

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Monday, March 15, 2010 at 6:30 p.m.
At the Village Center

Mayor Mike Wozniak called the meeting to order at 6:00 p.m.

ROLL CALL

Mayor Mike Wozniak, Councilors Mark Griffin, Russell Stewart, Alex Brown, Scott Roswell, and Klasina VanderWerf were present on silent roll call. Also present were Interim City Manager and Police Chief John Patterson, City Attorney Ken Fellman, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Public Works Director Jay Goldie, Deputy Chief of Police Jody Sansing, Crew Chief Ralph Mason and City Clerk Laura Smith.

Councilor Harriet LaMair arrived at 6:25.

Absent: none

PROMOTION OF JODY SANSING TO DEPUTY CHIEF OF POLICE

Interim City Manager and Police Chief John Patterson recognized and promoted Jody Sansing to the position of Deputy Chief. In recognition of his past work performance and his dedication to both the Police Department and the City, as well as his potential, Jody Sansing is being promoted to the rank of Deputy Police Chief. He will be responsible for the day to day functions of the Police Department. Jody Sansing began his career at the City in June of 1997. He has been an exemplary employee and an excellent role model for his co-workers. In the past few years he has earned both his Bachelor's and Master's degrees, and was promoted to Sergeant in 2002, Lieutenant in 2007, and was awarded the Department's Distinguished Service Award in 2005.

Mayor Wozniak stated that it had been a pleasure to work with Mr. Sansing over the years. The City has been blessed to have an outstanding Chief of Police and to now have an outstanding Deputy Chief of Police. Mr. Sansing has continually done everything to increase his skills. Mayor Wozniak has served on Sergeant interview panels with Mr. Sansing and found him to be rational and committed to the City and to law enforcement. He has also found that the other officers in the Police Department as well as citizens in the community respect Mr. Sansing. He represents the community well. In the thirteen plus years that he has been with the City, Mayor Wozniak stated that he has not heard one negative comment about Mr. Sansing. He was very proud and pleased to honor Mr. Sansing. He stated that Mr. Sansing had many opportunities in law enforcement throughout the state and that he was very glad that he was willing to stay with the City. He congratulated Deputy Chief Sansing.

AUDIENCE PARTICIPATION PERIOD

Rose Lynch, 4262 S. Hudson Parkway, updated the Council on a project she had been working on with former City Manager Eric Ensey the previous summer and the Denver Regional Council of Governments (DRCOG). The City is a signatory on DRCOG's region-wide mitigation project, which it must be in order to get any funding in case of a disaster. However, the Federal Emergency Management Agency (FEMA) has rejected DRCOG's mitigation program, so they will have to re-write it and will be meeting with jurisdictions by county. Ms. Lynch asked if Council would like her to continue to act as the City's liaison to this project.

Mayor Wozniak asked why FEMA had rejected DRCOG's proposal.

Ms. Lynch replied that DRCOG's proposal had been incomplete, and that the rejection had nothing to do with the City specifically. She stated that once DRCOG's new proposal was accepted by FEMA, the City would have to re-adopt the proposal.

Mayor Wozniak indicated that he appreciates Ms. Lynch's efforts on this project and would appreciate it if she continued in her role as the liaison for the City. He indicated that Council and staff would provide whatever support and help she might need.

Ms. Lynch also reported that FEMA offers hazard mitigation grants for jurisdictions with facilities in flood zones to rebuild their facilities. She stated that the City may be eligible to receive some funding to build a new facility. She stated that an application was more likely to be approved if there was a history of flooding in the area.

Jim Crossman, 12 Cherryvale Dr, thanked the Council for volunteering their time to serve the City and its residents. He stated that he and his wife were remodeling their home and because the remodel would be over 50% of the square footage of the house, they will be required to install a sprinkler system. He stated that he has done a lot of research on this issue and his primary objection to the requirement was that sprinkler systems were prone to leaks and pre-mature discharge. He stated that he is in the conservation business and the sprinklers are creating voids in attic insulation and thus decreasing the energy efficiency of the entire home. He stated that the owner of American Sprinkler said that he had installed thousands of sprinkler systems and had never seen one prevent a fire in 16 years. Mr. Crossman stated that an estimated cost for installing the sprinkler system was \$26,000 and annual maintenance was \$175. He stated that most home fires start with heating units such as boilers, furnaces, hot water heaters, or chimneys. He stated that his house would have a one hour fire rating around their furnace and boiler. He stated that according to the US Fire Administrations 2008 report, the trend in fire deaths and injuries had decreased nation-wide due to houses and appliances being safer. He stated that requiring a sprinkler system was overkill because the likelihood that it would help put out a fire was low and the likelihood that it would cause water damage to the house was high. He stated that many cities that had adopted the 2006 International Building Code had elected to exclude the sprinkler part of the code. He stated that according to an article in the Pittsburg Tribune, the state of Pennsylvania had removed its requirement to install sprinkler systems because of the negative feedback from home builders and home owners. He stated that there was a Home Builders Association nation-wide study that showed that 98% of home owners did not want a sprinkler system requirement. He stated that he had spoken to a member of the South Metro Fire Rescue (SMFR) about this issue.

Mayor Wozniak indicated that he remembered Council having a discussion about the City adopting the sprinkler requirement as part of the 2006 International Building Code (IBC). He asked Community Development Director Rob Zuccaro to present the staff report on Fire Sprinkler Requirements.

Fire Sprinkler Requirement Discussion

Mr. Zuccaro presented Council with additional background on the issue. He stated that the City had gone through the process to adopt the 2006 IBC during 2007 and 2008. During that process staff and Council in coordination with SMFR determined that Cherry Hills Village has a unique circumstance due to its rural nature whereby the number and placement of fire hydrants and the water distribution infrastructure created a safety issue for many areas of the City. There were a number of public meetings held regarding this issue, but no comments related to the adoption of a sprinkler requirement were received by staff or presented to Council. The City adopted the sprinkler

requirement at the recommendation of SMFR. Mr. Zuccaro indicated that a representative from SMFR was present to answer any technical questions Council may have.

Mayor Wozniak indicated that he would like to see an aerial map of the City indicating the location of hydrants. He indicated that he recalled that SMFR could not get to certain areas of the City with the existing fire hydrant locations. He indicated he was sympathetic to Mr. Crossman's situation but also to those residents who's homes were far from hydrants. He indicated he would need more information to make an informed evaluation of the situation.

Mr. Zuccaro stated that the City does have a policy in place that can grant exceptions to the sprinkler system requirement if the home is near a fire hydrant with sufficient water flow. He indicated that Mr. Crossman had applied for this exception but that their home did not meet the minimum requirements. He stated that Council could pass an ordinance if they wanted to change the sprinkler requirement. He indicated that the 2009 IBC would require sprinkler systems to be installed in all new homes. He indicated that the Crossmans' architect was working with the City's building official on design alternatives to try to eliminate the sprinkler requirement.

Mayor Wozniak asked Council if they would like staff to present on this issue again.

Councilor Brown indicated that he would like Council to explore this issue further. He stated that a map of the City indicating the location of fire hydrants and the amount of water flow would be helpful. He would also like to see the geographic areas of the City that are underserved.

Councilor Roswell agreed and indicated he was particularly interested in exploring the issue of water flow.

Mayor Pro Tem Stewart indicated that he suspected water flow was an issue in many parts of the City resulting in many areas of the City being inadequately covered by fire safety measures. He asked when Council would be looking at adoption of the 2009 IBC.

Mr. Zuccaro indicated staff would be bringing the 2009 IBC before Council later in the year.

Councilor VanderWerf indicated she would like more information regarding the requirements and the process to upgrade fire safety ratings.

Mr. Zuccaro suggested that some of these questions and concerns could be addressed by the member of SMFR who was in attendance at the meeting.

Anthony Valdez, Fire Protection Specialist at SMFR, introduced himself to Council. He indicated that he reviews the construction process for the majority of single family homes and commercial space for adherence to fire code for the City.

Mayor Wozniak asked if Mr. Valdez was in support of the requirement to install sprinkler systems.

Mr. Valdez responded that SMFR is a big supporter of residential sprinkler systems, and has been on several national committees that advocated having the requirement for sprinkler systems included in the 2009 IBC. They were also involved in creating a committee at the state level that worked to help jurisdictions understand the philosophy behind their recommendation.

Councilor Griffin stated that he was always a supporter of safety. He stated that he had relatives in Vail who had sprinklers in their home, and during an annual inspection the inspector had re-assembled the sprinklers incorrectly. His relatives were out of the country when the sprinkler snapped and ran for 10 days before someone became aware of the problem. He stated that his relatives' house was flooded as well as the surrounding homes. He indicated that there were a lot of issues that needed to be addressed and recommended that Council take a hard look at the benefits versus the costs.

Mr. Crossman asked Mr. Valdez if he was aware of any instances of fires in the City where sprinklers had been involved.

Mr. Valdez indicated that he would have to look at SMFD's records.

Mayor Wozniak directed staff to compile information about the City's hydrants and water flow and to present the information to Council with SMFR. He suggested that Mr. Crossman continue to work with Mr. Zuccaro to find an alternative to installing sprinklers, since any ordinance that Council would consider would take time to pass and become effective. He indicated that he was sympathetic to Mr. Crossman's situation and he hoped that they could resolve the issue to his satisfaction.

Mr. Crossman stated that he would be happy to participate in any subcommittee or help with any research that Council or staff might need done.

Mayor Wozniak thanked Mr. Crossman.

CONSENT AGENDA

Councilor Brown removed Item 5e from the consent agenda.

Councilor VanderWerf removed Item 5a from the consent agenda.

Councilor Brown moved, seconded by Councilor VanderWerf to approve the following items on the Consent Agenda:

- b. Contract for Services with Thoutt Brothers and Expenditure of Funds for the 2010 Concrete Replacement Program
- c. Contract for Services with Quality Paving and Expenditure of Funds for the 2010 Chipseal Program
- d. Contract for Services with Lafarge West and Expenditure of Funds for the 2010 Asphalt Milling and Overlay Program
- f. Resolution 9, Series 2010; Cancelling the April 6, 2010 Regular Municipal Election

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

Councilor Brown asked staff to explain the basis for the permit fees in Resolution 8, Series 2010.

Public Works Director Jay Goldie explained that the permit fees in the proposed resolution were based on the current permit fees for right-of-way permits. He stated that staff had reduced the amount of the permit fees as much as possible, but that these permits still had administrative time and cost (\$40) as well as inspection time and cost (\$80) associated with them.

Councilor Brown clarified that this resolution followed Ordinance 5, Series 2010, and that a permit would only be required if the home owner wanted to plant more than four small trees or bushes with a caliper not to exceed two inches.

Mr. Goldie confirmed that this was correct. He explained that the deep roots of trees and bushes were the most troublesome for the public works staff to work around, while sod, rock, gravel, and flowers were relatively easy to work around.

Councilor Brown asked if the phrase "exceeds guidelines above" referred to more than four trees or bushes.

Mr. Goldie confirmed that this was correct. He added that the trees and bushes must be at least 10 feet from the edge of the road.

Mayor Wozniak commented that most home owners do not know where the right-of-way is in relation to their property.

Mayor Pro Tem Stewart indicated that Ordinance 5, Series 2010 would allow the City to require that people who had landscaped in a right-of-way get a permit.

Mr. Goldie indicated that he would be working with the Code Enforcement officers to educate residents about the new ordinance.

Councilor Brown moved, seconded by Councilor Roswell to approve the following items on the Consent Agenda:

- e. Resolution 8, Series 2010; Approving the permit fees for landscaping permits within the City's Rights-of-way

The motion carried unanimously.

Councilor Vanderwerf indicated that the minutes for the March 1, 2010 meeting should be changed to read "Big Dry Creek Trail" instead of "Little Dry Creek Trail" on pages 2 and 3.

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

- a. Approval of Minutes – March 1, 2010

The motion carried unanimously.

UNFINISHED BUSINESS

Removal of Council Bill 6, Series 2010; A Bill for an Ordinance Authorizing a Supplemental Appropriation for the Purchase of a Mower for Fiscal Year 2009

Finance Director Karen Proctor began by saying that Council Bills 6, 7, and 8, Series 2010 were all supplemental appropriations to the 2009 budget. She explained to Council that Council Bill 6, Series 2010 was brought to Council at the March 1, 2010 meeting on first reading at the suggestion of the City's auditors. Since that meeting, Ms. Proctor stated that she had done further research on the issue and found that the Government Finance Officers Association's (GFOA) book on *Governmental Accounting, Auditing, and Financial Reporting* states that there are two acceptable methods of recording a trade-in like the one at issue in the proposed bill. The first method is to

record the difference between the value of the trade-in and the value of the new piece of equipment. This is the method that Ms. Proctor used. The second method is the one the auditors suggested be used, where the total value of both the trade-in and the new equipment are recorded. The first method is easier to reconcile with budgets. Because the first and originally-used method is acceptable according to GFOA methods, Ms. Proctor is recommending that Council not pass Council bill 6, Series 2010.

Mayor Wozniak asked City Attorney Ken Fellman about the procedure for removing a Council Bill.

City Attorney Fellman explained that there were no special procedures; rather the bill would die for lack of a motion if Council took no further action.

Councilor Roswell asked why the City's auditors changed their minds as to which accounting method was acceptable to use.

Ms. Proctor replied that it may have been because of a miscommunication among the auditors or may have been because they prefer the second method of accounting. She explained that the City would not receive a footnote in its audit if Council did not pass this bill.

The bill died for a lack of motion.

Council Bill 7, Series 2010; A Bill for an Ordinance Authorizing a Supplemental Appropriation for the Purchase of a Grader for Fiscal Year 2009 (final reading)

Ms. Proctor explained that the only reason the auditors had said that the City would have to amend its budget to account for the lease of the grader in Council Bill 7, Series 2010 was that the amount of the lease would have put the City's actual expenditures over its budgeted expenditures for fiscal year 2009. This was because the auditors did not take into account the supplemental appropriation for \$150,000 for the Cat Anderson Foundation that Council approved in 2009. Because the supplemental appropriation for the Cat Anderson Foundation had in fact been passed by Council, the lease of the grader no longer put the City over budget, and Council Bill 7, Series 2010 was no longer necessary. Ms. Proctor stated that the accounting entry would still be amended to reflect the entire amount of the lease in 2009, but that a supplemental appropriation for the lease of the grader was no longer necessary. She stated that not passing this bill would not result in a footnote in the City's audit.

Councilor Brown indicated that he was not in agreement with the auditors' evaluation in this situation. He stated that the City Charter directs the Council to prepare a budget based on expected revenues and expenditures, and so recording the full amount of the lease in the first year did not make sense because there was no record of the City having paid or spent the full amount of the lease. He stated he had not been persuaded to pass this bill.

Mayor Wozniak indicated that Councilor Brown's comments were well-taken. He indicated that Ms. Proctor had the task of explaining the difference between accrual vs cash-based systems of accounting to Council, the former being implemented in municipal government and the latter being more familiar to Council members.

Ms. Proctor indicated that modified accrual basis of accounting states that the full amount of a lease-to-purchase agreement must be recorded as soon as it is recognized. The City's lease agreement states that at the end of the lease the City will own the grader, therefore the City knows that it will own the grader and must record the full amount of the lease even though it has not paid or spent the full amount yet. The

City has to recognize the total cost now because the grader will become the City's asset.

Mayor Wozniak clarified that this accounting method assumes that the City will purchase the grader at the end of the lease term.

Councilor Griffin indicated that the City was under no obligation to buy the grader at the end of the lease term, and may discontinue the lease at any time.

Ms. Proctor responded that GFOA states that if the chance of the municipality cancelling the lease is remote, the entire amount of the lease should be recorded in the first year.

Councilor Brown asked staff to clarify whether the discussion was regarding the budget or the financial accounting.

Ms. Proctor stated that the bill addressed the budget, which was no longer needed, but that the adjustment to the financial accounting would still need to be made.

The bill died for lack of a motion.

Council Bill 8, Series 2010; A Bill for an Ordinance Authorizing a Supplemental Appropriation for the Expenditure of Funds for the Dry Creek Trail Improvements for Fiscal Year 2009 (final reading)

Ms. Proctor presented Council Bill 8, Series 2010 on second and final reading. She stated that the accounting had been recorded properly in this case, but that because the grant was not spent in the same year it was received it was not budgeted as expenditure in the 2009 budget. Therefore a supplemental appropriation for the 2009 Parks, Trails and Recreation Fund for the amount of the grant was necessary.

Councilor LaMair moved, seconded by Councilor Griffin to approve Council Bill 8, Series 2010 a bill for an ordinance of the City of Cherry Hills Village authorizing a supplemental appropriation for the expenditure of funds for the Dry Creek Trail improvements for fiscal year 2009, on final reading.

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 Council Bill 8-2010: 6 ayes. 0 nays. The motion carried.

NEW BUSINESS

None

REPORTS

Members of City Council

Councilor Brown reported that the Parks, Trails and Recreation Commission had held a public meeting to discuss construction of play equipment at Dahlia Hollow. He indicated that attendance was high with a wide-range of age groups and view points, and that many thoughtful comments were presented. He stated that the comments that had struck him the most were those that stated that the addition of play equipment would help to establish a sense of community.

Mayor Wozniak asked if the issue would eventually come before Council.

Councilor VanderWerf replied that PTRC would continue to get public input on the issue and there were still several steps before the issue would come before Council but that it would come to Council eventually.

Councilor VanderWerf reported that the Summer Equestrian Event was scheduled for June 12th. She also reported that PTRC had decided to install a memorial for Jim Muhm in the form of a boulder with a plaque and a tree that will go near the bench in Blackmer Common.

Councilor Roswell had no report.

Mayor Pro Tem Stewart had no report.

Councilor LaMair reported that the public hearing about the speed bump on Oxford had gone well and that Mr. Goldie had done a nice job. She said between 15 and 20 people attended and that there were many different opinions. An alternate option was discussed to re-locate the existing speed bump closer to the proposed speed bump's location. She said that at the end of the meeting the petitioners were not sure if they would pursue the new speed bump or a re-location of the current speed bump. Regardless of which they choose, they will have to re-petition the neighborhood. If they choose to re-locate the current speed bump, they will have to petition both on removal of the current speed hump and on re-installing it. These two petitions could be circulated at the same time. She asked Mr. Goldie if he had heard which option the petitioners would pursue.

Mr. Goldie replied that he had not yet heard from the petitioners, but that he was keeping in contact with them.

Councilor LaMair indicated that the City's traffic calming policy that addresses speed humps had been a great help and had made the process much more straightforward than it would have been without a written policy.

Councilor Roswell asked if the meeting was inclusive of the larger neighborhood.

Councilor LaMair confirmed that it was inclusive of the larger neighborhood, and indicated that notice of the meeting had been posted in the neighborhood and letters had been sent to all the households. She also stated that if the petitioners decided on the alternate option of re-locating the current speed bump that the petition neighborhood would be even larger.

Mr. Goldie clarified that the first petition for the speed bump was no longer valid, and that the petitioners would have to get a new petition signed by members of the new and larger defined neighborhood. He clarified that letters giving notice of the public hearing had been sent to 162 households in Mansfield Heights.

Councilor LaMair indicated that the petitioners would like officers to patrol the area more frequently, and to possibly have a police car with a dummy parked on the street to deter

speeding. She also stated that some neighbors that were in opposition to the speed bump on Oxford told her that there have been speed surveys showing speeding issues on Mansfield. She had encouraged the residents to start thinking about how they might want to address the issue.

Councilor Griffin reported that he and Ms. Proctor had met with Doug Milliken, Arapahoe County Treasurer, Corbin Sakdol, County Assessor, and Barbara Hagerty, Deputy County Assessor of Administration. Doug Milliken is the portfolio manager and the treasurer. Councilor Griffin and Ms. Proctor discussed Mr. Milliken's portfolio theory. Arapahoe County works with a company called Cut Water, the old MBIA. They pay three basis points per year or \$75,000 to act as their advisor on a \$250 million dollar portfolio. They use Chase as their third party administrator, and Mr. Milliken wasn't sure of the fee but it is usually two to five basis points. Currently his portfolio strategy is taking a little bit of duration risk in the five to ten year area with bonds. Mr. Milliken is buying bonds outside of the United States (as well as inside) in the triple-A category. He also utilizes collateralized bank deposits wherein the bank has to put up 102% in US Treasuries to collateralize them, in blocks of one to two million and yielding about 1.5 to 1.7%. He had an investment policy statement and portfolio that he forwarded to Councilor Griffin and Ms. Proctor. Corbin Sakdol sent Councilor Griffin and Ms. Proctor a foreclosure map of Arapahoe County, which shows that Aurora and Englewood have many foreclosures while Cherry Hills Village has comparatively few. There are 10 foreclosures in Cherry Hills Village. They stated that they thought assessments would go up during the June 2010 assessment, for the period June 2008 through all of 2009. One fifth of all the tax sales that go up for sale go un-purchased and they pay 10%. Councilor Griffin and Ms. Proctor will be working on a Request for Proposals for investment services for the City, which they will bring to Council.

Councilor Griffin also reported that in reflecting on the upcoming City election, he attempted to analyze the commitment, time and effort required to fill the position of City Mayor. He estimated the City Mayor spends approximately 20 hours per week dedicated to City business. He indicated that in the past when times were simpler the job of Mayor was consistently easier. However, currently the City was much more complex and needed someone who was a competent business person to dedicate their time and efforts to the City's affairs. He stated that he expected that such a person could ill-afford to give that much time to the City without compensation. He indicated that the City's policy of not paying the City's Mayor was unreasonable and he asked staff to prepare information on neighboring and similar communities with respect to mayoral compensation.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Interim City Manager John Patterson reported that he had met with the City Managers of Greenwood Village and Centennial in order to network and gain a better understanding of what was expected from City Managers. He also reported that he would be attending the Metro Mayor's meeting on Friday.

Denver Water Distributors Technical Advisory Committee Informational Report

Mayor Wozniak indicated that this committee did wonderful work that the City would not be able to do on its own. He commended the work they did.

Mr. Goldie reported that the Denver Water Distributors Technical Advisory Committee (TAC) was a watchdog group for a limited number of municipalities. They represent the communities that use Denver Water but who are outside of Denver County. Council could request one of the committee members attend a Council meeting to answer questions. As an example of their helpfulness, they saved their representative communities approximately \$5 million by catching one mistake in Denver Water's billing. Mr. Goldie stated that the TAC was a very worthwhile expense for the City.

Mayor Wozniak indicated that it would be helpful to Council for staff to present how suburban water rates are set so that Council could better answer resident questions. He asked staff to have a representative from TAC attend a Council meeting so that Council could thank them for their work.

Councilor Roswell indicated he was curious about the other water services available to the City besides Denver Water.

Mr. Goldie replied that the City had 13 providers and that the City has a map showing which areas relate to which providers.

Mayor's Report

No report.

City Attorney

No report.

ADJOURNMENT

The meeting adjourned at 7:15 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk