

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, February 1, 2011 at 6:30 p.m.
At the Village Center

A Study Session was held 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, and Klasina VanderWerf were present on silent roll call. Also present were 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, and City Clerk Laura Smith.

Absent: Councilor Harriet LaMair

AUDIENCE PARTICIPATION PERIOD

None

CONSENT AGENDA

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

- a. Approval of Minutes – January 18, 2011

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

NEW BUSINESS

Applications for Modification of Premises by JTM Investments, DBA Pulcinella Pizzeria and Vino & Vino, LLC

City Clerk Laura Smith presented two applications for modification of premises to create an open-air window on the interior wall between Pulcinella Pizzeria and Vino & Vino. Ms. Smith explained that as the Local Licensing Authority, Council was responsible for assuring that no business would go on through the window. When staff brought this issue to Council's attention in August 2010, Council's main concern had been that people would not be able to reach through the window and have access to products on the other side, or pass between businesses via the window. Ms. Smith indicated that staff recommended approval of the applications so long as Council could be assured that no business would occur through the window.

Ross Birkholz, owner of Vino & Vino LLC, explained that he and Tucker Manion, owner of Pulcinella Pizzeria, wanted to have this window to provide a different dynamic to and exchange of energy between the two businesses. He stated that it was a unique concept that they had found in only one other place in the Front Range. He handed a picture from the other businesses with a window between them to Council.

Mayor Wozniak asked if the window would serve as a wine bar.

Mr. Manion replied that there would be no wine exchanged through the window and that the pizzeria already has a wine bar. He indicated if a customer at the pizzeria wanted to buy a bottle of wine they would have to exit the pizzeria and enter the wine shop; and if they were in the wine shop and wanted to drink a glass of wine they would have to exit the wine shop and enter the pizzeria.

Mayor Wozniak asked what the purpose of the window would be.

Mr. Manion replied that it would provide a unique atmosphere and a competitive advantage to the two businesses. He indicated that they hoped it would result in the businesses being a destination for people to travel to. He also stated that the smell of pizza in a wine shop would be unique. He commented that he and Mr. Birkholz were also part-owners in the business center, and that the window was appealing from a real-estate point of view as well.

Mayor Wozniak asked if a customer would be allowed to purchase a bottle of wine in the wine shop and then bring it into the pizzeria to drink, with the pizzeria charging a corkage fee of some kind.

Mr. Manion replied that customers would not be allowed to do that as it would hurt the pizzeria's business. Customers would have to buy any wine they wanted to drink in the pizzeria from the pizzeria.

Councilor VanderWerf asked if the pizzeria would serve wines that customers could then buy in the wine shop.

Mr. Birkholz replied that the wine shop would offer some of the same wines that the pizzeria serves, but would offer a larger variety of wines than what was available in the pizzeria.

Mr. Manion commented that the pizzeria holds wine tastings and they would incorporate wines from the wine shop into those tastings.

Councilor VanderWerf expressed her concern that customers would not be able to pass anything between businesses through the window.

Mr. Birkholz indicated that there would not be any wine bottles on the wine shop's side within arm's reach of the window.

Councilor Roswell asked if there would be any barrier in the window.

Mr. Birkholz replied that there would not, but that the bottom of the window would be 42 inches high.

Councilor Roswell asked if the window would extend to the ceiling.

Mr. Birkholz replied that the window would be 72 inches high and extend nearly to the ceiling.

Councilor Roswell moved, seconded by Councilor Brown, to approve the applications for modifications of premises for the Hotel & Restaurant Liquor License held by JTM Investments, LLC doing business as Pulcinella Pizzeria at 1400 East Hampden Avenue Suite 140 in the City of Cherry Hills Village, and for the Retail Liquor Store License held by Vino & Vino LLC at 1400 East Hampden Avenue Suite 130 in the City of Cherry Hills Village.

The motion carried unanimously.

Review of Recreation Reimbursement Program

Public Works Director Jay Goldie presented Council with a review of the Recreation Reimbursement Program. He indicated that the program was first outlined in the City's exclusion order, which indicates that City residents will be reimbursed for any recreation program, activity, class, or event offered by any municipal or special district recreation department in the seven-county Denver metro area. It also indicates that the amount of reimbursement is 50% of the cost incurred by the resident, up to \$50 per activity, up to \$500 per household per year. The court order estimated that the program would cost the City about \$125,000 a year. The program is currently over \$200,000 per year. The program was further formalized by Resolution 1, Series 2003; detailed by Resolution 4, Series 2005; expanded so that the entire reimbursement could be issued for a yearly membership by Resolution 8, Series 2005; and expanded to accept youth activities from non-profit associations by Resolution 9, Series 2007. Mr. Goldie indicated his belief that the current interpretation and enforcement of the program follows the original court order as well as the City's Resolutions. He commented that from 2005 to 2010 the City had seen an increase in the cost of the program. He indicated that there was a large increase when Greenwood Athletic Club formed a special district and became an eligible association. He commented that over \$150,000 of the \$200,000 paid through the program in 2010 had gone to Greenwood Athletic Club.

Mayor Pro Tem Stewart indicated that the initial estimate from the court order was based on participation by 20-25% of residents. He asked what percentage was participating in the program to result in a cost of \$200,000.

Mr. Goldie replied that he suspected the percentage to be around 25%, but that those 25% were being reimbursed close to the \$500 maximum.

Mayor Pro Tem Stewart indicated that he had researched South Suburban's fees to join Goodson Recreation Center. The fee for an annual family membership for a resident of the South Suburban area is \$855, and for a non-resident is \$1139. He also indicated that he had found the Summary Report for the City of Cherry Hills Village Recreation District Exclusion Analysis on Doug Tisdale's website, which stated that the City would follow the Greenwood Village model and reimburse residents for a portion of the fees they incur to use facilities provided by other recreation providers. He expressed his confusion about the reasoning behind aspects of the program, such as the seven-county area outlined in the court order, and expanding the program to accept non-profit youth activities.

Mayor Wozniak commented that, although the court order from Judge Hannen identified seven counties as the area within which recreational activities could be reimbursed, he didn't remember discussing services from other counties.

Mayor Pro Tem Stewart indicated that it was highly unlikely that a resident of the City would use a recreation center in Broomfield. He commented that the recreation center at the University of Denver was now open to the public and that it was more likely that

residents would use their recreation center, yet they could not be reimbursed under the current program. He also indicated his concern that the program was burdensome to staff and asked if there was something that could be done to reduce the staff time spent on administration of the program, such as setting up online submittals.

Mayor Wozniak asked if anyone was inclined to adjust the program, before addressing the administration of the program.

Councilor Brown indicated that in his opinion the program should not be changed, although the seven county defined area was perplexing. He commented that the estimate for the cost of the program given in the court order would have been very difficult to come to. He stated that he felt the City's cost for the program had stabilized. He stated he was comfortable with the policy as it was.

Mayor Pro Tem Stewart indicated that his concern was he did not understand the policy and that he thought it should be simplified. He also indicated that he did not want to encourage residents toward use of South Suburban facilities and did not see the logic of a policy that reimbursed for South Suburban but not for facilities such as the University of Denver.

Mayor Wozniak stated that in order to adhere to the finding of the court, the program had to include municipal and special district facilities in the seven-county area. The question that Council could discuss was the possibility of expanding the program to include other types of facilities.

Mayor Pro Tem Stewart indicated that the program might be expanded to reimburse for any activities that South Suburban provides regardless of the facility that provides them.

Councilor VanderWerf asked if, in that case, reimbursements for private clubs would be allowed.

Mayor Wozniak asked if green fees at private clubs should be reimbursed.

Councilor Brown indicated that didn't believe the City should base the program on South Suburban. He also stated that the current program clearly defined what was reimbursable, and that he might consider allowing different kinds of facilities but that the City should still qualify the permitted organizations in some manner.

Mayor Pro Tem Stewart indicated that a membership at 24 Hour Fitness should be reimbursable.

Mayor Wozniak commented that South Suburban provided buses to ski resorts, and if the City were to reimburse for anything provided by South Suburban, then the City would have to reimburse residents for bus fair. He indicated that in his opinion the program should not be changed.

Councilor Roswell indicated that he believed that the central problem was that most residents think of Greenwood Village Athletic Club as a private club, and are not aware that it formed a special district, or do not understand what it means to form a special district. Also, the fact that such a large percentage of the program cost goes to Greenwood Athletic Club makes it seem like the City is subsidizing Greenwood Athletic Club. He suggested that education may be the answer, rather than expanding the program.

Mayor Wozniak asked what percentage of the City's reimbursements goes to Greenwood Athletic Club.

Mr. Goldie replied that the amount was approximately two thirds.

Councilor Roswell commented that Greenwood Athletic Club advertised the fact that their memberships and activities were reimbursable through the City's program.

Mr. Goldie commented that the reimbursements from Greenwood Athletic Club were the easiest ones for staff to process, because they know what to expect and Greenwood Athletic Club knows what the City needs for the reimbursements. He stated that the reimbursements that were most time consuming for staff were those from other facilities, such as youth soccer with pages of receipts that staff had to go through to determine what was reimbursable and what was not. He indicated that the program was currently very clear on what was allowed and what was not.

Mayor Wozniak suggested that another way to simplify the program would be to simply give each household \$500 per year.

Councilor Griffin asked if it would have to be reported as income.

Mayor Pro Tem Stewart indicated it would be a return of taxes.

Councilor Brown commented that the City was not subsidizing Greenwood Athletic Club, or any other approved organization, but rather subsidizing its residents. Residents were choosing to go to Greenwood Athletic Club, but the City would just as easily reimburse for other municipal or special district organizations.

Councilor VanderWerf asked what the process was to form a special district.

Mr. Goldie replied that Greenwood Athletic Club had to get the approval of the voters.

Councilor Brown replied that at the end of a set period of time, perhaps 30 years, the property would revert to the City of Greenwood Village.

Councilor Griffin suggested that the City publicize an article explaining that Greenwood Athletic Club is a special district and why that makes it a permitted facility for recreation reimbursements.

Mayor Wozniak directed staff to make the program more clear on the City website.

Mayor Pro Tem Stewart asked staff how the program might be changed to help reduce staff time.

Mr. Goldie commented that the City of Greenwood Village had three or four full-time staff people dedicated to administering their recreation reimbursement program. He indicated that staff spent a lot of time ensuring that the program was being administered fairly and justly.

Mayor Pro Tem Stewart indicated that having residents sign an oath swearing that they were submitting acceptable receipts instead of having the burden on staff to confirm acceptable receipts might reduce a lot of staff's workload.

Councilor Brown asked if there was a particular time of year that was busier than others.

Mr. Goldie indicated that the majority of reimbursement requests were turned in at the end of the year, and so staff spent the most time on the program in December and January.

City Manager John Patterson commented that he had signed over 200 checks for reimbursements that morning.

Councilor Brown suggested hiring someone to help out during the busy months.

Mayor Wozniak suggested that the City could hire an intern for those few months to help with the program. He deferred to staff to make suggestions to Council for improvements to the administration of the program.

Councilor Griffin commented that he believed the policy was fine as it was, and that the program should just be clarified on the City website.

Mayor Wozniak commented that eight to ten residents had donated their reimbursements to the Cat Anderson Fund.

REPORTS

Members of City Council

Councilor Griffin had no report.

Mayor Pro Tem Stewart had no report.

Councilor Roswell reported that he would be absent for the February 15th meeting.

Councilor VanderWerf reported that she had attended a meeting to find out about services available to elderly residents from the County. She suggested that the next issue of the Village Crier include an article about services available.

Councilor Brown had no report.

Mayor's Report

Mayor Wozniak reported that he would be attending the Metro Mayors Caucus all day tomorrow, and one of the main agenda items would be RTD issues. He also complimented staff on their assistance to an elderly woman by helping to clean her home so that it could be sold.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

City Manager John Patterson reported that the City would be hosting its annual Spring Clean up from April 23rd to May 1st and Shred Day on April 23rd. He also reported that City Attorney Fellman was reviewing the contract with Caselle for IT services and that staff hoped to bring the contract to Council for approval at the next meeting. Finally he reported that the City's new Community Development Technician, Emily Kropf, would be starting on February 9th.

Mayor Wozniak thanked Mr. Patterson for including an updated contact list for the City's Boards and Commissions in Council packets, and asked for an updated staff contact list as well.

City Clerk Laura Smith replied that the City was going through some staff changes but that she would have an updated staff contact list for Council at the next meeting.

Urban Coyote Presentation

Deputy Chief Jody Sansing reported that Animal Control Officer Michelle Edwardson had organized an Urban Coyote Presentation for February 24th at the Village Club. He explained that it was currently coyote breeding season and that Michelle received two to three calls daily regarding coyotes in the City. He stated that residents seemed fairly evenly split between accepting coyotes in the Village and wanting to eradicate them. Ms. Edwardson had arraigned for two experts on urban coyotes to speak on the 24th and to hopefully address many residents' concerns regarding coyotes in the City and explain why eradication was not feasible. He stated that an article about the presentation was in the latest issue of the Village Crier, and that it was advertised at the Village Center as well as on the City website.

Mayor Wozniak suggested that staff could also advertise the presentation on Channel 22.

Councilor Roswell suggested that staff also advertise the presentation in schools and churches.

Councilor Brown indicated that he would try to attend the presentation and was looking forward to it. He stated that he appreciated staff's effort on the issue. He asked if the City perhaps had a gap in its management plan for coyotes between no action and danger to humans. He asked if the City should not be more concerned with dangers posed to pets, and suggested that the City's current policy made the City look indifferent to dangers posed to pets.

Mayor Wozniak directed staff to bring the City's coyote management policy to Council for review in March. He indicated that it was a complex issue and that it was important to educate residents. He stated that the City doesn't want to give the impression that it was indifferent to dangers posed to pets by coyotes.

Councilor Griffin asked with respect to animal control what the difference was between a coyote and a bear or mountain lion.

City Manager Patterson responded that bears and mountain lions are much more dangerous than coyotes.

Mayor Pro Tem Stewart replied that a bear or mountain lion would be just passing through the area, as opposed to coyotes that live here.

Mr. Sansing indicated that reviewing the coyote management policy would be a good idea. He commented that 99% of the calls staff received regarding coyotes were about pets. He indicated that many residents feel that it is the City's job to protect their property and pets, and that staff tried to impress upon these residents that they had some of the responsibility as well and explained the hazing methods that the City recommended in its coyote management plan.

Councilor Brown indicated that he believed there were changes the City could make to the policy that would not be as drastic as lethal action against coyotes. However he was afraid that residents would insist the City take those steps if the City did not become more proactive about policies such as hazing.

Councilor Griffin asked what the response would be if a coyote attacked a small child.

Mayor Wozniak replied that lethal action would be taken in that case but that such a thing had never occurred in the City.

Mayor Pro Tem Stewart indicated that there were likely many pets taken by coyotes in the City that were never reported.

Mayor Wozniak commented that the City was very attractive habitat for coyotes, with large lots and open space such as the country clubs, especially in winter. He stated that the City could not get rid of the coyotes, but that the City must protect its citizens.

Joint Public Safety Facility Memorandum of Understanding

Mr. Sansing reported that staff was continuing to work with South Metro Fire Rescue (SMFR) on a Memorandum of Understanding (MOU) to address the agreement of both parties to split equally the planning and design process known as "phase one" of the project. The MOU also outlines an agreement for the SMFR to deed the property known as 120 Meade Lane to the City in exchange for ½ ownership in the proposed joint public safety facility and the land associated with the building site. Both parties intend to address financing, developing, construction, owning and operating the new facility in an Intergovernmental Agreement (IGA). He indicated that staff anticipated presenting the completed MOU to Council at the next meeting.

Mayor Wozniak indicated that it was difficult to divide ownership and suggested that the MOU contain binding clauses related to how the ownership would change should one party demise or wish to leave.

Mayor Pro Tem Stewart indicated that the City could own the entire property and lease half to SMFR.

Councilor Brown suggested that the MOU could be drafted with an expectation of continuing occupation, and outline the steps that would be taken should one party wish to cease occupation.

Mr. Sansing indicated that the majority of these issues would be covered in the IGA.

Mr. Fellman suggested that these issues should be addressed before the IGA and perhaps at least suggested in the MOU. He suggested that he, Mr. Sansing, and a Council member meet with a representative from SMFR to discuss these issues.

City Attorney

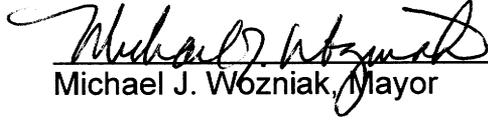
Mr. Fellman reported that he had brought a conflict waiver from Collins, Cockrel and Cole for the Mayor to sign. He also reported that he was very pleasantly surprised that all of his changes to the IT contract had been accepted by Caselle.

Mayor Wozniak asked Mr. Fellman to work with staff to schedule a Study Session with Nancy Rodgers regarding social media and the Colorado Open Records Act.

Mr. Fellman replied that Ms. Rodgers was available for the second meeting of any month.

ADJOURNMENT

The meeting adjourned at 7:35 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk