

Minutes of the
City Council of the City of Cherry Hills Village, Colorado
Held on Tuesday, August 19, 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, 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, Community Development Director Rob Zuccaro, Police Chief Michelle Tovrea, Human Resource Analyst Kathryn Barlow, Parks, Trails & Recreation Administrator Ryan Berninzoni, Special Projects Coordinator Emily Kropf and City Clerk Laura Smith.

Absent: none

PLEDGE OF ALLEGIANCE

Sara Binder (President), Elisa Williamson, Keriann DeLine, and Cece Palmquist, 12th grade elected leaders of STUCO at St. Mary's Academy High School 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 – August 5, 2014
- b. Amendment to the IGA with the City of Englewood for Fleet Maintenance and Repair

The motion carried unanimously.

ITEMS REMOVED FROM CONSENT AGENDA

None

UNFINISHED BUSINESS

None

NEW BUSINESS

Council Bill 4, Series 2014; Amendment to Municipal Code Section 17-4-30 Concerning Engineering and Construction Criteria (first reading)

Special Projects Coordinator Kropf presented Council Bill 4, Series 2014 on first reading. She explained that the proposed council bill would amend Section 17-4-30 of the Code to update the engineering and construction criteria in conjunction with the subdivision of land to meet current standards. She indicated that the current Code referenced out-of-date Arapahoe County standards from 1972, and that the proposed council bill would update the reference to 2007 Arapahoe County standards, as well as adding references to additional standards related to stormwater management from Arapahoe County, storm drainage from Urban Drainage and Flood Control District, and roadway design and road and bridge construction from the Colorado Department of Transportation. She noted that the City Engineer, City Attorney, and Public Works Department recommended approval of the proposed council bill. She added that the recommended motion in the staff memo should be amended with the correct date, August 19th, instead of August 21st.

Councilor Roswell moved, seconded by Councilor VanderWerf to approve Council Bill 4, Series 2014 on first reading amending Municipal Code Section 17-4-30 as proposed in Exhibit B of the August 21, 2014 staff memorandum, updating the engineering and construction criteria in conjunction with the subdivision of land.

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 4-2014: 6 ayes. 0 nays. The motion carried.

Request by Cherry Hills North Home Owners Association for a Revocable Encroachment License to Install, Construct and Maintain Neighborhood Identification Signage in City-Owned Right-of-Way

Director Zuccaro presented a request by the Cherry Hills North (CHN) Home Owners Association (HOA) for a revocable encroachment license to install, construct and maintain neighborhood identification signage in City-owned right of way. He explained that one of the neighborhood signs had been damaged by a car recently and when the HOA had approached the City to determine the proper procedure for repair it was discovered that the sign was in the right of way. The HOA then surveyed all of their signs and found that five out of the fourteen were located in the right of way. Staff was not able to find anything in City records regarding installation of the original signs. The HOA's request for a revocable encroachment license would cover the five signs in the right of way and enable them to rebuild the damaged sign and maintain the others. Director Zuccaro indicated that staff recommended approval of the request.

Councilor Griffin asked if all the signs met the City's sight triangle regulations or if they would be grandfathered in.

Director Zuccaro replied that the sign replacing the damaged sign would need to be in conformance with the City's clear sight triangle requirements. He added that staff had not evaluated the other signs for compliance with those requirements but could do so if desired by Council.

Mayor Pro Tem Stewart suggested changing the language in section 3.2.1 of the license agreement to so that City termination of the agreement would be at the sole discretion of the City Manager.

Mayor Tisdale agreed.

CHN HOA President Jennifer Niederhauser, 5232 Nassau Cir E, explained that the HOA signs had been in place a long time and the HOA was going through this process in order to have them properly recorded with the City.

Councilor K. Brown noted that the request represented an enormous amount of work from the HOA's volunteer board to bring the signs into compliance with City regulations. She commended the HOA and indicated her support of the request.

Councilor Griffin expressed concern with the possibility of Council requiring reconstruction of any existing signs that do not meet the City's sight triangle regulations.

Mayor Tisdale stated that it was not the Council's intention to place any undue burden on the HOA.

Councilor K. Brown moved, seconded by Councilor A. Brown to approve the proposal by the Cherry Hills North HOA for a revocable encroachment license to install, construct and maintain neighborhood identification signage in City-owned right of way as proposed in Exhibit A to the August 19, 2014 staff memorandum as amended by Councilor Stewart to be drafted by the City Attorney.

Mayor Pro Tem Stewart clarified that it was Council's intent to authorize the City Attorney to negotiate language changes to section 3.2.1 of the license agreement as discussed at tonight's meeting.

The motion passed unanimously.

Council Bill 5, Series 2014; Approving a Ballot Question for the November 4, 2014 Election to Amend the Home Rule Charter to Clarify When the Organizational Meeting Will Occur Following a Regular City Election (first reading)

City Clerk Smith presented Council Bill 5, Series 2014 on first reading. She explained that the proposed bill would place a question on the November 4, 2014 ballot to amend three sections of the City Charter to clarify that the organizational meeting for newly elected officials would be held at the first meeting in January rather than the Monday after the election as has been the case for past elections. She indicated that this change stemmed from the change in regular municipal elections from April to November and that newly elected officials would not assume the duties of office until the first meeting in January following the election, approved by the voters in April 2012.

Councilor K. Brown moved, seconded by Councilor Griffin to approve Council Bill 5, Series 2014, approving a ballot question to be submitted to the voters at the coordinated election held November 4, 2014 to amend the Home Rule Charter to clarify when the organizational meeting will occur following a regular city election, on first reading.

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 5-2014: 6 ayes. 0 nays. The motion carried.

Resolution 13, Series 2014 Approving a Ballot Question on Re-establishing the City's Right to Provide Telecommunications Services, Advanced Services and Cable Television Services

Mayor Tisdale noted that ballot questions involving Charter amendments had to be passed by ordinance, while other ballot questions could be passed by resolution.

City Attorney Michow presented Resolution 13, Series 2014 and explained that it would place a question on the November 4, 2014 ballot concerning fiber optic infrastructure. She noted that Council had recommended this ballot question. She indicated that Senate Bill 05-152 had restricted the authority of local governments to provide telecommunications services to its residents unless a ballot question that reinstates such right was passed by voters in a local election. She noted that the ballot question language was based on the ballot language used by the cities of Centennial and Longmont.

Councilor A. Brown noted that cities seemed to be referring this matter to their voters with more frequency in recent years. He indicated that the Utility Line Undergrounding Study Committee was discussing the possibility of new mill levies as well as other funding possibilities. He added that this issue of fiber optics infrastructure was being discussed by the committee as part of the larger issue that they were exploring. He noted that while this ballot question did not increase taxes he was concerned that the ballot language could be argued to indicate that the City would never be allowed to use future tax increases to implement the authority granted by the proposed ballot question. The result would be the need to hold a second authorizing vote to use the tax revenue. While he agreed it was necessary that the ballot question included language assuring voters that this ballot question did not include a tax increase, he suggested that the language be moved from the first line of the question to the end of the question and make clear that the lack of taxes referred to this ballot measure only. He hoped this adjustment would avoid any potential future debate.

Mayor Tisdale asked for City Attorney Michow's opinion.

City Attorney Michow indicated that she had discussed the issue with Councilor A. Brown and both agreed that any future argument could be easily defended against, but that Councilor A. Brown's concern about the perception of the ballot language was certainly valid.

Mayor Tisdale suggested that "by virtue of this measure" be added to the language at the beginning of the question in order to address Councilor A. Brown's concerns. He indicated that it was preferable to keep the language at the front of the question to make the point clear to voters right away.

Mayor Pro Tem Stewart indicated that he would like time to review the discussed changes to the question and suggested that Council table the resolution to the September 2nd meeting.

Councilor Roswell agreed.

Councilor VanderWerf asked about the intent of Senate Bill 05-152.

Mayor Pro Tem Stewart replied that it was based on telecommunication companies' concern with public competition.

Councilor VanderWerf asked about public education regarding the ballot question.

City Attorney Michow replied that the City was limited by the Fair Campaign Practices Act as to use of public funds regarding ballot measures but the Council was permitted to pass a resolution supporting the measure and could issue pro/con statements.

Mayor Tisdale indicated that Council had no current plans involving fiber optic infrastructure but simply wanted to refer this question to the voters to restore the authority that the state legislature had removed with Senate Bill 05-152.

City Clerk Smith reminded Council that September 2nd was the last regular Council meeting at which measures could be placed on the November 4, 2014 ballot as the certified ballot content was due to Arapahoe Count by September 5th.

Councilor Griffin noted that he would be absent September 2nd.

Councilor Roswell moved, seconded by Councilor A. Brown to table Resolution 13, Series 2014 until the September 2, 2014 meeting to allow the City Attorney to amend the language per the discussion at tonight's meeting.

The motion passed unanimously.

REPORTS

Mayor's Report

Mayor Tisdale reported that he would join the Denver Rustlers Group to attend the Colorado State Fair next week.

Members of City Council

Councilor K. Brown reported that the Quincy Farm Visioning Committee had met this morning and would meet again next Monday afternoon. She noted that she had attended the Centennial Airport Noise Roundtable meeting and had been appointed to the data analysis committee to analyze the data collected by the new noise monitoring system. She indicated that this would provide concrete data on which to base discussions rather than relying on anecdotal data, and was a positive advancement for the Roundtable.

Councilor A. Brown asked about helicopters.

Councilor K. Brown replied that helicopters were an important issue for the Roundtable and warranted their own priority item.

Councilor Griffin reported issues with the traffic light for the Cherry Hills Country Club on S. University Blvd.

Mayor Pro Tem Stewart had no report.

Councilor Roswell thanked Mayor Pro Tem Stewart for attending the open space meeting last week in his place.

Councilor VanderWerf reported that the Public Art Commission would meet on August 25th and review the three finalist artists for a loaned sculpture to place in front of the Joint Public Safety Facility. She noted that they were Colorado artists and that two were well known – Emmett Culligan and Yoshi Saito.

Councilor A. Brown had no report.

City Manager & Staff

City Manager Patterson reported that staff was working on the 2015 budget; the new fuel tank had been installed; construction was underway at the Cherry Hills Country Club for the BMW Golf Tournament; the Police Department had participated in a “table top” exercise for the BMW Tournament; the open space meeting on August 12th had been productive and he thanked Council for their leadership with this meeting; the City had received \$84,000 in use tax revenue and Director Proctor was estimating that revenues would exceed expenditures by \$400,000 for 2014; Commander Weathers was doing well post-surgery; the lot drawing for placing candidate names on the November 4, 2014 ballot would be held at the September 2nd Council meeting; bank stabilization was underway at Woodie Hollow Park; crime was down by 23% in 2014 from 2013; Community Development revenue was exceeding the 2014 budget by \$140,000.

Councilor Roswell commended the Police Department for their participation in the ice bucket challenge and noted the camaraderie between the Police Department and South Metro Fire Rescue.

Bulk Plane and Floor Area Ratio Evaluation Study

Director Zuccaro indicated that staff recommended a study be done to evaluate the effectiveness of the bulk plane and floor area ratio ordinance which had been in effect since September 2011. He reminded Council that adoption of these regulations had been a recommendation of the Residential Development Standards Committee (RDSC) and were intended to address larger new homes and their negative impact on community character and privacy. He noted that since the ordinance became effective 36 new homes had been built in the City. He indicated that this was a sufficient sample size on which to evaluate the ordinance. He noted that \$20,000 was included in the 2014 budget for a study and that staff recommended contracting with the urban design firm Winter and Company for the study. This was the same company that the City had hired to complete a study and make recommendations on implementing the RDSC proposal for a bulk plane standard, and was then hired again to draft the ordinance that was ultimately adopted by Council. He noted the evaluation study would include a review of the construction projects since adoption of the ordinance, involvement of stakeholders, public input, and both data and visual analysis. He estimated that the study would take three to five months to complete, and recommended a committee be formed including City Council members, Planning and Zoning Commissioners, and RDSC members.

Councilor A. Brown asked how the 36 homes were spread over the various zone districts in the City.

Director Zuccaro replied that staff had not broken out the 36 homes by zone district but could do so and return with that information to Council.

Mayor Pro Tem Stewart agreed that the metrics should be estimated prior to beginning the study.

Councilor Griffin noted that the bulk plane and FAR regulations came up frequently before the Board of Adjustment and Appeals and indicated his support of an evaluation study.

Mayor Tisdale asked Director Zuccaro to return at the September 2nd meeting with information on how the 36 homes were spread among the zone districts before proceeding with the study.

City Attorney

City Attorney Michow had no report.

ADJOURNMENT

Mayor Pro Tem Stewart moved, seconded by Councilor K. Brown to proceed into Executive Session pursuant to C.R.S. Section 24-6-402(4)(b) and Section 24-6-402(4)(e) for purposes of receiving legal advice and determining positions relative to matters subject to negotiations regarding *City of Cherry Hills Village v. Cooper* pending currently in Municipal Court and further upon completion of the Executive Session to stand adjourned.

The following votes were recorded:

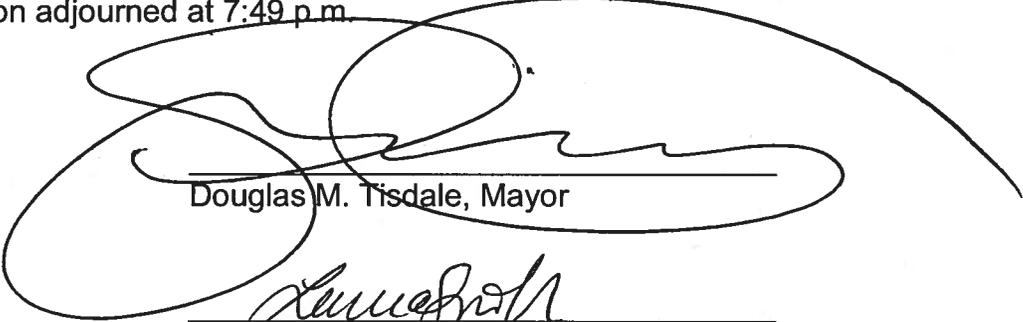
Russell Stewart	yes
Scott Roswell	yes
Klasina VanderWerf	yes
Alex Brown	yes
Katy Brown	yes
Mark Griffin	yes

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

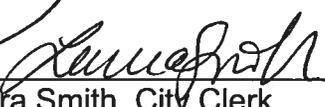
The regular meeting adjourned at 7:26 p.m.

The executive session adjourned at 7:49 p.m.





Douglas M. Tisdale, Mayor



Laura Smith, City Clerk