

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, October 19, 2010 at 6:30 p.m.
At the Village Center

Council held a Study Session beginning at 6:02 p.m.

Mayor Mike Wozniak called the meeting to order at 6:33 p.m.

ROLL CALL

Mayor Mike Wozniak, Councilors Mark Griffin, Russell Stewart, Alex Brown, 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, Public Works Director Jay Goldie, Deputy Chief Jody Sansing, Parks, Trails & Recreation Administrator Ryan Berninzoni, Crew Chief Ralph Mason, and City Clerk Laura Smith.

Absent: Councilor Scott Roswell

AUDIENCE PARTICIPATION PERIOD

Mr. AJ Coffman, Chairman of the Cherry Hills East Water District, requested Council's approval of a service line agreement and a development agreement to allow the Water District to use City property in order to continue with its upgrade of water lines to join Denver Water. The service line agreement was necessary because the relocation of a water line on a property at the northwest corner of Dahlia and Cherry Lane Drive where options for installing the new line were limited due to burms and forest. The service line agreement would allow the Board to run a service line in the public right-of-way along Dahlia. The development agreement was necessary because part of the right-of-way along Cherry Blossom Lane was needed to combine with private easements for installation of a new water main.

Mayor Wozniak directed staff and City Attorney Fellman to review the agreements with Mr. Coffman before bringing them before Council for approval.

CONSENT AGENDA

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

- a. Approval of Minutes – October 5, 2010

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

Council Bill 25, Series 2010; A Bill for an Ordinance Authorizing a Supplemental Appropriation for an Appraisal of Real Property (final reading)

Finance Director Karen Proctor presented Council Bill 25, Series 2010 on second and final reading. She informed Council that there had been no changes since first reading.

Councilor LaMair moved, seconded by Councilor Griffin to approve Council Bill 25, Series 2010; a bill for an ordinance of the City of Cherry Hills Village authorizing a supplemental appropriation for an appraisal of real property, on final reading.

The following votes were recorded:

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

Vote on the Council Bill 25-2010: 5 ayes. 0 nays. The motion carried.

NEW BUSINESS

Council Bill 26, 2010; A Bill for an Ordinance Amending Chapter 16 of the Cherry Hills Village Municipal Code Concerning Zoning, by Amending Article XVII Concerning Floodplain Management Regulations (first reading)

Community Development Director Rob Zuccaro presented Council Bill 26, Series 2010 on first reading. He explained that the proposed ordinance would adopt updated Flood Insurance Rate Maps for the City and bring the code into compliance with other National Flood Insurance Program (NFIP) requirements. These updates had to be adopted by December 17th to maintain the City's participation in the NFIP. He indicated that the proposed bill had been unanimously recommended by the Planning & Zoning Commission at their October 12th meeting.

Mayor Wozniak indicated that the amendments in the proposed bill all seemed to make sense.

Councilor Brown asked if the proposed bill would affect the City's floodplane rating of eight.

Mr. Zuccaro responded that it would not affect the City's rating. He explained that municipalities are rated on a scale of one to ten, with one being the best and ten being the worst. A score of eight is a very average rating. The City submits documents to FEMA every year to verify its rating, and FEMA performs a full audit every five years. This audit was completed earlier this year and nothing was identified that would help the City improve its rating.

Mayor Pro Tem Stewart moved, seconded by Councilor LaMair to approve Council Bill 26, Series 2010; A Bill for an Ordinance of the City of Cherry Hills Village amending Chapter 16 of the Cherry Hills Village Municipal Code concerning zoning, by amending Article XVII concerning floodplain management regulations on first reading.

The following votes were recorded:

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

Vote on the Council Bill 26-2010: 5 ayes. 0 nays. The motion carried.

REPORTS

Members of City Council

Councilor Griffin had no report.

Councilor LaMair reported that she had met with some of the members of the Parks, Trails, and Recreation Commission (PTRC) earlier in the day to discuss what areas of larger properties they would like to prioritize for the 7.5% land dedication should the property owners decide to subdivide. She indicated that it might be helpful to be prepared and that PTRC would possibly want to discuss their priorities with Council in the future.

Mayor Wozniak indicated that he was supportive of the goal but warned PTRC to be careful of their methods. He directed PTRC to be very discrete and to not draw attention by walking around people's properties.

Councilor LaMair assured him that PTRC was only planning on forming their priorities behind closed doors with maps, and not by walking around people's properties.

Mayor Pro Tem Stewart asked Mr. Zuccaro if he had received many comments regarding the public hearing for the cell tower.

Mr. Zuccaro responded that the applicant had made a mistake regarding the notice of the public hearing and so it had been rescheduled.

Mayor Pro Tem Stewart had no report.

Councilor VanderWerf reported that the Cherry Hills Land Preserve's children's art event, Young at Art, had been a success. Over 200 entries from Cherry Hills Village Elementary School fourth and fifth graders were judged and six winners were chosen. Jeff Welborn was the Master of Ceremonies.

Councilor Brown had no report.

Mayor's Report

Mayor Wozniak reported that he would be meeting with representatives from the First Church of the Nazarene. He also reported that he and Councilor Roswell had met with Chief Qualman of South Metro Fire Rescue regarding the phased approach to building a new Village Center. He reported that the Chief's interests are still positive and that they would be moving forward with an action plan for building the new fire and police station.

He asked that City Attorney Fellman report on an email Ms. Proctor had received from a domain name hosting site in China.

Lastly he reported that he had been asked to speak against Amendments 60 & 61 and Proposition 101 at a meeting later in the week.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Interim City Manager John Patterson complimented Public Works Director Jay Goldie and the Public Works staff on their road maintenance projects. He reported that the First Lady had been in the City for a fundraiser and the event had gone very well with thanks to Lieutenant Weathers. He also reported that the Departmental Monthly Reports and Unaudited Financial Statements were included in Council packets and department heads were available for questions. Finally he reported that the agenda for the November 2nd Council meeting was very light and that was also election night.

Councilor Griffin asked for an update on the car break-ins at Three Pond Park.

Chief Patterson replied that the police officers were aggressively patrolling the area and that they may have a lead on a suspect.

Bulk Plane Alternatives

Mr. Zuccaro explained that the bulk plane report was waiting for Council's input and approval before being finalized. He explained that the report would be a good start towards developing more concrete data and recommendations, but would not include concrete numbers. Once the report was approved by Council and presented in final form, staff would involve the Residential Development Standards Committee, the Planning & Zoning Commission, public input, and the City Attorney to form ordinances that would be brought to Council. He asked for feedback from Council on the draft report.

Mr. Zuccaro addressed previous questions from Council regarding the report's recommended 40% bulk plane angle differing from the RDSC's recommended 27% angle by directing Council to page 2-14 and Appendices E and F of the draft report. He explained that the consultants had examined the solar access of 27%, 40% and 45% angles, and had determined that there was not a significant difference in shading between 27% and 40% angles. Therefore they had opted for the higher angle to allow for more flexibility in roof pitch and design.

Mr. Zuccaro explained that the consultants were recommending a two-tiered approach to resident design, which Table 3.1 on page 3-3 of the report described for the various zone districts. This would allow residences to have two stories at the front of the property, but would eliminate high walls as the structure went towards the back of the property.

Mayor Wozniak asked what the recommendation would be for Zone R-3A.

Mr. Zuccaro responded that there would be not be any recommended bulk plane changes for Zone R-3A.

Mayor Wozniak clarified that a front area regulation would not apply to Zone R-5.

Mr. Zuccaro confirmed that it would not because there was no need, as Zone R-5 was located in a restrictive Home Owners Association (HOA) that did not allow two story residences.

Councilor LaMair suggested that the City Code should still back up the HOA.

Mr. Zuccaro indicated that it did and for this reason it would not need to be changed.

Councilor LaMair commented that the recommendation to allow two stories in the front but not in the back may result in some strange looking designs.

Councilor VanderWerf replied that many of the homes in Zone R-3 were already built with that style.

Councilor Brown summarized that the recommended adjustment from 30 feet to 35 feet building height limit came from the recommended 27% angle on the building envelope, and asked if the current 40% angle recommendation would change the height limit recommendation.

Mr. Zuccaro replied that this issue would be addressed in the final report.

Mayor Wozniak indicated that having different regulations for each zone might make a new home or large remodel difficult for builders as well as for the City's Code Enforcement Officers.

Councilor VanderWerf commented that the size of the building envelope would stay reasonable with these regulations and that builders are used to dealing with a large number of regulations.

Mayor Pro Tem Stewart indicated that the draft report was going in the right direction. He also explained that the increase from 30 to 35 feet for the height limit regulation was recommended to allow the integrity and style of steeply-pitched Tudor roofs in the Village, and to avoid the architectural compromises that the City's 30 foot height limitation often necessitates. The increased height allows architects to do true styles, while the combined Floor Area Ratio (FAR) keeps the residence an appropriate size.

Mr. Zuccaro indicated that, if Council preferred, staff could write procedures for variance requests that would be heard by the Board of Adjustment and Appeals.

Mayor Wozniak stated that the City had many unique homes and that Council wanted to ensure architectural flexibility.

Councilor LaMair asked Mr. Zuccaro what the major areas for potential controversy would be related to the bulk plane report.

Mr. Zuccaro responded that he expected the bulk plane to create more controversy than the FAR. He explained that the builders to whom he'd talked had no big concerns about the FAR. The bulk plane will require more thought during the design process.

Mayor Wozniak indicated that the City received perhaps ten permits per year for new homes, which would mean that not very many people would be affected by the new regulations. He reminded Council that the proposed regulations would go through public input and Planning & Zoning Commission before coming back to Council for final approval.

Mr. Zuccaro added that the Planning & Zoning Commission preferred to hold off on the tree preservation ordinance until the bulk plane ordinance had been passed in order to see how the bulk plane, FAR, and tree preservation regulations would interact. They also wanted to bring in a landscape architect to review the tree preservation ordinance.

Mayor Wozniak indicated that the draft bulk plane report was a good start and directed staff to move forward with the final report. He agreed that the bulk plane issue would take priority but directed staff to continue work on the other RDSC recommendations.

Mr. Zuccaro replied that the consultants would present the final report to Council at an upcoming meeting.

City Attorney

City Attorney Ken Fellman explained that the City would be purchasing three domain names from China: cherryhillsvillage.cn, cherryhillsvillage.asia, and cherryhillsvillage.com.cn.

He also reported that he would be attending the Municipal League Annual Attorney Conference, where he would be discussing medical marijuana regulations with attorneys from other municipalities, particularly relating to regulation of caregivers. He indicated that the State Legislature would be addressing this issue in July of 2011. He clarified that, while caregivers can charge patients for their services, they are not permitted to charge for the actual sale of marijuana.

He also reported that Xcel is about to propose new tariff language that would require all of its customers to indemnify Xcel for any hazardous materials or environmental liabilities when the company is asked to extend service to that customer's property. He indicated that he believed this to be unconstitutional because the State constitution states that a government cannot indemnify the private sector, and it would violate the City's franchise agreement with Xcel. The Colorado Municipal League may get involved in the issue.

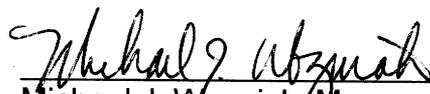
Finally he reported that he had been involved with the First Church of the Nazarene recently regarding a development agreement for paving of Monroe Street that the City had worked out with the Church earlier in the year. The agreement stated that the City would contract for the paving of Monroe Street, and the Church would pay for the work. However, the Church had decided to postpone signing the agreement while it worked out some other issues. Mr. Fellman reported that the Church's attorney had contacted him about adding landscaping to the development agreement. Mr. Fellman advised him that the City would need information about the contractor that the Church would use for the landscaping. He also reported that the Church's attorney also notified him that the Church may file to dismiss without prejudice the litigation against the City.

Councilor LaMair asked what the original lawsuit had been about.

Mr. Fellman replied that the City had imposed development requirements for the Church to build a parking lot and other facilities. The Church had claimed that the requirements violated land use law for religious entities.

ADJOURNMENT

The meeting adjourned at 7:43 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk