

# **CITY COUNCIL MINUTES**

**CITY OF WHEAT RIDGE, COLORADO  
7500 WEST 29<sup>TH</sup> AVENUE, MUNICIPAL BUILDING**

**June 22, 2015**

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	Zachary Urban	Kristi Davis	Bud Starker
Tim Fitzgerald	George Pond	Tracy Langworthy	Genevieve Wooden

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

### **APPROVAL OF MINUTES OF April 27, 2015 and June 8, 2015**

Without objection the minutes of April 27, 2015 and June 8, 2015 were approved as published.

### **PROCLAMATIONS AND CEREMONIES**          none

### **CITIZENS' RIGHT TO SPEAK**

**Vivian Vos** (WR) spoke about last weeks' Urban Renewal Authority meeting that she attended. At the end of the meeting under general discussion one of the URA member said citizens don't know what they want – noting that no one asks him questions when they find out he's on Urban Renewal. She pointed to community events, surveys, and votes the citizens have participated in, to let everyone know that citizens *do* care.

**John Clark** (WR) related having a meeting at work about respect. Respect is earned. He hears councilmembers talking about respecting the office, but they don't respect the voters and their constituents. People come in to speak their mind in a respectful way, and he asked Council to be respectful and not roll their eyes in disgust or sigh when people speak. When people voted no on 2A and 2B, 60% to 40%, it's disrespectful to ignore that and say they don't know what they want. If Council is going to tell others to be respectful, please be respectful yourselves.

### **APPROVAL OF AGENDA**

**Motion** by Councilmember Davis to add to the agenda a new Item 11 - Resolution 33, amending the fiscal year 2015 General Fund Budget ; seconded by Councilmember Fitzgerald.

Motion by Councilmember DiTullio to amend the main motion -- to hear Item 10 as the first item on the agenda due to the number of people here tonight; seconded by Councilmember Urban; tied 4-4, with Councilmembers Wooden, Langworthy, Fitzgerald and Pond voting no. The Mayor voted no and the motion failed 5-4.

**Motion** by Councilmember DiTullio to amend the main motion -- to begin Item 10 at 8:00; seconded by Councilmember Urban; carried 8-0.

The main motion, amended to add Item 11 and consider Item 10 at 8:00pm, carried 8-0.

### **PUBLIC HEARINGS AND ORDINANCES ON SECOND READING**

1. Council Bill No. 13-2015 – approving the renewal of a Cable Television Franchise with Comcast of Colorado IV, LLC and in connection therewith, repealing and reenacting Section 23-1 of the Code of Laws

Councilmember Davis introduced Council Bill No. 13-2015.

This ordinance renews the City's cable television franchise contract with Comcast for another 10 years.

City Clerk Shaver assigned Ordinance No. 1572.

Mayor Jay opened the public hearing.

Staff presentation -- Heather Geyer

Ms. Geyer pointed out some critical components of the agreement.

- The franchise fee will stay at 5% of gross revenues. This equates to about \$365,000 annually which the City receives to support General Fund operations.
- The PEG fee (public, educational, government) of 50cents per month paid by cable customers goes toward the operation of the City's cable system (Channel 8). This brings in about \$40,000 annually.
- The 10-year contract replaces a previous 20-year contract.
- The contract represents a model contract from CCUA (Colorado Communications Utility Alliance) of which the City is a member.

**Andy Davis** (Comcast, Director of Government Affairs) thanked the staff for their efficient handling of the contract process. ~ Unrelated to television he noted that higher speed internet service will be coming soon.

Councilmembers had no questions and there was no public comment.

Mayor Jay closed the public hearing.



**Motion** by Councilmember Davis to approve Council Bill No. 13-2015, an ordinance approving the renewal of a Cable Television Franchise with Comcast of Colorado IV, LLC and in connection therewith, repealing and reenacting Section 23-1 of the Code of Laws on second reading, and that it take effect 15 days after final publication; seconded by Councilmember Pond; carried 8-0.

2. Resolution No. 31-2015 – a Resolution Approving a twenty-five lot Re-subdivision Plat with a Right-of-Way dedication for property zoned Planned Residential Development (PRD) at 5220 Quail Street (Case No. WS-15-02/Quail Ridge).

Councilmember Wooden introduced Resolution No. 31-2015.

Mayor Jay opened the public hearing and swore in the speakers.

#### Staff presentation

Meredith Reckert, Senior Planner, entered into the record the case file, packet material, zoning ordinance, and contents of the digital presentation. She testified that all proper posting and notification requirements have been met.

- The property is about 6 acres located north of Ridge Road at the north east corner of Ridge and Quail Street.
- Quail Street is currently unpaved and provides access to several homes to the north. The subject property has on it one currently-vacant house.
- Properties to the east and west are in Arvada. To the north are several sf homes zoned A-1. South, across Ridge Road, is a 100ft right-of way owned by RTD.
- The purpose of the subdivision is to prepare the site for the development of a new 25-lot single family residential neighborhood.
- The property was rezoned in 2006 and later platted for 25 units, but our road standards have since changed.
- This property is half way between the Ward Road Stations and the Kipling Ridge Station in Arvada. Tree lawns and separated sidewalks are now required.
- The ODP and Final Development Plan are still valid documents and do not need revisions.
- Major drainage work has occurred to accommodate light rail construction.
- Ms. Reckert explained the plat document noting that the second page vacates the old lot lines and the third page re-plats the subdivision by modifying lot sizes and widths. All lot areas and widths exceed the minimums established by the ODP.
- The street layout remains the same, but additional right-of-way is required for wider streets, buffer/amenity zones, sidewalks, bike lanes and on-street parking.
- All utility agencies can serve the property. Improvements will be installed at the developer's expense. Public works has approved the drainage plan.
- Staff is requesting a fee in lieu of parkland dedication of about \$50,000.
- Planning Commission and staff recommend approval.

#### Council questions

Previously requested revisions have been made.

The fire hydrant issue is being addressed.

The parkland fees are about \$2,500 per household. It's a little less if it's close to light rail.

The applicants were available for questions, but Council had none.

Public comment

**Joel Lubker** (WR) lives at 5250 Quail Street. He wonders what will happen to all the addresses that will be north of 53<sup>rd</sup> and currently have 5200 addresses.

Ms. Reckert acknowledged the situation. With 53<sup>rd</sup> as the northern boundary of the subdivision a question is raised about address sequences. Readdressing people is not the preferred solution, but there are concerns regarding emergency services and the Post Office. Staff will try to work with the property owners so there is a solution that works for everyone. Of consideration is that the City is obliged to follow the Denver metro grid system.

**Greg Skalla** (WR) lives at 5290 Quail Street. He pointed out that 53<sup>rd</sup> will be below them and how 52<sup>nd</sup> and 53<sup>rd</sup> don't match up. Mr. Skalla said they have a concern about changing their addresses; his property has had the same address for 60 years.

Ms. Reckert repeated that staff will be working with them to resolve the problem.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Wooden to approve Resolution No. 31-2015 – a resolution approving a twenty-five lot re-subdivision plat with a right-of-way dedication for property zoned Planned Residential Development (PRD) at 5220 Quail Street (Case No. WS-15-02/Quail Ridge) for the following reasons:

1. City Council has conducted a proper public hearing meeting all public notice requirements as required by Section 26-109 and 26-407 of the Code of Laws
2. The requested subdivision has been reviewed by the Planning Commission, which has forwarded its recommendation for approval.
3. The proposed lots meet or exceed the standards specified on the approved ODP document.
4. The proposed re-subdivision plat reflects the City's updated standards for street width and construction.

With the following conditions:

1. A Subdivision Improvement Agreement will be executed whereby all public improvements are in place prior to issuance of building permits for individual lots.
2. The developer will pay parks fees at the time of plat recording in the amount of \$50,540.50.
3. The Homeowners' Association covenants will be reviewed and approved by Staff.

seconded by Councilmember Langworthy; carried 8-0.



3. Council Bill 11-2015 – an ordinance vacating an existing Utility Easement on property zoned Residential-Three (R-3) located at 3601 Eaton Street (Case No. WV-15-01/Steck)

Councilmember Starker introduced Council Bill 11-2015

City Clerk Shaver assigned Ordinance No. 1573.

Mayor Jay opened the public hearing and swore in the speakers.

Staff presentation

Meredith Reckert entered into the record the case file, packet material and contents of the digital presentation. She testified that all proper posting and notification requirements have been met.

- She noted that the vacation of a utility easement is a rare type of vacation.
- The subject property on the SW corner of Eaton and 36<sup>th</sup> Place is zoned R-3 and houses a 13-unit apartment complex.
- History: West 36<sup>th</sup> Place was dedicated to Jefferson County in 1957 by a deed. In 1958 the County vacated the right of way for the street, but retained the easement. In 1961 the County issued a building permit for the apartments which places the structure directly on top of the utility easement.
- There is currently a potential buyer for the property and the title company would like to clear this up.
- The intent is to vacate the easement. All agencies have indicated in writing they have no need for this easement and do not object to this vacation request. Staff recommends approval.

Public comment

Arthur Spearman (WR) lives in the apartments. He asked if there are any underground utilities in this easement. Ms. Reckert said there were not.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Starker to approve Council Bill No. 11-2015, an ordinance vacating an existing utility easement on property zoned Residential-Three (R-3) located at 3601 Eaton Street on second reading and that it take effect immediately after final publication; seconded by Councilmember DiTullio; carried 8-0.

4. Council Bill 12-2015 – amending Article V of Chapter 19 of the Wheat Ridge Code of Laws concerning Alarm Systems

Councilmember Langworthy introduced Council Bill 12-2015

City Clerk Shaver assigned Ordinance No. 1574.

Mayor Jay opened the public hearing.

There was no staff report.

This ordinance will remove the requirement for the Police Department to license alarm providers and assess charges for repetitive false alarms. The Police Department does not perform these tasks and believes that these provisions are not necessary to ensure that alarm companies are legitimate and well-operated.

There was no public comment.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Langworthy to approve Council Bill No. 12-2015, an ordinance amending Article V of Chapter 19 of the Wheat Ridge Code of Laws concerning Alarm Systems on second reading, and that it take effect fifteen days after final publication; seconded by Councilmember Wooden; carried 8-0.

### **ORDINANCES ON FIRST READING**

5. Council Bill 14-2015 – amending Subsection 21-13(3) of the Wheat Ridge Code of Laws concerning permits for electrical work performed in Rights-of-Way

Councilmember Urban introduced Council Bill 14-2015

Historically, Xcel Energy had installed and inspected street and pedestrian lights in the right-of-way. Now that the City owns the LED lighting systems on new projects not installed by Xcel, there is a need to have City staff inspect the electrical portion of installations. This ordinance change will clarify the authority of building inspectors to inspect electrical work in the right-of way

**Motion** by Councilmember Urban to approve Council Bill 14-2015, an ordinance amending Subsection 21-13(3) of the Wheat Ridge Code of Laws concerning permits for electrical work performed in rights-of-way on first reading, order it published, Public Hearing set for Monday, July 13, 2015, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Starker; carried 8-0.

6. Council Bill 15-2015 – An ordinance amending Section 13-8 of the Wheat Ridge Code of Laws concerning prohibited parking in certain bike lanes and authorizing the imposition of time restrictions for on-street parking

Councilmember DiTullio introduced Council Bill 15-2015.

Due to the installation of bike lanes citywide, a parking ordinance is needed so the Police Department can enforce no parking in bike lanes. An amendment is also proposed to allow for enforcement of time restricted parking spaces.



**Motion** by Councilmember DiTullio to approve Council Bill 15-2015, an ordinance amending Section 13-8 of the Wheat Ridge Code of Laws concerning prohibited parking in certain bike lanes and authorizing the imposition of time restrictions for on-street parking on first reading, order it published, Public Hearing set for Monday, July 13, 2015, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Pond;

Mr. Dahl noted that a person had signed up to speak under public comment. He has been informed that Council does not take public comment on first reading, but he is invited to come and comment at the public hearing.

carried 8-0.

7. Council Bill 16-2015 – amending Section 21-3 of the Wheat Ridge Code of Laws concerning Street Width Designation

Councilmember Fitzgerald introduced Council Bill 16-2015

Staff proposes changes to the street width ordinance to provide that the definition of “street reconstruction” does not include 1) the construction of landscaping, traffic calming devices, or accel/decel lanes that do not change the general street width, 2) any restriping to reduce lane width or to create bike lanes that does not change the number of vehicle lanes or the general street width, and 3) the construction of curb and gutter, or other reparations to improve drainage or reduce maintenance of pavement/shoulder that do not change the number of vehicle lanes or the general street width.

**Motion** by Councilmember Fitzgerald to approve Council Bill 16-2015, an ordinance amending Section 21-3 of the Wheat Ridge Code of Laws concerning street width designation on first reading, order it published, public hearing set for Monday, July 13, 2015, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember DiTullio; carried 8-0.

8. Council Bill 17-2015 – reappointing Presiding Municipal Judge Christopher Randall, increasing his hourly compensation and approving a Presiding Municipal Judge Services Payment

Councilmember Starker introduced Council Bill 17-2015.

Judge Randall's current compensation is \$91.51/hour, such rate having been in effect since 2013. For his reappointment the Judge is requesting an increase to \$96.09/hr and recognition in his agreement that he now works an average of 30 hours per week.

**Motion** by Councilmember Starker to approve Council Bill 17-2015, an ordinance reappointing Presiding Municipal Judge Christopher Randall, increasing his hourly compensation and approving a presiding municipal judge services agreement on first

reading, order it published, public hearing set for Monday, July 13, 2015, at 7 p.m. in City Council Chambers, and that it take effect upon adoption at second reading, as permitted by the Charter; seconded by Councilmember Langworthy; carried 7-1, with Councilmember DiTullio voting no.

## **DECISIONS, RESOLUTIONS AND MOTIONS**

9. Motion to award Bid ITB-15-18 to Coatings Inc., in the amount of \$38,500 for 2015 Outdoor Sport Courts Repairs, and to approve an Additional 10% Contingency amount of \$3,850

Councilmember Pond introduced Item 9.

Repairs in several park locations include:

- Asphalt overlay and recoloring for two basketball courts
- Yearly maintenance repairs for five tennis courts
- Pickleball court lines to be added to the three tennis courts at Apel-Bacher Park

The budgeted amount of \$30,000 will come from the Conservation Trust Fund.

\$8,500 plus contingency amount of \$3,850 will come from the Parks Maintenance Projects Conservation Trust Fund.

There was no staff report.

**Motion** by Councilmember Pond to award ITB-15-18 to Coatings Inc. of Arvada, Colorado in the amount of \$38,500 for 2015 outdoor sport courts repairs, and to approve an additional 10% contingency amount of \$3,850; seconded by Councilmember Fitzgerald; carried 8-0.

10. Resolution 32-2015 – a Resolution Ratifying the decision of Renewal Wheat Ridge to enter into a Redevelopment Agreement with TKG Wheat Ridge, LLC and approving a Cooperation Agreement between the City of Wheat Ridge and Renewal Wheat Ridge

Councilmember Davis introduced Item 10.

Staff report

City Manager Patrick Goff gave the presentation. Also present were Sally Tasker (Butler Snow), the City's bond counsel; Alex Brown, the City's financial advisor; and the development team led by Bob Turner.

- The redevelopment plan for the 14 acre site on the southwest corner of 38<sup>th</sup> & Wadsworth is brought to Council for approval.
- The proposal from Quadrant Properties includes a 40,000 sf Walmart neighborhood grocer, 40,000 sf of other retail/ office, and 37 market-rate, for sale townhomes.



- Examples of the types of retail tenants might be businesses like Starbucks, Dunkin' Donuts, Bad Daddy's Burger, Five Guys, Qdoba, Chipotle, Breakfast Sandwich, First Watch and Newk's Deli.
- The Walmart grocer is not a superstore, which is usually 180,000 sf.
- Drawings of architectural plans for façade treatments were presented.
- The townhomes will look like the ones Newtown Builders built at 38<sup>th</sup> & Depew. (Mr. Goff noted the ones on Depew were originally marketed for about \$250,000, but were all sold in the \$300,000 range.)
- The original TIF request of \$7.8M was renegotiated to be \$6.25M. The TIF funds will come from:
  - 1% of City's sales tax
  - 100% of the property tax increment from all taxing districts except the WR Fire Dept.
  - A 1% public improvement fee (PIF)
- TIF funds will pay only for public improvements to the site. The developer alone is reimbursed following construction of those improvements.
- Public improvements include sidewalks, street trees, pedestrian lights and landscaping for the perimeter, transportation improvements to Wadsworth Blvd, environmental clean-up, removal of existing buildings, public plazas and amenities, major storm drainage improvements for this site and the immediate area, and traffic signals.

Sally Tasker explained the deal points Council is asked to consider.

1. The agreement is between TKG (developer) and Urban Renewal (RWR).
2. TKG will finance construction of the improvements – estimated to cost \$8.3M. RWR agrees to reimburse TKG up to \$6.25M for those costs.
3. Revenue sources for the \$6.25M will be a special and limited obligation of Urban Renewal. There is no obligation by the City under this agreement.
  - Property tax revenues from the project will not include the Fire District's mill levy
  - The 1% sales tax will apply to retail sales within the project.
  - The 1% PIF will be imposed by the developer on all retail sales within the project.
  - The 1% PIF will not be imposed on Walmart.
4. Reimbursement by the City will be made in two phases to ensure the project is supporting its obligation
  - Phases 1 -- \$4.125M when certain improvements are completed and the expected retail sales is at least \$16,800,000
  - Phase 2 -- The remainder of the \$6.25 M when the entire project is complete, all improvements are in, and expected retail sales are at least \$19,600,000
5. When all obligations are met, interest will start to accrue at 5.8%.
6. Urban Renewal will issue a Note showing its obligation to TKG. It will be a cash flow Note with no set debt service schedule, payable solely from the revenues generated by the project. Those monies go into a special fund and the developer is reimbursed twice a year – if there's revenue. Interest is paid first, then the principal. The risk is on the developer that the revenues will be sufficient to repay the Note.

7. Within 120 days of completion of the project (Phase 2) the Urban Renewal Authority agrees to use its best efforts to go to the bond market and issue tax exempt bonds. If interest rates can be reduced, the project will pay off sooner. When the project is paid off the 1% sales tax returns to the City, the property tax increments go back to the original districts, and the PIF goes away.
8. TKG has asked for the right to refinance this in the private market if they can find an interest rate less than 5.8% and the URA is unable to issue bonds – so they could get a lump sum payment. The URA will still have the option to refinance at any time without pre-payment premium.

Mr. Goff presented the economic benefits

- The property current generates about \$121,000 a year in property tax, of which the City gets about \$2,500.
- No sales tax has been generated and no jobs provided since 2009.
- Ten of the 15 acres on the site have never been developed.
- The development will generate sales tax of \$600K/year starting in 2016 and additional property tax beginning in 2017.
- He presented graphs illustrating projected revenue streams and financial tracks for the PIF, TIF and 1% sales tax that will fund the infrastructure.

Expectations include:

- Project should be paid off in 15 years or less
- \$1.2M of new sales and property tax annually
- Over 200 new jobs -- generating \$12M in new annual personal income
- Project meets or exceeds the requirements of a mixed use zone district
- Removal of blight and contamination
- Providing new retail, diverse housing and new public infrastructure
- Increase in sales and property tax of over \$1.2M annually

#### Council questions/comments:

From Councilmember Urban

- Bob Turner (Quadrant Properties) testified that the figure of 200 jobs represents full time jobs, including construction jobs during development and the eventual retail jobs.
- Regarding a flier that was distributed in the neighborhoods, Mr. Turner testified that his company's involvement was to provide a description of the development to the canvassing company. They did not pay for the flier; he assumes Walmart did.
- When asked why he didn't respond to Mr. Urban's email, Mr. Turner testified that he thought it was appropriate to respond to staff.
- Mr. Turner indicated Mr. Urban could send the complaints about the fliers to him and he would forward them on and copy Mr. Goff.
- WalMart will not be paying into the PIF.
- No one representing the residential development was present.
- The residential developer has submitted a letter of intent, which is now in negotiations. Mr. Turner said they expect the residential development to be a wash for Quadrant Properties. ~ Councilmember Urban expressed concerns about providing a subsidy to a housing developer in this market, and that little information is provided to Council about it.



**From Councilmember Pond**

Mr. Pond asked for clarification on the Phases as related to the residential component. Mr. Goff testified that at least three units must be built vertically. This builder builds in phases. ~ Sally Tasker clarified that the Phase 1 payment is not conditioned on residential buildings. It is completion of the \$8.3M of infrastructure (including residential infrastructure) that must be completed for payment of Phase 1; the building of three units is necessary to trigger Phase 2.

**From Councilmember Davis**

- Walmart is building its own building.
- Mr. Turner testified that because Walmart is not included in the PIF, they have contributed to closing the gap for the TIF, which was reduced from \$7.8M to \$6.25M.
- Ms. Tasker clarified that it is the consumer that pays the PIF tax.
- Ms. Davis noted that "Gene", the housing developer, is not absent from the process and did come to an Urban Renewal study session.
- Mr. Turner clarified that a PIF is a private agreement between a shopping center owner and a tenant and is part of the lease.

**From Councilmember Starker**

The length of the agreement is 25 years, but it is projected that the \$6.25M can be paid off in 15 years or less. Both TIF and PIF last until the \$6.25M is paid or until 25 years.

Councilmember Urban asked about the traffic impact study and if a variance was granted from CDOT. Mr. Turner explained that CDOT is please they are going from 11-12 access points on Wadsworth to three, and significant property has been dedicated to CDOT on Wadsworth and to the City on 38<sup>th</sup> Ave.

**Public comment**

**Maryann Stork** (WR) bypassed the project's lack of quality and Council's TIF powers. TKG Wheat Ridge LLC is not a local developer; it was established in April, 2015 and is out of Columbia MO. The registered agent for TKG, Ruth Glazer, is also the CFO of Kronke Sports. Stan Kronke, besides owning Kronke Sports, is a real estate developer who ranks 8<sup>th</sup> in the list of 100 top landowners in the US. He's a former member of the Walmart board of directors and married to Ann Walton Kronke. When Ann's uncle, Sam Walton, died she and Stan inherited a stake in Walmart of over \$6 billion. According to Forbes Stan Kronke and his wife are worth over \$11 billion. He owns Kronke Sports, which includes the Denver Nuggets, the Colorado Avalanche, Rapids and Mammoth, and the St Louis Rams. The Colorado teams are in the son's name to satisfy NFL ownership restrictions. Does Stan Kronke really need a \$6.2M TIF to build another Walmart? ~ She referenced the troubles surrounding Kronke's project to build a new stadium in Los Angeles and his campaign donations to officials where the stadium is to be built. ~ Shame on Council if they vote for this; they should represent their constituents.

**Tom Lundy** (WR) reminded Council this project failed before Planning Commission.



He read the wording for the ballot issue, proposed by Keep Wheat Ridge Local, which would limit the amount of a TIF to \$2.5M; any amount above that would have to be ratified by the voters of Wheat Ridge. He cited the resentment of TIF's and Urban Renewal law: In Littleton citizens recently outlawed all TIF's without voter approval and in Lafayette there are lawsuits against this developer. He said petitions are being circulated to get this on the ballot and he urged people to help by signing the petition.

**Victoria Lundy** (WR) reiterated that under the charter amendment Council could grant TIF's under \$2.5M, but when that threshold is met it has to go to a vote of the people. She said this TIF petition was triggered by several things, including this project, 2A and 2B and the complete loss of trust in City Council.

**Pat Goff** (LW) owns a business on Wadsworth. She believes the City needs to maintain its current progressive developmental trend. She believes the City needs to be run as a business to be successful. We are in a strong economic uptick now, but it's good to be prepared for when the economy goes down. If TIF's are limited to \$2.5M it will put a constraint on the City and create roadblocks for developers. Developers won't want to develop in Wheat Ridge.

**Gretchen Cerveney** (WR) urged Council to vote for the resolution. Yes, she would like to see better financials, but several other prospects have turned us down. We don't have the demographics for anything better. If this project is turned down, the corner will remain less than attractive and we'll lose \$5,000/month in revenue – which would be enough to make up for the shortfall in public works. People are so emotional about Walmart they can't focus on the financial benefit to WR; all the billionaires don't make a difference. It's Council's responsibility to maintain financial viability. Even with all the flaws, this proposal is the best way to ensure sufficient revenue for the City.

**Bea Slingsby** (WR) thinks this corner present a poor image of our City. With all the good things happening on 38<sup>th</sup> Avenue it time for the City and the developer to move ahead.

**Kristine Disney** (WR) said three years ago things started happening to give the City momentum (events, restaurants, etc.). We used to be unappealing, but we got some press and now people want to come here. However the housing stock remains about 50% rental, the median income is around \$45,000, and the bigger, cooler retailers have passed us by. The voters turned down a 1% sales tax increase but demand better services. To ensure a bright future for our City she suggested we tell developers we don't want them. She said the money goes for infrastructure only, not to Walmart or other tenants. She said the people behind the petition have not offered any solutions about how to bring new revenue to the City; they've shown they have no clue about what it costs to develop; and they want to stop any future development in WR.

**Margie Seyfer** (WR) talked about how she likes to shop at Walmart. She also respects Walmart because they really do support our community. They've been quietly paying for both nights of our fireworks for several years. They contribute to many non-profits. ~ She told of a relative who drives for Walmart: When he'd been there 30 years they gave him a brand new Kenworth truck; no one else can drive it and his name is on the door; all



their drivers wouldn't drive for anyone else. She thinks it's a myth that Walmart treats its employees poorly. She thinks the grocery stores are lovely and this will class up the City.

**Ron Benson** (WR) has experience in land use and explained that Wheat Ridge is landlocked and limited to redevelopment and in-holdings. He thinks this project has good merit. He's embarrassed by the state of the corner. Residential development does not pay the bills; you need sales tax and commercial development. Council will only get one chance at 38<sup>th</sup> & Wadsworth, so they should be smart and make the right decision. He believes a lot of what is being said is not based on facts.

**Charles Myers** (WR) said some in City government have said that a TIF limitation of \$2.5M would hurt all future development. He pointed to WR Cyclery and the Depew development as examples of good developments that had TIF's under that limit. He doesn't see why citizens shouldn't be able to vote on larger TIF's. ~ He posed the possibility that Walmart could be a detriment to future development – sharing a recent exchange he and the mayor had with a 38<sup>th</sup> Ave business owner who said he probably would not have located on 38<sup>th</sup> if Walmart had been there. ~ He also addressed the cannibalism: Are we providing the largest TIF in the City's history to doom Safeway and its neighboring shops. He supports development, but smart development that truly benefits the City. Around Safeway how many jobs will be lost, how much sales and property tax lost? How much will property values go down in the area? He urged Council not to ratify.

**Louise Canter** (WR) admitted not being a fan of Walmart. She thinks their business model is suspect. She believes the 200 minimum wage, part time jobs will replace union jobs at Safeway when it closes. Mr. Kronke doesn't need corporate welfare. They're welcome to come to Wheat Ridge; they don't need a TIF.

**James St. John** (WR) asked that since taxpayers and shoppers will be paying \$6-8M of the cost of the project – will the City own any part of it? If not, will the City be responsible for any of the maintenance required over the years?

**Carl Cerveny** (WR) thinks the corner is not an asset to the City, and that the proposed project will be good for the City – providing improvements to 38<sup>th</sup> and Wadsworth and making this a nice green area that is more attractive. If this project is not approved it will send a message to any future quality development that they should be cautious when approaching Wheat Ridge. He believes opposition to this project is not based on what is best for Wheat Ridge, but on their personal social philosophies.

**Monica Duran** (WR) explained that the purpose of the charter amendment is not to stop development. They support development – smart development. It is to ensure citizens can have their voices heard – on this and any future developments. We're a small community that deserves government transparency, accountability and a say in how our tax dollars are spent. The people are smart and engaged, and their message is that we're open for business and we can do better. Citizens should know they have listened and are working hard to give them options they deserve – a vote in November.

**Jack Shay** (WR) thanked the Council for Kipling Ridge. While not to everyone's liking it is better than what was there before. He believes this project at 38<sup>th</sup> & Wadsworth



provides the same opportunity to act in everyone's best interest. Not everyone is opposed to the project. It is well designed. It will remove a long blighted situation, provide over 200 new jobs, be quickly filled and generate over \$1M in new sales and property taxes for the City each year. The City is requiring a large amount of infrastructure that the City can't afford to pay for. This financing package will ensure the project will take place and pay for the cost of the infrastructure over time. He likened it to a home mortgage or car loan – where you reap the benefit now and pay for it over time. He believes projects like this contribute to livability, add to our housing stock, improve neighborhoods, raise property values, provide needed amenities and improve the tax base.

**Lena Rotola** (WR) has seen Wheat Ridge at its best and at its worst. She believes we have to quit saying no, whether we like the projects or not. She thinks this project is beautiful. Let's get on with it.

**Vivian Vos** (WR) likened the project to a wedding with Council as the bride and the developer the groom. After all the preparation and investment of time and money she knows in her heart the marriage will be wrong. While pressured to say yes, she knows she can take control of her future, prevent the troubles of a bad marriage and wait for another prince charming. ~ Demographics are changing in the City. More young people are moving in and she believes we can wait for a better development.

**Larry Mathews** (WR) read several excerpts from the City's Neighborhood Revitalization Study which all stressed the need for quality housing and quality retail to retain and attract strong households. The Study recommends building the type of housing and retail that strong families prefer if we are to have a strong sustainable city. Characterless boxes are not preferred. ~ His internet research on Walmart indicates they plan to open 300 stores in food deserts (no food option w/in a mile) and that their target market is households living paycheck to paycheck. Does that match with our strategy of attracting strong households? The Walmart grocer in Arvada he visited is like a warehouse – not representative of strong households. Does Walmart consider us a low income market?

**Diane Robb** (WR) encouraged Council to ratify the agreement with TKG. She thinks the ballot issue will likely put an end to all development in WR because developers won't want to wait for a vote of the people. TIF's aren't handouts; they pay for infrastructure. She believes this petition effort is aimed to keep out one business. She believes in free enterprise and letting the residents decide with their pocket books. This blighted corner has a worse effect on the City's image than a Walmart grocery could ever have. She looks forward to this project bringing more retail and restaurants and helping our image.

**Larry Schulz** (WR) believes econ developer is the best hedge our city has against extreme tax increases and any project needs shoppers and public and private investment. Our negative image has improved; we shouldn't turn away opportunities that might not be there in a year or two. He's not a fan of Walmart and may never shop there, but he noted that everything that's ever built was opposed by someone. Turning this down will return the calm we didn't enjoy when other cities around us were blossoming.



**John Clark** (WR) thinks voting this down is a non-partisan no-brainer. It satisfies the left -- progressives and union supporters who don't like Walmart, and the right who doesn't want to give away City money. He listed a number of entities that will not get property tax for 15 years. He urged Council not to take away money from school for that many years.

**Patrick Gooch** (WR) lives near the project, has a business in Wheat Ridge, and supports this project. It will remove one of the scourges of the City and take us to the next level. We need to be a little pro-business because we operate on sales tax. He believes this project will help the City and he urged Council to vote for it.

**Kim Calomino** (WR) urged support for the TIF and the project. If this isn't built, any future development will still need expensive infrastructure and maybe a bigger TIF. Denying the agreement sends a no-growth message to developers. Wish lists don't create market reality. This project is good looking and being anti-Walmart is not a reason to deny this project. The jobs are important and Walmart pays better than many of their peers; they aren't a bad employer. The motives and character of supporters of this project have been maligned by some, but she thinks staff and Council have the best interests of the community at heart. She encouraged Council to act on those interests.

**Amber Powell** (WR) thinks this is an awesome project, is excited about the momentum, believes it's a good way to generate revenue. This will cap off other positive changes that are happening.

**Rich Dougherty** (WR) thinks the development isn't perfect but it's the only one on the table. He favors it and hopes Council votes for it.

**Tamara Phelan** (WR) has been walking the neighborhoods talking about this project and the charter amendment. She's encountered many voters who feel they have no voice. Folks who felt this project is right for Wheat Ridge were few and far between, but everyone wanted to talk. Residents young and old are upset. Many said they have contacted the mayor and Council to tell them they want development, but not this project. They've either gotten unsatisfactory answers or felt ignored because they never heard back from you. Many don't trust Council to do the right thing on this or anything else, ever, at all. There is a serious trust issue. Council can fix that tonight by voting against this development and building something better we can all be proud of.

**Barbara Cavanagh** (WR) was shocked to hear who this development is with and questions partnering with them. ~ Everyone wants to improve quality of life. For her, this intersection is the heart of WR; whatever goes in there will define the identity of our City. If this goes in we'll be another one stop convenience center -- offering no reason for people to want to come here. She believes this place is a diamond in the rough, and should be developed in a way that attracts people who are looking for something unique. We can do so much better.

**Ron Kiefel** (WR) expressed support for the project. He thinks the TIF is appropriate for all the infrastructure. He knows it's a tough decision, but we need the sales and property tax. He noted with Wheat Ridge Cyclery, once the urban renewal debt was paid off, they generate yearly over \$175,000 in additional sales tax and \$37,000 in property tax.



**Jerry Nealon** (property owner on 38<sup>th</sup> Avenue) thinks this is an awesome project that will spur growth and upgrade the housing stock. Other things could go in there and he thinks we could do worse than a Walmart. He thinks limiting TIFs will hamstring Wheat Ridge.

**Davis Reinhart** (Denver) said sales tax is the largest revenue source -- particularly those from grocery store centers. The City has already used TIF financing for other grocery centers. It's vogue to be against Walmart, but their performance on this corner won't be any different than another grocer. He thinks the argument that it will drag down property values is a red herring. Picking corporate brands is not government's job; he urged Council not to respond to a vocal activism whose opinions start with brand preference.

**Karen Berry** (WR) urged everyone not to sign the petition. It is ill-thought-out, reactionary and will have long term damaging impact on the City. It will affect all future businesses -- not just Walmart. She explained how TIFs work and why she thinks they are necessary for generating revenue and providing all the things people want.

**Eugene Kiefel** (WR) thinks the property needs to be developed and he supports this project. He doesn't shop at Walmart, but a little competition wouldn't hurt Safeway. This project needs to go forward.

**Sue Shaffer** (WR) is glad we finally have a proposal for this corner. She thinks it's an outstanding proposal, but not perfect. We'd all like a Cadillac, but what we have before us is a Chevy. She thinks the grocery competition will be good for prices. She gave some positive facts about Walmart. She is worried about the petition going around. Unless those of us who are concerned about the future of the City do some education, this could set us back another 17 years.

**Aja Tolve** (WR), a 13 year resident, said - with no disrespect to her elders -- that she is 35 years old and will have to live with whatever goes in here for the next 50. She asked Council to think seriously about this proposal because this isn't what she moved here for. She's not exaggerating in saying she would consider leaving Wheat Ridge if they go through with this.

**Johana Buchholz** (WR) spoke as a young person who has moved to Wheat Ridge. If you want young people to move here and shop here you need to bring in something better. Young people don't want to shop at Walmart; they want retail and shops. They don't need more groceries and competition doesn't bring grocery prices down anyway. Council needs to think about what they're doing for young people because they have a lot of money to spend and they don't want to shop at Walmart.

**Fred Walker** (WR) impressed with the work people have done to get this project together; he thinks it's great. He noted that Safeway has closed several of their stores.

**Carol Mathews** (WR) spoke of the good retail that used to be in the area (some of which has been replaced with Walmarts) because the citizens of WR and Lakewood had the income to support it. There was community pride and we shouldn't give that up. She noted how proponents of paying Walmart to take a prime retail space say they won't ever shop there. If this Walmart doesn't make it we don't get our money back. She's talked to folks on Carr, Brentwood and Dover and she applauded the beautiful things these



wonderful young people are doing to their houses. They have such potential; give them the same potential we had – something good. We should believe in ourselves and have confidence to do something better than Walmart.

**Patty Nickel** (WR) talked about the Highlands. She doesn't think a grocery store is the best option for this corner. She'd rather be a good neighbor to Safeway, who's been here a long time. She thinks it's a mistake to bring in a development that has such a mediocre opinion of Wheat Ridge. We're a diamond in the rough and we need to have a higher vision and take pride in our City. We need to have confidence and bring in something that will attract people to the City; Walmart won't do that.

Clerk Shaver read letters from Kelly Brooks and Loretta DiTirro in support of the Walmart development. She also entered into the record a stack of 291 signed fliers that was dropped off to Mr. Goff. A spread sheet with the names of the individuals and other information was included. The name of the sponsoring group, referred to on the flier as "the Coalition" does not appear on the forms. Each one is signed by a supporter of the project. At Councilmember Starker's request the Clerk read the bullets of information contained on the fliers and what check-off options were available to the signers.

Councilmember Davis read emails from Marilyn Arp and Milly Nadler in support of the Walmart project.

Councilmember DiTullio read a letter from Urban Renewal member Jesse Hill explaining why he voted against the TIF agreement for 38<sup>th</sup> & Wadsworth. The letter outlines what he believes to be several financial flaws in the proposal.

- The 3<sup>rd</sup> party analysis (Gruen Gruen) concludes the need for the TIF comes from over-payment of the land in relation to the limited value the development can support. Approval of the TIF will incentivize landowners to overcharge knowing that the URA (and taxpayers who shop there) will bear the costs.
- No attempt has been offered to lower the funding gap. No lease rate increases for high quality amenities. No value engineering. No reduced rates of return. No design alternatives. The TIF-to-PIF just shifted funds around.
- Walmart is the only retail tenant exempt from the PIF. Besides the unfair bias, the claim that they are paying more in a lease and financially it's a wash is unfair and unsupported. He requested research on a more fair arrangement (explained) that would get the project paid off faster, but nothing came from the developer or staff.
- The housing is exempt from the PIF. Applying a 1% PIF to the sale of the units, for the public improvements the housing development will be using, would get the project paid off faster. He asked for this to be researched and added, but nothing came from the developer or staff.
- The developer said they are taking a loss on the residential piece and selling the lots below their costs due to demands of the city staff. This loss of internal rate of return for the developer contributed to the extraordinary TIF request. Limited information is provided on the residential, but based on the Gruen report and developer cost sheets he estimates the loss to be \$500K.
- The developer claims that staff has heavily directed the design of the project and this led to extraordinary costs. The developer claims these requests came from



public input and Council direction. Comments he's heard from the public are to the contrary -- that there has been *no* opportunity for public input regarding the public improvements.

- The construction cost estimates updates were not provided in the supporting documentation and were generally difficult to follow. He asked that this information be made public more than 2 business days before the meeting.

Councilmember Davis addressed some issues that came up at Urban Renewal. She compared the development of 44<sup>th</sup> & Wadsworth to the development of 38<sup>th</sup> & Wadsworth.

Mayor Jay commented that the Council will make its decision based on their studying, learning, and listening to citizens. They care about the City. They are good citizens and good councilmembers.

Motion by Councilmember Urban to indefinitely postpone Resolution No. 32-2015;

- and further to direct the City Attorney to draft an ordinance amending the City Code to require all URA tax increment financing agreements to be conditioned on City Council approval following a public hearing and the ordinance to address conforming changes to the Wheat Ridge URA based on HB15-1348;
- and further to direct staff to initiate an update to the Wadsworth Corridor plan, as needed, to address the 38<sup>th</sup> and Wadsworth site;
- and further to initiate an RFP process, jointly with Renewal Wheat Ridge and the property owners at 38<sup>th</sup> and Wadsworth, to invite new proposals for development of the site.

Councilmember Urban explained he is proposing these motions because:

- 1) We are giving an obscene amount of money to build a development that
- 2) Is based on an obsolete plan, using a proposed agreement which he believes
- 3) Attempts to obfuscate the costs involved in the project.

He believes we deserve better; we can and will do better if Council has the courage to vote this down.

Motion seconded by Councilmember DiTullio; failed 2-6, with Councilmembers Wooden, Langworthy, Fitzgerald, Pond, Starker, and Davis voting no.

**Motion** by Councilmember Davis to approve Resolution 32-2015 – a resolution ratifying the decision of Renewal Wheat Ridge to enter into a Redevelopment Agreement with TKG Wheat Ridge, LLC and approving a Cooperation Agreement between the City of Wheat Ridge and Renewal Wheat Ridge; seconded by Councilmember Wooden.

Councilmembers Pond thanked those who wrote letters and sent emails and explained why he supports this development.

- They have heard multiple sides of the issue and need to consider all things.
- Sales tax is critical for the prudent interests of the City.
- Council has a responsibility to the developers as members of the community and it's not his job to stand in judgement of them.
- He thinks this has been a transparent process. He feels he has listened fairly.



Councilmember Urban noted having a background and experience in public assistance. In overseeing the issuance of rent assistance to those who were potentially homeless, he said the applicants had to supply lots of documentation. By contrast he is shocked that when a developer wants \$6.2M in public assistance (on a project that could actually be done without it), responding to elected officials becomes a choice. Some may call this investment, but he feels it is public assistance. Based on information in the packet and his concern for the lack of response to questions he will vote to deny this agreement.

Councilmember Wooden said this is a hard decision; she has listened to all sides and considered the goals of the City. She doesn't think this is public assistance; she considers it a partnership because the land has been vacant and needs assistance with infrastructure. This is private land and the City can't pick and choose what stores we want. She looks at the whole project, not just one store, and she will be voting for it.

Mayor Jay expressed her concern about the petition that is circulating that would take away the ability to use that type of financing.

Councilmember Langworthy thanked Kristi Davis for reminding them how much the development at 44<sup>th</sup> & Wadsworth cost the City. Council does the best they can to make our City a good place to live. Citizens may not always love the choices they pick, but Council doesn't always get to pick their choices. 60% of the people who shop in Wheat Ridge don't live here, but their money helps provide everything we need for our City. To have a development turned down because of one tenant feels wrong to her.

Motion carried 6-2, with Councilmembers Urban and DiTullio voting no.

#### 11. Approval of Resolution No 33 - 2015

**Motion** by Councilmember Starker to amend the fiscal year 2015 General Fund Budget to reflect the approval if a supplemental budget appropriation in the amount of \$150,000 for the Hillman litigation settlement agreement.

Councilmember Starker read the text of Resolution 33-2015 facilitating the payment of the City's insurance deductible portion for a liability claim.

The motion was seconded by Councilmember Davis; carried 8-0

#### **CITY MANAGER'S MATTERS**

#### **CITY ATTORNEY'S MATTERS**

#### **ELECTED OFFICIALS' MATTERS**

**Zach Urban** announced there will be a candidate education meeting at WR2020 on Thursday, June 25. ~ He also invited everyone to come have fun at the Sts. Peter & Paul Parish Festival this weekend on June 26, 27 and 28.

**Bud Starker** wished everyone a Happy 4<sup>th</sup> of July. ~ **Jerry DiTullio** provided details for the District 1 Fourth of July Parade. It will start at 9:30 at the Active Adult Center and end at Panorama Park. ~ Mr. Starker thanked everyone who came and spoke tonight. They do listen. He said they don't always answer their mail as promptly or as diligently as they might, but they appreciate all the comments.

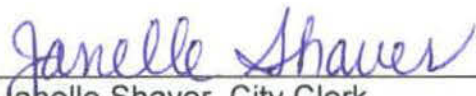
**Genevieve Wooden** announced this Wednesday is Bike to Work Day. Wheat Ridge will have 2 events -- at Dairy Queen in the morning and at Right Coast Pizza in the afternoon. There will be prizes and food.

**Tracy Langworthy** reminded everyone to have a safe and happy 4<sup>th</sup> of July and that fireworks are illegal in the City. ~ She announced the Queen City Jazz Band will be giving a concert in Wheat Ridge that is a fund raiser for a clinic in Zimbabwe. It will be on June 28<sup>th</sup> in the evening at WR Presbyterian Church. It's outside at 6:00. Bring a picnic.

**Mayor Jay** noted that Sprouts is opening at 7AM this Wednesday, with ribbon cutting immediately preceding.

### ADJOURNMENT

The meeting was adjourned at 10:46 pm.

  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON July 13, 2015

  
Bud Starker, 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.