

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, January 17, 2012 at 6:30 p.m.
At the Village Center

Mayor Mike Wozniak called the meeting to order at 6:32 p.m.

ROLL CALL

Mayor Mike Wozniak, Councilors Mark Griffin, Russell Stewart, Alex Brown, Klasina VanderWerf, and Harriet LaMair were present on silent roll call. Also present were City Manager John Patterson, City Attorney Ken Fellman, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Public Works Director and Deputy City Manager Jay Goldie, Deputy Chief Jody Sansing, Parks, Trails & Recreation Administrator Ryan Berninzoni, Crew Chief Ralph Mason, and City Clerk Laura Smith.

Absent: Scott Roswell

AUDIENCE PARTICIPATION PERIOD

Jeff Welborn thanked the Council for their hard work and dedication.

CONSENT AGENDA

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

- a. Approval of Minutes – January 3, 2012
- b. Highway User Tax Funds (HUTF) Mileage Certification
- c. Reappointment of Members of the East Cherry Hills Water District Board
- d. Intergovernmental Agreement with Arapahoe County for a Mail Ballot Election for the April 3, 2012 Regular Municipal Election
- e. Secretary of State Mail Ballot Plan for the April 3, 2012 Regular Municipal Election
- f. Agreement for Purchase of Election Print Services with ProVoteSolutions for the April 3, 2012

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

NEW BUSINESS**Resolution 2, Series 2012; Approving a Ballot Issue to Amend the City Charter to Provide that All City Parks Shall Be Maintained in Perpetuity for Public Use**

City Clerk Laura Smith presented Resolution 2, Series 2012 for Council's consideration. She explained that the proposed resolution would approve a ballot issue to amend the City Charter to place parks in public trusts. She noted that the Resolution was written by Mayor Pro Tem Stewart with City Attorney Ken Fellman's input.

Mayor Wozniak thanked Mayor Pro Tem Stewart for his work on the resolution and asked him to discuss the changes to the language that had been made since the last Council meeting.

Mayor Pro Tem Stewart indicated that the word "encumbered" had been added. He noted that this language was found in case law.

Councilor Brown noted that the last four words, "voting on the question" had been left out of this version of the resolution and asked if they were necessary to clarify that a majority of voters participating is required, not a majority of registered voters.

City Attorney Fellman suggested the wording be added back in as it clarified the requirement.

Mayor Pro Tem Stewart agreed.

Councilor VanderWerf asked if the word "encumbered" was strong enough.

Mayor Pro Tem Stewart indicated that it would preclude the City from pledging, mortgaging, or giving any park to another entity.

Mayor Wozniak added that a lien could not be placed on the parks.

City Attorney Fellman added that it would not allow an outside entity to have any legal interest in a park, including a lease for a cell tower.

Mayor Wozniak noted that it would also prohibit the City to grant a right-of-way easement for a horse trail, or an underground easement to bury utility lines. He questioned if the language was too broad.

Councilor LaMair noted that she would want to allow a horse trail.

City Attorney Fellman indicated that a horse trail would be allowed because it would fall under the definition of acceptable use for parks. However, the City could not, for example, convey an easement for a horse trail to a non-profit.

Councilor LaMair added that the City would want the ability to allow access through a park for a limited period of time if needed.

City Attorney Fellman noted that even a temporary easement would not be allowed without voter approval under the proposed wording.

Mayor Wozniak noted that any easement to a private group would not be allowed because it would not be for the "use...of the public" as stated in the resolution.

Councilor Brown asked if the language would apply to an easement which was revocable or conditioned in some way so that the City still maintained control over the easement.

Mayor Wozniak replied that if the title company may still list the easement as encumbered in that case.

City Attorney Fellman noted that he could work with Mayor Pro Tem Stewart to bring back modified language to Council that allowed some of the things being discussed. He warned, however, that there would likely be unintended consequences with any

language that was approved and that future Councils would have to interpret the language passed for future situations that this Council could not anticipate.

Mayor Pro Tem Stewart indicated that his intent with the language was to preclude the large-scale encumbrance of parks without voter approval.

Mayor Wozniak indicated that he did not want to restrict future Councils' choices unnecessarily and thought it would be extremely cumbersome to require an election in order to approve an underground utility easement. He noted that he would like to look at language that would give more discretion to future Councils.

Mr. Welborn brought up the definition of parks and suggested that something could be added to the proposed resolution regarding zoning in order to broaden the definition.

Councilor LaMair explained that the Council had discussed this issue at previous meetings, and had decided that they did not want the proposed language to apply to smaller parks which the City might have the opportunity to trade for larger parks in the future.

Mayor Pro Tem Stewart added that trails were not included for the same reason. He indicated that the proposed resolution identified the parks Blackmer Common, Dahlia Hollow Park, John Meade Park, Three Pond Park, and Woodie Hollow Park because they were identified in the City's Master Plan as being an integral part of the Village. He noted that any new park acquired by the City would have to be similar to those parks in order to have this language apply. He also indicated that any zoning referred to in the Charter would depend on the definition of zoning in the Code, and noted that zoning was not discussed in the Charter.

Mr. Welborn agreed that those parks are unique, and noted that language could be added to clarify that Council will make a decision at the time of acquisition whether a new park will be subject to this restriction.

City Attorney Fellman reminded Council that the Code defined parks by listing the parks and that if a new park was added to the definition of parks in the Code then the Charter language would apply to the new park.

Mayor Wozniak asked Mayor Pro Tem Stewart and City Attorney Fellman to add language to the proposed resolution that would allow for utility easements and similar issues without requiring an election. He asked City Clerk Smith for the deadline to approving the resolution to place the issue on the ballot.

City Clerk Smith replied that the deadline was February 21st.

City Attorney Fellman indicated that he would work on the new language and circulate it to Council prior to the next meeting to get feedback from Council. He requested that Council reply to him individually with any concerns.

Resolution 3, Series 2012; Approving a Ballot Issue to Amend the City Charter to Enhance the Efficiency of the Emergency Ordinance Procedure

City Clerk Laura Smith presented Resolution 3, Series 2012 for Council's consideration. She explained that the proposed resolution would approve a ballot issue to amend the City Charter to enhance the efficiency of the City's emergency ordinance procedure. She noted that the Resolution was written with input from Mayor Pro Tem Stewart and City Attorney Fellman.

Mayor Wozniak indicated that many municipalities have as part of their emergency ordinance procedure that either the emergency ordinances are void after a period of time or they have to be reviewed by City Council as a regular ordinance would be after a set period of time, for example six months or a year. He noted that this would ensure public participation and avoid issues of any residents being upset because they were never notified.

Mayor Pro Tem Stewart agreed that the emergency ordinance procedure allowed the City to bypass normal procedural aspects in certain extreme cases and that it made sense to require that those procedures be followed eventually.

City Attorney Fellman recalled an emergency ordinance passed in Arvada while he was Mayor that was needed to apply for a grant, so in that case there would not have been any logic to having a review of the ordinance after a year because the grant was received and the funds were spent.

Mayor Pro Tem Stewart warned that emergency ordinances could be used inappropriately.

Councilor Brown noted that some communities prohibit use of emergency ordinances for certain types of issues, for example the annual budget, finance or debt.

City Attorney Fellman reminded Council of the examples of emergency ordinances provided by City Clerk Smith at the November 15, 2011 meeting, including abatement of utility services, bond refinancing, medical marijuana dispensaries and wildfire issues.

Mayor Wozniak recalled that in the time before the November 2010 election, the Council had discussed the possible need for emergency ordinances if Amendments 60, 61, and Proposition 101 had been approved. He noted that the cases when the City would need to pass an emergency ordinance were rare.

Mayor Pro Tem Stewart indicated he would like the resolution to come back to Council with language that would require an emergency ordinance to be revisited after a certain amount of time.

Resolution 4, Series 2012; Approving a Ballot Issue to Amend the City Charter to Change Election Day to the Tuesday Following the First Monday in November

City Clerk Laura Smith presented Resolution 4, Series 2012 for Council's consideration. She explained that the proposed resolution would approve a ballot issue to amend the City Charter to change regular municipal elections from April to November and change new elected officials' terms to begin in January. She noted that the Resolution was written by Mayor Pro Tem Stewart with City Attorney Ken Fellman's input.

Councilor Brown indicated that he did not see an issue with the City's elections being in April and suggested that the proposed resolution was a solution looking for a problem. He noted that voter participation was higher because of mail ballot elections and that changing elections to November was not guaranteed to increase participation further.

Councilor VanderWerf agreed with Councilor Brown. She recalled that Councilor Roswell had stated in a previous meeting that the City is a small community and that having an election in April is not a problem. She questioned placing the issue on the ballot when Council was not agreed on the issue.

Councilor LaMair noted that the estimated cost savings was not very much but that increased voter participation was an important factor.

Mayor Wozniak agreed that he was in favor of any measure that would increase voter participation.

Mayor Pro Tem Stewart agreed that voter participation is an important issue and that he was in favor of bringing the issue to the voters.

Councilor Griffin agreed that higher voter participation was in everyone's interest but expressed concern that the City's local issues would be overlooked in a national election with a long ballot.

Mayor Pro Tem Stewart moved, seconded by Councilor LaMair to approve Resolution 4, Series 2012; A Resolution of the City Council Approving a Ballot Issue and a Ballot Question to be Submitted to the Voters at the Municipal Election held April 3, 2012 to Amend the City Charter to Change Election Day to the Tuesday Following the First Monday in November.

The following votes were recorded:

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

Vote on Resolution 4-2012: 3 ayes. 2 nays. The motion carried.

REPORTS

Members of City Council

Councilor Griffin noted that Greenwood Village had signs indicating that horses had the right of way above pedestrians, and asked staff about the signs in the City which had a triangle but no verbiage to explain the meaning.

Public Works Director Jay Goldie explained that the City had signs with the universal triangle symbol, which indicated that horses had the top right-of-way, followed by pedestrians and then bicyclists.

Councilor LaMair had no report.

Mayor Pro Tem Stewart reported that he was working with Councilor Brown on the Donation Policy. He indicated that he believed the policy should limit donations to 501(c)(3) organizations and to those organization which provided a service to the core of the City or which was complimentary to City services.

Councilor Brown added that he supported building in a bias for local or state organizations rather than national organizations.

Councilor LaMair indicated that she was bothered by the City's lack of a policy, but questioned whether the City should donated public funds at all. She noted that the Council would be put in an awkward position if, for example, the Cherry Hills Land Preserve asked the City for a donation.

Mayor Wozniak noted that many municipalities budget a small amount for charitable donations. He commented that the City had been liberal in its donations in the past but that with tighter budgets in recent years the City was necessarily more conservative.

Councilor VanderWerf agreed that it was difficult to draw a bright line between appropriate organizations and inappropriate ones, but she did not feel strongly that the City should not donate any funds to charitable organizations. She noted that if a foundation was building a trail in the City and asked for a donation, then she believed that would be an appropriate use of public funds.

Councilor LaMair suggested that donations not be more than \$100 per organization to keep the City from being open to criticism. She also suggested that the City encourage cost sharing or in-kind donations.

Mayor Pro Tem Stewart agreed with Councilor LaMair and noted that Councilor Brown had commented on Mayor Pro Tem Stewart's first draft of the policy that the requirements were so stringent that no one would qualify.

Mayor Wozniak noted that he received requests for donations in his mail in nearly every Council packet and that he usually made a unilateral decision to not make a donation. He indicated that he would like to have a policy to allow consideration of certain requests.

Mayor Pro Tem Stewart indicated that he and Councilor Brown could provide a couple options to Council for consideration at the next meeting.

Mr. Welborn noted that when Joan Duncan was Mayor of the City, the donation policy was to not to donate funds except in extraordinary circumstances, but that there was no written policy defining those circumstances.

Councilor Griffin commented that he agreed with Mayor Duncan's policy and did not believe the City needed a long policy.

Councilor VanderWerf reported that at the last Parks, Trails and Recreation Commission (PTRC) meeting, Parks, Trails and Recreation Director Ryan Berninzoni had discussed a new tree program. Also the Welborns had requested that the City begin plowing of portions of the High Line Canal so that they can be used during the winter. The PTRC decided not to approve additional plowing as it would be difficult to determine the parameters and that there were only a few months every year when the Canal was difficult to use. She noted that she hoped the issue would be considered further. She also indicated that, although the City's budget is tight and there were no pay raises budgeted for 2012, she believed that if the City has a surplus at the end of 2012 as it did in 2011 then bonuses for staff would be appropriate.

Councilor Brown agreed with Councilor VanderWerf that staff bonuses would be appropriate at the end of the year if the City showed a surplus.

Mayor's Report

Mayor Wozniak reported that he would not change Council liaison assignments and that they could be re-visited after the April election. He reported that Mr. Bill Callison resigned from the PTRC and asked staff to gather applications to review for the vacancy. He complimented Public Works Director Goldie on the Strategic Plan included in the departmental monthly report. He commented that the goals identified in the plan were admirable and important. He reported that he had attended the annual Metro Mayors Caucus retreat and explained that one of the speakers had discussed how

municipal economics are changing as funds from the federal government are decreasing. He also discussed the Metro Vision 2035 Plan from the Denver Regional Council of Governments (DRCOG) as well as the Colorado Municipal League's (CML) five legislative priorities. He commented that there was currently a strong attack on photo red light systems but that both the City and Greenwood Village had seen a decrease in accidents since installing these systems. Finally he commented on demographic data for the City compiled by DRCOG, including the statistics that 77% of City residents drive to work alone, the median household income is \$226,000, and 83% of residents have at least a Bachelor's degree.

Councilor Brown commented that he believed a new transportation wave was beginning.

Mayor Wozniak added that the state's transportation issues are daunting.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Public Works Director Jay Goldie discussed the Public Works Strategic Plan. He explained that the plan was written with a lot of input from staff and used the Master Plan and Blue Ribbon Panel to integrate resident opinions. He indicated that the plan is the first step in the accreditation process for the department, which will establish credibility for the department with residents. He noted that the goals were meant to assist the department with yearly planning and were not intended to guide day to day operations. He indicated that the mission statement for the department was discussed by department staff at several meetings. He noted that the entire Parks Division had higher education degrees and that many of the other public works staff were in the process of getting their degrees. He explained that it was not the degree itself that was important, but rather the process of getting the degree and the mental development that was valuable.

Mayor Wozniak noted that the goals were admirable and important and suggested that staff find ways of measuring progress on the goals and to revisit them every year to review that progress.

Councilor Griffin added that it was important to acknowledge that the Public Works Department was accident free for the entire year of 2011.

City Manager John Patterson reported that departmental monthly reports and financial statements were included in Council packets. He reported that the Candidate Information Session would be held Monday January 23rd at 6:30 p.m. at the Village Center. In addition, he stated that staff would hold a public input meeting for the joint public safety facility on Friday at 9 a.m. He mentioned that a resident had approached the City about the possibility of donating a bench in his mother's name. and Parks, Trails and Recreation Administrator Berninzoni would be in contact with him. He indicated that Greg Morrison of Morrison and Associates would do a brief presentation in front of Council regarding the search process for a new Police Chief.

City Attorney

City Attorney Fellman had no report but advised Council on the correct CRS citations for the Executive Sessions.

ADJOURNMENT

Mayor Pro Tem Stewart moved, seconded by Councilor LaMair that the Council move into Executive Session for the purpose of receiving legal advice and discussing strategy for negotiations with the City Attorney, in connection with pending litigation, as authorized by C.R.S. § 24-6-402(4)(b) and (e) and further for the purpose of discussing personnel matters pursuant to CRS §24-6-402(4)(f) and further upon completion of the executive session to be adjourned.

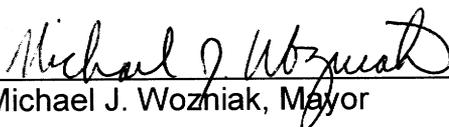
The following votes were recorded:

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

Vote on Executive Session: 5 ayes. 0 nays. The motion carried.

The meeting moved into Executive Session at 7:50 p.m.

The Executive Session adjourned at 8:50 p.m.



Michael J. Wozniak, Mayor



Laura Smith, City Clerk