

**RECORD OF PROCEEDINGS**

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Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, June 7, 2011 at 6:30 p.m.  
At the Village Center

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 Manager and Police Chief John Patterson, City Attorney Ken Fellman, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Public Works Director Jay Goldie, Police Lieutenant Patrick Weathers, Parks, Trails & Recreation Administrator Ryan Berninzoni, City Engineer Troy Carmann, and City Clerk Laura Smith.

Absent: none

**STAFF PROMOTIONS**

City Manager John Patterson proposed designating Lieutenant Patrick Weathers as Commander. He explained that Patrick Weathers was promoted to the rank of Lieutenant on July 23, 2010. The title of Lieutenant is being phased out of many police departments in favor of the title Commander because it no longer accurately describes the duties and responsibilities found in the position. This has occurred in Greenwood Village, Littleton, Lakewood, Westminster, and Denver. Traditionally, lieutenants supervised shifts of police officers and/or small units within the police department. With the advent of community policing, the role and function of lieutenants has changed and been expanded to include more responsibilities (community outreach, problem solving initiatives, budget responsibilities and wider supervisory responsibilities). City Manager Patterson indicated that changing the working title will enhance Patrick Weathers' ability to do his job more effectively. The title of Commander carries more weight within the policing community and amongst most citizens. City Manager Patterson congratulated Commander Weathers.

Commander Weathers stated that this was his 30<sup>th</sup> year with the City and that he still enjoyed coming to work everyday. He thanked the Mayor and City Council for their support. He indicated that Police Chief Patterson is the finest, most professional and fair Chief he has known and thanked him as well.

Mayor Wozniak indicated that he appreciated Commander Weathers' work and that 30 years at a police department was unheard of. He stated that he had the pleasure of working with Commander Weathers on sergeant reviews and was impressed with his leadership. He also noted Commander Weathers' efforts in the community.

City Manager Patterson also proposed designating Public Works Director Jay Goldie as the Deputy City Manager. He explained Jay Goldie has been employed by the Village for the past 7 years. He was promoted to Public Works Director in May 2006 and in that capacity he has done exceptional work by improving service delivery, customer service and his department's safety record. Director Goldie also supervises the Parks Department and oversees several contractors who do business in and with the City. In this capacity, he has "raised the performance bar" for contractors. City Manager Patterson stated that he has come to rely on Director Goldie's expertise and respects his abilities a great deal. In City Manager Patterson's absence, he has assumed the duties of the City Manager.

Deputy City Manager Goldie stated he also enjoyed coming to work every day, and appreciated Council's and City Manager Patterson's support.

### **AUDIENCE PARTICIPATION PERIOD**

David Wyman, of 8 Tamarac Lane, addressed the Council with concerns about Council Bill 5, Series 2011, regarding tree preservation. He stated that he believed the proposed bill was a disincentive for the removal of noxious trees such as Russian Olives. He also stated that in a situation where a utility company requires the removal of a tree in order to upgrade a line, the proposed bill would put an unreasonable burden on the homeowner. He also stated that, while the State legislature had put a limit on Homeowners Associations' ability to require watering for lawns, the proposed permit was essentially requiring increased water consumption. He indicated that water consumption had not been discussed by either the Residential Development Standards Committee (RDSC) or the Planning and Zoning Commission (P&Z) while discussing the proposed bill. He also noted that any mandated tree replacement would require increased water while the tree got established, whereas a Russian Olive requires no water. He calculated that, under the proposed bill, tree replacement of a 20" diameter Russian Olive would result in approximately 300 gallons per week of water for the new trees. He stated that the proposed bill essentially banned xeroscaping, discouraged the removal of noxious trees and mandated increased water consumptions.

Mayor Wozniak thanked Mr. Wyman for his comments and indicated that they would be addressed later in the meeting.

Lisa Swenson, of 4620 E. Oxford Ave, asked that Council consider use of St. Gabriel's Church for additional meeting space and for use of their playground.

Mayor Wozniak thanked Ms. Swenson for offering the space and facilities.

### **CONSENT AGENDA**

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

- a. Approval of Minutes – May 17, 2011
- b. Resolution 10, Series 2011; Appointment and Reappointments of Parks, Trails and Recreation Commission Members
- c. Resolution 11, Series 2011; Appointing Kerry Sullivan to the Board of Adjustment and Appeals
- d. Reappointment of Members to the East Cherry Hills Water District Board

The motion carried unanimously.

### **ITEMS REMOVED FROM CONSENT AGENDA**

None

### **UNFINISHED BUSINESS**

Council Bill 3, Series 2011; Authorizing a Supplemental Appropriation for the Repair and Replacement of Portions of the Village Center Building Roof (second and final reading)

Public Works Director Jay Goldie presented Council Bill 3, Series 2011 on second and final reading. He indicated there had been no changes to the proposed bill since first reading.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve, on second reading, Council Bill 3, Series 2011; A Bill for the supplemental appropriation of funds for the repair and replacement of portions of the City Center roof.

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 3-2011: 6 ayes. 0 nays. The motion carried.

Council Bill 4, Series 2011; Authorizing a Supplemental Appropriation of Funds for the Upgrade and Installation of New Audio Visual Equipment in the City's Council Chambers and Contract for Services with Spectrum Audio Visual (second and final reading)

Director Goldie presented Council Bill 4, Series 2011 on second and final reading. He indicated there had been no changes to the proposed bill since first reading. He also reported that staff was continuing to look into equipment needed to stream audio of Council meetings live on the City's website. He noted that the set up used by the City of Centennial was \$40,000 and that staff was looking for less expensive options.

Mayor Wozniak indicated his primary concern was that the audio visual equipment being approved by the proposed bill would allow live streaming if the City chose to go forward with live streaming.

Director Goldie confirmed that it would.

Councilor Brown indicated that he had voted against the proposed bill at first reading and wanted to explain his reasoning. He saw the upgrade as a want, not a need, and did not believe that there was enough of a demand for this type of system. He also noted that the proposed new joint public safety facility would have a community meeting room that would serve for any large community meetings with AV needs.

Councilor Roswell moved, seconded by Mayor Pro Tem Stewart to approve, on second and final reading, Council Bill 4, Series 2011; for the supplemental appropriation of funds for the installation of new audio and visual equipment in the Council Chambers of the Village Center.

The following votes were recorded:

Harriet LaMair	yes
Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	no
Mark Griffin	yes

Vote on the Council Bill 4-2011: 5 ayes. 1 nays. The motion carried.

## **NEW BUSINESS**

### **Public Hearing - Request by WRC Engineering Inc for Approval of a Floodplain Development Permit**

Community Development Director Rob Zuccaro presented a request by WRC Engineering for a floodplain development permit to construct stormwater detention pond outlet swales in the special flood hazard area for the property located at 4600 S. Monroe Lane. He explained that the topography of the site would not allow below grade outlet pipes to convey stormwater to the detention pond and so swales were now being proposed in their place. The swales will be seven feet wide and one foot deep. The Planning & Zoning Commission reviewed the request at their meeting on April 25, 2011 and recommended approval of the request with two conditions. First, that the applicant's engineer provide a statement after the work is completed that the construction was completed in accordance with the hydraulic study and that the swales result in no rise in the base flood elevations. Second, that the applicant submits an Army Corps of Engineers 404 Permit to City Council or provides an official letter stating that the 404 Permit is not required for the proposed floodplain development. The applicant has met condition #2 by providing a letter from the Army Corps of Engineers stating that a 404 Permit will not be required for the project. Staff has reviewed the criteria for this request and the criteria, as well as staff's findings, are presented in the Council memo. Staff has determined that the applicant has met all criteria and recommends approval of the permit with the condition of the engineer statement after work is complete.

Mayor Wozniak thanked Director Zuccaro for his thorough staff report and noted that having the criteria and staff findings side by side was particularly helpful.

Councilor VanderWerf asked for an explanation of how flood water would move through the system.

City Engineer Troy Carmann explained that the purpose of the system was stormwater management and that the detention pond would release water slowly, similar to a bathtub. The detention pond would control the release of water, as opposed to rainwater falling from a rooftop.

Councilor Roswell asked what the homeowner's obligation was to maintain the swales.

Director Zuccaro replied that the applicant was required to sign a maintenance agreement prior to issuance of a Certificate of Occupancy associated with the building permit for the new residence.

Mayor Wozniak noted that the black and white photos in the staff memo were difficult to see and served as a prime example of something that would benefit from the new A/V system.

Mayor Wozniak opened the Public Hearing.

Michael Tralla, of 72 Glenmoor Drive, stated that he lives across the street from the applicant. He indicated he has been a resident of the City for 25 years and is in his third home in the City. He stated that he had received two certified letters regarding the permit application and had several questions about the project. He asked what the issue was that caused water drainage and required the swales and detention pond. He asked what the proposed system would do to the site in general. He asked where the water was coming from, and what its purpose would be. He asked what would happen if

excess water were to overflow into the golf course. Finally, he asked why the applicant was not present at the meeting.

Mayor Wozniak indicated that the resident's engineers presented the application and that the applicant was required to notify all adjacent property owners via certified mail.

Director Zuccaro added that notice of the public hearing was published in the May 12, 2011 issue of The Villager Newspaper and two public hearing signs were posted on the property facing Monroe Lane and Glenmoor Drive. He indicated that the system was designed for a 100 year storm event, with a large capacity to contain water, and that the detention pond should not overflow.

Mayor Wozniak asked if the system was designed to the City standard.

Director Zuccaro replied that the system follows the Arapahoe County manual, which the City has adopted.

Engineer Carmann addressed Mr. Tralla's questions. He explained that the reason for the system was the difference between undeveloped vs. developed land. Developed land has more impervious surfaces than undeveloped land, which results in more run-off from rainwater and snowmelt. The purpose of the proposed system was to control the additional run-off, and to release it slowly into the ground. The water involved in the system would be purely from precipitation and would not be used for sanitary, potable, or irrigation purposes. The key functions of the detention pond are to allow sediment to settle out of the water and to release the water slowly. The system will have a nominal if any impact to water on the property or neighboring properties. While failures do happen, the system design will direct any overflow water downstream, away from public and private property.

Mayor Wozniak asked if any of the water would come from the aquifer.

Engineer Carmann replied that the system would not deal with ground water at all and should have no impact on ground water on the property.

Mayor Wozniak asked why two swales were being proposed.

Engineer Carmann explained that the benefit to having two swales would be that the water would have more residence time to infiltrate the ground of the swales, resulting in more water quality treatment.

Councilor LaMair asked about the ecological impacts of the system and if natural plants would be planted in the swales.

Engineer Carmann explained that the swales would be cobble-lined, with a soil matrix and that these materials would quickly disappear under vegetation.

Councilor LaMair asked if the City Code allowed pool water to be drained into swales.

Engineer Carmann replied that it was acceptable to drain pool water into swales. He explained that it was a relatively small volume of water and that the sanitary and sewer districts do not want added water in their systems.

Director Goldie added that all of the regulations being discussed were addressed in Chapter 19 of the City Code, which was adopted from State regulations which in turn came from the Federal level.

Mr. Tralla asked what the system would look like in three to five years.

Director Zuccaro explained that the applicant must sign a maintenance agreement with the City to maintain the volume of the pond. The agreement gives the City the authority to restore the pond to its original capacity.

Councilor Brown commented that on other properties grass has grown along the swales and they appear to be part of the lawn.

Mayor Pro Tem Stewart agreed that most were not noticeable and appeared to be open grassy areas.

Director Zuccaro indicated that some were more noticeable than others.

Mayor Wozniak asked for other public comments. Hearing none, the Public Hearing was closed.

Councilor Roswell noted that the construction of swales and detention ponds were part of the process that the City has established, that it is important to maintain historic outflows of water and that he was in support of the application.

Mayor Pro Tem Stewart indicated that it was important to prevent flooding and that the proposed system was necessary to do that.

Mayor Pro Tem Stewart moved, seconded by Councilor Brown, to approve the request by WRC Engineering for a Floodplain Development Permit to allow construction of stormwater detention pond outlet swales within the Special Flood Hazard area on property located at 4600 S. Monroe Lane, with the condition that the applicant's engineer provide a statement after the work is completed that the construction was completed in accordance with the hydraulic study and that the swales result in no rise in the base flood elevations. The proposed Floodplain Development Permit is consistent with the review and approval criteria for such applications as outlined in Chapter 16, Article 17 of the Cherry Hills Village Municipal Code, as described in the "Staff Analysis" section of the staff memorandum dated June 7, 2011.

The following votes were recorded:

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

Vote on the Floodplain Development Permit: 6 ayes. 0 nays. The motion carried.

Council Bill 5, Series 2011; Amending Chapter 16 of the Municipal Code, Concerning the Preservation of Established Trees (first reading)

Director Zuccaro presented Council Bill 5, Series 2011 on first reading. He explained that the RDSC recommends that the City adopt regulations to protect established trees located within the setbacks during construction and replace such trees if removed or destroyed. Established trees are defined as those with a trunk diameter of 6" or greater. The current proposed bill would apply only to setbacks and public rights-of-way, and only during construction of a new home or major addition (50% or more of the resident square footage). If an established tree is relocated, there is not replacement

requirement. If an established tree is removed within 12 months of the date of permit application submittal, during construction, or dies as a part of construction activities, it must be replaced at a rate of 1.5:1 inches of replacement tree caliper to established tree caliper removed. In September of 2010 Council reviewed the proposed ordinance from P&Z, which had applied to removal of established trees anywhere on the property. The current proposed bill would apply only to the setback or yard area. The proposed ordinance also allows dead or dying trees to be preserved for the purpose of habitat preservation as long as the tree is not diseased and certain requirements are met to ensure that the tree does not pose a danger. Permit applicants for new homes and large remodels will have to submit a tree survey, a planting and a mitigation plan. Staff will conduct a compliance check 24 to 36 months after a certificate of occupancy is granted.

To address Mr. Wyman's concern regarding water conservation, Director Zuccaro explained that the RDSC looked to Lake Forest, Illinois for an example of a tree preservation ordinance in a comparable community. The RDSC did note that the climate is significantly different in Colorado, but that trees are important to the Cherry Hills Village community and their preservation is worth the added water use. He also noted that the Colorado State University Extension has a list of low-water trees. These may not necessarily be native and would still need about two years of increased water to get established. It would be up to property owners to choose what species of tree they would plant, as long as it was not on the City's prohibited tree list. If a resident were to remove a Russian Olive with a trunk diameter of 6" or greater during a large construction project, it would need to be replaced under the proposed ordinance. The reasoning behind treating noxious trees, such as Russian Olives, the same as other trees was that the RDSC report focused on the adverse impact the removal of established trees can have on buffers between properties.

Director Zuccaro reminded Council that the proposed bill only applied within 12 months during and 24-36 months after the construction of a new home or major remodel. Otherwise residents were free to remove trees at their discretion.

Mayor Wozniak asked how the proposed ordinance would apply to utility easements.

Director Zuccaro replied that trees in utility easements would be treated the same as in the rest of the setback area by the proposed bill. He noted that residents could apply for a variance if needed.

Mayor Wozniak indicated that variances were unlikely to be passed and asked if P&Z had considered any kind of waiver.

Director Zuccaro replied that P&Z had decided not to include a waiver in the proposed bill. He noted that the case of a tree in a utility easement would meet the criteria needed for a variance.

Councilor LaMair asked what the P&Z's rationale for limiting the ordinance to only apply during major construction projects.

Director Zuccaro replied that the proposed bill was trying to address the particular issue of loss of trees during large construction projects. Also the intent was not to impact a large number of residents and to limit the amount of staff resources needed to enforce the bill.

Councilor LaMair asked what would happen in the case where a resident wanted to remove trees to open up a view corridor.

Director Zuccaro replied that the resident could relocate the trees in the general area.

Councilor VanderWerf asked how far from the original location trees could be relocated.

Director Zuccaro replied that the proposed bill left room for interpretation on that issue. The intent was to preserve the buffer of trees in the setback of the property, but to allow residents some flexibility in tree location.

Mayor Pro Tem Stewart indicated that the proposed bill referred to the "yard", not to the setback.

Director Zuccaro replied that they meant the same thing.

Mayor Pro Tem Stewart indicated that the Municipal Code defined "yard" as the area between the lot line and the structure.

Mayor Wozniak directed Director Zuccaro to work with City Attorney to clarify the definition.

Mayor Pro Tem Stewart indicated he believed the proposed bill should be revised to allow for the removal of noxious trees without any replacement requirement.

Mayor Wozniak agreed.

Councilor LaMair asked about the State's position on Russian Olives.

Director Goldie explained that the City was mandated by the State not to plant any Russian Olives and was asked to remove any already established.

Councilor Roswell reminded Council that any tree, including Russian Olives, could be removed if it was not 12 months before, during, or 24-36 months after a major construction project.

Director Zuccaro agreed and added that the purpose of the proposed bill was to maintain a buffer during large construction projects.

Mayor Wozniak directed Director Zuccaro to clarify the definition of "yard"; to add an exception for noxious trees; and to add a waiver procedure into the proposed ordinance.

Councilor Griffin calculated that if an individual removes a 36" cottonwood, they would be required to plant 13-14 4" trees, for a total of approximately \$7,000. He indicated he has a difficult time telling people what to plant and that he believed the proposed ordinance had too many rules and was financially burdensome on residents. He also stated that the comparison between Cherry Hills Village and Lake Forest, IL, was a poor one because of the vast difference in climate.

Mayor Wozniak asked what the cost of a tree survey would be for a 2 ½ acre property and also what the staff time would be for the required post-construction survey. He asked if the proposed bill required that a certified engineer complete the survey or if the homeowners themselves could draw a survey. He noted that there was a significant cost associated with hiring a certified engineer.

Director Zuccaro replied that the survey could be completed by a landscape architect.

Mayor Wozniak noted that most residents in the City liked trees and would not want to remove them.

Mayor Pro Tem Stewart indicated that it was often the developer, not the homeowner, who removed established trees during construction.

Councilor LaMair indicated that the RDSC had based this recommendation on the Master Plan and that the proposed bill had a strong public benefit. She noted that the Council was trying to balance private rights with public benefit. She stated she was concerned about the staff time required by the proposed bill.

Director Zuccaro explained that he estimated that the proposed bill would apply to 15-20 permits per year and that two hours of additional staff time would be required for each project, resulting in 30-40 additional staff hours per year.

Councilor LaMair asked if there were any parts of the proposed bill that Director Zuccaro felt were onerous or could be softened while still achieving the preservation of established trees.

Director Zuccaro replied that staff had presented several different options for the replacement rate, including a cap of four replacement trees, a replacement rate based on caliper ranges, and a simple 1:1 replacement rate. He explained that P&Z wanted a higher replacement ratio than 1:1 because they wanted the proposed bill to be an incentive to preserve established trees.

Mayor Wozniak directed Director Zuccaro to bring the proposed bill back to Council for first reading after clarifying that the proposed bill would only apply to the setbacks; adding an exception for removal of noxious trees; adding a waiver provision; and adjusting the replacement ratio or adding a cap on the number of replacement trees. He noted that he agreed with Councilor Griffin's concern that removal of a large tree would be burdensome under the current proposed bill.

Councilor Brown indicated he would also appreciate those changes. He stated that he struggled with the 1.5:1 replacement ratio and would be fine with a 1:1 ratio. He noted that in a situation where a property owner had a large cottonwood but the area would look better with a series of small trees, if the proposed bill was forcing the planting of more trees than anyone really wants.

Mayor Pro Tem Stewart agreed with Mayor Wozniak's points and indicated that the addition of a waiver provision would be important.

Mayor Wozniak suggested that waiver applications could be heard by the City Council instead of the Board of Adjustment and Appeals (BOAA).

Councilor Roswell reiterated that the proposed bill would only apply during the construction phase and suggested that might need to be made more clear in the ordinance. He noted that the proposed bill would not prevent a resident from removing a large cottonwood or other established tree at any time not associated with a large construction project. The proposed bill would prevent a developer from coming in after a property is sold and scraping the land bare.

Mayor Pro Tem Stewart asked for clarification on the timeframe during which the proposed bill would be applicable.

Director Zuccaro replied that the proposed bill would apply during the 12 months prior to issuance of a building permit for major construction.

Councilor Griffin noted that many residents had complained about developers taking down large trees in Old Cherry Hills and he agreed that something needs to be done to address that issue, but that the proposed bill was too onerous.

Councilor LaMair commented that the proposed bill was even more important because large trees are so hard to grow and rare in Colorado because of the climate. She also indicated her support in allowing a landscape architect to complete the required tree survey.

Councilor Brown suggested that the proposed bill could simply prohibit removal of trees in the setback at all times, unless the property owner gets a variance to remove a tree.

Director Zuccaro noted that the proposed bill was similar to the City of Denver's provisions.

Mayor Wozniak concluded that Council would not vote on the proposed bill tonight and asked Director Zuccaro to bring it back at the next meeting. He thanked Director Zuccaro for his efforts on the proposed bill and noted that it was an important and thought-provoking issue.

Councilor LaMair asked Director Zuccaro to include possible scenarios with cost estimates when the proposed bill was brought back to Council.

Council Bill 6, Series 2011; Amending Chapter 16 of the Municipal Code, Concerning Retaining Walls (first reading)

Director Zuccaro presented Council Bill 6, Series 2011 on first reading. He explained that Council had recently directed staff to work with P&Z on developing retaining wall standards due to concerns about retaining walls recently constructed in the City. The proposed bill would establish the following standards for retaining walls: A minimum setback for all retaining walls at a ratio of 4 units of setback to 3 units of height. The setback for tiered retaining walls is to be calculated by the combined height of the tiers. The allowed height of retaining walls in the setback is limited to six feet above natural or finished grade, whichever is most restrictive. The allowed height of retaining walls in the building envelope is the same as the height limit for accessory structures. Retaining walls over six feet in height must be tiered. Fences on top of retaining walls in the setback will be limited in height to six feet above natural grade. Within the building envelope, fences more than six feet in height above natural grade will be allowed only if the fence is a required "guard" (safety railing) per the City's Building Code. A "guard" fence atop a retaining wall that is greater than six feet in height must be at least 50% open and be no taller than the minimum height required by the Building Code. The proposed bill also establishes a definition of "natural grade", which allows staff to use the best information available to determine natural grade.

Mayor Wozniak asked for an explanation of the photographs in Exhibit B.

Director Zuccaro explained that the photographs were of various retaining walls around the City and almost all of them would be allowed under the proposed bill. Any current walls that were not in compliance with the proposed bill would be grandfathered.

Mayor Wozniak described the retaining wall next to his property and commented that many properties need retaining walls to manage steep slopes.

Director Zuccaro replied that P&Z had discussed this issue and had decided that a property would have to employ various landscape techniques, including retaining walls

were appropriate, in the setback to deal with steep slopes. He added that extreme cases could apply for a variance through the BOAA.

Councilor LaMair thanked Director Zuccaro for attending to this issue so quickly. She stated that she had spoken to the concerned landowners and that they were pleased with the way the proposed bill was drafted. She noted that the proposed bill did not include a definition of "retaining wall".

Director Zuccaro confirmed that the proposed bill did not include a definition of "retaining wall" because the definition was simply any type of wall that holds back earth and he believed it was unnecessary to include.

Councilor LaMair asked if a fence would be allowed on top of a six foot high wall.

Director Zuccaro replied that it would not be allowed in the setback, but would be allowed in the building envelope only if it were a safety guard fence.

Councilor LaMair noted that a six foot high retaining wall could be built eight feet from the property line and another wall could be built back and up from that if a property were on a hill. She asked Director Zuccaro if P&Z had sketched it out to see how such a set-up would look.

Director Zuccaro replied that they had not sketched out any situations.

Councilor VanderWerf noted that the problem property had a retaining wall right at the property line with a pool built at the top that could look into the neighboring property's back yard.

Mayor Pro Tem Stewart asked if retaining walls could be built above burms.

Director Zuccaro replied that if a burm was more than three feet in height it was required to undulate.

Councilor LaMair indicated she was comfortable with the proposed bill and believed it would address the issue of too-high walls, too close to property lines.

Councilor LaMair moved, seconded by Mayor Pro Tem Stewart to approve Council Bill 6, Series 2011; a bill for an ordinance amending Chapter 16 of the Cherry Hills Village Municipal Code, concerning zoning, by the addition of Section 16-16-160 concerning retaining walls, and the addition of a definition of Natural Grade to Section 16-1-10, on first reading.

The following votes were recorded:

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

Vote on the Council Bill 6-2011: 6 ayes. 0 nays. The motion carried.

Council Bill 7, Series 2011; Amending Chapter 6 of the Municipal Code, To Adopt Standards, Procedures and Fees for Applications for Liquor Tastings (first reading)

City Clerk Laura Smith presented Council Bill 7, Series 2011 on first reading. She explained that the proposed bill would allow retail liquor stores and liquor licensed drug stores to apply for and hold liquor tasting permits. This issue arose when the City's new wine shop, Vino & Vino, requested a liquor tasting permit. The State statutes outline certain restrictions regarding liquor tastings, but local municipalities must pass their own ordinance adopting the State's restrictions and establish their own procedures and fee structure. There were several points on which staff was seeking direction from Council. First, local municipalities are able to be more restrictive than the State statute on the number of tastings per year per license, the days on which tastings may occur, and the number of hours each tasting may last. The proposed bill used the state's restrictions on these issues. Second, staff recommended that applicants be required to submit dates and times of tasting events at least one week prior to the event. Third, staff recommended that the fee for a new application be \$50 and for a permit renewal be \$25, as these costs would cover the staff time involved in processing the application. Fourth, staff recommended that the City Council, as the Local Licensing Authority, approve or deny new applications, while the City Clerk approve or deny renewals administratively.

Councilor Griffin asked how the Police Department felt about the proposed bill.

Clerk Smith replied that she had spoken to Deputy Chief Sansing and Chief Patterson and both agreed that the Police Department would not need to be involved. If any issues arose in the future that policy would be amended.

Mayor Wozniak asked why the wine shop required a permit when the Country Clubs did not.

Clerk Smith explained that a restaurant or club license was an on-premise license, meaning that consumption of alcohol on the premises was permitted as part of the liquor license. In contrast, a retail liquor store or liquor-licensed drugstore was an off-premises license, meaning that consumption of alcohol was not permitted on the premises. A liquor tasting permit would allow on-premise consumption in specific cases with specific restrictions for these off-premises liquor licenses.

Mayor Pro Tem Stewart asked if Vino & Vino serves spirituous liquors.

Clerk Smith replied that she believed they intended to start out only selling wine, but that their liquor license would cover wine, beer, or spirituous liquors.

Councilor LaMair moved, seconded by Councilor Roswell to approve Council Bill 7, Series 2011; A Bill for an Ordinance of the City of Cherry Hills Village amending Chapter 6 of the Cherry Hills Village Municipal Code, concerning Business Licenses and Regulations, to adopt standards, procedures, and fees for applications for liquor tastings on second and final reading.

The following votes were recorded:

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

Vote on the Council Bill 7-2011: 6 ayes. 0 nays. The motion carried.

## **REPORTS**

### **Members of City Council**

Councilor Brown had no report.

Councilor VanderWerf reported that, for the second year in a row, the Summer Roundup had been cancelled. This year it was due to the herpes virus that was effecting horse populations.

Councilor Roswell reported that a resident had contacted him regarding recreation reimbursements. This resident was upset that the City would not reimburse for youth recreation activities at the University of Denver, because the stated purpose of the organization was education based instead of recreation based.

Mayor Pro Tem Stewart agreed that it was inequitable.

Mayor Wozniak directed staff to add a discussion about recreation reimbursements on the next agenda.

Mayor Pro Tem Stewart had no report.

Councilor LaMair reported that she had attended the GOCO meeting at the Hudson Gardens. State conservation groups had identified conservation projects in the state and Metro area streams and rivers were on the list. The Department of the Interior had also identified Metro area streams and rivers as great areas that need conservation. The GOCO staff believed that there was a potential for Colorado organizations to receive federal grant monies for these conservation projects. She also reported that the appraisal that the City had partially paid for was completed and that it was very low. She noted that many projects in the High Line Canal area were stymied because of lack of property appraisals and that the Cherry Hills Land Preserve was working with the Trust for Public Lands and Arapahoe County on more creative ways to get appraisals.

Councilor VanderWerf noted that oftentimes a conservation appraisal will not stack up against what a private buyer would pay for the property.

Councilor LaMair added that a certified offer from a private buyer could be used in place of an appraisal.

Councilor Griffin had no report.

### **Mayor's Report**

Mayor Wozniak expressed his condolences to Jeff and Martha Welborn and their family on the death of Jeff Welborn's father who had passed away a couple weeks ago.

Mayor Wozniak reported that he had received a letter of commendation for Officer Paul McCarthy from a Village resident and that he appreciated Officer McCarthy's work. He asked Chief Patterson to pass on the Council's appreciation to Officer McCarthy.

He also reported that both Denver Mayoral candidates had attended the last Metro Mayor's Caucus and pledged to continue communications with Metro area mayors.

He also reported that he had had several communications with members of the Parks, Trails and Recreation Commission (PTRC), who did not want to hold any more public hearings or discussion about the port-o-potty issue and wanted Council to vote on

placement of a port-o-potty at Three Pond Park. Mayor Wozniak did not believe that Council should vote on the issue without further public hearings and discussions and recommended that staff bring the issue back to Council for discussion at the next meeting. He reminded Council that they had voted 4 to 3 against placement of the port-o-potty at Dahlia and that PTRC had identified two possible locations at Three Pond Park. Kent Denver School had also approached the City with a possible site.

Councilor LaMair indicated she felt badly that Cat Anderson had to deal with people using the bathroom on her property, but also felt that the City should not be required to have a port-o-potty. She also commented that residents across the High Line Canal from Kent might take issue with a port-o-potty located there.

Councilor Roswell agreed that the Council could not come to a decision without more public input. He indicated he did not understand why PTRC was not following Council's direction on this issue.

Councilor LaMair replied that the members of PTRC felt they went through the process, analyzed the information, and come to a conclusion.

Mayor Wozniak indicated that PTRC was done with the issue and recommended locating a port-o-potty at Three Pond Park without further discussion or public input. He believed that Council should direct staff to put together a memo of information and staff recommendations for Council to discuss and consider at the next meeting.

Councilor VanderWerf stated that she believed there is a need for a public restroom along the High Line Canal in the City as illustrated by people using the bathroom in the bushes and that installing one would serve the community. She noted that a permanent structure in a large park was ideal, but that Council should consider a more temporary solution in the mean time. She suggested that there may be a location PTRC did not consider that may be appropriate.

Mayor Pro Tem Stewart agreed that there was a need.

Councilor LaMair suggested that trail users could use the restrooms at the Arapahoe Tennis Club.

Mayor Wozniak suggested that the City should install a sign along the High Line Canal explaining the location of public restrooms. He directed staff to bring the issue back for discussion at the next Council meeting.

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

There were no reports.

### **City Manager & Staff**

City Manager Patterson reported that Director Zuccaro would meet tomorrow with the new owner of Colorado Community Church. He reported that the Public Works crew had successfully completed street maintenance of Bellaire and Mansfield. He reported that the school year had ended. He also acknowledged City Attorney Fellman for his recognition by the City of Arvada.

### **Appointment of a Council Representative to the Public Art Commission**

Director Goldie reported that the City Council had approved the Public Art Commission (PAC) on May 3, 2011 and now needed to appoint a Council representative to the Commission.

Mayor Wozniak asked if anyone was interested in serving on the PAC.

Councilor VanderWerf expressed her interest.

Councilor LaMair nominated Councilor VanderWerf to serve on the PAC.

The Council unanimously agreed to appoint Councilor VanderWerf to the PAC.

Director Goldie noted that staff had already received several applications from residents to serve on the PAC.

Mayor Wozniak added that he and Councilor Brown had reviewed several good applications for the Board of Adjustment and Appeals.

#### **City Attorney**

City Attorney Fellman reported that the Denver Post was reporting that Michael Hancock had won the Mayoral election in Denver.

#### **ADJOURNMENT**

Mayor Pro Tem Stewart moved, seconded by Councilor Roswell to proceed into executive session for the purpose of discussing the purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest related to the planned police/fire building as authorized by C.R.S. §24-6-402(4)(a), and immediately following the executive session to adjourn.

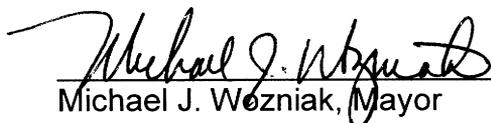
The following votes were recorded:

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

Vote on Executive Session: 6 ayes. 0 nays. The motion carried.

The regular meeting ended at 8:37 p.m.

The executive session adjourned at 8:48 p.m.

  
Michael J. Wozniak, Mayor

  
Laura Smith, City Clerk