

STUDY SESSION NOTES
CITY OF WHEAT RIDGE, COLORADO
City Council Chambers 7500 W. 29th Avenue

May 18, 2015

Mayor Jay called the Study Session to order at 6:30 p.m.

Council members present: Bud Starker, Zachary Urban, Tim Fitzgerald, George Pond, Kristi Davis, Genevieve Wooden, and Jerry DiTullio.

Absent: Tracy Langworthy

Also present: Deputy City Clerk, Kelly Stevens; Treasurer, Larry Schulz; City Manager, Patrick Goff; Public Works Director, Scott Brink; Community Development Director, Ken Johnstone; Economic Development Director, Steve Art; Senior Planner Lauren Mikulak; Project Supervisor, Mark Westberg; other staff, guests and interested citizens

PUBLIC COMMENT ON AGENDA ITEMS

Deputy Clerk Stevens read a letter from **Thomas M. Slattery**, 6869 W. 32nd Avenue, Wheat Ridge:

I object to the inclusion of the so called 4-3-4 lane "Starker Plan" in the above plan for the following reasons:

- 1. There were to be multiple alternatives for the street, as determined by the previous Council decision, not just this one.*
- 2. The present striping of 38th Avenue was never intended to be permanent as this plan would make it. It was to be a trial only. This trial and the project it was intended to prove were endorsed by City Officials but rejected by citizens in multiple hearings and finally rejected by the voters in a near landslide result.*
- 3. The plan appears to be a patent attempt to retain the so called "Road Diet" intended to narrow the curb to curb width of the street as a permanent fixture. It must be noted that the referendum election that defeated the Road Diet was not initiated by the general public, but by the businessmen and commercial property owners in the corridor.*
- 4. Therefore to avoid travesty, a four lane option from Wadsworth to Sheridan must be considered. Feasible options would include four lanes plus center lane as well as four lanes only with turn lanes at critical intersections and parking where feasible.*
- 5. I endorse a four lane option as the only means to restore the normal and desirable pattern of traffic flow on the residential streets surrounding W. 38th Avenue in East Wheat Ridge.*

Mike Gauthier, 4660 Otis St, Wheat Ridge is a resident and has owned Wheat Ridge Liquor on 38th Avenue for 10 years. He wants to speak about Item, #2 on the Agenda, the 38th Avenue Corridor plan. What's been done so far has shown success. The Ridge at 38th has award winning marketing and has brought in new businesses. The original objective of this process was to bring in new

businesses and more sales tax revenue. Both of these things have happened. The so called "Road Diet" was not an arbitrary decision. He objects to people who come into his store and say that these changes were made without their opinion. There were many public meetings and study sessions they could have attended on this process. He has attended almost every one of them. These people never commented earlier in the process. Don't throw the baby out with the bath water. Maybe Council could look at an abridged plan for the area. Maybe the process could be on a smaller segment of 38th Avenue. He read Council member George Pond's article in the Gazette and feels from what he read that there is consensus and opinion about this project. If people feel that they were not included in the decision making process then they weren't paying attention or didn't take the time or make the effort to be included. He believes the City should move forward and stick with plan and the Neighborhood Revitalization Strategy adopted by Council in 2005 and the 38th Avenue Corridor Plan adopted in 2011 and he doesn't see any reason why the City should do anything different because the facts show this plan is a success. He thanked the Council for allowing him to speak.

Janeece Hoppe, 7018 W. 28th Avenue, Wheat Ridge. She and her husband own Compass Construction across from Family Tree on 38th Avenue. In 2010, they were looking for a new place to house their business because they had grown out of their building at 44th and Tennyson. They looked all over the Denver area and found this building. It was a mess and everywhere they looked, they saw empty buildings and for sale or lease signs were everywhere. Their Realtor showed them the NRS and they saw there was a great vision for the area and they decided to purchase the building. They moved into the building in January 2011. They joined Wheat Ridge 2020 and the Wheat Ridge Business District and she is a member of the Ridge at 38th Leadership Committee. They also moved their family to Wheat Ridge. They went "all in" because of the vision and the way Wheat Ridge is moving forward. Please maintain the present course and progress on 38th Avenue and don't go back to five lanes. Please maintain the small community and pedestrian friendly feel of the three lanes on 38th Avenue.

Christi Thompson, 3200 Jay Street, Wheat Ridge. As far as she knows, voting doesn't matter in Wheat Ridge. 2B was defeated in November. She wants 38th Avenue put back to 5 lanes. She feels the present configuration is not what people voted for in November. She requests that the Council reject the new idea of leaving 38th Avenue the way it is from Upham to Marshall. She said this is not what the people voted for in November.

Monica Duran on behalf of Cindy Beardsley, 4000 Depew Street, Wheat Ridge. Parking is ridiculous along 38th Avenue. Most of the businesses have their own parking lots and road-side parking is seldom used. The new townhomes on 38th and Depew are too close to roadway and make 38th Avenue very dark. She is not sure how the variance was approved. She feels that two lanes from Sheridan to Depew and cutting it to only one lane at Depew is

dangerous. Many people driving don't realize they have to get over and it creates a bottleneck. She has seen many near accidents at this intersection. Why is there a right turn on Chase and not Depew, where there is a light? Perhaps the City Council wanted to make 38th into a market place-type street, but 38th is too wide and more of a main thoroughfare compared with The Highlands or Pearl Street in Denver.

Herb Schillereff, 3900 Garrison Street, Wheat Ridge. He bought his home in 1963 and has lived in Wheat Ridge ever since. He has raised a family here and feels it is a great place to live and we should keep in that way. He feels that 38th Avenue is a disgrace with bad parking and he requests that the City put it back the way it was. He stated that the changes were voted down without question and wants to know why Council hasn't reacted to what people want not what Council wants. He doesn't want to see any more money spent on this project and requests that 38th Avenue be put back the way it should be.

Britta Fisher, lives in District 1 and is the Executive Director of Wheat Ridge 2020, a non-profit organization that is volunteer powered, staff supported, and board directed with the goal of creating a more vibrant and sustaining community here in Wheat Ridge. Wheat Ridge 2020 has grown and evolved with the idea of enhancing our main street. They were part of the NRS adopted in 2005 which called for creating a Main Street in Wheat Ridge. When people look at Ridge at 38th and other areas near 38th Avenue, it is clear there have been some signposts of success. She has heard some people say that they don't go to the businesses on 38th because of the restriping project, but the increase in tax revenue shows otherwise. 38th Avenue is not the biggest sales tax generator in the city, but creating success and having a Main Street is important to the community. Wheat Ridge as a community has been getting lots of accolades in the Denver Post and 5280 magazine and other publications, people have been talking about Wheat Ridge. Now people know about Wheat Ridge and know we have been investing in ourselves. Home values have exploded in the area. One home marketed just off of Ridge at 38th had 70 showings, 40 people at their open house, and received multiple offers of 20-30,000 over asking price. She urges the city to continue moving forward. The Main Street concept is an important part of making Wheat Ridge a vibrant, sustainable community and she hopes people can work together to realize this.

Charlotte Kettering, 4001 Marshall Street, Wheat Ridge. She lives near 38th Avenue and feels there is too much traffic. She often has to wait – sometimes for 20-30 cars in order to turn from Marshall onto 38th. She avoids 38th and people that come to visit her avoid 38th as well. She realizes that sales taxes may have increased, but she does not go to bars or pubs or get tattoos. She has seen many near misses on her corner from busses and cars attempting to go around stopped busses. Please put 38th Avenue back the way it was.

Joan Blanchard 3295 Kendall Street, Wheat Ridge. She lives at the corner of 33rd and Kendall. She has seen a 20% drop in traffic on 38th Avenue because of

slow traffic. As a result, some people are taking shortcuts through neighborhoods to get around the traffic on 38th. Recently, she had someone actually driving through her back yard tearing up her fence and trees and landscaping. Fortunately no one was hurt, but they could have been. These were people who had never been on this street before and they could not see because of a rise and dip in the road. They could not see and there were no hazard signs on 33rd. Traffic is taking shortcuts to get around slow traffic on 38th and endangering neighborhood. She saw on Pierce where someone had damaged a fence on a residential lot also. She requests the Council to please consider going back to the original size of 38th Avenue.

Kim Calomino, 4070 Dover Street, Wheat Ridge. Ever since adoption of neighborhood revitalization strategy in 2005, she has seen and been involved in the process of public meetings and hearings that have set the direction to create a Main Street in Wheat Ridge. Thank you to this and previous Councils for adopting forward thinking plans like Envision Wheat Ridge and the 38th Avenue Corridor Plan that has attracted businesses to our city. It took many meetings and study sessions to get to the point we are at now. She is pleased to report that her own children (young adults now) have found places to hang out and enjoy and bring their friends from other areas in the community where they were raised. This has not been the case in the past, but now these young people are spending time and dollars on 38th Avenue. We want to encourage this kind of "stay in our community attitude among our young people. Many of her own friends regularly check Facebook and join Wheat Ridge Facebook groups to find gathering places and events in Wheat Ridge along 38th Avenue. Tonight we see the information that this foresight and planning has been a good investment. Sales tax collections are up and the city is diversifying and the city needs this to grow and continue. Our traffic is moving slower and closer to the 35 mph speed limit and makes this area feel safer for bikes and pedestrians. The Denver metro area is abuzz about what is happening in our community. The Denver Post, 5280 Magazine and other publications are talking about us and we aren't being talked about as "the other W city," Westminster, any longer. She participates in a lot of the online dialogues and some people suggest that we can have it all, but we can't. Through many years of public meetings, she has realized this is true and she believes Council knows this as well. We have set a direction and are initiating policy with constraints. There is not unlimited right-of-way or resources and priorities must be made and you (Council) must make them. Please continue forward and building on the work of many citizens, staff, and councilmembers to realize our vision for a thriving Main Street.

Ron Kiefer, 3875 Field Drive, Wheat Ridge. He came to speak in continued support of the NRS, the 38th Avenue Corridor Plan and Envision Wheat Ridge. He has attended many meetings, hearings, and study sessions since 2005 and he is surprised when he hears that this has been a closed process. It has not been closed – it has been very open. The City is receiving much more sales tax revenue. People are going to 38th Avenue and spending money. He is excited to see that growth is up. These plans take time and there have been some hiccups,

but new businesses are investing in the 38th Avenue Corridor. Please move forward and don't back track. He appreciates the bike paths and would hate to see them get killed. The more bike paths are there, the more they will get used to using them. Yes, traffic is a little slower along 38th, but it is good. Thank you.

Vivian Vos, 6920 W 47th Place, Wheat Ridge. She would guess the sales tax increases touted as increase along the 38th Avenue corridor is probably because of larger businesses not actually on the corridor, like the Wheat Ridge Cyclery. She wonders if we are putting cart before horse. We are not actually dealing with the number of lanes yet. She is confused by the NRS that strongly urges the City of Wheat Ridge to pursue a destination Main Street. She isn't sure that the definition of "Main Street" has actually been talked about. The NRS emphasizes the need to attract strong households. What is a "strong household?" A house made of brick? Ultimately the provision of an appealing pedestrian- oriented destination like 38th Avenue helps to create that household demand. Why are we changing a major thoroughfare into a pedestrian-oriented destination? Regarding the vote for \$9 million that was defeated to widen the sidewalks; the assumption was that it would narrow the streets. And the no vote meant that the people did not want the narrowing of the streets. Please change it back to the 4-5 lanes – something more than what we have now.

Teo Nicolais 3300 Zenobia Street, Denver. He works and teaches at Harvard University. Among the classes he teaches are Principles of Real Estate and Reals Estate Finance Fundamentals. He is on the Board of Directors of the Apartment Association of Metro Denver and an Urban Land Institute member. He is basically a real estate nerd and that's why he is so interested and excited about the plan Wheat Ridge is putting into place. If this study session on creating a lively and vibrant street were not here and instead in his Harvard classroom, the text he would assign would be from Jane Jacobs, a legendary urban theorist who looked at doing exactly what we are doing here. She says a vibrant place must assure the presence of people who go outdoors on different schedules and are in a place for different purposes but who use many common facilities. One of the most common facilities used by public and private alike are sidewalks. Think about Larimer Square, or Tennyson, or Pearl Street and what they have in common is bustling pedestrian activity. This does not happen by accident. It happens when you create a safe and inviting sidewalk and a place where people can stroll, ride, and drive. A successful street must be made to human scale, not vehicle scale. Nothing takes the taste out of craft beer and gourmet pizza like traffic noise and exhaust that creates a danger to pedestrians who are trying to enjoy the space. This plan will lead to the Wheat Ridge renaissance that we all have desired. The most contentious issue at hand seems to be the reduction in vehicle speed. A City policy should not be aimed at transient vehicular traffic that just drives through town, but rather the economic drivers – the pedestrians. Those economic drivers are the ones that matter. There is a name for city that thrives on traffic only flowing through and that name is a truck stop.

Jerry Nealon owns building at 6770 W 38th Avenue, Wheat Ridge as well as several rental properties in Wheat Ridge. He has lived here a very long time. His grandfather built the building on 38th Avenue and he has seen the ups and downs that 38th Avenue has survived. Seven or eight years ago, 38th Avenue used to be a dump and he was considering selling the building and moving out. Instead, because of Wheat Ridge's vision for the area, he invested some money and fixed up his building. He wants to have his business in an area that looks nice and inviting and not on a busy, unsafe road. The City has held many meetings and the public has had many opportunities for input and the city spent a lot of money on consultants all to help fully develop the plan for 38th Avenue. The professionals and staff listened to all of the input and came up with a plan and we should follow through with it. Please don't go backwards and waste all of the time, effort and money the city has put into this plan. There is no plan that will please everybody so we need to do right thing and move forward.

Debra Wilson, attorney with a business office at 4175 Harlan Street, Wheat Ridge, and she is also a new home owner at 36th and Irving. She did have an office in Denver but wanted a place with more charm. In 2013 found the building at 41st and Harlan and bought it. The reason they came to Wheat Ridge was because of the plan and vision for the area. She looks forward to the growth of Wheat Ridge and going to the 38th Avenue businesses more and more. Her employees and tenants in her building often patronize these businesses as well. Walkability is very important and she urges the city to move forward with the plan.

Gene Myers, is the CEO and owner of Newtown Builders on 38th Avenue and he is the builder for the townhomes under construction on 38th. They have 8 people who have finalized their purchases of townhomes right on 38th Avenue. Developers come and go, but Newtown is not going anywhere. They made an investment in Wheat Ridge and will continue here. The vision for 38th Avenue and what the city is trying to do here is one of the major reasons they were attracted to Wheat Ridge in the first place. People have purchased these townhomes because they want to step out of their doors to a sidewalk. This is consistent with the Urban Overlay zoning for the area which is why the platting happened the way that it did. The people that bought these homes don't want to open their doors to lanes of traffic. He has 26 units in total and the people that have bought these properties and bought into the vision for the neighborhood. On behalf of these people he urges the city to please stay the course.

Caroline Mallory, 4001 Marshall Street, Wheat Ridge. She is a Colorado native and 4th generation Wheat Ridge-ite. She asked that the city please consider moving parallel parking closer to sidewalk. The parking spaces are not in the right place. Car doors can hit bike riders. The existing planters are not attractive or inviting and are expensive to maintain. Other communities have done some wonderful things with planters hanging from light poles, etc. We could accomplish something much more attractive than what we have now and wouldn't have as many problems. She objects to Wheat Ridge being compared

with Arvada or Tennyson or Littleton or The Highlands. 38th Avenue is a through street from Fox to Youngfield and many people want to drive through and not slow down. Are tickets given to bike riders? Some of them are a hazard. She feels the current lane configuration has caused major problems at Marshall and Newland. Lanes aren't clear and people don't know where to go. The left center lane has become speed through lane for people who don't want to wait for cars making right turns. South of 38th - Teller & High Court is a forgotten neighborhood. They have no sidewalks, no drainage plan – the area has had no updates in years and she objects to the city spending money on other plans before this area is updated.

Rachel Hultin, 4690 Balsam Street, Wheat Ridge. She has heard much about the vote last November, but most of what she has heard is not accurate. The vote last November was not about changing 38th Avenue back to 4 or 5 lanes. 2B that was defeated was about a proposed change in street width. The vote last November tore our community apart. Most people want a Main Street destination. They want a destination and a place for people to connect with their neighbors. If the objectors took away the idea of a Main Street, our community would be devastated. We would lose something that is really important to who we are. Please find a way to work together and move forward. The Citizen Survey will help everyone see this vision for the future. The Survey results will; also give us more of an opportunity to hold some Town Hall meetings and bring everyone together and discuss different options. We need to not just focus on street lanes but focus on safe way to create our Main Street.

Luke Schultz-Burrey, 5887 W 38th Avenue, Wheat Ridge and he owns Fido's Grub & Tub as well as the rest of the building his business is in. He has also brought other businesses in to Wheat Ridge besides his. He used to live in Gunnison, but he wanted more community connection. That is what drew him to Wheat Ridge – a great opportunity and vision for the future. It has been wonderful – he has had neighborhood support all around. He wants his business to be next to Main Street. He loves the area from Sheridan to Harlan and he would like to see it continue from Harlan down to the Main Street area. Keeping 3 lanes on 38th is important to the community feel we all want to achieve. He would like to see the city get rid of parallel parking and add bike thoroughfare lanes instead. He wants the city stay the course and continue along 38th Avenue.

APPROVAL OF AGENDA

1. Staff Reports
None
2. 38th Avenue/City Center

City Manager Patrick Goff gave a short presentation to update Council on completed activities since the plan's adoption, to report on the implementation metrics that have been tracked since 2012, and to discuss the next steps in implementation of the 38th

Avenue Corridor plan. This plan was adopted by City Council in October 2011, but the focus on 38th Avenue began many years ago. In 2005, the Neighborhood Revitalization Strategy (NRS) brought up ways to promote Wheat Ridge as a vibrant community. The NRS strongly urges the City to pursue policies that encourage redevelopment and promote 38th Avenue as a pedestrian-oriented destination Main Street. Creating this pedestrian oriented destination will help Wheat Ridge attract strong households.

In 2009 Envision Wheat Ridge helped reinforce the city's comprehensive plan and vision for a Main Street on 38th Avenue. It calls for a transit and pedestrian-friendly main street that will enhance community character.

It will take approximately 20 years to achieve the city's vision of a vibrant, mixed-use Main Street. Although the result of the November 2014 election rejected a permanent streetscape investment, there are many accomplishments worth celebrating in the three and a half years since plan implementation. Nine major community events have been held on the corridor since the fall of 2012, with countless smaller events. Since the completion of the branding and marketing strategy in August 2012, the Ridge at 38th logo is now widely recognized and has its own social media presence. This strategy received the Governor's award at the Downtown Colorado Conference. Since the corridor-wide rezoning to Mixed Use-Neighborhood in October 2012, there has been new development along 38th that has benefitted from streamlined development review and more clear urban design standards. There is investment in new development and revitalizing existing businesses along the corridor.

New Residential development includes 26 units within walking distance of the Corridor at inCarnation and 26 townhomes at Perrin's Row. New bike lanes were installed along Piece Street in 2014. This revitalization effort has been featured in several regional and statewide publications and conferences. Other new development applications are currently under administrative review.

Since 2011, sales tax revenues have increased along the corridor significantly. 2014 sales tax revenues along the corridor have increased 16.3% over 2013, 19.7% over 2012, and 35.6% over 2011. The average traffic speeds are hovering around the speed limit of 35 mph since restriping. Traffic volume along the Corridor, which had dropped briefly, is now back to pre-striping levels. There is no trend in accident counts.

With the help of DRCOG, the city has adjusted the timing of traffic signals along the corridor, which has shortened the average travel times. Bicycle and pedestrian activity has fluctuated. Due to changes in the corridor, emergency response times cannot be compared to previous years, but Police and Fire Officials have not made any complaints about responding in a timely manner to emergencies.

Next steps - Potential Phases:

Phase I – Early action items. On March 23, 2015, Council member Starker presented a strategy to continue implementing a City Center vision in conjunction with improvements along Wadsworth. Staff has identified three projects from this plan that may be

affordable, achieved relatively quickly and would contribute to an attractive and functional Main Street/City Center.

1. Remove most of the diagonal, back-in parking and replace with parallel parking
2. Fill and activate the gap between the curb and new parallel parking, which will provide a more comfortable environment for vehicles, bicycles, and pedestrians along 38th Avenue
3. Provide bicycle wayfinding. Since the bike paths are now a permanent feature of the Corridor plan, staff recommends signs to help bike riders identify the bike routes.

Phase II – Based upon the funds and longer timeframes for implementation, staff recommends the following three activities as Phase II for furthering the Main Street vision.

1. Redesign key intersections: Wadsworth and 38th Avenue, Upham and Marshall, intersections at Pierce and Harlan.
2. Consolidation of curb cuts to provide continuous sidewalks.
3. Installations of gateway features and public art

Next Phase – Other topics in Mr. Starker's memo have been the subject of Council and community discussions are updated as follows:

- Improved bicycle connectivity – Ongoing
- Development of "The Green" – Ongoing
- Wadsworth Redesign – Ongoing
- Returning 38th to a 4-lane section – recommended to defer

Staff is looking for feedback from Council regarding the proposed Phase I and Phase II implementation ideas and is looking for direction in order to continue implementing the 38th Avenue Corridor Plan. Do you support the vision for 38th Avenue as described in NRS, Envision Wheat Ridge, etc.? Do you support 38th Avenue Corridor Plan and Main Street Vision? Do you still support the adopted 2014 38th Avenue Streetscape Design? Should we go back to the drawing board or support more limited design? Should the city wait for the results of the Citizen Survey before proceeding?

Council member Fitzgerald commented that maybe the previous plan is a little too grand. It might be good to back off a little. He would like to start at Upham to Pierce and not do it all in one swoop. We should implement the plan in sections. It is too elaborate to do all at once. The project should be divided into bite-sized pieces that are simpler and more easily explained to the citizens.

Council member Davis stated she understands both sides of the situation. She supports the Corridor plan and she supports development and businesses in the area today. People are moving in to Wheat Ridge for the vision. 4-5 years ago, 38th Avenue was just a street and it was struggling. She doesn't want to go back to the struggling neighborhood from before. She understands the objections, but doesn't want the City to go back. We need to do a portion of it right. Maybe the parallel parking is not right for the plan. She worries about funding. People voted no against 2B because they had the wrong information about the issue. It had nothing to do with the street. She hopes the

Survey will present some new ideas. Maybe the city could entertain some different ideas on how to implement the plan. She doesn't want to go backwards but wants to develop a happy medium so that citizens can come together over the plan.

Council member Urban stated he supports the vision and its four specific guiding principles. Each of these guiding principles has several sub points that are listed to help illustrate the vision of the 38th Avenue Corridor and the Main Street destination, totaling about 40 principles. It is clear that Council and city residents want a thriving community and a Main Street destination. Only 3 of the 40 or so principles refer to the so-called "road diet." It is important to keep the flow of traffic balanced with sidewalks, handicapped accessibility, etc. The "road diet" was intended to be temporary. We should move away from the "road diet" and focus on land use, urban design elements and economic development recommendations contained in the plan. The "road diet" is too costly and does not focus enough on increasing retail square footage in the corridor. Have we focused too much on streetscape design and missed other opportunities to encourage businesses to thrive along the corridor.

Council member Wooden asked for clarification about what was actually voted on in 2 B. It wasn't the number of lanes in the road, but the permanent curb to curb street width. Residents continue to insist in emails and other communications that they voted on 4 lanes, but that wasn't what the ballot measure said at all. She would like some clarification from Staff or the City Attorney.

City Attorney Dahl stated ballot measure 2B was specifically a question on street width. It is up to the Council as to how to divide up the street width amongst bike lanes and travel lanes. The width doesn't change, but the use does and it is up to Council how those lanes are used.

Council member Pond stated he supports the vision. He appreciates all comments on both sides. He likes to hear about businesses coming to Wheat Ridge because of this vision. He asked the same question when he moved here – why should he move to Wheat Ridge? Wheat Ridge has a vision. People need to read the NRS. It is a vision created after much contemplation and study. How does the City move forward? The vision was a big selling point in favor of moving here. He wanted to participate in this vision. Details are important and very difficult. We as a city need to come to a consensus on this matter. He supports the vision from NRS and Envision. It was a compelling argument to look from the outside in and he wanted to be a part of this process. He does support the streetscape plan, but realizes we can't move forward with it before we get the information from the Citizen Survey. We should move forward with Town Hall meetings on this. Pedestrian space and safety are required regardless of what the Council decides to do. We need to study more options and need a balance between pedestrian, bike, and car traffic. The city needs more design consultation which will require more spending of funds. This is a significant design issue and he wants to get design consultants in on this.

Council member DiTullio stated he was frustrated. The 2014 election ripped city apart because there was only 1 option. In 2000, when the City did Sheridan to Harlan, there

were many town meetings and multiple options from which to choose. This can be continued on to the 38th Avenue Corridor. Street treatments can be done on current configuration of lanes. It doesn't matter if there are 3, 4, or 5 lanes. It will cost less to do a good plan now. He is asking for more options to move forward. The plan should be from Harlan west rather than Upham west. He doesn't want this done piecemeal. Streetscape we have now can be used with the current configuration. We need to have everybody in the loop on this. We need to work with the property owners on this plan. We should have town meetings with at least 2 options. He supports 4, 10 foot lanes from Sheridan to Wadsworth. We need new options and need to work with businesses and the community so there won't be fighting on this. He is okay with the 4-3-4 and his vote is yes on #1 & #2. Street treatments can be used to prevent speeding on this road.

Council member Starker requested that Council think about where we have been with the NRS and the Comprehensive plan. The process has been open and people have been able to express opinions frequently. We need to develop a PLACE where people want to stop and look around and want to be there. He has a problem with 38th Avenue as a transportation corridor. People should be able to drive through but it is not a high speed thoroughfare from Denver to Golden. The city should be able to restrict vehicle speed to make it better for pedestrians. The city did good streetscape work from Sheridan to Harlan. We should use examples from this. We can acquire sidewalks and amenity zones on the back of the current Right of Way. We should look at viable options like narrowing street width as a possible alternative. There are many options out there and we have an opportunity to make a viable gathering place. He supports the NRS and the streetscape design. The city should be able to come to a consensus. We need more professional help for staff. This is a very controversial issue and people should step back and work together. Everybody should have voice, but ultimately not everybody will be happy.

Council member Wooden stated she supports #1 – the NRS and Envision Wheat Ridge. There has been a lot of public discussion and all of these meetings were open to the public. Not everyone will be happy about the final decision. City staff, Council and citizens saw several different ideas and now why should we move backwards? There was much public discussion and many other options. We need to move forward. What she has heard is that people want a Main Street destination. Creating a PLACE requires slower traffic. Prior to the "road diet," the average speed on this section of 38th was 47 mph. This is way too fast for pedestrians and kids. We have to move forward and not discuss this for the next 5 years.

Council member Fitzgerald stated there were many valuable ideas. All of the talk of goals for the city center should be kept in mind as we move forward. Upham to Sheridan is too big to move forward. We should concentrate on a smaller section to start.

Council member DiTullio said he supports bringing on a consultant to give the community more options. There is a perception in the community that the people's voices weren't heard. We shouldn't go backwards, but we need to review more options. Can the city get a new consultant?

City Manager Goff answered that yes, the city can hire a different consultant to get more options. Using the same one can save a lot of money, but the city can go either way.

Council member Pond stated he wanted to clarify that the city is not starting over. This is an appropriate continuation of the process. We have an obligation to move forward, but no real design. This creates an opportunity to have multiple options. Let's make it work for most of our people. We're not going backwards – we are moving forward.

Council member Starker said there is a consensus on making 38th and Wadsworth a destination for citizens to enjoy. We should focus on pedestrians and should look at different lane, bike and sidewalk configurations. We should look at innovative designs and come up with a quality product. We need to consolidate the curb cuts. We should rely on staff to do the early design work and then they can bring in outside help later. The city should look at multiple options including traffic calming and identity signage for the city center. This will generate excitement and a sense of place.

Council member Wooden said she remembered looking at pictures of designs. This work has been done. Do we look at old work or do new work?

Councilmember Starker suggested staff try to recover some of the design elements from Intellikey. We should use some of the features and attributes of the original work.

Council member Fitzgerald stated he wasn't satisfied with the old plan. Maybe we need new, fresh ideas

Council member Davis said she agrees with this consensus. We need give and take with this design. We should bring the community together and ask all of them to come to the table and get new ideas and review options. Our community is divided and we need to come together. She doesn't want to overspend on the design, but feels we need more options.

Mayor Jay stated it seems to be the consensus that 2.5 years down the road, we need to include the public again.

The consensus of Council was to have staff start the work now and then integrate the results of the Citizen Survey.

3. Construction Defects Ordinance

City Attorney Gerald Dahl explained his memorandum regarding the draft ordinance presented today. As instructed by Council, he used the Lakewood ordinance as a template. His memo gives a broad outline about the ordinance's effort to address construction defects in multi-unit housing and gives the builder an opportunity to cure the defects. The second half of the ordinance is regarding homeowner's associations and limits what the HOA's can do to get rid of arbitration clauses. The HOAs would still be required to go through the Notice to Cure process.

Mr. Dahl stated he checked with Tim Fox, the attorney for the City of Lakewood and asked him if he would do anything different with the ordinance in hindsight. Mr. Fox stated he would not. Mr. Dahl also explained he reviewed ordinances from Littleton and Lone Tree that are very similar.

One point Mr. Dahl felt should be addressed. There is a section of the ordinance where a homeowner can bring a lawsuit and the text refers to homeowner's association processes and does not address individual claims. The ordinance should make the distinction between individual and group claims. Mr. Dahl stated this was an easy fix if Council agrees. He stated he did change some response dates for builders based upon Council comments. Regarding the majority voting component, Mr. Dahl stated he would have to write it into the section on homeowner's associations and establish rights for a small number of home owners to make the decision. We could conceivably structure it on a building-by- building basis and not a majority number as well.

Council member Starker asked what the ordinance's definition of "homeowner" was. Would it apply to a single family owner in a development or an owner of an attached multi-family unit? This should be clarified.

Mr. Dahl answered that the definition is an assumption but it should be spelled out.

Council member Starker asked about Section 26.13.05(A) – Claimant's Notice to Builder. Why does the ordinance not require the owner to specify if he has an attorney?

Mr. Dahl answered that this can be included if Council wants. The ordinance may have been designed for home owners that don't have an attorney yet.

Council member Starker stated the ordinance shouldn't put the burden on the builder to figure out if the homeowners have an attorney or not. Regarding Provision #2 of this section, does the builder have to maintain an agent for notice with the Secretary of State? This seems cumbersome and might be difficult for out of state builders. Why do they need a Certificate of Good Standing?

Mr. Dahl stated there are some builders that are not registered, but it is the obligation of builder to maintain their registration with the Secretary of State. If it does come to a time where the owner can file suit, then this will represent some balance on part of builder and help the home owners find who to bring the suit against.

Council member Starker asked if the builder doesn't have registration with the Secretary of State, does he not have protection.

Mr. Dahl stated we can alter the language some to cover builders with different corporate structures.

Council member Fitzgerald suggested that a section be added that lays out the necessity of maintaining the relationship with the homeowner's association during the claim process.

Council member Starker asked about section 26-13-07 regarding a 2 year guarantee on work.

Attorney Dahl stated he took this language from the Lakewood ordinance and can alter it if Council desires. There was some discussion among Council regarding a 1 or 2 year warranty on work.

Community Development Director, Ken Johnstone stated that the Wheat Ridge Public Works department requires builders to provide a 2 year warranty on work performed.

Council member Urban said he thought it would be good to go with the Lakewood ordinance for continuity across multiple jurisdictions. We should be consistent.

Council member Fitzgerald spoke about adding some of the language from the Lone Tree edition of the ordinance. He likes that they can come to mutual decision and thinks that the City of Wheat Ridge should use the Lone Tree edition.

Attorney Dahl said he can add the Lone Tree edition to allow both parties to agree and possibly pull out of the process.

The consensus of Council was to keep the 2 year warranty language.

Council member Starker asked about the section 26-13-09. Does this coincide with the Court of Appeals decision that came down recently?

Attorney Dahl answered that the court chose to recognize covenants and they were more specific than our ordinance should be.

Gene Meyers of Newtown Builders spoke to Council and stated he appreciates the support from Council. He thanked Council for considering this ordinance. It is gratifying to see the city tackle this. The right thing to do is protect the rights of individual homeowners to get defects fixed. Most of these efforts are geared to class action lawsuits. Some people cannot sell units if an area is under class action. This prevents actions by lawyers without informing owners. This ordinance protects homeowners. Builders cherish the right to cure, but attorneys only want a big judgement. Arbitration is the way to go to be fair to all. A plat note on plat puts everyone on notice about the ordinance. It is very hard to change a plat note –this way HOAs can't change to shift away from arbitration.

Council member Fitzgerald stated he would like a consensus to direct City Attorney Dahl to bring revised version including suggestions like plat note and Lone Tree edition.

Consensus of Council was to have Mr. Dahl do a little more outreach and bring back a new, revised version of the ordinance.

4. Elected Officials' Report(s)

Council member Pond reminded everyone that on June 9th at 7pm, there will be a public meeting about Discovery Park at the Wheat Ridge Rec Center. Everyone is welcome to attend. Also, this Saturday, May 23rd, from 9:30 to 11 am, there will be a Coffee with Council representing District 3 in the Carnation room of the Wheat Ridge Rec Center.

ADJOURNMENT

The Study Session adjourned at 9:25 p.m.



Kelly K. Stevens, Deputy City Clerk

APPROVED BY CITY COUNCIL ON JUNE 8, 2015



Bud Starker, Mayor Pro Tem