

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, November 19, 2013 at 6:30 p.m.  
At the Village Center

The City Council held a study session regarding the Parks, Trails and Recreation Commissions 2014 budget priorities at 6:00 p.m.

Mayor Doug Tisdale called the regular 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, Streets Crew Chief Josh English, and City Clerk Laura Smith.

Absent: none

**PLEDGE OF ALLEGIANCE**

Grace Cox, Molly Miller, Jack Wessels, Brian Roitman, Sophia Taylor, Reece Loucks, Luca Bonanno, Anderson Dodge, and Ryanne Hopp from St. Mary's Academy led the Council in the pledge of allegiance.

**MEMBERS OF CITY BOARDS AND COMMISSIONS**

Parks, Trails and Recreation Commission (PTRC) Chair Bill Lucas reported that the PTRC was revisiting the Master Plan and would be working with Director Zuccaro on revisions in 2014. He reported that the PTRC had been presented with a subdivision design by the Calkin Farm Trust for their property on Quincy Avenue.

City Attorney Michow noted that this topic would come before City Council in a quasi-judicial hearing and cautioned Chair Lucas from presenting too much information about the issue.

Chair Lucas indicated that PTRC would review a zoning review application to place boulders in Dahlia Hollow Park in February. He noted that City Attorney Michow would instruct the PTRC regarding quasi-judicial hearings prior to that meeting. He stated that the PTRC would not meet in December, and that the Holiday Tree Lighting Event would be held Friday, December 13<sup>th</sup>.

Mayor Tisdale noted that a representative from Congresswoman Diana DeGette's office would attend the Holiday Tree Lighting Event.

**AUDIENCE PARTICIPATION PERIOD**

Jan Wondra, Villager reporter, indicated that she was the National Chairperson for Families for Russian and Ukrainian Adoption (FRUA) and reported to Council regarding the organization's policy activities over the past year. She explained that the Adoption and Safe Families Act provided support to adoptive families was not being enforced in half of states and FRUA was working to correct the inequality and enforce the act. She

indicated that FRUA would appreciate a ready ear from City Council and the public regarding support of policy changes.

**CONSENT AGENDA**

Mayor Tisdale noted that a slightly revised version of the minutes were on the dais for Council's consideration.

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

- a. Approval of Minutes – November 5, 2013
- b. Resolution 19, Series 2013; Appointing Kassie Jensen to the Planning and Zoning Commission

The motion carried unanimously.

**ITEMS REMOVED FROM CONSENT AGENDA**

None

**UNFINISHED BUSINESS**

**Public Hearing - Council Bill 16, Series 2013; Amending Article XVII, Chapter 16 of the Municipal Code Concerning Floodplain Management Regulations (public hearing, second and final reading)**

Director Zuccaro presented Council Bill 16, Series 2013 on second and final 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. He noted that no changes had been made since first reading on November 5<sup>th</sup> and that notice of the public hearing had been published in the Villager Newspaper in both the October 31<sup>st</sup> and November 7<sup>th</sup> issues as required when adopting codes by reference. He added that City Engineer Troy Carmann was present.

Mayor Tisdale opened the Public Hearing at 6:55 p.m. Hearing no comments the Public Hearing was closed at 6:56 p.m.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Council Bill 16, Series 2013 on second and final 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:

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

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

### **NEW BUSINESS**

#### **Recommendation from the Public Art Commission on the Placement of Chainsaw**

Director Proctor introduced Public Art Commission (PAC) Chair Ann Polumbus.

Chair Polumbus explained that Chainsaw is a bronze sculpture of a beaver lying on its back and had been gifted to the City by the Devon, Brad and Bryan Stevenson. She indicated that PTRC recommended the sculpture be installed at Dahlia Hollow Park and PAC concurred with this recommendation. She noted that children could interact with the sculpture and that it might generate questions related to natural science. She also reported that the Peter Roosevelt Art Show reception would be held Friday November 22<sup>nd</sup> from 6:30-8:30 p.m. and Saturday November 23<sup>rd</sup> from 1-4 p.m. in the Community Room at the Joint Public Safety Facility. She noted that Mr. Roosevelt was generously donating all proceeds from the art show to the PAC. She urged Council to attend the event.

Councilor Roswell asked about the PAC's policy related to public notice of public art selection and installation.

Chair Polumbus replied that PAC meetings are noticed and open to the public, as are their minutes. She noted that the PAC had had two residents visit their meetings, one of whom was from the equestrian community and helped the PAC to be more sensitive to equestrian concerns related to outdoor art. She noted that the Chainsaw sculpture had been discussed at a PAC meeting and a PTRC meeting, both of which were noticed and open to the public. She added that the PAC was fortunate to have art curator Collin Parson present the top 30 Colorado sculptors at their meeting yesterday, and give the PAC advice about the process of soliciting, acquiring, and maintaining sculptures.

Councilor VanderWerf noted that when the PAC was first formed City staff had compiled a map identifying possible locations on public property for public art around the City, many of which were not in a neighborhood, such as the entryway at Belleview and Holly or the Denver Water property at Quincy and Holly. She indicated that certain art pieces leant themselves to certain locations, such as the piece by Anthony Heinz May which required a dead or dying tree, and the piece by Reven Swanson which required wind. She stated that the PAC hoped to receive all manner of comments and to generate enthusiasm among residents for art in general. She added that most art in the City was temporary.

Chair Polumbus indicated that the PAC was still learning and operated on a very small scale. In comparison the City of Arvada has around 40 outdoor sculptures and the City of Denver has around 300. She noted that the PAC had received support from many residents who hosted and attended fundraisers, donated art pieces, donated proceeds from art sales, and made donations to the PAC.

Councilor K. Brown indicated that the City Council had to balance transparency and information, while being stewards of the City's interests and public lands. She noted that all Council, Board and Commission meetings were open to the public. She added that the City Council was faced with the right and responsibility of making decisions in the best interest of the community.

Councilor A. Brown noted that he often heard residents complain that they had not received any information about a certain issue and they were upset about the lack of

communication rather than the issue or event itself. He indicated that residents who lived in proximity to parks and trails provided a helpful eye to protecting those areas. He suggested that the public art process might benefit from notifying neighbors when tentative locations were chosen for placement of art prior to installation being presented for Council's consideration so that the neighbors are aware of the opportunity to comment at the upcoming Council meeting. He noted that this might help to avoid residents feeling that they did not receive any notice about an installation.

Councilor Roswell indicated he wanted comments from the PAC and staff on the issue. He indicated that he did not doubt the PAC was following the City's protocol, but he was questioning if the protocol was appropriate. He added that he was not advocating a change in policy tonight but rather wanted a discussion on the issue.

Mayor Tisdale indicated that the Council could take action on the installation of the Chainsaw sculpture tonight. He noted that the fact that the sculpture placement was addressed by PTRC as well was important. He suggested that the PAC consider working with staff to provide additional notice where it is reasonable to do so.

Councilor Griffin noted that the PAC was doing a wonderful job. He commented that the City was run by its citizens and encouraged residents to become involved in issues that concerned them. He indicated that the City had to be completely open and give residents the opportunity to be heard.

Director Proctor reported that staff had heard back from eight communities with public art commissions. Out of those eight municipalities, one reached out to their community regarding public art installation and it had been to the detriment of the program. Aurora has a more involved public process for art pieces that will be permanent, and Lone Tree's policy states they may hold public meetings depending on the proximity of art sites to residences. She expressed concern that if more public input was solicited and the art was installed after some residents objected to it then residents would feel they were not being listened to.

Mayor Tisdale indicated that it was important for the PAC to be open to the possibility of dialogue. He commented that it was clear from the PAC and PTRC minutes that the location had been well advertised, but another level of notification may be beneficial. He noted that the Resolution creating the PAC did not need to be amended, but asked the PAC to form a policy addressing this issue.

Councilor K. Brown moved, seconded by Councilor VanderWerf to approve the placement of Chainsaw in Dahlia Hollow Park as proposed by the Public Art Commission and the authorization of the expenditure of \$250 for installation.

The motion carried unanimously.

Council Bill 18, Series 2013; Authorizing a Supplemental Appropriation to Pay Additional Principal on the Special Improvement District Number Seven (first reading)

Director Proctor presented Council Bill 18, Series 2013 on first reading. She explained that the 2013 budget had a principal bond payment of \$67,000 but that \$75,000 was available, and the bill would allow the use of the additional funds to pay down the principal on the bonds.

Mayor Pro Tem Stewart moved, seconded by Councilor K. Brown to approve Council Bill 18, series 2013 on first reading; a bill for an ordinance of the City of Cherry Hills Village, authorizing a supplemental appropriation to pay additional principal on the Special Improvement District number seven bonds.

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 18-2013: 6 ayes. 0 nays. The motion carried.

Public Hearing – Proposed 2014 Budget

City Manager Patterson presented the 2014 proposed budget on first reading. He explained that the budget was based on priorities from the Council's mini-retreat in June and the Council study session on September 17<sup>th</sup>, and that Council liaisons had met with Department Directors to discuss department budgets. He noted that the budget included 48 full time positions, including two new positions, an accounting/finance clerk and a public works project manager. He explained that the 7% increase in General Fund revenue includes a 4% decrease in property tax, an 8% increase in use tax, and a 6% increase from the building department. Expenditures for 2014 were proposed to increase 7% in the General Fund and 2% in Fund 30. In order to balance the General and Park Funds, monies from the Specific Ownership Tax will be returned to these funds from the Capital Fund. Expenditures for employee training, tuition reimbursement and IT were increased from 2013, while the budget for recreation reimbursements remained the same. A 3% salary increase was included in the proposed budget. City Manager Patterson emphasized that salary increases were based on job performance and were not automatic. He noted that City staff had a pay freeze in 2012. He explained that healthcare costs would increase in 2014 but workers comp would decrease, mainly due to a change in insurance providers. Property casualty insurance costs would increase. The Capital Fund budgeted for equipment replacement for the Police Department and Public Works Department.

Director Proctor noted that notice of the public hearing had been published in the October 31<sup>st</sup> issue of the Villager Newspaper. She added that she would amend the budget to better account for the \$20,000 green building rebate program for second reading of the budget on December 10<sup>th</sup>. She noted that this adjustment would have a net effect of zero on the budget.

Mayor Tisdale noted that the PTRC budget priorities would be added for second reading as well.

Councilor K. Brown asked about the line item for land purchase contracts.

City Clerk Smith replied the contracts with John DeRungs and Conservation Partners had been approved at the last Council meeting.

Councilor A. Brown asked about the \$100,000 budgeted for Belleview Avenue in the Capital Fund.

Deputy City Manager/Director Goldie explained that staff planned for two projects on Belleview Avenue, working with Greenwood Village to improve the islands, and improvements to the intersection of Belleview and Franklin.

Mayor Pro Tem Stewart asked about the line item for burying power lines.

Director Proctor replied that there was a line item and account in the Capital Fund but no funds were budgeted for 2014.

Deputy City Manager/Director Goldie added that the City had used the 1% fund from Xcel Energy last year to underground lines as part of the construction of the Joint Public Safety Facility (JPSF). He noted that Xcel Energy holds the funds and they do not come to the City accounts.

Mayor Pro Tem Stewart asked how much the JPSF added to the City's operating expenses on an annual basis.

Director Proctor replied that the expenses for the JPSF were separated throughout the budget, and that expenses were close to budget for 2013 and staff was proposing a similar amount for 2014.

Councilor Roswell asked if the amounts itemized in the budget were the full costs for the JPSF or only the City's portion.

Director Proctor replied that the amounts in the budget were only for the City's portion of expenses.

Mayor Tisdale opened the Public Hearing at 7:34 p.m. Hearing no comments the Public Hearing was closed at 7:34 p.m.

Councilor VanderWerf acknowledged staff's work to maintain the City's finances during a difficult economic time. She suggested that Council consider the possibility of designating a small revenue stream to the Cat Anderson Fund until the end of the South Suburban payments in 2019.

Councilor A. Brown noted that the Cat Anderson Fund was a City-wide fund and could be used for open space acquisition in any part of the City, rather than being limited to Quincy Farm.

Councilor VanderWerf confirmed that was correct.

Councilor Roswell appreciated Councilor VanderWerf's suggestion, however the suggestion furthered the necessity for a broader discussion about open space acquisition and use and funding for the Cat Anderson Fund.

Councilor VanderWerf agreed and noted that should an opportunity for land acquisition arise the Capital Fund could be used. She indicated that she would be satisfied with discussion that included determining the appropriateness of a revenue stream for the Cat Anderson Fund.

Mayor Tisdale suggested that these issues would be better served during a special Council meeting or a mini-retreat early next year instead of during a regular meeting.

Councilor Roswell suggested that one of the regular Council meetings early next year with a short agenda could be cancelled and Council could have a special meeting to discuss these issues instead.

Mayor Pro Tem Stewart indicated that he would also like the Council to discuss possible ballot issues for the 2014 regular municipal election regarding open space and funding for undergrounding of utility lines.

Mayor Tisdale asked City Clerk Smith about the deadline for placing issues on the November 2014 ballot.

City Clerk Smith replied she was unsure of the exact deadline but that most of the election deadlines began six months prior to an election.

Mayor Tisdale asked for a motion on Council Bill 19, Series 2013 with the amendments as discussed regarding the Parks, Trails and Recreation budget and the green building standards rebate program.

Councilor Griffin moved, seconded by Councilor A. Brown to approve Council Bill 19 Series 2013 A Bill for an Ordinance Adopting a Budget and Levying Property Taxes for the City of Cherry Hills Village, Colorado for Fiscal Year 2014 on first reading with amendments as noted.

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 19-2013: 6 ayes. 0 nays. The motion carried.

Councilor Griffin moved, seconded by Councilor A. Brown to approve Council Bill 20, Series 2013; A Bill for an Ordinance of The City Council of the City of Cherry Hills Village, Colorado Authorizing Appropriations for Fiscal Year 2014 on first reading.

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 20-2013: 6 ayes. 0 nays. The motion carried.

## **REPORTS**

### **Mayor's Report**

Mayor Tisdale thanked Mayor Pro Tem for running the last Council meeting in his absence. He reported that he had received a letter from Arapahoe County Commissioner Nancy Jackson thanking the City for their financial contribution to the Arapahoe County Mayors and Commissioners Youth Award Program. He noted that the Belleview Working Group continued their work on planning improvements to Belleview Station and the I-25 Interchange.

Councilor Roswell asked about the group's scope and if it might be expanded to include the Cherry Hills Village portion of Belleview west of Monaco to expand the group's input on issues such as traffic control and medians along Belleview to Broadway.

Mayor Tisdale replied that the western edge of group's scope ended at Belleview and Monaco but that he had and would continue to bring the issue of cut-through traffic to the group's attention.

Deputy City Manager/Director Goldie noted that he had asked the group to extend their scope three years ago but was declined.

Mayor Tisdale explained that the principal focus of the group was the I-25 interchange.

Mayor Tisdale reported that he had attended the Global Aerotropolis Americas Conference at Dallas-Fort Worth airport with Denver Mayor Hancock. He noted that the City of Denver had paid part of the cost of the trip. He explained that the workshop had been an opportunity to discuss the future of Denver International Airport with airport representatives from around the world. He reported that he had various meetings with the Governor's Deputy Chief of Staff, the Executive Director of CDOT, and the District Attorney's Office. He reported that he had recently participated as a gunshot victim in the City of Englewood's emergency response exercise which had involved hundreds of first responders, including the City's police department, students, and others. He reported that a representative from Congresswoman Diana DeGette's office would attend the City's Holiday Tree Lighting Event. He reported that he had attended the National League of Cities Annual Conference in Seattle last week. He indicated that the dedication ceremony for the sign at the Shoppes at Cherry Hills Village would be tomorrow at 11am. He noted that this was a wonderful example of public-private partnership, and that the property owner was contributing to the cost of the sign. He congratulated City Clerk Smith on completing the Certified Municipal Clerk program.

### **Members of City Council**

Councilor A. Brown recognized the Public Works Department for their oversight and management of the Dahlia Street repaving project. He suggested that the City might collaborate with Greenwood Village to apply for planning funds from DRCOG for a Belleview Avenue study. He noted that Denver had received funds for a traffic study of Hampden. He added that participation in the DRCOG planning program may help the City to then apply for state and federal funding. He indicated his agreement with Mayor Pro Tem's comments regarding undergrounding power lines, and suggested that a residential committee to study the issue and provide additional input prior to placing an issue on the ballot would be beneficial.

Mayor Tisdale noted that a study group was not bound by TABOR campaign laws.

Councilor VanderWerf reported that the PAC had met yesterday and was educating themselves on leading Colorado sculptors. They had also toured the public art at the McNichols Civic Center Building downtown.

Councilor Roswell asked that staff report in cooperation with the PAC to Council regarding public input on art installation.

Councilor VanderWerf agreed they could do so in February as the PAC would not meet in December and their January meeting was at the end of the month.

Councilor Roswell reported that he and Councilor A. Brown were pleased to have Kassie Jensen join the Planning and Zoning Commission (P&Z) and believed she was very capable and brought a diversity to P&Z related to time in the Village, background, experience, and demographic. He noted that the other applicants were also highly qualified and the applicants agreed to permit staff to keep their applications for future vacancies.

Mayor Pro Tem Stewart asked what district Commissioner Jensen lived in.

Councilor Roswell replied that she lived in District 3. He explained that there were three commissioners from District 2, one from District 3, one from District 4, and one from District 6. There were no commissioners from District 1 or District 5. He added that two of the other candidates were also from District 3.

Mayor Pro Tem Stewart indicated that he would call an executive session to discuss possible land acquisition and an update on pending litigation. He reported that he attended a hearing with former Mayor Wozniak.

Councilor Griffin had no report.

Councilor K. Brown reported that she had been diligently following up on the air traffic noise issue. She explained that she had spoken with the Centennial Airport noise abatement staff and had learned that they had zero complaints from Cherry Hills Village over the past year and so were not aware of an issue in the City. She indicated that there was an online complaint form on the Airport's website, <http://www.centennialairport.com/Complaints>, and she encouraged any residents with concerns about air traffic noise to submit a complaint. She noted that the Airport was open to receiving feedback and that it would help them to understand the extent of the issue. She indicated that the City could not expect the Airport to deal with an issue of which they were unaware. She added that the Airport was willing to locate one of their portable noise monitoring devices in the City temporarily.

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

City Manager Patterson reported that the Joint Public Safety Facility had received an architectural award that would be reported in the Villager Newspaper tomorrow. He congratulated Deputy City Manager/Director Goldie, Mayor Pro Tem Stewart, Councilor Roswell, and former Mayor Wozniak on this honor. He reported that the Building Department had been busy and that the monthly reports showed permit fees and revenue up significantly from 2012. He noted that the Police Department reported crimes down 20%, citizen assists up 60%, showing a shift to community policing and outreach. Court revenues were up 20% over 2012. Director Proctor projected revenues to exceed expenditures by \$800,000 at the end of 2013. He thanked Director Proctor and staff for their hard work in keeping the City financially stable during tough economic times. He noted that property value assessments were expected to go up in 2015. He reported that he had attended the Arapahoe County Mayor's and Manager's meeting last week. He noted that the Peter Roosevelt Art Show reception would be this Friday and Saturday, and the art work would hang in the JPSF Community Room through December 12<sup>th</sup>. He indicated that the University and Belleview intersection would be shut down tonight at 9pm to allow Denver Water to patch a leak. He reported that he, Director Zuccaro, City Attorney Michow, and the Mayor would have a meeting regarding the BMW Golf Tournament.

Councilor Roswell asked about the three criminal incidents on Martin Lane.

Chief Tovrea replied that the Police Department believed these were isolated events and the Department was educating the residents on crime prevention.

Councilor K. Brown asked if the incidents on Martin Lane all occurred on the same night.

Chief Tovrea replied she was unsure but that they did all occur over a short time period.

City Manager Patterson noted that coyote complaints were down this year.

Human Resources Analyst Barlow reported that three new staff members were joining the City – two heavy equipment operators in the Public Works Department and a new Community Development Clerk in the Community Development Department. She noted that the City would hold its Thanksgiving pot luck for staff tomorrow.

**City Attorney**

No report.

**ADJOURNMENT**

Mayor Pro Tem Stewart moved, seconded by Councilor K. Brown 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 and further to move 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 immediately upon completion of the second Executive Session for the Council to stand adjourned.

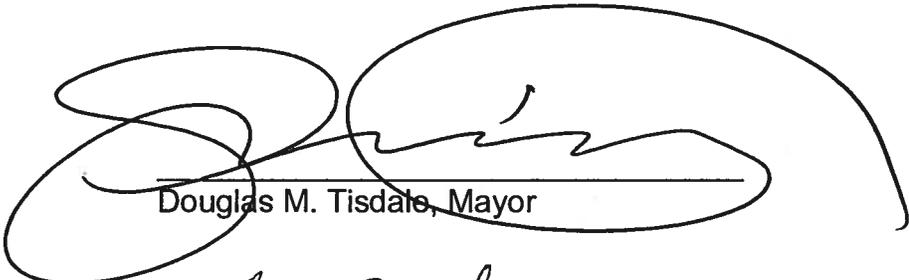
The following votes were recorded:

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

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

The regular meeting adjourned at 8:20 p.m.

The executive session adjourned at 8:53 p.m.

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Douglas M. Tisdale, Mayor



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Laura Smith, City Clerk