

# CITY COUNCIL MINUTES

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

January 25, 2016

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 MEMBEACVRS

Monica Duran	Zachary Urban	Kristi Davis	Janeece Hoppe
Tim Fitzgerald	George Pond	Genevieve Wooden	Larry Mathews

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Acting Police Chief, Jim Lorentz; Public Works Director, Scott Brink; Administrative Services Director, Heather Geyer; other staff, guests and interested citizens.

## APPROVAL OF MINUTES OF January 11, 2016 and Study Notes of January 4, 2016

There being no objection, the Minutes for January 11, 2016 and Study Notes of January 4, 2016 were approved as published.

## PROCLAMATIONS AND CEREMONIES

### Rotary Contribution Presentation

**Marty Yulberg**, president of the Wheat Ridge Rotary, presented the Mayor with a check for \$3,000 – the fifth and final installment of their commitment to the City for public art. She recited a long list of community efforts for which the Rotary raises money.

## CITIZENS' RIGHT TO SPEAK

**Mariann Stork** (WR) noted Walmart will be closing 154 neighborhood grocers nationwide – two in Colorado. 95% of those slated for closure are within 10 miles of another Walmart. She cited dwindling clientele at the 64<sup>th</sup> & Indiana Walmart. Will it be the next to close? These grocers are typically placed in less affluent neighborhoods. She gave examples of how our demographics support businesses that locate in affluent areas. Sprouts and Natural Grocers are doing well; specialty grocery is growing. She asked that Council offer Quadrant the opportunity to drop its law suit and back out, so they don't build something here that will close in a few years. If they don't drop out, Council should follow the directive of their constituents and defend the initiative passed in November.

**Tina Dobrinsky** (WR) is concerned about the lawsuit. She pled with Council to support what the voters wanted and fight the lawsuit. News stories about Walmart grocers

closing is a valid concern. We'd hate to see that corner finally redeveloped and then go belly up.

**Diane Robb** (WR), chair of the WR Cultural Commission, announced there are three open positions on the Commission – two in District 3 and one in District 4. Anyone interested in public art and cultural activities is encouraged to call her or their councilperson about serving. She reviewed a list of programs/events the Cultural Commission arranges throughout the year. They have \$90,000 built up for public art.

**Michael Illo** (WR) alleged the attack on the City by Quadrant is a frivolous lawsuit containing false allegations from a non-credible source who has acted not in good faith, but unethically and unprofessionally. They claim the retroactive language of Question 300 is unconstitutional. He outlined arguments against their allegation they were caught off guard, including their knowledge of the retroactive language. They had ample, verifiable, notification that TIF reform was underway and had time to tweak their project. He's trusting Council; he believes it's their civic responsibility to put their personal opinions on this matter aside and have our City defended by the City Attorney.

## **APPROVAL OF AGENDA**

### **1. CONSENT AGENDA**

- a) Resolution No. 04-2016 – designating the City Hall Lobby as the Official Public Notice Posting location and the Wheat Ridge Transcript as the Official Newspaper of General Circulation for the City Publications in 2016
- b) Resolution No. 05-2016 – amending the Fiscal Year 2016 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$5,000 for the purpose of donating to the Curtis J. Gilmore Lifelong Learning Scholarship Fund *[see January 11, 2016 minutes for details]*
- c) Resolution No. 06-2016 – amending the Fiscal Year 2016 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation for the acceptance of the 2016 Peace Officer Standards and Training Grant in the amount of \$7,500 *[Specifically earmarked for in-service training; not include in the 2016 Budget]*
- d) Resolution No. 07-2016 – approving an Agreement between the City of Lakewood and the City of Wheat Ridge for Forensic Crime Lab/Crime Scene Services and authorizing payment of \$69,600 *[Made in four quarterly payments]*
- e) Resolution No. 10-2016 – amending the Fiscal Year 2016 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation for the

purpose of accepting the 2015 Edward Byrne Justice Assistance Grant in the amount of \$11,454 *[For recording and media storage equipment for a new recording system for interviewing suspects, witnesses and victims]*

- f) Motion to approve the purchase of six 2016 vehicle replacements and the purchase and installation of lighting, auxiliary and communications equipment in a total amount not to exceed \$224,199 *[Three - PD; three - Parks/Rec]*
- g) Motion to approve \$43,477 payment to Foothills Animal Shelter for a special assessment to support shelter operations *[City share per IGA dog population formula]*
- h) Motion to accept Construction Easements from adjacent property owners for the 2015 Miscellaneous Drainage Project *[46<sup>th</sup> and Balsam project]*

Councilmember Pond introduced the Consent Agenda

**Motion** by Councilmember Pond to approve the Consent Agenda; seconded by Councilmember Wooden.

Councilmember Fitzgerald had a question about the Forensics Crime Lab (Item d).

Councilmember Urban had a question about Foothills Animal Shelter (Item g).

Motion carried 8-0.

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

2. Council Bill 01-2016 – An Ordinance Amending Sections 16-113 and 16-114 of the Wheat Ridge Code of Laws concerning Solicitation

A federal District Court recently struck down several provisions in the City of Grand Junction's panhandling ordinance that prohibit panhandling based solely on time, location or frequency when there was no demonstrated safety risk. This ordinance amends the Wheat Ridge Code to eliminate similar local regulations that are likely now unconstitutional.

Councilmember Davis introduced Council Bill 01-2016.

Clerk Shaver assigned Ordinance 1591.

Mayor Jay opened the Public Hearing.

### **Staff report**

City Attorney Dahl had some remarks about the US Supreme Court ruling on free speech that has applied to soliciting. Absent other aggressive/threatening behavior, begging is a form of free speech. Repeated asking and following can be considered stalking or harassment, but merely asking a second time is not considered harassment. The

proposed motion also removes from our Code Section 17-31 which prohibits solicitation in parks.

#### Discussion

Councilmember Wooden explained why she would not be supporting this. She appreciates free speech, but feels removing language that prohibits repeated solicitation and following, especially at night, will leave people feeling unsafe in certain situations.

Councilmember Urban asked about solicitation based on false information and case volume.

- Mr. Dahl explained that lying is still speech and likely doesn't become fraud until someone enters into a contract. He suspects the police will shift from the status crime to focusing on the actual elements of harassment and stalking.
- Commander Lorentz noted that as of last September our police suspended enforcement of solicitation in traffic – except in aggressive situations. He doesn't believe there have been any incidents of that and tickets for solicitation are pretty rare. Mr. Urban noted that our police try to provide homeless with resources. Commander Lorentz agreed, but also noted that most solicitation is not done by homeless people. The majority of homeless you don't see.
- Mr. Goff added that advocacy groups and others watch us closely concerning different groups they term homeless - filing many public information requests for types of tickets our police write. Additionally, the ACLU has filed several lawsuits against Wheat Ridge and other cities for what they term restrictive laws. If we don't follow court precedence this will continue.

There was no public comment.

Mayor Jay closed the Public Hearing

**Motion** by Councilmember Davis to approve Council Bill 01-2016, an ordinance amending Sections 16-113 and 16-114 of the Wheat Ridge Code of Laws concerning Solicitation on second reading, with the following amendments:

1. Amend the title of the ordinance to include the repeal of Code Section 17-31; and
2. Amend the ordinance by adding a new section that repeals Code Section 17-31;

and that it take effect fifteen (15) days after final publication; seconded by Councilmember Fitzgerald; carried 7-1, with Councilmember Wooden voting no.

3. Council Bill 02-2016 – Repealing and Reenacting Section 16-106 of the Wheat Ridge Code of Laws concerning Loitering

This ordinance amends the language in Code Section 16-106 to mirror current state law regarding loitering.

Councilmember Fitzgerald introduced Council Bill 02-2016.

Clerk Shaver assigned Ordinance 1592.

Mayor Jay opened the Public Hearing.

Staff report

Mr. Dahl explained this Council Bill amounts to a tune-up – not a retreat or addition of major new regulations. Loitering around schools is the focus.

There was no public comment.

Mayor Jay closed the Public Hearing

**Motion** by Councilmember Fitzgerald to approve Council Bill 02-2016 — an ordinance repealing and reenacting Section 16-106 of the Wheat Ridge Code of Laws concerning loitering on second reading, and that it take effect 15 days after final publication; seconded by Councilmember Mathews; carried 8-0.

**DECISIONS, RESOLUTIONS AND MOTIONS**

4. Resolution No. 03-2016 – terminating the 1995 Development Agreement, as amended, between the City of Wheat Ridge and the 38<sup>th</sup> and Sheridan, LTD. Partnership and Dillon Companies, Inc.

This development agreement involving the northwest corner of 38<sup>th</sup> & Sheridan Blvd has been fully performed.

Councilmember Urban introduced Resolution No. 03-2016

There was no public comment or questions from Council.

**Motion** by Councilmember Urban to approve Resolution No. 03-2016 a resolution terminating the 1995 Development Agreement, as amended, between the City of Wheat Ridge and the 38th and Sheridan, LTD. Partnership and Dillon Companies, Inc.; seconded by Councilmember Duran; carried 8-0.

5. Resolution No. 08-2016 – amending the Fiscal Year 2016 Capital Investment Program Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$165,785 for the purpose of providing additional funding for the Tabor Street Reconstruction Project and awarding the Contract to Duran Excavating, Inc. Greeley, CO, in the amount of \$872,202.

Councilmember Wooden introduced Resolution No. 08-2016

Staff presentation

Scott Brink gave a short presentation. The reconstruction of Tabor Street from the I-70 Frontage Road to Ridge Road will be funded with federal money received through RTD for improvements near light rail stations. Only three bids were received -- all much higher than expected. Two bids also had improper or missing information. The bid package was adjusted to make lighting optional and re-bid. Council has two options: Award the contract with lighting (\$872,202) - probably cheaper now than later, or just lay conduit and do the lighting later (\$751,813). Staff recommends including the lighting now.

Discussion followed.

- It's a desolate area. If we want people to walk and ride bikes there it would be better to add the lighting now.
- Prior budget numbers for the project were discussed. The grant is for \$740,00; the City is required to fund the remainder of the project (reconstruction of the street north of 49<sup>th</sup>). An additional \$300,000 was budgeted in 2015 to cover the City's share. Total estimated project cost is \$1,040,228. The need for the \$165,000 is due to rising costs since the project was originally estimated.
- It's possible the 10% contingency fund of \$87,220 might not be used.
- Councilmember Duran noted she has no relation to this company.

**Motion** by Councilmember Wooden to approve Resolution No. 08-2016, a resolution amending the fiscal year 2016 Capital Investment Program Budget to reflect the approval of a supplemental budget appropriation for the purpose of providing \$165,785 as additional funding for the Tabor Street Reconstruction and awarding the contract to Duran Excavating, Inc. Greeley, CO, in the amount of \$872,202;

and further that a contingency amount of \$87,220 be established and the Director of public Works be authorized to issue change orders up to a total contract and contingency amount of \$959,422;

and further to transfer \$8,722 from the Capital Investment Fund to the Public /Art Fund; seconded by Councilmember Davis; carried 8-0

6. Resolution No. 09-2016 – approving an Agreement with the Urban Drainage Flood Control District regarding funding of major drainageway planning and flood hazard area delineation for Sloan's Lake Drainageway and Tributaries

Urban Drainage would like to update the masterplan and flood area hazard delineation report for this area.

- Our partners in the Sloan's Lake Drainageway include Lakewood, Edgewater, and Denver.
- The Intergovernmental Agreement was created in 1977. There have been many

changes since then and most of the proposed infrastructure has been completed. The existing plan is obsolete.

- The cost of the study is not to exceed \$250,000. The Wheat Ridge share is 8.5% (\$17,000) and was approved in the 2016 Budget.

Councilmember Mathews introduced Resolution No. 09-2016.

There was no staff presentation. Council had no questions.

**Motion** by Councilmember Mathews to approve Resolution No. 09-2016, a resolution approving an agreement with the Urban Drainage Flood Control District for the Major Drainageway Planning and Flood Hazard Delineation for Sloan's Lake drainageway and tributaries; seconded by Councilmember Wooden; carried 8-0.

7. Resolution No. 11-2016 – approving an Intergovernmental Agreement establishing a combined Auto Theft Prevention Task Force named the Colorado Auto Theft Prevention Authority-Metropolitan Auto Theft Task Force (CMATT)

This IGA will facilitate the merge of the Metropolitan Auto Theft Team (MATT), in which Wheat Ridge currently participates, and the Eastern Metropolitan Auto Theft Team (EMATT), which includes Aurora and Adams and Arapahoe Counties. The CO Auto Theft Prevention Authority, funded by a fee on auto insurance premiums, has determined this is the best use of resources.

Councilmember Hoppe introduced Resolution No. 11-2016.

There was no discussion or questions.

**Motion** by Councilmember Hoppe to approve Resolution No. 11-2016, a resolution approving an Intergovernmental Agreement establishing a combined auto theft prevention task force named the Colorado Auto Theft Prevention Authority-Metropolitan Auto Theft Task Force (CMATT); seconded by Councilmember Duran; carried 8-0.

8. Resolution No. 12-2016 – expressing support for consolidation of the Wheat Ridge Fire Protection District with the West Metro Fire Protection District and the use of the consolidated district for fire-based Emergency Medical Services

Councilmember Duran introduced Resolution No. 12-2016.

This consolidation had been discussed thoroughly at the study session of January 19, 2016. The consolidation will have no impact on the budget of the City of Wheat Ridge.

It was noted that the mill levy for Wheat Ridge property owners would go down from 12.5 mills to 12.38 mills.

**Motion** by Councilmember Duran to approve Resolution No. 12-2016, a resolution expressing support for the consolidation of the Wheat Ridge Fire Protection District with the West Metro Fire Protection District and the use of the consolidated District for Fire-Based Emergency Medical Services; seconded by Councilmember Hoppe;

In response to a question from Councilmember Wooden, Councilmember Duran verified that the City Attorney and the attorney for the Fire Board have both assured her there is no conflict of interest with her City Council position and her membership on the Wheat Ridge Fire Board, as they are two separate entities.

The motion carried 8-0.

## **DISCUSSION ITEMS**

### 1. Community Exchange Presentation

Kathy Novak, hired to facilitate the Mayor's Community Exchange process, presented the results of the two meetings with a citizen group.

- Discussion took place during a contentious election season, but the individuals did a good job limiting the discussion to the general topic of communication.
- Objective #1: Identify ways to enhance communication between the City and the residents around big issues and projects.
- Objective #2: Develop recommendations on processes through which the City can engage its residents in civil, meaningful, productive and inclusive community dialog and engagement.
- It was a self-selected group (volunteers) who spoke for themselves, not the community.
- They began to understand how complicated it is to communicate with residents. A variety of tools, methods and options are necessary.
- They identified 19 different recommendations (in the packet). The top five were:
  - 1) More district meetings and informal/small group meetings with Mayor/Council.
  - 2) Desire to get to know the councilmembers better, understand your perspectives and be able to communicate with you directly.
  - 3) Get information out with a variety of different methods, including robo-calls, postcards, website, email, and apps for a variety of things.
  - 4) Desire for tutorials on the website to teach citizens how certain things work.
  - 5) Need more information on how Council reaches its decisions. (They were surprised at what has to be considered in making decisions.)

Discussion followed.

- Heather Geyer reported the City's new website will be launched on February 8. An app format will be included.

- There weren't as many "new faces" in the group as the Mayor would have liked.
- They realized the demographics of the group wasn't reflective of the entire community (e.g. all homeowners, no renters)
- One challenge identified was information overload. Ms. Novak noted the recommendations include a balance of push and pull ideas, i.e. giving information out and getting feedback/input back from citizens.
- Engaging the actual renters may be better than trying to communicate through owners or property managers.
- There was interest in finding ways to actively listen to citizens.
- Residents are encouraged to call (councilmembers, the City or 911, depending on the seriousness) when they see something isn't right. Staff doesn't monitor social media constantly.
- Maurine Harper explained Fact Checker, a new feature on the City website. It's to provide correct facts and information on issues people are talking about.
- Three citizens who participated in the group offered personal comments.

### CITY MANAGER'S MATTERS

### CITY ATTORNEY'S MATTERS

### ELECTED OFFICIALS' MATTERS

**Monica Duran** reminded District 1 residents of the Meet Your Councilor meeting she and Janece Hoppe are having this Wednesday, January 27 from 6:00-8:30pm at Clancy's.

**Tim Fitzgerald** announced he and George Pond would be having their listening meeting for District 3 residents on Saturday, February 6 from 9:30-11:00am at the Rec Center.

**Mayor Jay** thanked one of the Councilors for making a postcard about the Cre8 Your 38 online survey that was distributed last weekend in all districts. Discussion followed.

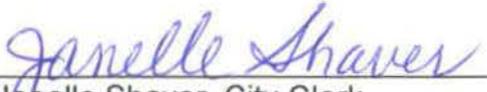
**Motion** by Councilmember Pond to go into executive session for a conference with the City Attorney, City Manager, and appropriate staff under Charter Section 5.7(b)(1) and CRS 24-6-402(4)(b), specifically for legal advice from the City Attorney concerning the complaint for Declaratory Judgement and Permanent Injunction from Quadrant Wheat Ridge Corners, Inc.; and further to adjourn the Council meeting at the conclusion of the executive session; seconded by Councilmember Duran; carried 8-0.

### ADJOURNMENT

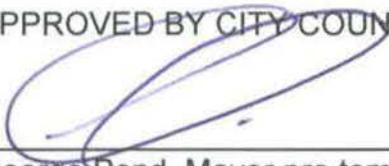
The Regular City Council Meeting was adjourned at 9:03 pm.

**EXECUTIVE SESSION**

The City Council convened in executive session in the second floor conference room at 9:11 pm. The executive session adjourned at 10:39 pm.

  
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Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON February 22, 2016

  
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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.