

# CITY COUNCIL MINUTES

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

August 22, 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 MEMBERS

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

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Chief Daniel Brennan; Community Development Director, Ken Johnstone; Public Works Director, Scott Brink; Parks Director, Joyce Manwaring; City Treasurer, Jerry DiTullio; other staff and interested citizens.

### APPROVAL OF MINUTES OF August 8, 2016

There being no objection, the Minutes of the Regular City Council Meeting of August 8, 2016 were approved as published.

### PROCLAMATIONS AND CEREMONIES

#### School Zone and Crosswalk Safety Week

**Mayor Jay** read a proclamation designating the week of August 22-26, 2016 as School Zone and Crosswalk Safety Week. **Rachel Hultin** received the proclamation and reminded everyone to be alert for kids now that school has started. **Chief Brennan** showed a short public service video the City made about Crosswalk Safety. It can be viewed on the City website.

### CITIZENS' RIGHT TO SPEAK

#### **a. Citizens' Right to Speak**

**David Ruckman** (LW), a candidate for the RTD Board, shared his campaign ideas.

**Millie Nadler** (WR) invited everyone to the Artist Studio Tour this Saturday. It starts at Teller Street Gallery at 9am. ~ She reminded everyone about the heart art project. Folks should paint them and display them in their yard or at their business.

**Dominick Breton** (WR) thanked everyone who came out to the Carnation Festival. The pancake breakfast was a huge success. He also invited the community to a Grange

recognition event on September 1 – a potluck and program honoring Dave and Edith Brown and Doris Bruntz for all they have done for Wheat Ridge over the years.

**Jerry DiTullio** (WR) spoke about the City Treasurer's report that is available on the City website. ~ He noted the Fruitdale money has been moved to a bank that has a higher interest rate. ~ As follow-up to the new ordinance on audit hearings, he reported that negotiations were conducted with a local company that self-reported owing \$200K in taxes for the last three years. Since the company was honest and proactive the penalty was waived and the minimum interest penalty of 6% was applied. The ordinance worked well, no hearing was necessary and \$162K in extra revenue will be realized this year.

**b. Second Opportunity for Public Input on the 2017 Budget**

**Rachel Hultin** (WR) is excited that the City continues to invest in pedestrian and bike projects. Last year the City almost doubled its amount of bike lanes. She hopes for at least \$150K in the CIP budget this year for bike and pedestrian projects.

**c. Recommendations from Outside Agency Program Review Committee**

**Vivian Vos** (WR) served on this Committee and displayed the mountain of paperwork they reviewed. She also observed the DIRT Task Force. She thanked staff member Carley Lorentz for her work with these committees; she was great.

**Carly Lorentz** thanked the folks who served on the Committee and introduced **Scott Wesley** who presented the recommendations of the citizen committee. He explained how the Committee heard and reviewed presentations from the organizations requesting contributions. Through compromise they were able to include some amount of funding for every organization that applied.

## APPROVAL OF AGENDA

### 1. CONSENT AGENDA

- a) Resolution No. 31-2016 – Authorizing an Intergovernmental Agreement by and between the County of Jefferson, State of Colorado, and the City of Wheat Ridge, Colorado regarding the administration of their respective duties concerning the conduct of the Coordinated Election to be held on November 8, 2016
- b) Resolution No. 32-2016 – Authorizing the City of Wheat Ridge to execute an Intergovernmental Agreement by and between the County of Jefferson, State of Colorado, and the City of Wheat Ridge, Colorado regarding the production of a mailed notice concerning ballot issues (TABOR)

- c) Motion to award a contract to W.L. Contractors, Inc. of Arvada, CO for on-call maintenance and repair services of traffic signals and street/pedestrian lights [One year plus renewal options; starts 9/17/16; \$45K approved in 2016 budget]
- d) Motion to award a contract to ABCO Contracting, Inc., in the amount of \$173,183 for the Bridge Rehabilitation Project on Marshall Street over Clear Creek, and to approve a 20% Contingency of \$34,650 for a total amount of \$207,833 [\$320K budgeted in 2015 CIP; carried over]
- e) Resolution 30-2016 – approving an Agreement with US Retail Partners LLC providing for the design and construction of a traffic signal at the intersection of 32<sup>nd</sup> Ave. and Xenon Street [City share for design, installation and credit due is \$210,500]

Councilmember Davis introduced the Consent Agenda

**Motion** by Councilmember Davis to approve the Consent Agenda items a), b), c), d) and e); seconded by Councilmember Pond; carried 8-0.

## **EMERGENCY ORDINANCE**

- 2. Council Bill No. 21-2016 - An Ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the Regulation of Bulk Plane Standards for the Residential-One C (R-1C) Zone District and declaring an emergency (Case No. ZOA-16-03)

In response to recent development patterns Council directed staff to draft an emergency ordinance implementing a 45-degree bulk plane beginning at 15-feet above the property line for properties zoned R1-C.

Councilmember Hoppe introduced the Emergency Ordinance.

Clerk Shaver assigned Ordinance number 1602.

Mayor Jay opened the public hearing.

### **Staff presentation**

Lauren Mikulak, City planner, entered into the record the case file, the zoning ordinance and the emergency ordinance.

- At 15 feet above the property line a 45 degree angle is extended.
- Per Council's direction the ordinance will apply only to R-1C.
- The impact will be to scale back the massing of any new structure or addition.
- The ordinance will be effective for 90 days. Analysis of the issue will continue during this time, with a public process that typically accompanies a code amendment.
  - Tentative timeline for proposed permanent changes to Chapter 26 is:

Planning Commission: Study Session on Sept. 15; Public Hearing Oct. 6  
City Council: 1<sup>st</sup> reading on Oct 10; 2<sup>nd</sup> reading (public hearing) on Oct 14.

- o This provides three opportunities for public comment.

### Public Comment

**Benny Gonzales** (Eaton St, WR) urged Council to approve this ordinance. He and his neighbors favor a height restriction of 12½ feet as more in line with what exists in the neighborhood. He has signatures of support.

**Jesse Hill** (Chase St, WR) is shocked that Council is fast tracking this with an emergency ordinance. Rather than pass this ordinance he asked that they slow down, involve the community, and do it right. It's causing difficulties and strife in the neighborhood; people who've invested lots of time and money in their properties will have to put their plans on hold. He asked Council to take time and give people a chance to alter their plans. There are so many technical aspects to this and it's changing what was intended for the neighborhood.

**Jerry DiTullio** (WR) noted the City Charter has allowed 35 feet for years, and the Neighborhood Revitalization Strategy of 2005 says we need to look at more new market rate housing – especially in District 1. He sees the emergency ordinance as a win-win: It says we're open for business and uses the bulk plane restriction most Colorado cities use. Variances are still an option; staff can approve that if it's 50% or less, or a public process can take place. He thinks a moratorium says we're closed for business.

**Katie Jacobson** (Chase St, WR) thanked Council for considering this ordinance and for taking immediate action. She urged them to consider all options – including bulk plane between 10 and 15 feet, larger rear setbacks, and a lower overall height requirement.

**Victoria Mendoza** (WR) agrees with the emergency ordinance. She understands people have investment, but there are many issues to study and the impact to the neighbors and the neighborhood should be considered.

**Vivian Vos** (WR) supports doing *something* about these tall houses – which she and others fear going in next door. She urged clear headed thinking and listening to citizens. Council has determined this development pattern continues as a detriment to the public peace, health, safety and welfare by impacting privacy and the flow of adequate air and light to adjacent properties. That should be the number one concern – not the developers. Considering the two consensuses from last week – one from the citizens' point of view and the other from a developer's view point, she urged Council to do what's best for all the community.

**Michael Epson** (Chase St, WR) talked about the neighborly environment that exists in the R-1C zone due to the small lots. It's a very special relationship that doesn't exist where there are large lots. They'd really like to see the bulk plane height be 12½ feet – given the narrowness and small size of the lots. They don't want to stop development, but the architecture of the neighborhood needs to be matched. He asked for a show of hands from the audience who supported 12½ feet, but was denied by the mayor. He urged passing a moratorium and getting the height down to 12½ feet. Many citizens back that.

**Kim Calomino** (WR) urged caution on a moratorium which she feels could threaten property rights and have a lasting ripple effect on our reputation. She questioned if this is really an emergency. Many people have significant investment in renovation of our housing stock – which is what we envision. Alignment with the NRS study and the comp plan should be considered. Limitations in the bulk plane regulations can complicate design. More time is needed. She urged Council not to pass the emergency ordinance, but to engage property owners. A public process is necessary to listen to all the voices.

**Al Lazalde** (Chase St, WR) lives across the street from one of the tall house. His view of the mountains and trees is gone. He'd like the Council and mayor to make it 12½ feet bulk plane and a 25 ft height limit. Having lived in the area for 43 years it makes him sad to see this happen. He works construction and knows growth is important to an area, but he believes you also have to be responsible.

**Loretta Campbell** (Chase St, WR) is concerned about the three-story, flat roofed houses. The alignment of uphill and downhill windows is a problem. She related a personal experience she had because people could see directly into the middle of her house. She read from the Comprehensive Plan that says "we value existing residential communities and ..... a goal is to maintain and enhance the character of the neighborhoods".

Mayor Jay closed the public hearing.

**Motion** by Councilmember Hoppe to approve Council Bill No. 21-2016, an ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the regulation of bulk plane standards for the Residential-One C (R-1C) zone district, and declaring an emergency; seconded by Councilmember Pond.

Motion by Councilmember Duran for a substitute motion enacting a 90-day moratorium on the same activities, and calling for a brief recess so the City Attorney can craft a temporary moratorium ordinance; seconded by Councilmember Mathews.

Mr. Dahl advised that if this motion passes, per Roberts' Rules, it will serve as a proper substitution and become a new ordinance. He will then bring forward the new ordinance and another vote of Council will be necessary to complete the action.

Discussion followed.

Councilmember Mathews spoke about reasonable times for limitations on property rights and the expectations of an established community. People who come into an established neighborhood have a responsibility to respect the people who are already there. Projects being put on hold is a normal part of the construction businesses. Developers don't care about the neighborhood; they only care about their profit margin. He favors a moratorium instead of this emergency ordinance, with a compromise of 27 feet, so that height and setbacks can be addressed in all districts and the charm and ambiance of our neighborhoods can be preserved.

Councilmember Duran noted there is no desire to impede anyone improving their home, but District 1 has 600 parcels of R-1C property. All citizens want is to step back, have these conversations in 90 days, and arrive at a solution that is pleasing to everyone.

Councilmember Davis thinks the 90-day emergency ordinance is about the same as a moratorium. Staff has said there will be public outreach. She thinks the original motion is a compromise using standards that other communities use. Citizens will have ideas.

It was clarified that the original motion and the substitute motion are both for 90 days.

Councilmember Duran's motion failed 3-5, with Councilmembers Wooden, Fitzgerald, Davis, Pond, and Hoppe voting no.

**Motion** by Councilmember Duran to add to the title that it is a "temporary" ordinance; seconded by Councilmember Mathews.

Discussion followed.

Councilmember Hoppe thinks this is the right way to address this because a moratorium can send a wrong message. There are people who've invested money in their properties with an expectation. Council shouldn't judge what is ugly; she said some people love these modern structures. She believes moratoriums can have consequences.

Councilmember Fitzgerald will support this temporary ordinance because there are many different constituencies – current residents and developers. One of our goals is to improve our housing stock. Bulk planes are complicated and we want to reach a balance where everyone's interest is taken care of. A temporary moratorium is actually beneficial to us all because we can take time and do it the right way. It was established that there are no projects like this in the mill – so no one will have a problem. Three months is not long to wait.

Councilmember Urban announced he would begrudgingly vote for this, but he thinks vetting in a public process needs to happen. He's concerned that an emergency ordinance process limits transparency and people's ability to speak on it.

Councilmember Pond is sorry we've come to the point of a moratorium or emergency ordinance. He doesn't think this is the best way to handle it, but believes this represents a substantial outreach to the public and a good compromise. As Council continues its work there will be three more opportunities for public input.

Councilmember Wooden noted that everyone's preferences are different and there are no guarantees that nothing will ever change in a neighborhood. She said the Council is trying to work on compromise for existing home owners and those coming in.

Councilmember Duran thinks a moratorium sends a good message - that Council cares enough to take 90 days to discuss with citizens what they want in their neighborhood. She's also never heard one citizen says these houses are ugly.

Lauren Mikulak suggested there should probably be another study session with Council. Staff will work to get this on the website so online comments can be submitted.

Councilmember Mathews asked that in addition to height, staff also consider setbacks on all sides and something about neighborhood characterization. He'd also like to look at transition between zone areas sometime in the future.

Mr. Goff informed that this process will only be about bulk plane in R-1C – not height or setbacks.

The main motion, as amended, carried 8-0.

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

3. Council Bill 08-2016 – An Ordinance approving a Zone Change from Planned Commercial Development to Planned Industrial Development and a request for approval of an Outline Development Plan for Property located at 12700 W. 44<sup>th</sup> Ave. (Case No. WZ-10/Stor-all Storage)

This request for rezoning, and concurrent request for approval of a Specific Development Plan (SPD) [Agenda Item 4] is to facilitate the construction of storage units. A legal protest for the zone change was filed by the neighbors – thus requiring a super-majority vote of the Council for approval.

Councilmember Wooden introduced Council Bill 08-2016.

Clerk Shaver assigned Ordinance 1603.

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

#### **Staff presentation**

Lisa Ritchie gave the staff presentation. She entered into the record the case file, zoning ordinance, comprehensive plan and the contents of her presentation. She also entered into the records three letters from neighbors that have been received. [The letters are from Ray Stromeyer, Elias Loya and Millie Richards, and Nicholas Dymond. All oppose the rezoning to Industrial and the height of the proposed building.]

- The 1.81-acre property along Youngfield near 44<sup>th</sup> Ave. is triangle shaped.
- It was zoned as Planned Commercial Development (PCD) in 1985.
- Surrounding zoning includes A-2 (agriculture) with single family homes and a small business to the northeast.
- The Comprehensive Plan identifies this area as a neighborhood buffer.
- The irrigation ditch along Youngfield is to be piped and buried.
- The property has an extension out onto Xenon Street.
- The Outline Development Plan (ODP) which establishes zoning and uses, and the Specific Development Plan (SDP), the site plan, are being processed concurrently.
- A subdivision plat will be submitted and processed administratively.

- The neighborhood meeting was held; 12 attended.
- The property has good visibility but is challenged by access problems, two ditches, requirement for a new water line, and awkward configuration.
- The proposed building will orient to Youngfield, with access from Youngfield only. No access is planned onto Xenon.
- The ODP proposes a 4-story building that will have a 27,000 sf footprint to be operated as an indoor access self-storage facility.
  - Parking will be on the north side, with detention north of the parking.
  - The proposed list of uses is shorter than the existing PCD and includes self-storage, warehouse/office/flex space, community building, research labs, small eating establishments (no drive-thru), medical/dental offices, and retail sales.
  - Current and proposed zoning both allow 50 ft height. Current documents indicate a 3-story structure is intended, but not specified.
- Setbacks are in compliance – 25 ft to the rear; 20 ft to the south.
- The SDP [Agenda Item 4] proposes one structure; 27,000 sf footprint; 104,000 total sf; 4 stories; parking on the north; detention north of the parking; primary access onto Youngfield; no access to Xenon St; access to office and first floor from parking lot, upper floors elevator served; 6 ft detached sidewalk and 6 ft amenity zone along Youngfield; 44% of the lot to be landscaped with 5 trees and 356 shrubs
  - Façade material will be split-face block, insulated metal panels and stucco.
  - No windows on the east side due to neighborhood privacy concerns.
- Staff concludes this development meets the necessary criteria; a majority of the allowed uses are also allowed in I-E (Industrial-Employment), but the proposed zone provides more buffer and less intense uses to the surrounding neighborhood.
- The Planning Commission recommended approval of the ODP by a vote of 4-2 and denial of the SDP by a vote of 4-2.
- A legal protest was filed by 20% of the neighboring property owners. Six Council votes will be required for approval of the ODP – but not the SDP.

Ms. Ritchie noted the applicant's request to be allowed to rebut any public comment.

#### Applicant

**Carolynn White**, land use council for the applicant, summarized the application for the ODP and the SDP. She testified that the original design has evolved based on concerns of the neighbors.

**Jeff Anderson**, CEO of Stor-all Storage, gave some history about Stor-all, a third generation business. He testified the visibility of this location is important for them, and there is a need in the market for this use. They feel their use is less intense than what would be allowed with current zoning. They assert they are not adding traffic to Xenon, it is a quiet use, and it will eliminate illegal uses of the property. They held a second neighborhood meeting to show the changes: increase of landscaping, reduction of signage and floor elevations, proof that Xenon will not be accessed, the addition of fencing, lighting will not spill onto neighbors, and elimination of east facing windows.

Office hours will 9am-6pm. Access hours will be 6am-9pm. They believe they have addressed most of the neighborhood concerns.

**Carolynn White** testified that PCD to PID is a significant downzoning. They chose PID to allow for the storage facility, but also reduced the list of uses to be compatible for the location. She elaborated on buffering for the neighbors, eliminating current illegal uses, and the improvement of drainage.

**Tim Nelson**, senior planner and land scape architect for Galloway and planner for Stor-all, continued the presentation and went through design points that are intended to accommodate the neighbors:

- They are not using access out to Xenon St.
- The building will be located at an angle so as not to create a "wall" on the east.
- The top elevation faces Youngfield; the bottom elevation faces the neighbors.
- There will be no windows facing the neighbors to the east.
- Lighting will be shielded and consistent with lighting typical of an office park.
- Transient problems should be eliminated.
- They will only have a 15ft monument sign and no sign facing south or east.
- At the ditch company's request, the Bayou Ditch will remain open along Youngfield and piped and covered only on the north end. The Slater Moody Ditch will be restored.
- There will be detached sidewalks on Youngfield that connects to sidewalk on 44<sup>th</sup>.
- 20% open space is required; they will have 44%. The area facing Xenon will be cleaned up.
- They will replace and repair the existing water line from 44<sup>th</sup> to 42<sup>nd</sup> – which will help the neighbors.
- Placing the building at an angle will create more depth for the neighbors.
- Their monument sign will have reduced height from the 50 foot that is allowed.
- There will be no windows facing the residents.
- Regarding the water main – there will be no water line loop to Xenon.
- There will be no paving out to Xenon. There will be additional open space to 44ft.
- The fencing will be to the neighbors liking. Staff will work with them.
- The hours of operation are intended to be considerate of the neighbors.
- They are staying within the 50ft height limit. (42.8 ft, plus a parapet for screening)

**Ms. White** spent considerable time going through the criteria for the ODP and the SDP. She testified that no outside agencies expressed concerns about the ability to serve the property, that staff concludes all criteria are met, and that all possible mitigations to minimize impact to adjacent neighbors have been incorporated into the site design. She asked for the opportunity to respond to public comment.

#### Council questions

- The strip of land to Xenon Street will be improved and kept green.
- There will be 700 storage units.

Public Comment [All speakers live next to or in the area near the subject property]

**Greg Boom** owns three properties on Vivian St and Xenon St. He is against a 4-story commercial building in a residential neighborhood. It doesn't fit the neighborhood. He has a big investment too, and he lives here. This big, huge building will impact their property values; putting industrial right next to agricultural and residential doesn't fit the neighborhood. A one-story Starbucks or an auto parts store would be better – more reasonable for the neighborhood. Two stories are ok, but not four. Would you want this built next to you? He noted this neighborhood doesn't need a buffer zone from I-70.

**Scott Mefford** (Xenon St) expressed three issues of concern to the neighborhood:

- 1) Height: With the parapet it will be 48 feet – towering over adjacent houses and businesses. It will be the tallest building on Youngfield for a mile -- a 50 ft structure immediately adjacent to houses.
- 2) Traffic issues: Storage may bring less traffic, but Youngfield has unique traffic congestion issues already. They believe 6-15 trips per day is a low estimate. That might be for their employees, but their research shows with 700 units it will be more like 30-45 trips per day. Use by commercial businesses will greatly increase the number of trips and the traffic. Regardless of what happens here, traffic should be addressed and provide a solution - not contribute to the problem.
- 3) Property values: It's a fact that properties next to industrial zoning lose property value. The neighbors accept commercial zoning, but not industrial – and they aren't being compensated for their loss of property value.

~ This doesn't fill a need; there is another storage facility on 44<sup>th</sup> nearby and there is property zoned for this use across I-70. ~ He believes the City should follow their planning and keep industrial zoning north of I-70 and not let it creep south into residential/commercial areas. This doesn't provide any jobs to speak of and generates little sales tax. It devalues the area, changes the residential nature of the area that's been there a long time, and doesn't provide any particular benefit to the City.

**Donna Mefford** wants to be on record as opposed to this rezoning.

**Michael Tilly** protested the rezoning. His primary concern is the size. They will lose their view of the mountains and sunsets. He also shares his neighbors' concerns about property values and traffic.

**David Murphy** (W.42<sup>nd</sup>) would like to see a view of this from the ground. Only aerial views have been presented – not anything showing four stories next to houses, which he thinks is likely because it would show what an albatross it is. ~ He noted the angular location of the building is by default due to the shape of the property – not to help the neighbors. ~ It's said this will benefit the community. He pointed out the Planning Commission said this is far-fetched and he asked Council to listen to them. ~ He thinks we're turning into Commerce City and I-25 & Broadway, which aren't communities people want to live in. They become rentals and slums. Families are building and investing in these houses right now. 2 stories would be fine. ~ He also described the impact of the construction for the neighborhood. ~ He stressed the developer hasn't begun to pay attention to their concerns. ~ He'd like to be shown a picture of what this will look like.

**Stephen Tanner** (Xenon) lives next door and is opposed to this project. He feels the height is inappropriate for the neighborhood and should not be built. The top of the

building is actually 51½ feet and will be 20 feet away. He distributed to Council photos of a balloon flying 51 feet in the air - illustrating how this 51½ ft building would tower over his property. If it was 2 stories tall like the one at 56<sup>th</sup> & Sheridan, he would have no problem. He believes this will be the cyclops of Wheat Ridge.

**Geri Storms** is a fourth generation in his home on Xenon. He wants to preserve it for the fifth. He is opposed to this building and is concerned about property values.

**Sandy Beckfield** (WR) This will be in her backyard. She has had good conversations with Mr. Anderson over time, but is now concerned because of the inconsistencies. She doesn't want to open her drapes and look at a cement wall, and the neighbors don't care about the noise of I-70. It's an old-fashioned close-knit neighborhood; please don't destroy it.

**Janice Thompson** explained what draws people to live in this neighborhood. New young families are moving in now and investing money to improve these homes. She read a prepared statement outlining why the existing property owners of homes and businesses need to be given due consideration. Many feel the overall goal is to slowly run the residents out of the area. Promises have not been kept by some recent developments and code enforcement can't be there all the time. She believes a mini-master plan should be done for this area. ~ She recommended a turn lane for the business off Youngfield and that all future access to Xenon from this property be forbidden so that this or some future developer cannot buy one of the homes on Xenon and put a driveway through. She predicts access from Youngfield will be very dangerous.

The applicant was given time to respond. Carolyn White said:

- They don't believe there will be significant negative impact on views.
- A 4-story building is a use by right – not related to this rezoning.
- Staff did not recommend any traffic improvements – no turn lane on Youngfield.
- There is no access to Xenon with this site plan.
- 24 hours is typical hours of operation for storage. They are limiting it to 6am-9pm.

#### Council questions

Councilmember Davis asked for clarification of the zoomed view of the turn lane on Youngfield as it appear on Mapquest and if the applicant had considered three stories. Ms. White explained the right turn lane would be extended further north. Councilmember Davis noted that MapQuest shows a *left* turn lane. Mr. Dahl advised that MapQuest is not part of the public record – that if Council is going to rely on it for their decision it has to be in the record. Describing what you're seeing on Mapquest isn't available to everyone. It must be made part of the public record for everyone to see.

Ms. White testified that the applicant had looked at three stories, but the odd lot shape made a shorter building financially unfeasible.

On the turn lanes, Mark Westberg explained a slight restriping for Youngfield is planned. They will shorten up the left turn lane from northbound Youngfield onto westbound 44<sup>th</sup> to provide a little room for a dedicated southbound left turn into this facility.

Councilmember Hoppe received clarification that the applicant is now the property owner.

Mayor Jay closed the public hearing

**Stipulation**

Mayor Jay announced a request from the applicant's attorney that approval of the ODP not be effective if the SDP is not also approved. Mr. Dahl has advised that would be acceptable if the applicant consents on the record at the public hearing. On behalf of the applicant Ms. White testified that the applicant consents to that condition on the record.

**Motion** by Councilmember Wooden to approve Council Bill 08-2016, an ordinance approving a zone change from Planned Commercial Development to Planned Industrial Development and a request for approval of an Outline Development Plan for Property located at 12700 W. 44<sup>th</sup> Avenue on second reading, and that it take effect fifteen (15) days after final publication, for the following reasons:

1. The proposal is consistent with the City's Comprehensive Plan and other guiding documents;
2. The proposal meets the zone change criteria;
3. The proposed uses and ODP are all less intensive than what could be allowed on the property currently and will serve as a neighborhood buffer;
4. All requirements for an ODP have been met.

With the following condition:

1. The approval of the zone change and the ODP shall not be effective if the SDP is not also approved.

seconded by Councilmember Mathews; carried 6-2, with Councilmembers Urban and Duran voting no.

4. Resolution No. 24-2016 – A Resolution approving a Specific Development Plan for property located at 12700 W. 44<sup>th</sup> Ave. (Case No. WZ-15-11)

Councilmember Wooden introduced Resolution 24-2016.

Given the presentation on Agenda Item 3 there was no staff presentation or discussion.

Public comment was not entertained.

**Motion** by Councilmember Wooden to approve Resolution No. 24-2016, a resolution approving a Specific Development Plan for property located at 12700 W. 44<sup>th</sup> Avenue for the following reasons:

1. The proposal is consistent with the purpose of a Planned Development;
2. The proposal is in substantial compliance with the Architectural and Site Design Manual, the Streetscape Design Manual, and the zoning code;
3. The proposed site design and proposed uses are consistent with the Outline Development Plan;

4. All requirements for a Specific Development Plan have been met.

With the following conditions:

1. The applicant shall continue to work with staff to ensure that the final fence design is consistent with the provisions of the zoning code and so that it will provide an additional layer of buffer for the neighborhood, if required at the request of the neighborhood.
2. That a subdivision plat shall be approved for the property prior to recording the SDP;  
second by Councilmember Mathews.

Councilmember Mathews asked why the Planning Commission denied the approval. Ms. Ritchie stated that in consult with the City Attorney, staff's opinion is that the Planning Commission's recommendations are incorrect. Staff recommends not following those conditions. She explained when staff recommends approval they do not prepare findings for denial; these findings were created by the Planning Commission. Staff would recommend other findings if Council wishes to deny approval.

Councilmember Pond appreciates the effort on both sides. This is a hard decision, but he believes that height and traffic issues notwithstanding the criteria have been met.

Councilmember Mathews referenced the BLM and WalMart buildings on Youngfield that have residential behind them. He would prefer two stories, but believes precedence has been set.

The motion carried 6-2, with Councilmembers Urban and Duran voting no.

**A break was taken at 10:31pm. The meeting resumed at 10:38pm.**

5. Council Bill 14-2016 – An Ordinance amending the title and certain sections of Article VII, Chapter 11 of the Wheat Ridge Code of Laws regarding Pawnbroker requirements and establishing Secondhand Dealer requirements

The proposed code changes would require pawn shops and second hand dealers to take a digital photo of individuals selling property to them and to record the sales in a database that is accessible to the police department and provided at no cost to the businesses. The changes also bring second hand dealers into alignment with pawn shops, in a manner that's consistent with Colorado Revised Statutes. This will help use current technology to recover stolen property and aid in the prosecution of individuals selling stolen property.

Councilmember Urban introduced Council Bill 14-2016.

Councilmember Urban asked the City Attorney if he could make an amendment that would allow the definition of mobile phone dealers to be excluded from the bill. As copies of this amendment were distributed, Mr. Dahl advised that this had been reviewed

internally, the Police Department has approved it. He recommends this and believes it is the right thing to do.

Clerk Shaver assigned Ordinance 1604.

Mayor Jay opened the Public Hearing

Staff presentation

Commander Cooney gave a brief overview. Detectives brought this forward as it will help them solve crimes and recover stolen property from pawn shops and second hand stores.

The elements of the issue had been presented at a recent study session. There was no discussion.

Mayor Jay closed the Public Hearing

**Motion** by Councilmember Urban to approve Council Bill 14-2016, an ordinance amending the title and certain sections of Article VII, Chapter 11 of the Wheat Ridge Code of Laws regarding pawnbroker requirements and establishing secondhand dealer requirements on second reading, order it published, and that it take effect fifteen (15) days after final publication, with the following amendment:

Amend the definition of 'Secondhand Dealer' under Section 2 of the Ordinance by adding the following to the list of businesses that 'A secondhand dealer does not include':

Providers of commercial mobile services as defined in 47 U.S.C. 332(d), and such providers' authorized agents and retailers that have contractual relationships with the provider to sell the providers' authorized products and services; and electronic device manufacturers."

seconded by Councilmember Davis; carried 8-0.

6. Council Bill 17-2016 – An Ordinance giving Notice of and calling for a Special Municipal Election to be held November 8, 2016 and submitting a Ballot Question concerning a temporary increase of one-half of one cent (0.50%) in the City's Sales and Use Tax Rate for ten years, without increasing property tax, and the issuance of debt to finance City Investment in Public Infrastructure to facilitate Economic Development opportunities

Councilmember Pond introduced Council Bill 17-2016.

Clerk Shaver assigned Ordinance 1605.

Mayor Jay opened the Public Hearing.

Staff presentation

Mark Westberg reported on the ballot elements.

- The sales tax increase of 0.5% for 12 years will fund projects at:

- Anderson Park (\$4M) – Renovate Anderson Bldg and pool locker rooms, replace pavilion, remove baseball field, replace two front parking lots
- Wadsworth Blvd Reconstruction from 35<sup>th</sup> to I-70 (\$7M)
  - 3 travel lanes in each direction
  - 10' sidewalks on both sides
  - 10' tree lawns on both sides
  - 10' two-way cycle on east side: 35<sup>th</sup> to 44<sup>th</sup>
  - 17' center medians
  - Continuous Flow Intersections (CFI) at 38<sup>th</sup> & 44<sup>th</sup> (Demonstration film is available on the City website)
- Ward Road Station area (\$12M)
  - Reconstruction of adjacent streets: Ridge Road, 52<sup>nd</sup> Avenue, Tabor Street
  - Traffic signal at Ward Road/Ridge Road Intersection
  - Pedestrian bridge over tracks in the vicinity of Union & 49<sup>th</sup> Place
- Clear Creek Crossing improvements (\$10M)
  - Construction of westbound I-70 hook ramps
    - Removes westbound off-ramp at 32<sup>nd</sup> Avenue
    - Includes connecting street to 32<sup>nd</sup> Avenue
- The sales tax would commence January 1, 2017 and end December 31, 2028
- The increase would raise \$3.7M in the first year.
- The projects will cost \$33M, with a repayment cost of \$38.5 M

#### Public Comment

**Kim Calomino** (WR) is thrilled about citizens being given the chance to vote for improvements to the community. She told the Council to pass a resolution of support and pledge to each other to support it. She asked Council not to diminish the chances of this passing by putting an additional tax question on the ballot.

**Vivian Vos** (WR) is not opposed to this, but pointed out that it's focus is on economic development. It includes no drainage projects or rehabilitation of existing roads or trails – which is what the DIRT Task Force was supposed to be about.

**Britta Fisher** (WR) thanked Council for putting this on the ballot to spark economic development. She said it will help us pull down state and federal dollars. She encouraged Council to keep the focus because this is critical.

Mayor Jay closed the Public Hearing

**Motion** by Councilmember Pond to approve Council Bill 17-2016 – an ordinance giving notice of and calling for a special municipal election to be held November 8, 2016 and submitting a ballot question concerning a temporary increase of one-half of one cent (0.50%) in the sales and use tax rate for twelve years, without increasing property tax, and the issuance of debt to finance City investment in public infrastructure to facilitate economic development opportunities, on second reading, and that it take effect immediately upon adoption; seconded by Councilmember Fitzgerald.

The motion carried 8-0.

There was consensus for staff to prepare a resolution of support for the next meeting.

**Motion** by Councilmember Mathews to go past 11:00 pm and complete the agenda; seconded by Councilmember Duran; carried 8-0.

7. Council Bill 16-2016 – An Ordinance giving Notice of and calling for a Special Municipal Election to be held November 8, 2016 and submitting a Ballot Question concerning a temporary increase of one-quarter of one cent (0.25%) in the City's Sales and Use Tax Rate for three years, without increasing property tax, to finance 38<sup>th</sup> Avenue Streetscape Improvements

Councilmember Hoppe introduced Council Bill 16-2016.

Clerk Shaver assigned Ordinance 1606.

Mayor Jay opened the Public Hearing

#### Staff presentation

Mark Westberg went through the elements of the project.

1. Upham Street to Harlan Street
  2. Three lane Main Street, maintaining current three-lane configuration
  3. Amenity zones with landscaping and seating areas
  4. Improvements to pedestrian sidewalks
  5. On-street parking
  6. Bike lanes
  7. Public art
  8. New community plaza
- 0.25% sales tax for 3 years will raise \$4.5M.
  - Cost estimates include
    - 2017 Preventative Maintenance -- Repave & restripe 38th - \$646,000
    - 38th Avenue Sales Tax Project - \$4,500,000
      - The Green - \$910,000
      - Streetscape – sidewalks, new lights, amenities, landscaping, art -- \$2,074,000
      - Curb Cut Consolidations – closing up some entryways -- \$1,516,000
  - The construction would be phase from 2017 through 2020.
  - Up to \$1.9 million would be raised in the first year.
  - The sales tax would commence January 1, 2017 and end December 31, 2019.
  - Revenues above \$4.5 million to be used for 38<sup>th</sup> Avenue maintenance – Wadsworth to Sheridan
  - He provided updated drawings of what three locations would look like.
  - Actual capacity of 38<sup>th</sup> with 3 lanes
    - 2011 Study – 20 years – 15% growth

- o 2016 Analysis – 35% growth before failure

Public Comment

**Tim Rogers** (WR) posed to Council if they believe in the task force funding they should consider the impact of a second ballot issue. He thinks this will have a negative impact on the DIRT task force issue passing.

**Vivian Vos** (WR) suggested that Council should stop talking about the repaving from Sheridan to Wadsworth. That will come from the CIP budget – not this ballot issue. It just confuses people.

Mayor Jay closed the Public Hearing

Motion by Councilmember Hoppe to approve Council Bill 16-2016 – an ordinance giving notice of and calling for a special municipal election to be held November 8, 2016, and submitting a ballot question concerning a temporary increase of one-quarter of one cent (0.25%) in the City's sales and use tax rate for three years, without increasing property tax, to finance 38th Avenue streetscape improvements, on second reading, and that it take effect immediately upon adoption and signature by the Mayor; seconded by Councilmember Pond.

Discussion

Councilmember Davis: There are still questions about the design and this is not what Cre8 Your 38 wanted. She'd rather set this aside and go with the DIRT task force question. She still believes this needs to be decided by the people, but doesn't want to risk the other projects failing.

Councilmember Urban: This question is a self-contained package for 38<sup>th</sup> Avenue with a defined funding mechanism. This should go to the people.

Councilmember Fitzgerald expressed support for 38<sup>th</sup> Ave giving us an identity, but he doesn't want to risk losing the DIRT question. He'll not vote to put this on the ballot.

Councilmember Mathews thinks it should go before the people, and if we don't let citizens vote on this our claims of being transparent will be out the window.

Councilmember Duran thinks this should be to put on the ballot; people deserve to have a say.

Councilmember Pond noted how 38<sup>th</sup> Ave still divides the community. It pains him but he thinks we should set this aside.

Councilmember Wooden believes we can't risk losing grant money, and she believes the DIRT task force recommendations are more important.

Councilmember Hoppe related working hard on this, but will be unhappily voting against it because she feels long term sustainability is more important.

Motion failed 3-5, with Councilmembers Wooden, Fitzgerald, Davis, Pond and Hoppe voting no.

### **ORDINANCES ON FIRST READING**

8. Council Bill 18-2016 – An Ordinance amending Articles I, II and VI of Chapter 26 of the Wheat Ridge Code of Laws concerning Regulation of Self-Storage Facilities (Case No. ZOA-16-02)

This ordinance amends the regulations for self-storage developments by removing the use from the C-2 zone and adding distance and separation requirements for new facilities.

Councilmember Fitzgerald introduced Council Bill 18-2016.

**Motion** by Councilmember Fitzgerald to approve Council Bill 18-2016 — an ordinance amending Articles I, II and VI of Chapter 26 of the Wheat Ridge Code of Laws concerning regulation of self-storage facilities on first reading, order it published, public hearing set for Monday, September 12, 2016 at 7:00 pm in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Hoppe; carried 8-0.

9. Council Bill 19-2016 – An Ordinance amending Section 15-4 of the Wheat Ridge Code of Laws concerning the definition of Landscaping for Nuisance Purposes

The proposed change will clear up the discrepancy between the definition of “landscaping” (which is “living plants”) and the prohibition of dead and dying landscaping. This will allow code enforcement officers to address dead and dying trees and shrubs on private property that constitute nuisances and require pruning or removal.

Councilmember Fitzgerald introduced Council Bill 19-2016.

**Motion** by Councilmember Fitzgerald to approve Council Bill 19-2016 — an ordinance amending Section 15-4 of the Wheat Ridge Code of Laws concerning the definition of landscaping for nuisance purposes on first reading, order it published, public hearing set for Monday, September 12, 2016 at 7:00 pm in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Urban; carried 8-0.

10. Council Bill 20-2016 – An Ordinance amending Section 2-33 of the Wheat Ridge Code of Laws concerning the Authority of Community Service Officers

This ordinance will add Chapter 24, Vegetation, to the administrative enforcement ordinance thereby allowing code enforcement officers to address the issues of tall weeds, nuisance plants and trees and shrubs more efficiently.

Councilmember Fitzgerald introduced Council Bill 20-2016.

**Motion** by Councilmember Fitzgerald to approve Council Bill 20-2016 — an ordinance amending Section 2-33 of the Wheat Ridge Code of Laws concerning the authority of community service officers on first reading, order it published, public hearing set for Monday, September 12, 2016 at 7:00 pm in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Duran; carried 8-0.

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

11. Resolution 29-2016 – A Resolution adopting the Jefferson County Multi-Hazard Mitigation Plan Comprehensive Update, April, 2016

Our adopted natural hazard mitigation plan is required by the federal government to be updated every five years. The City has participated in the comprehensive update of the 2010 plan. Adoption of the updated Plan will help with 1) future planning of projects in a way that will lessen the impact of natural disasters, and 2) improvement of the City's CRS (community rating system) – which would help residents with discounts on flood plain insurance.

Councilmember Mathews introduced Resolution 29-2016

Mark Westberg was available for questions. There were none.

There was no public comment.

**Motion** by Councilmember Mathews to approve Resolution 29-2016, a resolution adopting the Jefferson County Multi-Hazard Mitigation Plan Comprehensive Update, April, 2016; seconded by Councilmember Wooden; carried 8-0.

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

**Patrick Goff** advised that a major budget report will be coming to Council soon. He noted that July 31 sales tax is up 7.1% and general revenues are up 3.5%.

### **CITY ATTORNEY'S MATTERS** None

### **ELECTED OFFICIALS' MATTERS**

**Larry Mathews** commented that taking 38<sup>th</sup> Ave off the ballot has wasted about \$200,000. ~ He also read some statistics noting that millennials are active in the housing market and they do look to the suburbs. They buy homes and want to own cars.

**Tim Fitzgerald** inquired of Mr. Mathews where his statistics were from. Mr. Mathews said they came from the National Realtors Association.

**Kristi Davis** reminded her constituents of her coffee this Saturday from 9:30 -11am at Infinitus Pie.

**Mayor Jay** reminded folks that she is having a coffee this Saturday at Vinnola's starting at 9am. ~ She disagrees that we've wasted \$200K on 38<sup>th</sup> Avenue. She asserted that the extra sales tax generated on 38<sup>th</sup> Avenue has completely paid for everything that's been put into it. Sales tax is up 78% on that street alone compared to the rest of the City.

**ADJOURNMENT**

The Regular City Council Meeting was adjourned at 11:42pm.

  
\_\_\_\_\_  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON September 12, 2016

  
\_\_\_\_\_  
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.