

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

**October 22, 2018**

Mayor Pro-Tem Tim Fitzgerald 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**

Zachary Urban	Monica Duran	Tim Fitzgerald	Leah Dozeman
Kristi Davis	George Pond	Larry Mathews	Janece Hoppe

Absent: Janece Hoppe, George Pond, Mayor Starker

Also present: Deputy City Clerk, Robin Eaton; City Attorney, Gerald Dahl; City Manager, Patrick Goff; guests and interested citizens.

**APPROVAL OF Study Session Notes of September 17, 2018**

There being no objections, the Study Session Notes of September 17, 2018 were approved as published.

**CITIZENS' RIGHT TO SPEAK**

Citizens wishing to speak out against a recently subdivided house lot, and the failure to protect the nature of the long established Bel-Air neighborhood. Those people included:

Jim Niquette, John Nance, Sandra Nance, Courtney Pullen, Nancy Van DeMark, Diane Romano, Betty Niquette, Gail Thompson, Paul Hovland, Chris Chidley, Molly Mayfield, Deb Johnson, Suzanne Teale, Julie Hahn, Amy Burkett, Michael Brendel, and Connie Herrick.

Reasons for speaking include improper meetings, poor home design, setbacks, and that the proposed new house is not in character with the neighborhood. They want to have a voice in any additional permitting for this property and will be severely impacted no matter what ends up being built at the location.

This planned build-out will remove the family feel of the neighborhood and will greatly impact the neighborhood. Partly because their voices were not heard and they need to be heard, now and in the future. They do not accept the decision to subdivide this location, with 20 people in attendance and more that can be gathered.

Mayor Pro-Tem Fitzgerald asked City Attorney Dahl for advice on how to reconsider the approval for subdividing this property and also to help explain why there was no notice given to the citizens along with the use by right.

City Attorney Dahl responded that it was properly approved administratively by the Community Development Director and staff. Prior to 2014, code only allowed for two lot subdivision reviews but in 2014 the code was expanded to allow administrative approval of three lot parcels. A summary of the staff's review of the subdivision application appeared that this approval met those requirements and that by code, it did not require public notice. The decision is made final by the Community Development Director and Council could only approve a temporary moratorium to intercede in the matter. Moratoriums for these kind of building permits may or may not have the chance to pass.

Council doesn't have the ability to revoke an administrative subdivision permit, even if a moratorium and possible ordinance were passed. If passed, the City Council could then change the code for processing applications and their requirements, to include property notices being posted. Citizens have vested rights and depending on the situation, the city could be held liable for the money that has been spent by the homeowners if changes occur midstream of their applications being processed.

Use by right is considered in code on what property owners can do on their property as it pertains to what district they are in. If they want to do something different than code allows, it would be cause for re-zoning or possibly being granted a variance. Use by right doesn't really apply here as it was done administratively for a subdivision approval.

Councilmember Mathews gave a response to the citizen's right to speak. He appreciates the situation that the constituents are in and read portions of Sec, 26-102 Intent and purpose, from the City Code.

Councilmember Mathews moves to make a motion.

Point of order by Councilmember Davis to have Councilmember Mathews motion be added during the agenda. So approved by Mayor Pro Tem Fitzgerald and agreed to by Councilmember Mathews.

## **APPROVAL OF AGENDA**

**Motion** by Councilmember Mathew to add agenda Item 2, to discuss the moratorium of the subdivision issue for 4055 Everett Street both immediately and for actions in the future; seconded by Councilmember Duran, motion carries 6-0

### **1. CONSENT AGENDA**

- a. Motion to approve payment to Kaiser Permanente for November 2018 Membership Billing in the amount of \$205,058.38 \*

Councilmember Urban introduced the Consent Agenda.

**Motion** by Councilmember Urban to approve Consent Agenda Item a.); seconded by Councilmember Duran; motion carried 6-0.

### **Emergency Ordinance on First Reading**

2. Motion by Councilmember Mathews that the administrative subdivision application and subsequent building permit processing, both completed and in progress, for the original and new lots at 4055 Everett Street be immediately suspended by moratorium, and also move that a public hearing before council be scheduled to allow public comment and subsequent vote on the subdivision and potential permitting to be taken by council, with the decision to override the administrative process, seconded by Councilmember Duran,

City Attorney Dahl states that the code book does not provide a practice to set aside an administrative approval with an appeal process on the spot. To re-write the book there is a process that needs to be followed. You need to call upon a moratorium or create an ordinance, emergency or otherwise to do so.

**Motion** by Councilmember Mathews that all administrative subdivision applications and processes go into immediate moratorium to be considered by Council at the earliest possible date, seconded by Councilmember Duran.

Discussion and comments by Councilmembers followed.

Councilmember Davis asked for clarification to see if this motion would require two separate readings.

City Attorney responded that he is actually waiting to be directed instruction to create an emergency ordinance wording for a moratorium to be heard in two weeks.

Councilmember Dozeman asked if the building permit has been approved as of yet, what was the criterion for the administrative review of the application versus Envision Wheat Ridge and how the Bel- Air neighborhood was to be preserved.

Mr. Goff answered that only the subdivision has been approved but the permit application has not been submitted yet. He re-stated that the application review process was done accordingly by the code book. Lastly, he read the comprehensive report for the Bel-Air neighborhood when it was first developed and reported that all of the setbacks and lot sizes have been met for this new subdivision.

**Motion** was introduced by Councilmember Mathews to direct the City Attorney to create an immediate emergency ordinance moratorium against permits for administrative subdivisions; seconded by Councilmember Duran.

Additional discussion followed.

Motion carries 6-0.

City Attorney Dahl asks for an Ordinance number.

Deputy City Clerk assigned Ordinance 1656.

City Attorney Dahl read the hand drafted, proposed emergency moratorium ordinance to Council.

**Motion** by Councilmember Mathews to adopt imposing a temporary moratorium on the acceptance, processing and approval of certain building permit and declaring an emergency, effective immediately, seconded by Councilmember Duran; motion carried 6-0.

### **ORDINANCES ON FIRST READING**

3. Council Bill 28-2018 – An Ordinance amending the Wheat Ridge Code of Laws concerning Wildlife and Waterfowl

Staff is recommending new rules and regulations concerning the feeding of wildlife and waterfowl be consolidated with existing regulations on the treatment of wild animals. This ordinance amends Chapter 4 (Animals), Chapter 16 (Miscellaneous Offenses), and Chapter 17 (Park Rules and Regulations).

Councilmember Davis introduced Council Bill 28-2018.

**Motion** by Councilmember Davis to approve Council Bill 28-2018 - an ordinance amending the Wheat Ridge Code of Laws concerning Wildlife and Waterfowl, on first reading, order it published, public hearing set for Monday, November 26, 2018, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Urban ; motion carried 6-0.

4. Council Bill 29-2018 – An Ordinance amending Chapter 17 of the Wheat Ridge Code of Laws concerning the consumption of Fermented Malt Beverages in City Parks

Staff is recommending new rules and regulations concerning the consumption of alcohol in City Parks. These new rules align with the State of Colorado changes in the definition of fermented malt beverages that are effective January 1, 2019. This change eliminates the current restriction of 3.2% fermented malt beverages (beer) only allowed in parks and allows malt beverages of up to 6% alcohol by weight.

Councilmember Mathews introduced Council Bill 29-2018.

**Motion** by Councilmember Mathews to approve Council Bill 29-2018 - an ordinance amending Chapter 17 of the Wheat Ridge Code of Laws concerning the consumption of

Fermented Malt Beverages in City Parks, on first reading, order it published, public hearing set for Monday, November 26, 2018, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Urban; motion carried 6-0.

5. Council Bill 30-2019 – An Ordinance amending Chapter 17 of the Wheat Ridge Code of Laws concerning Parks and Recreation to address the use of Electrical Assisted Bicycles

Staff is recommending new rules and regulations concerning the use of electrical assisted bicycles on city trails. Electrical assisted bicycles are becoming more and more popular with bicycle riders throughout the metropolitan area. Currently, Chapter 17 of Wheat Ridge Code of Laws does not allow any type of motorized vehicle on park trails. This ordinance redefines bicycle to include electrical assisted bicycles and allows the usage of these bicycles on park and open space trails.

Councilmember Dozeman introduced Council Bill 30-2018.

**Motion** by Councilmember Dozeman to approve Council Bill 30-2018 - an ordinance amending Chapter 17 of the Wheat Ridge Code of Laws concerning Parks and Recreation to address the use of Electrical Assisted Bicycles, on first reading, order it published, public hearing set for Monday, November 26, 2018, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Urban; motion carried 6-0.

## **DECISIONS, RESOLUTIONS AND MOTIONS**

6. Resolution No. 67-2018 – A Resolution in support of Wheat Metro Fire Protection District Ballot Issue 7C

West Metro Fire Protection District Ballot Issue 7C is a tax stabilization initiative for the West Metro Fire Protection District (the District). The District is asking to adjust its mill levy to offset revenue lost due to changes in the residential assessment rate pursuant to the provisions of the Gallagher Amendment with the Colorado Constitution.

Councilmember Duran introduced Item 5.

There was no staff presentation or public comment.

**Motion** by Councilmember Duran to approve Resolution No. 67-2018, a resolution in support of Wheat Metro Fire Protection District Ballot Issue 7C; seconded by Councilmember Urban; motion carried 6-0

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

Patrick Goff wanted to remind everyone that the Optimists pancake supper is coming up as it is a fundraiser for youth programs in the City. He received an update from the Transit Partners on the G-line which sounded like good news. It seemed like they are in the approval stage and it has been moved up to the Federal Railroad Association.

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

### **ELECTED OFFICIALS' MATTERS**

Deputy Clerk Eaton reported on the annual Colorado Municipal Clerks Association conference in Colorado Springs. He will also be helping to revise the Liquor License Best Practices handbook for the Colorado Municipal League, as well as co-chairing the up-coming CML webinar for liquor license legislation updates.

Tim Fitzgerald reminded people to get their votes in and wanted to thank the city council team for helping him with the meeting.

Kristi Davis wanted to thank the Deputy City Clerk for all that he does.

Leah Dozeman pointed out that everyone should have received their mail ballots by now and that there is a drop off location here at city hall. These ballots need to be dropped off by 7:00 pm on Election Day, November 6.

Larry Mathews wished to thank both Mr. Dahl and Mr. Goff for helping with tonight's motion.

### **ADJOURNMENT**

The meeting adjourned at 8:32 pm.



Robin Eaton, Deputy City Clerk

APPROVED BY CITY COUNCIL ON November 26, 2018



Tim Fitzgerald, 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.