

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, August 21, 2012 at 6:30 p.m.
At the Village Center

Mayor Doug Tisdale called the meeting to order at 6:30 p.m.

ROLL CALL

Mayor Doug Tisdale, 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 John Patterson, City Attorney Ken Fellman, Deputy City Manager and Public Works Director Jay Goldie, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Barlow, Parks, Trails & Recreation Administrator Ryan Berninzoni, Street Superintendent Ralph Mason, and City Clerk Laura Smith.

Absent: none

AUDIENCE PARTICIPATION PERIOD

Heather Jordan, 18 Martin Lane, handed out materials and spoke to Council in opposition of Amendment 64 which would be on the November ballot. She explained that Amendment 64 would amend the state constitution to legalize marijuana for recreational use, including growing, transporting, selling, possessing and consuming. She stated that legalized recreational marijuana would harm children, promote increased use and conflict with federal law. She noted that marijuana has been proved to be an addictive drug that permanently affects the developing brain, impairs learning and leads to depression. She explained that over the past four years there has been a 45% increase in suspensions for drug policy violations in Colorado public schools, a 35% increase in expulsions, and a 17% increase in referrals to law enforcement. She explained that marijuana use was associated with 400 vehicular deaths between 2006 and 2010. She stated that marijuana was a gateway drug. She noted that the amendment amounted to an unfunded mandate. She explained that the Colorado Municipal League opposed the amendment. She stated that she opposed Amendment 64 as a parent, driver, business owner, and citizen. She thanked Council for allowing her to speak on this issue.

Mayor Tisdale thanked Ms. Jordan and noted that it was important for Council to educate themselves on these issues.

Henny Lasley, 5110 S. Logan Drive in Greenwood Village, expressed her opposition to Amendment 64. She noted that she lived in Greenwood Village but that her three children had attended Cherry Hills Elementary School and that she had many friends in Cherry Hills Village. She stated that she and Ms. Jordan were visiting all City Councils in Arapahoe County regarding this issue. She explained that marijuana was perceived as non-addictive, but that the marijuana available today was ten times stronger than that available in the 1960s. She noted that she was speaking from personal experience as a parent of an addicted child. She explained that marijuana was involved in many mental health issues with children, including depression, anxiety and ADHD. She stated that legalized recreational marijuana was wrong for Colorado and the Cherry Hills Village/Greenwood Village community. She asked that the Council oppose Amendment 64 and directed them to voteno64.com. She thanked Council for their time.

Mayor Tisdale indicated his appreciation for the information.

Clarissa Crozier, reporter for The Villager Newspaper, explained that she would be job sharing with another part-time reporter, Jan Wondra. She noted that Ms. Wondra would cover Council meetings while she would report on other City events.

Mayor Tisdale thanked Ms. Crozier and Ms. Wondra and indicated his hope for a continued productive and mutually beneficial relationship between the City and The Villager Newspaper.

CONSENT AGENDA

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

- a. Approval of Minutes – August 7, 2012
- b. Proclamation 1, Series 2012; A Proclamation Designating September 24, 2012 as Family Day
- c. Resolution 15, Series 2012; Appointing Mr. David C.P. Wyman to the Planning & Zoning Commission

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

NEW BUSINESS

Council Bill 11, Series 2012; A Bill for an Ordinance Designating City Council District Boundaries (first reading)

Director Zuccaro noted that staff had inadvertently provided a preliminary draft of the Council Bill in Council packets that did not include the final legal descriptions of the proposed Council Districts. He thanked Councilor Brown for bringing this to staff's attention and noted that the corrected Council Bill was available on the dais. He explained that the bill proposed new Council districts based on the August 7, 2012 City Council discussion, during which staff presented several options with varying population differences and continuity. Council chose option 7 with a population difference of 9.8% and the fewest number of changes to district boundaries.

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin to approve Council Bill 11, Series 2012 on first reading; repealing and reenacting Municipal Code Section 2-1-20 for the purpose of establishing new City Council District boundaries based on 2010 US Census Redistricting Data, as proposed in Exhibit A to the August 21, 2012 staff memorandum.

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 11-2012: 6 ayes. 0 nays. The motion carried.

REPORTS

Mayor's Report

Mayor Tisdale reported that the City of Centennial had hosted a very successful reception for the Colorado Olympians at the new Centennial City Park. He noted that he would be meeting with Jim Lochhead of Denver Water on October 9th. He indicated that a resident in Councilor Griffin's district had done research on the Denver Water rates. He reported that he would be doing a Comcast Newsmakers interview on September 12th and asked Council for input on any topics he should talk about. He confirmed with Council that there would be a quorum for the September 4th meeting. He indicated that the City of Englewood had expressed interest in working cooperatively regarding public art, and advised Councilor VanderWerf to bring this information to the Public Art Commission (PAC).

Councilor VanderWerf noted that the PAC had used the City of Englewood's program as an example when it was forming, and indicated that she would bring up the possibility of a sharing arrangement at the next meeting.

Members of City Council

Councilor Brown reported that his neighborhood's end of the summer picnic had been visited by two of the City's police officers and noted that he appreciated them visiting and mingling with neighbors.

Councilor VanderWerf reported that she would like staff to begin the process of amending the lighting ordinance to require residents to apply for a permit and comply with the ordinance when they changed a percentage to be determined of their outdoor lighting. She noted that the current ordinance only required compliance for new homes or major remodels.

Councilor LaMair indicated her support of an amendment. She noted that lighting effects the quality of life in the City and oversight was needed to ensure compliance.

Councilor Roswell indicated that an amendment was worth looking into but warned that the threshold at which a permit is required might be difficult to determine.

Councilor Roswell reported that he had been discussing the issue raised by Mr. Sam Kauffman at the July 17th meeting regarding the cut-through along E. Stanford Ave. between S. Downing St. and S. Lafayette St.

Councilor LaMair commented that Mr. Kauffman had first brought up the issue at a Parks, Trails and Recreation Commission (PTRC) meeting, and she had advised him to get support from the community.

Councilor Roswell explained that the walkway was not City property and that one of the property owners had agreed to donate their portion of the walkway but that the others had not consented.

Councilor Griffin asked what the residents were proposing.

Councilor Roswell replied that he did not know.

Councilor LaMair noted that the residents could apply to have the City purchase the portions of the property using the Cat Anderson Fund.

Mayor Tisdale noted that he would be meeting with the residents and had asked that either City Manager Patterson or Administrator Berninzoni accompany him. He explained that the street right-of-way had been vacated by the City and reverted to the adjacent neighbors. He noted that the walkway spanned four parcels, and that so far only one property owner had agreed to donate that portion back to the City.

Councilor Roswell noted that the Mayor's meeting was at 5:30 tomorrow and that he would not be able to attend. He noted that Councilor VanderWerf was very knowledgeable about the issue.

Mayor Tisdale noted that he would speak with Councilor VanderWerf prior to his meeting with residents.

Councilor Roswell reported that the St. Clair property was being redeveloped. He asked staff for an update on a Council Bill regarding construction time.

Director Zuccaro replied that staff was researching the language to include in the bill and was planning on bringing it forward to Council in the next couple of months as part of the 2012 International Building Code update.

Councilor Roswell asked how much time had passed since the complaint regarding construction time.

Director Zuccaro replied that he was not sure but that the home in question had completed its construction and received its Certificate of Occupancy. He noted that the property was now being landscaped and that might take awhile longer.

Councilor LaMair asked if staff had been in contact with the property owners.

Director Zuccaro replied that he had been in communication with the owners.

Councilor Roswell reported that there was a continuing issue on Viking Drive with commercial enterprise in a residence. He noted that he was in communication with Mayor Tisdale and the Police Department regarding this issue.

Mayor Pro Tem Stewart indicated that amendment of the lighting ordinance was worth looking at. He reported that schools start this week and that Kent Denver would open at 8am and Cherry Hills Elementary would open at 9am. He thanked staff for their work on the golf tournament and indicated that he had not received a single complaint from residents regarding the event.

Councilor LaMair apologized for missing the past two meetings. She reported that she was working with Deputy Goldie and Administrator Berninzoni on a resolution to appoint a formal taskforce to begin planning the management of the Cat Anderson property. She noted that according to the Conservation Easement the City had one year from when the property was transferred to establish a taskforce and noted that it would be beneficial to begin this process sooner rather than later.

Mayor Tisdale asked if Councilor LaMair envisioned the taskforce as having a connection to the PTRC.

Councilor LaMair replied that she envisioned the taskforce as consisting of five to eight members, with one or two City Council members, one or two PTRC members, and several other residents with a long-term interest in the property.

Councilor Brown indicated that he would be inclined toward a larger group in order to incorporate as many different viewpoints as possible. He asked if the inventory of the property was complete.

Councilor LaMair replied that the physical inventory was in progress.

Mayor Tisdale noted that Arapahoe County would likely be thrilled to support the planning process.

Councilor Griffin reported that he was glad that Mayor Tisdale had met the resident who had done research on Denver Water rates and found that over the last 10 years water usage had dropped 10% but Denver Water's revenue had increased 180%, with the majority of revenue coming from the surtax on large users such as City residents. He added that only two communities had higher rates than the City. He suggested that this resident could present to Council, either at the joint Cherry Hills Village/Greenwood Village meeting on September 12th or at a different meeting.

Councilor Roswell noted that many residents had voiced their concern over Denver Water rates and suggested that a discussion be set as an agenda item to establish dialogue and encourage public participation.

Deputy Goldie noted that the City was a member of the Technical Advisory Committee (TAC) and suggested that staff could arrange to have a TAC consultant attend a Council meeting to answer any questions.

Mayor Tisdale indicated that it would be worthwhile to bring in the TAC consultant but that the joint meeting on September 12th was not necessarily the time.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

City Manager Patterson indicated that monthly reports and unaudited financial statements were available in Council packets. He reported that the U.S. Amateur golf tournament had been a success and that the Police Department had not received any reports of car break-ins or traffic accidents associated with the event. He noted that this was good preparation for the FedEx Tournament in 2014.

City Manager Patterson reported that schools would start this week. He noted that staff was working on Requests for Proposals for legal and engineering services. He indicated that staff was working on the 2013 budget and that they would be meeting with their Council liaisons. He noted that the Public Works Department had done a great job on a drainage project on S. Belleview. He reported that there had been a rash of commercial solicitors in the City and noted that door-to-door solicitation was not allowed in the City. He noted that a contractor had fallen off of a roof on El Camino Drive. He reported that the Outdoor Movie Night would be this Saturday, August 25th at John Meade Park. The event would start at 6:30pm and the movie would start when it got dark.

Councilor Griffin noted that Cherry Hills Country Club had already taken down the 30 foot extension on their fence.

Councilor Roswell asked staff how the construction of the joint public safety facility would interact with Cherry Hills Elementary School students and parents.

City Manager Patterson replied that staff had hoped the sidewalk would be open in time for school but that the asphalt had to be redone. He indicated that there had not been any problems so far, and that the construction was on schedule and on budget. He noted that he and Deputy Goldie visited the site daily to ensure that construction was being completed to spec. He stated that staff was impressed with the contractor and subcontractors.

Councilor Roswell asked who the construction manager was.

City Manager Patterson replied that Deputy Goldie was the construction manager. He noted that staff was limiting the change orders for the project and was meeting with South Metro Fire Rescue and the contractor every Thursday to make sure the project was on track.

Green Building Cost

Director Zuccaro reported that the Residential Development Standards Committee (RDSC) had recommended that the City adopt a Green Building Code. He noted that at the May 15th study session staff had brought three options to Council for consideration – adoption of the LEED for Homes standard, adoption of the National Green Building Standard (NGBS), or adoption of a City specific green building code. Council had requested that research into the additional costs of compliance be obtained. Staff had found that not a lot of statistically significant data exists as construction projects are variable and hard to control, and that much of the information available was anecdotal evidence. He presented four studies to Council. The first study was based in Chicago and consisted of a team of building contractors and a LEED Accredited architect estimated building costs in different scenarios. The results showed that for a single-family home to meet the minimum certification level the cost premium above standard code compliance was between 0.21% (NGBS) and 0.72% (LEED). The second study conducted by McGraw Hill surveyed builders and developers for their perceived cost premium, and found it to be 7%. The third study by Davis Langdon analyzed 93 non-LEED and 45 LEED-seeking buildings and found no meaningful difference in cost due to the wide variation in costs of buildings. The fourth study was based in California and analyzed office and school buildings to conclude that the average cost premium was 0.66%. This study also noted that the cost of green building is decreasing over time as experience in green building construction increases. Staff concluded from the studies that the perceived cost of green building is much higher than actual cost. He noted that both NGBS and LEED would require extra points for homes larger than 4,000 square feet, which would be the case for most homes in the City. He indicated that in 2011 the average cost of a new home was \$1.8 million and that if the green building cost premium were 1% that would be \$18,000.

Mayor Tisdale noted that any council bill for a green building code could be included in the International Building Code update. He indicated that Council was leaning towards the NGBS certification at the May 15th study session.

Councilor Brown asked about the character of construction in the City already meeting the minimum green building standard in many cases.

Director Zuccaro replied that the City's Energy Cons Code and strict drainage standards, combined with the quality of homes built in the City and the use of high-efficiency appliances resulted in homes that met the minimum standards, even when

the extra points required for square footage was included. He noted that staff had looked at three homes for this analysis.

Councilor VanderWerf asked if the costs from the studies included inspection fees.

Director Zuccaro replied that they did.

Councilor VanderWerf asked if staff had looked at any studies that discussed the increase energy savings that resulted from a green home.

Director Zuccaro replied that he had not but that there was a lot of discussion about that topic.

Councilor LaMair asked if in the analysis of three homes that staff had done the homes were being evaluated based on NGBS or LEED standards.

Director Zuccaro replied that NGBS standards had been used.

Councilor LaMair asked if staff had any information about the amount of additional time and paperwork involved in certification.

Director Zuccaro replied that in addition to the variable of which standard was used, there was also the question of whether certification was done independently or by staff. He indicated that, in general, the NGBS standard was cheaper and faster. For example, the LEED standard certification takes months after construction is complete, versus NGBS which only takes a few days. Also, having certification done in-house would be a process similar to the current Certificate of Occupancy process. Hiring an independent inspector would cost in between \$3,000 to \$5,000, and having the certification done in-house would hopefully cost less but certainly not more.

Councilor Griffin asked if staff had solicited input from builders.

Director Zuccaro replied that an open house had been held and that in general the builders were opposed to a green building code, but that if one was implemented they preferred in-house certification as they believed it would be more efficient and they would only have one set of inspectors to deal with.

Mayor Pro Tem Stewart indicated that the Council could encourage certification instead of making it mandatory.

Councilor Griffin indicated he was in favor of voluntary compliance.

Councilor LaMair asked what the increase in staff time and building fees would be to do the certification in house.

Director Zuccaro replied that the City of Longmont provided in house NGBS certification and that they used a checklist, and that staff could form an estimate of time and fees based on that information. He suggested that if Council opted to make compliance voluntary that a fee be charged up front that could then be reimbursed once certification was complete.

Councilor LaMair suggested that incentives for a voluntary program could include a reduction in building fees or expedition of the review process. She noted that it was difficult to determine if green building standards would add value based on analysis of only three homes. She asked if staff had considered remodels or only new homes when analyzing compliance with minimum certification standards.

Director Zuccaro replied that the three homes staff had analyzed had been new homes.

Councilor LaMair noted that a lot of energy savings could be found during remodels.

Councilor Roswell suggested that staff could come forward with a couple of options to consider that Council could weigh in a public forum and receive public input. He indicated that he struggled with the idea of rebates.

Councilor LaMair indicated her support of mandatory green certification.

Mayor Tisdale noted that Council seemed to agree on mandatory NGBS standards and that Council could decide to implement a rewards program at a later date.

Councilor Roswell asked if the bill would go through the Planning & Zoning Commission first.

Director Zuccaro replied that it would not.

Councilor Roswell suggested staff solicit the assistance of former RDSC members.

City Attorney

City Attorney Fellman explained that the City was part of the Greater Metro Telecommunications Consortium (GMTC) with Director Zuccaro as the representative. He noted that the GMTC was composed of 33 municipalities that joined through Intergovernmental Agreements in order to education and advocate on telecommunication issues. He stated that the GMTC had decided to dissolve its IGAs and re-form as a non-profit. He asked if Council gave Director Zuccaro the authority to vote on this issue at the GMTC or if they would like staff to put it on the next Council agenda to be decided by Council.

Mayor Tisdale clarified that the functions of the group would not change but that the form of the entity would change to be a non-profit.

City Attorney Fellman confirmed this was correct and added that functioning as a non-profit would allow the group to expand its scope.

Mayor Tisdale asked if the City had an annual opportunity to terminate its connection with the group.

City Attorney Fellman replied that was correct. He noted that in its current form Council action would be needed to terminate the IGA, but that as a non-profit termination could be accomplished administratively.

Mayor Pro Tem Stewart asked if there were annual fees associated with being a member of the group.

Director Proctor replied that the membership fees were \$500 in 2012.

Director Zuccaro added that City Attorney Fellman served as council for the GMTC and that membership included up to eight hours of City Attorney Fellman's time.

Mayor Tisdale advised that Director Zuccaro could vote as the City's representative.

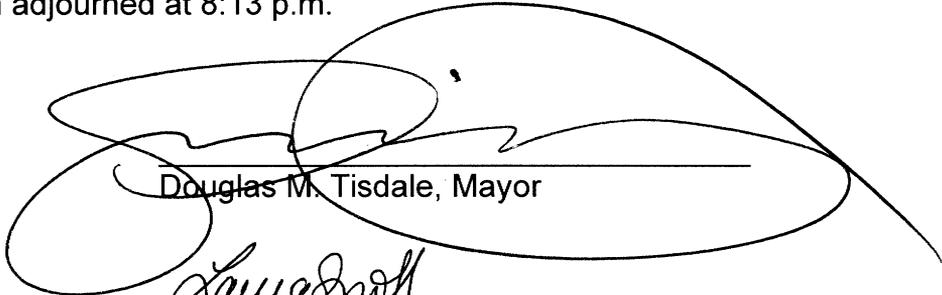
ADJOURNMENT

Mayor Pro Tem Stewart, seconded by Councilor LaMair moved pursuant to C.R.S. 24-6-402 (4)(a) and (e) to move into Executive Session for the purpose of discussing the purchase, acquisition, lease, transfer or sale of real property, and for determining positions that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators and further upon completion of the Executive Session to be immediately adjourned.

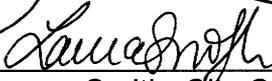
The regular meeting adjourned at 7:47 p.m.

The Executive Session began at 7:51 p.m.

The Executive Session adjourned at 8:13 p.m.



Douglas M. Tisdale, Mayor



Laura Smith, City Clerk