

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, September 15, 2009 at 6:30 p.m.
At the Village Center

Mayor Mike Wozniak called the meeting to order at 6:31 p.m.

ROLL CALL

Councilors Mark Griffin, Russell Stewart, Mike Wozniak, Scott Roswell, Klasina VanderWerf, and Alex Brown, were present on silent roll call. Also present were City Manager Eric Ensey, Deputy City Attorney Nancy Rogers, Finance Director Karen Proctor, Police Chief John Patterson, Public Works Director Jay Goldie, Planning Manager Rob Zuccaro, Parks and Trails Administrator Ryan Berninzoni, Lieutenant Jody Sansing, Deputy City Clerk Jessica Sager, and City Clerk Laura Smith.

Absent: Councilor Harriet LaMair

AUDIENCE PARTICIPATION PERIOD

None

CONSENT AGENDA

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

- a. Approval of Minutes – September 1, 2009
- b. Resolution 15, Series 2009 – Appointing members to the Planning and Zoning Commission
- c. Resolution 16, Series 2009 – Adopting a Red Flag Policy and establishing an identity theft prevention program
- e. Expenditure of Funds and Contract for Services – Steve Koon Landscape and Design; Sanitary sewer line bank stabilization project (6 Martin Lane)
- f. Appointment of City Clerk
- g. Legal Services Agreement for Municipal Court Prosecution

The following votes were recorded:

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

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

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED 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 (first reading, tabled from September 1, 2009)

Planning Manager, Rob Zuccaro, presented Council Bill 13, Series 2009 on first reading. The proposed bill would amend the R-3A Variable Lot Residential District buffer requirements found in Section 16-8-80 of the Municipal Code. The purpose of the amendment is to allow for the removal of the 50-foot internal buffer requirement outlined in Subsection 16-8-80(c), through the requirements outlined in Subsection (f). The procedure for removing the buffer from the R-3A subdivision plats is addressed by an amendment to Article VI of the Subdivision Regulations. Council Bill 14, Series 2009, also on the agenda this evening, outlines the proposed procedures and will be discussed in more detail later in the evening.

Mayor Pro Tem Stewart asked Mr. Zuccaro to explain the changes made to the procedures for the approval of adjoining and adjacent homeowners.

Mr. Zuccaro asked if this was in reference to Council Bill 14.

Mayor Pro Tem Stewart asked if Council Bill 13 and Council Bill 14 should be discussed together.

Mayor Wozniak agreed that both should be discussed together and asked for an introduction from Mr. Zuccaro.

Mr. Zuccaro explained that Council Bill 14 proposed to amend Article VI, Chapter 17 of the Municipal Code for the purpose of creating an administrative review procedure for the removal of zoning buffers in a subdivision plat. Article VI currently contains administrative review procedures for lot consolidation and lot line adjustment applications and as proposed would also cover the removal of zoning buffers. An application for the removal of the zoning buffer must be signed by all property owners subject to the buffer and requires that consent be reached by all property owners contiguous to the buffer. A draft of this bill was reviewed by Council at the September 1st meeting. Council asked that staff make a few revisions to the bill, including review of the proof of ownership required by applicants. In response, the bill was amended so that alternative documents from the County Assessor could be submitted along with an affidavit attesting to the ownership information.

Mr. Zuccaro outlined the changes made to Council Bill 14 since the last meeting. Changes to Section 17-6-30 were made to clarify the required proof of ownership documents. This change was a recommendation from the Planning & Zoning Commission (P & Z). Section 17-6-50(8) was also added and requires consent from all contiguous property owners. It also requires ownership information for those contiguous property owners and an affidavit attesting to the accuracy of those ownership documents. Council also directed staff to amend Section 17-6-20(b) defining buffer removal. Previously this subsection stated that buffer removal would only be allowed if the buffer requirement was removed from the zoning ordinance. Again, Council Bill 13 does not state that the buffer be removed from the zoning ordinance, but rather that it may be removed if the procedures outlined in the proposed bill are followed.

Mr. Zuccaro stated that a draft of Council Bill 14 was reviewed by the Planning and Zoning Commission on September 8th, and the Commission voted unanimously to recommend approval.

Mayor Wozniak questioned why Section 17-6-30 requires a current commitment for title insurance, if applicable, when the requirement was removed from Subsection 3. He wondered if Mr. Zuccaro was adding it for the other applications.

Mr. Zuccaro stated that the lot consolidations and the lot line adjustments will always require a current commitment for title insurance. He stated that the first paragraph of 17-6-30 was corrected to reflect the number of copies of the proposed plat and application form required for lot consolidations and lot line adjustments.

Mayor Wozniak confirmed that the commitment for title insurance has always been in the ordinance.

Mayor Pro Tem Stewart asked for clarification on the purpose of the twelve copies.

Mr. Zuccaro stated that the twelve copies actually cover the number of referral agencies that review such applications.

Councilor Brown asked how 17-6-50(2) and 17-6-50(8) relate, and if 17-6-50(2) requires that all residents affected by the buffer sign the application.

Mr. Zuccaro stated that 17-6-50(2) requires all owners whose property is subject to the buffer to sign the application.

Councilor Brown asked if the requirement that contiguous residents sign the application in 17-6-50(8) is redundant.

Mr. Zuccaro stated that one subsection refers to property owners that have the buffer on their property and the other refers to property owners with properties contiguous or next to the buffer.

Councilor Roswell asked if a single resident could bring a single application to remove their section of the buffer or if all residents along the entire length of the buffer were required to sign an application.

Mr. Zuccaro stated that, as currently drafted, it may be possible for a single resident to sign the application to remove their section of the buffer.

Mayor Pro Tem Stewart indicated that the intent of the bill is for all the residents affected by the buffer to be in agreement as a pre-condition, and then for the entire buffer to be removed at once so that there is only one plat amendment instead of one for every property.

Councilor Roswell confirmed that this bill will allow buffer removal by administrative action and thus there will not be a public hearing required, and that public notice is only given to residents with contiguous properties.

Councilor Brown asked if P & Z discussed any other options besides the ordinance to address the issue; such as changing permitted uses.

Mr. Zuccaro stated that the ordinance was presented to P & Z in ordinance form, along with the background files included in the Council packets and there were no other alternatives discussed.

Mayor Pro Tem Stewart moved to approve on first reading Council Bill 13, Series 2009; a bill for an ordinance amending Chapter 16 of the Municipal Code, concerning Zoning, by amending Section 16-8-80, allowing for removal of the R-3A zone district buffer requirement as further detailed by the staff memo dated September 15th 2009.

Mayor Wozniak asked Council if they wanted to send Council Bill 13 back to staff for amendment and schedule a second reading.

Councilor Roswell stated that he was struggling with the policy perspective of taking a zoning issue and making it an administrative issue. He wondered about a public hearing.

Councilor Brown stated that while he feels this bill addresses a legitimate problem that has been brought to Council by the community and he appreciates Planning and Zoning Commission's input, he continues to feel there may be other approaches to solving this problem besides what he sees as an unnecessary subtraction from the R-3A zoning ordinances.

Mayor Wozniak stated that the motion to approve on first reading 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 had been made and asked for a second.

No second was made.

The motion died for lack of second.

Mayor Wozniak stated that the Council had two options to move forward; they could entertain a new motion to deny the bill or they could ask staff to address Council's comments for modification of the proposed amendment. The modification would be to allow public participation and address a modification of use without complete vacation. These two options seem to be different strains and thus would not provide staff with good guidance. Council should come up with more direction for staff or make a motion to deny the bill and start over.

Mayor Pro Tem Stewart suggested that this bill might require more discussion among the Council, and stated that this bill was the result of years of work and of a unanimous request from the Buell. He suggested a study session for Council on this matter. He indicated that he would be willing to introduce a new bill that eliminated all buffers, but that they had decided to begin with this bill this might be what is confusing the other Council members, since Council Bill 13 is not a full solution.

Mayor Wozniak stated he thought that addressing the internal buffers would be easier than the external buffers, which was more of a concern because it affected people outside the subdivision. He stated notwithstanding the fact that this bill changes the code, it is not an ordinance of general application because only one area in the Village is subject to the internal buffer.

Councilor Brown stated he was open to further discussion about this bill.

Mayor Wozniak stated that the motion died.

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 (first reading, tabled from September 1, 2009)

Mayor Pro Tem Stewart moved to approve on first reading Council Bill 14, Series 2009; a bill for an ordinance amending Chapter 17 of the Municipal Code, concerning Subdivision, by amending Article VI, creating administrative plat amendment procedures

for the removal of buffers established as a requirement of the zoning ordinance as further detailed in the staff memo dated September 15th, 2009.

There was no second.

The motion died for lack of a second.

Mayor Wozniak indicated that Council Bills 13 and 14 should be included on the agenda for the next Council meeting as a discussion item.

Mayor Pro Tem Stewart indicated he would be willing to meet with Councilor Brown, residents of the Buell subdivision, and Former Mayor Wellborn to further discuss the proposed bills.

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 (first reading, tabled from September 1, 2009)

Mr. Zuccaro presented a request to amend the accessory structure and recreational use setbacks for the R-4, ½-Acre Residential District and the R-3A Variable Lot Residential District ½-acre lots. The accessory setbacks for these two districts are more restrictive than the principal setback. These two zone districts are the only districts where this is the case. In other districts the accessory setbacks are equal to or less than the principal setback. For the R-4, ½-Acre District the front principal setback is 25 feet compared to 40 feet for the accessory setback. The side principal setback is an average of 15 feet compared to 25 feet for the accessory structure. For example, on an R-4 lot the house can be 10 feet from the side property line, but an accessory structure, such as a shed, needs to be 25 feet back from that same property line. For all other zones the accessory structure setback is the same as for the house or even a little further in. The proposed bill would reduce the front accessory setbacks from 40 feet to 25 feet in each of these districts, and would reduce the rear and side accessory setbacks from 25 feet to 15 feet, which would be more in line with accessory setbacks in the other zone districts.

Mr. Zuccaro indicated that staff reviewed the historic zoning ordinances back to 1945 and found the accessory and recreational use setbacks had been equal to or less than the primary setbacks until the ordinance was updated in 1970. In the ordinance revisions in 1970, the R-4, ½-Acre District was given accessory setbacks that were more restrictive than those for the principal structure. In 1996 the R-3A District ½-acre lots were given similar setbacks. Mr. Zuccaro indicated staff was unable to determine why the accessory setbacks are more stringent for the R-4 and R-3A ½-acre lots, and that staff recommended this change to reconcile the differences.

Mr. Zuccaro stated that the Planning and Zoning Commission voted unanimously to recommend approval of Council Bill 15 at their September 8, 2009 meeting. He indicated that if Council approves this bill on first reading, he will contact the HOAs in the R-4 and R-3A neighborhoods to inform them of the public meeting that will take place for the second reading of the bill.

Mayor Pro Tem Stewart moved, seconded by Councilor VanderWerf, to approve on first reading Council Bill 15, Series 2009; a bill for an ordinance amending Chapter 16 of the Municipal Code, concerning Zoning, by amending Section 16-8-90 and 16-9-30(d), concerning accessory structure and recreational uses as further detailed in the staff memo dated September 15, 2009.

The following votes were recorded:

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

Vote on the Council Bill 15-2009: 5 ayes. 0 nays. The motion carried.

NEW BUSINESS

None

REPORTS

Members of City Council

Councilor Brown stated that the Village Center focus group meetings start Wednesday September 16th, with one for residents chosen by Council and HOA representatives and another for immediate neighbors. On Wednesday, September 23rd there will also be workshops during the day at the Village Center and a public meeting from 6:30 – 8:00 in the evening at the Cherry Hills Village Elementary School. Names for the first meeting on the 16th came from each district, but some Council members were unable to find interest in their district.

Councilor VanderWerf stated that the Parks, Trails, and Recreation Commission is planning a third annual event in response to requests from residents. She also stated that striping will begin on Mansfield Avenue for the pedestrian lane in the next few months.

Mayor Wozniak asked if there would be parking along Mansfield Avenue.

Mr. Goldie responded that there would be no parking on the south side of Mansfield Avenue and that they had contacted all the residents along Mansfield Avenue. One property at the corner of Dahlia Street and Mansfield Avenue would have no parking so he is working with the homeowner on a possible location for some street parking. In addition staff is looking at possible modifications to the sidewalk at the corner of Dahlia and Mansfield.

Councilor VanderWerf stated that the Residential Development Standards Committee doubled up on meetings last week and have been working on their issues nicely. They anticipate bringing their report to Council at the October 6th meeting. She also reminded Council of the South Suburban Park Foundation bicycle ride that she is leading on October 3rd. They will be meeting in the Village Center parking lot at 12:00 p.m. and will leave at 12:15 and ride to River Downs. It is a family event and she requested that staff send an email blast with the details of the event.

Councilor Roswell had nothing to report.

Mayor Pro Tem Stewart had nothing to report.

Councilor Griffin stated that he was contacted by Judge Fullerton and Beth Henry about their wish to put an address column in their neighborhood. He stated they want to put in a right of way and that he is working through the details with them. He stated they have commented that their interaction with Mr. Zuccaro was outstanding and he has been extraordinarily helpful and courteous.

Mayor's Report

Mayor Wozniak stated that he has been working with Director of Finance and Administration, Karen Proctor's help on cutting the 2009 budget. \$195,000 has been cut so far and some items that have been cut include: deferring the concrete work in Cherry Ridge until next year and the cancellation of several out of town conferences for staff. He stated that he will continue to trim the budget, and advised Council to anticipate the budget getting tighter for the coming year. He stated that Cherry Hills Village is still better off than other cities in Colorado. He commented that the City of Denver anticipates a \$140-\$160 million budget deficit next year.

Mayor Wozniak thanked Kevin Iverson for his services on the Planning and Zoning Commission.

Mayor Wozniak welcomed Laura Smith as the new City Clerk.

Mayor Wozniak stated that the private lane issue on Churchill is still in progress, and that despite his efforts at mediation both parties have retained legal counsel.

Mayor Wozniak stated that South Suburban Writ of Certiorari has been filed and the response brief from the opponents has been filed. This past week through the efforts of Mayor Pro Tem Stewart and the Council the City's response of pleading has been filed. He stated that the filing is complete, and the next step is for the court to decide if they will accept the case.

Members of City Boards and Commissions

There were no reports.

City Manager & StaffDepartmental Monthly Reports

City Manager, Eric Ensey, advised the monthly reports were included in the packets.

Mr. Ensey stated there will be a study session for the 2010 budget on October 6th.

Mayor Wozniak stated that the October 6th meeting will be very heavy with the Residential Development Standards Committee report, the budget study session, and Council Bills 13 & 14 study sessions and asked if one of the items could be moved to the following Council meeting.

Councilor VanderWerf stated that the RDSC study session was assigned to the agenda based on how full that agenda was and that it can be moved to a later meeting.

Update – Weed Control on Public Lands

Mr. Goldie presented a brief outline on the City's weed management on public property policy. He stated that their weed management policy was partially established prior to the Blue Ribbon Panel. The department tries to minimize chemical application on parks and trails. They utilize an Integrated Pest Management policy, which involves first applying mechanical control of weeds, meaning pulling and mowing them. They are dealing with infestations throughout the City both on public and private property. They have been trying to cultivate a more natural look for the property from South Suburban.

They have made good progress on thistles over the past five years, as evidenced by the reduced population size of thistles throughout the city, but they will never be one hundred percent gone.

He stated that purple loose strife, a noxious weed that the state is focusing on, is becoming more of a problem in the City. The Department of Wildlife is heading up the process of removing purple loose strife from the state. It is a noxious weed that travels along waterways. Cherry Hills Village is working with the State on fifteen individual sites this year, four of which were on public property. Although it takes years to get rid of this weed, the department's efforts have resulted in a reduction of the purple loose strife population in the city. For example, the population at the Fairfax Bridge has reduced from 100s of individuals to just four or five individuals.

Mayor Wozniak asked if Mr. Goldie has jurisdiction to manage weeds on private property.

Mr. Goldie stated that they do have jurisdiction for purple loose strife and thistles because they are listed on the state's list for mandatory eradication. He stated that a notice of a code violation is sent to property owners with purple loosestrife on their sites with information about what purple loosestrife looks like, what is needed to remove it and why it must be removed. He indicated that the department does have the jurisdiction to take further action to remove the weeds if the property owner does not remove them, as outlined in the Code.

Mayor Wozniak asked if they follow this procedure with only A list noxious weeds or with all noxious weeds.

Mr. Ensey stated that the code outlines this procedure for all weeds over 10 feet in height.

Mayor Wozniak asked how often department staff mow the trails.

Mr. Goldie responded that they try to mow at least once a month, but it is more likely every 3 weeks. They try to keep the vegetation on the trails under 10 inches.

Mayor Wozniak stated that the Council appreciates the department's efforts and that in general the feedback on the parks and trails is positive.

City Attorney

There was not a report.

ADJOURNMENT

A motion was made by Mayor Pro Tem Stewart, seconded by Councilor Roswell to proceed into Executive Session to discuss a personnel matter pursuant to C.R.S §24-6-402(4)(f) and immediately upon termination of the Executive Session to be adjourned.

The following votes were recorded:

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

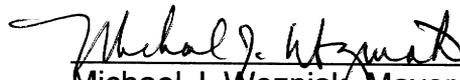
RECORD OF PROCEEDINGS

The motion passed unanimously.

Council adjourned to an Executive Session at 7:15 p.m.

The Executive Session adjourned at 7:27 p.m.

The meeting adjourned at 7:27 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk