

**RECORD OF PROCEEDINGS**

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, November 5, 2013 at 6:00 p.m.  
At the Village Center

Mayor Pro Tem Stewart called the meeting to order at 6:00 p.m.

**EXECUTIVE SESSION**

Councilor Griffin moved, seconded by Councilor VanderWerf to proceed into Executive Session pursuant to CRS 24-6-402(4)(a) and (e) to discuss matters related to the acquisition of real property and to develop strategy for negotiations and to instruct negotiators relating to such real property.

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

Council returned to public business at 6:30 p.m.

**ROLL CALL**

Mayor Pro Tem Russell Stewart, Councilors Mark Griffin, 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: Mayor Doug Tisdale

**PLEDGE OF ALLEGIANCE**

Lily, Chole and Violet Mulqueen, Keagan and Kaili Hoboy, and Carter Dorighi, representatives of the group of kids who dedicated their summer break to the "cafeteria makeover" at Cherry Hills Village Elementary School led the Council in the pledge of allegiance. Jonna Mulqueen, who directed the effort, explained that all 42 students put in at least one hundred hours of volunteer work each.

**MEMBERS OF CITY BOARDS AND COMMISSIONS**

There were no reports.

**AUDIENCE PARTICIPATION PERIOD**

Kathy Polhemus, 1965 E. Chenango Court, addressed the Council regarding the Public Art Commission (PAC) process for choosing and placing public art. She expressed concern that the process did not include any public notice or input. She asked the

Council to consider amending the process to include public notice and input from at least the immediate neighbors. She distributed photos of a partially finished equestrian improvement at Woody Hollow Park, and asked that the City not begin projects without completing them. She noted that she had spoken with Councilors Griffin and VanderWerf and PAC Chair Ann Polumbus and thanked them for their help.

**CONSENT AGENDA**

Councilor Alex Brown moved, seconded by Councilor Griffin to approve the following items on the Consent Agenda:

- a. Approval of Minutes – October 15, 2013
- b. Professional Services Agreement between City of Cherry Hills Village and Conservation Partners, Inc.
- c. Professional Services Agreement between City of Cherry Hills Village and John DeRungs, MAI

The motion carried unanimously.

**ITEMS REMOVED FROM CONSENT AGENDA**

None

**UNFINISHED BUSINESS**

Public Hearing – Council Bill 14, Series 2013; Amending Section 16-16-130 of the Municipal Code Concerning Temporary Mobile Wireless Communication Facilities (second and final reading and public hearing)

Director Zuccaro presented Council Bill 14, Series 2013 on second and final reading. He noted that no changes had been made since first reading and that notice of the public hearing had been published in the September 26, 2013 issue of the Villager Newspaper. He explained that currently all temporary mobile wireless communication facilities must go through the Conditional Use Permit process. The bill would allow the approval of these facilities as part of a Major Event Permit or by the City Manager in conjunction with local emergencies, natural disasters, or similar major public interest events.

Mayor Pro Tem Stewart opened the Public Hearing at 6:45 p.m. Hearing no comments the Public Hearing was closed at 6:45 p.m.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Council Bill 14, Series 2013 on second and final 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 – Council Bill 15, Series 2013; Amending Chapter 11, Article 2 of the Municipal Code Concerning Public Right-of-Way Permits (second and final reading and public hearing)

Deputy City Manager/Director Goldie presented Council Bill 15, Series 2013 on second and final reading. He noted that staff had made a change to Section 11-2-120(a) as directed by Council at first reading. He explained that the bill would make several changes to the rules and guidelines governing occupations, excavations and restorations within the public rights-of-way. He indicated that the City's objective is to ensure the integrity of its street infrastructure, provide for public safety, and minimize the inconvenience to the traveling public.

Councilor A. Brown asked about the distinction between unimproved trails and paved trails.

Deputy City Manager/Director Goldie explained that unimproved trails were harder to repair, whereas the repair method for paved trails was similar to that for streets.

Mayor Pro Tem Stewart opened the Public Hearing at 6:47 p.m. Hearing no comments the Public Hearing was closed at 6:47 p.m.

Councilor Roswell moved, seconded by Councilor VanderWerf to adopt Council Bill 15, Series 2013 updating Chapter 11 Article II of the Cherry Hills Village Municipal Code on second and final reading, ensuring that the health, safety and welfare of the community are protected while keeping the City's Rights-of-Way a safe and efficient means of travel for vehicles and pedestrians.

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 15-2013: 6 ayes. 0 nays. The motion carried.

**NEW BUSINESS**

Resolution 17, Series 2013; Adopting the Construction and Excavation Fee Schedule for Work in Public Rights-of-Way

Deputy City Manager/Director Goldie explained that with the approval of Council Bill 15, Series 2013, it was necessary for City Council to approve a fee schedule for work performed in the City's rights-of-way. He indicated that Resolution 17, Series 2013 outlined the City's fee schedule as a separate document from the City Code in order to make the process transparent and efficient. He noted that staff had adjusted the fee schedule so that fees match direct costs and noted that the fees for driveway cuts and occupation permits would be lowered because those projects required less staff oversight than others, while the management fee was increased due to wage increases.

Councilor VanderWerf indicated that she appreciated staff's efforts to ensure that fees are aligned with actual costs. She noted that she had a vague memory of the Parks

Trails and Recreation Commission discussing ways to discourage unnecessary residential use of trails for construction work.

Deputy City Manager/Director Goldie explained that the City was not permitted to set a fee higher than the actual cost. He indicated that staff reviewed any permit application for trail use and did not approve projects that can use private property access instead of trails.

Councilor Roswell asked about situations in which trails were damaged.

Deputy City Manager/Director Goldie explained that the City required a \$10,000 bond for work on trails in order to cover any damage that may occur.

Councilor Roswell moved, seconded by Councilor A. Brown to approve Resolution 17, Series 2013; updating the Construction and Excavation Fee Schedule for Work in Public Rights-of-Way ensuring that the health, safety and welfare of the community are protected while keeping the City's Rights-of-Way a safe and efficient means of travel for vehicles and pedestrians.

The motion carried unanimously.

Resolution 18, Series 2013; Updating the Construction and Excavation Standards for Work in Public Rights-of-Way

Deputy City Manager/Director Goldie presented Resolution 18, Series 2013 to change and update the Construction and Excavation Standards for work in public rights-of-way. He noted that the major changes included increasing bond amounts for work on unimproved trails, requiring contractors to take out a separate bond for each project, and reducing the definition of Major Projects from 300 to 50 feet.

Councilor Griffin asked if the standards addressed pressure-activated street lights such as those in Cherry Hills Park that were disrupted by the Xcel work this summer.

Deputy City Manager/Director Goldie replied that the City did not own any pressure-activated street lights and that all such lights in the City were all either privately owned or owned by CDOT.

Mayor Pro Tem Stewart asked about staff's communication with other entities regarding these changes.

Deputy City Manager/Director Goldie replied that staff was working with Xcel on the changes to the standards and trying to be accommodating with things such as providing on-site storage.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Resolution 18, Series 2013; updating the Construction and Excavation Standards for Work in Public Rights-of-Way ensuring that the health, safety and welfare of the community are protected while keeping the City's Rights-of-Way a safe and efficient means of travel for vehicles and pedestrians.

The motion carried unanimously.

Council Bill 16, Series 2013; Amending Article XVII, Chapter 16 of the Municipal Code Concerning Floodplain Management Regulations (first reading)

Director Zuccaro presented Council Bill 16, Series 2013 on first reading. He explained that the bill would update the City's Floodplain Management Regulations to be consistent with current Colorado Water Conservation Board Rules and Regulations. The City's participation in the National Flood Insurance Program (NFIP) enables residents to purchase federally-backed flood insurance and makes properties eligible for federal disaster assistance for damage caused by flooding. Further, the City participates in the NFIP Community Rating System which allows residents to purchase flood insurance at reduced rates.

Councilor K. Brown asked about Cherry Hills Village Elementary School.

Director Zuccaro replied that public schools are not subject to local land use regulations or building codes, but are instead regulated by the State.

Mayor Pro Tem Stewart asked if the changes would affect residential structures.

Director Zuccaro replied that they would not because the City's regulations were still more stringent than the updated Rules.

Councilor Griffin asked about bridge elevation regulations in light of the recent flooding.

City Engineer Troy Carmann replied that the bridge elevation rule was a recommendation rather than a mandate, but that all of the Rules assumed a clear flow with no debris, which was extremely unlikely in a real life situation. He explained that the Rules attempted to precisely regulate a dynamic and variable event.

Councilor Roswell moved, seconded by Councilor Griffin to approve Council Bill 16, Series 2013 on first reading; amending Article XVII, Chapter 16 of the Cherry Hills Village Municipal Code for the purpose of updating the City's Floodplain Management Regulations to be consistent with current Colorado Water Conservation Board Rules and Regulations for Regulatory Floodplains in Colorado.

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 Council Bill 16-2013: 6 ayes. 0 nays. The motion carried.

Council Bill 17, Series 2013; Rezoning an Approximately 512 Square-Foot Portion of Lot 7, Block B, Cherry Hills Park Subdivision from R-2, 1 ¼ -Acre Residential District to R-1, 2 ½ -Acre Residential District (first reading)

Director Zuccaro presented Council Bill 17, Series 2013 for first reading. He explained that the bill would approve a rezoning request from R-2, 1 ¼ acre residential district to R-1, 2 ½ acre residential district. He noted that the rezoned parcel was proposed to be sold to the adjacent property owner and consolidated with the adjacent property which is zoned R-1. He explained that the Council would hold a public hearing at second reading at the December 10<sup>th</sup> meeting, at which time staff would provide a more detailed presentation and Council would hear testimony from the applicant and the public. He noted that the last Whereas clause of the bill stated that approval of the bill on first reading was procedural and "does not constitute a representation that the City Council,

or any member of the City Council, supports, approves, rejects, or denies the proposed rezoning.”

City Attorney Michow reiterated that although it was not typical for the Council not to receive evidence on first reading, but that in order to allow a fair and impartial hearing to the applicant, discussion should be held until the public hearing at second reading. She explained that in this case first reading of the bill was merely a housekeeping measure as explained in the last Whereas clause of the bill.

Director Zuccaro added that this situation did not often arise because most zoning issues did not require two readings.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Council Bill 17, Series 2013 on first reading, rezoning an approximately 512 square-foot portion of Lot 7, Block B, Cherry Hills Park from R-2, 1 ¼-Acre Residential District to R-1, 2 ½-Acre Residential District and amending the zoning map.

The following votes were recorded:

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

Vote on the Council Bill 17-2013: 6 ayes. 0 nays. The motion carried.

**REPORTS**

**Mayor’s Report**

None.

**Members of City Council**

Councilor A. Brown had no report.

Councilor VanderWerf reported that the Quincy Farm Visioning Committee met last week and were on track to report to Council in January. She noted that the City might be interested in the work being done by the High Line Canal Working Group’s signage task force, as they would be working to make signage consistent along the length of the Canal including through the City.

Councilor Roswell indicated in light of the comments during Audience Participation he would be interested to hear from staff regarding the City’s policy on public input for placement of public art.

Mayor Pro Tem Stewart reported that the Public Works Facility Review community meeting had been well attended last week. He indicated that he was discussing alternative options with City Manager Patterson and Deputy City Manager/Director Goldie.

Councilor Griffin had no report.

Councilor K. Brown reported that she had been contacted by a resident who was concerned that the installation of a left-hand turn signal from Hampden onto Dahlia and Happy Canyon would increase traffic in that neighborhood. She thanked City Manager Patterson for including the Centennial Airport Community Noise Roundtable pamphlet in Council packets. She noted that the next scheduled meeting of the Roundtable was tomorrow night and asked if staff could attend. She indicated that Centennial Airport was in the process of installing noise monitoring devices but that it appeared to be taking longer than anticipated. She asked that the City participate if and when the monitoring program was operational in order to establish noise levels beyond an anecdotal level. She noted that the map of noise sensitive areas in the pamphlet did not show Cherry Hills Village as one of the noise sensitive areas and that the designation appeared to be established through the volume of complaints. She indicated that flights were encouraged to avoid unnecessary operations between 10 p.m. and 7 a.m., but flights still occur throughout the night. She noted that the airport navigation routes appear to encourage a flight path over her neighborhood. She indicated that she was glad that the Public Works Facility Review community meeting had been well attended, and noted she had been unable to attend. She recommended that the City consider 90 Meade Lane and 115 Meade Lane as potential sites.

#### **City Manager & Staff**

City Manager Patterson thanked Mayor Pro Tem Stewart for his presence at the Public Works Facility Review community meeting last week. He reported that supervisory personnel would be attending harassment training. He noted that Public Works staff would be finishing up asphalt work this week. He reported that staff had met with South Metro Fire Rescue and BMW Golf Tournament representatives regarding emergency procedures for the 2014 BMW Golf Tournament. He indicated that the Police Department would be participating in an emergency response exercise on Friday in Englewood. He noted that air traffic from the Centennial airport was a big issue for Greenwood Village and Centennial. It was noted that flights per year had increased dramatically in recent years.

#### **City Attorney**

City Attorney Michow reported that the TABOR Foundation had recently filed a complaint against RTD and SCFD related to alleged violations, one of which relates to tax policy changes in terms of resuming tax on items formerly exempt.

#### **ADJOURNMENT**

Councilor Roswell moved, seconded by Councilor Griffin to proceed into Executive Session 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 to adjourn thereafter.

The following votes were recorded:

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

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

The regular meeting adjourned at 7:35 p.m.

The executive session adjourned at 9:08 p.m.



A large, stylized signature in red ink, which appears to be "Douglas M. Tisdale", is written over a horizontal line. The signature is highly decorative and loops around the line.

Douglas M. Tisdale, Mayor

A handwritten signature in black ink, which appears to be "Laura Smith", is written over a horizontal line. The signature is in a cursive, flowing style.

Laura Smith, City Clerk