

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, May 18, 2010 at 6:30 p.m.
At the Village Center

The Study Session on Proposition 101, Amendment 60 and Amendment 61 began at 6:00 p.m.

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 Attorney Ken Fellman, Finance Director Karen Proctor, Public Works Director Jay Goldie, Deputy Chief of Police Jody Sansing, Parks, Trails & Recreation Administrator Ryan Berninzoni, Crew Chief Ralph Mason, and City Clerk Laura Smith.

Absent: none

LIFE SAVING AWARD FOR OFFICER AMANDA RAMIREZ

Deputy Chief of Police Jody Sansing presented the Cherry Hills Village Police Department Life Saving Award to Officer Amanda Ramirez. He indicated that this was an impressive accomplishment for Officer Ramirez as she had been working at the City for less than a year and because the Life Saving Award had only been given to three other Cherry Hills Village officers.

Deputy Chief Sansing explained that on Saturday April 4, 2010, a City resident called 911 because her husband was unconscious at their home. Officer Ramirez was dispatched to the residence with the information that a man was unconscious and not breathing. Officer Ramirez was the initial emergency responder to arrive and immediately recognized the need for CPR. Officer Ramirez began chest compressions and continued CPR until South Metro Fire Rescue (SMFR) Authority personnel arrived. After the initial situation diffused, it was determined by medical staff that the victim's heart may have stopped for several minutes. During such a critical medical condition, the time until medical care is administered exponentially decreases the survival rate of the individual. Officer Ramirez's timely response and immediate administration of CPR followed by SMFR Authority's critical medical care resulted in the saving of a human life. He presented Officer Ramirez with the Cherry Hills Village Police Department Life Saving Award in recognition of her heroic actions in a life-saving situation.

Mayor Wozniak thanked Officer Ramirez on behalf of Council and the residents of the City. He stated that they were very lucky and proud of Officer Ramirez's accomplishments.

AUDIENCE PARTICIPATION PERIOD

None

CONSENT AGENDA

Councilor LaMair removed Item 5b from the Consent Agenda.

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

- a. Approval of Minutes – May 4, 2010
- c. Appointment of Cherry Hills East Water Board of Directors
- d. Resolution 10, Series 2010; A Resolution to Reappoint Members to the Parks, Trails and Recreation Commission Contract with Winter and Company to Conduct Bulk Plane Study
- e. Contract with Winter and Company to Conduct Bulk Plane Study
- f. Planning Service Agreement with Denver Regional Council of Governments for Small Community Technical Assistance Grant Program
- g. Memorandum of Understanding with South Metro Fire Rescue Authority

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

Item 5b. Agreement Revision with Cherry Hills East Water District and Denver Water

Mr. Goldie presented a revised agreement between the Cherry Hills East Water District, Denver Water, and the City. He stated that Council had approved the original Total Service agreement in 2008, which included a loan from Denver Water to the residents of Cherry Hills East Water to finance the reconstruction of the water system prior to Denver Water taking possession. The District had halted the agreement to research less costly financing options, but none of these options proved to be viable and the District incurred a number of expenses including legal fees and system maintenance costs. The District is asking Denver Water to modify the agreement to include these costs. The City has accrued over \$18,500 in legal expenses as a direct result of this process, but no reimbursement has been received from the District. Staff recommended approval of the agreement with the condition that the District pay in full the City's legal expenses related to the total service conversion process.

Councilor VanderWerf asked if the District had been aware that they would be required to reimburse the City for all legal expenses by taking advantage of the City Attorney.

Mr. Goldie replied that the District had been notified of this by former City Manager Eric Ensey.

Councilor LaMair asked about the absence of Exhibit C of the staff memo.

Mr. Goldie replied that staff had not yet received the letter referred to as Exhibit C from the District.

Mayor Wozniak asked what the City's policy had been when other districts had dissolved.

Mr. Goldie replied that the City has always received reimbursement for any direct costs from the districts.

Mayor Wozniak asked how many other districts in the City were in the process of dissolution.

Mr. Goldie replied that there were none currently in the process, but that there were thirteen that could potentially dissolve in the future.

Mr. Flynn stated that the agreement would allow the district to dissolve which will be a benefit for the residents in the area.

Mr. A.J. Coffman, chairman of the Cherry Hills East Water District, stated that he had been working on dissolution of the District for the last 20 years. He stated that he appreciated the City's interest in consolidating the districts into the City. However he was unaware that the District would be expected to reimburse the City's legal expenses. He stated that the 54 homes and 1 church in the District would be paying around \$235 more per month for the next 15 years to pay back the loan from Denver Water, at the end of which Denver Water Board would turn over a brand new system complete with hydrants, main, extension lines, etc. He stated that the District was ready and willing to pay the City for the legal expenses, but respectfully requested that Council consider waiving the payment.

Councilor LaMair indicated that she had a distinct recollection that four years ago when the District was in the process of dissolution and the City stepped in to help move negotiations forward, there had not been any discussion of legal expenses to be reimbursed to the City by the District.

Mr. Coffman confirmed that the District was never notified of the cost of the City's attorney and so never accrued that amount as a liability in their accounting.

Councilor LaMair requested that the item be withdrawn from the agenda to give time to discuss this issue with the District and come back with a recommendation on a compromise.

Councilor Brown indicated his surprise that the District had not been able to find a less costly financial option than the one with Denver Water.

Mayor Wozniak indicated that it was the City's policy to have districts reimburse the City for legal expenses, and that he was hesitant to make an exception in this instance for fear that it would become the rule for other districts which may dissolve in the future. He also indicated that if the City did not receive reimbursement, then the cost would be shouldered by all the residents in the City as taxpayers.

Mr. Coffman indicated that the District was in need of the loan from Denver Water, and asked that Council make a decision tonight.

Councilor VanderWerf indicated that any districts that begin the process of dissolution in the future should be made aware of Mr. Flynn's per hour cost well in advanced. She indicated that she felt sympathy for Mr. Coffman and the District, and that some people had not been aware that the District would be required to reimburse the City's legal expenses, and had felt that the City had signed the agreement because it was a mutually agreed upon goal.

Councilor LaMair indicated that the cost to residents was already high, and that each home may have to repair their personal lines out to the main line. She indicated that the District had not been aware that they would owe legal expenses to the City.

Councilor LaMair moved, seconded by Councilor VanderWerf, to accept the First Amendment to Water Service Agreement TSI 237 (DW #12104A), as presented, with the condition that the City pay half of the direct expenses associated with the legal fees related to this process.

The following votes were recorded:

Mark Griffin	no
Harriet LaMair	yes
Russell Stewart	no

Scott Roswell	no
Klasina VanderWerf	yes
Alex Brown	yes
Michael Wozniak	no

Vote on the Council Bill 14-2010: 3 ayes. 4 nays. The motion failed.

Mayor Pro Tem Stewart moved, seconded by Councilor Roswell, to accept the First Amendment to Water Service Agreement TSI 237 (DW #12104A), as presented, with the condition that the Cherry Hills East Water District reimburse the City in full for all direct expenses related to this process as the policy of the City has been and is outlined in the staff memo.

The following votes were recorded:

Harriet LaMair	no
Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	no
Alex Brown	yes
Mark Griffin	yes

Vote on the Council Bill 14-2010: 4 ayes. 2 nays. The motion carried.

Mr. Flynn indicated that he was sorry that the District had not been aware that they would owe legal expenses. He also indicated that this would probably be the last total service agreement that Denver Water would enter into, and that they may not have agreed to this one had Council not required the District to reimburse all legal expenses.

UNFINISHED BUSINESS

Council Bill 14, Series 2010; A Bill for an Ordinance Amending Chapter 18 of the Municipal Code Concerning Building Regulations, by Amending Article X, Section 70(f) Concerning Enforcement and Fines (*final reading*)

City Attorney Fellman presented Council Bill 14, Series 2010 on second and final reading. He stated that there had been no changes to the proposed bill since first reading.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Council Bill 14, Series 2010; a bill for an ordinance amending Chapter 18 of the Municipal Code, concerning building regulations, by amending Article X, Section 70(f), concerning enforcement and fines, on second and final 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 14-2010: 6 ayes. 0 nays. The motion carried.

NEW BUSINESS**Request by Kent Denver School for an Expanded Use Permit to Expand the School Dining Hall**

Mr. Goldie presented a request by Kent Denver School for an Expanded Use Permit to renovate and expand their dining hall, kitchen, board room, and parking. Kent Denver School is zoned R-1 and private schools are a permitted use in this district provided that any expansion be approved in accordance with Article XX of the Zoning Ordinance. He stated that all the submittal and zoning requirements had been met, as well as all the notice requirements for the public hearing. Because several of the site improvements being proposed are located in a Denver Water easement, these improvements will need to be authorized by Denver Water through a license agreement with Kent Denver School. Staff recommended that Council approve the proposal with the condition that Kent Denver enter into a license agreement with Denver Water.

Mr. Jerry Walker, representing Kent Denver School at 4000 E. Quincy Ave. thanked the Council and indicated that he hoped the expanded dining hall would be a resource that local residents could use. He indicated that Kent Denver School had met with neighbors to look at preliminary designs of the new dining hall. They had also presented at a P&Z meeting and had not met any opposition. He indicated that the agreement between Kent Denver School and Denver Water had been executed. He indicated that the cafeteria was built to serve 200 students, but was currently serving 650 students, and was currently using one oven and one stove to serve 750 meals per day. He indicated that this was constraining the academics as the class schedule was driven by the capacity of the dining hall. The expanded dining hall will allow for more flexibility in scheduling and more variety in food options including healthier options. It would make Kent Denver more competitive as an institution. He indicated that the new dining hall was designed to LEED platinum standards. He indicated there were only 140 buildings in the world that had this certification, and only three K-12 schools in the country. This would result in an impressive reduction of energy and water use. The new dining hall would be built on the existing dining hall's footprint.

Mr. Brian Schmidt of Semple Brown Architecture indicated that the new dining hall would be extended to the West. It would include three dining areas with partitions. The design would take advantage of sunlight and the lights would rarely have to be used during the day. High performance glass would provide views of the mountains and conserve energy. The new parking lot would add 52 parking spaces. The materials would fit into the architecture of the campus. Views of the roof would be negligible since the building sits at the top of the hill. They have coordinated with South Metro Fire Rescue and will be adding a new fire lane.

Mayor Wozniak asked what the total height of the new dining hall would be.

Mr. Schmidt replied that the height from the finished floor would be 22 feet, under the allowed 23.6 feet based on 30 feet allowable height from the middle building grade.

Mr. Walker replied that the height would not be changed from the current building.

Mayor Wozniak asked what the distance to the nearest neighbor was.

Mr. Walker replied that it was several hundred feet on the other side of the High Line Canal.

Mr. Schmidt indicated that the mechanical units were concealed.

Councilor LaMair indicated that she was impressed with the design and the sensitivity to the High Line Canal. She indicated that she expected the broader community would be impressed as well.

Councilor VanderWerf indicated that the planned orchard was also a wonderful addition.

Mr. Walker explained that they had wanted to get kids involved in food and had discussed a garden, but that since the kids left in the summer they decided an orchard would be better. He explained that they would be determining the best species to plant and would install a drip irrigation system to get the trees established. He stated that because the orchard would be in a dip, even at maximum height the trees would not impede the view.

Mayor Wozniak opened the public hearing. Hearing no comments the public hearing was closed.

City Attorney Fellman indicated that the license agreement between Kent Denver and Denver Water was not yet in its final form, and recommended that Council modify the motion to have Kent Denver provide the City with a copy of the final agreement within 10 days of its execution.

Councilor LaMair moved, seconded by Mayor Pro Tem Stewart, to approve the request by Kent Denver School for an "Expanded Use Permit" to expand the school dining hall and parking facilities with the condition that Kent Denver School provide the City with a copy of the final license agreement with Denver Water authorizing all proposed site improvements located within Denver Water easements within 10 days of executing that license agreement.

The motion carried unanimously.

Council Bill 15-2010; A Bill for an Ordinance Amending Chapter 2 of the Municipal Code, Concerning Administration and Personnel, by Amending Section 2-1-10, Concerning Conduct of Elections, Section 2-1-40, Concerning Write-in Candidate Affidavits, and Section 2-1-50, Concerning Cancellation of Elections

City Clerk Laura Smith presented Council Bill 15, Series 2010 on first reading. She stated that the proposed bill addressed issues that staff was faced with during the April 6, 2010 mail ballot election regarding timelines and deadlines. The current timelines and deadlines in state statutes severely restrict the time between when ballots may be finalized and when they must be mailed to registered electors. Furthermore, the deadlines for write-in candidate affidavits and the cancellation of the election outlined in the Municipal Code restricts when the election may be cancelled related to when ballots must be mailed. The proposed adjustments in timelines and deadlines would maintain the three weeks given to circulate nomination petitions and the week given for candidates to amend or withdraw their petitions, but would move these dates to allow for more time between when the ballot may be finalized and when ballots must be mailed. The proposed bill also adjusts the deadline for affidavits of write-in candidates and the date on which the election may be cancelled to allow for more time before ballots must be mailed. The proposed bill would change these timelines and deadlines for mail ballot elections only, and not for polling place or coordinated elections.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Council Bill 15, Series 2010; A Bill for an Ordinance of the City of Cherry Hills Village Amending Chapter 2 of the Cherry Hills Village Municipal Code, Concerning Administration and Personnel, by Amending Section 2-1-10, Concerning Conduct of Elections, Section 2-1-

40, Concerning Write-in Candidate Affidavits, and Section 2-1-50, Concerning Cancellation of Elections on first reading.

The following votes were recorded:

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

Vote on the Council Bill 15-2010: 6 ayes. 0 nays. The motion carried.

Council Bill 16, Series 2010; A Bill for an Ordinance Amending Chapter 1 of the Municipal Code, Concerning General Provisions, by Amending Section 1-6-10, Concerning the Location of City Offices and Records

Ms. Smith presented Council Bill 16, Series 2010 on first reading. She indicated that the Code currently states that all City books and records reside at the Village Center, but that because of lack of storage space the City stores many records off-site. The proposed bill would update the Code to reflect this.

Mayor Pro Tem Stewart asked if the City still had many paper copies or if they were transferring to digital.

Ms. Smith replied that most of the City's records were still in paper form.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Council Bill 16, Series 2010; A Bill for an Ordinance of the City of Cherry Hills Village amending Chapter 1 of the Cherry Hills Village Municipal Code, concerning General Provisions, by amending Section 1-6-10, concerning the Location of City Offices and Records on first reading.

The following votes were recorded:

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

Vote on the Council Bill 16-2010: 6 ayes. 0 nays. The motion carried.

Council Bill 17, Series 2010; A Bill for an Ordinance Authorizing a Supplemental Appropriation for a Contract with Winter and Company to Conduct a Bulk Plane Study

Finance Director Karen Proctor presented Council Bill 17, Series 2010 on first reading. She explained that the proposed bill was for a supplemental appropriation in the amount of \$18,460 to cover the cost of the contract approved on tonight's consent agenda with Winter and Company to conduct a Bulk Plane study. A total of \$4,500 will be reimbursed to the City for the study through the DRCOG Small Community Technical Assistance Grant Program.

Mayor Wozniak asked if the \$4,500 from the DRCOG was committed to the City.

Ms. Proctor confirmed that it was.

Councilor LaMair moved, seconded by Councilor Griffin to approve Council Bill 17, Series 2010; A Bill for an Ordinance of the City of Cherry Hills Village authorizing a supplemental appropriation for the expenditure of funds on a contract with Winter and Company to conduct a bulk plane study, on first 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 the Council Bill 17-2010: 6 ayes. 0 nays. The motion carried.

Council Bill 18, Series 2010; A Bill for an Ordinance Amending Chapter 16 of the Cherry Hills Village Municipal Code Concerning Zoning, by (1) Amending Sections 16-5-10, 16-12-10 and 16-13-10 Concerning Permitted Uses in the Various Zone Districts; 16-5-20, 16-6-20, 16-7-20, 16-8-20, 16-9-20, 16-10-20, and 16-12-20 Concerning Conditional Uses in the Various Zone Districts; and 16-8-20 Concerning Requirements and Conditions for Specific Conditional Uses; and (2) the Addition of Section 16-16-150 Concerning Satellite Dish Antennas; All for the Purpose of Adopting Comprehensive Regulations Concerning Satellite Dish Antennas

Mr. Goldie presented Council Bill 18, Series 2010 on first reading. The proposed bill is for the addition of comprehensive satellite dish antenna regulations to the Zoning Ordinance. The proposed bill allows satellite dish antennas one meter or less in diameter in all zone districts without restriction as required by the Federal Communications Commission. He offered to explain the proposed bill and staff memo in detail.

Mayor Wozniak indicated he wanted to make sure there was a problem before the Council passed legislation.

City Attorney Fellman explained that a resident had complained about their neighbor's number and size of satellite dish antenna. He stated that staff had brought the issue to the Planning & Zoning Commission (P&Z) and had studied what other jurisdictions regulate. He indicated that not many other jurisdictions have lot sizes and building envelopes large enough to allow the number or size of dishes as Cherry Hills Village. Staff proposed a council bill to P&Z, and the Commission modified it. He indicated that he had been in contact with Mr. Derbyshire, the neighbor with the satellite dishes, regarding the federal regulations on antenna. He determined that the City Code does not distinguish between the types of antenna that federal regulations do, and he suggested that Council should clarify the Code at a later date. He indicated that the proposed bill would allow residents to apply for a conditional use permit if they wanted more satellite dishes than was allowed.

Mayor Wozniak asked if a conditional use permit would be heard by the P&Z, the Board of Adjustment and Appeals, or Council.

City Attorney Fellman replied that it would be heard by the P&Z.

Mayor Wozniak asked Mr. Goldie to explain the proposed restrictions.

Mr. Goldie explained that the proposed bill would allow up to three wall or roof-mounted antennas between one and four meters in diameter subject to design criteria and setback standards for residentially zoned properties. Free-standing antennas between three and four meters would be considered accessory structures, subject to the permitted number of accessory structures for each zone district. For commercial or community zoned properties, up to three satellite dish antennas between one and four meters would be allowed, whether wall mounted, roof mounted, or free-standing subject to design criteria and location standards.

Councilor LaMair asked if existing satellite dish antenna would be grandfathered.

City Attorney Fellman confirmed that they would be grandfathered.

Councilor Roswell asked what regulations HOAs have regarding satellite dish antenna.

Mr. Goldie replied that he didn't know.

Councilor Stewart asked if the location of the small dishes could be restricted.

City Attorney Fellman replied that the FCC may not allow that if moving the dish results in any reduction or loss of signal.

Councilor LaMair asked what the proposed bill would require of non conforming satellite dishes that were removed or taken down to be repaired.

City Attorney Fellman replied that if any non conforming dishes were taken down, they would not be allowed to be replaced under the proposed regulations.

Councilor Griffin asked if there was any way to know how many dishes over one meter in diameter there currently was in the City.

Mr. Goldie replied that staff did not have that information and that it would be difficult to gather.

Councilor Griffin stated that he was opposed to satellite dishes larger than one meter.

Mayor Wozniak asked Mr. Derbyshire to explain to Council some of the reasons why a resident may want to have larger satellite dishes.

Mr. Mark Derbyshire of 4950 S. El Camino Dr. stated that the larger dishes were used for specialized television stations from around the world. He stated that these stations operated at a lower frequency than national stations and so required larger dishes to pick up the signal. He stated that his wife was from Switzerland and that they were trying to expose their children to different cultures, languages, and the fine arts, which was difficult to get on national channels. He stated that he and his wife had attempted to place the dishes so that they would be screened, but that the City Code made it difficult. He stated that they had placed many of the dishes on their roof in order to avoid having to pull a building permit, as the cost of the building permit would have been more than the total cost of the equipment and installation of the dish. He stated that since one meter dishes could not be regulated by the City, one way to get around any regulations would be to use many one meter dishes instead of one larger dish. He stated that he would need about 12 one meter dishes to get the same signal as one three meter dish.

Mayor Wozniak thanked Mr. Derbyshire for explaining the uses of larger dishes to Council. He indicated that he appreciated the time that P&Z had spent reviewing this issue and making their recommendation to Council.

Mayor Pro Tem Stewart indicated that if a resident wanted to install a satellite dish larger than was allowed in the proposed bill, then they could come to Council and request a use variance instead of putting up many small dishes. He indicated that the proposed bill merited a first reading.

Councilor Roswell indicated that he struggled with the need to pass an ordinance on this issue, that he did not want to legislate without a clear problem, and that he was not supportive of the proposed bill.

Councilor Brown indicated that he was inclined to agree with Councilor Roswell, but that he would pass it on first reading.

Councilor VanderWerf indicated that Council often passed ordinances in response to a problem, after the problem had already occurred, and that she supported being proactive on this issue.

Councilor Stewart indicated that the existing Code did not address the one meter satellite dishes and that it may be useful to have that set forth in the Code as it would be with the proposed bill.

Councilor Roswell indicated that he didn't feel Council should regulate property rights in this way and that if it did become an issue it was something that the neighborhood HOAs could regulate.

Councilor LaMair moved, seconded by Councilor VanderWerf to approve Council Bill 18, Series 2010; A Bill for an Ordinance of the City of Cherry Hills Village Concerning Zoning, by (1) Amending Sections 16-5-10, 16-12-10 and 16-13-10 Concerning Permitted Uses in the Various Zone Districts; 16-5-20, 16-6-20, 16-7-20, 16-8-20, 16-9-20, 16-10-20, and 16-12-20 Concerning Conditional Uses in the Various Zone Districts; and 16-8-20 Concerning Requirements and Conditions for Specific Conditional Uses; and (2) the Addition of Section 16-16-150 Concerning Satellite Dish Antennas; All for the Purpose of Adopting Comprehensive Regulations Concerning Satellite Dish Antennas on first reading.

The following votes were recorded:

Harriet LaMair	yes
Russell Stewart	yes
Scott Roswell	no
Klasina VanderWerf	yes
Alex Brown	yes
Mark Griffin	no

Vote on the Council Bill 18-2010: 4 ayes. 2 nays. The motion carried.

REPORTS

Members of City Council

Councilor Griffin had no report.

Councilor LaMair had no report.

Mayor Pro Tem Stewart had no report.

Councilor Roswell had no report.

Councilor VanderWerf reported on several issues that were being discussed by the Parks, Trails and Recreation Commission (PTRC). First, the St. Clair property trail that has been historically used may be formalized as a couple of the neighbors may be willing to create easements for the trail. Second, PTRC will be voting on the public restroom on the Dahlia Street parking area in the near future.

Councilor Brown had no report.

Mayor's Report

Mayor Wozniak thanked Councilor LaMair for hosting the event at her house about the Trust for Public Lands, attended by the mayor of Greenwood Village, Arapahoe County Commissioners, and many Village residents.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Mr. Goldie advised that the Departmental Monthly Reports and Unaudited Financial Statements were included in Council packets and that staff was available for any questions.

Fire Sprinkler Requirements Discussion (Continued)

Mayor Wozniak indicated that the City's current policy of determining the number of sprinklers needed in a new home or renovation based on the location of hydrants and amount of water flow seemed to be a fair method of assessment. He indicated that Council now had a lot of good information to inform any discussion of a future ordinance regarding this issue. He stated that it was Council's job to balance property rights with reasonable safety measures.

Councilor VanderWerf asked if an option for residents who did not meet the hydrant and water flow standards to upgrade the fire hydrants nearest to their property to avoid the requirement for sprinklers.

Fire Marshal Valdez indicated that it would be a very large expense to do so and could be several thousand dollars. He stated that allowing this may appear too discretionary to the public.

Mayor Wozniak agreed, and indicated that if one person paid to upgrade hydrants, then neighbors could take advantage of that without sharing any of the cost, creating a bad public perception. He asked if the City had anything pending on this issue.

Councilor Roswell indicated that the resident who had brought this issue to Council's attention had resolved their issue.

Mr. Goldie indicated that the issue that would be coming up was the adoption of the 2009 International Building Code.

Councilor Brown confirmed that the 2009 Code would include a fully mandatory requirement for sprinklers in all homes irrespective of hydrant locations or water flow.

Councilor Roswell indicated that Council would want public participation.

Fire Marshal Valdez indicated that it would be a big change nationally.

Mayor Pro Tem Stewart indicated that his interest was in the lives saved, not the property damage. He indicated that insurance was a private matter. He indicated that the statistics were not clear on comparing the effectiveness of smoke alarms vs. fire sprinklers. He indicated he was hesitant to require fire sprinklers unless he could be persuaded that they save lives. He asked Fire Marshal Valdez to speak to the current requirements for smoke alarms in residential homes.

Fire Marshal Valdez stated that the current fire alarm requirements were for one on each level of the house in addition to one in each bedroom. He stated that the alarms were all tied together, and so if one was activated then they all went off. He stated that fire alarms had been required in homes for 30+ years, as opposed to fire sprinklers, and so it was difficult to compare them. He stated that it was often difficult to compare the effectiveness of smoke alarms and fire sprinklers because smoke alarms have been around for so much longer. He stated that the City of Scottsdale in Arizona has required fire sprinklers for about 20 years and that's where many of the studies have been done.

Mayor Pro Tem Stewart indicated that his experience with his own home was that the code required so few smoke alarms that it was possible to not have one in the kitchen and still meet the requirements.

Fire Marshal Valdez agreed that the concern with the City was that the size of the residences meant that the requirement of one smoke alarm per floor may be too few to be effective. He stated that smoke alarms had also been shown to be ineffective in alerting young children.

Councilor LaMair indicated that the National Institute of Standards and Technology study indicated that there was a 57% reduction in injuries in homes with fire sprinklers compared to smoke alarms.

Mayor Pro Tem Stewart indicated that the study did not say how many smoke alarms or their location in the homes and so it was difficult to compare effectiveness.

Fire Marshal Valdez stated that there was 90 to 95% cooperation with building officials and only 5 to 10% opposition to fire sprinkler installation.

Mayor Wozniak thanked Fire Marshal Valdez for his time.

Board of Adjustment and Appeals Vacancy

Mayor Wozniak indicated that Council had read staff's memo and that there was no need for a report.

City Attorney

City Attorney Fellman reported that he had been in contact with T-Mobile officials on the lack of coverage in the City. He had received a disappointing response and had contacted the Senior Vice President of Governmental Affairs.

Councilor LaMair indicated that T-Mobile was not holding up their end of cell phone contracts by not having good coverage in the City. She suggested notifying residents that T-Mobile was not working towards improving its coverage in the City.

City Attorney Fellman replied that Council could make it known publically which companies were working to improve their coverage and which were not. He stated that Council could also lodge a complaint with the FCC as T-Mobile was not providing the service they were required to.

Councilor LaMair indicated that with the increased use of cellular phones, the poor service in the City was creating anxiety in the community.

City Attorney Fellman indicated that Council could make it clear to T-Mobile that they won't sit idly if T-Mobile makes no effort to improve service in the City.

Mayor Wozniak indicated that Council could talk about the carriers that were making an effort in the Crier.

Mayor Pro Tem Stewart wondered if it was a density issue.

City Attorney Fellman replied that he didn't think density was much of an issue because many people used cell phones while mobile.

City Attorney Fellman reported that the City's CIRSA lawyers had been offered a nuisance value settlement from the plaintiff lawyers in the Bierenkoven litigation and would pursue a settlement if Council was amenable. He indicated that accepting a settlement would not mean the City would be admitting any wrong-doing. He also indicated that staff was supportive of settling the case.

Mayor Wozniak indicated Council agreed to settle the case.

City Attorney Fellman also reported that Nancy Rogers would be attending the June 1st meeting.

ADJOURNMENT

Mayor Pro Tem Stewart moved, seconded by Councilor LaMair, to step into Executive Session for the purpose of discussing the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest as authorized by C.R.S. 24-6-402(4)(a); and for determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators as authorized by C.R.S. 24-6-402(4)(e), regarding possible development or redevelopment of the new Village Center, and immediately upon ending the Executive Session to adjourn tonight's City Council meeting.

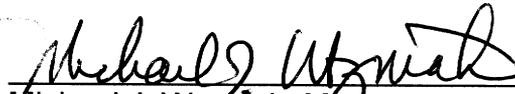
The following votes were recorded:

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

Vote on Executive Session: 6 ayes. 0 nays. The motion carried.

The meeting adjourned at 8:15 p.m.

Executive Session adjourned at 9:15 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk