

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, March 15, 2011 at 6:30 p.m.
At the Village Center

Council held a Study Session at 6:05 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, Public Works Director Jay Goldie, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Deputy Chief Jody Sansing, Parks, Trails & Recreation Administrator Ryan Berninzoni, and City Clerk Laura Smith.

Absent: none

AUDIENCE PARTICIPATION PERIOD

Mr. Alan Eber of 5700 E. Stanford Dr. expressed his concern at the lack of use and consequent ineffectiveness of the pedestrian crossing warning lights at Quincy and Colorado. He suggested that the City look into installing motion detectors that would cause the lights to go on for a designated period that would include the time it would take someone to walk across the intersection.

Mayor Wozniak indicated that he agreed it was an issue and that he appreciated the suggestion. He directed staff to look into the possibility of motion detectors.

CONSENT AGENDA

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

- a. Approval of Minutes – February 15, 2011

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

NEW BUSINESS

None

REPORTS

Members of City Council

Councilor Brown reported that although he did not attend the March 2nd public input meeting on possible zoning changes, he received a favorable email from the president of his HOA who had attended the meeting. He also mentioned that he had been noticing the public works staff performing a lot of street sweeping and that he and other residents appreciated it. He also commented that, as a biker, the location of the button to activate the cross walk lights on Quincy and Colorado was inconveniently placed, and suggested that another button could be installed for bikers.

Councilor VanderWerf reported that she had attended the February 24th coyote meeting and that she had been impressed by and proud of the City staff's professionalism. She indicated that she had spoken with the presenters who had told her that the response from City residents was consistent with other groups they had talked with. She commented that she had been surprised by the level of anger from a group of residents who wanted to eradicate coyotes from the City, but that staff had handled the situation well. She indicated that she believes it is difficult for people to hear the confirmed research on coyote behavior that eradication attempts can actually increase the population, and that humans have to adjust their behavior in order to manage coyotes. She also commented that the City might have more coyotes because of the amount of developed property, and that some landscaping provides more food sources than un-landscaped areas. She stated that continuing to educate residents was important.

Councilor VanderWerf also reported that at the last Parks, Trails and Recreation Commission (PTRC) meeting staff had reviewed their maintenance priorities for the year. She also updated Council on the latest public meeting regarding the proposed Dahlia Hollow park enhancements and commented that the PTRC members were split on support of the enhancements. She noted that the majority of residents who came to the latest public meeting were against the enhancements.

Mayor Wozniak asked if PTRC would be making a recommendation to Council regarding the enhancements.

Councilor VanderWerf replied that because of the public disagreement with the project, PTRC had decided not to forward the issue to City Council.

Mayor Wozniak commented that the neighbors adjacent to Dahlia Hollow were against the enhancements.

Councilor VanderWerf agreed and noted that those residents were also older and did not have children and so would be unlikely to use the enhancements. She commented that the reason Dahlia Hollow had been chosen in the first place was due to the density of residents with children in the area.

Councilor LaMair asked how many residents had attended the latest public meeting.

Councilor VanderWerf replied there had been six residents against the enhancements and a couple residents for them. She also noted that none of the residents who attended had children, but that a few residents with children had written letters of support for the project. She also commented that the South Suburban Park Foundation would be using a "hawk light" for their crosswalks and suggested that might be a good option for the City to install at crosswalks.

Councilor Roswell reported that he would discuss water piping projects on Downing with staff. He also reported that he would be attending the South Metro Fire Rescue (SMFR) Board meeting on March 28th.

Mayor Pro Tem Stewart reported that he had received a letter from a resident complaining about horse manure on City trails. He indicated that he had directed the resident to address Council at the meeting on the issue but that the resident was not present. He also reported that Cherry Hills Elementary School would be hiring a new principal next year, and that they were again looking at access issues to their parking lot.

Councilor LaMair complimented the public works staff, especially Crew Chief Ralph Mason, on the rebuilding of the road in her neighborhood. She indicated that she was very pleased with their professionalism as well as their quality interaction with residents and oversight of the contractors, and that Public Works Director Jay Goldie had been successful in keeping the contractor progressing on the project. She also commented that she had been disappointed to read in the Community Development monthly report that the City had not received the DRCOG grant it had applied for to assist with zoning revisions, and asked that Community Development Director Rob Zuccaro comment on the grant during staff reports.

Councilor LaMair reported that it was a pleasure to be a part of the High Line Canal Working Group, and emphasized that despite being a small City, Cherry Hills Village contained some of the largest open space parcels along the High Line. She indicated that the Cherry Hills Land Preserve, the PTRC, and staff were continuing to pursue options for open space acquisition, and that they might want another Executive Session with Council soon to discuss options. She also reported that a connectivity project with Denver might be ready in time for the next Arapahoe County Open Space grant cycle.

Councilor Griffin reported that comments he had received from his HOA and neighborhood residents were favorable towards the proposed increase in height regulation to 35 feet from the March 2nd public input meeting. He also commented on the February 24th coyote meeting, stating that he was amazed at the polarity between residents. He indicated that he was thankful that Chief Patterson and Deputy Chief Sansing were there to help control the heated emotions. He commented that some of the more senior residents had commented how the coyote population has seemed to explode over the decades that they have lived in the City. He stated that the meeting was well-presented and that he had found the presenters very credible.

Mayor's Report

Mayor Wozniak reported that he had received an invitation to a DRCOG meeting where the results of surveys related to county services for older residents would be presented. He asked Councilor VanderWerf if she might be willing to attend, and directed staff to add the information to the City website.

He also reported that he had been in contact with Arapahoe County Commissioner Nancy Sharp and would be arranging for her to attend a Council meeting to discuss the Arapahoe County budget.

He commented that he appreciated staff's help on various issues brought up by residents over the past several weeks.

He reported that a resident had contacted him about the building permit fee to replace a bathtub, and indicated that he would like to review the building permit fees to ensure they were not unreasonable. He asked if building permit fees could be changed by ordinance or by resolution.

Community Development Director Rob Zuccaro replied that they were changed by ordinance.

Councilor Brown agreed that a more flexible administrative system with regard to building permit fees might be appropriate.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Public Works Director Jay Goldie reported that departmental monthly reports and unaudited financial statements were in Council packets and that department heads were available for questions.

Joint Public Safety Facility – Architect Update

Deputy Chief Jody Sansing reported that after an extensive and in-depth interview process, Roth Sheppard Architecture Firm had been chosen to design the new Joint Public Safety Facility. Mr. Sansing commented that this firm had been the best in respect to price, experience, and fit for the project. He thanked Councilors Brown and Roswell for their involvement and assistance in the process. He noted that Roth Sheppard had been involved with designing a new Village Center several years ago. He explained that the contract was currently being reviewed by City staff, the City Attorney, the South Metro Fire Rescue (SMFR) attorney, and Roth Sheppard and that he hoped to bring the final contract to Council at the April 5th meeting. He indicated that the City's Memorandum of Understanding with SMFR had passed their board with a 5 to 2 vote, and that there had been some concern among the Board members with the City's history of designing and planning buildings but not following through to the building phase. He noted that Randy Whipple from SMFR was present to answer any questions that Council might have about this concern. Finally he suggested an Executive Session in the near future to discuss the City's commitment to the project and financial options.

Councilor Roswell commented that he would be attending the SMFR Board meeting on March 28th along with Councilor Brown and Mr. Sansing to address any concerns the Board has regarding the City's commitment to the project.

Mayor Wozniak asked City Attorney Fellman if a discussion about the financial options for the project could be an Executive Session.

Mr. Fellman replied that it could not, unless the Council was discussing a contract with a lender, for example.

Mayor Wozniak directed staff to add the discussion to the regular meeting agenda for April 5th.

Coyote Presentation

Mr. Sansing asked if Council had any questions regarding the February 24th coyote meeting that he could address.

Mayor Wozniak indicated that Council could discuss modification to the City's current coyote management plan at the next meeting, but that the only likely change would be to add a lethal force option.

Councilor Brown stated that the City's current policy gave most of the responsibility for dealing with coyotes, even those that were regular and frequent visitors to a property, to the residents. The City would not get involved until a person was hurt by a coyote. He indicated that the policy could be adjusted so that Animal Control Officer Michelle Edwardson and other police officers would assist residents with hazing coyotes who were regular and frequent visitors to a property.

Mayor Wozniak indicated that Ms. Edwardson was very responsive to residents who were concerned about coyotes visiting their property and that she visited properties often to help residents manage coyotes. He suggested that the policy could be changed to match these actual practices.

Councilor LaMair commented that she knew of a resident who had a coyote den on her property, and Ms. Edwardson had been very responsive and helpful, but that the Police Department had not gotten involved.

Councilor VanderWerf noted that people resist change especially when it involves them changing their own behavior.

Mayor Wozniak indicated that coyotes in the City were a continual issue. He commented that Blackmer Common and other open space areas are prime coyote habitats in the City.

Councilor LaMair clarified that she did not believe that police staff should haze coyotes on behalf of residents and she did not think that the current coyote management plan needed to be changed.

Mayor Wozniak asked if Council members would like to revisit the coyote management plan.

Councilor Brown said yes.

Councilor VanderWerf said not if the current policy was flexible in allowing Ms. Edwardson to become more involved with residents.

Councilor Roswell said no, and commented that Ms. Edwardson and the police department have been very responsive to residents with coyote issues.

Mayor Pro Tem Stewart said no.

Councilor LaMair said no, but commented that if the residents wanted the policy changed then Council had an obligation to consider it.

Councilor Griffin said he could see both sides of the issue, that a lot of work had gone into the current policy, and that he was not confident that changing the policy to include lethal force would solve the problem.

Mayor Wozniak commented that Council might look into additional staff to deal with coyote issues during the next budget cycle. He also noted that this time of year was coyote breeding season and consequently they were most active, and their activity would likely decrease in the coming months.

Councilor VanderWerf suggested that Ms. Edwardson work individually with those residents who were particularly upset with the City's current policy.

Mr. Sansing agreed on that strategy and indicated that he and Ms. Edwardson had already discussed doing so. He stated that he and Ms. Edwardson had minor changes they would like to make to the current policy. He agreed that the City's policy had a gap between prevention and responding only when a coyote has physically harmed a human. He also agreed that, although many cities regarded coyotes as a wildlife issue and not public safety issue and therefore not within the purview of City staff, he believed it was a public safety issue. He also agreed that having sufficient numbers of staff to address residents' needs might be an issue to address in the future. He emphasized that there were residents on both sides of the issue in the City, and that education was key. He repeated that Ms. Edwardson would be meeting with residents individually to address their concerns. He mentioned that Ms. Edwardson had recently found stray pets several times in a particular neighborhood and would be emphasizing to residents that, while she was willing to respond to and assist with wildlife issues, residents also have to take responsibility for their pets.

Mayor Wozniak directed staff to bring the policy with staff's recommended changes to Council for review at the next meeting.

Retaining Walls

Mr. Zuccaro reported that recent issues with retaining walls around the City, which were not directly addressed in the City Code, have prompted staff to ask Council for direction. He suggested that staff bring the issue to the Planning & Zoning Commission (P&Z) to form an ordinance to bring back to Council for consideration.

Councilor LaMair indicated she appreciated staff's memo on the issue and the expediency with which staff had brought the issue to Council. She stated that she would like to see the issue brought to P&Z rapidly as there were imminent situations that a new ordinance would likely effect. She also encouraged staff to make sure that P&Z reviewed the overall issue of grading as related to retaining walls. She noted that the current situation that allowed a six foot high retaining wall to be built one or two feet from the property line was a significant problem.

Councilor Griffin asked if there are current structural requirements for retaining walls in the City Code.

Mr. Zuccaro confirmed that a structural review as well as an engineering review is currently required for retaining walls.

Mayor Wozniak directed Mr. Zuccaro to take the issue to the P&Z to begin work on an ordinance to address the problem.

Wireless Flag Pole Discussion

Mr. Zuccaro reported that staff had been approached by the wireless communications company LightSquared about the possibility of replacing the Village Center's current 32 foot flagpole with a 50 foot stealth flagpole wireless communication facility on City property.

Mayor Wozniak asked Mr. Zuccaro to remind Council of the process for wireless communication facility applications.

Mr. Zuccaro explained that wireless communication facilities have a 50 foot height limit and that screening is required for any equipment. Applicants are required to notify all adjacent property owners of a public hearing for the application. Any adjacent property owner may request that the application go through a conditional use hearing before the

Board of Adjustment and Appeals. If after the public hearing none of the adjacent property owners request a conditional use hearing then the application can be approved administratively.

Mayor Wozniak indicated that the LightSquared application should go through the process.

Mr. Zuccaro noted that Council would have to authorize the application and any lease agreement that would result from the permit.

Mr. Fellman clarified that staff had brought this issue to Council because Council would have to approve the application in its capacity of land owner.

Councilor Brown commented that it would be difficult to determine how this facility would interact with the needs of the new Joint Public Safety Facility.

Councilor VanderWerf noted that another concern might be the possibility that in the future the Village Center building would be moved and the current site would be used as open space in which a large wireless communications facility might not be desirable.

Mayor Pro Tem Stewart indicated that he believed Council should pursue the facility.

Councilor Roswell noted that the City has been asking for wireless communications providers to build facilities in the City for years.

Councilor Griffin agreed with Councilor Brown and VanderWerf's comments. He asked how this system would integrate with the other systems already built throughout the City.

Mr. Zuccaro replied that, like the other wireless communications facilities built throughout the City, this facility would simply provide infrastructure and would sell the service on an individual or resale basis. He noted that LightSquared currently had four applications for other facilities at various locations around the City.

Mayor Pro Tem Stewart inquired as to the status of the wireless communications facility application for the church on Colorado Blvd.

Mr. Zuccaro replied that the application had been approved without a conditional use hearing.

Councilor LaMair asked if staff could speak to the effectiveness of service and benefit to residents of the proposed facility.

Mr. Fellman replied that the statute did not allow the City to judge businesses on that type of criteria. He indicated that LightSquared was a fairly new company and that it was difficult to tell how it would evolve.

Mr. Zuccaro added that per City Code, the property owner is responsible for removing a wireless communications facility if abandoned.

Mayor Wozniak directed staff to allow LightSquared to proceed with its application.

Bulk Plane and Floor Area Ratio Public Input Meeting

Mr. Zuccaro reported that the March 2nd public input meeting had been successful with about 25 residents in attendance, as well as a reporter from The Villager Newspaper.

Questionnaires were distributed during the meeting and staff was in the process of compiling those along with the meeting minutes and other comments received. Mr. Zuccaro said that the next steps would be two study sessions with P&Z, followed by drafting of an ordinance, and finally consideration by City Council. Staff had also arranged a focus group meeting for architects and home builders on March 9th, but only four attended out of the 22 invited. Mr. Zuccaro noted that staff had received some helpful comments from the focus group meeting. The first study session with P&Z would be next week.

Councilor VanderWerf asked if the residents who had attended the March 2nd meeting had been the same residents who had attended the last open house.

Mr. Zuccaro replied that there had been some new faces. He added that he had distributed questionnaires at the Cherry Hills East Homeowners Association last week, but had not received any back as of yet.

DRCOG Grant

Mr. Zuccaro explained that the entire amount of the contract with Winter & Company was included in the 2011 budget, but that the grant money from DRCOG might have been used to offset some of the City's costs as well as hire a landscape architect to help staff with the tree preservation ordinance.

Councilor Brown asked if the City's grant application was turned down or if the funding was not available.

Mr. Zuccaro replied that the funding for the grant was not available due to budget cuts.

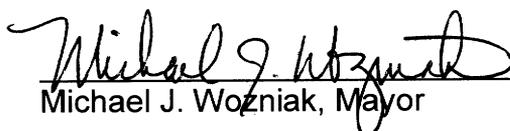
City Attorney

Mr. Fellman reported that he was working with staff and the SMFR attorney on the contract with Roth Sheppard, and expected to have a final version for Council's consideration at the April 5th meeting.

He also reported that there were two pieces of legislation in the Colorado Legislature that he was keeping an eye on. The first would change how home rule municipalities are allowed to collect and audit sales tax, removing much of the authority to the state level. The second would increase the majority percentage needed for a constitutional referral from a simple majority of 50% to a super majority of 60%. It would also require that the super majority be met in each congressional district instead of just state-wide as the current law allows. The legislature would also be restricted from amending a statute created by a statutory initiative for three years after the statute is past. He indicated that he would keep Council apprised of any developments.

ADJOURNMENT

The meeting adjourned at 7:45 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk