

CITY COUNCIL MINUTES

**CITY OF WHEAT RIDGE, COLORADO
7500 WEST 29TH AVENUE, MUNICIPAL BUILDING**

September 23, 2013

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

ROLL CALL OF MEMBERS

Joyce Jay Davis Reinhart
Joseph DeMott Tracy Langworthy Mike Stites George Pond

Absent: Kristi Davis, Bud Starker

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; Community Development Director, Ken Johnstone; Public Works Director, Scott Brink; Commander Jim Lorentz; other staff, guests and interested citizens.

APPROVAL OF MINUTES OF September 9, 2013

Motion by Councilmember Stites for approval of the Minutes of September 9, 2013; seconded by Councilmember DeMott carried 5-0, with Mr. Pond abstaining.

PROCLAMATIONS AND CEREMONIES

First Responder Appreciation Day

A proclamation designating September 27, 2013 as First Responder Appreciation Day was read by Mayor DiTullio. Commander Jim Lorentz was on hand to receive the award.

Mayor DiTullio thanked all the first responders for the work they've done across Colorado the last two weeks with the floods. He also observed a moment of silence for the victims who were lost in the recent floods.

CITIZENS' RIGHT TO SPEAK

Larry Welshon (Edgewater), a staff member at Alpine School in Wheat Ridge, asked Council to look at the training program for police. He related a recent incident that happened at the school when the police aggressively detained two students at Alpine School when they were in search of a burglary suspect. The Police Chief has sent Officer Lorentz to work with them on communication. Mr. Welshon hopes for better communication, but also thinks there is an attitudinal problem. Two students were stopped at gunpoint as they unknowingly exited the school, and were handcuffed and

detained for 15 minutes. When he came outside and identified himself as a school administrator and said the boys were his students, the officers rejected his authority as a school official and said the boys had to be detained for officer protection. He urged the Council to consider whether the policy around officer protection policy is consistent with exceptional people providing exceptional services.

Carlos Duran-Rael (Lakewood), a student who was involved in the incident at Alpine School, gave his perspective of what happened. His concern was that when the boys said they were students at the school the officers made no effort to verify it, and when Mr. Welshon came out and said they were students it was dismissed.

Angela Duran (Lakewood), **Carlos's** mother, asked why guns needed to be drawn. Her son's behavior was not like that of a burglar, but the officers remained forceful and aggressive and continued to yell at the boys throughout. As a mother she is plagued by what might have happened if her son had panicked and acted in any other way than a calm manner. She thinks the officers displayed excessive force. She taught in Denver Public Schools and doesn't believe this would have happened there. A call should have been made to the school so the school could lock down.

Neil Poe (Georgetown), a student at Alpine, said he walked out of the school and was put in handcuffs by the police. He was spoken to rudely even after he was released. Later when he asked what was going on he was told he looked like someone who would rob a house. He wonders why he was handcuffed as he exited the school and presumed to be guilty.

Jane Poe (Georgetown), Neil's mother, expressed two concerns. She wonders what provoked such a harsh reaction to these kids who were on school grounds and for her son to be put in handcuffs as he walked out the door. Her second concern is that no one from the police department called her about this. Her son was in handcuffs for 15 minutes and no one communicated that to her. She thinks that policy needs to change.

Aaron Cure (Wheat Ridge), whose daughters attend Alpine School, said he spent time in the military and understands gun safety. He wants to know why guns were used and asks that the policy be looked at – along with the school liaison policy.

Arlene Hartlaub (Littleton), an Alpine School parent who worked as a contract mediator for the Denver Police Department, said it looks like the officer started this. There are 25 kids who need to have several officers go and explain what went on. They need to know why a child says "May I help you," and has a gun pulled on him. There's a public relations problem and it needs to be addressed and fixed.

Alex Eliassen (Evergreen), an Alpine School student, said after the guns were drawn and the handcuffs were on, the threat was resolved. He wonders why the aggressive behavior continued.

Kelton Hartern, a student, said he looked out the window and saw Carlos having a gun drawn on him. He doesn't think it's right and thinks some changes should be made.

Commander Lorentz explained that an investigation of the incident is underway. A sergeant in charge of professional standards is conducting a thorough, accurate, consistent investigation and it will be done in as timely a manner as possible.

Karen Thaler, candidate for City Council, related how she had a code violation problem with one of her campaign signs because it was too large. The sign has been corrected and she thanked Officers Mosier and Coddington for giving her 48 hours to comply.

APPROVAL OF AGENDA

Mayor DiTullio announced that Item 3 would be pulled from the agenda due to a need to modify the contract.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

1. Council Bill No. 13-2013 – amending Chapter 11 of the Wheat Ridge Code of Laws by adding a new Article XIII concerning retail Marijuana and making certain amendments to Chapter 26 (Zoning and Development) in association therewith

Mayor DiTullio opened the public hearing.

Councilmember DeMott introduced Council Bill 13-2013.

Clerk Shaver assigned Ordinance No. 1543

Staff presentation:

Mr. Dahl explained that passage of the ordinance requires 5 votes of Council and after the hearing he would give them some options.

Attorney Chris Price gave the staff presentation. The ordinance addresses retail (recreational) marijuana sales, cultivation, manufacturing of marijuana products and marijuana testing facilities. As per Council's direction at a study session the ordinance mirrors the City's current regulations for medical marijuana, which include:

- Cultivation facilities will only be permitted adjacent to retail marijuana stores.
- The same spacing limitations will apply.
- Zoning will not change.

The main difference is that the City will allow the colocation of retail marijuana stores with medical marijuana stores.

Citizen comments:

Sandy Bedore, who recently opened a medical marijuana dispensary and grow operation on 29th Avenue in Wheat Ridge, expressed support for the ordinance. They have a great working relationship with the City and passed extensive background and financial checks. They are going above and beyond the laws and regulations. The recreational sales will provide a dozen well-paying jobs. Their employees are well-educated and are law-abiding citizens. She wants to work with the City in the implementation of recreational marijuana and said she'd be happy to join any work sessions to provide the business perspective as rules and regulations are further refined.

Council discussion: none

Mr. Dahl pointed out that the ordinance needs 5 votes to pass. Since two of the councilmembers who support this ordinance are absent tonight, the majority may want to consider either 1) continuing the hearing to a later date certain, or 2) closing the hearing and continuing the matter for action only.

Mayor DiTullio clarified that if the ordinance passes by a vote of 4-2, it actually fails.

Motion by Mr. DeMott to continue the public hearing for Council Bill 13-2013 to next City Council meeting on Oct 14; seconded by Councilmember Reinhart; carried 6-0.

DECISIONS, RESOLUTIONS AND MOTIONS

2. Resolution 37-2013 – approving Rules and Regulations for the purpose of managing certain Real Property for Recreational Gold Panning

Councilmember Langworthy introduced Resolution 37-2013.

At issue is an area of land west of I-70 and Youngfield adjacent to Clear Creek that is within the City limits and is owned by Jefferson County. Because the area is not part of either County or City open space, the gold panning that occurs there in the creek is not managed. The activity is impacting trail use and compromising the integrity of the creek bed and banks. For many years responsible recreational gold panners have requested that rules be created and enforced in the area.

Motion by Councilmember Langworthy to approve Resolution No. 37-2013, a resolution approving Rules and Regulations for the purpose of managing certain real property for recreational gold panning; seconded by Councilmember DeMott; carried 6-0.

3. Resolution 38-2013 – approving a contract with the Colorado Department of Transportation for maintenance of Traffic Signals

Removed from the agenda.

4. Resolution 39-2013 – amending the Fiscal Year 2013 Capital Investment Program Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$325,000 for the purpose of providing the funding to Renewal Wheat Ridge for the purchase of property at 7690 W. 38th Ave. and 3790 Yukon Court

Councilmember Stites introduced Resolution 39-2013

Motion by Councilmember Stites to approve Resolution No. 39-2013, a resolution amending the fiscal year 2013 Capital Investment Program Budget to reflect the approval of a supplemental budget appropriation in the amount of \$325,000 for the purpose of providing funding to Renewal Wheat Ridge for the purchase of property at 7690 W. 38th Ave and 3790 Yukon Court; seconded by Councilmember Jay.

Councilmember Reinhart had concerns about the risk for environmental remediation and asked if Council could put restrictions on the sale pending the results of the environmental report. Mr. Dahl said the funds are for purchase and the closing is set for Oct 3. The environmental study will happen after that. If the Council conditions the money going to Urban Renewal on an environmental condition that can't be satisfied or reviewed by Council prior to closing, Urban Renewal won't have access to the funds and won't be able to close on Oct. 3.

Ken Johnstone said staff is sensitive to the gap that is likely for remediation costs. He reminded council that the Bank of Denver has agreed to fund up to \$50,000 for clean-up. Staff has identified other potential funding sources, such as asking for more money from the Bank of the Denver; EPA clean-up grants available for up to \$200,000; or having Urban Renewal use tax increment financing to recoup the cost.

Mr. Johnstone gave a presentation on the acquisition of the property (SE corner of 38th & Yukon Ct.) as it relates to the redevelopment of the entire SW corner of 38th & Wadsworth. Permission from the State for full turning access from/onto Wadsworth is unlikely, so access via Yukon Court onto 38th Avenue is essential for commercial viability. Phase I of the environmental process is completed. Phase II will include drilling due to the previous occupants [dry cleaners]. Testing and analysis are ongoing; remediation will be required. He repeated the potential funding sources for required remediation and stressed how critical this property is. \$390,000 is a fair purchase price, the developers are interested, and timing is important.

Tony Curcio from Family Environmental, the company the City is working with for the environmental process, explained the sampling that has been done to search for soil and groundwater contamination. Relatively low deposits of dry cleaner fluid were found in shallow locations. He went through the steps that have and will be taken for

remediation to receive a "No further action" determination from the state. This process could take from 2-5 years. It is a small amount of contamination and this time frame is not uncommon.

Questions and discussion followed.

Motion carried 6-0.

5. Motion to appoint Brandy Bauer to the Liquor Authority representing District IV

Councilmember DeMott introduced agenda Item #5

Motion by Councilmember DeMott to appoint Brandy Bauer to the Liquor Authority Board, term to expire March 2, 2016; seconded by Councilmember Langworthy; carried 6-0.

CITY MANAGER'S MATTERS none

CITY ATTORNEY'S MATTERS

Mr. Dahl brought up the matter of the November meeting schedule he addressed in a recent email to the Council. Council has time to consider what they want to do – factoring for the swearing in of the new elected officials and the fact that November 11 is a holiday.

CITY CLERK'S MATTERS

Clerk Shaver reminded folks to be sure they are registered to vote.

ELECTED OFFICIALS' MATTERS

Joseph DeMott thanked Brandi Bauer for volunteering to serve on the Liquor Board and wished her well.

George Pond encouraged citizens to continue to look into the budget and become aware of the issues.

Tracy Langworthy announced the formation of a group called "A Little Help". It will provide help for seniors in Wheat Ridge with things like household chores, rides, etc. If you are interested in participating, the organizational meeting will be held Thursday, September 26, at 6PM at Right Coast Pizza. The contact person is Amanda Greg, 720-220-6079 or amanda@alittlehelp.org

Mike Stites passed out a candidate questionnaire he received from WR2020 last week and read some of the questions. He thinks it's extremely political. He asked for clarification if WR2020, funded by the taxpayers as a non-profit, should be political. Mr. Dahl agreed that WR2020 is a non-profit corporation that was set up by the City and is funded by the City, but said they are not government and are not subject to the Fair Campaign Practices Act which prohibits cities and the state from spending money advocating for/against candidates and issues. Although funded by the City, WR2020 is not an agency of the City and they can spend money on campaigns. He also said it is absolutely fair for the Council to choose to fund WR2020 as they see fit depending on how they feel about what WR2020 is doing. ~ Mike's positive thing: Check with your neighbors to see if they need help cleaning up after the storms.

Meeting adjourned at 8:24 pm, to reconvene to a Study Session at 8:30 pm.


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON October 14, 2013 BY A VOTE OF 6 to 0



Davis Reinhart, Mayor pro tem

2 absentions #

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.