

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, December 8, 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

Mayor Mike Wozniak, Councilors Mark Griffin, Russell Stewart, Alex Brown, Scott Roswell, Klasina VanderWerf, and Harriet LaMair were present on silent roll call. Also present were City Manager Eric Ensey, Police Chief John Patterson, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Public Works Director Jay Goldie, Parks, Trails & Recreation Administrator Ryan Berninzoni, and City Clerk Laura Smith.

Absent: none

Mayor Wozniak advised everyone that there was a change in the agenda. There were two public hearings scheduled for tonight's meeting, Items 8a and 8b, Council Bills 21 and 22. These Items will be continued at the request of the applicants and several neighbors until January 19, 2009.

CITIZEN COMMENDATION

Mayor Wozniak stated that it was wonderful to be able to honor two citizens for their heroic actions. He asked Police Chief John Patterson to explain to Council what took place and then for Mr. Dan Caplis and Dr. Scott Bainbridge to say a few words.

Chief Patterson explained that on Thursday, November 26th, 2009, several individuals were participating in a flag football game at 70 Meade Lane when a 48 year old man collapsed. Mr. Dan Caplis and Dr. Scott Bainbridge went to the man's aid and determined he had suffered a heart attack. The victim had no pulse and was not breathing. Dr. Bainbridge began CPR while Mr. Caplis went to his vehicle and retrieved an AED. They attached the AED to the victim's chest and delivered one shock. The victim's heart started beating immediately, he began breathing and regained consciousness. Members of South Metro Fire Rescue arrived and transported the victim to Swedish Hospital. The victim is expected to make a full recovery. Mr. Caplis and Dr. Bainbridge decisiveness and actions in this situation resulted in the saving of a human life. In recognition for their actions in this situation, they are presented with the Citizens Accommodation Award.

Dr. Bainbridge stated that he viewed tonight as a celebration of several things. Obviously the most important thing is Chaz being happy and healthy. Secondly, this was a celebration of the group effort it took to save him, including Joe Cavarak and Scott Higgins, and the people that called the paramedics and helped in other ways. Thirdly, tonight was a celebration of a system that works. The paramedics were there quickly, and were trained and prepared to deal with the situation. He stated that he believes people should take advantage of this by promoting awareness, and suggested further participation by community members, from kids learning to call 911, to people learning how to recognize a stroke and learning CPR. He thanked the Council for their recognition.

Mr. Caplis stated that Dr. Bainbridge was correct that it takes a village, and this situation was the perfect example of that. One of the beautiful ironies was that the biggest life saver on the field that day was Chaz, who for years has been bringing babies into the

world safely through his medical practice. The return of Chaz's life was a real gift from God. The Chief has done a great job helping people realize the value of defibrillators. He hopes that through this tremendous story people will learn how easy they are to use. He thanked Scott and Joe and others who helped. He thanked Scott Bainbridge for being so skilled, compassionate, and determined.

Mayor Wozniak thanked them for their efforts and said the Village is a better place for having such great residents.

AUDIENCE PARTICIPATION PERIOD

None

CONSENT AGENDA

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

- a. Approval of Minutes – November 19, 2009
- b. Amendment to City Attorney Contract
- c. Expenditure of Funds – Replacement Roof for Public Works Building
- d. Resolution 17, Series 2009 – Adopting a Fund Balance Policy for the City
- e. Resolution 18, Series 2009 – Authorizing a Mail Ballot Election for the April 6, 2010 Municipal Election

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

2010 Proposed Budget for the City of Cherry Hills Village

Finance Director Karen Proctor presented the 2010 proposed budget. She outlined the changes to the budget since the Public Hearing on October 20th, 2009, including changes to the Parks and Recreation Fund involving legal services, interest, and principal for the South Suburban Exclusion case. She stated that staff was presenting two versions of the budget; Version 1 included an increase of \$580,000 to the Capital Improvements budget as recommended by Public Works Director Jay Goldie at the November 19th 2009 meeting, and Version 2 did not include this increase. She stated that Version 1 would result in a decrease to the General Fund balance of \$540,468, leaving a balance of \$10.2 million in the General Fund.

Mayor Wozniak indicated that the memo was well presented, but asked for clarification on how the total budget could be the same in both the version including the extra expenditures for Capital Improvements and the original version.

Ms. Proctor explained that the total appropriations for the two versions of the budget differed by 0.5 million dollars, but that the bottom line of the budget was the same in both versions because of the decrease in the General Fund balance in Version 1.

Councilor Brown noted that even with the City's payments to South Suburban, Fund 30 will still have a positive balance at the end of the year. He indicated that this was an encouraging result and that he supported Version 1 of the 2010 budget with the

RECORD OF PROCEEDINGS

increased expenditures for Capital Improvements. He indicated that while there can be no guarantees on the pricing that Mr. Goldie had compiled for Council's consideration, the City was likely to save money by spending money now on projects that have been approved by Council and that will benefit the community.

Council Bill 16, Series 2009; A Bill for an Ordinance Adopting a Budget and Levying Property Taxes for the City of Cherry Hills Village, Colorado for the Fiscal Year 2010 (final reading)

Councilor Griffin moved, seconded by Mayor Pro Tem Stewart to approve on final reading Council Bill 16, Series 2009; a Bill for an Ordinance Adopting a Budget and Levying Property Taxes for the City of Cherry Hills Village, Colorado for the Fiscal Year 2010.

The following votes were recorded:

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

Vote on the Council Bill 16-2009: 6 ayes. 0 nays. The motion carried.

Council Bill 17, Series 2009; A Bill for an Ordinance Authorizing Appropriations for Fiscal Year 2010 (final reading)

Councilor Griffin moved, seconded by Councilor LaMair to approve on final reading Council Bill 17, Series 2009; A Bill for an Ordinance Authorizing Appropriations for Fiscal Year 2010 as depicted in Exhibit E with additional expenditures on final reading.

The following votes were recorded:

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

Vote on the Council Bill 1072009: 6 ayes. 0 nays. The motion carried.

NEW BUSINESS

Council Bill 20, Series 2009

Ms. Proctor indicated that Council Bill 20, Series 2009, authorized a supplemental appropriation in the amount of \$1,699,799 from the Parks and Recreation Fund for the 2008 principal, interest payment, and additional interest, and the 2009 principal, interest, and some additional interest to South Suburban Park and Recreation District. She stated that although the second reading of the bill won't be until January 5th 2010, this bill would allow staff to make the payment as close as possible to the December 1st 2009 due date.

Mayor Wozniak asked for clarification from City Attorney Ken Fellman.

Mr. Fellman replied that this situation was a bit of a grey area. The City is only supposed to act on an Ordinance after the second reading of the Council Bill. However, for the City to comply with the Court Order, the City must be able to spend money pursuant to this Council Bill before the second reading. The language in the proposed Ordinance has been worded to recognize these special circumstances. This proposed bill finds a middle ground and allows Council to authorize staff to spend the necessary money as close as possible to the December 1st 2009 deadline set by court order. Council is acting on good faith with this bill.

Mayor Wozniak indicated that the only other option would be to put forth a motion with the trial court to allow the City to postpone its payment until the bill could be passed into an Ordinance.

Mr. Fellman stated that it would be unlikely that the court would allow this.

Mayor Pro Tem Stewart moved, seconded by Councilor LaMair to approve on first reading Council Bill 20, Series 2009; Authorizing a Supplemental Appropriation in Fiscal Year 2009 for the 2008 and 2009 Payment to South Suburban Park and Recreation District on first reading.

The following votes were recorded:

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

Vote on the Council Bill 20-2009: 6 ayes. 0 nays. The motion carried.

Formal Petition for Vacation – To Vacate a Portion of Trail #5247 and Relocate This Portion of Trail Easement Adjacent to the Property Boundary on the Property Located at 4750 South Dahlia Street (Public Hearing)

Mayor Pro Tem moved, seconded by Councilor LaMair to continue public hearing on Items 8a and 8b until the Council's second meeting in January, on January 19th 2010.

The following votes were recorded:

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

Vote to continue Items 8a and 8b: 6 ayes. 0 nays. The motion carried.

DISCUSSION

Village Center Conceptual Plan

Mayor Wozniak indicated that he had wanted to have Norris Design back before the public hearing because Council had not had enough time to either review the materials

or sufficiently discuss Norris Designs' presentation at the November 19th 2009 meeting. He indicated that the official presentation would be on January 19th 2010. He asked the members of Norris Design to go through the schedule and allow Council to ask questions and get clarification.

Ms. Diana Rael clarified that the timeline would not be part of Norris Design's formal report, but that it was presented to Council to keep in mind. She indicated that she had been asked to comment on how the schedule for the Conditional Letter of Map Revision (CLOMR) for the flood plain review would mesh with the timeline presented to Council. She stated there is not a requirement to complete the CLOMR before or during Phases 1A and 1B, which essentially includes everything on the east side of Meade Lane. The CLOMR would be a requirement for Phase 2. In the timeline the CLOMR overlaps the Phase 2 design process. Norris Design has built in a year for the CLOMR as a conservative estimate of the time it will take for this review. The City's CLOMR is set to expire because the Flood Hazard Area Delineation (FHAD) is going to expire. Once the FHAD and CLOMR are re-done, the CLOMR will last indefinitely.

Mayor Wozniak asked who will review the CLOMR.

Rick Coldsnow responded that Urban Drainage will.

Councilor Roswell asked to confirm that the CLOMR would have no effect on Phase 1.

Mr. Coldsnow replied that was correct, except for a very small piece of land in the southwest corner of the lot which will overlap with things like a parking lot, drainage, and a driveway.

City Manager Eric Ensey added that the City would most likely have to approve a flood plain development permit for Phase 1.

Ms. Rael stated that the Public Works taskforce that they recommended would explore the next step of Public Works, and compare the options of having the Public Works facilities completely on-site, part on-site and part off-site, and completely off-site. It is their recommendation that the City form this taskforce early on in the process to increase the possibility of implementing the Public Works portion during Phase 1B. But Public Works could also work as a separate phase.

She also commented on the mission of the John Mead Park taskforce. She re-stated Norris Design's recommendation to form this taskforce before implementing Phase 2. The conceptual plan Norris Design has proposed is fairly general and flexible. Its spaces are not heavily programmed, allowing it to be versatile long-term. The taskforce would ensure more community involvement. The design of the Village Green opens up the wetlands, makes them visible from the street and gives them back to the community. With this design John Meade Park will reach back into the Village Center campus. The taskforce would continue to explore possible amenities in the park.

She clarified that the design taskforce for Phase 2 that appears in the timeline will not be in the final report.

She stated that Norris Design will present their final report at the January 19th 2010 public meeting.

Mayor Wozniak asked staff to post the final report on the City website.

Councilor Brown asked if the building sizes in Phases 1 and 2 were driven by the space-needs analysis that had been done by a previous contractor.

Ms. Rael replied that the building sizes were based on that analysis and that they would include a discussion of how they determined the building sizes in the final report. She stated that they had also integrated the information collected during the staff interviews.

Mr. Bobby Long added that the building sizes were generally within a few percentage points of the space-needs analysis.

Councilor Brown asked if the Public Works building was attached to other buildings in the design.

Mr. Long replied that the Public Works building was not necessarily integrated into the other buildings, rather it was free standing and could be constructed simultaneously or separately.

Ms. Rael stated that this design gave the City time to decide how they wanted to incorporate Public Works without having to wait to begin Phase 1. She stated that the configuration of buildings had been designed using additive architecture, with different heights and roof structures.

Councilor Brown indicated that the impacts to staff of Phase 1 were fairly clear, but asked how Phase 2 would impact staff.

Ms. Rael replied that there would be minimal impact to staff since the current Village Center could remain in place while the new administrative building was built as they did not overlap. She added that once Phase 1A was complete and the Police Department moved into the new building on the east side of Meade Lane, the rest of the administrative staff would be able to spread out through the entire Village Center. She also noted the opportunity for the Public Works department to utilize the current South Metro Fire Rescue facility once the new one was built.

Mayor Pro Tem Stewart asked if there had been any discussion of water rights in relation to the plans to expand or change the lake.

Ms. Rael replied that they had designed the lake and wetlands as a two-tiered system, with the upper portion acting as a siltation/filtration lake that would drain clear water into the lower section, significantly reducing the amount of maintenance required. She indicated they had looked at historic drainage in the area and designed the lake to maintain the same quantity of flow through the site.

Mr. Coldsnow indicated that the lake and wetland design could be adjusted.

Mayor Pro Tem Stewart indicated that if the surface area of the lake was expanded, there would be issues of water evaporation.

Councilor LaMair asked what the depth of the pond was designed to be.

Mr. Coldsnow replied that they had not conducted any special analysis of depth.

Councilor LaMair indicated that if the pond was shallow there was the possibility of using it for skating in the winter, as opposed to constructing an expensive formal ice rink.

Ms. Rael stated that a discussion of the pond would be ideal for the John Meade Park taskforce to explore. She indicated that space #17 was not identified as anything specific and could be used for a variety of things such as a sculpture garden, ice rink,

the new location for the annual tree lighting, and that it could be adaptable over the years to what the City needed.

Mayor Wozniak commented that a Village Green might be a good space for the tree lighting.

Ms. Rael added that the Village Green could provide space for many things, including concerts, and as a space for the community to enjoy being outside.

Councilor Griffin asked staff if the property owner to the east had been involved in the public comment period of the Conceptual Plan.

Mr. Ensey replied that staff had sent notification of the public meetings and had tried to contact the property owner by phone but had not received contact from him.

Councilor Griffin asked staff to make every effort to keep the property owner involved in the process.

Ms. Rael commented on the east side of Meade Lane, stating that the plan was to cut the site and drop the ground level several feet. The preliminary grading plan was very rough.

Mr. Coldsnow added that there would be an opportunity to add a retaining wall to buffer the entry.

Ms. Rael commented that at first all the buildings had been designed as one story to reduce the impact on neighbors, but that at the public meetings residents expressed their openness to having some buildings be two stories as long as everything could be compacted against Quincy. The Police Department building and the Community Room were designed to be one story, while the South Metro Fire Rescue and Public Works bays were designed to be two stories. Norris Design had been careful to avoid any blank walls with the design of the buildings.

Mayor Wozniak indicated that all the buildings were conceptual and he appreciated the flexibility built into the plan.

Councilor LaMair expressed concern over the expanded surface parking and asked how many additional spaces were in the plan.

Ms. Rael replied that the total number of parking spaces was doubled from the current number, which is about 47 spaces. Nine spaces would be covered parking for Police vehicles, 32 would be dedicated for staff, and 54 would be for visitors. This would prevent cars from stretching along Meade Lane for parking as happens with events such as the tree lighting. 20 of the visitor spaces would be in front of the Village Green, which would give close access to the Village Green and trail system.

Councilor LaMair asked if the current parking lot was ever full.

Mr. Ensey replied that the parking lot was generally fairly full with staff vehicles, but that on Court days the parking lot was over-flowing.

Mayor Wozniak indicated that there were pros and cons to increasing the number of parking spaces. He also commented that close access to the Village Center and amenities would be important as the Village population got older.

Ms. Rael indicated that the parking was determined based on square footage of the new buildings and the number of employees. She stated that the increased number of parking spaces was partially to discourage parking further down Meade Lane.

Mayor Wozniak indicated that this was important and that the parking situation during the tree lighting had been very inconvenient for the residents on Meade Lane.

Councilor LaMair suggested that the City visit the idea of entering into some kind of agreement with Cherry Hills Village Elementary School for reciprocal use of their parking lot.

Councilor Roswell indicated that the new South Metro Fire Rescue building would be larger and would need proportionally more parking spaces.

Mayor Pro Tem Stewart asked how Norris Design was prepared to code the new Village Center.

Mr. Long replied that it would be LEED certified.

Mayor Wozniak indicated that the draft final report included a draft cost estimate that used a 4% annual inflation rate through 2021. Phase 1A was estimated to cost \$6.9 million, with about half of that cost allocated for South Metro Fire Rescue. He asked if this was based on 2009 dollars.

Ms. Rael replied that was correct, and that 4% annual inflation was used to follow the trend in construction costs. She clarified that there were hard and soft costs included in the cost estimate. The soft costs adds just under \$2 million; 5% of that is for mobilization, 10% for contingencies, 5% for the design fee for LEED silver certification, 12% for the design fee. These soft costs can be discussed by the building task force.

Councilor Brown asked if Norris Design had a breakdown of cost per square foot for each building.

Ms. Rael replied that they did not, but they did have a cost per building for Phase 1A. She stated that the hard cost for Phase 1A buildings was just under \$5 million, and did not include site demolition, grading, and other things, which were included in the total soft cost. She indicated that she could provide all these numbers to Council.

Mayor Wozniak indicated that he appreciated the details and looked forward to the final report.

REPORTS

Members of City Council

Councilor Brown had no report.

Councilor VanderWerf reported that there was a service board meeting on January 2, 2010 at 3 p.m. at the Assisted Living facility at Arapahoe and Holly.

Councilor Roswell had no report but commented that the tree lighting event went well and that it was well attended.

Mayor Pro Tem Stewart reported that he attended a meeting at Kent Denver School as a representative of the Council to discuss the remodeling of their cafeteria. They invited their immediate neighbors to discuss the concept plan. The concept plan has the

cafeteria expanding to the west. They plan to demolish half of the cafeteria, re grade the land, and construct it to be a patio.

City Attorney Ken Fellman reminded Council that once Kent Denver School applies for a permit Council should no longer have any one on one conversations with them.

Councilor LaMair reported that she would miss the January 19th 2010 meeting.

Councilor Griffin reported that he had received a letter, which he had staff copy and distribute to Council, from a neighbor whose dog had been attacked by coyotes.

Mayor Wozniak indicated that the City had been asked to contribute funds to and participate in a Colorado State University urban coyote study but that there hadn't been much interest at the time.

Councilor LaMair suggested forming a Citizens Group to review the City's coyote management plan, and that it would be an educational process for those involved and allow for citizens to learn about the process and appreciate the difficulties the City faces.

Mayor Wozniak indicated that Council had passed aggressive actions for coyote management just last year and agreed that the education of residents about the City's policies and work was important. He suggested that Councilor Griffin send his neighbor the City's policy.

Councilor Roswell commented on Animal Control Officer Michelle Edwardson's excellent work on coyote management in the City and noted the complements he had received from residents who had interacted with her.

Councilor LaMair agreed and noted that after talking to Ms. Edwardson, residents begin to understand the limitations of wildlife management in the state.

Mr. Ensey indicated that Ms. Edwardson was involved in the situation with Councilor Griffin's neighbor.

Councilor Griffin reported that he had spoken with Mr. Fellman to discuss the options available to the Council should the City have a significant revenue shortfall. He indicated that options that had been available to Council in the past were no longer available since the TABOR amendment was implemented. He asked Council to be proactive rather than reactive about revenue shortfalls and create a plan for the City. He stated that in the past, when assessment valuations were lowered, the City would increase the mill levy to make up the shortfall. The solution would be to put a TABOR issue on the ballot for the regular municipal election for citizens to vote on.

Mayor Wozniak expressed his concern that the only action Council could take when faced with a budget deficit was to cut the budget and or go to the voters to increase taxes. He noted that tonight Council was presented with a Fund Balance Policy, which outlined reserves for the City's various funds and allows the City to keep a closer eye on its funds.

Councilor Brown indicated that he believed the City needed to demonstrate true calamity and need for an increase in taxes before the voters would approve one. He indicated that the City would most likely have to live with a year of shortfalls before they would be able to go to the voters with any success.

Mayor Wozniak indicated that the City could cut the budget before raising taxes. He noted that there was often a misunderstanding among residents about where their property taxes went and that only 13% goes to the City. Given the services the City provides, that results in a tight budget.

Mayor Wozniak recognized and welcomed Scout Troup 529 who were attending the meeting to earn their Citizenship in the Community merit badges and are sponsored by the Church of Jesus Christ of Latter Day Saints on Tuffs Ave.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Departmental Monthly Reports (November 2009)

Mr. Ensey indicated that the Departmental Monthly Reports and the Unaudited Financial Reports for November 2009 were included in Council packets. He indicated that the City was out of the red for the year and was projecting to remain in the black through the end of the year. He recognized Ms. Proctor, Mr. Goldie, Chief Patterson, and Mayor Wozniak for their hard work to keep costs down.

He noted that this was the beginning of the coyote mating season, and so the City might be receiving more phone calls from residents as the animals became more aggressive.

He indicated that the 2010 City Council meeting schedule was included in Council packets and stated that staff was available for questions regarding this item.

High Line Canal Plowing

Public Works Director Jay Goldie stated that Council had directed staff to investigate plowing the High Line Canal. He stated that this issue came up every few years and that Greenwood Village does not plow their portion of the canal, and that the canal is a crusher fine trail. This type of trail is not conducive to plowing. Because the trail does not freeze when covered with snow, plowing creates mush. He indicated that staff recommended the canal not be plowed and that this continuation of current policy would result in less maintenance in the long run. He stated that staff would look into re-grading the trail once the weather improved.

Mayor Wozniak asked if staff could add gravel to the areas of the trail that had become muddy.

Mr. Goldie replied that staff will identify the trouble spots and do a major project to improve the trail including fixing the drainage and ruts, once the weather improved. He stated that the funds for this were already allocated in the budget.

Councilor LaMair indicated that it was important to remind the City's residents that the City plows the paved trail as an amenity to the residents, and that those trails are available for use in the winter.

Mayor Pro Tem Stewart asked if the City would be providing Christmas tree recycling to the residents this year.

Mr. Goldie confirmed that they would from December 26th to January 17th, and that the announcement had been made in the Crier and would be posted in front of the Village Center and on the webpage.

Mayor Pro Tem Stewart asked if staff used the mulch on trails.

Mr. Goldie confirmed that staff does use the mulch on City trails, and provides the rest to residents.

Mayor Wozniak asked if Mr. Goldie had received any comments from residents related to the trail on Mansfield.

Mr. Goldie replied that staff had not received any comments. He stated that staff has been working on the residential corner at Mansfield and Dahlia to extend the sidewalk. He stated that the corner meets the design standards although it is a very tight corner.

Councilor LaMair asked if staff would be painting a bike lane and No Parking signs.

Mr. Goldie replied that they would once the weather warmed up.

City Attorney

City Attorney Ken Fellman reported that he had sent Council a memo over the weekend discussing Council's jurisdiction when dealing with issues on private streets. Neither the Municipal Code nor the International Building Code that the City has adopted have specific distinctions between the permitting on private property when that private property is a street. There is nothing that specifically requires an applicant to represent either that they own 100% of the property or that they have authorization of the majority of the ownership of the property. This results in a situation where in the case of a property such as a private street in a subdivision that has multiple owners, nothing requires the person making an application to build something on that property to represent that the majority of the ownership supports the application. There is a provision in the Code that allows the City to require "any other information deemed appropriate by the City." The City has a policy to require proof of support from the majority of ownership. He stated that his recommendation was for Council to make an amendment of Title 18, which is the City's adoption of the International Building Code, that applications or permits be signed by the owners or representatives of the owners with a majority interest in the property. This will clarify the requirement for future applicants. He stated that Title 17, addressing subdivision requirements, includes provisions allowing for subdivisions with private common areas to enter into an agreement with the City to maintain the areas. In the case of this particular subdivision, the subdivision was created before the City's adoption of Title 17, thus there is no agreement between the City and the subdivision. He stated while that he didn't think Council needed to amend the Code in Title 17, the City should clarify that for any approval of a permit involving a common ownership area, the applicant must represent support from a majority of the owners.

Mayor Wozniak asked for clarification on how property would be defined for a common ownership area.

Mr. Fellman replied that if the property in question is a lot, then the definition is obvious. However, if it is unique like a private street, then every property owner with an undivided interest should be included when calculating a majority of the owners that the applicant must have support from for their permit. Therefore the property would be defined as the entire private street.

Mayor Wozniak asked if the Glenmoor streets are private.

Mr. Ensey confirmed that they are, and that the private streets are deeded to the residents along the streets.

Mayor Wozniak expressed concern over the necessity of all Glenmoor owners supporting a permit if Council was to amend the Code as per Mr. Fellman's advice.

Mr. Ensey commented that Glenmoor differed from Buell in that Buell has tracts of land. However, the City has a lot of small subdivisions that would have the same issue with common ownership areas.

Mayor Wozniak indicated that while he agreed that Council should codify the City's practice as suggested by Mr. Fellman, he warned there were issues to work out first regarding grandfathering.

Mr. Fellman stated that Planning Manager Rob Zuccaro had checked on this situation on Churchill Drive, and some common ownership area property owners appear to have some accessory structures and landscaping in the common area although the permit applications indicate that the projects would be 100% contained within the individual lot boundary. None of these applications stated that the project would be in the common area, although that's where they ended up.

Mayor Wozniak asked Council if they wanted to address amending the Code on this matter in 2010.

Mayor Pro Tem Stewart indicated that a clarification of the Code would be important.

Councilor LaMair asked what would happen in Mr. Piper's situation with this proposed amendment.

Mr. Fellman replied that Mr. Piper had originally constructed two pillars and a gate on the private road, but had removed the gate and one of the pillars leaving one pillar standing. Mr. Piper would like to leave the pillar and add a mailbox and light to it.

Mayor Wozniak stated that the proposed amendment would not affect Mr. Piper's neighbors because it would be prospective in nature only and would not influence permits or projects that were completed prior to the amendment.

Mayor Pro Tem Stewart indicated that it might be difficult to word the amendment so that each property owner of the common area got a vote for the property.

Mr. Fellman indicated that the applicant will have to certify under oath that they are representing the majority of the ownership interest in support of the permit.

Mayor Wozniak indicated that Council should look into making this amendment.

Mr. Fellman indicated that he would work with staff to develop a first draft of the ordinance that they would present to Council for discussion and direction. The resulting Council Bill would then be brought to Council for first reading.

Mr. Fellman thanked Council for approving the renewal of his contract with the City.

Mayor Wozniak indicated that Council appreciated the memo that Mr. Fellman had put together outlining the budget and payments to Mr. Fellman's firm in 2009.

Mayor's Report

Mayor Wozniak gave a special thanks to staff for the tree lighting holiday event.

He indicated that former Mayor Pro Tem Viola Lahana was doing better and had returned to her home. He indicated that he had called and expressed the Council's best wishes for her.

He indicated that he and Mayor Pro Tem Stewart had written an article for the Village Crier advising residents of the results of the South Suburban litigation, explaining that the City will now have control over its parks and, over the long-run, its funding. He stated that the Council had put up a good fight, had continued the work of the previous two Councils, and that the important thing was that the City would now be able to use its tax dollars in the best way possible for its parks. He stated he would like to publically thank Mayor Pro Tem Stewart for his hours of service writing briefs. He thanked the entire Council for their hard work on the issue, and prior Council members as well.

He indicated that The Villager had called him for a comment on their story about the results of the South Suburban litigation, but the call had been at noon and the story deadline had been at 2pm the same day, so he had not been able to provide a comment on the story.

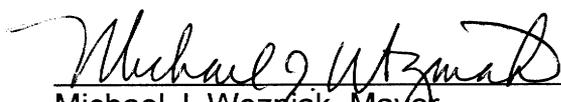
He indicated he had been contacted again about the property on the edge of Denver and that he is still exploring this issue.

He indicated that he would be absent from the January 5th 2010 meeting, so Mayor Pro Tem Stewart would be in charge.

He stated that this was the last Council meeting of 2009, and thanked Chief Patterson, Karen Proctor, Eric Ensey, Jay Goldie, and the entire City staff for all their hard work over the past year. He stated that overall he received wonderful comments about the Police Department and Public Works. It was wonderful to be able to refer residents to City staff and get a great response. The City's Community Policing was a model for other metro area cities. He asked the staff present to pass on his thanks to the rest of the City staff. He stated that although the City had been unable to have a holiday party for staff this year due to the budget, he hoped they could try to do something small in the New Year. He thanked Council for their hard work and stated it had been an honor and a pleasure to work with such dedicated volunteers. He thanked Councilor Brown for his financial support, Councilor VanderWerf for her work on the trail system, Councilor Roswell for his work on South Metro, Mayor Pro Tem Stewart for his legal support, Councilor LaMair for her work with parks, trails, and DRCOG, and Councilor Griffin for his work on the Police Department foundation, his liaison work with the community, and financial work with Ms. Proctor. He wished everyone Happy Holidays.

ADJOURNMENT

The meeting adjourned at 8:17 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk