

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, April 5, 2011 at 6:30 p.m.
At the Village Center

Mayor Pro Tem Russell Stewart called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Pro Tem Russell Stewart, Councilors Mark Griffin, Alex Brown, Scott Roswell and Harriet LaMair 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, Parks, Trails & Recreation Administrator Ryan Berninzoni, Crew Chief Ralph Mason, and City Clerk Laura Smith.

Absent: Mayor Mike Wozniak, Councilor Klasina VanderWerf
Councilor Harriet LaMair left at 7:20 p.m.

AUDIENCE PARTICIPATION PERIOD

None

CONSENT AGENDA

Mayor Pro Tem Stewart removed Items 4c and 4d from the Consent Agenda.

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

- a. Approval of Minutes – March 15, 2011
- b. 2010 Audited Financial Statements
- e. Contract for Services with Aggregate Industries and Expenditure of Funds for the 2011 Asphalt Milling and Overlay Street Improvement Program

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

Item 4c. Elected Officials Email Policy

City Clerk Laura Smith presented the Elected Officials Email Policy. She explained that the intent of the policy was to help Councilmembers manage their City email accounts in compliance with the Colorado Open Records Act, the Colorado Open Meetings Law, and the City's Records Retention Schedule. The Policy outlined categories of emails and how long they should be kept.

Mayor Pro Tem Stewart indicated his concern over the policy requiring that Council make decisions about what category their emails fall into and how long they should be kept.

Councilor Roswell agreed. He asked if the City could arrange to automatically archive all Council emails and then delete them all after an appropriate period of time.

Ms. Smith replied that she had spoken to the City's IT Department about the possibility of automatically archiving both Council and staff emails. She explained that the IT

Department had recommended waiting until the City's new technology and server were installed. She indicated that from a records point of view, there was no way to be sure that the automatically archived emails did not include a record in the form of an email that should be kept permanently, and while the chance of this occurring was very slim it was still a concern if the archived emails were automatically deleted after a certain amount of time.

Mayor Pro Tem Stewart tabled the item to be further discussed at the next Council meeting.

Item 4d. Social Media/Networking Sites Policy for City Sites

City Attorney Ken Fellman addressed Council on his concern with a part of the Social Media/Networking Sites Policy for City Sites. He indicated that under the Facebook Wall Posts Policy section, one of the types of comments that would be removed from wall posts was "off-topic comments". He explained that this was very broad and he could foresee various problems arising. First, if a resident made a comment that was not on the topic that was being discussed, but was still a legitimate comment or question about City business, then the proposed policy would require staff remove the comment. Mr. Fellman believed that this was not the intent of the social media. Secondly, if a resident made a rude or inappropriately worded comment that was on-topic, but did not reach the level of being obscene, libelous or defamatory, then staff would not be permitted to remove the comment according to the proposed policy.

Councilor Brown indicated that the City had many other methods of disseminating information to its residents, including the website, email lists, and the Village Crier. He questioned what value was added to the community by the City maintaining a Facebook page.

Mr. Fellman replied that Facebook and other social media outlets represented a different kind of contact with the community than the other methods the City currently uses. He explained that communications were shifting to these new media types as the next generation becomes involved in local governments. Younger constituents are much more likely to get information about the City via Facebook and other social media outlets than to read the Village Crier. He stated that although the City's demographics might not make Facebook as obvious a choice as for other cities with a higher population of younger residents, there was merit in keeping up with the newest communication technologies.

Councilor Griffin indicated that he agreed with Councilor Brown.

Councilor Roswell indicated that he also agreed with Councilor Brown. He stated that Facebook might not be as applicable to the City as it might be to other municipalities because the majority of City residents do not use Facebook. He also indicated that he was reluctant to devote the City's staff time and limited resources to Facebook.

Councilor Brown commented that even in the case of a city like Denver, he believes that a system like 311 adds more value to the community than Facebook. He indicated that just because something is a trend does not mean that it is appropriate for a government body.

Mr. Fellman replied that Facebook and other social media sites are appropriate for government bodies, but they may not be appropriate for this governing body and that's what Council must determine. He indicated that he had many anecdotes of situations in various municipalities where social media was surprisingly useful.

Councilor LaMair indicated that she would normally agree with Councilor Brown but that about half of the people she knows are on Facebook and, while it may not be crucial for the City now, the City may want this kind of communication in the near future. She suggested that Facebook would be an ideal forum with which to disseminate information regarding composting or recycling if the City ever implemented those sorts of projects. She stated that while none of the Councilmembers found Facebook useful, the demographic of the City are changing. She explained that many younger residents would not want to wait for the Village Crier to get their information or go through the sign-up process on the website to receive emails from the City, and that they would appreciate a quicker medium to receive information. She suggested that Council might need to be better educated about the advantages of Facebook.

Councilor Griffin commented that, while he appreciated the expertise and advice of Mr. Fellman, residents could come to any Council meeting to express concerns. He indicated that when people move away from a public forum into a written forum, they tend to be more abusive. He agreed that the City has other ways to communicate with its residents.

Mr. Fellman suggested that staff bring the issue back at the next meeting with more analysis of the benefit of Facebook to the City, what similar communities are doing, and how Facebook would impact staff time.

UNFINISHED BUSINESS

None

NEW BUSINESS

Council Bill 1-2011; A Bill for an Ordinance Establishing the Public Art Commission (first reading)

Public Works Director Jay Goldie presented Council Bill 1, Series 2011 for Council's consideration. He explained that Mayor Wozniak, Councilor VanderWerf and staff had discussed with members of the community the possibility of forming a Public Art Commission. He indicated that staff had prepared an Art Master Plan document that if approved would guide the actions of this Commission. The Commission would use the Art Master Plan to make recommendations to City Council on the selection, location, maintenance, and decommissioning/removal of art to be placed in public places. The Art Master Plan suggests that a dedicated funding stream for the program be based on ½ percent of the City's yearly Capital Expenditures Fund, limiting the maximum contribution to \$10,000.00 in any one budget year. If City Council chooses not to set up a dedicated funding source, a specific lump sum amount of funding could be appropriated each year during the budget process. He noted that staff put together a map outlining a number of possible sites throughout the City that might work well for the placement of sculptures in public places. The map is not intended to be an all-inclusive document, but a starting point for possible areas that might accommodate certain art pieces. Some sites may require cooperation with private property owners prior to being viable sites for placement of art.

Councilor Brown asked if the Art Master Plan would be approved by Council's approval of Council Bill 1, Series 2011.

Mr. Goldie replied that the proposed Council Bill referred to the Art Master Plan and so the Plan would be approved by approval of the Council Bill.

Councilor LaMair indicated that the cost of quality public art is significant, and that the City may want public art for the new joint public safety facility. She explained that art could be incorporated into the building, such as a mural wall or artistic walkways, rather than being stand-alone sculptures which might be more controversial. She suggested that it would make more sense to allocate more funding to lease or buy public art during years when new buildings were being built and less funding for other years. She indicated that she would like to see some related options in the next draft of the proposed bill.

Councilor Roswell indicated that he was reticent to establish another City commission, as the City already had several and there was already apathy among residents to serve on the current commissions. He suggested that the proposed commission could be integrated into the Parks, Trails and Recreation Commission (PTRC). He also commented that although the dedicated funding suggested for the Art Commission was not a large amount, the City has a tight budget.

Councilor Griffin asked staff if any residents had expressed an interest in volunteering for the proposed Arts Commission.

Mr. Goldie replied that two or three residents had expressed an interest.

Councilor Griffin suggested that they could form an advisory committee to the PTRC.

Councilor LaMair agreed that forming a separate group that could advise the PTRC might work.

Mayor Pro Tem Stewart indicated that a group of residents might advise the people involved with the design and construction of the new joint public safety facility about public art that could be integrated into the facility. He suggested that forming an ad hoc committee for a large project might be more valuable than having a committee that meets year-round.

Councilor Roswell agreed that having input on public art during the design phase of the new facility would be helpful, and that lessons learned from that experience would help Council to determine how best to proceed with a public art committee or commission.

Mayor Pro Tem agreed that a committee or commission would be more useful if it was dealing with the specific needs of a specific project.

Councilor LaMair agreed that the group could meet as needed. She also suggested that public art could be used in a semi-practical way such as to enhance already existing structures, such as the message board in front of the Village Center where the City puts posters advertising meetings and events.

Mayor Pro Tem Stewart directed staff to table the issue until the next meeting where Mayor Wozniak and Councilor VanderWerf could give their input.

Councilor LaMair suggested that staff gather information on Greenwood Village's program for public art.

Councilor Roswell commented that an ad hoc committee could be passed by resolution.

Discussion of Financial Options for the Joint Public Safety Facility

Finance Director Karen Proctor and Deputy Chief Jody Sansing presented various options for financing the new joint public safety facility. Ms. Proctor explained that over

the past several years the City had discussed and began the process of building a new Village Center. However, the project had been stopped each time due to funding concerns. She explained that it would be beneficial to the future management of potential construction costs if the Council's preferred funding method was decided in the near term. This decision would also address a concern of the Fire Department as they enter in to the current project to build the joint public safety facility. She outlined the options available, which were to pay with funds available in the Capital Fund; pay with funds available in the General Fund; debt financed by issuing Certificates of Participation (COPs); and sell 90 Meade Lane and use the proceeds for construction.

Councilor Brown indicated that his initial reaction to the options presented was to pay with funds available in the Capital Fund. He explained that 90 Meade Lane might be more useful to the City in a 1031 land exchange for open space. He questioned putting the City into debt with COPs when the funds needed were available in the Capital Fund. He also questioned how COPs would work with the City-owned land intended for the new joint public safety facility. He cautioned that if the project ended up being more than \$3 million, the City would likely need to go into debt.

Councilor Roswell agreed with Councilor Brown. He indicated that he believes the only reason to keep 90 Meade Lane would be to wait for the real estate market to improve before selling.

Councilor LaMair agreed with Councilor Brown that keeping 90 Meade Lane to be used in a land exchange for open space was a good idea. She noted that much of the funds for the original purchase of 90 Meade Lane had come from the City's land donation fund.

Councilor Griffin agreed with Councilor Brown that it would be more advisable to pay with funds available in the Capital Fund, and noted that with Ms. Proctor's guidance the City had succeeded in weathering a tight budget in 2010.

Mayor Pro Tem Steward asked Ms. Proctor when she was expecting the Arapahoe County property assessment to be reported.

Ms. Proctor replied that it should be reported this or next month.

Councilor Brown noted that the City did not have to do the COPs at the beginning of the project, but could do them after the building is completed.

Councilor Roswell asked that staff arrange a study session with a COP expert so that Council could be fully advised about the various funding options.

Council Bill 2-2011; A Bill for an Ordinance Authorizing a Supplemental Appropriation for Architectural and Design Services Related to the Planning and Design of the Proposed New Joint Public Safety Facility (first reading) and Contract for Services with Roth Sheppard Architects

Deputy Chief Jody Sansing presented the contract for services with Roth Sheppard Architects and Council Bill 2, Series 2011 authorizing a supplemental appropriation for Phase One of the contract along with a 15% contingency, for a total maximum expenditure of \$55,562.25.

Councilor Roswell asked Mr. Sansing to explain the phased pricing.

Mr. Sansing explained that the total contract was approximately \$288,000. Half of that would be paid by South Metro Fire Rescue (SMFR), and half by the City. Staff had

decided to only pay for Phase 1 of the project before the property assessment values were reported from Arapahoe County.

Councilor Roswell added that he and Mr. Sansing had attended the SMFR Board meeting on March 28th, and that the Board had been concerned about the City Council's commitment to the project. Although he could not speak for the Council, Councilor Roswell spoke as a Council member and reassured the Board that he was very supportive of the project. He indicated that the Board had approved funding for Phase One, but had not acted on Phase Two because they were waiting to see what the City Council would do. He suggested that if Council were to approve funding of the entire contract it would send a strong message to the SMFR Board. He stated his belief that if the City Council approved Phase Two and, for whatever reason, the Board did not, then the City would not be required to follow through with Phase Two.

City Attorney Ken Fellman agreed that the contract required both elected boards to approve it.

Councilor Roswell indicated that approving the full funding for both Phases would demonstrate Council's dedication both to the project and SMFR as a partner. He suggested that the motion be amended to approve the full funding amount.

Mayor Pro Tem Stewart and Councilors Brown and Griffin agreed.

Mr. Frederick Abrams of 105 Meade Lane asked if SMFR would be paying the City some amount for use of the land, since the land is owned by the City.

Councilor Roswell replied that the issue had not been resolved but would be one of the issues addressed in the Intergovernmental Agreement between the City and SMFR.

Mrs. Alice Abrams of 105 Meade Lane asked for an explanation of a 1031 Exchange.

Mr. Fellman replied that a 1031 Exchange referred to Section 1031 of the Internal Revenue Code, which outlined provisions allowing for a property trade instead of cash payment for designation of property as open space.

Mrs. Abrams asked if 90 Meade Lane was used by the City for a 1031 Exchange would the new property owners be able to build on the parcel, and what zone district the property is in.

Community Development Director Rob Zuccaro replied that the new property owners would be able to build in accordance with the City Code and that the property is in zone district R-1.

Mr. Sansing noted that the City's portion of the funding for Phase Two would be less than 50% because it would be based on square footage and it was very likely that SMFR would need more square footage than the City.

Councilor Roswell moved, seconded by Councilor Brown to approve on first reading Council Bill 2, Series 2011; a bill for an ordinance of the City of Cherry Hills Village, authorizing a supplemental appropriation for architectural and design services related to the planning and design of the proposed New Joint public Safety Facility. Additionally, Councilor Roswell moved, seconded by Councilor Brown, to approve the contract for services with Roth Sheppard Architects in the amount of \$144,140.00 plus a 15% contingency not to exceed \$165,761.00 which represents ½ the total cost of Phase One and Phase Two of the planning and design of the proposed Joint Safety Facility between the City of Cherry Hills Village and the South Metro Fire Authority.

The following votes were recorded:

Mark Griffin	yes
Russell Stewart	yes
Scott Roswell	yes
Alex Brown	yes

Vote on the Council Bill 2-2011: 4 ayes. 0 nays. The motion carried.

Public Safety Facility – Owner’s Representative Discussion

Mr. Sansing requested Council’s consideration of hiring an owner’s representative for the joint public safety facility project. He explained that in researching numerous similar public safety facility projects, staff had found that the majority of the processes included the services of an owner’s representative. Staff would be distributing a request for proposals (RFP) shortly to ascertain costs associated with the City’s project in order to better determine the value of an owner’s representative. He indicated that the pros of an owner’s representative included providing consistent project management, avoiding costly mistakes during the building process, provide objective and neutral opinions, and assist in minimizing workload on City staff. He stated that the cons of an owner’s representative included the cost and possibly diminished benefit when using a Construction Manager/General Contractor (CM/GC). He noted that the one Police Chief he had spoken to who had gone through the process of building a new public safety facility without hiring owner’s representative was not able to do so because of the cost, but had fully recommended hiring an owner’s representative if at all possible.

Councilor Roswell commented that SMFR was not in as much need of an owner’s representative since they had experience building fire stations. However, he indicated that SMFR would benefit from the City hiring an owner’s representative.

Councilor Brown indicated that he could see the value of hiring an owner’s representative. He stated that he would be most interested in seeing the potential owner’s representatives outline stating what they would provide to the City and SMFR in discrete phases, by estimating hours of work and how they would assist in each phase of the project.

Mr. Sansing commented that all owner’s representatives work was based on a hourly rate. He also noted that the RFP would be beneficial for conversations with SMFR.

Mayor Pro Tem Stewart directed staff to proceed with the process of looking into an owner’s representative.

REPORTS

Members of City Council

Councilor Brown reported that grants through DRCOG for bicycle and pedestrian crosswalks had been awarded. He noted that the DRCOG grant application was very technical and lengthy and required many staff hours to complete. He suggested there might be some benefit to the City hiring a grant writer.

Councilor Roswell indicated that Councilor LaMair was a strong advocate for the City applying for grants, and that Council should do what was needed to promote grant applications for City projects.

Mayor Pro Tem Stewart indicated that he agreed, and noted that Mr. Goldie had experience writing DRCOG grant applications.

Mr. Goldie agreed that DRCOG grant applications were extremely time-consuming for staff.

Councilor Roswell reported that the SMFR Board would be pleased that Council had approved funding for both Phases of the project. He commended SMFR for recently receiving a significant accreditation and indicated that they were a wonderful partner organization.

Councilor Griffin commended Ms. Proctor on a wonderful job with the 2010 budget.

Mayor's Report

None.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

City Manager John Patterson reported that staff had hired a new full-time parks maintenance worker and would be hiring seasonal parks and streets maintenance workers shortly. He noted that Spring Clean Up would be April 23rd to May 1st, and that there would be two dumpsters this year located in the City Hall complex that staff would keep a close eye on to avoid the problems from last year. He reported that he and Mr. Sansing had attended a fundraiser in Greenwood Village to raise money for their canine program. He noted that staff was in contact with Greenwood Village about sharing police activities and public works equipment.

Denver Water Distributors Technical Advisory Committee (TAC) 2011 Rate Study Evaluation

Mr. Goldie reported that the 2011 Denver Water Cost of Service Rate Study Evaluation completed by the Technical Advisory Committee (TAC) had been completed. He reminded Council that the TAC was formed by suburban communities outside Denver proper serviced by Denver Water. He noted that the TAC had caught many inconsistencies in Denver Water's rates and that rates might be lowered as a consequence.

Wastewater Collection System Maintenance Agreements with the City of Englewood, and Update on the Repair and Replacement Project

Mr. Goldie reported that staff had recently received notice that the City of Englewood would not renew the two Wastewater Collection Maintenance Agreements they currently have with the City for the Cherry Ridge, Cherrymoor and Cherry Hills Rancho areas. He indicated that the City would have to pass on the added cost of taking over the maintenance of these areas to residents. He explained that the City was in the process of transferring management of City sewer lines to the Cherry Hills Village Sanitation District (CHVSD) and was upgrading sewer lines to their standards.

Councilor Griffin indicated that he had already received and paid his \$192 bill from Englewood for the year, and asked if that bill would be affected.

Mr. Goldie replied that bill was for the treatment of the sewer lines, and not for the maintenance. Residents will continue to receive bills from Englewood for the treatment of the lines.

Councilor Brown asked for a general timeline of transferring the sewer lines to CHVSD.

Mr. Goldie replied that staff would be bringing an IGA with CHVSD to Council at the next meeting. The transfer would occur over the next several years.

City Attorney

Mr. Fellman reported that the East Cherry Hills Water District had failed to pay legal fees owed to the City, and that repeated attempts to contact Board Director A.J. Coffman had failed. He indicated that he was preparing a small collections case against the Water District.

Mayor Pro Tem Stewart asked what assets the District might have.

Mr. Goldie replied that staff was told the money owed to the City was in the bank. He noted that the City would not allow the District to dissolve without paying the legal fees.

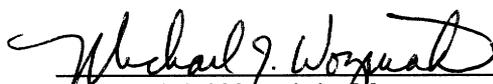
Councilor Roswell asked if staff had attempted to contact any other members of the District Board.

Mr. Goldie replied that they had not.

Councilor Roswell advised that staff send a letter to all the District Board members and exhaust all options before filing a lawsuit against the District.

ADJOURNMENT

The meeting adjourned at 8:00 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk