

# **CITY COUNCIL MINUTES**

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

November 23, 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**

|                |               |                  |               |
|----------------|---------------|------------------|---------------|
| Monica Duran   | Zachary Urban | Kristi Davis     | Larry Mathews |
| Tim Fitzgerald | George Pond   | Genevieve Wooden |               |

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; Parks Director, Joyce Manwaring; Judge Christopher Randall; other staff and interested citizens.

### **APPROVAL OF MINUTES OF October 26, 2015 and November 9, 2015**

There being no objection, the Minutes for October 26, 2015 and November 9, 2015 were approved as published.

## **PROCLAMATIONS AND CEREMONIES**

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

**Colin Aronson** (no address given) from Rep. Ed Perlmutter's office announced the congressman will be holding a district office open house on Saturday, December 5 from noon to 2pm at 12600 W. Colfax, Suite B400. Citizens can RSVP online. More information is available at [perlmutter.house.gov](http://perlmutter.house.gov)

### **APPROVAL OF AGENDA**

Mr. Goff advised that Item 2 would need to be pulled from the agenda because the applicant has withdrawn the application.

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

1. Council Bill 27-2015 – an Ordinance Approving a Zone Change from Residential-Two (R-2), Agricultural-One (A-1), Neighborhood Commercial (NC),

and Planned Commercial Development (PCD) to Mixed Use Commercial (MU-C) for property located at 4600 Kipling Street (Case No. WZ-15-06/Anastasi)

Councilmember Wooden introduced Council Bill 27-2015.

This rezoning is the first step in redevelopment. If approved, all further review and approvals will be administrative only and no further public hearing will be required.

Clerk Shaver assigned Ordinance 1588.

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

Mr. Dahl noted that although Councilmembers Mathews and Duran are new and were not present for 1<sup>st</sup> Reading, the entire record will be developed tonight at the public hearing so they can and must vote on this case.

Meredith Reckert gave the staff presentation. She entered into the record the Comprehensive Plan, the zoning ordinance, the case file and packet material and the contents of the digital presentation. She testified that all notification and posting requirements have been made.

- The 12.5 acres plot consists of four parcels with four different zonings. Consolidating the zoning will help facilitate development. She noted that the gas station on the corner of 44<sup>th</sup> and Kipling is not included in this rezoning.
- The property contains some mature trees, but no buildings.
- Neighborhood meeting had 22 attendees that were generally supportive.
- There are no concerns from City departments or agencies. There will be subsequent referral for the Concept Plan and Site Plan Review as well as platting.
- Planning Commission heard this case and recommends approval.
- Because it is over 10 acres there is a requirement for a Concept Plan Review (including a neighborhood meeting and a 10-day comment period), a Specific Development Plan (with architectural details and landscaping), and a plat.
- Some of the rezoning criteria includes consistency with the comprehensive plan, compatibility with the area and impact on infrastructure.
  - Staff deems this change as consistent with the goal of the comprehensive plan.
  - Staff concludes the MU-C zone is appropriate for higher density, taller buildings and high quality design.
  - With 41,000 cars a day the traffic on Kipling continues to increase and intensify; there has been some redevelopment in the area.
  - When this property is developed there will be an opportunity to extend the Kipling Trail north of 44<sup>th</sup> Avenue.
  - Staff concludes the zone change will promote the public health, safety, and welfare.

Councilmember Davis inquired if there is any word on the reconstruction of the I-70 & Kipling intersection. Staff reported it isn't in CDOT's 5-year plan and it comes down to funding. Should this property develop staff can encourage CDOT to find additional funding.



**Mike Pharo** (Lakewood), a land planning consultant, has been retained by the owner to see this rezoning process through. He reported the owner intends to sell the property to a developer.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Wooden to approve Council Bill 27-2015 – an ordinance approving a zone change from Residential-Two (R-2), Agricultural-One (A-1), Neighborhood Commercial (NC), and Planned Commercial Development (PCD) to Mixed Use Commercial (MU-C) for property located at 4600 Kipling Street (Case No. WZ-15-06/Anastasi) on second reading and that it take effect 15 days after final publication for the following reasons;

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

Seconded by Councilmember Mathews; carried 7-0.

2. Council Bill 25-2015 – an Ordinance Approving the Rezoning of property located at 3790 Wadsworth Boulevard from Mixed Use-Neighborhood (MU-N) to Mixed Use-Commercial (MU-C) (Case No. WZ-15-07/Read King)

Removed from the Agenda.

### **DECISIONS, RESOLUTIONS AND MOTIONS**

3. Resolution No. 52-2015 – A Resolution approving submittal of the Application for a 2016 Local Government Grant to Jefferson County Open Space for Clear Creek Trail Enhancements

Councilmember Urban introduced Resolution No. 52-2015.

This resolution is a requirement if the City wants to apply for a grant from Jefferson County Open Space. The funds would be used for enhancement to the Clear Creek Trail including six 12' x 12' shelters along the trail, animal resistant receptacles, picnic tables and installation costs.

There was no staff presentation or public comment. Mrs. Manwaring was available for questions, but none were asked.

**Motion** by Councilmember Urban to approve Resolution No. 52-2015 – A Resolution approving submittal of the application for a 2016 local government grant to Jefferson County Open Space for Clear Creek Trail enhancements; seconded by Councilmember Davis; carried 7-0.

#### 4. Motion to appoint District I Council Member

Councilmember Pond introduced Item #4.

The resignation of Jerry DiTullio from the District 1 Council seat to serve as Treasurer resulted in a vacancy. Per the City Charter the City Council is to appoint a replacement within 30 days.

On November 9 a motion was made and seconded to appoint Bud Starker to the vacant position. Following discussion that motion was tabled. Applicants for the position addressed Council at the November 16 study session.

Mr. Dahl gave procedural directions.

**Motion** by Councilmember Pond to take the pending motion on appointment to fill the Council District I vacancy off the table; seconded by Councilmember Fitzgerald; carried 7-0.

#### Public testimony

**Bud Starker** (WR), candidate for the vacancy, addressed the Council. He gave a list of his qualifications, thanked his supporters and spoke to his opponents. Due to personal attacks he has experienced this past week he is withdrawing his application from consideration.

**David Feiertag** (WR), also a candidate for the vacancy, thanked Mr. Starker for his service to District 1 and his courageous step to withdraw. He urged a return to a more civil discourse. He doesn't believe political attacks serve the community well.

**Scott DeJong** (WR) spoke in support of the process. He thanked former Council member Starker and regrets the personal attacks. He expressed support for Janeece Hoppe because of her involvement with WR2020.

**Janeece Hoppe** (WR), candidate for the vacancy, thanked Council for their work and Mr. Starker. She said when she decided to apply for the position she did so because she felt she is a good leader and would be a good team member.

**John Clark** (WR) congratulated the winners of the two other Council seats. He stated that whichever candidate is appointed to serve District 1 will be a good choice.

**Vivian Vos** (WR) stated she has never been against an individual for this position. Her concerns were about the process. She read a letter from **Carolyn Mallory** (WR). Ms.



Mallory doesn't feel the councilmembers from District 2, 3, and 4 should be deciding who represents District 1. She'd like to see another process put in place in case this happens again in the future.

**Clerk Shaver** entered into the record three letters that were received on this matter. The letters are from Patti Lazzari, Mark Eskow and Lloyd Levy.

Mr. Dahl gave further procedural instructions.

**Motion** by Councilmember Duran to substitute the name of Janeece Hoppe to serve as District 1 Councilmember, term to expire November 13, 2017; seconded by Councilmember Pond.

Councilmember Fitzgerald thanked Mr. Starker and stated his criteria was to appoint someone who already had knowledge of the serious problems the City faces, who knows the politics involved and who has the ability to work cooperatively. He believes citizens want the Council to get past the poisonous rancor and solve problems. He listed the good qualifications of Mr. Feiertag and Ms. Hoppe. ~ Regarding Mr. Starker, he quoted what he felt were mean comments he received about the plan to appoint him. He feels the people who are the most vocal don't contribute in any way to the City – they just criticize. He presented a long list of things he sees as contributions by Mr. Starker and thinks it's sinful that he's been treated so shabbily. He noted Mr. Starker received more votes this year than the winners did in 2013 and 2009. He doesn't believe this year's election was a rejection of Mr. Starker.

Councilmember Wooden gave comments about political games that she sees as an issue of ego and a desire for name recognition. She addressed all of the candidates and thanked them for offering to serve. She names several good reasons for living in Wheat Ridge. She stated the Council should conduct its business on its own and each councilor has a duty to act as a representative for the city and not be manipulated by anyone else. She will not be bullied, manipulated, coerced or subtly threatened. To Mr. Starker, she read an excerpt of a speech by Teddy Roosevelt entitled 'The Man in the Arena'.

Councilmember Pond thanked the people who submitted their applications for the position. He's sorry his actions created any mistrust in the Council; that was not his intention. He still believes Bud Starker is the best candidate for the appointment, but he does think this isn't just a logical, objective decision – that politics is involved. He stated he will support Ms. Hoppe and is committed to developing a good working relationship with everyone on Council.

Councilmember Davis thanked the four candidates who started this journey; they are all qualified and delightful. She reminisced about working with Mr. Starker and looks forward to working with everyone.

Councilmember Urban thanked all the applicants for their willingness to serve, and thanked the Council for an open and transparent process. He thanked Mr. Starker for his service.

Councilmember Duran thanked all the applicants; she knows it's difficult to put yourself out there and be the subject of attacks. Ms. Duran began to read some remarks about why she ran for City Council.

Councilmember Wooden raised a point of order declaring that Ms. Duran's comments were not related to the appointment of the vacant position. Councilmember Duran suggested they were, but Mayor Jay ruled that Councilmember Duran had to stop her remarks. The Mayor suggested Councilmember Duran could give her remarks at the end of the meeting.

The motion to appoint Janeece Hoppe carried 7-0.

**Judge Christopher Randall administered the oath of office to Janeece Hoppe and she took her place on the dais.**

5. Motion to Ratify Mayoral Appointment to Wheat Ridge Housing Authority

Councilmember Davis introduced Item No. 5.

The departure of Tracy Langworthy has created a vacancy on the Housing Authority. This term expires March 2, 2016.

**Motion** by Councilmember Davis to ratify the council member mayoral appointment of Tim Fitzgerald to the Wheat Ridge Housing Authority, term to expire March 2, 2016; seconded by Councilmember Pond; carried.8-0.

6. Motion to elect the Mayor Pro Tempore

Councilmember Fitzgerald introduced Item No. 6.

At Councilmember Urban's request Mr. Dahl explained that in 2012 the state legislature declared that paper ballots are allowed only in two circumstances -- for a body to elect leadership and to appoint a search committee. Election of the Mayor pro tem is a legal and appropriate use of paper ballots. Per Council Rules the nomination is by secret ballot, the Clerk announces the results and a motion to appoint follows.

Clerk Shaver distributed paper ballots. Councilmembers voted and submitted their paper ballots. Clerk Shaver counted the ballots and reported that Mr. Pond received six votes.

**Motion** by Councilmember Fitzgerald to elect George Pond as Mayor Pro Tempore, effective immediately, term to expire upon election of a successor; seconded by Councilmember Wooden; carried 8-0.



**DISCUSSION ITEMS** ~ Ken Johnstone and Lisa Ritchie

## 1. Commercial Mobile Radio Service (CMRS) Regulations

Mr. Johnstone introduced Lisa Ritchie, resident staff expert on the City's cell tower regulations. Mr. Johnstone gave some background on the issue. No updates have been made since 1996 when our regulations went into effect. He stated staff is looking at it this year to make sure we are compliant with FCC rules and to reflect modern technology. Staff also wants to beef up our design standards and streamline the process.

He stated three changes are recommended: 1) Changes in the Special Use permit process, 2) More administrative approval with better design standards, and 3) Adding some definitions to comply with the new FCC language.

He elaborated on different screening possibilities that are available today and some things that are lacking in the code. He summarized that this is really a modernization ordinance rather than any real policy change. Staff doesn't think a long public process is necessary as the changes are common to what other jurisdictions are doing, but he recommends presenting the draft to industry contacts.

Councilmember Urban asked about the effect on existing infrastructure. Mr. Johnstone said they are still looking at that. One proposal will be no free-standing towers in residential zones – except that wall and roof-mounted facilities would be allowed on non-residential structures or multi-family structures in residential zones.

Councilmember Fitzgerald asked if it was anticipated to have fewer towers due to consolidation. Mr. Johnstone didn't think so; the three we have are strategically located.

There was consensus from Council to move forward with the proposed changes.

## 2. Accessory Dwelling Units (ADU's)

Mr. Johnstone gave some background on self-contained accessory dwelling units on single family lots.

- They may be a separate unit or attached to the primary dwelling.
- Staff gets inquiries about them, but currently they are not allowed in Wheat Ridge.
- A number of jurisdictions have adopted regulations to allow them.
- They can provide additional income for the homeowner.
- They can provide multi-generational properties (for elder or child care purposes).
- They allows for infill development.
- Housing costs have risen in Wheat Ridge; it's less affordable to live here.
- We've lost population; more people results in more sales tax to provide services.
- We can help meet the upcoming housing needs for the metro area.

He asked for policy direction. There was adequate consensus to approach this topic.

Mr. Johnstone suggested that some regulation is in order for lot size and building coverage. Discussion on policy issues followed.

- Covenants were discussed. They do not sunset and are privately enforced. The City does not regulate them, but it could be part of the application packet.
- Councilmember Fitzgerald feels ADU's must be family occupied, supports a cap on size, and believes they should be limited to two people – not families.
- Councilmember Mathews raised the questions of 1) what happens when 'grandma dies' or the property gets sold? and 2) how does this fit with the NRS goal to lessen the number of rentals in the city?
- Mr. Johnstone suggested requiring family to occupy both units would be onerous. Ms. Ritchie stated that Jeffco removed their familial requirement in 2014, but there could be a deed restriction. Councilmember Mathews noted that down the road it would be difficult to monitor who is living in the second unit when our goal is to decrease rentals.
- Mr. Johnstone pointed out that having an owner live in one unit (and rent the other) increases affordability and increases the likelihood of good maintenance.
- Councilmember Duran expressed interest in seeing how other cities are handling this.
- Staff envisions a public process and involvement by the Planning Commission.

Staff will continue to investigate, research what other jurisdictions do, and present a staff report to Council before going to the public. Mr. Johnstone suggested using some kind of survey tool at public meetings and online.

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

Mr. Goff reminded everyone that next Monday was the 5<sup>th</sup> Monday so there will be no Council meeting. ~ He noted the Holiday Celebration will be on December 5 from 3-7pm on 38<sup>th</sup> in front of Stevens Elementary. ~ He inquired if Council wanted to meet on January 4<sup>th</sup>. After some discussion it was agreed to have a study session on January 4.

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

Mr. Dahl reported having completed the edits to the smoking ordinance. He still plans to follow up with Arvada to check some fact patterns and make sure everything is as it should be. It will be on the December 14 agenda for final action.

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

**Clerk Shaver** thanked the taxpayers for the opportunity to attend the fall conference of the Colorado Municipal Clerk's Association last week. There were valuable sessions on best practices for clerks' matters. Events like this are energizing and help to refocus; she appreciates the opportunity to attend.

**Monica Duran** read the remarks she had been asked to read under Item 4. She ran to serve the community and her votes will not be controlled by special interests. There are issues at hand that will require creative solutions and she looks forward to working with residents and businesses to find the solutions. She has a drive to serve all the citizens of District 1.



**Kristi Davis** brought up the topic of free standing emergency departments. There was unanimous consent to discuss this at a study session. ~ She thanked the man named John on Balsam Street who returned her lost wallet.

**Zach Urban** thanked the chaplains of the WRPD for providing Thanksgiving dinner for the police and fire departments.

**Janeece Hoppe** thanked everyone for having confidence that she can bring quite a bit to the team and apologized to her husband that he couldn't be here tonight.

**George Pond** said he looks forward to working together.

**Tim Fitzgerald** reported being pleased to see one of our police officers bringing gasoline to a car stranded in the middle of Kipling today. ~ He welcomed Janeece Hoppe to the Council.

**Larry Mathews** welcomed Janeece Hoppe.

**Genevieve Wooden** welcomed Janeece Hoppe and thanked Mr. Starker for his service.

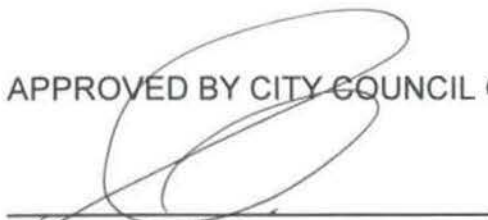
**Mayor Jay** welcomed Janeece Hoppe to the Council and said she's looking forward to the Christmas party on December 5 from 3pm-7pm.

### ADJOURNMENT

The meeting was adjourned at 9:10 pm.

  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON December 14, 2015

  
George Pond, 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.