Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, September 17, 2013 at 6:30 p.m.
At the Village Center

The City Council held a Study Session to discuss the 2014 proposed budget at 6:00 p.m.

Mayor Doug Tisdale called the meeting to order at 6:37 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 Deputy City Manager and Public Works Director Jay Goldie, City Attorney Linda Michow, Finance Director Karen Proctor, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Parks, Trails & Recreation Administrator Ryan Berninzoni, Police Commander Pat Weathers, and City Clerk Laura Smith.

Absent: none

PLEDGE OF ALLEGIANCE

Samuel Choi, Cedric Choi and Rashika Kartik of the St. Mary's Academy Drama Club led the Council in the pledge of allegiance.

Mayor Tisdale indicated that the City offered its support and comfort to all the victims of the flooding along the Front Range. He noted that it had been a difficult and trying time for many municipalities and that the Council and City stood in unity in support of all mayors who were dealing with the flooding.

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 – September 3, 2013

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

Resolution 15, Series 2013; Reappointing Commissioner Joseph Poché to the Planning and Zoning Commission

Mayor Tisdale noted that Commissioner Poché had served three terms on the Planning and Zoning Commission (P&Z) and asked if Council wished to discuss a recruitment process instead of automatically reappointing Commissioner Poché.

Councilor Roswell commended Commissioner Poché for his willingness to serve another term, but indicated that he would like to return to the process of advertising vacancies on the City's boards and commissions, as many residents did not volunteer for these positions until an opening is made known. He suggested that the recruitment process should certainly occur when the incumbent member has already served two terms. He indicated that consideration will certainly also be given to Mr. Poché's interest in serving for another term as the process for recruitment, application review and interviews are conducted.

Mayor Tisdale removed Resolution 15, Series 2013 from the agenda and asked for volunteers from Council for the committee to fill the P&Z vacancy. Councilors Roswell and A. Brown were appointed.

UNFINISHED BUSINESS

Public Hearing – Council Bill 13, Series 2013; Adopting the 2012 International Building Codes and the 2011 International Electric Code (*second and final reading*)

Director Zuccaro presented Council Bill 13, Series 2013 on second and final reading. He indicated that there had been no changes since first reading on August 20, 2013. He noted the presence of building inspector Rich Beckman from Colorado Code Consulting. 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. He noted that the green building code standards were not addressed in the bill and would be brought back to Council for further discussion separately. He indicated that adoption of codes by reference required notice of the public hearing to be published twice, and that notice had been published in the August 29th and September 5th issues of the Villager Newspaper. He added that staff had held a meeting for builders and architects to review the changes with the new codes and while staff had received many comments regarding green building code standards, none were received regarding the codes in the proposed bill.

Mayor Tisdale opened the Public Hearing at 6:51 p.m. Hearing no comments the Public Hearing was closed at 6:51 p.m.

Mayor Pro Tem Stewart moved, seconded by Councilor K. Brown to approve Council Bill 13, Series 2013 on second and final 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, as further indicated in the staff memo dated September 17, 2013.

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

NEW BUSINESS

Public Hearing – Kent Denver School Expanded Use Permit Request for Gymnasium Addition

Director Zuccaro presented an expanded use permit request from Kent Denver School for the addition of an approximately 16,450 square-foot gymnasium addition connected to an existing field house. The proposed gymnasium would have a height of 35 feet and a seating capacity of 800 persons. The two buildings would be connected by an atrium. The proposal includes providing a total of 49 new parking spaces to the campus by restriping a lot to the north of the proposed addition, rebuilding an existing lot immediately north of the proposed addition and building a new lot west of the proposed addition. Campus-wide, the proposal is to increase the total parking from 731 to 780 spaces. The school currently has a 15% parking reduction approved as part of their dining hall expansion that took place in 2010. The current proposal is for a 20% reduction. There are 647 total spaces proposed within a ¼ mile radius that could be utilized when there are special events at the gymnasium. A ¼ mile radius is typically considered a reasonable walking distance. Director Zuccaro noted that the school often used its open space for overflow parking, but that the Code did not allow staff to count unpaved areas towards the parking requirement.

Director Zuccaro noted that the Planning and Zoning Commission (P&Z) was concerned about overflow parking along the main entry drive causing safety issues and blocking emergency vehicles. To address this issue the applicant will install no parking signs along the west side of the entry drive where parking is most likely to take place in a manner that interferes with the roadway. There will also be limitations on large concurrent events if adequate parking capacity is not provided within ¼-mile walking radius of the venues. These items are addressed in Sections 2.1 and 2.2 of the proposed development agreement.

Director Zuccaro explained that the City Zoning Ordinance required landscape screening between parking lots and adjoining properties as well as landscaping within the hard-surfaced parking lot area to break up the expanse of the parking lot surface. A Drainage Report was submitted by the applicant and reviewed and approved by the City Engineer. The proposed addition was close to, but not within the floodplain.

Director Zuccaro explained that the applicant had submitted a lighting plan that conformed to Code regulations. Lighting for both parking and pedestrian areas will be oriented and shielded so that the light source is not seen from adjacent properties.

Director Zuccaro noted that the applicant submitted a Traffic Impact Memo for the project, which indicates that the level of service along East Quincy Avenue will not be impacted. However, level of service may be impacted for traffic leaving Kent Denver during events at the proposed gymnasium between 5 and 6 p.m. Monday through Friday during the school year. Specifically, wait time for the left-turn-out movement onto East Quincy Avenue will include additional queue time. Although the additional queue time is fully on the Kent Denver property, staff is concerned that the left-turn-out drivers will become impatient from the increased delay and attempt to "shoot the gap" more

frequently into traffic along Quincy Avenue. Mitigation of this issue is proposed in Section 2.3 of the development agreement and includes use of uniformed traffic control officers when there are events expected to exceed 500 attendees in the gymnasium and/or field house expected to conclude between 5 and 6 p.m. Monday through Friday during the school year. This would be limited to no more than 10 events per year, as staffing beyond this point could be difficult for the Police Department, but additional events may be approved by the City based on staff availability.

Director Zuccaro explained that an existing sanitary sewer easement that conflicts with the building expansion will need to be relocated to the south of the building. He noted that a certificate of occupancy for the proposed gymnasium was conditional on final verification by the City of Cherry Hills Village Sanitation District that the new sewer easement has been established per Section 2.5 of the development agreement.

Director Zuccaro indicated that the development agreement had been reviewed and approved by the City Attorney. He added that the P&Z had recommended approval with three conditions, all of which were addressed in the development agreement. He noted that City Engineer Troy Carmann was present as well as the applicants.

Councilor A. Brown thanked Director Zuccaro for focusing on the parking and the traffic. He indicated that he appreciated the limit on large concurrent events and believed that was fair given the request for a parking reduction. He noted that Section 2.3 of the development agreement was vague as to how the size of events will be calculated in order to comply with this restriction and asked if it was based on the seating capacity in the facilities where the events were held or an estimate of attendance. He added that the requirement for parking spaces in the Code was based on the size of the facility.

Director Zuccaro replied that it would be based on the anticipated number of attendees, and that the City would rely on Kent Denver School to not schedule concurrent events for which they don't have the parking capacity.

Mayor Pro Tem Stewart asked if the no parking signs along the west side of the entry drive would be permanent or would be put up only during events.

Director Zuccaro replied that staff had provided the applicant with both options and the applicant had chosen to make the signs permanent.

Mayor Pro Tem Stewart indicated that it seemed unrealistic for the Code not to count unpaved parking areas and suggested that Council discuss giving P&Z more discretion when calculating parking spaces. He noted that it did not make economic or aesthetic sense to have large paved areas if there were other alternatives, especially if the parking is used infrequently.

Councilor VanderWerf agreed and noted that visitors to Kent Denver School know it is normal to have overflow parking on the grass.

Mayor Tisdale noted that Denver First Church had addressed this issue by installing concrete that allows grass to grow through it.

Councilor K. Brown asked why a traffic control officer would be required only between 5 and 6 p.m. as opposed to other times of day.

Director Zuccaro replied that was the only time when the level of service was shown to decrease.

Mayor Tisdale asked about the capacity of the proposed gymnasium and the number of current students at Kent Denver School.

Director Zuccaro replied that he would defer to the applicant.

Mayor Tisdale commented that while the above-ground height of the proposed gymnasium would be 35 feet, the inside height would be 37 feet because the building would begin sub-grade. He noted that Director Zuccaro had conducted an extensive and detailed survey of the buildings, classrooms etc. on campus in 2005 associated with the arts facility expansion and had used that survey as the basis for the 2010 cafeteria addition. In addition, the survey had also been used for this current application when considering the requested parking reduction. He added that all of P&Z's conditions were addressed in the development agreement.

Director Zuccaro confirmed that was correct and that staff recommended approval of the application as proposed.

Mayor Tisdale indicated that Section 2.4 of the development agreement encouraged Kent Denver School to provide information identifying events planned or proposed that may result in excess traffic on a publicly available website. He asked if staff believed this would be sufficient.

Director Zuccaro replied that staff believed publication on the school's website was sufficient to notify neighbors and to help staff implement the restriction on large concurrent events.

Jerry Walker, representative for Kent Denver School, explained that the proposed gymnasium was part of the strategic planning process that the school had gone through last year, and was intended to alleviate the current strain on practice schedules. He noted that all students at the school were required to participate in sports, and the practice schedules for the sports teams could not all be accommodated after school in the current facility. Currently team practices started at 5 in the morning and went to 10 at night in order to accommodate all the practices as well as games. Mr. Walker stated that the school had no plans to increase enrollment or add new sports or teams, but sought to build the proposed facility in order to hold concurrent events, alleviate crowding, and allow students to get home at a more reasonable hour. He indicated that the school's enrollment was 668 in 2012 and was 685 this year. He explained that the increase was due to a lower attrition rate than expected.

Mr. Walker noted that the school's recently constructed dining hall had been built to the LEED Platinum standard, and that the proposed gymnasium would be built to the LEED Gold standard. He agreed with Mayor Pro Tem Stewart's suggestion to count open space areas as overflow parking areas and noted that no one wanted to see a large expanse of pavement when it was only used a few times a year. He noted that the school had compromised by adding parking spaces immediately around the proposed facility. He indicated that the school would plan concurrent events carefully to avoid parking issues, and noted that it would be rare that an event would let out between 5 and 6 p.m. when loss of service would occur for vehicles leaving the school. Events normally began around 7 p.m. and ended around 9 or 9:30 p.m. Mr. Walker indicated that the 10 events per year stipulated in Section 2.3 of the development agreement would provide the school with sufficient flexibility in the rare circumstances under which an event would end between 5 and 6 p.m., and the ability to extend beyond 10 events per year based on police staff availability was appreciated. He noted that the school posted signs at their entrance the week prior to school beginning and prior to graduation, and posted a schedule of events on their publically available website. He

indicated that the school had sent a letter of intent for the proposed gymnasium to its neighbors, and had not received any concerns that were not easily addressed.

Councilor VanderWerf asked about the capacity of the proposed gymnasium.

Mr. Walker replied that the proposed gymnasium would seat about 700 people, which would allow everyone to have a real seat during all-school assemblies, which was not the case currently in the 580 capacity field house. He added that sporting events did not reach full capacity.

Councilor Roswell thanked Mr. Walker for being thorough in his presentation.

Councilor Griffin asked if a new hockey rink was included in the school's long range plan.

Mr. Walker replied that there is no mention of a new hockey rink or pool in the current plan, but that these additions were not out of the realm of possibility in the future.

Mayor Pro Tem Stewart asked about the sewer easement that would have to be moved to build the proposed gymnasium.

Mr. Walker replied that both the sanitation line and the easement would be moved. He noted that the current easement and line predated construction of the field house. He indicated that the school was in contact with the City of Cherry Hills Village Sanitation District and the District did not foresee any issues with the proposed move of the line and easement. He added that there were many easements and lines crossing the school's property that serviced the neighbors on either side, and that the school would ensure that these lines stay intact.

Mr. Brian Schmidt of Simple Brown Design, architect for Kent Denver School, expressed his agreement with Mayor Pro Tem's suggestion of counting non-paved areas for overflow parking. He indicated that each parking spot required about 350 square feet of pavement. He noted that the school did not have many large concurrent events.

Mayor Pro Tem Stewart asked about the difference between LEED Gold and LEED Platinum.

Mr. Schmidt replied that LEED Gold was much easier to accomplish, whereas LEED Platinum required that every decision had to be passed through the LEED filter. He noted that the school had decided to use evaporative cooling instead of central air conditioning in the proposed gymnasium, which helped to achieve LEED Gold. He added that the evaporative cooling system would not reduce the temperature on summer afternoons when humidity was high, but that the school did not hold many events at that time.

Mr. Walker added that it was much more expensive to achieve LEED Platinum than LEED Gold. He noted that the proposed gymnasium was already projected to cost more than originally thought due to structural issues with the groundwater that had to be addressed.

Mr. Schmidt indicated that the proposed gymnasium was an elegant box, built to provide a pleasant experience with advanced acoustics and frosted windows that would provide sufficient and pleasant lighting throughout the day.

Dr. Todd Horn, headmaster of Kent Denver School, indicated that this would be his last capital improvement before retirement and that he had enjoyed working with the City over the years. He stated that Kent Denver School had a fabulous partnership with the City and that Cherry Hills Village was a unique and wonderful place. He thanked Council for their service to the City.

Mayor Tisdale opened the Public Hearing at 7:46 p.m. Hearing no comments the Public Hearing was closed at 7:47 p.m.

Councilor K. Brown reiterated Mayor Pro Tem Stewart's suggestion of amending the Code to allow non-paved areas to be counted as overflow parking. She suggested removing Section 2.2 of the development agreement that limited concurrent events because the calculation was ambiguous, as Councilor A. Brown had pointed out, the City had no interest in policing the restriction, and the school had plenty of unpaved overflow parking available. She noted that in place of Section 2.2 wording could be added to indicate the unpaved parking spaces available at the school.

Mayor Tisdale indicated that the applicant is on the fast track for this project and that if Council agreed to replace Section 2.2 of the development agreement with different wording he doubted anyone would feel comfortable dictating during the meeting but would rather consider the wording outside of the meeting. He noted that both the applicant and staff had agreed to the wording of the development agreement as presented and that an amendment could be brought back for Council consideration in the future.

Councilor K. Brown suggested that Section 2.2 could simply be eliminated instead of replaced.

Councilor A. Brown suggested that the phrase "based on historical average attendance" be added to provide clarity. He noted that the Kent Denver School parking situation was unique and that the usual concern with parking was avoiding spill-over into neighborhoods but that was not an issue here. He added that the unpaved parking was not available all year and suggested that staff research the issue before any changes are made to the development agreement.

Director Zuccaro commented that Section 2.2 of the development agreement was the school's proposal to address P&Z's concerns.

Councilor Griffin indicated that Councilor K. Brown made a good point, and asked if the development agreement would have to return to P&Z if Council wanted to amend it.

City Attorney Michow replied that it was within the Council's discretion to change the development agreement without consulting with P&Z. She noted that staff recognized the ambiguity in Section 2.2 and explained that it had been built in because staff did not want to be overly regulatory. She explained that Section 2.2 was intended to be more of a self-policing measure for the school rather than a City-policed restriction.

Councilor Roswell suggested that the development agreement be left as is and that the applicant could return to Council to request an amendment after the time needed to evaluate its effectiveness.

Mayor Pro Tem Stewart agreed that the applicant could return to continue the discussion about Section 2.2 if they wished.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve the Expanded Use Permit and development agreement submitted by Kent Denver School to build a gymnasium addition as proposed.

The motion passed unanimously.

Council Bill 14, Series 2013; Amending Section 16-16-130 of the Municipal Code Concerning Temporary Mobile Wireless Communication Facilities (*first reading*)

Director Zuccaro presented Council Bill 14, Series 2013 on first reading. He explained that the bill would amend the Code to establish new procedures for temporary wireless facilities. Under the City's current Code any wireless facility, regardless of its temporary nature, needed to be approved by a Conditional Use Permit. The bill would allow the approval of temporary wireless communication facilities as part of a Major Event Permit to avoid two separate requests, and also allow the City Manager to approve temporary mobile wireless facilities associated with emergencies. P&Z approved the bill unanimously at their August 23rd meeting.

Mayor Tisdale clarified that the public hearing was not being removed for temporary wireless communication facilities, but rather being combined with the public hearing for a Major Event Permit, except in the case of an emergency which would be at the City Manager's discretion.

Councilor A. Brown asked if the definition of local emergency was limited to the City boundaries.

City Attorney Michow replied that "local" was not intended to be limited to City boundaries.

Councilor Roswell noted that the bill was an excellent reduction in bureaucracy.

Councilor Roswell moved, seconded by Mayor Pro Tem Stewart to approve Council Bill 14, Series 2013 on first reading; amending Municipal Code Section 16-16-130 to provide review procedures for temporary mobile wireless communication facilities.

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 14-2013: 6 ayes. 0 nays. The motion carried.

Public Hearing – Request for Amendment to a Portion of the Blackmer Gulch Floodplain Boundary by Multiple Property Owners on East Tufts Avenue

Director Zuccaro explained that eight property owners along E. Tufts Ave. were requesting that the City Council provide the approval necessary for them to submit their request to FEMA to amend a portion of the Blackmer Gulch floodplain boundary. He noted that the floodplain boundary was updated in 2010 based on new studies, and that as a result of the update the Blackmer Gulch boundary impacted multiple property owners along E. Tufts Ave. by requiring costly flood insurance. A group of property owners hired an engineer to evaluate the new boundary, and the homeowners would

now like to submit a more precise boundary to FEMA. He noted that the Code required a Public Hearing in front of City Council, but no review by P&Z. He indicated that the City Engineer had reviewed the request and recommended approval. He clarified that the City had no authority to amend the floodplain boundary and that authority lies with FEMA.

Mayor Pro Tem Stewart asked about the different colors on the map included in the applicants' study.

Director Zuccaro replied that the colors indicated participating homeowners but deferred to the applicants for further clarification.

Ken Cecil, J3 Engineering Consultants, explained that the proposed floodplain boundary amendment was still conservative. He noted that the properties shaded in green on the map were those that were participating in and funding the project, while those in red had originally been involved but had since dropped out for various reasons.

Councilor VanderWerf asked if the watershed drained to Little Dry Creek and stormwater drained to the High Line Canal.

Mr. Cecil replied that he was not acutely familiar with the High Line Canal but that he would guess a percentage of stormwater would flow to the High Line.

Councilor K. Brown asked if the homeowners who were not participating in the project would still benefit if FEMA approved the request.

Ken Swanson, 6335 E. Tufts Ave., confirmed that they would. He explained that the current floodplain boundary effected property values in the whole region. He noted that this had been a two year process and that the 2010 floodplain boundary adjustment had been based on measurements from the High Line Canal.

Councilor K. Brown asked if Blackmer Gulch had been affected by the rain of the past week.

Mr. Swanson replied that it had not.

Mayor Tisdale opened the Public Hearing at 8:18 p.m. Hearing no comments the Public Hearing was closed at 8:18 p.m.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve the requested amendment to a portion of the Blackmer Gulch floodplain boundary along East Tufts Avenue as proposed, and authorize the City's Floodplain Administrator to sign the local community concurrence form for submittal to FEMA.

The motion passed unanimously.

REPORTS

Mayor's Report

Mayor Tisdale reported that he had attended a reception last week for the Countess of Dunraven from Ireland. He thanked Councilor Griffin, Councilor K. Brown and staff for their help and involvement in the Exotic Car Show. He reported that he had lunch with Representative Daniel Kagan. He indicated that he would not be able to attend the dedication of the City's latest art installment but had prepared a proclamation for artist Reven Swanson for the dedication of her art work "Flying Cranes" at Quincy Ave. and

Happy Canyon Blvd. and asked that Councilor VanderWerf present the proclamation to Ms. Swanson. He reported that he had a table for the Black Crown Culinary Event and invited Council to join him as his guests. He also invited Council to join him at the Cherry Creek School District reception on Wednesday, October 9th from 4-6 p.m. He noted that the November 5th Council meeting was also Election Night and asked if Council preferred to keep the regular meeting date, reschedule, or cancel the meeting.

Council agreed to keep the regular meeting date.

Members of City Council

Councilor K. Brown reported that the Exotic Car Show had been a successful community event.

Councilor Griffin agreed and reported that an issue in his District was nearly resolved.

Mayor Tisdale noted that the issue had been potentially contentious and thanked Councilor Griffin for working to resolve it.

Mayor Pro Tem Stewart had no report.

Councilor Roswell reported that Old Cherry Hills would be holding its annual Oktoberfest on September 29th.

Councilor VanderWerf reported that the Quincy Farm Visioning Committee (QFVC) had a good meeting that morning where they were able to view the septic tank and leech field as a benefit rather than a liability for the property. She added that Director Proctor had attended the meeting in order to provide the QFVC with information on the City's financial position.

Members of City Boards and Commissions

There were no reports.

City Manager & Staff

Deputy City Manager/Director Goldie indicated that department monthly reports and unaudited financial statements were included in Council packets, as well as updated Council Priorities from City Manager Patterson. He reported that he would be meeting with Urban Drainage regarding possible funding for bank stabilization on a property in the Ogden and Martin Lane area.

Mayor Tisdale added that Deputy City Manager/Director Goldie would accompany him to the Arapahoe Commissioners/Mayors/Managers breakfast this Friday in Centennial.

City Attorney

City Attorney Michow had no report.

ADJOURNMENT

Mayor Pro Tem Stewart moved, seconded by Councilor Roswell to proceed into Executive Session for the purpose of receiving legal advice from the City Attorney in connection with pending litigation in the Sansing, Edwardson and Rogers matter pursuant to CRS § 24-6-402(4)(b) and further upon completion of the Executive Session to immediately 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 8:30 p.m.

The executive session adjourned at 9:35 p.m.

Douglas M. Tisdale, Mayor

Laura Smith, City Clerk