

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, August 4, 2009 at 6:30 p.m.
At the Village Center

Mayor Mike Wozniak called the meeting to order at 6:32 p.m.

ROLL CALL

Councilors Alex Brown, Klasina VanderWerf, Mark Griffin, Mike Wozniak, Russell Stewart and Scott Roswell were present on silent roll call. Also present were City Manager Eric Ensey, City Attorney Ken Fellman, 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: Harriet LaMair

AUDIENCE PARTICIPATION PERIOD

Michael Leede
1601 East Quincy Avenue
Cherry Hills Village, CO

Mr. Michael Leede stated he is the manager of Crescent Development and asked the Council to approve agenda item 4B, to amend the development agreement for Crescent Development. He stated the proposed amendment meets the City regulations, has been approved by the City Engineer and all three parties involved have agreed in principal.

CONSENT AGENDA

Councilor Klasina VanderWerf moved, seconded by Councilor Mark Griffin, to approve the following items on the Consent Agenda:

- a. Approval of Minutes – July 21, 2009

The following votes were recorded:

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

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

ITEMS REMOVED FROM CONSENT AGENDA**First Amendment to Development Agreement for Crescent Gardens Minor Subdivision**

Planning Manager, Rob Zuccaro, presented a request to amend the development agreement for the Crescent Gardens Subdivision to allow the current property owners to re-grade a trail easement along the western boundary of the subdivision to address some drainage issues. He stated this agenda item was tabled at the July 21st meeting in order to provide additional time for the neighboring property owners to review the proposal. The City has received a letter from an attorney on behalf of one of the

neighbors, which was distributed. He added the only change to the document was at the request of the City Attorney to amend Section 2.4 of the proposed agreement in order to provide clarification in the indemnification clause. No additional changes have been made to the proposal since the last meeting and the City Attorney has approved the agreement language.

Councilor Alex Brown asked if there have been any changes to the re-grading proposal.

Mr. Zuccaro stated there have not been any changes to the grading plan, only to the language in the agreement.

Mayor Pro Tem Russell Stewart asked if the Rieses had been contacted.

Mr. Zuccaro stated that after the last City Council meeting, he sent the Rieses and their attorney an e-mail advising them of the next City Council meeting. Also he received the letter from their attorney earlier in the day that was distributed.

City Attorney, Ken Fellman, stated from the start the Council has tried to get the neighbors to work together and made themselves available if the neighbors thought it would help. He said Council has always directed staff not to get involved in the litigation. Council is only reviewing the drainage proposal, as it would for any resident, regardless of litigation. Staff reviewed the application and determined that it is complete and does not violate City code as is mentioned in the Rieses' attorney's letter. He advised the Council this issue is separate from the litigation and there is no legal reason not to proceed. He also informed the Council that staff has been subpoenaed as expert witnesses, but they are not paid witnesses.

City Manager Eric Ensey, read City Code 17-4-40(6): "vicinity map showing major land use divisions, street and major drainage features for at least one-fourth (1/4) mile on all sides of proposed subdivision located in relation to governmental section lines"

Troy Carmann (City Engineer from Icon Engineering)

Mr. Troy Carmann advised the Council he reviewed the drainage plans and plat. They show major and minor drainage ways surrounding the property. He stated the code violation statement in the Rieses' attorney's letter is not accurate.

Mayor Wozniak asked if there were any clear violations.

Mr. Carmann stated he has determined upon seeing the code, there is not a violation.

Mayor Pro Tem Stewart noted the Council had read the court order resetting the trial and directing the parties to work together. He indicated that the Village would promptly respond to all requests and is available to assist the parties in complying with the court order. He indicated that he is comfortable proceeding on the request given the notice to the Rieses and the letter from the Rieses' attorney stating that they had notice and an opportunity to be heard on the proposed amendment.

Mayor Pro Tem Russell Stewart moved, seconded by Councilor Alex Brown, to approve the First Amendment to Development Agreement for Crescent Gardens Minor Subdivision.

The motion passed unanimously.

UNFINISHED BUSINESS

None

NEW BUSINESS

None

REPORTS

Mayor's Report

Mayor Wozniak advised the Council he has been asked to renew the Colorado Municipal league dues for the City. He mentioned the dues are not based on population alone, but also on assessed property valuation. He feels it is well worth the fee, but thought he should ask the Council if they had any concerns because the City is paying more per citizen.

He stated he received a letter from the Broncos organization stating they would like to show their appreciation by selecting a few cities and bringing the cheerleaders, the trophy and the mascot into those cities to greet the citizens. Mayor Wozniak suggested asking them to go to the Cherry Hills Village Elementary School in lieu of appearing at the City Center if the City is selected.

He advised the Council Glenmoor subdivision is having trouble with the Cherry Hills Village Sanitation District. He stated the Sanitation District is charging the subdivision for a sewer tap from 1986, with interest, for a guard house tap that Glenmoor cannot prove they paid. Mayor Wozniak asked Councilor Alex Brown to follow up on the issue.

He mentioned he was contacted by resident Glen Decker and was asked to look into an unfair assessment of a street cut permit fee. He was shown pictures of the street cut and feels it was appropriate so he left Mr. Decker a message saying he believes the fee was appropriate and staff acted correctly.

He stated he was also contacted by Mr. Piper who is building a home on Churchill Drive. Mr. Piper came in to pull a building permit and the City required Mr. Piper remove two entry posts that were installed. Mr. Zuccaro reviewed the site plan and it showed the two posts were on property that is jointly owned. According to Mr. Piper, four or five homes have built into that jointly owned area without valid permits. Mayor Wozniak advised Mr. Piper he could appeal the decision with the Board of Adjustment and Appeals, but wanted to let the Council know in case the issue came up again as a policy issue. He suggested to Mr. Zuccaro that if all the homeowners allow Mr. Piper to build the entry posts and Mr. Piper provides proof that they agree, he may be allowed to submit again.

Mayor Pro Tem Stewart inquired about the purpose of the easement.

Mayor Wozniak answered the property is deeded to all the property owners.

Mr. Ensey stated it is a tract of land that is owned by the homeowners.

Mayor Pro Tem Stewart inquired why the homeowners would need a permit to build on a private street.

Mr. Zuccaro answered the tract is under joint ownership and the application would have to be signed by all the property owners.

Mayor Wozniak advised the Council that he spoke to the County Commissioners about the open space grant program. He stated they may be willing to consider allowing the City to use it for a coyote study the Council discussed a few meetings ago.

He encouraged the Council to meet with their staff liaison to look at the 2010 budget. The first meeting for the budget will be on September 1st.

He mentioned he will be attending an all day Metro Mayors meeting and they will be discussing transportation issues with Governor Ritter.

He stated he has been getting more information on walkable cities and pedestrian cities. There hasn't been any connectivity from the east to the west side of the Village and it is an issue that needs to be addressed. He suggested it is something the Council could keep in mind for the 2010 budget and also suggested putting something together for the underpass they reviewed.

Councilor VanderWerf suggested having the new City Engineer review the underpass plans to see if there is anything he can suggest.

Members of City Council

Councilor Brown had nothing to report.

Councilor VanderWerf stated the South Suburban Park Foundation finished the Big Dry Creek Trail. She mentioned it was a 20 year process and their next project is a trail going through Centennial.

Councilor Roswell stated he was contacted by Jerry Presley and Denise Rhodes from Greenwood Village regarding the traffic signals at Glenmoor Country Club and Franklin Street. He told them there appeared to be no interest from the residents at Glenmoor and strong opposition from the residents on Franklin. Councilor Roswell invited Councilors Brown and Griffin to attend a meeting with him and Mr. Presley and Ms. Rhodes.

Mayor Pro Tem Stewart advised the Council that work was continuing on possible modifications to the R3-A buffer, and that something would be presented at a future Council meeting.

Councilor Griffin mentioned he went on a ride along with an officer and found it very interesting. He recommended all of Council go on one. He stated the sewer replacement is moving along and noted that a cell phone pole has been placed near St. Mary's Academy. He has been noting trends in the high end real estate market and thought it would be prudent to look at a Monte Carlo simulation for property taxes.

Mayor Wozniak stated Councilor Griffin's suggestion is a good one. He said an Arapahoe County Assessor attended a Metro Mayor's meeting and suggested they do not anticipate significant reductions of property values.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

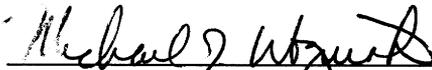
There were no reports.

City Attorney

There was not a report.

ADJOURNMENT

The meeting adjourned at 7:13 p.m.



Michael J. Wozniak, Mayor



Jessica Sager, Deputy City Clerk