

# **CITY COUNCIL MINUTES**

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

**July 24, 2017**

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, Janece Hoppe, Zachary Urban, Kristi Davis, Tim Fitzgerald, Larry Mathews, Genevieve Wooden

Members Absent: George Pond (excused)

Also present: Deputy City Clerk, Robin Eaton; City Manager Patrick Goff, City Attorney, Jerry Dahl; City Treasurer, Jerry DiTullio, Administrative Services Director, Heather Geyer; Community Development Director, Ken Johnstone; Parks and Recreation Director Joyce Manwaring; Business Tax, Tim Dronkers, Engineering Division, Mark Westberg; guests and interested citizens.

### **APPROVAL OF Council Minutes of June 26, 2017 and July 10, 2017**

There being no objections, the minutes of June 26, 2017 and July 10, 2017 were approved as published.

## **PROCLAMATIONS AND CEREMONIES**

### **Public Sector Engineer of the Year Award**

**Patrick Roberts** past president for the National Society of Professional Engineers of Colorado, a non-profit organization that supports map pallets and bridge building. The mission is to provide licensed and ethical engineering. **Mark Westberg** was nominated as he has invested much time in the projects he works on and he is usually successful in those projects as well.

## **CITIZENS RIGHT TO SPEAK**

**Dorothy Archer** – would like to ask Council and those in attendance to please take a serious matter to study session as after canvassing, there were found to be five extremely large lots. The bulk plane code should be revised to remove the 35 ft. flat top allowance such as an apartment home and a 25 ft., or two story home with a 15 ft. slanted roof be added.

**Thomas Slattery**- pointed out that with the present City zoning ordinance, you can have a 60ft wide x 80 feet deep, flat roof, three story building and that's incompatible with our R-1 and R-2 zonings; where you can have a duplex of the same dimension. With a single-family home in R-1 you can have a three-story structure, 35ft wide by 60 ft. deep with a flat roof. These allowances are not compatible with our residential neighbors and requests that the City reconsider them.

**Jeanette Lloyd**- has friends that had big box houses on both sides of them and has a child with health needs. They ended up having to move from their home, as they were no longer able to have a garden because there was no sun light. This problem also added to the heating bills, and these types of houses do not fit in with the neighborhoods and what Wheat Ridge has always been.

**Joan Blanchard** – Has concerns not only with the lack of sunlight but the lack of privacy that is impacted with three story buildings being right next to you. There is a real concern when there is a change to the scenery of a neighborhood and she is against allowing those types of new structures.

**Bud Starker** – is Honored to announce his candidacy for Mayor of the City of Wheat Ridge. As a long-time resident, he knows and loves this City along with its people, its parks, the rural feel and its promise for the future. After introducing his wife Mary, who together have lived in this community operating a restaurant, served as a member of the Building Code Advisory Council, councilmember and Mayor Pro-tem. Moving to Wheat Ridge 42 years ago, he has been active in social, civic and business life of the community. Having clear vision, seeking broad and diverse opinions, along with commitment to see projects through, is the essence of leadership and looks forward to meeting and hearing the public's ideas and concerns to help build a better, brighter future for Wheat Ridge.

**Lynne Craig** – does not know the technical details of zoning codes but feels the huge house on Chase Street does not fit into a neighborhood of small, single story houses, and questions if this is the future for Wheat Ridge. Along with added traffic, street parking, and lack of privacy, allowing these types of houses is not fair to the neighbors. It is time to reconsider our building and zoning codes to maintain our friendly, family atmosphere and small vibrant community.

**Jesse Garcia** – is in full support of Dorothy Archer. He has been living at his residence for 17 years and saw his mother-in-law's duplex go down into rubble and where square buildings were built all over the area to create a whole new type of neighborhood. He hopes Wheat Ridge does not do that as well and wants to see change to the zoning code so as not to let others obscure the sunlight and views of the mountains.

**Laura Drapeaii** - had a gentleman that lived next to her home, who built a slight addition that turned out to be a three-story house and that went from a one family to three family home. After his death, Council and City Engineers told us that they would settle things in our neighborhood and it has been over one year and things are still the same. As such,

with the three-story house being there, we cannot open the curtains or windows as the new neighbors can see right in, along with a huge picture window viewing her back yard. You have to realize what the future is bringing and take a look at what is being built out in other locations. She does not want to leave or sell her house, but has no place to move to because of the market. She likes and knows her neighborhood and feels safe, but there is no parking and no privacy and can't begin to buy elsewhere for what they have here in Wheat Ridge.

## **APPROVAL OF AGENDA**

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

1. Resolution 22--2017 – a resolution approving a Seven-Lot Subdivision Plat for property zoned Residential-One (R-1) at 11435 W. 32<sup>nd</sup> Avenue with a Cul-De-Sac length Variance (Case Nos. WS-16-02 and WA-17-07/Merkwood Estates)

This application would reconfigure two lots into seven lots, allowing for seven single-family home sites. A new section of 33<sup>rd</sup> Ave is proposed to transverse the property, connect the Quail Hollow subdivision on the east to the Brookside subdivision on the west, and allow for the free flow of traffic. The seven new lots would not have direct access to 32<sup>nd</sup> Ave.

Councilmember Fitzgerald introduced Resolution 22-2017.

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

### **Staff Presentation**

Kenneth Johnstone continued from the previous public hearing and described the presentation showing two existing street Rights of Ways (ROW) from Quail Hollow and Routt Street subdivision plats.

The first proposal did not include access from 32<sup>nd</sup> Avenue mostly due to grade concerns. There was substantial input concerning increased cut through traffic, including that from a nearby school, which would have a negative impact on the existing neighborhoods. Feedback was substantial enough to consider additional alternatives and in that spirit, the applicant has submitted additional proposals.

Option 1 – Take existing ROW from Quail Hollow and extend down Robb Street as originally submitted with no connection to Routt Street except with a sidewalk for pedestrian access.

Option 2 - A proposed connection from Routt Street, taking the existing cul de sac from Routt Street and building a new street with sidewalks, to the new Robb Street with no connection to 33<sup>rd</sup> avenue.

In the spirit of working with the neighborhood the applicant also hosted a neighborhood meeting that presented options A - D that are referenced in the packets. Options C and

D parallel the previous option 1 and option 2. Options A proposes to have sidewalk connection through the existing ROW over to Routt Street with a dedicated City pocket park within the ROW. Option B proposes to eliminate any pedestrian connectivity from the new subdivision over to Routt Street.

No thorough analysis has been done on these two proposals and they might require some additional design consideration, but there would be an additional process for the vacation of a right of way. As a policy matter, the City does not accept these types of pocket parks, as they are small in nature and very expensive to maintain. Staff would prefer either Option 1 and 2 or C and D, with the cul de sac length variance.

#### Council questions

Councilmember Hoppe received confirmation that the difference in feet between Option 1 and Option 2 is about 200 ft. with Option 1 at 1300 ft. and Option 2 at 1500 ft.

Applicant Steve Merker noted that Options 1 and 2 are the result of taking into consideration the City and neighborhood's feedback. After a City meeting, it is felt that Option 1 meets all of the design criteria and along with the neighborhood, it is the preferred option. Option A, with the pocket park being included, is the preference if that is a possibility.

#### Public testimony

**Bruce Kral**, the fire marshal, is concerned with the proposed cul de sac as it could be a hazard if emergency responders have to fit in the close proximity to a burning house with the hoses that need to be laid out from the hydrant and also to get the ambulances out quickly, if they are called. He feels the best option has already been taken off as the 33<sup>rd</sup> Avenue connection was removed. The second option that the fire department would least be affected by is having sprinkler systems installed in the homes. This might not save the structure but would help the people get out safe.

Councilmember Mathews asked if additional hydrant spacing would help to offset the length of the cul de sac.

Mr. Kral responded that it could be an option after a hydrant study, as laying hose in the street would essentially block it off.

Councilmember Urban asked if the need for additional hydrants would be determined by the district or developer and who would incur those costs?

Mr. Kral replied there is some judgment allowed, depending on where the water main is located as to where the hydrants are required and it would be up to the Fire District to decide. A study also allows some latitude if it is the same main line and as long as it is not a dead end pipe. The costs of the additional hydrants would be on the developers.

The Fire Marshall informed Councilmember Wooden that the costs of sprinklers in the homes, if they were required, would fall on the developer as well.

Councilmember Hoppe asked if they could use the churches stonewall that has holes in it for fire hose access, to reach the homes through them in case of a fire.



Mr. Kral said the Fire Department would have to agree to an easement with the church for future use and that their parking lot might not be built sturdy enough to hold up for a fire truck.

Discussion followed.

**Public comment**

**Rebecca Hay** thanked Council for its time and is in favor of any option that does not poke 33<sup>rd</sup> avenue through to Routt St. If this option goes through, the neighbors have offered to buy the additional lot to put in a sidewalk. The residents are prepared to buy land and vacate the land through ordinance. The City has done nothing with the maintenance of the plot since Routt was built and the caretaking has falling to the residents. They would like the City to consider a park in their neighborhood as the school has asked the non-students that live in the area, not to play on school grounds.

**David Hay** expressed support for options to connect Quail Hollow to the new Robb St. leaving only a pedestrian connection from Routt. There can be access for parking and a pedestrian walk-through that can be accomplished with no need for any connection to 33<sup>rd</sup> Avenue either now or in the future.

**Lori Marcello** noted the turnaround for the fire trucks was sufficient at the last meeting and now it has somehow changed. The poor developer is being singled out as the length of a new Robb St. is about the same as their cul de sac on Routt Street; it worked out both times on Routt Street when emergency vehicles had to respond.

**Steven Archer** expressed agreement with option A with the pocket park – if not, then Option 1 to 33<sup>rd</sup> from Quail Hollow side.

**Dr. Schmidtke** testified we have a young developer wanting to develop land, and the City that wants to get the taxes from that land. Thirty houses in Quail Hollow were promised this would be a private community and they have concerns with water, the raceway on the bubble turnaround, and about the increased traffic. It is the City's job to worry about what the best compromise will be, to make the most people happy. He has enjoyed watching the American process work out, but is sorry for the frustration that the applicant has endured.

**Mack Glover** wanted to make one thing clear, the meeting that was held was for the Routt neighborhood only, and Quail Hollow was not invited. Quail Hollow is a recently approved PUD with seven homes that are currently built and does not control the HOA until 75% of the homes are purchased. Homeowners that are directly adjacent to this development have observed from the neighborhoods that it would ignore the safety concerns for the students from construction traffic, drainage of water during heavy downpours and congestion.

**David Moss** shared some thoughts from neighbors on Routt St. Early on there was lots of talk about connections from Quail over to Routt St but it is not true connectivity. Even if there are connections to Routt St., they will still have hoses out into Robb St. It is not a valid argument to have connections between Routt St. and 33<sup>rd</sup> Avenue.

**Ross Fawcett** requested the City to go with Option 1 and the variance to build the pocket park.

**Jeff Nielsen** Also supports Option 1 with the variance for the park. Only lots 6 and 7 would be accessible by emergency vehicles if 33<sup>rd</sup> is allowed to go through. The fire trucks would still have to back up over 150 ft. for the other houses.

**Lori Strand** echoed how lots of progress has been made and is excited on the options that have been presented. She stated again that Quail Hollow has not been included in the process. However, to move forward, she requested that they be included in any future meetings. Explanation as to why the applicant wants to approve Option 1 including drainage impacts, along with the fire district's desire for Option 2. She likes the option of the pocket park to build a community between all three neighborhoods.

Developer **Steve Merker** responded to some of the citizens' concerns. Sprinklers for the homes would be a tough standard to meet and the costs would be passed on to the homeowners with a letter to the homeowners that it was pressed upon him to do so. Future impacts could be detrimental to new home developments as these new building standards are up to date and built with fire suppression in mind.

Mr. Merker apologized to the Quail Hollow people, as it was never intended to exclude anyone. If the pocket park is an option, one consideration might be for fees to help develop improvements with HOA fees or a fund set up by all three neighborhoods. He would like to see Council continue to vote on this item to find a resolution to this matter, and does not want to be slowed down to continue building.

Mr. Westberg responded to some of the pros and cons for Option 1. The farthest home on Robb St. is 1600 feet closer to the nearest fire station. For drainage issues, the road is not being built with a crown but with a slope, flowing to the east side of the road. Access to the schools by sidewalks are closer to the east and of course driving would increase the distance. Use of the Church parking lot would be out of the picture as it does not save them any distance and the parking lot may not be built for fire trucks that are usually heavier than trash trucks. Cul de sacs can be dangerous in any fire emergency in case the fire jumps between homes.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Fitzgerald to approve Resolution No. 22-2017, a resolution approving a Seven-Lot Subdivision Plat for property zoned Residential-One (R-1) at 11435 W. 32<sup>nd</sup> Avenue with a Cul-De-Sac length Variance (Case Nos. WS-16-02 and WA-17-07/Merkwood Estates) for the following reasons:

1. City Council has conducted a proper public hearing meeting all public notice requirements as required by Section 26-109 and 26-407 of the Code of Laws.
2. The proposed lots meet or exceed the R-1 zone district regulations.
3. The criteria used to evaluate a variance supports approval of the request with the cul-de-sac length variance.

4. All other requirements of the subdivision regulations have been met.
5. Utility districts can serve the property with improvements installed at the developer's expense.

With the following conditions:

1. The subdivision street access design be in accordance with Option 1
2. The applicant continue working with staff on final design details prior to plat recordation.
3. A Subdivision Improvement Agreement be executed ensuring all public improvements are in place prior to issuance of building permits for individual lots
4. The developer pay parks fees at the time of plat recording in the amount of \$14,983.74
5. The Homeowners' Association covenants be reviewed and approved by staff.

seconded by Councilmember Hoppe.

Discussion followed.

Councilmember Mathew expresses being in favor for Option 1 as it would decrease potential traffic for the Quail Hollow residents and school. He noted that Routt and Rob Streets are equal distance in length but in different directions, and he questioned why a different standard would be applied to a street right next door.

Councilmember Hoppe agreed that Option 1 is the best way and does not want to see the home fire sprinklers included in the motion for this development. Ms. Hoppe would also like to find out what the community's next step would be to try to get a pocket park.

Mr. Dahl added that if an additional fire hydrant is a condition, it can be added to the motion as #6, if so desired.

Ms. Manwaring responded that it is not usual for City to accept such a small park but that the neighborhood and developer might acquire the property and maintain the park themselves or through an HOA.

Councilmember Urban expressed concerns with the sidewalk being the City's responsibility to remove the snow and if the R.O.W vacation of property or easement would be divisive for the neighborhoods.

Mr. Dahl said if it is vacated with a different process, then the adjacent property owners take to the midpoint of the property but the city would probably reserve its right to maintain an easement if necessary.

Councilmember Duran thanked the developer and the citizens for working and joining together, to listen to the community and will support Option 1.

Councilmember Davis expressed support for Option 1. She thanked everyone for being part of it and thanked the developer as well for working on the drainage issue. She believes it is a good compromise.

Councilmember Fitzgerald noted also that this has been an arduous, two-year long process and thanked Mr. Merker for hanging in there. He believes this has been a wonderful exercise in democracy and civility at work, especially for the Routt Street residents to be involved with it and to show that even with the long process, everybody received a semblance of what they wanted.

Councilmember Wooden stated she would be voting against it for the lack of connectivity to 33<sup>rd</sup> Avenue and feels the original plan was the best option. The staff did meet the requirements that were needed for this. She recalled when the developer first came in wanting his plat approved and the neighbors were vehemently arguing against it, stating that they did not want to have their sunsets and parks taken away, even though it was private land to begin with.

Motion carried 6-1, with Councilmember Wooden voting no.

### **ORDINANCES ON FIRST READING**

2. Council Bill 15-2017 – An Ordinance approving a permanent Easement to Equinox Properties, LLC for the purpose of constructing a Stormwater Structure on City-Owned Property

Equinox Properties, LLC is expanding and conducting improvements to the Circle K located at 3805 Kipling Street. As part of these improvements, a new storm water/drainage structure is required. This structure is located in Lena Gulch on City-owned property, just south of the Recreation Center at 4005 Kipling Street.

Councilmember Pond introduced Council Bill 15-2017.

**Motion** by Councilmember Fitzgerald to approve Council Bill 15-2017, an ordinance approving a permanent Easement to Equinox Properties, LLC for the purpose of constructing a Stormwater Structure on City-Owned Property on first reading, order it published, public hearing set for Monday, August 14, at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Davis; carried 7-0.

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

3. Motion to accept the 2016 Comprehensive Annual Financial Report (CAFR) from Swanhorst & Company, LLC

Section 10.15 of the Municipal Charter for the City of Wheat Ridge requires that an independent audit be performed annually of all City accounts. The CPA firm of Swanhorst & Company, LLC performed the audit of the City's financial statements for the year ended December 31, 2016. A representative from Swanhorst & Company was on hand to present the 2016 CAFR to Council for acceptance.



Councilmember Davis Introduced Item 3 and spoke on a few items:

**Investments** – “As mentioned in past years, the City has purchased certificates of deposit at banks not certified under the Public Deposit Protection Act (PDPA), a requirement of state statutes. However it is our understanding that similar certificates of deposit are no longer being purchased. We recommend that the City monitor compliance with the applicable laws and policies when purchasing investments.”

**Federal Awards** – “The City continues to maintain accounting records for federal awards using manual spreadsheets prepared by the grant administrators and accounting personnel. We continue to recommend that the City utilize the established accounting system and centralize the grant accounting process. This will help identify and correct errors through the internal controls already in place”

**Compensated Absences** – “The City’s liability for unused employee vacation time has a balance of \$1,143,126 at December 31, 2016. Because this represents a significant liability to the City, we recommend the City evaluate the policies in place to determine if the cost is appropriate to achieve the goals of the City.”

Staff presentation

Tim Dronkers introduced Wendy Swanhorst whose company performed the 2016 audit.

Ms. Swanhorst related that in the Annual Comprehensive Financial Report 2016, the numbers included in it are fairly stated, and the company did not identify any concerns other than those listed. The Certificates of Deposit (CD’s) were purchased a long time ago and the City is getting rid of those over time and overall is in good shape.

City Treasurer Jerry DiTullio mentioned that the City has not bought any new CD’s, only Public Deposit Protection Act (PDPA) C-Save, and the matured monies are going into City accounts to pay bills. Most of the five-year CD’s will be maturing in the next 2-3 years and no new FDIC instruments will be purchased in the near future.

**Motion** by Councilmember Davis to accept the 2016 Comprehensive Annual Financial Report (CAFR) from Swanhorst & Company, LLC adding to the motion a request that staff update Council at study session on those three items: investments, federal awards, and Compensated absences; seconded by Councilmember Duran.

Councilmember Urban asked how long the company has been doing the auditing for the City and if there is a policy to have a rotating schedule to have different firms do our audit.

Ms. Geyer responds that this company has been doing business with the City for at least 15 years and they rotate auditors so we do not use the same person every time. There has never been a significant issue with this company and it has worked for the city up to date.

Motion carried 7-0

4. Resolution 26-2017 – Authorizing City Officials to execute an Intergovernmental Agreement by and between the County of Jefferson, State of Colorado, and the City of Wheat Ridge regarding the Administration of respective duties concerning the Conduct of the Coordinated Election on November 7, 2017

Councilmember Wooden introduced Item 4.

The City of Wheat Ridge will participate in a coordinated election on November 7, 2017. The attached resolution and intergovernmental agreement (IGA) must be executed and forwarded to Jefferson County by Tuesday, August 29, 2017. The documents refer to the administration of the respective duties of the County and the City of Wheat Ridge concerning the conduct of the coordinated election.

The duties of the County Clerk include, but are not limited to, ballot preparation, voter lists, staff selection and training, providing election supplies, counting of the ballots, and certification of results. The duties of the City of Wheat Ridge include, but are not limited to Call and Notice and ballot preparation. The City Clerk shall act as the City of Wheat Ridge's election officer and the designated election official. She shall act as the primary liaison between the City of Wheat Ridge and the contact officer for the County Clerk and Recorder.

Staff presentation - none

Citizen comment - none

**Motion** by Councilmember Wooden to approve Resolution 26-2017 authorizing City Officials to execute an Intergovernmental Agreement by and between the County of Jefferson, State of Colorado, and the City of Wheat Ridge regarding the Administration of respective duties concerning the Conduct of the Coordinated Election on November 7, 2017, seconded by Councilmember Hoppe, carried 7-0.

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

Mr. Goff reminded everyone that there will not be a meeting next Monday as it is the fifth Monday of the month. National Night Out is August 1, next Tuesday at Hayward Park starting at 5:00 PM to meet and greet the Police Department. Roofing permits are still very active with 3,900 residential roofing permit applications submitted and nearly 3,200 have been issued. That compares to 1,597 permits being issued for all of last year.

**CITY ATTORNEY'S MATTERS** none

### **ELECTED OFFICIALS' MATTERS**

Jerry DiTullio

Biweekly roofing and inspections report for July 24, 2017 and year to date, 3258 permits were processed with revenue of \$1,427,588. This revenue has offset the Walmart leaving from 32<sup>nd</sup> and Youngfield. Costs of contract labor stands around \$166,340 in total. He explained how mid-roof inspections may be controversial but well worth it for the homeowners.

**Monica Duran**

From the citizen concerns with the Bulk Plane, she asked that it be added to future study sessions to hear more of what people have in mind and are thinking.

**Janece Hoppe**

Thanked everyone coming out to the hearings to support their community and those who spoke on the many items. The mid-roof inspections did go to the planning division and it was decided to be kept on the books. In reality, it can be a hassle for the contractors but is keeping our community safer by having proper roofs put on.

**Zachary Urban**

With the passing of Chester Bennington the new Colorado suicide prevention hotline number is 1-844-493-8255. He alerted everyone for an upcoming event at Brewery Rickoli that is tapping their Oats and Goats beer; this is a national collaboration with Samuel Adams and is unique for this brewery. The Colorado Human Trafficking Council is meeting on July 28 at 9:00 AM at the Jefferson County Human Service building. Opioid and other substance abuse disorder subcommittee is meeting at the State Capital on August 1, at 9:00 AM.

**Mayor Jay**

Coffee with the Mayor will be Saturday, August 5 at 9:00 AM at Vinnolla's. Everyone is welcome to attend. Pints and Policies is this Wednesday at Infinitus Pie on 38<sup>th</sup> Avenue and usually starts around 7:00 PM.

**City Clerk**

The City Clerk and election commission would be willing to field questions from the community for the mayor and City Council candidate forum and would be interested in hosting/emceeing the candidate forum with the final questions TDB by the election commission and Heather Geyer.

**ADJOURN TO SPECIAL STUDY SESSION**

The City Council Meeting adjourned at 9:14pm.



Robin Eaton, Deputy City Clerk

APPROVED BY CITY COUNCIL ON August 14, 2017



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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.