

CITY COUNCIL MINUTES

CITY OF WHEAT RIDGE, COLORADO

August 13, 2012

Mayor DiTullio called the Regular City Council Meeting to order at 7:00 p.m.

ROLL CALL OF MEMBERS

Bud Starker
Joyce Jay
Mike Stites
George Pond
Joseph DeMott
Tracy Langworthy
Kristi Davis

Absent: Davis Reinhart

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Treasurer, Larry Schulz; City Manager, Patrick Goff; Police Chief, Daniel Brennan; Commander Jim Lorentz, Police Department; Community Development Director, Ken Johnstone; Public Works Director, Tim Paranto; Administrative Services Director, Heather Geyer; interested parties and interested citizens.

APPROVAL OF MINUTES OF JULY 23, 2012

Motion by Mr. Stites for approval of the Minutes of July 23, 2012; seconded by Mr. Starker; carried 7-0

PROCLAMATIONS AND CEREMONIES

Chief Brennan presented Citizen Awards to Dirk Coleman, George Miller and Chad Grenda.

Dirk Coleman

On June 6 **Dirk Coleman** noticed suspicious smoke coming from the back of an Arvada house. He stopped and saw that a large, fallen branch had landed on wires, causing a significant fire. With a hose he ensured the porch area was wet down, contained the fire until the Fire Department arrived, and continued to keep the embers from catching the back porch and furniture on fire. He stayed with the homeowner until the fire was completely out and Xcel arrived to turn off the power. Upon finding that Dirk was a Wheat Ridge city employee she called to offer her gratitude, praise and appreciation for the calm and direct action he took, knowing exactly what to do, and his friendliness and

professional demeanor with her and her children in a situation that presented significant danger to life and property.

For his selfless act in helping a citizen in a critical situation and representing the City in an exemplary manner in a dangerous situation, Chief Brennan presented Dirk with a WR Police Department Citizen Award and a Police Department Ceremonial Challenge.

George Miller and Chad Grenda

On March 19 an attempted series of car jackings occurred at the WR Rec Center. George Miller, Chad Grenda and Michael Strong risked their own safety to help a female in danger. **George Miller** was outside the Rec Center when he saw and heard two Hispanic men breaking into a car. George chased them northward across a field. **Michael Strong** also heard the breaking glass and saw George chasing the men. Michael got in his car and drove north on Kipling. As George was in pursuit he saw the two men attack a woman at the Clear Creek greenbelt parking lot. At the same time **Chad Grenda** was exiting Armburst's Gym nearby when he heard the woman screaming for help and saw an Hispanic man pulling her out of her car. Chad ran to help and when Michael got to the parking lot he also saw this scene. Michael exited his car and ran to help the screaming woman. When George got to the parking lot he saw one of the suspects trying to steal the car. George jumped in the car and began fighting the suspect. During the struggle the car started rolling and was almost going to roll into the woman on the ground. As he fought, George was able to steer the car clear of the woman. Meanwhile Chad grabbed the other suspect who broke away and ran into the Gym parking lot and then onto Kipling. Chad tackled the suspect and was then aided by Michael Strong. Together they were able to hold and control the suspect. Shortly thereafter the other suspect came to help his partner. He pulled a gun, pointed it at Chad and Michael and told them to back off. Chad and Michael were afraid of being shot and fled to the Gym parking lot and took cover behind cars.

These three men risked their lives to come to the aid of a victim of a crime in progress and their actions made the successful capture of the suspects a reality. They demonstrated initiative, bravery and concern for a stranger and did the right thing by becoming involved. For their assistance, and on behalf of the City of Wheat Ridge and the Wheat Ridge Police Department, Chief Brennan presented George Miller and Chad Grenda with a Wheat Ridge Police Department Citizen Award and a Police Department Ceremonial Challenge. [Clerk's note: Michael Strong's award was mailed to him and he was not present.]

CITIZENS' RIGHT TO SPEAK

Peter Walstrom spoke about the annoying behavior of cats. He thinks they are becoming a nuisance and that our ordinances need to be enforced.

Lynette Namea spoke in favor of a smoke free Wheat Ridge as it is endorsed by Breathe Well Wheat Ridge. She would like to see social norms change.

Lori Odom, 36 year resident and retired pediatric oncologist, spoke in support of smoke free policies. She cited a study that shows that outdoor second hand smoke exposure has effects on health. She would like to see smoking prohibited in all outdoor public areas. The goal is to have no one smoke.

Sarah Davis repeated Dr. Odom's sentiments and the adverse health effects of second hand smoke, indoors and outdoors. She said smoke free laws don't have a negative economic impact on cities. She also reported on a survey done by the Jeffco Health Department indicating that people outside Wheat Ridge would be more apt to dine at Wheat Ridge patios if they were smoke free.

Terrance Hill thanked the people from flood water control for their prompt attention and the good work they did to solve a recent problem they had on a ditch near 38th and Quail. He also told of a bad experience he had when he hit a bad pothole. He explained how he received what he considered to be very poor customer service from the police officer that responded to his call. The mayor suggested that Mr. Hill speak with the Police Chief and he left the podium to do so.

APPROVAL OF AGENDA

1. CONSENT AGENDA

The Consent Agenda was introduced and read by Mrs. Langworthy.

- A. Resolution 40-2012 – A Resolution authorizing the appropriate City Officials to execute an Intergovernmental Agreement by and between the County of Jefferson, State of Colorado, and the City of Wheat Ridge, Colorado, regarding the administration of their respective duties concerning the conduct of the Coordinated Election to be held on November 6, 2012.
- B. Resolution No. 41-2012 – A Resolution amending the Fiscal Year 2012 General Fund Budget approving a Supplemental Budget Appropriation to reflect the acceptance of the Child Car Seat Examination and Replacement Safety Fair Grant from the Colorado Department of Transportation in the amount of \$4,884.20
- C. Motion to award the RFQ-JN-12-24 Kipling Trail Design Contract to Bohannon Huston, Englewood, CO, in the contract amount of \$197,533.02, and to approve a Contingency amount of \$40,000

Mr. DeMott asked to pull Item 1. C.

Motion by Mrs. Langworthy to approve Items A and B of the consent agenda; seconded by Mr. Stites; carried 7-0

Mr. DeMott felt that an item with fiduciary and property impacts of this level needed to be an item of its own and not buried in the consent agenda.

Motion by Mr. DeMott to postpone indefinitely the contract award of RFQ-JN-12-24, Kipling Trail Design to Bohannon Huston, Englewood, CO for the following reasons: 1) a 10 ft sidewalk would encroach too far onto the properties of businesses and homes, and 2) a sidewalk of 5 ft in the area available to the City would make an ample and great impact on the east side of Kipling street. The motion died for lack of a second.

Motion by Mrs. Langworthy to approve Item C; seconded by Mr. Stites; carried 6-1 with Mr. DeMott voting no.

PUBLIC INPUT

2. Opportunity for Public Input on the 2013 City of Wheat Ridge Budget

Joe Giordano, treasurer for WR 2020 and accounting professor at Metro, advised Council that in 2013 WR2020 will be requesting more funds to support businesses.

PUBLIC HEARING AND ORDINANCES ON SECOND READING

3. Council Bill No. 12-2012 – An Ordinance disconnecting land located in Section 15, Township 3 South, Range 69 West of the Sixth Principal, Meridian, County of Jefferson, State of Colorado, from the City of Wheat Ridge Municipal Boundary (Case No. ANX-12-01/Tomlinson Park)

Mayor DiTullio opened the public hearing.

Council Bill 12-2012 was introduced by Mr. DeMott.

City Clerk Shaver assigned Ordinance # 1516.

Ken Johnstone reported that this is a housekeeping item from a previous IGA with Arvada. Drainage and park improvements have been done, but Arvada maintains the park. It makes sense to cede the property to Arvada.

There was no public comment.

Mayor DiTullio closed the public hearing.

Motion by Mr. DeMott to approve Council Bill No. 12-2012, an ordinance disconnecting land located in Section 15, Township 3 South, Range 69 West of the Sixth Principal Meridian, County of Jefferson, State of Colorado from the City of Wheat Ridge Municipal Boundary on second reading, and that it take effect upon recordation of the disconnection plat; seconded by Mr. Stites; carried 7-0.

4. Council Bill No. 13-2012 – An Ordinance adopting by reference the 2010 Edition of the Model Traffic Code for Colorado, adopting Amendments thereto, repealing all Ordinances in conflict therewith, providing penalties for Model Traffic Code Violations and making conforming Amendments to Chapter 13 of the Wheat Ridge Code of Laws.

Mayor DiTullio opened the public hearing.

Council Bill 13-2012 was introduced by Mr. Stites. It is common practice for municipalities to adopt the Model Traffic Code that is published regularly by the Colorado Department of Transportation.

City Clerk Shaver assigned Ordinance # 1517.

Chief Brennan gave the staff report and explained what changes will be made that are specific to Wheat Ridge. The Model Traffic Code was last revised in 2003. This new 2010 edition corrects several errors and makes a few changes. He addressed an issue about handicapped parking stating that our judge feels the fee schedule is adequate and allows for flexibility to levy harsher fees.

Steve Keller brought up a suggestion by Chief Brennan that motorcycle noise should not be in the noise ordinance, but rather in the traffic code. He referenced how the city of Golden has placed restrictions on motorcycle noise. While not a fan of regulating people's behavior he thinks the increased levels of motorcycle noise has reached a place where it is now time for Wheat Ridge to address the issue of a motorcycle muffler noise ordinance.

Moe Keller spoke to a handout she had distributed to Council and a copy of the Silence Is Golden program for the Mayor, Police Chief, City Attorney and City Manager. She reminded Council that the Model Traffic Code being adopted tonight has a section for muffler noise prevention, but officers have told her it is a very difficult statute to enforce. She had copied again for Council a list of what our surrounding cities do to address vehicle noise. She referenced the Silence Is Golden program that the Golden Police Chief has used to bring bar owners and their clientele together to see what they can do about motorcycle noise and being good neighbors.

Gina Robinson is a citizen member of the Governor's Council for Disabilities. She spoke about how handicapped parking is addressed in the MTC. She elaborated on how people cheat by misusing and altering handicapped placards; it is a serious, large-scale problem. She asked Council to adopt the strong standards in the MTC which have higher mandatory fines and allow for confiscation of the placards.

Nancy Snow urged Council to pass the Model Traffic Code as written regarding misuse of handicapped parking so that all cities have uniform laws. She asked Council what

their rationale was for wanting to ignore parts of the section of the MTC that deal with handicapped parking.

Chief Brennan explained that the judge recommended this because our courts don't have the staff to process surcharges and return portions of the surcharges to the state. Also the police don't have enough staff to be proactive on this, looking for offenders.

There was sentiment on Council that Wheat Ridge should protect handicapped parking like our neighboring cities do.

Mayor DiTullio called for a 5 minute recess so Mr. Dahl could craft wording to allow for increased fines for misuse of handicapped parking, but not require the City to make surcharges.

Mayor DiTullio closed the public hearing.

Motion by Mr. Stites to approve Council Bill No. 13-2012, an ordinance adopting by reference the 2010 edition of the Model Traffic Code for Colorado, adopting amendments thereto, repealing all ordinances in conflict therewith, providing penalties for Model Traffic Code violations and making conforming amendments to Chapter 13 of the Wheat Ridge Code of Laws, on second reading, and that it take effect 15 day after final publication; seconded by Mr. Starker.

Motion by Mr. Pond to amend the motion as follows:

Replace section (6)(a) on page 9 with the following: "A person who does not have a disability and who exercises the privilege defined in subsection (2) of this section or who violates subsection (5) or (10) of this section commits a class B traffic infraction punishable by a minimum fine of three hundred fifty dollars, not to exceed one thousand dollars, for the first offense and a minimum fine of six hundred dollars, not to exceed one thousand dollars, for a second offense or subsequent offenses."

Amend section (6)(b) to read as follows: "A person who violates this subsection (6) by parking a vehicle owned by a commercial carrier, as defined in section 42-1-102 (17), shall be subject to a fine of up to twice the penalty imposed in paragraph (a) of this subsection (6), not to exceed \$1000."

Continuing on page 10, to insert an amended section (7) to read as follows: "A person who does not have a disability and who uses an identifying license plate or placard in order to receive the benefits or privileges available to a person with a disability under this section commits a misdemeanor punishable by a minimum fine of three hundred fifty dollars, not to exceed one thousand dollars, for the first offense and a minimum fine of six hundred dollars, not to exceed one thousand dollars, for a second offense or subsequent offense."

To insert an amended section (8) to read as follows: "A peace officer or authorized parking enforcement official may check the identification of any person using an

identifying license plate or placard in order to determine whether such use is authorized.”

Motion to amend seconded by Mrs. Jay; carried 7-0

Main motion carried 7-0.

ORDINANCES ON FIRST READING

5. Council Bill No. 14-2012 - An Ordinance amending Section 26-603 of Chapter 26 of the Wheat Ridge Code of Laws, concerning Regulation of Sight Distance Triangles and Swimming Pool Fences (Case No. ZOA-11-06)

Mr. Pond introduced Council Bill No. 14-2012.

This ordinance seeks to resolve two fence issues in one section of our zoning code: sight distance triangles and swimming pool fences. The goals are to:

- Improve the ability to field locate a sight distance triangle;
- Update the vertical clear zone dimensions to align with national standards;
- Standardize how to measure for sight distance triangles and clear zones;
- Align zoning and building codes related to swimming pools fences; and
- Improve clarity and organization within the City code.

Motion by Mr. Pond to approve Council Bill No. 14-2012, an ordinance amending section 26-603 of chapter 26 of the Wheat Ridge code of laws, concerning regulation of sight distance triangles and swimming pool fences, on first reading, order it published, public hearing set for Monday, August 27, 2012 at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Mr. Stites and Mr. DeMott; carried 7-0.

6. Council Bill No. 15-2012 - An Ordinance submitting a proposed Amendment of the Wheat Ridge Home Rule Charter to the voters of the City pursuant to Charter Section 16.8(b), setting the Ballot Title for same.

Ms. Davis introduced Council Bill No. 15-2012. This amendment to the City Charter would provide for the election of all city officials by popular vote – whoever gets the most votes wins. This change would eliminate the possibility of any future expensive run-off election.

Motion by Ms. Davis to approve Council Bill No. 15-2012, an ordinance submitting a proposed amendment of the Wheat Ridge Home Rule Charter to the voters of the City pursuant to charter section 16.8 (b), and setting the ballot title for the same on first reading, order it published, public hearing set for Monday, August 27th, 2012 at 7:00 p.m. in City Council Chambers; seconded by Mr. Starker; carried 7-0.

7. Council Bill No. 16-2012 - An Ordinance amending Section 16-103 of the Wheat Ridge Code of Laws concerning Unreasonable Noise and providing for a Special Events Permit for Amplified Sound on Private Property.

Mr. DeMott introduced Council Bill No. 16-2012. This ordinance amends the present noise ordinance and creates a special permit program for amplified sound at outdoor events on private property. Date and time limits will be imposed and other conditions are permitted. The ordinance provides for a limited exemption from the City's noise ordinance, Code 16-103.

Motion by Mr. DeMott to approve Council Bill No. 16-2012 an ordinance amending Section 16-103 of the Wheat Ridge Code of Laws concerning unreasonable noise and providing for a special events permit for amplified sound on private property on first reading, order it published, public hearing set for Monday, August 27, 2012 at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Mrs. Langworthy.

Motion by Mr. Stites to amend section 16-103(b)(1) and (b)(3) to read as follows:

- (1) Any noise or sound which is audible from a mobile noise or sound source or from any loudspeaker, public address system, or other sound amplifying equipment in a motor vehicle in such a manner as to be plainly audible at twenty-five (25) feet IN ANY RESIDENTIAL DISTRICT, AND AT FIFTY (50) FEET IN ANY COMMERCIAL OR INDUSTRIAL DISTRICT.

- (3) Any noise, sound source or any person or group of persons engaged in loud and continuing activities which are audible twenty-five (25) or more feet from the noise source IN ANY RESIDENTIAL DISTRICT, AND FIFTY (50) FEET FROM THE NOISE SOURCE IN ANY COMMERCIAL OR INDUSTRIAL DISTRICT at the property line of the property upon which the noise source is located or upon which such activities are taking place and continuing for a minimum of fifteen (15) minutes.

Motion by Mr. Pond to amend the amendment by striking the words "IN ANY RESIDENTIAL DISTRICT, AND AT FIFTY (50) FEET IN ANY COMMERCIAL OR INDUSTRIAL DISTRICT" in paragraph (1) ; and in paragraph (3) to strike the words "at the property line of the property upon which the noise source is located or upon which such activities are taking place", and add the words "or more" after the numeral (50) in paragraph (3); seconded by Mr. Starker; carried 7-0.

Mr. Stites' original amendment carried 7-0.

The main motion as amended carried 7-0.

DECISIONS, RESOLUTIONS, AND MOTIONS

8. Motion to accept the 2011 Comprehensive Annual Financial Report (CAFR)

Motion by Mrs. Jay to accept the 2011 Comprehensive Annual Financial Report from Swanhorst & Company, LLC; seconded by Mr. Stites and Mr. DeMott; carried 7-0.

Wendy Swanhorst explained that the audit is clean (i.e. shows no problems with the City's finances as reported). She added that the review of the federal grant money (over \$500,000) showed everything to be in order and made note of a few very minor suggestions for staff.

Motion carried 7-0.

9. Motion to approve the use of the City-Owned Parking Lot at 7150 W. 38th Avenue, closure of N. High Court between 38th and 39th Avenues, and placement of banners on City-Owned Pedestrian Lights between Harlan Street and Sheridan for the 38th Avenue Grand Opening.

The event will include a ribbon cutting, a market festival, a beer garden, and an outdoor movie.

Motion by Mr. Starker approve the use of the City-owned parking lot at 7150 W. 38th Avenue, closure of N. High Court between 38th and 39th Avenues, and placement of banners on City-owned pedestrian lights between Harlan Street and Sheridan for the 38th Avenue Grand Opening on September 22nd, 2012; seconded by Mr. Stites; carried 7-0.

CITY MANAGER'S MATTERS

Patrick reported there is another Civic Citizen Academy scheduled for October 9, 16, 23 and 30. People should contact the City if they want to attend. A minimum of 12 people are needed to hold the classes. He also announced that the Rec Center will be closed August 27-31 for annual cleaning. Rec Center passes will be honored at the Golden Rec Center that week.

CITY ATTORNEY'S MATTERS

CITY CLERK MATTERS

ELECTED OFFICIALS' MATTERS

Mayor DiTullio reminded everyone about the Carnation Festival and the Circus this weekend, and reported the Live Local events are doing well.

Mr. Stites stated it is a good time to relocate your home or business to Wheat Ridge, that people should cut their weeds and/or help their elderly neighbors cut their weeds, and, as always, please try to "find it and buy it in Wheat Ridge".

Mrs. Langworthy encouraged people to watch out for little ones next week when school starts. Children get excited about school starting and they may not be watching very well.

Mrs. Jay announced that the Carnation Festival is in dire need of volunteers. People can look at thecarnationfestival.com to sign up for a 2-hour shift.

The Mayor closed by thanking the staff for all the work they have put in on the sound ordinance.

Meeting adjourned at 9:15 pm.



Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON August 27, 2012 BY A VOTE OF 7 to 0 -1



Mike Stites, 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.