

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, December 11, 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 Katy Brown 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, 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

PLEDGE OF ALLEGIANCE

Reese Harrington, India Byrne, Mitch Hughes, Peyton Sax, Evan Bricmont, Heath Megnin and Samantha Lathram of the Cherry Hills Elementary School Student Council led the Council in the pledge of allegiance.

FAREWELL TO COUNCILOR HARRIET LAMAIR

Mayor Tisdale expressed the Council's appreciation to Councilor Harriet LaMair for her six years on Council. He indicated that it had been an honor to serve with her and that she had been an asset to the Council and the City, and would continue to be an asset to the community.

Councilor Roswell wished Councilor LaMair well.

Mayor Pro Tem Stewart thanked Councilor LaMair for her service.

Mayor Tisdale presented a certificate of recognition to Councilor LaMair.

Councilor LaMair indicated that serving on Council had been a fun learning experience and that she was confident that she was leaving the Council in great hands. She noted that she would continue to be involved in the community.

AUDIENCE PARTICIPATION PERIOD

Jerry Cunningham of 4215 S. Dahlia St spoke to the Council about a tree sculpture on the property across from her home. She indicated that the object was unacceptable and diminished the beauty of the community. She provided photos to the Council and asked that something be done to amend the situation.

Debbie Welles of 4950 Sanford Cir. W. spoke on behalf of District 6 residents and indicated that Councilor LaMair had made herself available to the residents to discuss issues, had found creative and concrete ways to solve problems, and had provided exemplary service to her District.

Christine Sterling, branch manager of the Chase Bank at 3435 S. University Blvd, thanked Council for having her back, passed out small gifts and save the date cards for

the January 24th grand opening and the February 2nd ribbon cutting. She introduced her staff and formally invited Council to attend the ribbon cutting.

ANTHONY HEINZ MAY

Mr. May presented photos of his previous artwork and of the process of his artwork in Three Pond Park. He indicated that there would be an unveiling of the art at Three Pond Park on Monday at 5pm. He explained that his work consisted of deconstructions of nature through sculptural investigations and modulation via pixilation.

Mayor Tisdale expressed his admiration and appreciation for Mr. May's work and noted that this was the first "made to order" piece of public art in the City.

Councilor A. Brown indicated that he had stopped by the site yesterday and was impressed with Mr. May's progress. He noted that it was a great location that would receive a lot of attention.

Councilor K. Brown noted that she had stopped by the site the day Mr. May started and was excited to see the finished product.

Councilor VanderWerf indicated that the whole City was benefiting from having such an articulate artist and thanked Mr. May for his work.

Councilor Griffin added that he found the work creative and inspiring.

Mr. May expressed his gratitude for the opportunity to work in the City.

CONSENT AGENDA

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

- a. Approval of Minutes – November 15, 2012
- b. Approval of Minutes – November 20, 2012

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

City Manager Patterson presented the 2013 proposed budget on second and final reading. He noted that two study sessions had been held on the proposed budget and that Council had approved the proposed budget on first reading at the November 20, 2012 meeting. He explained that the major changes to the proposed budget since first reading were a reduction in the Arapahoe County assessed value of \$3.6 million due to the County's erroneous inclusion of a commercial property in the City. Due to this reduction in revenue several adjustments to expenditures had been made in order to present a balanced budget.

Councilor Griffin asked if the County's error was to do with the sale of one of the churches.

RECORD OF PROCEEDINGS

Mayor Tisdale confirmed that it was and that when the church was sold it was recorded as commercial instead of non-profit.

Councilor Griffin noted that this was a good example showing how much the City's churches and schools cost the City in revenue.

Councilor Roswell asked Director Goldie if he had any concerns regarding the reduction in revenues in Fund 30.

Director Goldie replied that he had no concerns, and that while the reduction may prevent the department from doing a project or two small projects, most of the reduction was achieved due to a staff member receiving senior-level compensation leaving and entry-level staff being hired.

Council Bill 14, Series 2012; A Bill for an Ordinance Adopting a Budget and Levying Property Taxes for the City of Cherry Hills Village, Colorado for Fiscal Year 2013 (second and final reading)

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin to approve Council Bill 14, Series 2012; A Bill for an Ordinance Adopting a Budget and Levying Property Taxes for the City of Cherry Hills Village, Colorado for Fiscal Year 2013 on first reading.

The following votes were recorded:

Katy Brown	yes
Mark Griffin	yes
Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes

Vote on the Council Bill 14-2012: 6 ayes. 0 nays. The motion carried.

Council Bill 15, Series 2012; A Bill for an Ordinance of the City Council of the City of Cherry Hills Village, Colorado Authorizing Appropriations for Fiscal Year 2013 (second and final reading)

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin to approve Council Bill 15 Series 2012 A Bill for an Ordinance of The City Council of the City of Cherry Hills Village, Colorado Authorizing Appropriations for Fiscal Year 2013 on first reading.

The following votes were recorded:

Mark Griffin	yes
Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes
Katy Brown	yes

Vote on the Council Bill 15-2012: 6 ayes. 0 nays. The motion carried.

NEW BUSINESS

Resolution 22, Series 2012; Appointing a New Member to the Planning and Zoning Commission

Mayor Tisdale explained that interviews for the Planning and Zoning Commission (P&Z) vacancy had been conducted and the interviewers recommended appointing Al Blum, but that in view of Councilor Roswell's concerns expressed at the last meeting a blank resolution was being presented to Council along with copies of all the applications.

Councilor A. Brown encouraged the Council to support Al Blum. He noted that Mr. Blum resided in District 3, which would be a beneficial addition to the P&Z, and that Mr. Blum was a long-time resident and very active in the community. He noted that Mr. Blum's profession suites an understanding of the issues. He recommended keeping the other applicants on file for future vacancies.

Councilor Griffin indicated that he was amazed at the quality, expertise and backgrounds of the applicants and encouraged the Council to keep them in mind for future vacancies.

Councilor A. Brown moved, seconded by Councilor VanderWerf to approve Resolution 22, Series 2012; concerning the appointment of Al Blum to the Planning and Zoning Commission for a three-year term expiring on September 15, 2015.

The motion carried unanimously.

Resolution 23, Series 2012; Approving a Transfer of Ownership for a Hotel & Restaurant Liquor License for Splendido LLC DBA Pino's at 1400 E. Hampden Ave. Suite 140

City Clerk Smith presented the application for a transfer of ownership to Council. She explained that the application was complete and had been reviewed by the City Clerk, City Attorney's office, and Police Department. She noted that staff was still waiting for background reports from the Colorado Bureau of Investigation, but that staff recommended approval of the transfer pending receipt of the background reports and referral from the Police Department.

Councilor Roswell moved, seconded by Mayor Pro Tem Stewart to approve Resolution 23, Series 2012; a resolution approving the application for a transfer of ownership for a hotel and restaurant liquor license as requested by Splendido LLC DBA Pino's at 1400 E. Hampden Ave. Suite 140 in the City of Cherry Hills Village, contingent on the following conditions being met: review of background reports from the Colorado Bureau of Investigation and subsequent referral by the Police Department; and payment of the City's \$1,000 liquor license occupation tax.

The motion carried unanimously.

Resolution 24, Series 2012; Approving a New Hotel and Restaurant Liquor License for Libertybell Holding LLC DBA South Philly Cherry Hills at 1400 E. Hampden Ave. Suite 100

City Clerk Smith presented the application for a new hotel and restaurant liquor license to Council. She explained that the application was complete and had been reviewed by the City Clerk, Community Development Department, Police Department, and City Attorney's Office. She indicated that staff recommended approval of the new license.

Councilor Roswell noted that this would be the third liquor license at 1400 E. Hampden Ave. and asked if there was a limit to the number of liquor licenses in a certain area in the Code.

City Clerk Smith replied that there was no limit but that it was up to the City Council as the Liquor Authority to determine the needs and desires of the neighborhood.

City Attorney Fellman indicated that having three liquor licenses in close proximity was not inconsistent with the Code.

Mayor Tisdale opened the Public Hearing at 7:20 p.m. Hearing no comments, the Public Hearing was closed at 7:21 p.m.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve Resolution 24, Series 2012; approving a new hotel and restaurant liquor license for Libertybell Holding LLC DBA South Philly Cherry Hills at 1400 E. Hampden Ave. Suite 100 in the City of Cherry Hills Village.

The motion carried unanimously.

Council Bill 16-2012; Repealing Article VII, Chapter 2 of the Municipal Code Concerning the Establishment of a Rehabilitation Authority (first reading)

Director Zuccaro presented Council Bill 16, Series 2012 on first reading. He explained that the Rehabilitation Authority had been established in 1950 to address sanitation issues in the northeast corner of the City. He noted that most of the area had been replatted or developed since that time and that the Authority had not been active since the 1960s.

Mayor Pro Tem Stewart moved, seconded by Councilor Roswell to approve Council Bill 16, Series 2012; repealing Article VII, Chapter 2 of the Municipal Code concerning the establishment of a rehabilitation authority on first reading.

The following votes were recorded:

Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes
Katy Brown	yes
Mark Griffin	yes

Vote on the Council Bill 16-2012: 6 ayes. 0 nays. The motion carried.

REPORTS

Mayor's Report

Mayor Tisdale reported that Finance Director Karen Proctor was in Minnesota attending to the passing of her mother. He recognized the attendance of Angela Bricmont of Denver Water at the meeting and noted that she would return for the January 15, 2013 study session regarding Denver Water rates. He thanked staff and attendees of the Holiday Tree Lighting event last Friday night and noted that over 150 people attended and that it had been a delightful experience. He reported that the King Soopers at University and Hampden would have its grand opening tomorrow morning. He reported that he had attended the Consulate General of Japan last Monday for the Japan Day reception in celebration of the emperor's birthday, along with three other mayors.

He indicated that he had directed City Attorney Fellman to prepare a Council Bill to opt-out of commercial sales of recreational marijuana at the January 2, 2013 meeting. He noted that City Clerk Smith had informed him that City voters had voted 60% opposed to and 40% in favor of Amendment 64.

Mayor Tisdale reported that the Council would be conducting its annual review of the City Manager and asked who among the Council would like to participate. Mayor Pro Tem Stewart and Councilors Roswell and Griffin indicated their desire to participate. Mayor Tisdale indicated that the review would be posted as a meeting so that the entire Council could attend. The Council determined that a Thursday or Friday morning would work best.

Mayor Tisdale noted that there were two vacancies on the Parks, Trails and Recreation Commission (PTRC) and that all outstanding applications were included in Council packets.

Councilor Roswell requested more time to solicit applicants from the western side of the City, as the eastern side of the City was already heavily represented on the PTRC.

Mayor Tisdale indicated that the Council would revisit the PTRC appointments at the January 2, 2013 meeting.

Members of City Council

Councilor A. Brown had no report.

Councilor VanderWerf asked about the progress of the Quincy Farm Visioning Committee (QFVC).

Councilor K. Brown replied that she and City Clerk Smith had created an application that was available on the City website and that several PTRC members had expressed interest in serving on the QFVC. She noted that the QFVC still needed a Council representative.

Administrator Berninzoni added that staff had received one application from a non-PTRC member.

Councilor VanderWerf asked if the PTRC would select the members of the QFVC.

Councilor K. Brown replied that when she was chair of PTRC she had interpreted that to be the process, but the new chair would be appointed in January and he or she would have to determine the process.

Mayor Tisdale asked the Villager Newspaper to promote the QFVC.

Councilor K. Brown asked each Councilor to identify one person in their District who may be interested and send them the link to the application.

Councilor Roswell had no report.

Mayor Pro Tem Stewart had no report.

Councilor Griffin noted that the holiday tree lighting event had been well done and thanked staff for their work. He reported that the Board of Adjustment and Appeals would be meeting the first week of January. He asked about a permit for windows listed

in the Community Development Monthly Report. He noted that he enjoyed Chief Tovrea's assessment of the Police Department.

Councilor K. Brown noted that she enjoyed the reports on the progress of the joint public safety facility.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

City Manager Patterson noted that department monthly reports were available in Council packets and that unaudited financial statements would be included in the January 2, 2013 Council packets. He indicated that a report from Deputy City Manager and Director Goldie on proposed usage of the City's current facilities after the new building is complete was included in packets. He stated that the grand opening of the new building was set for Saturday, January 12th from 9am to 3pm. He noted that he and Deputy City Manager and Director Goldie had been keeping a close eye on the finishing work of the building and that it was going very well.

Councilor Roswell asked how South Metro Fire Rescue Authority was viewing the progress.

City Manager Patterson replied that the City had bi-weekly meetings with South Metro and the contractor and that South Metro seemed pleased with the progress. He added that the furniture was scheduled to be delivered the first week of January.

Councilor Roswell asked if the Police and Fire Departments would be moving in at the same time.

City Manager Patterson replied he believed they were. He reported that next Wednesday, December 19th the City would provide a catered holiday lunch for employees and invited Council to attend. He noted that municipal court sessions would move from Thursday to Wednesday mornings beginning in February. He explained that this would result in a cost savings because the City had been paying overtime to the police officers who provided security to court on Thursdays but that Wednesday was an overlap day for officers and there were more officers available to provide security for court.

Draft Amendments to Municipal Code Sections 18-1-20 and 18-2-20 Concerning Building Permit Expiration and Project Completion

Director Zuccaro noted that Council had been discussing the issue of permit expiration times and project completion time lines for about a year, and that he was presenting the proposed changes to Council as a discussion item prior to first reading of a council bill. He explained that under the existing code permits were issued for 18 months with options for two four-month extensions. After that 26 month period a project would have to be issued a new permit, the fees for which are based on the remaining work. Under the proposed code permits would be issued for 20 months with an option for one four-month extension based on criteria evaluated by staff. After that 24 month period a project would have to apply to City Council for a new permit, the fees for which would be based on the entire project. He reminded Council that from 2008 to 2011, 51 homes were issued Certificates of Occupancy in the City. The average completion time was 20 months; the longest completion time was 46 months; 15 projects or 29% took over 20 months to complete; and 10 projects or 20% took over 24 months to complete. Staff

researched other Colorado municipalities and found that Greenwood Village was the only one with additional regulations, and that they required all outside work to be completed within one year. However, extensions to that one year period were granted on a regular basis. At the Mayor's suggestion staff contacted Beverly Hills, California and found that while they have many long-term projects they do not have extra regulations to limit project completion time lines. Staff found that San Diego, California did have strict expiration dates on permits and charged fees based on the entire project for new permits, but their initial permits were issued for 48 months.

Councilor Griffin asked about the financial impact under the City's current code for the project that had taken 46 months.

Director Zuccaro replied that they had been charged their initial permit fee for the first 18 months, 25% of the permit fee for the next four months, 50% of the permit fee for the next four months, a permit fee based on the remainder of the work for their second permit lasting an additional 18 months, and 25% of that second permit fee for the last two months.

Councilor Roswell indicated that the financial impact was not a deterrent, and that increasing fees would not necessarily address the root problem of the issue which was the impact to neighbors.

Director Zuccaro noted that the project that took 45 months paid over \$400,000 in permit fees.

Councilor VanderWerf commented that under the proposed code, it would be very unusual for Council not to approve a new permit on the remaining work after the initial 24 month permit. She noted that there were a lot of projects in the City that would take more than two years to complete, and suggested two tracks, one for shorter-term projects and one for longer-term projects where discussions about mitigating impacts to neighbors could occur at the onset of the project.

Councilor Roswell noted that Council had recently approved a pre-application neighborhood input meeting process to address design aspects of a project and that mitigation could be included in these meetings. He indicated that while it would be unusual for Council not to approve a second project for those that took longer than 24 months, a hearing would give neighbors the opportunity to express any issues and would give Council the opportunity to discuss and require additional mitigation measures. He noted that residents had the right to build large, complex homes but did not have the right to adversely affect their neighbors, and that the proposed regulations helped to balance those issues. He indicated his support of regulations that would help to ensure that neighbors are not impacted unnecessarily by long construction times.

Councilor VanderWerf expressed concern over the high number of projects that would not be completed in the initial two year permit timeframe.

Mayor Pro Tem Stewart indicated that the project that had taken 45 months could have better staged its construction to lessen impacts on neighbors. He added that additional costs would not necessarily provide enough incentive to owners to effectively mitigate impacts, and emphasized that mitigation measures had to be discussed and agreed upon at the onset of a project in order to be most effective. He indicated that regulating only outdoor work as Greenwood Village does would not entirely solve the issue because interior work would still result in a lot of traffic and impact on neighbors.

Councilor K. Brown asked if a correlation could be drawn between construction timeframes and square footage or other measure of a project that would assist staff in

identifying projects that were likely to have long construction timeframes prior to the project beginning. She suggested that projects that could be identified as being likely to go beyond the initial 24 month timeframe could have an additional process to assist in mitigation measures.

Director Zuccaro replied the average new home ranged between 8,000 to 10,000 square feet. He indicated that a rough correlation could be drawn between square footage and construction timeframe and that the 20,000 to 30,000 square foot homes certainly took several years to complete, but that in the case of the 45 month project, for example, much of the additional time was due to the detail and custom work of the home rather than the square footage.

Councilor K. Brown expressed concern that owners coming to Council to apply for a second permit under the proposed regulations would be a counter-productive use of Council's time. She indicated that it would be ideal to find a process that would not result in every project going beyond the initial 24 months coming before Council. She noted that the draft Council Bill had 18 months instead of 20 months in several places.

Mayor Tisdale advised staff of some changes to the proposed language of the code amendment. He suggested that the proposed regulations might benefit from review by P&Z.

Councilor Roswell agreed that P&Z's input was always valuable.

Councilor A. Brown added his concern to the 20% of projects that would likely not be completed in the 24 month timeframe appearing before City Council.

Councilor Roswell noted that the percentage may decrease if the proposed regulations were adopted because the additional fees and appeal to City Council may encourage owners and builders to complete projects faster.

Councilor A. Brown indicated that he was not sure that the proposed regulations would result in many projects having shorter timeframes. He agreed that the issue would be better managed at the onset of a project instead of two years into construction. He suggested a managed benchmark system for projects that were likely to take more than two years to construct, where the City could require that the various stages of the project be completed within specific timeframes.

Councilor K. Brown expressed concern that the proposed regulations may deter potential residents.

Councilor VanderWerf asked about the proposed language regarding expired or abandoned projects.

Director Zuccaro explained that under the current code, when a project was abandoned the City's only recourse would be to classify it as a nuisance, abate it and place a lien on the property. The proposed language would allow the City to issue citations and fines prior to resorting to abatement and liens.

Mayor Tisdale noted that the Colorado Municipal League would be supporting legislation that would increase the fining authority of municipal courts, and since each day was counted as a separate offence this could be a serious financial incentive to a property owner to resolve the issue of an abandoned project.

Councilor A. Brown indicated that the proposed requirement for a City Council hearing to approve a second permit was an empty threat rather than a deterrent because the Council would not tear down a partially finished home.

Councilor Griffin agreed and indicated that the Council should be proactive instead of reactive regarding the 20% of new homes whose construction would take longer than 20 months.

Mayor Tisdale directed staff to present the proposed regulations and Council's concerns to the P&Z and return with their input and reaction.

City Attorney

City Attorney Fellman discussed several issues related to Amendment 64. He reported that Douglas County was the first municipality to opt-out of allowing commercial retail establishments. He noted that from a practical standpoint there was no need to opt-out until the State established regulations, which would not be until at least June, but that if the Council wanted to pass an ordinance to opt-out prior to that to enact the will of the voters then he could prepare a proposed ordinance.

He indicated that the City would also have to amend Chapter 10 of the Code to legalize an ounce or less of recreational marijuana for persons 21 years or older. Additionally, he would begin discussions with Director Zuccaro and the City's building inspector regarding amendments to the building code that would regulate the equipment needed for growing plants to ensure that any unsafe situations were avoided. He noted that a study had found that house fires were 24 times more likely in homes where marijuana was being grown compared to those where it was not. Finally, he was in discussions with HR Analyst Barlow regarding the City's personnel policies and how recreational use of marijuana on employee's own time would fit into the City's policies.

Mayor Tisdale added that Representative Daniel Kagan was proposing legislation that would provide immunity from conspiracy to distribute to government officials and staff.

City Attorney Fellman noted that his office would be watching how the state decided to measure levels of marijuana related to safe levels for driving, and that the City might use those amounts to inform personnel policy revisions.

ADJOURNMENT

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

The following votes were recorded:

Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes
Katy Brown	yes
Mark Griffin	yes
Russell Stewart	yes

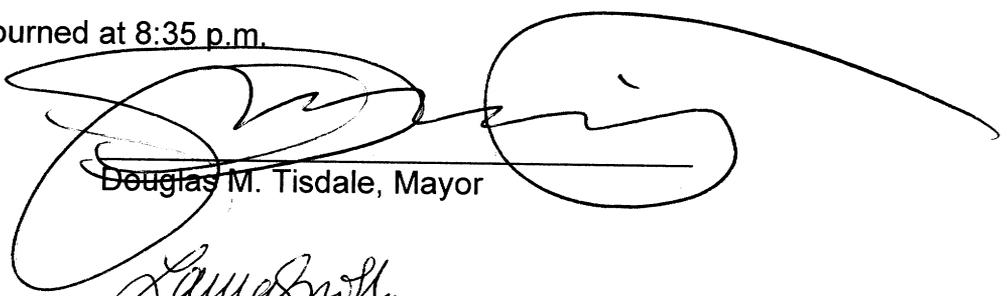
Vote on the Executive Session: 6 ayes. 0 nays. The motion carried.

RECORD OF PROCEEDINGS

The regular meeting ended at 8:26 p.m.

The executive session began at 8:30 p.m.

The executive session adjourned at 8:35 p.m.

A large, stylized handwritten signature in black ink, consisting of several loops and a long horizontal stroke extending to the right.

Douglas M. Tisdale, Mayor



Laura Smith, City Clerk