

# CITY COUNCIL MINUTES

CITY OF WHEAT RIDGE, COLORADO

March 14, 2011

Mayor DiTullio called the Regular City Council Meeting to order at 7:00 p.m. Council Members present: Karen Adams, Joseph DeMott, Karen Berry, Joyce Jay, Davis Reinhart, and Mike Stites. Also present: City Clerk, Michael Snow; City Manager, Patrick Goff; City Attorney, Gerald Dahl; Administrative Services Director, Heather Geyer; Police Chief, Dan Brennan; Community Development Director, Kenneth Johnstone; Economic Development Manager, Steve Art; staff and interested citizens.

Council Members Langworthy and Sang were absent.

## APPROVAL OF MINUTES OF February 28, 2011

Motion by Mr. Stites for approval of the Minutes of February 28, 2011; seconded by Mr. DeMott; carried 5-0-1 with Mrs. Adams abstaining.

## Proclamations

National Multiple Sclerosis Awareness Week

Mrs. Wheat Ridge Karen Thaler read the proclamation for National Multiple Sclerosis Awareness Week. Mrs. Thaler shared her experiences in being diagnosed and coping with Multiple Sclerosis.

Eighth Annual Wheat Ridge 6<sup>th</sup> & 8<sup>th</sup> Grade Essay Contest Winners

Dave Holland was in attendance to announce and recognize this year's Essay Contest winners. Contest winners this year included:

*Kayla Brady*  
*Hannah Keller*  
*Mason James*  
*Sarah Smalley*  
*Melissa Geer*  
*Savannah Gallegos*  
*Chase White*  
*Joe Banks*

## CITIZENS' RIGHT TO SPEAK

**Britta Fisher**, Executive Director of Wheat Ridge 2020, wished everyone a Happy Pi (Π) Day. Today was the grand opening of a new Wheat Ridge business called MyPie located at 3928 Wadsworth Blvd. MyPie will be donating 31.4% of the day's sales to the Wheat Ridge Math Department. Mrs. Fisher also announced there will be a public meeting for the 38<sup>th</sup> Avenue Revitalization project on March 15, 2011 from 6:30 pm to 8:30pm at Wheat Ridge Middle School. Interested citizens are encouraged to attend and provide input to the revitalization plans for the area.

### **APPROVAL OF THE AGENDA**

Motion by Mr. Reinhart to add Item 12 to the agenda, a Resolution Opposing the Jefferson County Schools Decision to Close Martinson Elementary School. City Clerk Michael Snow assigned Resolution No. 10-2011; seconded by Mr. DeMott; carried 6-0

#### **1. CONSENT AGENDA**

- A. Resolution 09-2011 – accepting an Easement and the transfer of existing Assignments from Jefferson County for the purpose of providing a Corridor for the Clear Creek Trail.
- B. Motion to approve payment of Murray Dahl Kuechenmeister & Renaud LLP February 2011 Invoices for Legal Services in the amount of \$24,562.64.
- C. Motion to approve award of RFQ-11-08 Design/Build of the Discovery Park Skate Park in the amount of \$350,000 to Team Pain Enterprises, Inc., Winter Springs, Florida.
- D. Motion to approve award of RFB-11-13 2011 Activities Guide Printing Services to Publication Printers in the amount of \$27,738.
- E. Motion to approve the annual renewal for the Mobile COP Computer System in the amount of \$24,174 to Interact Public Safety Systems.
- F. Motion to appoint Robert Blair, District II, to the Board of Adjustment.
- G. Motion to award RFP-11-1 Natural Gas Suppliers to BP Energy Company.

Consent Agenda was introduced and read by Mr. Stites.

Motion by Mr. Stites for approval of the Consent Agenda; seconded by Mrs. Jay and Mr. Reinhart; carried 6-0.

### **ORDINANCES ON SECOND READING**

Item 2. Council Bill 06-2011 – amending Article 11 of the Wheat Ridge Code of Laws by adding a new Article XII concerning Medical Marijuana and

making certain Amendments to Chapter 26 (Zoning and Development) in association therewith.

Mayor DiTullio opened the public hearing.

Council Bill 06-2011 was introduced on second reading by Mr. DeMott. City Clerk Michael Snow assigned Ordinance No. 1479.

No Staff presentation was provided.

**Chuck Wharton** is a partner in ownership of NatuRx, one of the two medical marijuana centers currently in the City of Wheat Ridge. He expressed his pleasure with the proposed ordinance as it is the most reasonable and thoughtful of those he has seen in the Denver Metro area cities. Mr. Wharton commended Council in taking the proper time to create a well thought out and effective Medical Marijuana ordinance. Further, if City Council does pass this amendment tonight he will pledge as a business owner to protect the health, safety and welfare of community.

Chief Brennan responded to questions regarding the indication of no financial impact in the packet materials from the perspective of the Police Department.

Mayor DiTullio closed the public hearing.

Motion by Mr. DeMott to approve Council Bill 06-2011 (Ordinance 1479) on second reading and that it take effect 15 days after final publication;

I further move to amend Council Bill 06-2011 to add the following sentence to the end of Sections 11-305(b) and 11-305(c): Medical marijuana establishments that were lawfully in existence at a specific location within the City as of the effective date of this section shall not be subject to this prohibition at their current location.; seconded by Mr. Reinhart; carried 6-0.

Item 3. Council Bill 03-2011 – approving the Rezoning of property located at 11808 W. 44<sup>th</sup> Ave. From Commercial-One (C-1) and Commercial-One with Use Restrictions to Mixed Use – Commercial Interstate (MU-C Interstate) and Mixed Use – Neighborhood (MU-N) Zone Districts. (Case No. WZ-10-09/RV America)

Mayor DiTullio opened the public hearing.

Council Bill 03-2011 was introduced on second reading by Mr. DeMott. City Clerk Michael Snow assigned Ordinance No. 1480.

Mrs. Reckert provided a summary presentation of the proposed zoning change (amended to this packet).

**Mike Pharo**, representing the applicant, spoke to what he believed were the objections that led to the denial of the rezoning of this property in 2009. The concern regarding building heights are moot as this type of structure would be highly unlikely considering the amount of parking spaces that would be required and the lack of space to do so. Mr. Pharo discussed the previous hotel concern which the applicant contends that no hotel is or was ever planned for this site even though a hotel is allowed under the zoning classification. One condition of approval that Mr. Pharo takes exception to is for additional Right of Way on the entire length of Tabor Street. He finds this objectionable and unnecessary, will limit future development potential on the site and condemn the front yards of the residences along that road.

**Sandy Thompson**, the architect representing the applicant, presented a conceptual plan (amended to this packet) which she believes represents the potential development of this site according to the concepts outlined in the City's Mixed-Use Zoning designation.

**Harry Sach**, applicant, stated that he needs this rezoning in order to sell the property. He expressed he doesn't know when he could sell it once it's rezoned but knows that any potential business will need to go through the City planning department. Rumors surfaced that he was going to open a motel or an adult customer service based operation, but these are false. Mr. Sachs expects that it will take him a year or two to sell the property if the rezoning is approved.

Meredith Reckert spoke again to clarify that the Planning Commission recommended a Right of Way designation only half way down the property on Tabor Street. This was misstated in the staff report.

**Diane Tipton**, a resident since 1972, pointed out that the properties west of this property do not border any residential areas except one small residential area that will be negatively impacted if this rezone is passed as proposed. The proposed zone districts are not compatible with the residential area at all and the traffic will bottle-neck on Tabor Street. If Tabor Street is widened this will allow more large sized trucks to drive down the residential street potentially getting stuck and having to back up which is dangerous. There is a need for the type of storage it currently provides. Commercial buildings such as the one being proposed here often sit vacant for long periods of time. The owner bought this land only with the intention to sell it again after rezoning, which will only leave a ruined residential area. Ms. Tipton asked Council to stand up for the residents who have lived here for many years instead of approving this zoning change.

**George Isquith** contends it isn't fair to request a zone change only to turn around and sell it again. A new owner would be required to rezone the rear area which would be nearly impossible resulting in a loss of acreage. The area would be useful as an RV Storage lot as there are none close to this area. If the owner does sell this land he will do so quickly if it were to a storage facility developer. The zoning should remain the same and the new owner should pursue a zoning change. This area is a nice neighborhood and will be instantly and negatively changed if this approved.

**Ron Markow** doesn't want a large building on their residential corner. Mr. Markow liked the Cracker Barrel Restaurant idea suggested by the applicant but none of the other proposed ideas. He would like to see the back third of the property stay as residential to provide buffer to the neighboring houses.

Mr. Dahl confirmed that the protests representing 19.8% of the bordering properties as indicated by the staff report does not meet the 20% required by Charter to force a super-majority of Council vote. The Council has two options for this meeting. The first is to proceed with a motion and a vote of which 5 yes votes are required. The second is to continue the public hearing to the next meeting. If continued, absent Council members tonight would have to review tonight's public hearing recording in order to take part of the future public hearing.

Meredith Reckert explained the goal of enhanced community character with development. With new landscaping it will meet this goal. It might also encourage other area businesses to improve their properties where needed.

Mr. Paranto explained the City wishes to obtain a 20' Right of Way designation along the entire property line on Tabor Street because they do not know what future uses will be built here. This also allows the extra width of the street to mitigate the problem of larger vehicles driving down the street and getting stuck without room to turn around and it would allow for sidewalks in the future.

Mayor DiTullio closed the public hearing.

Motion by Mr. DeMott to continue the public hearing to the March 28, 2011 meeting; motion failed for lack of a second.

Motion by Mr. Reinhart to approve Council Bill 03-2011 (Ordinance 1480) on second reading and that it take effect 15 days after final publication, seconded by Ms. Berry;

Motion to amend by Mr. DeMott to extend the proposed Right of Way only to the commercial property line; seconded by Mrs. Jay; failed 4-2 with Mr. Reinhart and Mr. DeMott voting Yes.

Original motion by Mr. Reinhart carried 6-0.

Item 4. Council Bill 02-2011 – amending Chapters 11 and 22 of the Wheat Ridge Code of Laws concerning Business License requirements and Taxpayer Remedies.

Public Hearing was continued from the February 28, 2011 Council meeting.

A red-line edited version of the proposed Ordinance was provided to the Council by Mr. Dahl during the Pre-Meeting which reflects several amendments recommended by Council during the Study Session of March 7<sup>th</sup>, 2011 (amended to this packet).

No citizens were present to speak.

Mayor DiTullio closed the public hearing.

Motion by Mr. DeMott to approve Council Bill 02-2011 (Ordinance 1476);

I further move to amend Council Bill No. 02-2011 on second reading to incorporate the amendments shown on the redline version presented to the Council on March 14<sup>th</sup>, and that all portions of the ordinance take effect 15 days after final publication with the exception of the tiered license renewal program, which shall take effect January 1, 2012; seconded by Ms. Berry; carried 6-0.

### **ORDINANCES ON FIRST READING**

Item 5. Council Bill 07-2011 – amending Chapter 26 and adopting the Streetscape Design Manual.

Motion by Mr. Reinhart to approve Council Bill No. 07-2011 on first reading, order it published, public hearing set for Monday, March 28, 2011 at 7:00 p.m. in the City Council Chambers, and that it take effect 15 days after final publication; seconded by Mr. Stites; carried 6-0.

Item 6. Council Bill 08-2011 – approving the Annexation of Land located in Sections 19 and 20, Township 3 South, Range 69 West of the Sixth Principal Meridian, County of Jefferson, State of Colorado. (Case No. ANX-11-01/Table Mountain Animal Center)

Motion by Mr. Stites to approve Council Bill No. 08-2011 on first reading, order it published, public hearing set for Monday, April 25, 2011 at 7:00 p.m. in the City Council Chambers, and that it take effect upon recordation of the annexation plat; seconded by Mrs. Adams; carried 6-0.

Item 7. Council Bill 09-2011 – approving Planned Commercial Development (PCD) Zoning for Property located at 4105 Youngfield Service Road and approval of a PCD Concept Outline Development Plan on property located at 4000 Cabela Drive and 4105 Youngfield Service Road. (Case NO. WZ-11-01/Clear Creek Crossing)

Motion by Mr. Stites to approve Council Bill No. 09-2011 on first reading, order it published, public hearing set for Monday, April 25, 2011 at 7:00 p.m. in the City Council Chambers, and that it take effect 15 days after final publication; seconded by Mrs. Adams; carried 6-0.

Item 8. Council Bill 10-2011 – approving a Planned Commercial Development (PCD) Specific Outline Development Plan on property located at 4000 Cabela Drive and 4105 Youngfield Service Road, more particularly identified as Lots 1.1, 2.1, 2.2, 2.3, 2.4, 3, 5.1, 5.2 and 5.3 within the Clear Creek Crossing Concept Outline Development Plan. (Case No. WZ-11-02/Clear Creek Crossing)

Motion by Mr. Stites to approve Council Bill No. 10-2011 on first reading, order it published, public hearing set for Monday, April 25, 2011 at 7:00 p.m. in the City Council Chambers, and that it take effect 15 days after final publication; seconded by Mrs. Adams; carried 6-0.

Item 9. Council Bill 11-2011 – amending the Wheat Ridge Code of Laws Section 26-805, concerning Nonconforming Structures in the Floodway District and related Sections of Article VII of Chapter 26.

Motion by Mrs. Jay to approve Council Bill No. 11-2011 on first reading, order it published, public hearing set for Monday, March 28, 2011 at 7:00 p.m. in the City Council Chambers, and that it take effect 15 days after final publication; seconded by Mr. Reinhart; carried 6-0.

### **DECISIONS, RESOLUTIONS AND MOTIONS**

Item 10. Motion to appoint Members to the Building Code Advisory Board.

Motion by Mr. Reinhart to appoint William Starker to the Building Code Advisory Board representing District 1, term to expire March 2, 2014 and to defer the remaining recommended appointments to the March 28, 2011 Regular Council meeting; seconded by Ms. Berry; carried 6-0.

Item 11. Resolution 08-2011 – beginning a City-Initiated Comprehensive Rezoning of Properties located on the Wadsworth Corridor between W. 35<sup>th</sup> and W. 45<sup>th</sup> Avenues to Mixed Use– Commercial.

City Clerk Michael Snow read into the record a letter submitted by Louise Turner opposing the City-initiated rezoning effort (amended to this packet).

Motion by Mrs. Jay to approve Resolution No. 08-2011; seconded by Mr. Stites; carried 6-0.

Item 12. Resolution 10-2011 – a Resolution Opposing the Jefferson County School Board Decision to Close Martensen Elementary School.

Resolution 10-2011 was introduced by Mr. Reinhart who read the Resolution in its entirety.

Motion by Mr. Reinhart to approve Resolution 10-2011; seconded by Mrs. Jay; carried 5-1 with Mrs. Adams voting No.

### **ELECTED OFFICIALS' MATTERS**

City Clerk Michael Snow announced that audio recordings of all Study Sessions and Pre-Meetings are now available on the City website. Recordings may be accessed via the link on the existing WRTV8 OnDemand video page on the City's website.

Ms. Berry stated that the City has a guide available to citizens on urban agriculture which is available on the City website under the Community Development Department. This guide was put together by LiveWell Wheat Ridge and it contains do's and don'ts on gardening and farming in urban settings. One community garden in the City is Happiness Gardens which is often short of the number of plots desired so another option at 4320 Xenon Street is available. The garden is Harvest Mountain Farm Gardens and their e-mail address is [harvestmountainfarmgardens@gmail.com](mailto:harvestmountainfarmgardens@gmail.com). Ms. Berry clarified that in the City of Wheat Ridge "hoop houses" are allowed and the City is considering code changes to encourage more urban gardening.

Ms. Jay congratulated MyPie on their Grand Opening today at 3928 Wadsworth Blvd. in the Safeway shopping center. Ms. Jay also commended Modmood's, which is a furniture store here in the City at 7700 W. 44<sup>th</sup> Avenue .

Mr. DeMott commended the Wheat Ridge High School student's production of "The Sound of Music" musical done in a quality fashion.

Mr. Stites is excited to announce that a new restaurant that offers Peruvian dining is relocating to Wheat Ridge. 38<sup>th</sup> Ave. is also getting one of its structures refurbished which is great for the area.

Mr. Reinhart stated that the Mayor and the City Council are sponsoring the Wheat Ridge High School Farmers Lacrosse team with an advertisement in their fundraiser brochure.

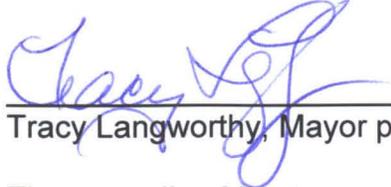
Mayor DiTullio stated that based on the available options, Jefferson County Schools made the proper decision in regard to Martensen Elementary. The School Board successfully addressed the previous issue of Wheat Ridge Middle School being underutilized by starting a Gifted and Talented program along with increasing their number of students by moving 5<sup>th</sup> graders to the school.

Meeting adjourned at 9:00p.m.



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Michael Snow, City Clerk

APPROVED BY CITY COUNCIL ON March 28, 2011 BY A VOTE OF 6 to 0



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Tracy Langworthy, Mayor pro tem

The preceding Minutes were prepared according to §47 of Robert's Rules of Order, i.e. they contain a record of what was *done* at the meeting, not what was *said* by the members. Recordings and DVD's of the meetings are available for listening or viewing in the City Clerk's Office, as well as copies of Ordinances and Resolutions.