiscal ways to cut their budget.

Mayor Pro Tem Stewart thanked Jay Goldie for working with CDOT on the Foxtail Circle turnout. He indicated that he read a news article stating the City of Greenwood Village intended to hire an in-house full time City Attorney.

Councilor LaMair mentioned DRCOG added a pedestrian and bicycle element to the Transportation Improvement Funding (TIF). She asked if staff could review the application process to see if the overpass/underpass project would be eligible. She said the water district in East Cherry Hills will be doing some waterline replacement in September so Mansfield Avenue will not be resurfaced until after that project.

Councilor Griffin reported the Board of Adjustment and Appeals meeting was postponed.

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

There were no reports.

### **City Manager & Staff**

#### **Departmental Monthly Reports (April 2009)**

Chief Patterson advised all departmental reports were included in the council packets.

#### **Unaudited Financial Statements (April 2009)**

Chief Patterson advised the statements were included in the council packets. He mentioned the golf tournament at the Cherry Hills Country Club begins in the morning.

#### **Belleview Avenue Medians**

Mr. Goldie advised the Council he has been approached by the City of Greenwood Village to see if the Village would be willing to review the numbers to determine the cost

of maintaining the Belleview Avenue medians. He said the agreement in place requires CDOT to maintain the medians, but there are currently 84 dead trees along Belleview Avenue. He will present the number to City Council at a future meeting.

Councilor VanderWerf asked if the Village pays to irrigate the medians.

Mr. Goldie answered the money the Village paid up front was to install the irrigation into the medians.

#### Denver Water - Franklin Water Line Replacement

Mr. Goldie reported the Fairfax water line has been installed and there have not been any complaints to date. He said Denver Water has begun a major project restoring Franklin Street and it should be completed in August.

#### Mansfield Avenue Trail Update

Parks and Trails Administrator, Ryan Berninzoni, advised that staff will be installing a marked on-street trail along the south side of Mansfield Avenue. The trail will consist of adding double white stripes on the southern portion of Mansfield Avenue, eight feet from the curb and gutter and will run from Colorado Boulevard east to Dahlia Street. Additionally to the double white stripes, "No Parking" signs will be installed along the entire length of Mansfield Avenue to define that portion of the street as a dedicated trail. He added that in 2010, the PTRC will consider installing a permanent trail on the north side of Mansfield Avenue.

Councilor LaMair stated she is concerned about the no parking aspect and wonders if the City needs to hold a public hearing.

Mr. Berninzoni answered that letters have been mailed to residents.

Councilor LaMair asked if all the residents in Mansfield Heights need to be advised there will no longer be any parking on the north side.

Mr. Goldie answered staff would only contact the owners of the yards where the no parking signs will be placed. He said they could hold off on installing the no parking signs and paint the stripes along Mansfield Avenue.

Councilor LaMair asked if staff had any plans for the southeast corner of Mansfield Avenue and Dahlia Street.

Mr. Goldie answered there are concerns about the southeast corner and plans will be brought to City Council at a future meeting.

#### Belleview Avenue Underpass at the Little Dry Creek Update

Mr. Berninzoni reported that staff has been in contact with the City of Greenwood Village and have been given a copy of the RFP submitted for the project.

#### **City Attorney**

Mr. Fellman told the Council he would be on vacation during the next regularly scheduled meeting.

**EXECUTIVE SESSION**

Mayor Pro Tem Stewart moved, seconded by Councilor LaMair, to hold an executive session for the purpose of receiving legal advice concerning the South Suburban litigation as authorized by CRS §24-6-402(4)(b)&(e) and further immediately upon conclusion of the executive session to adjourn.

The following votes were recorded:

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

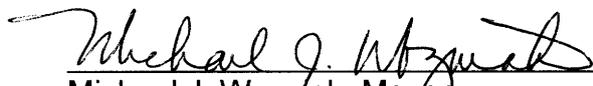
The motion passed unanimously.

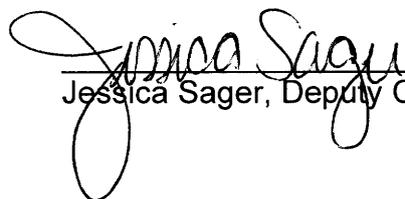
Council adjourned to an Executive Session at 8:55 p.m.

The Executive Session adjourned at 9:33 p.m.

**ADJOURNMENT**

The meeting adjourned at 9:33 p.m.

  
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Michael J. Wozniak, Mayor

  
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Jessica Sager, Deputy City Clerk