

CITY COUNCIL MINUTES

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

October 13, 2014

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

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL OF MEMBERS

| | | | |
|----------------|------------------|------------------|----------------|
| Jerry DiTullio | Bud Starker | Zachary Urban | George Pond |
| Kristi Davis | Tracy Langworthy | Genevieve Wooden | Tim Fitzgerald |

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

APPROVAL OF MINUTES OF September 22, 2014

Councilmember Starker offered a revision to the correction of the September 8 minutes. The motion was made by Councilmember DiTullio and seconded by Councilmember Starker. Clerk Shaver said she will change it.

Motion by Councilmember Davis to approve the Minutes of September 22 as corrected; seconded by Councilmember Fitzgerald;

Councilmember DiTullio asked that the same motion should reference Consolidated Mutual Water not Denver Water. Clerk Shaver said she will change it.

Motion carried 8-0.

PROCLAMATIONS AND CEREMONIES

RECOGNITION OF MIKAYLA BROWN

Mikayla Brown was recognized for her efforts on May 2, 2014 at the corner of 32nd & Kipling following a fatal car collision that occurred at about 8:45 p.m. Mikayla, a 17 year old student who is training to become a firefighter, witnessed the accident where 18 year old Jordan Sprouts' car was hit by a driver running a red light and later determined to be intoxicated and driving recklessly at high rates of speed. Mikayla immediately checked for injuries and began rendering first aid to Jordan. When Wheat Ridge Officer

Shaw arrived on the scene he observed evidence of Mikayla's training and technical skills. Mikayla reported on the status of the victim and assisted Officer Shaw in administering CPR. Unfortunately Jordan's injuries were too severe and he later died at the hospital.

On behalf of WRPD, Wheat Ridge Fire, Arvada Fire and Rural Metro Pridemark, Mayor Jay presented Mikayla with a plaque in recognition and appreciation for her quick response, extreme initiative and willingness to use her emergency medical skills in a brave attempt to save a life.

Mikayla thanked everyone for the recognition. She said she was just doing what fire fighters are supposed to do.

Chief Brennan noted the large scale of this tragic and traumatic event and thanked the responding organizations as well as Mikayla, an ordinary citizen that steps up and helps out with public safety when we need their assistance.

CITIZENS' RIGHT TO SPEAK

Sherri Carter from Vivian Elementary spoke about her school. It is a small school in Lakewood, but serves Wheat Ridge students. It has 5 Special Ed labs, including labs for the deaf and kids with social and emotional needs. They educate the whole child and teach social skills. They have a musical they perform in sign language.

Randy Ketelsen of Ketelsen Campers related that his business is experiencing recurring break-ins. He's had excellent support from WRPD, but it is a bad problem. Units left for repair are robbed, with losses to over \$100,000. He wants to put in an electric security system and he'd like approval from the City.

Michael Pate (Columbia, SC) has been hired to protect Ketelson Campers by installing an electric fence that will set off an alarm. He's getting push back from City staff, the Police Chief, and the school district. They'd like a 10 foot fence, but have acquiesced to 9 feet. The school district doesn't want it there. He said Mr. Ketelsen needs to be issued a permit so he can protect his property. They are asking Council to direct staff to issue a permit.

Ken Johnstone responded. He said the fence is a potential health hazard, and that the applicant is unwilling to observe setback and height requirements. The school has concerns about health and safety issues. The Police Chief has determined the fence is unsafe. The applicant has amended the application, but staff hasn't received a second round of comments from the District. Chief Brennan spoke about the School District's concerns.

Jennifer Yates spoke to the property at 38th & Miller for a marijuana establishment. She quoted from the pre-app meeting between the property owner and City staff. She said since the moratorium was put in place work has stopped at the property. ~ She

also commented on flaws that she sees in the Special Use Permit process – including that it doesn't notify enough homes.

Mr. Goff noted that staff does meet with property owners. There is no application that has been submitted for this property.

Mary Fedje (WR) addressed some things that were said at the marijuana study session. Medical marijuana is not the issue; it's the commercialization. She spoke strongly against the dealers and marijuana candy. She noted the Council people didn't come to the marijuana meeting. She believes this marijuana issue is a tiger that needs to be caged right now.

John Clark (WR) commented on what a good teacher Sherri Carter is and noted his business uses the Electric Guard Dog that Mr. Ketelsen wants. It's a good product. ~ Regarding ballot issue 2A, he noted there is no formal opposition to it so he wonders why so much money is being spent on it. He's gotten an expensive mailer w/ Councilmembers pictures. Who is supporting this and why? WR2020? The marijuana industry? Big developers? Where is the money coming from?

Leah Dozeman (WR) spoke in opposition to Ballot Issue 2B and asked why, in 10 years of planning with 6 seated Councils, there has been no discussion of a funding source for the \$9.3M price tag. She posed how far that money would go citywide to make our sidewalks ADA compliant. 2B only serves a few and she encouraged a "no" vote.

Vicky Ottoson (WR) spoke in opposition to Ballot Issue 2B -- speaking on behalf of small businesses and home owners who live in the area of 38th Avenue (Upham to Marshall) who feel their concerns have been ignored.

Monica Duran (WR) spoke in opposition to 2B. Citizens for an Inclusive Wheat Ridge feel their voices have been missing from the planning process from the beginning and they've been powerless to have any influence on the plan that resulted in 2B. Even now anyone who raises questions is put down. CIWR feels the issue should be defeated so a plan can be designed that isn't so contentious.

Rachel Hultin (WR) spoke in support of 2B that she sees as a plan for positive change that is permanent and benefits everyone. She listed 4 new dining places on 38th since the road diet went in, and said it will attract more dining and retail to our community. It will create a pedestrian friendly corridor for all to enjoy – including the 40% of us who don't drive. The plan doesn't reflect the input of everyone involved, but it absolutely reflects the thoughts of our neighbors and business/property owners. It has been vetted by people who have long term interest in our community. What other people think is arm-chair planning that hasn't been vetted properly. A "no" on 2B means nothing happens, so people should vote "yes" on 2B.

Eric Wilson (WR) spoke in favor of 2B. He wants change on key commercial corridors and he sees this as a place to start. It will bring dining and retail and development that

supports existing businesses. It helps us be a bike/pedestrian/auto friendly city. He wants all stakeholders to have a say in creating a plan that enjoys the full support of the community. The process has happened; we should move forward to make our city better.

Becky Grant (WR) doesn't oppose the use of marijuana for those who need it for medical reasons or (until state law is changed) for those who choose to smoke. Her concern is there hasn't been enough testing. She displayed and read old ads that touted the safety and benefits of cigarette smoking. We all know the negative effects smoking has had on our health care system, our economy and hundreds of thousands of families. She shudders to think what we'll be finding out in 10 years about the impact of habitual marijuana use.

Veronica McDonough (WR) spoke against marijuana – referencing the award ceremony earlier for someone who tried to help save the life of a person who was hit by an intoxicated driver. She gave statistics about the considerable number of accident and trauma patients who are there because of marijuana. She doesn't think all the money it brings in is worth it. It's not worth it to put our society at risk.

Patricia Lazzari (WR) spoke against marijuana. She related her experience growing up near Haight-Asbury in the 1960's. Today's marijuana is 4-5 stronger than it was in the 1960's. It's dangerous and addictive. She asked Council to consider the facts.

APPROVAL OF THE AGENDA

1. Consent Agenda
 - a. Resolution 53-2014 – amending the Fiscal Year 2014 Police Investigation Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$8,800 for the purposes of purchasing Document Management Software *[Funding will come from the Police Seizure Fund; no impact to the General Fund]*
 - b. Motion to approve payment to ESRI Inc. in the amount of \$38,000 for the Annual License Renewal for the Graphical Information Systems (GIS) *[All-inclusive for licensing, tech support, software upgrades and implementation]*

Councilmember DiTullio introduced the Consent Agenda.

Motion by Councilmember DiTullio to approve the Consent Agenda Items 1a and 1b; seconded by Councilmember Starker; carried 8-0

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Council Bill 12-2014 – Approving the rezoning of property located at 4360 Gray Street from Neighborhood Commercial (NC) to Mixed Use-Neighborhood (MU-N) (Case No. WZ-14-07/Germano)

Councilmember Urban introduces Item 2.

The property is 0.19 acres. The purpose of the rezoning is to increase the allowed uses including the option of converting the existing structure back to residential occupancy. The Planning Commission recommends approval.

Mayor Jay opened the public hearing.

An ordinance number was not available.

Mayor Jay swore in Mr. Johnstone.

Mr. Johnstone indicated briefly it was a pretty straightforward case and there was no staff presentation.

There were no questions from the Council.

The applicant did not speak.

Mayor Jay closed the public hearing.

Motion by Councilmember Urban to approve Council Bill No. 12-2014 an ordinance approving the rezoning of property located at 4360 Gray Street from Neighborhood Commercial (NC) to Mixed Use-Neighborhood (MU-N) on second reading and that it take effect 15 days after final publication, for the following reasons:

1. City Council has conducted a proper public hearing meeting all the public notice requirements as required by Section 26-109 of the Code of Laws.
2. The requested rezoning has been reviewed by the Planning Commission, which has forwarded its recommendation.
3. The requested rezoning has been found to comply with the criteria for review in Section 26-112.E of the Code of laws.

Seconded by Councilmember Davis; carried 8-0

3. Council Bill 13-2014 – adopting by reference the 2012 Editions of the International Building Code, the International Mechanical Code, the International Plumbing Code, the International Property Maintenance Code, the International Energy Conservation Code, the International Residential Code, the International Fire Code and the International Fuel Gas Code; the 2014 Edition of the National Electrical Code; and the 2015 National Fire Protection Association 99 Standard for Health Care Facilities; adopting certain amendments to such codes; providing penalties for violations of the same; and amending Chapter 5 of the Wheat Ridge Code of Laws accordingly

Councilmember Starker introduced Item 3.

This action will adopt all the most recent versions of the various codes listed.

Staff Presentation

John Schumacher, Chief Building Inspector, listed some of the changes to the codes and the various local amendments that Council had requested at First Reading including:

- The inclusion of fines in the appeal process
- Reducing the number of plan sets to be submitted with an application from 3 to 2,
- Reducing the occupant load from 250 to 125 for determining separate sex bathrooms,
- Clarifying the 7-foot, above-roof plumbing vents only apply to occupiable roofs,
- Prohibition of combustible solvent-based marijuana extraction

Mayor Jay opened the public hearing and declared the previous staff testimony as part of the record.

Public Comment

Dorothy Archer (WR) asked how these changes affect current businesses in Wheat Ridge and proposed new businesses on 38th Avenue.

Staff said the changes apply to new construction and remodeling. Many recent applicants have already asked if they can submit plans based on the new Codes. They will go into effect in January, 2015.

Motion by Councilmember Starker to approve Council Bill No. 13-2014, order it published and that it shall become effective fifteen (15) days after final publication, with the following amendments as presented:

- Add a new Section 17 addressing marijuana establishments
- Amend Section 107.1 of the Building Code
- Amend Section 106.3.1 of the Mechanical Code,
- Amend Section C103.1 of the Energy Conservation Code,
- Amend Section R106.1 of the Residential Code for One and Two Family Dwellings,
- Amend Section 507.5.1 of the International Fire Code
- Amend Section 1 of the Ordinance to provide amendments to the 2012 International Building Code regarding High-hazard Group H-3 and Extraction of hash oil;

seconded Councilmember DiTullio.

Discussion followed.

Motion carried 8-0.

4. Resolution No. 54-2014 – establishing a Street Width for Tabor Street from 49th Ave. to Ridge Road

Councilmember Wooden introduced Item 4.

Mayor Jay opened the public hearing.

Mayor Jay swore in Scott Brink to testify.

Mr. Brink gave the staff presentation. The project widens and improves Tabor Street from 49th Avenue to Ridge Road to provide local access to the Gold Line/Ward Station. The road will be widened from 25-34 feet to 41 feet to include two ten foot travel lanes, an eleven foot center turn lane, and five foot wide bike paths on each side. ~ Council has already approved the funding of property acquisition for rights-of-way and the hiring of a consultant to accomplish that. ~ A neighborhood meeting was held. ~ The City has already agreed to the federal funding of \$740,000 via DRCOG and RTD. ~

Mayor Jay swore in Mark Westberg. He answered a question for Mr. Starker.

Motion by Councilmember Wooden to approve Resolution No. 54-2014 a resolution establishing a street width for Tabor Street from 49th Avenue to Ridge Road in accordance with attachment 2; seconded by Councilmember Langworthy.

Mayor Jay closed the public hearing.

Motion carried 8-0.

ORDINANCES ON FIRST READING

5. Council Bill No. 14-2014- imposing a Temporary Moratorium of the submission, acceptance, processing and approval of applications and requests for a Permit, License, Land Use approval or other approval for any Medical Marijuana Establishment or Retail Marijuana Establishment

Councilmember Wooden Councilmember Wooden introduced Item 5.

Motion by Councilmember Wooden to approve Council Bill No. 14-2014 on first reading, order it published, public hearing set for Monday, October 22, 2014, at 7:00 p.m. in City Council Chambers, and that it take effect fifteen (15) days after final publications; seconded by Councilmember Langworthy.

Motion by Councilmember DiTullio to amend Section 3 (Duration) of the moratorium to have the moratorium commence on Nov 17, 2014 and expire upon further formal action by the Council; seconded by Councilmember Urban. Discussion followed.

Motion failed 2-6, with Councilmembers Wooden, Langworthy, Davis, Pond, Fitzgerald, and Starker voting no.

Motion by Councilmember DiTullio to amend the length of the moratorium to 120 days; seconded by Councilmember Urban. Discussion followed.

The amendment carried 5-3, with Councilmembers Wooden, Fitzgerald and Pond voting no.

The main motion as amended carried 8-0.

DECISIONS, RESOLUTIONS AND MOTIONS

6. Motion to accept Kipling Street Right-of-Way and Temporary Construction Easements from adjacent Property Owners along Project Segment

Councilmember Langworthy introduced Item 6.

To date, all necessary rights-of-way and easements have been acquired for the Kipling Trail with the exception of three properties. These remaining parcels will be brought to Council for formal acceptance at a later date.

Motion by Councilmember Langworthy to accept the Kipling Street right-of-way and temporary construction easements from adjacent property owners along the project segment; seconded by Councilmember Fitzgerald; carried 8-0

7. Motion to accept Kipling Street and 49th Avenue Right-of Way along Natural Grocers Frontage

Councilmember Langworthy introduced Item 7.

Due to improvements proposed for the Kipling Street and West 49th Avenue intersection associated with the Natural Grocers development, additional right-of-way is needed along both frontages of the parcel at the northeast corner of the intersection. This will allow the improvements to lie within the public right-of-way and be maintained by the City.

Motion by Councilmember Langworthy to approve the right-of-way dedication as described in the attached Deed and Legal Description; seconded by Councilmember Wooden; carried 8-0.

CITY MANAGER'S MATTERS

Mr. Goff announced the Optimist Pancake Supper this Thursday, from 5-8pm at WRHS. Proceeds from the event go to serve the youth in our community.

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS MATTERS

George Pond thanked the people who came in to speak about marijuana, Genevieve Wooden for her passion about marijuana and his partner in District 3, Councilmember Fitzgerald. They have work ahead of them.

He distributed a motion regarding various marijuana business regulations, which contained a list of ten specific policy actions he's recommending for an ordinance.

Motion by Councilmember Pond directing staff and the city attorney to draft an ordinance affecting the code of laws consisting of ten itemized policy actions; seconded by Councilmember Fitzgerald.

Discussion followed.

Motion by Councilmember Starker to amend the motion and have staff explore the issues, but not draft an ordinance; seconded by Councilmember DiTullio; carried 8-0

Councilmember Pond's original motion, as amended, carried 8-0

Tracy Langworthy reminded the board and commission members of the dinner this Wednesday night.

Kristi Davis thanks the folks who came out to speak. The dialogue is important.

Zach Urban offered a huge thanks to all the volunteers on the Boards and Commissions for all the time and effort they spend to make the City a great place to be.

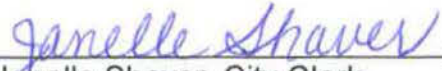
Bud Starker hopes everyone will take the opportunity to vote in the upcoming election. It is the greatest right we have and it is the way you influence public policy.

Jerry DiTullio reminded everyone their ballots will be mailed out this week.

Clerk Janelle Shaver noted that ballots will be mailed out from Tuesday (tomorrow) through Friday. If you don't get a ballot by sometime next week call the County to find out how to remedy that. ~ She informed everyone that City Hall will be a polling place on Election Day complete with on-site registration and the ability to vote. ~ She reminded everyone that political signs are not allowed in the public right-of-way. Additionally the size limit for signs is 8 sq feet on residential property and 16 sq feet on commercial property. ~ She encouraged Board and Commission members to RSVP for the dinner if they haven't yet done that.


ADJOURNMENT

The City Council Meeting adjourned at 9:06 pm.



Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON October 27th, 2014.



Kristi Davis, 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.