

# CITY COUNCIL MINUTES

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

October 9, 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	George Pond
Kristi Davis	Tim Fitzgerald	Larry Mathews	Genevieve Wooden

Also present: City Clerk, Janelle Shaver; City Manager Patrick Goff, City Attorney, Jerry Dahl; Police Chief Daniel Brennan; Park Director, Joyce Manwaring; Administrative Services Director, Heather Geyer; Public Works Director, Scott Brink; other staff, guests and interested citizens.

### APPROVAL OF Council Study Session Notes of September 18, 2017

There being no objections, the Council Study Session notes of September 18, 2017 were approved as published.

### PROCLAMATIONS AND CEREMONIES

#### Manufacturing Day

Mayor Jay read a proclamation declaring October 6, 2017 as Manufacturing Day. Ali Recek, director of Key Initiative Manufacturers Edge was present to receive the award and thanked the Council and the City.

#### Gold Medal Award for Parks and Recreation Department

Patrick Goff introduced **Rod Tarullo**, Director of Parks and Recreation for the City of Golden, who has served as the Gold Medal judge liaison for the National Recreation and Parks Association and the American Academy of Parks and Recreation Administration since 2011. Mr Tarullo presented to the City the coveted national Gold Medal finalist award that had been presented to the Parks staff in New Orleans on September 25, 2017. This award honors agencies that exceed industry practices and establish higher standards for delivering public park and recreation services. Wheat Ridge is Class 4 Parks and Recreation which includes cities with populations of 30,000 to 75,000. Since the award program started 52 years ago, only 204 Class 4 agencies have received this award. He told citizens they can be proud to be in the upper echelon of 8,000 public parks in the nation. A promotional video about the City's parks and recreation department was shown. Parks and Recreation staff members **Joyce Manwaring, Rick**

**Murray, Julie Brisson, and Matt Anderson** were present to represent the entire staff and share the honor of the award. Joyce Manwaring offered words of thanks to elected officials, the City Manager, other departments, the parks and recreation employees and the citizens who use the parks – all of whom contributed to this award.

### **CITIZENS RIGHT TO SPEAK**

**Dorothy Archer** (WR) addressed the issue that will be discussed at the November 20 study session. She asked who would be responsible for writing an article for the three newspapers to educate the citizens about the issue. She noted that 70% of East WR is zoned R-2 and these folks do not favor the 35 ft flat roofed house right next to our fences. To be fair to the citizens, she pled for having an article in the paper and for any way that can be used to make citizens and homeowners aware.

**Bob Brazzell** (WR) spoke regarding ballot Question 300 being overturned by a judge. He reminded Council this was voted on and passed by the citizens, and it is their obligation to defend the will of the voters – regardless of their personal opinions. He also opined that the voting on this should be done in public to uphold state sunshine laws.

**Tom Slattery** (WR) quoted Section 3.13 of the City Charter – Oath of Office, – which includes a promise to support the City Charter. He labeled as nonsense the judge's decree that our small limitation on TIF's is unconstitutional while Littleton's more stringent limitation, in a different judicial district, remains in effect. He stated it is Council's duty to uphold the Charter and appeal this ruling. ~ He added that he supports Dorothy Archer's comments.

**John Clark** (WR) had planned to talk about why Council should fight for the voters of the City, but since they already know that he talked about two words – sustainability and transparency. He suggested "sustainable/sustainability " has recently been highjacked by the Mayor's sustainability committee. A city that outlaws the male of the species (roosters, billy goats, and male and female pigs) is by definition not sustainable. Regarding "transparent/transparency", he told Council they are not as transparent as they think they are, or say they are. Claiming to be transparent doesn't make it so. He posited that a vote in executive session is the opposite of transparency.

**Michael Illo** (WR) addressed the issue of elected officials' use of social media. He spoke of false profiles recently created to support candidates. He also presented what he sees as inappropriate conduct on social media by the City Treasurer – including using his government position to intimidate and bully people; blocking people and censoring content on his own pages and that of a citizen group; spreading rumors and making personal attacks.

Councilmember Mathews asked for the floor and made the following motion:

"WHEREAS we are about to adjourn to receive legal advice concerning current litigation; and

WHEREAS the litigation concerns a citizens' initiative on TIF as decided through a general city election; and  
WHEREAS we are not to take any formal action in an executive session; and  
WHEREAS the citizens have the right to know, for the public record, how we vote on the issue, as they do with any other council business  
I hereby move that we temporarily suspend the current council meeting, adjourn to the executive session to discuss the litigation, return to council chambers and reconvene the meeting to vote, through a motion, on the direction we will give to the City Attorney in regards to the current litigation."

The Mayor said the executive session was already on the agenda and asked for division of the question. The City Attorney advised the actions of this motion could be voted on as one motion or as two.

Councilmember Duran seconded Mr. Mathews' motion.

Clerk Shaver pointed out that the Agenda had not yet been approved yet, so it would be appropriate to consider this motion.

Discussion followed.

- The executive session is scheduled for the end of the meeting.
- People are here for Items 1 and 2.
- Citizens who supported Questions 300 are here too.
- Since the Council already spent an hour in executive session on this two weeks ago, this executive session shouldn't take long.
- The agenda for the meeting has not yet been approved.

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

## **APPROVAL OF AGENDA**

## **DECISIONS, RESOLUTIONS AND MOTIONS**

1. Resolution No. 38-2017 – Public Hearing and a Resolution adopting the City Budget and appropriating sums of money to the various funds and spending agencies in the amounts specified for the City of Wheat Ridge, Colorado for the 2018 Budget Year

Councilmember Pond introduced Item 1.

Mayor Jay opened the public hearing

Staff presentation - Patrick Goff

*[The staff power point presentation is included as an attachment to this document.]*

Additional staff information included:

- The reason 2018 revenue is projected to be 6% lower than 2017 is because the 2017 actual revenue includes an unusual amount of revenue related to the hail storm. When comparing 2018 projected revenue to 2017 projected revenue, the 2018 revenue is expected to increase by 2.3% over 2017.
- 70% of the City's revenue is Sales and Use Taxes. Property tax is 3% of our revenue.
- Comparing 2017 expenditures with 2018 projected expenditures will be skewed because of the 2017 one-time expense of \$1.5M for damage to City property from the hail storm. Excluding the factor of the hailstorm, 2018 expenses will be 4% higher than 2017.
- The reserve balance will be 18.8%. Council policy is for a minimum of 17% in reserve. The TABOR reserve requirement of 3% is in compliance. Funds from Comcast cable fees and a loan to the Fruitdale project are also separate.
- Central Charges (12% of proposed expenditures) includes workers comp, insurance (property & liability), medical/dental/life insurance, uninsured losses, postage, and employee compensation
- Admin Services (11% of proposed expenditures) includes finance, HR, Information Technology, Purchasing, Public Information, and admin services
- General Government (9% of proposed expenditures) includes City Council, City Clerk, City Treasurer, City Manager, Economic Development, and City Attorney's budget
- A separate 2E Fund was set up for the bond proceeds that were issued in May.
  - \$33M has been received from the sale of bonds and will be paid back with the ½ cent sales tax increase.
  - Expenditures of \$17.4M on the 4 projects are expected in 2018
  - \$4.1M in new revenue is expected from the ½ cent of sales tax.
  - \$9.75M will be spent in 2018 for the I-70 hook ramps.
  - \$2M will be spent on public infrastructure in the Ward Station G Line area.
  - \$7M was approved for the Wadsworth Widening project. It is projected to spend only \$450K of that next year.
  - \$1.72M of the Anderson Park allotment is proposed to be spent next year.
- 87% of the Capital Improvement Program (CIP) (\$6.4M) will be spent in 3 areas.
  - 1) \$2M to finish the environmental assessment (EA) for Wadsworth
  - 2) \$2M for annual preventative street maintenance (overlay, crack and slurry seal)
  - 3) \$1.57 for the 29<sup>th</sup> & Fenton intersection project. This is related to the Ashland Reservoir project. The City's share of the \$1.57M project is \$836K. Denver Water will contribute \$411K; the City of Edgewater will contribute \$322K.
- Information about the other CIP projects included:
  - 26<sup>th</sup> & Fenton drainage improvements: Edgewater will contribute \$171K for the \$260K project
  - Security Upgrades are for City Hall, the Rec Center and the Active Adult Center. The assessment from the consultant identified up to \$800K in security improvements; \$150K is budgeted for 2018.

- The new traffic signal at 32<sup>nd</sup> & Xenon (\$145K ) will be paid for by Urban Renewal and Regency (the developer for Applewood Shopping Center)
- The \$100,000 for the Police evidence storage building at the Public Works shops will add the 2<sup>nd</sup> story that was not originally built.
- The \$50K for ADA infrastructure starts the compliance process.
- The \$50K for GIS updates will help resolve ROW discrepancy issues.
- The \$25K for the Clear Creek Masterplan will look at flows and help identify floodplains – hopefully taking some properties out of the floodplain.
- Completing the environmental assessment (EA) for Clear Creek Crossing will help get that project started.
- The gateway signage budget of \$25K has no specific locations identified yet.
- \$15K will be available for any neighborhood traffic calming requests.
- The City partners with other entities on the Maple Grove Reservoir.
- Open Space Fund expenditures include
  - \$2.4M for Phase 2 of Prospect Park renovation
  - \$400K of Open Space funds will be added to the 2E Anderson Park project
  - \$25K of Open Space funds will be given to the Jeffco trail project that goes up Clear Creek Canyon
- Conservation Trust Fund expenditures will include \$500K to add to the 2E funds towards the renovation of the Anderson Building
- Under “Other Budget Strategic Priorities” Mr. Goff added the following information:
  - The \$300K to Urban Renewal is our annual funding.
  - The \$765K for TIFs includes two active TIFs: 1) the Sprouts/Kipling Ridge development at 38<sup>th</sup>/Kipling, and 2) the projected opening of the project at 38<sup>th</sup>/Wadsworth by the end of next year.
  - The \$140K to Localworks is for our 4 major events: 1) our Holiday Lighting Ceremony, 2) our Ridgefest ceremony, 3) our Criterium, and 4) Trunk or Treat
  - The \$45K for the WRBD is for grants to Wheat Ridge businesses.
  - The Live Local events (\$45K) are hosted by Localworks.
  - The Building Up Business Loans (BUBL) (\$25K) are coordinated by Localworks.
  - Marketing efforts include \$7,500 for the 44<sup>th</sup> Ave Corridor, \$5K for the 29<sup>th</sup> Ave Marketplace, and \$30K for 38<sup>th</sup> Avenue.
  - It is proposed to update the Neighborhood Revitalization Strategy/Study that was done 10+ years ago. \$77,500 is budgeted for that, with a portion to go to for that will go to Localworks to help the City with community outreach.
  - The TLC program (Traffic safety, Life quality and Crime reduction) is a partnership between the City and Localworks to identify specific residential and commercial neighborhoods and work with those folks to clean up those areas and provide support they may need.
  - The City provides \$25K to Localworks to help with the Home Investment loan Program (HIP).
  - A specific budget was created a few years ago to focus on maintenance and management of the Historic Buildings the City has charge of. The 2018 budget for that is \$78,699.

- \$150K is budgeted to create a strategy to deal with the issues the City deals with in the I-70 Kipling Corridor.
- The large-item pickup program the City hosts twice a year is funded at \$5K to provide two pick-up days.
- \$45K is set aside to hopefully bring back a Citizen Academy that teaches people about their local government.
- The citizen review committee for outside agency requests is appointed by the mayor and council. This year they are recommending \$122,700 in funding requests from non-profits.
- \$20K is being put in the City and Localworks' budgets to being planning efforts for the celebration of the 50<sup>th</sup> Anniversary of the incorporation of the City of Wheat Ridge.
- Staffing changes: 5 new FTEs; 2 new 0.5 FTEs; eliminate one 0.5 FTE position – for a net increase of 5.5 new FTEs.
- General Government (4 positions) includes Office of the Mayor and City Council, the Office of the City Clerk, and the City Manager's Office.
- Long-term Fiscal Challenges (Mr. Goff)
  - Funding for larger capital projects is still a struggle, but we transfer \$2.5-3.5M a year from reserves to cover capital projects. We keep up with preventative maintenance and a few other projects.
  - We don't have the resources to provide every service citizens want; we do the best we can. We focus on economic development to provide the services and programs people want.
- Short-term Fiscal Challenges
  - Sales tax revenue for 2017 is up, but not as much as was projected due to Walmart closing.
  - The unanticipated revenues from the May 8<sup>th</sup> hailstorm are helping to cover the lost revenue from the Walmart closure.
  - The Regency Company is working to fill the Walmart space, but no revenue is projected for that space in our 2018 budget.
- Short-term Fiscal Opportunities
  - The regionalization of 911 services will save the City \$377K to \$575K annually; 2018 savings depend on when Jeffcom gets up and running next year. A proposed increase in the E911 fee folks get on their phone bills is yet to be approved by the PUC. 13 FTEs will be eliminated for us; those employees will transfer to Jeffcom.
  - Some shops at 38<sup>th</sup> & Wadsworth are expected to open by fall of 2018.
  - Applewood Shopping Center is trying to fill the Walmart space; the Hacienda Colorado restaurant is close to finalizing a deal; the Wells Fargo bank building will be demolished soon to open up a redevelopment space.
  - At Clear Creek Crossing some new development might open in 2019.
  - Ward Station: Several developments are in the works – which may not generate new long term sales tax revenue, but will initially generate a good bit of use tax and fees related to residential and office developments.
- Citizens can learn more about the City's budget by looking at Balancing Act and Socrata – two online budget tools available on the City's website.

Council Questions/Comments/Discussion

- Staffing changes that were agreed on at the study session have been implemented.
- The 13FTE dispatchers are still in our budget for 2018.
- Chief Brennan advised the City hasn't been notified yet if the grants for ballistic vests will continue. The vests cost \$700-750 and the grants pay about ½ the cost. If that grant comes in, it will come to Council next year as a supplemental. Until then PD is able to purchase replacement vests as needed.
- A bond payment of \$2.8M is due yet in 2017 as per the 2E spreadsheet. 2018 has \$3.4M for debt service on the bonds. The ballot question restricted the annual debt to \$3.7M.
- Annual debt service on the solar garden is about \$80K. Yearly credits brought in, so far, are running a little less than that – around \$71K annually.
- Updated figures for revenue from the hailstorm have not been factored into the projected final revenue for 2017. There was some discussion about the projections for costs and revenue relate to the hailstorm. Mr. Goff noted that most permits to date have been for residential, but staff is starting to see permits for commercial properties. Any extra revenue will go back into reserves.
- Discussion about adding money to the Safe Routes to School program.
- Discussion about cut-through traffic coming off Wadsworth when construction happens. Mr. Brink said that can/will be addressed long term with the Neighborhood Traffic Management Plan (NTMP). He also reported that 2/3 to ¾ of the requests for traffic management features result in no action due to lack of neighbors' support.
- Discussion about increasing traffic calming from \$15K to \$30K, adding \$30K for efforts around Safer Routes to School, and adding \$200K to the ADA compliance program (for a total of \$250K for ADA).
- Discussion about making cuts to offset the proposed increases to the budget.

Citizen comment

**David Schafer** (Arvada), the current treasurer for Local Works, thanked Council for its support over the years and was available for questions. There were none.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Pond to approve Resolution No. 38-2017, a resolution adopting the City Budget and appropriating sums of money to the various funds and spending agencies in the amounts specified for the City of Wheat Ridge, Colorado for the 2018 Budget Year; seconded by Councilmember Wooden.

**Motion** by Councilmember Urban to increase the Neighborhood Traffic Management Program from \$15K to \$30K and to add \$30K for programs related to Safe Routes to School; seconded by Councilmember Duran.

Councilmember Mathews stated he would be inclined to vote for this if there was some information from staff indicating need and specifics about where the money would be spent.

The motion to amend carried 6-2, with Councilmembers Mathews and Fitzgerald no.

Motion by Councilmember Hoppe to increase the ADA program by \$200K for a total of \$250K; seconded by Councilmember Duran.

Councilmember Pond said he would prefer to look at this analytically and strategically.

Councilmember Davis said she would prefer to revisit the ADA compliance timeline in January when this comes to a study session.

The motion to amend failed 4-4, with Councilmembers Mathews, Fitzgerald, Davis and Pond voting no.

The main motion carried 8-0.

2. Resolution 37-2017 – a Resolution Levying General Property Taxes for the year 2017, to help defray the costs of government for the City of Wheat Ridge, Colorado for the 2018 Budget Year

Councilmember Mathews introduced Item 2.

The City's property tax mill levy will remain at 1.830 mills for the 2018 budget, potentially raising \$1,022,134 in property tax revenue - an increase of \$168,904 compared to 2016.

There were no questions or comments from the Council.

**Motion** by Councilmember Mathews to approve Resolution No. 37-2017 – a resolution levying a mill levy of 1.830 on general property taxes for the year 2017, to help defray the costs of government for the City of Wheat Ridge, Colorado for the 2018 budget year; seconded by Councilmember Wooden; carried 8-0.

3. Resolution 35-2017 – a resolution authorizing and supporting submittal of an application for a local Parks and Outdoor Recreation Grant from the State Board of the Great Outdoors Colorado Trust Fund for the renovation of Prospect Park Phase II

This resolution supports a grant application for Phase 2 of the Prospect Park renovation and commits 2018 funds for the required matching funds for the grant.

Councilmember Wooden introduced Item 3.

Ms. Manwaring added that the funding for Prospect Park is in the 2018 budget and is also contingent on revenues and award of the grant.



Councilmember Urban asked that Council be notified on the progress for the grant. Ms. Manwaring said she will provide a status report after notification about the grant – which happens on April 1, 2018.

**Motion** by Councilmember Wooden to approve Resolution No. 35-2017 – a resolution authorizing and supporting submittal of an application for a local Parks and Outdoor Recreation Grant from the State Board of the Great Outdoors Colorado Trust Fund for the Renovation of Prospect Park Phase II; seconded by Councilmember Mathews; carried 8-0.

4. Motion to cancel the Study Session of the Wheat Ridge City Council on November 6, 2017, due to the Municipal Election

Councilmember Duran introduced Item 4 – noting that the study session the night before an election is typically cancelled. .

**Motion** by Councilmember Duran to cancel the study session of the City Council scheduled for November 6, 2017 due to the Municipal Election; seconded by Councilmember Davis; carried 7-1, with Councilmember Urban voting no.

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

**Patrick Goff** reminded everyone there will be an RTD public meeting tomorrow evening, October 10, at 6:30 in Council Chambers at City Hall. Folks can find out information and ask questions about the G Line and service in general. ~ He also reported that the FRA has approved the waivers [for Gold Line testing], but so far, the PUC has not. Both RTD and the Denver Transit Partners believe the PUC may have made the decision without the full information, so they will try to go back and get a different ruling. That could restart the testing – which is 98% completed. Completion of the testing would take a couple of weeks, but there are no dates yet.

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

none

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

**Janelle Shaver** reported on several things.

- She noted the recent passing of Doris Ibbison at age 94. She served on City Council from 1985-1989 and was instrumental in acquiring and opening the Community Center – now the Active Adult Center.
- She reported that at the recent Municipal Clerk's conference last week she conversed with a representative from Granicus. She and Deputy Clerk Robin Eaton will be meeting with them to see how they might better use the Granicus software the City already has to improve access to information for the citizens in the agendas and minutes.

- She asked councilmembers to let the Deputy Clerk know if they will be coming to the Boards & Commissions dinner on Wednesday. The program needs to be finalized.
- She reported participating in the testing of the ballot counting machines today at Jefferson County Elections. All cities and counties now use a system from the company Dominion. She noted the testing process was much faster this year.
- She reminded folks that Cider Days is this Saturday at the Sod House Museum. The cider press will be up and running.
- Ballots will start to be mailed beginning Monday, October 16.

**Genevieve Wooden** requested for a future study session a discussion of a code of conduct for elected officials. She also wanted to know what a hot link to the City is?

**Larry Mathews** asked when the executive session would happen.

**Tim Fitzgerald** reminded everyone that five people are running for the school board. A debate by those five candidates will be coming. Contact him to find out where.

**George Pond** thanked the Parks and Rec staff and congratulated them. They are very dedicated. ~ He said he would pick the motion about the executive session. That can be approved or amended, but that's how it will happen.

**Zachary Urban** recognized the passing of Skylar Cooper Holland, a sixth grader at Wilmore Davis who was tragically killed last Friday in an auto/pedestrian crash. A fundraiser for the family will be held on Saturday, October 14 at 4pm at Clancy's Irish Pub. He encouraged people to come and support the family. ~ He encouraged people to come to the RTD meeting tomorrow night and made note of Cider Days this weekend at the Historic Park.

**Janece Hoppe** announced that October is Domestic Violence Awareness Month. She invited everyone to join the Family Tree in seeing that there is no room domestic violence in your life. There will be a Girls Night Out fundraiser at the Lamar Center in Arvada on October 18. Tickets (\$50/single or \$180/four) can be purchased online. ~ She also reported a very great need for candy for Trunk or Treat. Donations can be left at Personal Achievement Martial Arts, Colorado Plus or Local Works. Several thousand kids came last year; please help them to *not* run out of candy. She thanked Dominic Breton and the Kiwanis for running the games this year.

**Monica Duran** thanked the Carnation Festival and Local Works for providing their detailed budgets to Council as requested.

**Mayor Jay** congratulated the Parks and Recreation Department on their award and the Police Department for their recent accreditation.

**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 C.R.S. 24-6-402(4)(b), to receive legal advice concerning the Longs Peak Metropolitan District litigation, and further to return to the open meeting at the close of the executive session for the purpose of talking any formal action deemed necessary; seconded by Councilmember Duran; carried 8-0.

**ADJOURN TO SPECIAL Executive Session**

The City Council Meeting adjourned to executive session at 9:19 pm.

The executive session was held in the Lobby Conference Room and was called to order at 9:24 pm.

The executive session adjourned at 10:09 pm.

The City Council reconvened in regular session at 10:13.

Mr. Dahl offered some procedural suggestions.

**Motion** by Councilmember Urban to suspend the Council Rules and allow each Councilmember to speak to their reasons for voting one way or another on the motion that is yet to be made; seconded by Councilmember Duran; carried 8-0.

**Motion** by Councilmember Pond to direct the City Attorney to not appeal the district court order in the Longs Peak Metro District litigation; seconded by Councilmember Davis.

Councilmember Duran read a statement. She explained how Question 300 was born out of citizens' frustration and mistrust for their local government. People supported smart development, but they wanted public input, transparency, accountability and a voice in how their tax dollars were spent. She confirmed that Question 300 has not been detrimental to the Wheat Ridge economy by listing several new businesses that have come in since 300 passed. She noted the judge who ruled against Question 300 ruled on General Powers rather than Enumerated Powers (Home Rule and the City Charter). Wheat Ridge citizens approved Questions 300 and citizens are at the top of the City flow chart. She believes supporting the will of the citizens is her responsibility and duty, and she will be voting to appeal the decision.

Councilmember Hoppe said she will vote not to appeal the decision based on the City Attorney's information that the appeal would take up to a year, and with the information of things going on in the community and what this timing could ruin for our community. She understands citizens want more say over what happens with TIF. She noted every TIF comes to the Council for a cooperation agreement, and they can say no. Citizens still have opportunities for their voices to be heard on how their TIF monies are spent.

Councilmember Urban said he is forced to look at the oath councilmembers took to uphold the city Charter. Our Charter currently requires citizens to vote on a TIF over \$2.5million, and he believes this Districts Court judge made an incorrect assessment on the enumerated powers within our Charter, and our status as a home rule city is only as strong as our ability to hold up that Charter when it is being challenged by a court judge. He believes it is appropriate to appeal this decision and allow the appeals court to make a decision. He believes this is an Enumerated Power. The fact that City Council is

allowed to sign off on these agreements is exactly why Question 300 was enacted – because citizens lacked trust and willingness to put large agreements in the hands of a small number of people. He will vote against this motion; he favors appealing the decision.

Councilmember Pond said he strives to be responsible to all residents. Originally he was not enthusiastic about defending this, but as he listened to the discussion of his colleagues he agreed he had an obligation and responsibility to defend the actions in court that were going on. They did that; he did that; he agreed to the logic at that point. At this point his motion to not appeal has to do with being responsible to *all* citizens. A little less than half of the voters voted against question 300. He believes this has gone through a fair process and he has satisfied the obligation to defend it. He recalled how citizens in District 3 have repeatedly, over time, talked about wanting this parcel of land at Clear Creek to be developed. Losing Cabela's is one of the biggest losses he hears about. He feels the uncertainty of a yearlong appeal process could jeopardize the Clear Creek Crossing development. He believes citizens want Clear Creek Crossing to be developed and he is dedicated to letting this development move forward and not threatening it.

Councilmember Davis said she will vote not to appeal the District Court decision. She said Council initially represented the people and defended Question 300, but that failed. She noted the people who didn't vote for Question 300, so there are larger groups of people they are looking at. She said Council was told this would be a difficult appeal and she thinks the yearlong appeal would be detrimental. She knows CIRSA insurance would cover the legal costs to defend this, but she is concerned about the loss of development opportunities. She agreed that losing Cabela's is still a sore spot, but this is a risk and cost that would impact our citizens. She agrees they have to defend the charter, but they also have to defend state law. Right now the charter is in conflict with state law, so she feels they are upholding their oath. She repeated that citizens will have a right to speak when cooperation agreements are being considered.

Councilmember Fitzgerald said he would vote not to appeal. He feels the judge was clear that state law always trumps local law – even in a home rule city, and she cited case law. During the one-year delay an appeal would cause, the growth curve we are experiencing is likely to decline. We already have a weak retail market; he does not want to put any impediments in the way of this development. Additionally, if the Clear Creek Crossing did go to a TIF vote, that would take time and increase the chances that this development could go up in smoke. His constituents have told him they want growth in the City. Yes, 300 passed, but 2E, a tax increase, also passed because people want improvement. He said we stand to lose a half million dollars we paid to Denver Water to hurry up its water project under the hook ramps – which we will lose benefit of if nothing is going to happen for at least a year. He thinks it would be irresponsible to appeal this decision; it seems extremely clear that it would be an uphill climb to get a successful resolution.

Councilmember Mathews believes the City should appeal the decision of the District Judge. A majority of the people voted for Question 300. The basis of our political system is that we abide by the rule of law established by majority vote. He is also concerned that


if Council refuses to defend Question 300, it is setting a final precedent that probably drives a stake into the heart of 300. It will make it harder in the future to make any further 300 objections to be overcome. If we don't fight it now, we've lost everything and proven to the citizens that their decision to pass an amendment to take power away from the Council was very well justified.

Councilmember Wooden said she would vote not to appeal based on advice that was given to Council by the City Attorney, and mirroring and supporting the comments made by Councilmembers Hoppe, Pond, Davis and Fitzgerald.

The motion was repeated and carried 5-3, with Councilmembers Mathews, Urban, and Duran voting no.

Councilmember Mathews asked that the City Attorney apprise Council of his next steps. Mr. Dahl said he would advise the CIRSA assigned defense counsel that the case will not be appealed. He will not file a notice of appeal, and when the deadline for filing an appeal expires the District Court judge's decision will be final.

The meeting adjourned at 10:34pm.

  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON November 13, 2017

  
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.