

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, December 10, 2013 at 6:00 p.m.  
At the Village Center

Mayor Doug Tisdale called the meeting to order at 6:00 p.m.

**ROLL CALL**

Mayor Doug Tisdale, Councilors Mark Griffin, Russell Stewart, Alex Brown, Scott Roswell, 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: Councilor Klasina VanderWerf

**EXECUTIVE SESSION**

Councilor Griffin, seconded by Mayor Pro Tem Stewart moved 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).

The following votes were recorded:

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

Vote on the Executive Session: 5 ayes. 0 nays. The motion carried.

The Executive Session ended at 6:30 p.m.

**PLEDGE OF ALLEGIANCE**

Charlotte N., kindergartener from Cherry Hills Village Elementary School, led the Council in the pledge of allegiance.

**MEMBERS OF CITY BOARDS AND COMMISSIONS**

There were no reports.

**AUDIENCE PARTICIPATION PERIOD**

None

**UPDATE ON PUBLIC WORKS FACILITY REVIEW**

Deputy City Manager/Director Goldie reported that since the public meeting held at St. Mary's Academy in October, the Public Works Facility Review team continued to evaluate how best to proceed. They were considering a possible change in scope for



Russell Stewart	yes
Scott Roswell	yes
Alex Brown	yes
Katy Brown	yes

Vote on the Council Bill 17-2013: 5 ayes. 0 nays. The motion carried.

Council Bill 18, Series 2013; Supplemental Appropriation for Special Improvement District Number 7 (second and final reading)

Director Proctor presented Council Bill 18, Series 2013 on second and final reading. She explained that the bill would increase the principal expenditure for special improvement district number 7 bonds from \$67,000 to \$75,000 based on the availability of additional funds. She noted that there had been no changes since first reading.

Councilor A. Brown moved, seconded by Councilor K. Brown to approve Council Bill 18, Series 2013 on second and final 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:

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

Vote on the Council Bill 18-2013: 5 ayes. 0 nays. The motion carried.

Proposed 2014 Budget

City Manager Patterson presented the 2014 proposed budget on second and final reading. He explained that the 2014 General Fund was balanced with revenues equal to expenditures at \$6.3 million and an ending fund balance of approximately \$3.8 million, after just over \$1 million is transferred to the Capital Fund. The 2014 Capital Fund expenditures are budgeted to exceed revenues by \$686,000, but the fund is expected to have an ending fund balance in 2014 of \$6.1 million. He noted that several small changes had been made since first reading. First, the final assessment values were received from Arapahoe County and this resulted in a slight decrease in revenue in the General Fund, Capital Fund, and Parks Fund. Second, the \$20,000 green building standards rebate program had been re-distributed with a net effect of zero to the proposed budget. Third, an increase of \$60,000 in expenditures had been added to the Arapahoe County Open Space Fund based on the Parks, Trails and Recreation Commission priorities. Finally, the amount budgeted for principal payments for special improvement district number 7 bond had been increased.

Councilor A. Brown proposed that the budget be amended so that any revenue from the 2014 BMW Golf Tournament beyond the \$150,000 currently accounted for in the General Fund be added to the Cat Anderson Fund. He indicated that this would not change any expenditures in the budget. He suggested that a revenue entry be added in the Cat Anderson Fund with a footnote explaining that any funds over \$150,000 received from the BMW Tournament would be deposited into the Cat Anderson Fund.

Mayor Tisdale suggested that the Council wait until the January 7<sup>th</sup> meeting when they planned to discuss open space policy and funding to make a determination on Councilor

A. Brown's proposal. He noted that Council may also discuss the excise tax with Tournament officials in the near future.

Councilor A. Brown indicated that the budget was before Council tonight and amending the budget now would avoid the necessity for another ordinance to amend it in the future.

Councilors K. Brown and Griffin indicated they were comfortable with proceeding with Councilor A. Brown's proposal at this meeting.

Councilor A. Brown explained that a revenue entry could be added to page 16 of the budget.

Mayor Tisdale suggested that just \$100 be added to the new line item in the Cat Anderson Fund as a placeholder.

Director Proctor asked if it would be appropriate to label the revenue "excise tax".

Mayor Tisdale deferred to City Attorney Michow.

City Attorney Michow replied that the Code referred to the tax as an "admission/excise tax".

Councilor Roswell indicated that he did not agree with amending the budget tonight, and agreed with Mayor Tisdale that the broader discussion on January 7<sup>th</sup> should occur first. He clarified that he supported the budget as presented.

Councilor A. Brown moved, seconded by Councilor K. Brown to amend the proposed 2014 budget by adding a revenue item to the Cat Anderson Fund in the amount of \$100 from excise tax revenues received in excess of the amount budgeted for the General Fund.

The motion carried 4 to 1.

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 the Fiscal Year 2014 (second and final reading)

Councilor K. Brown moved, seconded by Councilor Griffin to approve Council Bill 19, Series 2013 as amended; 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 second and final reading.

The following votes were recorded:

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

Vote on the Council Bill 19-2013: 5 ayes. 0 nays. The motion carried.

Council Bill 20, Series 2013; A Bill for an Ordinance of the City of Cherry Hills Village, Colorado Authorizing Appropriations for Fiscal Year 2014 (second and final reading)

Councilor K. Brown moved, seconded by Councilor Griffin 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 second and final reading.

The following votes were recorded:

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

Vote on the Council Bill 20-2013: 5 ayes. 0 nays. The motion carried.

### **NEW BUSINESS**

#### **Council Bill 21, Series 2013; Amending Chapter 18 of the Municipal Code, Concerning the Adoption by Reference of the National Green Building Standard and Creation of a Building Permit Rebate Program for Compliance with the Standard (first reading)**

Director Zuccaro presented Council Bill 21, Series 2013 on first reading. He explained that adoption of green building standards was the final recommendation from the Residential Development Standards Committee (RDSC) to be addressed by Council. The RDSC recommended adopting the LEED standards or equivalent standards for new construction in order to improve the quality of construction, improve the livability of homes, and reduce the impact on the environment. Director Zuccaro noted that the City had already adopted the 2012 Energy Conservation Code, which evaluated the energy use of a building, but that green building standards would evaluate the entire site. He explained that most green building standards operated with a point system, various certification levels, a verification process, and a requirement for additional points for larger homes. He indicated that Council had been discussing green building standards since May 2012. These discussions had involved the LEED standards versus the National Green Building Standards (NGBS), administration options, and mandatory versus incentive programs. Based on Council's direction, staff was presenting an incentive program adopting the NGBS that would provide a percentage rebate of the building permit fee based on the level of certification achieved. The rebates would be 10% for the Bronze level, 15% for Silver, 20% for Gold, and 25% for Emerald. Due to the concerns raised by Council over the possible impact of extension fee rebates on the construction timeframes for new homes, staff did not include extension fee rebates in the proposal. Homeowners would receive the rebate after submitting the NGBS certificate to the City and the City's issuance for a certificate of occupancy for the new home. The rebate would partially cover the cost of certification, and certification would allow homeowners to save money over the long-term through higher home efficiency and also add value to a home. He noted that Council could re-evaluate the program in a year or two.

Councilor Griffin asked if staff had received feedback on the new proposal from the City's homebuilders and architects.

Director Zuccaro replied that he had invited the group to attend tonight's meeting to share their views, but had only received comments back from one homebuilder who had requested additional information about the program and had expressed skepticism that anyone would take advantage of it.

Councilor Griffin indicated that the City would have to encourage residents to take advantage of the program.

Director Zuccaro replied that if Council approved the program staff would make every effort to advance the program.

Mayor Pro Tem Stewart indicated his support of the program and his hope that residents would be driven to have their homes certified by personal considerations rather than the rebate.

Councilor A. Brown indicated his support and asked if homebuilders would have to state their intention to build to a certain level prior to beginning their new home.

Director Zuccaro replied that there was no need for homeowners to notify the City of an intention to build to the green standards, and that the City only required that the homeowner present their NGBS certificate after the new home was completed.

Councilor K. Brown asked if properties currently under construction would be eligible for the rebate program.

Director Zuccaro replied that he was not aware of any new homes being built to the NGBS, but that new homes currently under construction could apply for the rebate if the homeowners present their NGBS certificate after the ordinance becomes effective.

City Attorney Michow confirmed that so long as the NGBS certificate was presented in conjunction with the certificate of occupancy, the City would be able to issue a rebate.

Councilor K. Brown noted that the rebates in the council bill referred to Table 1-A – Building Permit Fees and asked if extension fees were included in this table.

Director Zuccaro replied that Table 1-A did not include extension fees.

Councilor Roswell noted that this was the final RDSC recommendation to be addressed by Council, and applauded Director Zuccaro for his follow through.

Mayor Pro Tem Stewart agreed.

Director Zuccaro replied that he would advise the RDSC.

Councilor Griffin moved, seconded by Mayor Pro Tem Stewart to approve Council Bill 21, Series 2013 on first reading, amending Chapter 18 of the Municipal Code for the purpose of adopting by reference the 2012 National Green Building Standard and offering a building permit rebate for compliance with the Standard for the construction of new homes.

The following votes were recorded:

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

Vote on the Council Bill 21-2013: 5 ayes. 0 nays. The motion carried.

## **REPORTS**

### **Mayor's Report**

Mayor Tisdale reported that he had met with David Sered, regional representative of Comcast, and indicated that Comcast Newsmaker interviews would be set up for all Council members unless they chose to opt out. He noted that Councilor K. Brown would be interviewed in January. He indicated that, following up on Councilor Roswell's suggestion, the January 7, 2014 meeting would begin with a 6 p.m. Study Session on the City's Open Space policy and would contain a Public Hearing and open forum on Open Space policy during the regular meeting. He noted that at the request of Mayor Pro Tem Stewart information was being compiled on undergrounding of utilities for a possible City survey, November ballot question, or both. He reported that he had attended the Devonshire Heights HOA meeting last night at the Joint Public Safety Facility and noted that Chief Tovrea did well dealing with the energized discussion. He indicated that Judge Turre and the City's prosecuting attorney would each be evaluated this year as the beginning of a broad and regular systematic approach. He noted that he and Mayor Pro Tem Stewart would attend these evaluations and invited other Councilors to attend as well, in which case the evaluations would be noticed. Notice would be posted for the City Manager's annual review which would involve the entire Council. He reported that the City limit sign had been installed at the Shoppes at Cherry Hills on November 25<sup>th</sup>. The staff Thanksgiving pot luck was held November 20<sup>th</sup> and the staff holiday party would be tomorrow. The Public Art Commission Peter Roosevelt art show reception on November 22<sup>nd</sup> had been successful and well-attended and would hang until December 12<sup>th</sup>. He reported that he spoken at the St. Gabriel Ecumenical Thanksgiving service and Westminster Mayor McNally's send off. He had chaired the CML Policy Committee meeting on December 6<sup>th</sup>, when the committee agreed to remain neutral on a bill that would require that manufacturers only sell water conserving toilets. He attended the annual reception for the Consul General of Japan along with other metro mayors to celebrate National Japan Day. He had attended the Cancer League Holiday Party at the Klein's residence and thanked the Police Department for their assistance with traffic management.

### **Members of City Council**

Councilor K. Brown suggested that Council generally address parking requirements for expanded use permits before another specific case came before Council.

Councilor Griffin reported that citizens were weary of the construction at the University and Belleview intersection and encouraged staff to keep lines of communication open with CDOT.

Mayor Tisdale noted that Governor Hickenlooper had become involved in the project timeline.

Mayor Pro Tem Stewart agreed with Councilor K. Brown that the Council should address parking requirements for expanded use permits.

Councilor Roswell had no report.

Councilor A. Brown reported that he and Mayor Pro Tem Stewart had worked on a draft resolution creating a citizen's committee to examine the issue of undergrounding utility lines.

Mayor Tisdale asked when the deadline for placing issues on the November 2014 ballot would be.

City Clerk Smith replied that the deadline was September 2014.

Councilor Roswell suggested that undergrounding of utility lines could be included in the Council's open space policy discussion.

Mayor Tisdale agreed that both topics could be discussed at the January 7, 2014 meeting.

### **City Manager & Staff**

City Manager Patterson noted that an update on the 2013-2014 City Council Priorities was on the dais for Council's information. He indicated that Department Monthly Reports were included in Council packets. He reported that the Peter Roosevelt art show would be in the Community Room of the Joint Public Safety Facility until December 12<sup>th</sup>. He commented that Mayor Pro Tem Stewart and Councilor A. Brown continued to work with staff on exploring sites outside the Village for the Public Works facility. He noted that he and Director Zuccaro would be meeting with officials regarding the BMW Golf Tournament. He indicated that the Quincy Farm Visioning Committee had met last week. He reported that the City's annual Holiday Tree Lighting Event would be held this Friday, December 13<sup>th</sup> from 6-8 p.m. at the Village Center. He commented that Building Department revenue was up 14% from 2012 and thanked Director Zuccaro and his staff. He added that crime was down 22% from 2012 and congratulated the Police Department. He indicated that revenues would exceed expenditures by approximately \$1 million at the end of 2013 and recognized Director Proctor for her hard work.

Mayor Tisdale noted that this was a significant amount compared to the City's total budget.

City Manager Patterson noted that the City had received more use tax from vehicle sales than expected, which had been a big help. He added that staff expected to face financial challenges until 2015 when property assessments were expected to increase. He indicated that CDOT expected to complete their work at the University/Belleview intersection in early January, weather permitting. He reported that the Cherry Hills Sanitation District had notified the City that their rates would increase by 20% in 2014.

Director Zuccaro reported that the City was waiting for the BMW Golf Tournament officials to respond to staff's comments on their Major Event Permit Application. He explained that the application had been submitted in June and staff had reviewed it along with a professional traffic engineer and had returned it with comments in July. He noted that in January the Police Department and South Metro Fire Rescue would begin monthly meetings with Tournament staff regarding emergency operations and contingency plans. He indicated that a City building official would attend these meetings. He explained that once staff had a completed application it would go to the Planning and Zoning Commission for review and then to City Council for final consideration. He added that staff was encouraging the Tournament officials to attend the January 21, 2014 Council meeting to discuss the issue of excise tax with the Council.

### **City Attorney**

City Attorney Michow reported that the Colorado Bar Association Ethics Committee had recently issued a legal ethics opinion that an attorney counseling or assisting clients in

legal matters related to marijuana businesses is in violation of Rule 1.2 D of the Colorado Rules of Professional Conduct (the Rules) because marijuana is still illegal at the federal level. She noted that governmental attorneys advising City Councils are not in violation of the Rules, and that the Ethics Committee was recommending that the Supreme Court amend the Rules to address this conflict so that everyone could receive legal advice.

**ADJOURNMENT**

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin that Council 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 immediately upon conclusion of the Executive Session for the Council to stand adjourned.

The following votes were recorded:

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

Vote on Executive Session: 5 ayes. 0 nays. The motion carried.

The regular meeting adjourned at 7:55 p.m.

The executive session adjourned at 8:15 p.m.



*[Handwritten signature in red ink]*

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Douglas M. Tisdale, Mayor

*[Handwritten signature in black ink]*  
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Laura Smith, City Clerk