

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, July 20, 2010 at 6:30 p.m.  
At the Village Center

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

**ROLL CALL**

Councilors Russell Stewart, Mark Griffin, Alex Brown, Scott Roswell, Klasina VanderWerf, and Harriet LaMair 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, Deputy Chief Jody Sansing, Parks, Trails & Recreation Administrator Ryan Berninzoni, Crew Chief Ralph Mason, and City Clerk Laura Smith.

Absent: none

**AUDIENCE PARTICIPATION PERIOD**

Jeff Welborn, 4901 S. Fairfax Street, stated that Public Works Director Jay Goldie and Parks, Trails, and Recreation Administrator Ryan Berninzoni were doing a fantastic job with the trails in the City. He stated that they were being mowed early and often, the weeds were kept down, and that any time there was a problem it was solved quickly and properly.

**CONSENT AGENDA**

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

- a. Approval of Minutes – June 15, 2010
- b. Technical Advisory Committee (TAC) Intergovernmental Agreement
- c. Resolution 11, Series 2010; a Resolution Opposing Proposition 101 and Amendments 60 and 61
- d. Resolution 12, Series 2010; a Resolution Adopting the 2011 Budget Calendar
- e. Resolution 12, Series 2010; a Resolution Appointing Ms. Susan Struan to the Board of Adjustment and Appeals

The motion carried unanimously.

Mayor Wozniak indicated that, in relation to Resolution 11, Series 2010, he had discussed another ramification of the proposed legislation with Dee Wisor, that if local governments were unable to generate revenues to pay for schools, sewer systems and roads, that they would be likely to apply to the Federal government for those funds.

Councilor Griffin asked if there were any figures on voter sentiment.

Mayor Wozniak responded that there has been some polling but that political campaigns would begin in August and would probably change the numbers.

**ITEMS REMOVED FROM CONSENT AGENDA**

None

**UNFINISHED BUSINESS**

Council Bill 19-2010; A Bill for an Ordinance Amending Chapter 16 of the Municipal Code by Amending Section 16-17-60, Concerning Procedure for Development Relating to Dredging Ponds within the Floodplain (Public Hearing and final reading)

Community Development Director Rob Zuccaro presented Council Bill 19, Series 2010 on second and final reading. He indicated that there had been no changes made to the proposed ordinance aside from the City Attorney's changes that had been agreed upon by Council during first reading.

Mayor Pro Tem Stewart asked if the issue of making the public hearing a quasi-judicial meeting had been addressed.

Mr. Zuccaro confirmed that it had.

Mayor Wozniak opened the public hearing and asked for comments regarding the proposed bill. Hearing none the public hearing was closed.

Councilor LaMair moved, seconded by Councilor Griffin to approve Council Bill 19, Series 2010; a bill for an ordinance amending Chapter 16 of the Municipal Code, concerning Zoning, by amending Section 16-17-60, concerning procedures for development relating to dredging ponds located within the floodplain, on second and 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 the Council Bill 19-2010: 6 ayes. 0 nays. The motion carried.

**NEW BUSINESS****Council Liaison Assignments**

Mayor Wozniak indicated he had not changed any of the Council liaison assignments this year and that Councilor LaMair would prefer to retire from her position as DRCOG liaison. He asked if Councilor Brown was willing to assume that assignment.

Councilor Brown affirmed that he was.

Council bill 20, series 2010; A bill for an ordinance repealing and re-enacting Articles I through VIII of Chapter 18 of the Cherry Hills Village Municipal Code, concerning building regulations; adopting by reference, with certain amendments, the 2009 International Building Code, the 2009 International Residential Code, the 2009 International Mechanical Code, the 2009 International Plumbing Code, the 2009 International Fuel Gas Code, the 2009 International Energy Conservation Code, the 2008 National Electrical Code, and the 2009 International Fire Code; repealing all ordinances in conflict therewith; and providing penalties for violation thereof (first reading).

Mr. Zuccaro presented Council Bill 20, Series 2010 on first reading. He explained that the International Codes and National Electrical Code were updated every three years to incorporate new technologies and new construction techniques. He indicated that the City Council adopts these new regulations with customized amendments.

City Building Official Steve Thomas explained the customized amendments to the building codes that staff had included in the proposed bill. First, the proposed bill would eliminate the requirement that any additions of 50% or more of the square footage to single family homes install fire sprinklers. Second, the proposed bill would eliminate the new provision that requires the installment of a guard rail 36" above the seating surface where a bench is installed on a deck. He indicated that this requirement would be deleted in the 2012 version of the building codes. He also indicated that staff had incorporated South Metro Fire Rescue's amendments into the Fire Code portion of the building codes.

Mayor Wozniak asked for clarification that the proposed bill would amend the City Code so that fire sprinklers would not be a requirement with additions and that distance to fire hydrants and water flow amounts would no longer be factors.

Mr. Thomas confirmed this was correct.

Mayor Wozniak asked whether Chief Geislinger had anything to add to the fire sprinkler discussion.

Chief Robert Geislinger, South Metro Fire Rescue Authority, stated that he had nothing to add but was available if there were any questions.

Councilor Roswell asked if the proposed bill had been presented to local architects.

Mr. Zuccaro explained that staff had hosted a public meeting for local home builders and architects and that seven individuals had attended. Mr. Thomas had presented the new codes with the City's amendments. The only questions that were asked were for clarification, and staff had not received any objections to the new codes or the City's amendments.

Councilor LaMair asked for clarification comparing the energy conservation requirements of the International Codes to a LEEDS certification.

Mr. Thomas explained that the Green Construction Code and LEEDS were similar.

Mr. Zuccaro explained that the primary difference was that the Energy Conservation Code was primarily concerned with the building, while LEEDS certification also looked at the site design and surrounding land and water.

Mayor Wozniak indicated that the Council appreciated staff's work on this issue.

Councilor Roswell indicated that he agreed and that the meeting with home builders and architects appeared to indicate a consensus that the building codes were acceptable to the community.

Councilor LaMair moved, seconded by Councilor Roswell to approve Council Bill 20, Series 2010; a bill for an ordinance repealing and re-enacting Articles I through VIII of Chapter 18 of the Cherry Hills Village Municipal Code, concerning Building Regulations; adopting by reference, with certain amendments, the 2009 International Building Code, the 2009 International Residential Code, the 2009 International Mechanical Code, the 2009 International Plumbing Code, the 2009 International Fuel Gas Code, the 2009

International Energy Conservation Code, the 2008 National Electrical Code, and the 2009 International Fire Code; repealing all ordinances in conflict therewith; and providing penalties for violation thereof, on first 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 20-2010: 6 ayes. 0 nays. The motion carried.

Application for a Special Event Permit for More than Music at 1400 E Hampden Ave on August 7, 2010 (Public Hearing)

City Clerk Laura Smith presented an application for a special events liquor license permit from More Than Music, Inc. for August 7, 2010 from 12pm to 12am at 1400 East Hampden Avenue. She indicated that all application materials had been received and reviewed. Ms. Smith recommended approval of the application.

Mayor Wozniak asked the event coordinator to give Council an overview of the event.

Richard Armao, owner of One2One Studio Salon at 1400 E. Hampden Ave, Suite 120, explained that this was an expansion of an event that he had been holding within his studio for several years. He explained that the event would be a joining of music and art and Pulcinella Pizzeria would serve food and alcohol in the parking lot from 6 to 10 pm. They expect around 200 people and have made arrangements to use the Cherry Hills Medical Center parking lot across the street for parking. He stated that he had a relationship, and would be in contact with, the funeral home and apartment buildings in the area and would be arranging with the Cherry Hills Village Police Department for extra-duty officers for the event. He mentioned that the event would be free and open to all ages but that the businesses would charge for their products. He stated that proceeds from the raffle, as well as donations, would go to the non-profit. He stated that jazz, R&B, and soul music would be amplified from the stage in the northwest corner of the parking lot facing the stores. He hopes it will become an annual event.

Councilor Roswell asked if the City of Englewood had been contacted regarding this event.

Mr. Armao indicated that Ms. Smith had contacted Englewood.

Ms. Smith responded that because the event was on private property, the event did not require any permits through the City of Englewood traffic or police departments, but that they had requested that the even planners notify the surrounding businesses and residents of the event, which Mr. Armao had already done.

Councilor Roswell indicated it sounded like a nice event and that he was encouraged that staff had contacted the City of Englewood.

Councilor Roswell moved, seconded by Councilor VanderWerf, to approve the Special Event Permit submitted by More Than Music to serve malt, vinous and spirituous liquor to the public at a summer block party in the parking lot of 1400 East Hampden Avenue on August 7, 2010 from 12:00pm to 12:00am.

The motion carried unanimously.

## **REPORTS**

### **Mayor's Report**

Mayor Wozniak reported that he had received 14 or 15 email complaints from residents concerning tree trimming by Xcel around the City. He indicated these trees were in the public rights-of-way, under utility lines and that Xcel was trimming them to ensure that there would not be problems in winter with branches breaking onto utility lines. He indicated that he had worked with staff to try to address the complaints and that he believed the City has been reasonably responsive to citizens' concerns.

He reported that he had received a long letter from Mr. Diecidue that reflected the opinions of many residents on Meade Lane who were very upset at the way the Spring Cleanup was handled by the City. The letter stated that the City had not been a good neighbor and that the dumpsters were overflowing, non-residents were using it and people were dumpster diving. He stated that he had discussed the issue with Chief Patterson and Public Works Director Jay Goldie and that staff would be sure to do a better job with the Spring Cleanup next year. He indicated he had spoken directly with Mr. Diecidue and Mr. Frederickson.

He reported that he had received a renewal notice from the Colorado Municipal League and wanted to make sure that Council agreed that renewing the City's membership was appropriate.

He reported that he had received a letter from Vivian Schneider regarding the maintenance of weeds behind her house which she believed the City was responsible for. He indicated he would ask Mr. Goldie to address the issue.

He reported that FEMA had completed its re-evaluation of the floodplain and that he would pass the information onto Chief Patterson.

He indicated that Human Resources Analyst Kerri Losier had notified Council of an elected officials training available to them.

He reported that he had been contacted by resident Paul Stewart who was concerned that the summary of finances presented in the Village Crier Annual Report did not accurately reflect the City's finances because it did not discuss the South Suburban liability. He indicated that Finance Director Karen Proctor had helped him to compose a response.

He reported that he and Councilor Brown would give Council an update on the new Village Center at the next Executive Session.

He reminded Council that it was time for them to start working with their department heads on the 2011 budget.

He reported that he had taken four officers to lunch at the Cherry Hills Country Club who had been identified as outstanding in their duties – Officers Dignam, Ramirez, Stinnet, and Firko.

### **Members of City Council**

Councilor Griffin had no report.

Councilor LaMair reported that she, Councilor VanderWerf, and Mr. Goldie had attended the High Line Canal Working Group meeting. She indicated that the South Suburban group had highlighted numerous properties and appeared to be moving ahead aggressively. She also reported that GOCO would be restructuring their grant programs in response to state fiscal pressure. She explained that the Legacy grants would no longer be available, but that the amount of the Special Opportunity Grants would be raised and would be given more frequently. As a result, the High Line Canal Working Group would change its strategy and would be applying for a portfolio of Special Opportunity Grants. She indicated that this would give the City new opportunities to apply for grants.

Councilor VanderWerf indicated that the City could potentially end up with more grant dollars with the new grant system.

Mayor Pro Tem Stewart reported that he had been notified that the area at the intersection of University and Hampden may be turned into a shopping center. He indicated that Englewood would be holding a public hearing related to the development project.

Mayor Wozniak indicated that Council should take an official position on the development and that Chief Patterson should contact the Englewood City Manager on the Council's behalf.

Mayor Pro Tem Stewart also commended the quick work of the police department when a suspicious parked car was reported outside the Buell.

Councilor Roswell had no report.

Councilor VanderWerf reported that a resident had asked Council to reconsider the rules of the recreation reimbursement program. The resident did not think it was appropriate for the City to reimburse for membership at Greenwood Athletic Club. If the City reimburses for membership at Greenwood Athletic Club, then it should also consider reimbursing for membership in private clubs or at businesses like 24-Hour Fitness.

Councilor Brown had no report.

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

There were no reports.

### **City Manager & Staff**

Interim City Manager Chief John Patterson reported that the departmental monthly reports and unaudited financial statements were included in Council packets. He indicated that Council would be seeing changes in the format of memos and monthly reports over the next several months. The memo style would change to emphasize clarity and analysis, while the monthly reports would contain charts and graphs with more relevant data. He reported that the Spring Cleanup had been an oversight and won't happen again. He also reported that there were several dignitaries that had visited, or would be visiting, the City for fundraisers as the primary and general elections drew nearer. He reported that several fire hydrants on the west side of the City had been opened and that the police department was investigating the incidents.

### **Medical Marijuana Legislative Update**

Chief Patterson reported that with the new state legislation on medical marijuana dispensaries, Council had several options of how to proceed. They could "opt out" or prohibit dispensaries through an Ordinance, or through a ballot measure, at the next City election; or they could allow dispensaries and pass regulations. Chief Patterson indicated that he believed dispensaries to be contrary to the values and goals of the City. On the other hand, he indicated that some cities charge high fees for dispensary licenses and increase their revenue. He reported that another facet of this issue was residential grow operators and primary care givers, who were allowed to grow up to six plants for up to five patients on a residential property. He indicated that the City Code might prohibit this under the Home Occupation section, but that City Attorney Fellman was still researching this issue.

Councilor Brown indicated his opinion was to opt out. He also expressed his surprise at the number of grow operations in any given area.

Councilor VanderWerf commented that she had spoken to a business owner in a strip mall where a dispensary had opened, and that she had been told that the dispensary had been bad for businesses in the area.

Mayor Pro Tem Stewart indicated his opinion was to opt out.

City Attorney Fellman indicated that he was not completely sure the City's Home Occupation section of the Code would prohibit residential grow operators because the state legislation prevents municipalities from prohibiting licensed patients from growing their own medical marijuana or primary caregivers from growing medical marijuana to treat their patients.

Mayor Wozniak directed City Attorney Fellman and Chief Patterson to bring an ordinance to Council with as restrictive language as possible.

#### RDSC Update

Mr. Zuccaro gave an update on the Residential Development Standards Committee recommendations. He reported that staff would be bringing a tree preservation ordinance to the Planning & Zoning Commission at their next meeting, and then would bring it to Council for first reading. There would be a Council study session on the bulk plane study at the first meeting in August and one on green building codes at the second meeting in August. A final bulk plane study would be presented to Council in September. He reported that staff recommends hiring a consultant to assist in drafting the ordinances and conducting any additional research that may be needed on the Floor Area Ratio (FAR) and Bulk Plane recommendations, which were both complex, interrelated regulations.

Mayor Wozniak questioned the need for a consultant. He emphasized the need to look at all the options.

Councilor LaMair indicated that she had met with Mr. Zuccaro for their budget meeting and that she recommended supporting Mr. Zuccaro and his staff. She indicated that hiring a consultant would allow the work on the RDSC recommendations to move forward more quickly.

Mr. Zuccaro indicated that the work with Winter and Company on the Bulk Plane recommendation had brought the complexity and interrelationship of the FAR and Bulk Plane recommendations to the forefront, but that he understands that a consultant can be costly.

Councilor LaMair indicated that she was pleased staff had been working, and was continuing to work with, RDSC members. She asked why staff was holding back on some of the recommendations.

Mr. Zuccaro responded that staff had been directed by Council at the March 1<sup>st</sup> meeting to move forward on some recommendations and hold back on others. He indicated that the timing of work on the various recommendations could be changed based on Council's preferences as well as budgeting for a consultant.

Councilor LaMair indicated that neighborhood notification would reduce conflicts with new homes.

Mayor Wozniak asked for more information on the neighborhood notification.

Mr. Zuccaro explained that the concept was similar to a sketch plat, where a meeting of the homeowner and neighbors would take place before the design of the house was finalized. Staff would set up the meeting before the application for a building permit was submitted and the meeting would be facilitated by staff or others. The meeting would focus on the initial footprints and bulk diagram of the new home to get comments and input from neighbors. The comments received at the meeting would be non-binding on the applicant.

Councilor VanderWerf indicated that problems with the FAR and Bulk Plane recommendations might arise in areas where two zone districts meet.

Mayor Wozniak indicated his concern about the effect of the bulk plane recommendations on small lots.

Mayor Pro Tem Stewart asked how many current homes would be non-conforming under the new recommendations.

Councilor VanderWerf replied that the RDSC had been very sensitive to that issue and that there would only be a small percentage of current homes that would fall outside their recommendations.

Mr. Zuccaro replied that less than 5% of homes in each zone district would be non-conforming under the FAR recommendation. He indicated that the Bulk Plane recommendation was harder to determine and that Winter & Co were working with representative areas and rough estimates to come up with alternative angles for various zone districts.

#### Chipseal Update

Chief Patterson reported that Mr. Goldie and his staff had rejected the chipseal used on the main streets due to an issue with the installation that is causing the oil to "flush" or come to the surface and completely bury the chip. This could eventually cause a number of problems including excessive oil and tar on vehicles, and possible dangerous conditions caused by slick roads in rainy and/or snowy conditions. Mr. Goldie is communicating with the contracting company to rectify the situation.

#### **City Attorney**

City Attorney Fellman reported that the City's attorneys at CIRSA were still waiting for the plaintiff in the Bierenkoven case to sign the settlement papers and that he would continue to update Council on the case.

He asked Council to recall a case regarding a lot on South Monroe Street near the Church of the Nazarene, which was on hold pending a decision by the Church. The City has an escrow account to be used to pave S. Monroe at the Church's expense when the lot is developed. The Church has communicated with the City that they would like to pave the street themselves using the escrow funds. He indicated that Mr. Goldie was working on a development agreement with the Church and that the Church would also pay the City Attorney fees related to the agreement. The agreement would be on the Council agenda in August.

He reported that NewPath Networks had merged with Crown Castle, a tower company, and that the right-of-way agreement with the City gave Council authority to authorize a change in control and a transfer of the agreement to the new company. He indicated that Mr. Zuccaro had notified him that NewPath Networks was not in compliance with the agreement and that certain documentation was lacking. Once the City received these documents staff would bring a resolution to Council to approve the change in control.

He reported that the appraisal for the Union Avenue lot that the City vacated had been returned at approximately \$50,000. He indicated he was now in the process of drafting the easement language and that no Council action was needed.

He reported that the National League of Cities annual conference would be held in Denver this year, from November 30 to December 4. He indicated it would be a good opportunity to network with other city officials while avoiding the travel costs normally associated with these events.

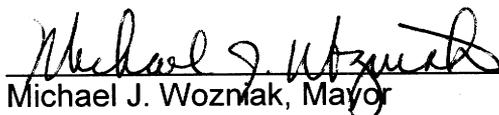
Councilor LaMair asked if any notification would be given to the neighbors in Covington regarding the paving of Monroe St. because it might increase traffic.

Mayor Pro Tem Stewart suggested that the City could notify the HOA.

Mr. Zuccaro indicated that the HOA had been disbanded but that staff could notify the neighbors.

### **ADJOURNMENT**

The meeting adjourned at 8:03 p.m.

  
Michael J. Wozniak, Mayor

  
Laura Smith, City Clerk