

RECORD OF PROCEEDINGS

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, April 2, 2013 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 Russell Stewart, Alex Brown, Scott Roswell and Klasina VanderWerf were present on roll call. Also present were City Manager John Patterson, City Attorney Linda Michow, 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: Councilors Mark Griffin and Katy Brown.

PLEDGE OF ALLEGIANCE

Sage Proctor, daughter of Finance Director Karen Proctor, led the Council in the pledge of allegiance.

AUDIENCE PARTICIPATION PERIOD

Lynn Hornbrook of 1100 E. Stanford Ave. expressed concern that the City had engaged a Public Relations firm. He asked what the cost to the City was and where those funds were coming from. He indicated that the City had never before needed a PR firm and that it was full of thoughtful and fair-minded citizens who expected the same from their elected officials and staff. He stated that the City was a center of rural tranquility in the Metro area and wanted it to stay that way.

Mayor Tisdale thanked Mr. Hornbrook for attending Council and indicated that his concerns were valid and legitimate. He indicated that Audience Participation was not the most appropriate forum to respond but that he would be more than happy to meet with Mr. Hornbrook separately to discuss his concerns.

CONSENT AGENDA

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

- a. Approval of Minutes – March 19, 2013
- b. Contract for Services with Thoutt Brothers Concrete Contractors Inc. for the 2013 Street Improvement Concrete Replacement Project
- c. Contract for Services with A-1 Chipseal Company for the 2013 Street Improvement Chip Seal Project

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

Mayor Tisdale noted that the following three items were quasi-judicial and that it was inappropriate for City Council to discuss these matters outside of a public meeting. He noted that because two councilors were absent the applicant had the right to continue the public hearing in order for it to be heard by the entire Council. He noted that the next meeting at which all the councilors would be present was May 7th. He asked if it was the applicant's intention and desire to have these matters heard with only four councilors present.

Mr. Curtis Clay, chair of the Church Expansion Committee, confirmed that was correct.

Public Hearing – Request by Denver First Church of the Nazarene to Allow and Expansion; an Off-Street Parking Reduction; and Variances to Minimum Yard Requirements, Floor Area Ratio Requirements, and Fence Height Requirements

Director Zuccaro explained that this public hearing had been continued from the March 5th and March 19th meetings to tonight's meeting in order for Denver First Church (the Church) and staff to gather more information. All the requested information was now presented for Council's consideration.

The first item was regarding drainage approval from the City and County of Denver. The Church was asked to provide written authorization from the City and County of Denver accepting the un-detained stormwater runoff onto Wellshire Golf Course resulting from the proposed development. In response, the applicant provided a March 27, 2013 Denver Development Services referral review letter indicating that the stormwater runoff rates are acceptable, but requesting that water quality treatment be required. The applicant has provided a March 28, 2013 Drainage Addendum Letter and attached plans (replacing the previously submitted February 13, 2013 Drainage Addendum Letter and plans) to address the water quality treatment requirement by the addition of a stormceptor that treats the water before being discharged off-site. The City Engineer has reviewed the revised plans and recommends approval conditional on resubmittal of the final plans to the City and County of Denver for final review and approval.

The second item was regarding responsibility of the drainage maintenance agreement between the Church and Covington HOA, and insurance for the drainage vault. Based on staff's review of the available documents and communications with the Covington Subdivision Home Owners Association (HOA) Board Members, staff believes that the HOA will continue to hold maintenance responsibility of the drainage vault and associated infrastructure leading into the Wellshire Golf Course. The Drainage Addendum Letter submitted by the Church includes the original "Easement and Maintenance Agreement" for the drainage infrastructure. The HOA is the successor to this agreement. Paragraph 12 of the "Easement and Maintenance Agreement" allows the Church to utilize the vault and maintenance responsibility remains with the HOA provided that the Church does not modify the infrastructure. Staff requested clarification from the HOA president, Mr. Lee Woodward, that the use of the vault did not constitute a modification that would require joint maintenance responsibility. Mr. Woodward concurred in a March 13, 2013 email stating that the Church's plans would not require joint maintenance responsibility. Paragraph 8 of the "Easement and Maintenance Agreement" requires the HOA to keep an insurance policy of not less than \$1,000,000 to cover against collapse or other damage to the drainage facilities. The HOA has provided a March 15, 2013 Certificate of Liability Insurance to demonstrate adequate coverage.

Mayor Tisdale asked if the City would receive notice if Covington cancelled their insurance policy.

Director Zuccaro replied that he did not believe they would. He explained that the third item was confirmation of support from the Covington HOA, which staff received via email on March 15, 2013 from the HOA president, Mr. Lee Woodward. Furthermore, in response to comments from Denver Water regarding drainage policy for the Highline Canal, overflow swales from the new parking area west of Monroe Street leading into the Canal were removed from the drainage plans. Director Zuccaro also noted that an additional email expressing opposition to the project was submitted to staff and that the March 5th packet had included a previous email from the same resident. He indicated that staff recommended approval of the expanded use permit and associated requests with the condition that prior to the City executing and recording the final Expanded Use Permit documents, the applicant shall submit revised drainage plans to the City and County of Denver and provide a final approval letter satisfactory to the City Engineer.

Councilor Roswell asked about the request for a FAR variance and high volume spaces.

Director Zuccaro explained that the FAR requirement for the lot was 0.23, and the Church was requesting a variance for 0.40. With the FAR regulations, high volume spaces (HVS) were counted at 200% when calculating FAR with the goal of mitigating visual bulk. If calculated without HVS and including the lots west of Monroe to take into account the overall property, the Church's proposed facility would have an FAR of 0.30. This was comparable to the FAR of other churches in the neighborhood when not using HVS.

Councilor A. Brown noted that the development agreement was conditional on the Church receiving the City's approval of lot consolidation within one year, and asked if that clock began today if Council conditionally approved the permit or with the execution of the development agreement after final approval from Denver was received.

Director Zuccaro replied that he believed the clock would start with execution of the development agreement after final approval from Denver was received.

City Attorney Michow agreed.

Councilor A. Brown noted that in that case the City did not have a required timeframe for the Church to receive that final approval from Denver, and that he was not comfortable with that being open ended.

Director Zuccaro suggested that a timeframe could be added to the motion. He noted that the Church was prepared to submit their documents to Denver right away and estimated a three week review time.

Mayor Pro Tem Stewart asked for more details about the water quality measures being proposed.

City Engineer Troy Carmann explained that the stormceptor was an inlet with interior elements that would capture floatables and slow water flow to allow particles to settle. He noted that it was an easily maintained system and was nondescript to the untrained eye.

Mayor Tisdale opened the public hearing at 7:05 p.m.

Mr. Doug Spuler, principal at The Beck Group and the Church's architect, noted that the revised drainage plan had already been submitted to Denver and that they were confident they would receive a final sign off in less than 30 days. He noted that they were being very diligent in their communications with Denver to ensure that the process moved as quickly as possible. He also indicated that the Church would be happy to

agree to proactively notify the City of any change in the drainage vault insurance coverage by Covington.

Mr. Matt Dixon, the Church's civil engineer, confirmed that he was in regular contact with the City and County of Denver and expected approval in no more than two weeks.

Mayor Tisdale asked for any further comments. Hearing none the public hearing was closed at 7:11 p.m.

Councilor Roswell expressed concern regarding the requested fence height and FAR variances.

Councilor A. Brown indicated that he was not uncomfortable with the FAR variance because of the unique factors of the property. He noted that he was inclined to consider the west lot as part of the overall property when calculating the FAR. He added that the proposed facility was consistent with the current facility in terms of setbacks and in relation to Hampden Avenue. He stated that these variances would allow the Church to make use of their property consistent with historical purposes.

Councilor VanderWerf indicated that she was comfortable with the fence height variance for the wall bordering Covington because the proposed vegetation enhancements would mitigate the tunnel feeling that often resulted with high walls.

Mayor Pro Tem Stewart indicated that he agreed with both Councilor A. Brown and Councilor VanderWerf. He stated that the Church was making its best effort to meet the City's Code requirements by adding additional parking in the west lot.

Councilor A. Brown indicated that he was comfortable with the additional parking because the Development Agreement gave the City the ability to oversee ongoing traffic management.

Councilor Roswell noted that he agreed that the variances for the setbacks, FAR, and parking were justified. He indicated that he had a hard time identifying the hardship that would justify the fence height variance, since the only reason the Church had changed their proposal from six feet to eight feet was in response to a request from the Covington HOA. He stated that he did not believe Covington's wishes resulted in a hardship for the Church.

Councilor A. Brown noted that the Code does allow for eight foot high fences and walls that parallel state highways. He indicated while the proposed wall was not adjacent to a state highway it was adjacent to a parking lot as opposed to a residential neighborhood, and the potential vehicular traffic could be comparable to a state highway. He added that the proposed wall would buffer the residential area from the adjacent area of more intense vehicular use. He noted that he understood Councilor Roswell's issue with identifying the hardship to the Church to justify the variance.

Mayor Tisdale noted that not building the wall eight feet high might result in a detriment to the relationship between the Church and the Covington community. He indicated that the proposed eight foot wall addressed a legitimate concern as the parking lot was the only thing separating Covington from Hampden Avenue.

Councilor Roswell noted that there was already an eight foot wall between the Church lots and Hampden Avenue.

Councilor VanderWerf noted that this was another example of issues that arise at the border between two different zone districts.

Mayor Tisdale suggested that the Council vote separately on the fence height variance since that was the only variance with which Councilor Roswell had issue.

Mayor Pro Tem Stewart moved, seconded by Councilor A. Brown to approve the request by Denver First Church of the Nazarene for an Expanded Use Permit to allow an expansion of the Church facilities as proposed in the January 3, 2013 application materials and attachments; and approve the associated requests for setback, floor area ratio, and the parking reduction request based on the findings outlined in the staff analysis section and Tables 1 through 4 of the March 5, 2013 staff memorandum, with the condition that prior to the City executing and recording the final Expanded Use Permit documents, the applicant shall submit revised drainage plans to the City and County of Denver and provide a final approval letter satisfactory to the City Engineer within 30 days of this approval.

The motion carried unanimously.

Councilor A. Brown moved, seconded by Councilor VanderWerf to approve the request by Denver First Church of the Nazarene for an Expanded Use Permit to allow an expansion of the Church facilities as proposed in the January 3, 2013 application materials and attachments; and approve the associated request for fence height variances, based on the findings outlined in the staff analysis section and Table 3 of the March 5, 2013 staff memorandum, with the condition that prior to the City executing and recording the final Expanded Use Permit documents, the applicant shall submit revised drainage plans to the City and County of Denver and provide a final approval letter satisfactory to the City Engineer within 30 days of this approval.

The motion was tied 2 yes and 2 no. The Mayor voted yes to break the tie and the motion carried 3 to 2.

Council Bill 5, Series 2013; Rezoning Lots 1 Through 5, Block 1, Highline Meadows in Cherry Hills, From R-3A, Variable Lot Residential District to R-1, 2 ½-Acre Residential District and Amending the Zoning Map (second and final reading)

Director Zuccaro explained that this public hearing had been continued from the March 5th and March 19th meetings to tonight's meeting. He noted that the bill had passed on first reading at the February 19th meeting and that there had been no changes since first reading. He explained that the Code required one of four justifications for a rezoning to be met. He noted that the application was based on two of the criteria. First was that the property was suitable for the proposed use as Church parking, and second was that the current zoning was not in conformance with the institutional land use designation on the City's Master Plan Future Land Use/Development Map.

Councilor Roswell asked if rezoning required that all four criteria be met.

Director Zuccaro replied that he interpreted the code to mean that just one of the criteria had to be met to justify rezoning.

City Attorney Michow agreed with Director Zuccaro.

Councilor VanderWerf indicated that she ~~was suspicious~~ suspected that the institutional designation on the Master Plan map could have come from the consultant instead of residents, and was identified as non-conforming only because the Church owned the property. She asked if the area was determined to be suitable for the intended use as a parking lot because of the proposed landscaping.

Director Zuccaro replied that the property was suitable for the proposed use because additional parking would mitigate use of the neighborhood for parking.

Councilor VanderWerf asked if other uses were suitable.

Director Zuccaro replied that the proposed use of a parking lot with landscaped buffers had been determined by staff to be suitable, but that any other use besides a single family residence would require an additional expanded use permit.

Mayor Tisdale indicated that the proposed rezoning was up-zoning and that only one structure would be possible in the future after consolidation as opposed to five now.

Mayor Pro Tem Stewart indicated that the property was zoned R1 before it was rezoned R3A during the Covington subdivision development.

Mayor Tisdale noted that this issue required a majority of Council to pass, meaning four Council members.

Mr. Spuler indicated that he had no information to add but would be happy to answer any questions.

Councilor VanderWerf asked if the Church was prepared for the western parking lot to become a hang out location for youth.

Mr. Rich Cantwell, the Church's administrator, explained that the lots were not very inviting but that the Church would police the area. He added that the Church might install something to prevent entry into the lot when it was not needed for parking but had not decided on what that might be and could not make a commitment to closing it off at that time.

Mayor Tisdale gave the applicant the opportunity to ask for a continuance based on the absence of two council members.

Mr. Clay indicated it was the Church's intention to proceed.

Councilor Roswell agreed with Councilor VanderWerf regarding the Master Plan map. He indicated that he was persuaded that the second criteria for suitability had been met.

Councilor A. Brown agreed.

Mayor Pro Tem Stewart indicated that zone district R-1 was the highest standard of the City.

Mayor Tisdale explained that the current zoning did not allow the property owner to use the property to maximum enjoyment. He noted that the parking lot would not be used often and could be considered open space. He added that the zone change provided protection for future use because the only thing that could be built on the lot would be a single family residence. Any other use would require another expanded use permit process which would entail many public hearings.

Councilor A. Brown agreed and indicated that he was persuaded that the property was suitable for the proposed use. He noted that it was a happy coincidence that the rezoning would reduce the area from five lots to one lot. He added that City residents might not be pleased if they learned that Council had not taken advantage of the opportunity to rezone an area to R1.

Mayor Pro Tem Stewart moved, seconded by Councilor A. Brown to approve Council Bill 5, Series 2013 on second and final reading, rezoning Lots 1 through 5, Block 1, Highline Meadows in Cherry Hills from R-3A, Variable Lot Residential District to R-1, 2 ½-Acre Residential District and amending the zoning map, based on the findings outlined in the April 2, 2013 staff memorandum, conditional on the applicant submitting a Lot Consolidation Plat that is approved and recorded in accordance with the terms and conditions set forth by the approved Expanded Use Development Agreement.

The following votes were recorded:

Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes

Vote on Council Bill 5-2013: 4 ayes. 0 nays. The motion carried.

Revocable Encroachment License to Install and Maintain a Subdivision Entry Monument in City-Owned Right of Way for Covington Subdivision in Association with the Denver First Church of the Nazarene Expanded Use Permit Request

Director Zuccaro explained that staff recommended approval of the revocable encroachment license.

Councilor Roswell asked if the entry features would be connected to wall.

Director Zuccaro replied that they would not be connected but would be made out of the same material.

Mayor Tisdale indicated that the entry features would discourage Church traffic from cutting through the Covington neighborhood.

Councilor A. Brown moved, seconded by Councilor VanderWerf to approve the revocable encroachment license for Denver First Church of the Nazarene allowing the installation of two entry monuments for the Covington Subdivision located in the East Jefferson Avenue right of way as proposed.

The motion carried unanimously.

NEW BUSINESS

None

REPORTS

Mayor's Report

Mayor Tisdale reported that he had met with Representatives Daniel Kagan and Kathleen Conti and Geoff Wilson of the Colorado Municipal League regarding a proposed bill concerning sales tax issues. He noted that he had a Metro Mayors Caucus meeting the next morning. He reminded Council that he would be absent for the April 16th meeting.

Members of City Council

Councilor A. Brown reported that discussions continued in DRCOG meetings regarding a possible new sales tax for state transportation. He noted that Cherry Hills East Home Owners Association would meet next week at the Safety Facility. Finally, he suggested that the City commission a professional photograph of the Safety Facility that could be gifted to the Colorado Municipal League to be displayed at their facility in Denver.

Councilor VanderWerf reported that the Public Art Commission (PAC) was working on draft criteria for art displays at the Safety Facility and that they were also hoping to create a photo gallery of existing public art at the Village Center. She noted that a fundraiser for the PAC would be held at the Duncan residence at a date to be determined. She reported that the Quincy Farm Visioning Committee (QFVC) had met that morning and had received more refined parameters regarding the conservation easement. She mentioned that staff was working to ensure that the City had all the final legal documents associated with the easement.

Councilor Roswell reported that he might be absent for the April 16th meeting due to business travel.

Mayor Tisdale noted that terms of some Parks, Trails and Recreation Commission members would end in May and that representation from Councilor Roswell's district was needed.

Mayor Pro Tem Stewart had no report.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

City Manager Patterson reported that the directors attended a training regarding the City's Emergency Management Plan with Rose Lynch. He noted that there were five finalists for the consultant position for QFVC that would be interviewed next week. He indicated that four proposals for the public works consultant had been received and suggested that Councilor A. Brown might assist staff with that selection process. He stated that five applicants for the Community Development Clerk position had been interviewed and two others would be interviewed next week. He reported that the windows on the east side of the Safety Facility had been tinted last week in response to resident complaints about light at night. He noted that two new police officers were sworn in last week. He stated that staff was working on selection of a new contractor for management of the City's sanitation districts.

Deputy City Manager/Public Works Director Goldie presented his annual report to Council. He noted that staff had created department Mission and Vision Statements. He explained that the department consisted of 12 full time employees, two part time janitors which were hired last year, and six to seven seasonal employees. He outlined the many projects that the street and parks divisions were working on in 2013. He noted that the streets division had brought the crack seal project in-house which quadrupled the efficiency of the program. He explained several other department functions and noted that the department was much more vigilant about requiring right-of-way permits now compared to when he began working at the City. He presented a summary of the budget over the last eight years and pointed out that capital expenditures followed a cycle as the maintenance program progressed. He outlined ongoing projects for both divisions and noted that giving ownership of landscaping and irrigation improvements to various staff members had resulted in many innovative ideas and projects. He noted all the department awards and accomplishments over the past several years. He explained

that several administrative improvements implemented by staff had resulted in improved tracking of work orders, street cuts, stormwater permits, and improved communication with residents. He reviewed the status of Council priorities for the department, and discussed the department's work towards accreditation.

Mayor Tisdale indicated that this presentation had been as informative and effective as the Community Development report. He asked about the amount of paved and unpaved streets in the City.

Director Goldie replied that the City had approximately 50 miles or 100 lanes of road, and that approximately 6 of those miles were unpaved.

Mayor Tisdale asked about the City's traffic calming policy.

Director Goldie replied that the City had a clear policy for traffic calming issues.

Councilor VanderWerf asked about the possible underpass at the Colorado and Hampden intersection.

Director Goldie replied that the City had a seat at the table for that project.

Councilor VanderWerf indicated that a better bicycle landing area was needed in the southeast corner of that intersection.

Director Goldie replied that CDOT was working with the City to improve the gradient.

Councilor Roswell commended Director Goldie for his leadership and for the growth of the department.

Councilor VanderWerf recognized Director Goldie's forward planning which had allowed the department to complete tasks in a more cost effective manner.

Councilor A. Brown added his appreciation and added that joining the online Rocky Mountain Bid System had improved responsiveness to bids.

City Attorney

City Attorney Michow had no report.

ADJOURNMENT

Mayor Tisdale noted that Forbes magazine had rated Cherry Hills Village as the sixth most affluent city, and one of the top 25 best places to retire.

Mayor Pro Tem Stewart moved, seconded by Councilor VanderWerf that Council proceed into Executive Session for the purpose of receiving legal advice and discussing strategy for negotiations with the City Attorney and the City's outside legal counsel, in connection with pending litigation, as authorized by C.R.S. § 24-6-402(4)(b) and (e) and immediately upon completion of the Executive Session to stand adjourned.

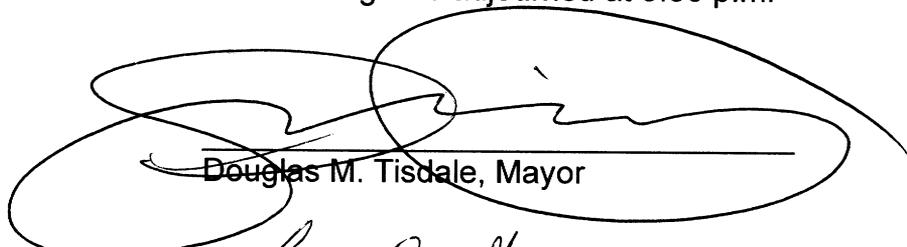
The following votes were recorded:

Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes
Russell Stewart	yes

Vote on the Executive Session: 4 ayes. 0 nays. The motion carried.

The meeting ended at 9:03 p.m.

The executive session ended and the meeting was adjourned at 9:30 p.m.



Douglas M. Tisdale, Mayor



Laura Smith, City Clerk