

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, September 1, 2009 at 6:30 p.m.  
At the Village Center

Mayor Mike Wozniak called the meeting to order at 6:30 p.m.

**ROLL CALL**

Councilors Alex Brown, Klasina VanderWerf, Harriet LaMair, Russell Stewart, 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, Crew Chief Ralph Mason, and Deputy City Clerk Jessica Sager.

Absent: Mark Griffin

**AUDIENCE PARTICIPATION PERIOD**

Jason Matherly  
10 Random Road  
Cherry Hills Village, CO

Mr. Jason Matherly expressed his concern to Council about nuisance weeds in the City. He stated his 3-acre property is bordered by 780 feet of City trails and by Random Road. He is worried that the Canada Thistle problem is getting worse. The State Department's website lists Canada Thistle as a class B noxious weed. He advised the Council that he gave pictures of multiple class B and class C weeds, which are growing all over the City, to the Code Enforcement Officer, the City Manager, the Parks and Trails Administrator and the Planning Manager. He stated the City needs a more effective compliance program with a proactive attitude rather than a reactive attitude. He suggested the City hire an outside company to remove all the noxious weeds. He also suggested the City set an example by having the weeds on all the trails and public streets removed.

Mayor Wozniak asked Public Works Director, Jay Goldie, to present to the Council at a future meeting the City's current weed control policy on public lands.

**DISCUSSION-VILLAGE CENTER CONCEPTUAL PLAN UPDATE**

Diana Rael  
Norris Design  
1101 Bannock Street  
Denver, CO

Ms. Diana Rael introduced herself to City Council and advised them that Norris Design has completed the first task of looking at the site and region, mapping it and assessing it. She updated the Council on Norris Design's plan for the upcoming public meeting. She stated they have modified their initial approach for the meeting and they will be holding a series of focus groups that will address a specific topic and will only invite specific parties to attend the focus groups. She advised the Council that there will be a public meeting at the end of September that will be open to everyone. They will begin the conceptual planning effort in October and will hold another public meeting towards the middle of October.

Councilor Alex Brown stated the focus groups will have a narrow focus. He suggested each Councilmember recruit two residents from their districts and asked that those residents attend the some of the focus group meetings. He stated it will be a good way to build an educational base from a group of citizens to be more informed on what the City is doing. He asked the Councilmembers to provide the names before the first focus group meeting, scheduled on September 16<sup>th</sup>.

Mayor Pro Tem Russell Stewart requested the information for the public meeting be placed on the home page of the City's website and listed on the public notice board outside the Village Center.

### **CONSENT AGENDA**

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

- a. Approval of Minutes – August 4, 2009
- b. Resolution 14, Series 2009 – Appointing a member to the Parks, Trails and Recreation Commission

The following votes were recorded:

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

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

### **NEW BUSINESS**

Council Bill 13, Series 2009 – Amending Chapter 16 of the Municipal Code, concerning zoning, by amending Section 16-8-80, concerning procedures for removal of an internal buffer in the R-3A Variable Lot Residential District

Council Bill 14, Series 2009 – Amending Chapter 17 of the Municipal Code, concerning subdivisions, by amending Article VI, creating administrative plat amendment procedures for the removal of buffers established as a requirement of the zoning ordinance

Planning Manager, Rob Zuccaro, stated the proposed Council Bill 13 would amend the R-3A, Variable Lot Residential District buffer requirements found in Section 16-8-80 of the Municipal Code by allowing for the removal of the 50-foot buffer required in Subsection 16-8-80(c) by administrative action with the consent of all property owners subject to the buffer. Following the last set of Council's discussions, staff has worked with Mayor Pro Tem Stewart on creating the Council Bill that is currently before Council; which would allow for the removal of the 50-foot buffer by administrative review without the consent of the adjacent property owners.

Mr. Zuccaro stated the proposed Council Bill 14 would amend Article VI of the City's subdivision regulations for the purpose of creating an administrative plat amendment procedure for the removal of buffers established on subdivision plats as a requirement of R-3A zoning. Council Bill 14 is being proposed simultaneously with Council Bill 13, and would extend the procedures already existing for plat amendments. He stated the review would be similar to the lot line adjustment review and staff would recommend

having adjacent property owners sign off on the review if Council would like to pursue the code amendment.

Mayor Wozniak asked how the word adjacent is defined.

Mr. Zuccaro answered it is any property that shares a boundary, including a corner, or any property across a right-of-way.

City Attorney, Ken Fellman, suggested that staff could bring forward a code amendment at a later time to clarify the definition of "adjacent."

Mayor Pro Tem Stewart expressed concern that the buffers limited the use of a property. He added that all the owners, including those adjacent to the buffer, have signed a petition requesting the buffer be removed. In addition, he questioned the language in the proposed Council Bill that requires title insurance.

Mr. Zuccaro stated the requirement for title insurance is the current code requirement for administrative plat procedures and is a way for the City to confirm ownership.

Mayor Pro Tem Stewart suggested using another way to confirm ownership without requiring title insurance.

Mr. Zuccaro stated he would look into that for the next reading of the Council Bill.

Councilor Brown suggested a possible solution could be expanding the uses in the buffer. He understands the reasons behind repealing the 50-foot buffer, but would like to see if there is another way to accommodate the R-3A uses.

Mayor Wozniak stated at the time the buffers were installed the land was under litigation and the previous Council insisted on the buffers to protect future homeowners. He understood Councilor Brown's concerns about the issue of use within the buffer, but stated the parties that previous Council was trying to protect are now asking to have the buffer removed.

Councilor Brown asked if the buffer would be removed or if the Council is creating an option for it to be removed.

Mayor Pro Tem Stewart clarified the Council Bill was created based on many different options discussed with staff and the City Attorney and the verbiage in the bill will need to be adjusted. He stated the buffer policy is inconsistent with other things in the code. He said there shouldn't be a different setback for this area than every other ½ acre lot.

Councilor LaMair asked how the setback and the buffer relate to each other.

Mr. Zuccaro answered that if the buffer were to be removed then the lots would revert to the 25-foot setback as outlined for the zone district.

Councilor LaMair asked if the 50 foot-buffer could be changed to a 25-foot buffer.

Mayor Pro Tem Stewart answered that a buffer is a restriction on use and can only be used for plants and trails.

Councilor Brown inquired about overlaying a setback with the buffer.

Mayor Pro Tem Stewart stated a setback prohibits some uses; whereas the buffer prohibits virtually all uses.

Councilor LaMair asked if the buffer was part of the land dedication for the subdivision.

Mr. Zuccaro answered the development agreement states the open space requirements were met and did not include the buffer as part of the land dedication.

Mr. Fellman clarified Councilor Brown's question about eliminating the buffer by reading section 16-8-80(c) of the Municipal Code:

"An R-3A lot, any portion of which is within fifty (50) feet of unplatted residential zone districts that require a larger minimum lot size than the proposed R-3A lot."

He stated that it is a requirement in those cases (where any portion of an R-3A lot is within 50 feet of an unplatted residential zone district), that there must be a buffer according to subsection c. Council Bill 14 subsection f says if there is a buffer and you would like to eliminate it, you must follow the process described in the Council Bill. He said it would still require, at the time of the development approval, that the buffer be created, but provides a way to have it removed if the current homeowners wish. Mr. Fellman advised the Council that staff brought this issue forward because it was brought up by the Buell subdivision homeowners with respect to the 50 foot buffer requirement in that particular zone district, but Council may want to have a broader discussion about other buffers in the City at a later date.

Mayor Wozniak suggested staff bring both Council Bills before the Planning and Zoning Commission (P & Z) to get their approval and then bring them back to Council.

Councilor LaMair stated she would prefer to have their input on both of the proposed Council Bills.

Mayor Wozniak said he would prefer not to vote on the bills and would like to give them to P & Z for their recommendations.

Mayor Pro Tem Stewart requested the requirement for title insurance be removed before the bills are presented to P & Z.

Councilor Harriet LaMair moved, seconded by Councilor Klasina VanderWerf, to table Council Bill 13, Series 2009 – Amending Chapter 16 of the Municipal Code, concerning zoning, by amending Section 16-8-80, concerning procedures for removal of an internal buffer in the R-3A Variable Lot Residential District and Council Bill 14, Series 2009 – Amending Chapter 17 of the Municipal Code, concerning subdivisions, by amending Article VI, creating administrative plat amendment procedures for the removal of buffers established as a requirement of the zoning ordinance.

The motion passed unanimously.

Council Bill 15, Series 2009 – Amending Chapter 16 of the Municipal Code, concerning zoning, by amending Section 16-8-90 and 16-9-30(d), concerning accessory structures and/or recreational use setbacks

Mr. Zuccaro stated the proposed Council bill would amend the accessory structure and recreational use setback standards for the R-4, ½-Acre Residential District and the R-3A Variable Lot Residential District ½-acre lots. The accessory structure and recreational use setbacks for these two districts are significantly more restrictive than the setbacks for the primary structure. These are the only districts in the City where this is the case. Staff reviewed past ordinances and found that for both zone districts, the accessory structure setbacks were less restrictive until 1970, but is unable to determine

why it was changed. Staff recommends that the Council amend the zoning ordinance so that R-4 and R-3A ½-acre lots are subject to accessory structure and recreation use setbacks consistent with the other residential zone districts in the City. The front accessory setbacks would be reduced from 40' to 25' and the side and rear accessory setbacks would be reduced from 25' to 15'. This formula is consistent with the R-1, R-2, R-5 districts and all R-3A lots that are 2 ½ acres, 1 ¼ acres and 16,000 square feet.

Mayor Wozniak commented that changing the setbacks would match the other zones in the City making the accessory setbacks less restrictive than the primary dwelling.

Mayor Pro Tem Stewart inquired if a variance request prompted the proposed Council Bill.

Mr. Zuccaro answered the City has received numerous requests to change the setbacks.

Mayor Pro Tem Stewart indicated the City should have consistency throughout the different zone districts and this bill should be reviewed by P & Z as well.

Mayor Wozniak stated he can not see a reason to discriminate against zone districts and would like to get P & Z's input on the subject.

Mayor Pro Tem Russell Stewart moved, seconded by Councilor Harriet LaMair, to table Council Bill 15, Series 2009 – Amending Chapter 16 of the Municipal Code, concerning zoning, by amending Section 16-8-90 and 16-9-30(d), concerning accessory structures and/or recreational use setbacks.

The motion passed unanimously.

## **REPORTS**

### **Mayor's Report**

Mayor Wozniak advised the Council that former Councilmember and Mayor Pro Tem Viola Lahana suffered a stroke and is currently in the hospital. He commented he has received some surveys from the Census Bureau that he will forward to staff. He said that the Arapahoe County Board of Commissioners would like some help with developing a Master Plan for open space. He stated they have scheduled a series of meetings and they would like someone from the City to attend. He asked if anyone would volunteer to attend.

Mayor Pro Tem Stewart said he would try to attend the meetings.

Mayor Wozniak advised the Council that staff has brought to his attention the City is about \$400,000 short of meeting the 2009 budget. He stated he and Finance Director, Karen Proctor, have cut \$195,000 from the 2009 budget, but it is still \$200,000 short of meeting budget so the Public Works department is going to defer a street project that was scheduled until next year. He said he was careful not to cut anything that was related to safety and they will have to be more diligent during the budget discussions for 2010.

### **Members of City Council**

Councilor Brown reported that he attended a DRCOG meeting and was told by a CDOT representative there is some funding in a Safer School Systems program that the City may use to help fund the University Boulevard project.

Mayor Wozniak requested staff look into the program to see if the overpass/underpass project would qualify.

He advised the Council that he will be working with the Colorado Municipal League on the Pooled Financing League project, but any funding he is paid directly will not come from dues that are paid to the Colorado Municipal League.

Councilor VanderWerf reported the astrophysics lectures that were held at Kent Denver were well attended and very interesting. She stated Pam Broyles, the Parks and Public Works Clerk, deserves a special thank you because she gave up many Saturdays to help put the lectures together. She commented the movie night was also very well attended. She advised the Council that the Parks, Trails and Recreation Commission (PTRC) has a new chair, Jane Soderberg, and a new co-chair, Ann Gallagher. She mentioned the Residential Development Standards Committee has written the first draft of their proposal and are reworking it. She invited the Council to attend a celebration the South Suburban Parks Foundation is holding on October 3<sup>rd</sup>. There is going to be an informal bike ride, that she will be leading, which will leave from the Village Center and is about six miles long.

Councilor Roswell stated that he and Councilor Brown met with Jerry Presley from Greenwood Village and discussed the traffic light issues from the City's stand point. He said they have agreed to take the light at Franklin Avenue and Belleview Avenue off the table as there is no interest from either City on installing a traffic light at that intersection. He mentioned that Councilor Brown is going to speak with the residents of the Glenmoor Subdivision to see if there is any interest in installing a traffic light there.

Mayor Pro Tem Stewart stated the South Suburban briefs are due soon. He advised the Council that CDOT has approved making a left hand turn from Foxtail Street onto University Boulevard and that project will move forward. He mentioned it might be a good idea to have PTRC work with Greenwood Village on coordinating with their recreation programs.

Councilor LaMair reported she will attend a Metro Vision Issue Committee Board study session the next day on sustainability. She said the Land Preserve has been working with the Trust for Public Lands on drafting a request for funds from GOCO to try to enhance the High Line Canal as a recreation amenity.

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

There were no reports.

### **City Manager & Staff**

#### Departmental Monthly Reports (July 2009)

Mr. Ensey advised the Council the monthly reports were included in the council packets.

#### Unaudited Financial Statements (July 2009)

Mr. Ensey stated the unaudited financial statements were included in the Council packet. Staff has looked at trends through the year and will continue to keep Council and the Mayor updated.

**Budget Update**

Mr. Ensey advised the Council there will be a draft version of the budget included with the Council packets at the next meeting. He stated the first budget session will be held on October 6<sup>th</sup>. He commented the certificate of tax levy deadline is December 15<sup>th</sup>. He added there was a slight increase for proposed tax assessments for 2010.

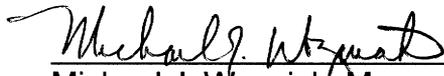
**City Attorney**

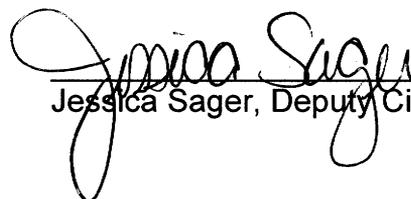
Mr. Fellman advised there has been another bill that has been brought forward that does not appear to be as bad as the Collective Bargaining Bill, but the Colorado Municipal League is opposing that one also. He will keep the Council informed as it moves forward. He mentioned he will be out of town for the next Council meeting and Deputy City Attorney, Nancy Rogers, will attend the meeting in his place.

**ADJOURNMENT**

A motion was made by Mayor Pro Tem Russell Stewart, seconded by Councilor Klasina VanderWerf, to adjourn the meeting at 8:03 p.m.

The motion passed unanimously.

  
\_\_\_\_\_  
Michael J. Wozniak, Mayor

  
\_\_\_\_\_  
Jessica Sager, Deputy City Clerk