

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, August 20, 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 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 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: none

**PLEDGE OF ALLEGIANCE**

Ryan Quinette, Nathan Davis, and Mac Upton of Cub Scout Pack 861 at St. Mary's Academy led the Council in the pledge of allegiance.

**AUDIENCE PARTICIPATION PERIOD**

None

**CONSENT AGENDA**

Mayor Tisdale removed Item 5b from the Consent Agenda

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

- a. Approval of Minutes – August 6, 2013

The motion carried unanimously.

**ITEMS REMOVED FROM CONSENT AGENDA**

**Item 5b – Intergovernmental Agreement for Installation, Maintenance and Use of an Irrigation System on the High Line Canal**

Mayor Tisdale complimented staff for the intergovernmental agreement (IGA) and indicated it was a major achievement. He stated that this IGA was the first and only agreement in the Denver Water region that worked to preserve, protect and expand the tree canopy along the High Line Canal.

Deputy City Manager/Director Goldie replied that staff was excited about this IGA with Denver Water. He noted that in the future it is expected that there will be no water in the High Line Canal and so an irrigation system was essential to maintain the tree canopy along the trail. He explained that the IGA approved a pilot project to irrigate 1,000 feet of the Canal going north from Belleview Avenue, and to plant 20 to 25 new trees in that section. He noted that staff had worked closely with Denver Water to approve the tree species that would be planted and their locations along the Canal. He added that the

trees would be planted on the opposite side of the trail from the Canal to allow Denver Water staff visibility for inspecting the Canal. He explained that if this pilot project was successful with no damage to the dyke, staff was hopeful that the project could be expanded to the entire length of the Canal within the City. He indicated that the irrigation and tree planting plan for the entire length was already complete. He explained that Denver Water had required that the City install an irrigation control and master plan in order to be able to take the pressure off the irrigation valve when it was not in use, so there would be less water that could leak should there be a break in the irrigation pipe. He noted that staff would also install a special trench to capture water should the pipe leak. He stated that staff believed it was worth the expense to enhance the Canal by improving the canopy.

Councilor A. Brown asked for clarification on the irrigation line and the water tap.

Deputy City Manager/Director Goldie explained that this pilot project would use the City's existing tap and would need a second tap for the portion of the Canal north of Quincy if and when that section could be irrigated.

Councilor A. Brown noted that the IGA obligated the City to remove the irrigation for the pilot program in two years.

Deputy City Manager/Director Goldie explained that there was an option for both parties to extend the IGA, but that Denver Water was very concerned about the irrigation project causing damage to the Canal and so was most comfortable with a two year timeframe.

Councilor A. Brown asked if two years would be enough time for the newly planted trees to take root.

Deputy City Manager/Director Goldie replied that the trees would require hand watering for a few additional years.

Councilor A. Brown noted that the IGA gave Denver Water the power to require that the City remove the irrigation at any time if there is documented damage of the Canal.

Deputy City Manager/Director Goldie indicated that staff believed that the potential success of the project was well worth giving Denver Water the option to terminate the project if they deemed it necessary.

Councilor Roswell noted that the City would be responsible for any damage done to the dam as part of the pilot project.

Councilor VanderWerf explained that the High Line Canal Working Group had identified the tree canopy as an important feature of the High Line Canal. She noted that the High Line Canal Planning Study had determined that an irrigation system would be more cost effective than hand watering because of the personnel costs. She indicated that several organizations and municipalities were interested in the results of this pilot project, and that this may well be the solution for the future of the tree canopy along the Canal.

Mayor Pro Tem Stewart asked about a second tap for the rest of the Canal within the City.

Deputy City Manager/Director Goldie explained that the City's existing tap would provide enough water for irrigating the Canal from Belleview to Quincy, and that the City would have to activate a second tap for the section of the Canal from Quincy to Hampden.

Mayor Pro Tem Stewart indicated that it was odd Denver Water was so concerned about the irrigation system causing damage to the Canal when they were not using it regularly.

Mayor Tisdale replied that it was only an issue because Denver Water still had water rights to fulfill. He reported that he and the City Manager had discussed the issue with Denver Water CEO Jim Lochhead to explore the possibility of Denver Water granting or donating the tap to the City.

Councilor Roswell asked about the worst case scenario as far as cost to the City if Denver Water determined that the irrigation system damaged the Canal.

Deputy City Manager/Director Goldie replied that the worst case scenario was not known because Denver Water did not know what the structure of the bank was made of, be it garbage, concrete, or soil. He explained that Denver Water had required that staff add a master valve to the irrigation system so that water can be shut off when not in use, and that the City would not run the irrigation system while Denver Water was running water in the Canal.

Councilor Roswell asked about governmental immunity.

City Attorney Michow directed Council to section 4.10 of the IGA which indicated that governmental immunity was not waived.

Councilor Griffin asked if a backflow preventer would be installed in the irrigation system.

Deputy City Manager/Director Goldie replied that it would.

Councilor Griffin expressed concern about the theft of backflow preventers for their copper.

Deputy City Manager/Director Goldie explained that the new models of backflow had more plastic and much less copper and brass, so theft was less of an issue.

Councilor VanderWerf moved, seconded by Councilor K. Brown to approve the Intergovernmental Agreement.

The motion carried unanimously.

### **UNFINISHED BUSINESS**

#### **Council Bill 12, Series 2013; Amending Article XX, Chapter 16 of the Municipal Code Concerning Approval of Public Recreation Facilities**

Director Zuccaro presented Council Bill 12, Series 2013 on second and final reading. He explained that the bill proposed to amend the approval process for public recreation facilities so that the Parks, Trails and Recreation Commission (PTRC) would hold the first public hearing instead of the Planning & Zoning Commission (P&Z). The application would then go to City Council for a second public hearing. He noted that during first reading Council had directed staff to add language to the bill allowing Council to remand an application to P&Z if they determined a need for P&Z's review and input. He indicated that notice of tonight's public hearing had been posted in the July 25<sup>th</sup> issue of the Villager Newspaper and that staff had not received any comments.

Councilor K. Brown asked if Council chose to remand an application to P&Z if that would trigger a third public hearing.

Director Zuccaro replied that a third public hearing would not be required, only that P&Z would review and provide input on the application to Council.

Mayor Tisdale opened the public hearing at 7:01pm. Hearing no comments, the public hearing was closed at 7:02pm.

Mayor Tisdale clarified for the record that the intent of the bill was to provide Council with discretionary action to remand an application to P&Z, and that it was not mandatory to do so.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve Council Bill 12, Series 2013 on second and final reading; amending Article XX of Chapter 16 of the Municipal Code concerning approval procedures for Public Recreation Facilities in the O-1 zone district.

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 12-2013: 6 ayes. 0 nays. The motion carried.

**NEW BUSINESS**

**Council Bill 13, Series 2013; Adopting the 2012 International Building Codes and the 2011 International Electric Code**

Director Zuccaro presented Council Bill 13, Series 2013 on first reading. He noted the presence of building inspectors Rich Beckman and Hope Medina from Colorado Code Consulting. He indicated that due to recent conversations with several Council members the green building code standards had been removed from the bill and would be addressed during the Reports section of the agenda. He explained that the bill proposed to adopt the most recent International Building and Electric Codes, which were updated every three years. He noted that some changes in the new Codes included new energy efficiency standards and requirements for firefighter access for rooftops with solar panels. He explained that the bill adopted the Codes by reference with several amendments specific to the City. He indicated that one of these amendments was an increase in review fees in order to cover the actual time required to review applications and plans. He noted that another amendment would maintain the stormwater detention requirement for additional impervious area of over 2,500 feet, instead of adopting the portion of the new Code which increased the threshold to 5,000 feet.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Council Bill 13, Series 2013 on first reading; repealing and re-enacting Articles I through VIII of Chapter 18 of the Cherry Hills Village Municipal Code, concerning Building Regulations; adopting by reference, with certain amendments, the 2012 International Building Code, the 2012 International Residential Code, the 2012 International Mechanical Code, the 2012 International Plumbing Code, the 2012 International Fuel Gas Code, the 2012 International Energy Conservation Code, the 2011 National Electrical Code, and the

2012 International Fire Code; repealing all ordinances in conflict therewith; and providing penalties for violation thereof.

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 13-2013: 6 ayes. 0 nays. The motion carried.

Resolution 14, Series 2013; Appointing a Member to the Parks, Trails and Recreation Commission

Mayor Tisdale thanked Councilors Roswell and K. Brown for taking on this difficult and sensitive work.

Councilor Roswell explained that the City had received one application for the open position and also were aware of a former member interested in serving again. He indicated that he and Councilor K. Brown had met with the applicant, Mike Gallagher, last Thursday, and that he was from District 4 which was currently unrepresented on the PTRC. He indicated that Mr. Gallagher was an excellent candidate. He noted that he had reached out to former Mayor Welborn who was pleased that Council was considering Mr. Gallagher.

Councilor K. Brown added that Mr. Gallagher was enthusiastic and anxious to serve. She noted that both candidates were highly qualified but that Mr. Gallagher was from an unrepresented district. She noted that the input of current PTRC members had certainly been considered during the process.

Councilor Roswell moved, seconded by Mayor Pro Tem Stewart to approve Resolution 14, Series 2013 Appointing a Member to the Parks, Trails and Recreation Commission.

The motion carried unanimously.

**REPORTS**

**Mayor's Report**

Mayor Tisdale reported that Channel 22 KCHV-TV was live and showing the High Line Canal student produced videos and the video of the Alan Hutto Memorial Commons dedication. He noted that the Quincy Farm Cat Anderson video would soon be showing, as well as interviews with Council members, Commissioners, staff and interested residents. He indicated that Channel 22 would be a community channel and asked Council members to talk with the schools in the City to get content including their plays, concerts and sporting events.

Mayor Tisdale reported that the Metro Mayors Caucus had discussed an issue that would be on the November 2014 ballot for a statewide sales tax to fund transportation and transit. He indicated that he had attended a Meet the Mayors lunch with local communities. He noted that there were new red street signs at Hampden and Lafayette to help identify the shopping area there as being in Cherry Hills Village as opposed to

Englewood. He reported that he and Becky Alfrey, producer of the California TV show Turning Points, had conducted a video shoot on the High Line Canal.

Mayor Tisdale reported that he and City Manager Patterson had discussed staffing issues to address a significant increase in workloads and would follow up in a responsible and considered fashion. He indicated that budget liaison meetings were ongoing and encouraged Council members to follow up with their designated departments. He noted that the Cherry Hills Farm HOA Board had approved the proposed intersection painting and that they would follow up with Glenmoor to address their concerns. He reported that Sergeant John DeFelice was retiring after almost 30 years of service and that the retirement party would be held at the Denver First Church tomorrow afternoon.

### **Members of City Council**

Councilor K. Brown reported that PTRC did not have an August meeting but that the Summer Movie Night would be held this Saturday, showing 'Jurassic Park'. She added that the Exotic Car Show would be September 15<sup>th</sup>, and that there would be a surprise entry not to be missed. She indicated that the PTRC would be excited to have a new member and about the passage of Council Bill 12, Series 2013. She noted that her husband had found the missing backflow preventer in Dahlia Hollow Park and indicated she would hate to see this vandalism extend to residents. She noted that she had received two concerns from a constituent. First, was the northeast access point into the City where it was almost impossible to turn left from Hampden onto Dahlia or Happy Canyon, and she asked if staff could reach out to Denver and CDOT about that intersection. Second, was noise within the City from airplanes and helicopters and suggested that a dialogue be opened with appropriate officials and that some kind of monitoring be done.

Councilor Griffin reported that the Board of Adjustment and Appeals had met and passed a variance. He commented that school was back in session and that he had noticed speeding vehicles on University. He reiterated Councilor K. Brown's report that the surprise entry into the Exotic Car Show would be spectacular.

Mayor Pro Tem Stewart indicated the reason that the City incorporated in the 1940s was to prevent Centennial airport being located here. He suggested that the helicopters might be Flight for Life going to Swedish Hospital. He thanked the Police Department for managing the Kent Denver traffic. He noted that I-70 had reached its life expectancy and that one proposal was to bring it down to ground-level through Denver.

Councilor Roswell reported that he and Greenwood Village Council member Jerry Presley had met with Waste Management staff regarding heavy vehicle use of Belleview and Hampden. He noted that Waste Management would prefer to use E-470 but that the tolls were cost prohibitive. He indicated he appreciated the Police Department's patrolling of those streets and noted that speeds were down because of the construction projects. He also suggested a joint study session or meeting with the Greenwood Village City Council to discuss issues along Belleview Avenue, including a new traffic light at Belleview and Franklin, which was identified by CDOT as a safety concern. He noted that a new traffic light at Glenmoor was also being discussed but that the traffic count at that intersection had not resulted in a safety concern.

Councilor VanderWerf reported that the Quincy Farm Visioning Committee (QFVC) met that morning and had identified some areas where they might bring in outside expertise. She noted that the QFVC consultants would present to Council at the September 3<sup>rd</sup> meeting. She indicated that she was not able to attend the October 1<sup>st</sup> meeting.

Councilor A. Brown reported that traffic calming at Quincy and South Hudson Way, immediately west of South Holly, continued to be a work in progress.

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

There were no reports.

### **City Manager & Staff**

City Manager Patterson indicated that the department monthly reports and financial statements were available in Council packets. He noted that staff would submit the first draft of the 2014 Budget to Council at the September 3<sup>rd</sup> meeting and that the Council would hold a study session to discuss the budget at the September 17<sup>th</sup> meeting. He commented that because two Council members would be absent for the October 1<sup>st</sup> meeting the timeline for the budget had been moved up and therefore the draft submitted September 3<sup>rd</sup> would be very rough and benefit information might not be available. He acknowledged City Clerk Smith for her work on Channel 22. He reported that he would be in Pueblo at a CML workshop all day tomorrow.

### Investigation of University Boulevard Maintenance Agreement with CDOT

Deputy City Manager/Director Goldie explained that he had met with CDOT staff regarding maintenance on University Boulevard and now had established contacts at CDOT. He explained that although CDOT did not have the funding to maintain University Boulevard it was also not feasible for staff to take over this maintenance because working on such a busy street would require safety equipment and staffing levels that the City did not possess.

Councilor Griffin asked about the paragraph on page two of the memo explaining that Colorado State Statute requires local entities to provide street cleaning and stormwater maintenance within its boundaries on all state owned roads.

Deputy City Manager/Director Goldie replied that CDOT did not currently enforce that section of the State Statutes and if they ever did it would be a challenge for staff to comply because of the additional required safety equipment and staffing levels that the City did not possess.

Councilor Griffin asked if anything could be done to clean up the weeds in the medians along University.

Deputy City Manager/Director Goldie replied that it was highly unlikely that CDOT would clean the medians and that staff did not have the safety equipment and staff necessary to do so safely because of the speeds on University. He noted that staff was pushing the limit of their safety equipment when working on the medians along Belleview.

Mayor Tisdale suggested that in the future a community clean-up project could be organized.

Councilor Roswell indicated that the topic could be discussed at the joint study session with the Greenwood Village City Council.

### National Green Building Standard Implementation

Director Zuccaro asked for direction from Council on a mandatory versus incentive-based green building standards program.

Mayor Pro Tem Stewart indicated that he was in favor of an incentive-based program. He noted that he was concerned about the additional time green building standards would add to the construction timeframe.

Director Zuccaro replied that City builders had also expressed concern about the construction timeframe.

Councilor VanderWerf indicated that she also supported an incentive-based approach, and suggested that the rebate for meeting the minimum standards not be very much because many homes in the City were built to minimum green building standards as a matter of course.

Councilor A. Brown agreed and indicated that he also favored an incentive-based approach.

Councilor K. Brown agreed and noted she was not in favor of mandatory standards that might place excessive burdens on larger homes. She questioned where funding for the rebates would come from and asked if the fee structure in Council Bill 13, Series 2013 should be increased to off-set some of the rebate.

Hope Medina of Colorado Code Consulting indicated that all new homes would meet the minimum energy standards of the green building codes automatically if Council passed Council Bill 13, Series 2013 on second and final reading because of the increased energy efficiency standards in the 2011 International Electric Code. She noted that construction timelines could be expected to lengthen because of the additional inspections required with green building standards.

Rich Beckman of Colorado Code Consulting suggested that the City not provide rebates for meeting the minimum green building standards because most homes already would by following the International Building Codes adopted by the City. He added that third party green building standard inspectors were increasingly busy and that a longer construction timeframe was likely. He suggested that the City could extend their permit timeframe from 18 months with two extensions to 24 months with one extension.

Councilor Roswell noted that this information changed the analysis of construction timeframes.

Councilor Griffin indicated that the objective of adopting green building standards was to build the most efficient homes that residents can afford without too many government mandates. He agreed with having an incentive-based program and with having low incentive for the minimum standard.

Mayor Tisdale advised staff to return at a later Council meeting with options for an incentive-based program both with fee rebates and extended timeline.

Councilor Griffin asked that information on how the incentives might affect the budget also be included.

#### **City Attorney**

City Attorney Michow indicated she would have a report for Council at the next meeting.

**ADJOURNMENT**

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin to move into Executive Session for the purpose of receiving legal advice from the City Attorney and the City's outside legal counsel in connection with pending litigation in the Sansing, Edwardson and Rogers matter pursuant to CRS § 24-6-402(4)(b) and immediately upon completion of the Executive Session to stand adjourned.

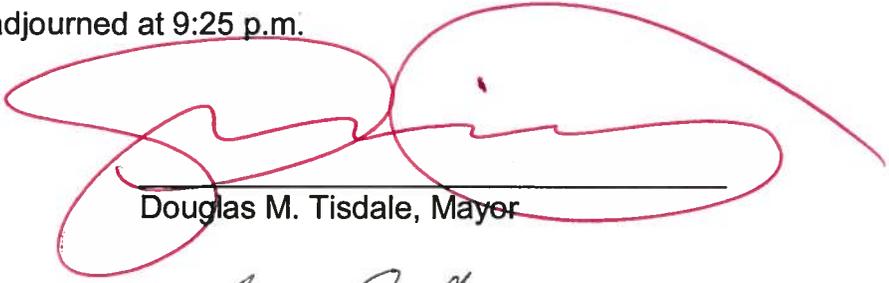
The following votes were recorded:

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

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

The regular meeting adjourned at 8:25 p.m.

The executive session adjourned at 9:25 p.m.


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Douglas M. Tisdale, Mayor




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Laura Smith, City Clerk