

**STUDY SESSION NOTES**  
**CITY OF WHEAT RIDGE, COLORADO**  
City Council Chambers 7500 W. 29<sup>th</sup> Avenue

**May 5, 2014**

Mayor Jay called the Study Session to order at 6:31 p.m. Council members present: Bud Starker, Zachary Urban, Kristi Davis, George Pond, Tim Fitzgerald, Genevieve Wooden, Tracy Langworthy.

Absent: Jerry DiTullio

Also present: City Clerk, Janelle Shaver; Treasurer, Larry Schulz; City Attorney, Jerry Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; other staff and interested citizens.

**PUBLIC COMMENT ON AGENDA ITEMS**

**Kim Calomino** (WR) is pleased Council will have a thoughtful discussion about the height and density limits in our Charter. These provisions are old and she believes they belong in the zoning code so citizens can be part of the discussion. She believes citizen engagement can help further Council's goals of housing, jobs, shopping, and increased tax revenue. Besides questions about a sales tax increase she suggested the citizen survey have questions about height and density, and setting up a Charter review commission.

**Rachel Hultin** (WR) spoke in favor of removing height and density limits. She related recent Facebook conversations about some people's vision for the City -- not wanting WalMart to come to 38<sup>th</sup> & Wadsworth, but rather something like Trader Joe's or Kohl's. She also read from the original covenant of her house [date not given] that included racial restrictions. Old restrictions like this upset her and she doesn't want height and density restrictions to be our legacy.

**Kelley Brooks** (WR) encouraged having a conversation about height and density, and whether it belongs in the Charter or the zoning code. He thinks this issue would be a perfect complement to a November tax increase measure because there's no cost associated with it and both have the potential to increase revenue in complimentary ways. He also thinks where the height and density charter provisions are found in the Charter doesn't make sense.

**Sundari Kraft** (WR) moved here recently from Denver where she helped modify their food-producing animal rules to allow dwarf dairy goats and chickens. She praised Wheat Ridge for its fabulous urban agriculture provisions. Unfortunately dwarf goats were left out of the mix. She spoke in favor of allowing dwarf goats and encouraged not overregulating it.

**Tom Ripp** (Arvada), local attorney who deals with real estate, believes the height and density restrictions are draconian. He suggested Council take the lead, take this to the

people, and push for removal of these restrictions so we can reinvent our city like communities all around us are doing.

Mayor Jay announced that if there were no objections Item #4 would take place after Item #1.

1. Dwarf Goats Zoning Amendment ~ Ken Johnstone

Currently our zoning code regulates the keeping of full sized goats. Dwarf goats, which are much smaller, are not referenced. Mr. Johnstone, as zoning administrator, has determined that dwarf goats – although much smaller than regular goats – are subject to large animal regulations.

Large animals are allowed based on minimum lot size and the animal size (based on a “horse equivalent unit”). Currently 3 goats = 1 horse, and no large animals (or equivalent) are permitted on smaller lots. Proposed changes would allow for more dwarf goats than full sized goats and allow the keeping of dwarf goats on smaller lots.

Council questions and discussion followed.

There was consensus to amend the small animal and poultry code to include dwarf goats.

4. Height and Density Charter Restrictions ~ Patrick Goff

Community outreach is ready to start for consideration of a tax increase. Before the polling starts Mr. Goff wants some direction from Council about what they want.

Council discussion and questions followed.

- Some don't think height and density restrictions belong in the Charter.
- There is a concern that having a height/density questions and a tax increase measure on the ballot at the same time may result in the defeat of both.
- Wording will be important to make sure people know it's tied to economic development.
- What taller/denser developments have occurred in those areas where voters removed the limits in 2009? One - the senior apartments at 44<sup>th</sup> and Wadsworth.
- Most projects in Wheat Ridge will require some form of public assistance.
- Removing height and density limits will not open the flood gates of redevelopment, but it is one less obstacle.

A majority of councilmembers favored moving forward with this issue. Mr. Goff reminded Council that opportunities are coming up for further public vetting of the issue – citizen survey, polling, Council district meetings, before a decision is made about what will be on the ballot – if anything.

## 2. Business Development Zone – Steve Art

Mr. Art outlined a request by 38 Ltd., the owner of the property at 7200-7250 W. 38th Avenue, for a BDZ Agreement with the City.

- This agreement would allow the City to rebate back to the developer all, or a portion of, building impact use fees – including use taxes, permit fees, and zoning fees.
- Staff needs direction on the percentage of incentive, total amount of incentive and the time period for the agreement.
- Plans for redevelopment of the property were briefly highlighted.
- No plans have been submitted so financial estimates are preliminary. The developer is just wanting to know if Council is open to a BDZ.

Council questions and discussion followed.

Besides discussion of this particular agreement there was also general discussion about BDZ's and ESTIP sharebacks – with a desire for uniformity, consistency and fairness.

There was agreement for staff to bring the agreement back with details and numbers.

## 3. Xcel Banner Pole Agreement ~ Patrick Goff

Long term allowance for use of Xcel's facilities (poles) to hang banners, flags, or flower baskets ended in December, 2012. A consortium of cities has been unable to reach an agreement on how to address this. Xcel has proposed a "last and best" offer. (Only Antonito and Salida have signed it.)

Mr. Goff stated the primary objections to Xcel's offer. Mr. Dahl elaborated.

- 1) Insurance and Indemnity -- Xcel's proposal would make us out of compliance with CIRSA (insurance) coverage
- 2) Compliance with laws – Municipal attorneys agree uniformly that we cannot contract away a governing body's police power authority.
- 3) General provisions – We can't accept Xcel's requirement that we agree to indemnify third parties, because municipalities aren't legally allowed to do that.

Mr. Goff addressed Xcel's requirement that the hanging, maintenance and removal of pole attachments can only be done by certain qualified contractors who have executed a Contractor Agreement form. City staff could not be used (expensive). He's unsure if such a contractor can be hired.

Options include:

1. Agree to Xcel's Joint Use Agreement with no amendments; would require the City to find a contractor that would agree to Xcel's Contractor Agreement.
2. Consider purchasing the Xcel facilities (poles). A December, 2012 request for prices has yet to receive direct answers.
3. Adopt an ordinance similar to that of Northglenn and Blackhawk which requires joint use of utility facilities in City rights-of-way.
4. Do nothing and only attach things to City owned facilities (poles).

Discussion followed.

Five councilmembers were in favor of going forward with an ordinance.

5. Staff Report(s) ~ Mr. Goff reported that the urban renewal bill passed out of committee 5-0, so that will be going to the Senate floor.

6. Elected Officials' Report(s)

**Zach Urban** asked folks to keep his grandfather in their prayers since he had a mild stroke on Sunday.

**Genevieve Wooden** distributed some information about how other cities are handling the marijuana issue. She asked for:

- 1) a moratorium on any new applications for any marijuana facilities of any kind,
- 2) that 50% of our marijuana revenues go to the schools, and
- 3) reconsideration of a smoking ordinance outlawing all smoking in our parks.

Support from a second councilmember was necessary to put these items on a study session agenda. It was suggested that the two marijuana issues could be addressed when Council discusses further marijuana regulations related to the 90-day moratorium on marijuana infused products.

Discussion continued. No directive for an ordinance was forthcoming at this time, but there was some willingness to discuss the topic of tobacco smoking in the parks at a future study session. Mr. Goff will add it to the list.

**Bud Starker** mentioned the several ribbon cuttings held on 38<sup>th</sup> Avenue last Friday. It was enlightening and very well organized. He thanked the staff and everyone who participated.

**Tracy Langworthy** reported the Housing Authority has purchased two houses for renovation and resale. The work is in progress.

**Kristi Davis** wished Happy Mother's Day to the moms out there.

**Mayor Jay** referenced the recent ribbon cuttings.

The Study Session adjourned at 8:46 p.m.

  
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Janelle Shaver, City Clerk