

Minutes of the  
City Council of the City of Cherry Hills Village, Colorado  
Held on Tuesday, July 15, 2014 at 6:30 p.m.  
At the Village Center

Mayor Doug Tisdale called the meeting to order at 6:30 p.m.

**ROLL CALL**

Mayor Doug Tisdale, Councilors Mark Griffin, Russell Stewart, Alex Brown, and Klasina VanderWerf 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, Police Chief Michelle Tovrea, Parks, Trails & Recreation Administrator Ryan Berninzoni, and City Clerk Laura Smith.

Councilor Scott Roswell arrived at 6:35 p.m.

Absent: Councilor Katy Brown

**PLEDGE OF ALLEGIANCE**

Ryan, Conner, and Jack Dunne led the Council in the pledge of allegiance.

**MEMBERS OF CITY BOARDS AND COMMISSIONS**

There were no reports.

**AUDIENCE PARTICIPATION PERIOD**

None

**CONSENT AGENDA**

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

- a. Approval of Minutes – July 1, 2014
- b. Resolution 10, Series 2014; Approving an Intergovernmental Agreement with Arapahoe County for the November 4, 2014 Election
- c. Resolution 11, Series 2014; Reappointing Gay Warren to the Public Art Commission
- d. Resolution 12, Series 2014; Adopting the 2015 Budget Calendar

The motion carried unanimously.

**ITEMS REMOVED FROM CONSENT AGENDA**

None

**UNFINISHED BUSINESS**

None

## **NEW BUSINESS**

### **Request to Amend the Major Event Development Agreement with the Western Golf Association and Cherry Hills Country Club to Provide for Reimbursement of the Major Event Permit Review Fees Pursuant to Municipal Code Section 16-21-70(b) for the 2014 BMW Championship**

Finance Director Proctor presented two requests from the Western Golf Association (WGA) for Council's consideration. The first was to amend the major event development agreement for the 2014 BMW Championship to provide for reimbursement of the major event permit review fees pursuant to Municipal Code Section 16-21-70(b). The Code states that "The development agreement may provide, in the sole and absolute discretion of the City Council, that all or a portion of the review fees may be reimbursed to the applicant when the major event generates tax revenues...sufficient to fund such reimbursement." She explained that as part of the major event permit application process the WGA has deposited \$20,000 into an escrow account to pay for these review expenses and the City has currently used \$16,322 from the escrow funds to pay for such expenses. She added that the final costs to the City are expected to total between \$20,000 and \$25,000. She stated that the City has currently received \$209,000 in excise tax and expects to collect approximately \$350,000 from the event. She indicated that the WGA's second request was to waive a portion of the reimbursement fees for City services related to the 2014 BMW Championship. She explained that these fees included police support services and other requirements to mitigate the impact of the event on the City. She stated that these fees were estimated to total between \$190,000 and \$195,000. She noted that neither of the requests were taken into consideration in the 2014 budget. If approved by Council these expenses would result in either a reduction in surplus or a reduction in fund balance and likely would require a supplemental appropriation.

Councilor A. Brown noted that Council had decided to split the excise tax revenue received from the golf tournament between the General Fund and the Cat Anderson Fund. He indicated that because of this, if Council approved the second request then it would have to be determined what portion would come from which fund.

Councilor Griffin asked City Attorney Michow to confirm that the first request involving the major event permit fees was in the purview of Council.

City Attorney Michow confirmed that it was.

Councilor Griffin asked about the second request.

City Attorney Michow replied that the second request was within Council's discretion and would be accomplished with a second amendment to the major event development agreement if Council approved the request.

George Solich, General Chairman of the 2014 BMW Championship, presented updates on the tournament to Council. He noted that all proceeds benefited the Evans Scholars Foundation. He stated that the championship objectives were to maximize the exposure for Cherry Hills Village while minimizing the impact to residents, provide a great venue for championship golf, collaborate to the extent possible for sound operation planning, provide a safe and secure environment for all guests, and work with the City to fulfill all the obligations of the development agreement. He estimated that the City would collect a total of \$474,750 from the golf tournament including admission tax, sales tax from merchandise, and food and beverage sales tax. He explained that the WGA's request was for mitigation of City fees associated with the event rather than a complete reimbursement. He indicated that the majority of the City's revenue from this event

would come from the admission sales on tickets, and ticket buyers were not receiving a benefit for the tax. He estimated that the WGA would pay nearly \$211,000 in City fees including permit review fees, police services, and parking control. He requested \$100,000 be waived or reimbursed. He noted that the WGA had not previously encountered tax on admissions in other cities where it had held events and fees in other cities were far less than in Cherry Hills Village. He indicated that the City would have a positive budget outcome event even with the requested mitigation. He commented that this was a world-class event that would bring additional positive economic benefit to the City, the Metro area, and all of Colorado. He stated that the WGA was a charity with the sole purpose of raising money for the scholarship through golf tournaments. He noted that they had made a conscious effort to limit ticket sales in order to reduce the impact on the City.

Councilor Roswell asked about the fees in other cities for previous tournaments.

Mr. Solich replied fees had been over fifty percent less in other cities for past tournaments.

Councilor A. Brown asked about the WGA's estimate of a \$3 million positive economic impact.

Mr. Solich replied that the impact was a combination of airport use, hotels, restaurants and shopping for the attendees of the tournament. He added that the trips made to Colorado by the tournament planners over the past four years contributed additional economic input.

Councilor A. Brown noted that the economic impact would occur mainly in cities other than Cherry Hills Village. He noted that although the WGA may not have experience with an excise tax the Cherry Hills Country Club did and therefore it should not have been a surprise.

Mr. Solich noted that this was the first tournament held at Cherry Hills Country Club that existed for the sole purpose of a scholarship foundation. He noted that the State of Colorado Economic Development Board and Visit Denver had both contributed promotional money to help promote the tournament.

Mayor Tisdale noted that the WGA's entire request was for \$100,000, and that the major event permit fees would be approximately \$20,000. He asked if that meant that the WGA's second request was for an additional \$80,000 to be reimbursed, for a total of \$100,000.

Mr. Solich confirmed that was correct.

Councilor Griffin asked staff about the Community Development Department monthly report which showed no fees collected for the Cherry Hills Country Club's permit related to the event.

Director Proctor replied that those fees were being paid out of the event escrow account and were being accounted for separately.

Mayor Pro Tem Stewart indicated he was in favor of the first request to reimburse the major event plan review fees and noted that the action is expressly authorized by the Code.

RECORD OF PROCEEDINGS  
CITY OF CHERRY HILLS, COLORADO  
July 15, 2014

Mayor Pro Tem Stewart moved, seconded by Councilor Roswell to approve the request by the WGA to amend the major event development agreement to provide for reimbursement of the major event permit review expenses not to exceed \$25,000.

Councilor Griffin indicated that he believed the Evans Scholarship was a worthy cause, it was in the purview of Council to grant this request, and he was in favor of reimbursement of the permit review expenses.

Councilor A. Brown noted his support of this first request and added that it was proper and fair.

Councilor Roswell indicated he was in favor because the event benefitted the community and he wanted to encourage future events rather than endorsing a specific charity.

Councilor VanderWerf noted she was pleased the tournament was in the City and wanted it to be successful.

Mayor Tisdale noted that the ordinance specifically contemplated and allowed for Council's approval of this request.

City Attorney Michow noted that if Council approved the motion the proposed first amendment to the major event development agreement qualified that the reimbursement was subject to the WGA's compliance with all applicable post-event clean up, remediation requirements, and payment of all applicable taxes.

Mayor Pro Tem Stewart and Councilor Roswell agreed to amend the motion pursuant to language in the proposed first amendment to the major event development agreement.

The motion passed unanimously.

Mr. Solich asked Council to consider this request as an opportunity for the future because although the WGA would like to return to Cherry Hills Country Club the City's excise tax would be a factor.

Request for Waiver of Fees for City Services and Reimbursement of Other Expenses Related to the 2014 BMW Championship

Mayor Tisdale clarified that since Council had approved the WGA's first request for reimbursement of permit fees up to \$25,000 the WGA's second request was for \$75,000, for a total of \$100,000.

Councilor Griffin noted that while he supported the Evans Scholarship personally, and appreciated Cherry Hills Country Club bringing this major tournament to the City and to Colorado. He stated that the City did not have many businesses and would not receive much of the economic benefit from the event. He indicated that he struggled with recanting the City's excise tax ordinance at this hour in the process.

Mayor Pro Tem Stewart thanked the event representatives for attending the meeting and for their presentation. He indicated his support for the Evans Scholarship and for the tournament, but agreed with Councilor Griffin that Council was required to follow the Code, and that unlike the plan review fees, the ordinance does not allow Council to reimburse the excise tax. He noted that Council had struggled before with the question of charitable donations and had adopted a no donation policy. He suggested that it might be appropriate for Council to re-examine the amount of the 10% excise tax at a later date.

Mr. Solich stated that the WGA was not requesting that Council change the Code, but rather to allow some of the tax revenue collected from the event to mitigate the cost of the event on behalf of the tax payers, who were receiving no benefit from the tax.

Mayor Pro Tem Stewart indicated that there was a significant cost to the community from hosting the event, and that while it was difficult to calculate the monetary cost to the City of the event, it is a big undertaking and is consuming a great deal of staff attention and time. He noted that Denver and Greenwood Village would receive most of the economic benefit from attendees staying in hotels and eating in restaurants.

Councilor Griffin asked where the \$75,000 would go should Council approve the request.

Mr. Solich replied that it would go to the bottom line of the tournament.

Councilor Griffin argued that it could be considered a charitable contribution.

Mr. Solich argued that it would be services given to people paying the excise tax.

Councilor VanderWerf noted that the City was a not-for-profit as well, that the citizens would benefit from the excise tax and Council was answerable to the citizens. She added that the excise tax would go towards open space in the City. She indicated that many City residents would be inconvenienced by the event and City infrastructure would be taxed. She stated that while \$80,000 may not be much to the larger cities where the WGA had held previous tournaments, the income was important to the City.

Mr. Solich replied that tournaments had been held in cities similar to Cherry Hills Village. He noted that a minority of residents would be inconvenienced. He indicated that the excise tax would be a major decision point for the WGA in the future.

Councilor Roswell indicated that he was uncomfortable with an excise tax that went beyond covering the City's costs. He indicated that targeting dollars in excess of covering costs, whether to open space or other directives outside of the subject event was inappropriate. He supported returning excess excise tax revenue to the tournament, Cherry Hills Country Club, and supporting future economic development by approving the WGA's request. He indicated that Council should take a hard look at the City's excise tax, as it was perhaps being applied beyond its original purpose.

Councilor A. Brown stated that he agreed with Councilor Griffin and Mayor Pro Tem Stewart. He noted that proving the benefit of a tax was not the nature of government tax systems. He added that the timing of the request was problematic since the City's excise tax had been in existence for a long time. He noted that residents were concerned about the impact of the tournament but were satisfied that the tax revenue would balance the impact.

Mayor Tisdale noted that Council appreciated the presentation and having the tournament in the City.

Councilor A. Brown moved, seconded by Councilor VanderWerf to deny the request by the WGA for waiver of reimbursement requirements and expenses associated with the major event.

The motion passed 4 to 1.

Preliminary Petition for the Vacation of a Portion of East Mansfield Avenue

Deputy City Manager/Director Goldie presented a preliminary petition from Mr. David Mosteller, owner of both 3700 and 3703 East Mansfield Avenue, for the vacation of the portion of E. Mansfield Ave. right-of-way that runs between his properties. He noted that this portion of E. Mansfield Ave. is currently undeveloped and dead ends into the High Line Canal, but that it is used as a trail connection by residents. He noted that a vacation would result in loss of this informal trail and that similar vacations in the past had been regretted by staff because of the lost trail connectivity.

Mayor Tisdale asked about Council's options.

Deputy City Manager/Director Goldie replied that Council could reject the preliminary petition because it lacks sufficient merit to justify further consideration or could approve the petitioner's preparation of a formal petition which would then be reviewed by the Planning or Zoning Commission (P&Z), the Parks, Trails and Recreation Commission (PTRC), or both at Council's discretion. The P&Z and/or PTRC would then make a recommendation to Council for approval or denial. He noted that the Code required that vacations be in the public interest and not inhibit continued access by property owners, the second of which did not apply in this case.

Councilor Roswell asked about the petition from 2008.

Deputy City Manager/Director Goldie explained that Council had approved the preliminary petition to submit a formal petition, but that a formal petition had never been submitted.

Councilor Roswell asked if the surrounding property owners were aware of the current petition.

Deputy City Manager/Director Goldie replied that they may not be aware of the current petition.

Mayor Pro Tem Stewart indicated that there was no proposed alternative trail and that in the past the City had regretted vacations because of the lost trail connectivity.

Deputy City Manager/Director Goldie noted that staff had met with Mr. Mosteller and had suggested he submit an amended preliminary petition with an alternative trail but that none had been submitted.

Councilor VanderWerf recommended denial.

City Attorney Michow advised that Council pass a motion stating that Council's decision to deny the preliminary petition was based on the fact that it lacked sufficient merit and was not in the public interest.

David Wyman, 8 Tamarac Lane, explained that his property was bisected by the High Line Canal and that he utilized this portion of E. Mansfield Ave. to enter the portion of his property north of the High Line Canal. He noted that if the requested vacation was approved it would complicate his access to this portion of his property. He asked that Council deny the request.

Mayor Pro Tem Stewart moved, seconded by Councilor Griffin that based upon the preliminary petition it was not in the public interest to proceed and did not have sufficient merit for Council to approve a formal petition to be considered by either the Planning and Zoning Commission or the Parks, Trails and Recreation Commission.

The motion passed unanimously.

## **REPORTS**

### **Members of City Council**

Councilor A. Brown reported that he and Deputy City Manager/Director Goldie had met with the Glenmoor HOA to answer questions about the proposed traffic light at E. Belleview Avenue. He indicated that the first step involving a warrant study was underway by Greenwood Village. He noted that he and Deputy City Manager/Director Goldie would return to Glenmoor HOA throughout the process to keep the residents informed.

Councilor VanderWerf reported that the Public Art Commission (PAC) had taken a field trip to the Arvada Art Center where they were given a tour by Gallery Exhibition Manager Collin Parson who was very generous with his time and knowledge. She added that the PAC would be making a decision about the sculpture to be placed in front of the Joint Public Safety Facility at their next meeting. She reported that the High Line Working Group was moving towards having a non-profit take over stewardship of the High Line Canal. She noted that this model was used elsewhere in the country and would create an opportunity to raise funds and enter into public-private partnerships. She reported that a reception would be held for long-time resident Paul Colburn at the Joint Public Safety Community Room on Saturday, August 2<sup>nd</sup> from 2-4pm where his photography was currently on display.

Councilor Roswell had no report.

Mayor Pro Tem Stewart had no report.

Councilor Griffin reported that Officer Gillett had been very helpful this weekend in dealing with a large tree that fell on the High Line Canal and ensuring that users were able to navigate around the tree safely until it was removed by Public Works staff.

### **Mayor's Report**

Mayor Tisdale reported that South Metro Fire Rescue had made an offer for the Chief position. He congratulated Deputy City Manager/Director Goldie on his awards from ICMA and CIRSA. He indicated he would attend the Urban Land Institute at Denver Union Station followed by a DRCOG meeting; he would attend the Arapahoe County Commissioners/Mayors/Managers breakfast with City Manager Patterson on Friday; he would attend the DRCOG lunch with CDOT officials on July 28<sup>th</sup>; and he would attend the Sister Cities International Conference in San Jose from July 31<sup>st</sup> – August 3<sup>rd</sup> as a representative of DRCOG and for which DRCOG would pay.

### **City Manager & Staff**

City Manager Patterson noted that department monthly reports and financial statements were included in Council packets. He reported that the City was researching emergency alert systems after residents expressed concern about tornado warnings. He noted that the June hail storms had resulted in damage to several Police Department vehicles and the roof of the Joint Public Safety Facility. He indicated that CDOT was finishing its boring of S. University Boulevard for fiber optics setup. He reported that Councilor VanderWerf had joined staff at the Arapahoe County Shareback Breakfast on June 27<sup>th</sup> and that the City had received two grants. He noted that the PTRC had appointed Bill Lucas as chair and Robert Eber as vice-chair. He indicated that the City was ahead of

projected revenues for the year. He noted that Terri Littleford had begun as the City's new Municipal Court Clerk and Jessica Sager was now the City's Accounting Clerk. He reported that Code Enforcement Officer Chuck Friend would retire August 1<sup>st</sup>. He noted that new Police Officer Lenny Abeyta would be sworn in tomorrow afternoon. He congratulated Deputy City Manager/Director Goldie for receipt of the city manager credentials from ICMA.

**City Attorney**

City Attorney Michow had no report.

**ADJOURNMENT**

The meeting adjourned at 8:11 p.m.



A large, stylized handwritten signature in red ink, which appears to be "Douglas M. Tisdale", is written over a horizontal line.

Douglas M. Tisdale, Mayor

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

Laura Smith, City Clerk