

CITY COUNCIL MINUTES
CITY OF WHEAT RIDGE, COLORADO
7500 WEST 29TH AVENUE, MUNICIPAL BUILDING

November 26, 2018

Mayor Starker 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	Tim Fitzgerald
Kristi Davis	George Pond	Leah Dozeman	Larry Mathews

Also present: Deputy City Clerk, Robin Eaton; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Parks and Recreation Director, Joyce Manwaring; Community Development Director, Ken Johnstone; City Treasurer, Jerry DiTullio; other staff, guests and interested citizens.

APPROVAL OF Council Minutes of September 24, 2018 and October 22, 2018 and Study Session Notes of November 5, 2018

There being no objections, the City Council minutes of September 24, 2018 and October 22, 2018 and Study Session Notes of November 5, 2018 were approved as published with October 22nd being revised to show Mayor Starker as absent.

PROCLAMATIONS AND CEREMONIES

Mayor Starker proclaimed Saturday, November 24, 2018 Small Business Saturday, but hopes that it will be a continuing cause in the City. For the contributions that they make creating jobs, boosting the local economy and community.

Mayor Starker proclaimed December 15, 2018 Bill of Rights Day. The proclamation was received by Andy McKean. He spoke of the ratification of a document being amendments to the constitution that would become the cornerstone to the freedoms and rights that we enjoy today. The Bill of Rights as we know it today, limits power of the federal government, and guarantees each citizen life, liberty, justice, property and the pursuit of happiness. He would like to encourage all Wheat Ridge residents to reflect on the significance of this important event.

CITIZENS' RIGHT TO SPEAK

Jerry DiTullio read a bittersweet resignation letter to City Council, guests and staff. He was honored to serve the City of Wheat Ridge in many positions and work with the employees. This resignation will be effective midnight, January 7, 2019. He is willing to help assist the new City of Wheat Ridge Treasurer and hopes that his position is filled prior to the 2019 election.

Rachel Hultin wanted everyone to know that the NRS is hosting an open house Wednesday, December 12, from 5:30 to 8:00 pm. It is an important event that's designed to share input and learn about everyone's perspectives. She hopes to see everyone there, including city council.

Sunny Garcia seconded the statement by Rachel Hultin on the NRS meeting, and wanted to thank Mayor Starker for attending the Arvada Chamber of Commerce Third Friday breakfast. She was impressed with the collaboration efforts by all of the mayoral attendees.

Jennifer Yates read a public health statement concerning the nicotine vaping problems with young adults. On one point she stated that youth are up to five times more likely to start smoking cigarettes within a year of vaping. There are underground black markets that are selling these vaporizers to minors and wants to see retail licensing regulations set to the age of 21 to purchase and use all nicotine products.

Sam Sotiros from the Wild Bird Rescue and Rehab gave an update for land that they own on 44th avenue. They are desirous to form a good partnership with the City and be active in the community. Planned to reopen a year ago, a mile from the current facility treating mostly orphaned, injured or kidnapped birds. With limited space for treating only smaller birds, the large birds are handled by facilities in Broomfield and others. They will be going to planning commission soon to set up opening aviaries to help larger birds.

Douglas Linden from Better Wheat Ridge, a large and growing community of concerned citizens and active volunteers, would like to see Monica Duran stick around a while to try and juggle both jobs, barring any conflicts of interest.

Ryan Mitchell wants to say thank you and congratulations to both Jerry and Monica.

Becky Lewthwaite represents an active group with many volunteers who received no notice about the meeting tonight. Speaking for the community, she wishes that Monica Duran fulfills her commitment and stays on at her city council position. She thanked her for what she has done and looks forward to working with her more in the future.

John Clark, appreciates what both Jerry DiTullio and Monica Duran have done for the city. He wants full disclosure, living in the city over 45 years, as a homeowner with rental homes in three cities. There are city leaders, officials, planners and developers that do not live in the city and they do not care how the city is developed. He attended and spoke at past neighborhood, planning and council meetings for questionable zone

changes. He feels that no one in the city government cares about these concerns and that they just want to pack more residential units into areas.

Henry Lewthwaite appreciates Monica Duran's role in the city council. She understood unique situations in the neighborhoods and feels it is important for her to remain on city council. He is hoping that she reconsiders and stays on until the end of her term and maybe longer.

Elizabeth Grant spoke of the person with the zoning concern on Tabor in back of Heini's market, and was saddened by his talking because it seemed that he had given up. We don't want a city where the little people give up. We're all little people and shouldn't have to give up. She wishes council would stop and take stock on what could be done to remedy situations and that it's time to get a bigger plate.

Public Comment was closed

Councilmember Mathews responded that he sincerely hopes the city council will improve its image in time. This being so that people will not consider themselves little people, and to raise the citizens expectations of council. He requests the citizens not to lose faith, and to show up every night. Council will listen, and people's wills have a lot better chance to be acted on.

APPROVAL OF AGENDA

1. CONSENT AGENDA

- a. Motion to adopt the 2019 City Council Meeting Calendar
- b. Motion to approve payment to Kaiser Permanente for December 2018 Membership billing in the amount of \$184,418.66
- c. Motion to award a contract and approve subsequent payments to Independent Roofing Specialists, Commerce City, CO in the amount of \$115,154 for Active Adult Center Roof-HVAC Repairs and Replacement, and to approve a Contingency amount of \$11,515 for total amount not to exceed \$126,669
- d. Motion to approve payment to Colorado State Bank and Trust for a Bond Principal and Interest Payment in the amount of \$2,952,650 for the City of Wheat Ridge, Colorado Sales and Use Tax Revenue Bonds, Series 2017A

Councilmember Duran introduced the Consent Agenda.

Motion by Councilmember Duran to approve Consent Agenda Items a.), b.), c.) and d.) seconded by Councilmember Urban; motion carried 8-0.

PUBLIC HEARING AND ORDINANCES ON SECOND READING

2. Council Bill 27-2018 – An Ordinance approving an amendment to the Outline Development Plan for the Camelot Club Apartments planned Residential Development (PRD) for property located at 4635 and 4665 Kipling Street (Case No. WZ-18-03/Kipling Village)

The applicant is requesting approval of an amendment to the Outline Development Plan for the Camelot Club Apartments Planned Residential Development (PRD) located at 4635 and 4665 Kipling Street. The purpose of the amendment is to expand the uses allowed within two buildings on the property, to adjust the sign allowance, and to modernize the original planned development documents that date from 1969. The subject area includes two parcels of land, the total size of which is approximately 7 ½ acres

Councilmember Mathews introduced Council Bill 27-2018.

Deputy Clerk Eaton assigned Ordinance 1657.

Mayor Starker opened the public hearing and swore in the speaker.

Staff Presentation -

Director Johnstone reported briefly that this is a simple planned residential development for improving the street scape, as well as showing the exact site layout. They are limited to a maximum number of units and that they want to have a few retail areas converted back to rental units along with new sign locations.

Mayor Starker requested that Mr. Johnstone's staff presentation be applicable to both agenda items 2 and 3.

Public Comment No one came forward to speak.

Council Questions - There were none

Mayor Starker closed the public hearing.

Motion by Councilmember Mathews to approve Council Bill 27-2018, an ordinance approving an amendment to the Outline Development Plan for the Camelot Club Apartments planned Residential Development (PRD) for property located at 4635 and 4665 Kipling Street on second reading, and that it take effect 15 days after final publication for the following reasons:

1. City Council has conducted a proper public hearing that meets all public notice requirements as required by Section 26-109 of the Code of Laws.
2. The requested rezoning has been reviewed by the Planning Commission, which has forwarded its recommendation of approval.
3. The requested rezoning has been found to comply with the criteria for review in Section 26-112.E. of the Code of Laws.

seconded by Councilmember Duran; motion carried 8-0.

3. Resolution 68-2018 – A Resolution approving a Specific Development Plan for property Zoned Planned Residential Development at 4635 and 4665 Kipling Street (Case No. WZ-18-04/Kipling Village)

The applicant is requesting approval of a Specific Development Plan for the Camelot Club Apartments Planned Residential Development (PRD) located at 4635 and 4665 Kipling Street.

A rezoning to Planned Residential Development (PRD) has been proposed for the property at 4635 and 4665 Kipling Street pursuant to Council Bill 27-2018. Approval of a Specific Development Plan is the second step in the City's approval process for a PRD. The Specific Development Plan provides a site plan for the subject property. In this case, it essentially documents the existing conditions.

Councilmember Dozeman introduced Item 3.

Mayor Starker opened the public hearing.

Public Comment - There was none

Council questions - There were none

Motion by Councilmember Dozeman to approve Resolution No. 68-2018, a resolution approving a Specific Development Plan for property Zoned Planned Residential Development at 4635 and 4665 Kipling Street, for the following reasons:

1. City Council has conducted a proper public hearing that meets all public notice requirements as required by Section 26-109 of the Code of Laws.
2. The proposed Specific Development Plan has been reviewed by the Planning Commission, which has forwarded its recommendation of approval.
3. All requirements of a Specific Development Plan have been met.

seconded by Councilmember Urban; motion carried 8-0

4. 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.

Deputy Clerk Eaton assigned Ordinance 1658.

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

Staff Presentation

There was no presentation but Director Manwaring was in attendance to answer any questions.

Public Comment No one came forward to speak.

Council Questions - There were none

Mayor Starker closed the public hearing.

Motion by Councilmember Davis to approve Council Bill 28-2018, an ordinance amending the Wheat Ridge Code of Laws concerning Wildlife and Waterfowl, on second reading, and that it takes effect 15 days after final publication, seconded by Councilmember Urban; motion carried 8-0

5. Council Bill 29-2018 – An Ordinance amending Chapter 17 of the Wheat Ridge Code of Laws concerning the consumption of fermented malt beverage 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.

Deputy Clerk Eaton assigned Ordinance 1659.

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

Staff Presentation

There was no presentation but Director Manwaring was in attendance to answer any questions.

Public Comment No one came forward to speak.

Council Questions - There were none

Mayor Starker closed the public hearing.

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 beverage in City Parks on second reading and that it takes effect 15 days after final publication, seconded by Councilmember Dozeman; motion carried 8-0

6. 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

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 Hoppe introduced Council Bill 30-2018.

Deputy Clerk Eaton assigned Ordinance 1660.

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

Staff Presentation - There were none

Public Comment

Rachel Hultin on behalf of the Wheat Ridge active transportation advisory team appreciates the thoughtful manner in which the city approached to use of EBikes. Recognizing that it was an unregulated issue on the trail system, Council did great job of soliciting input. This helps to create a culture of respect on our trails and is a great outcome by thinking ahead.

Council Questions - There were none

Mayor Starker closed the public hearing.

Motion by Councilmember Hoppe 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 second reading, and that it takes effect 15 days after final publication, seconded by Councilmember Duran; motion carried 8-0

ORDINANCES ON FIRST READING

7. Council Bill No. 34-2018 – An Ordinance approving the sale of designated parkland at the intersection of West 38th Avenue and Johnson Street and in connection therewith, authorizing execution of an agreement for said sale

The City has the opportunity to sell the vacant parcel of park property located on the southwest corner of 38th Avenue and Johnson Street for the development of a CVS Pharmacy. This parcel was not originally developed as part of Discovery Park due to:

1. Maximizing efficient use of site to meet the goals of the Park Master Plan; and
2. The site's proximity to the Apple Ridge Café, currently located on the southeast corner of 38th Avenue and Kipling Street.

Councilmember Pond introduced Council Bill 34-2018.

Motion by Councilmember Pond to approve Council Bill 34-2018 - an ordinance approving the sale of designated parkland at the intersection of West 38th Avenue and Johnson Street and in connection therewith, authorizing execution of an agreement for said sale, on first reading, order it published and for a public hearing set for Monday, December 10, 2018 at 7 pm in City Council Chambers; seconded by Councilmember Hoppe; motion carried 8-0.

8. Council Bill No. 33-2018 – An Ordinance approving a Zone change from Agricultural-One (A-1) to Planned Residential Development (PRD) with and Outline Development Plan (ODP) for property located at 4440 Tabor Street (Case No. WZ-18-15/Clear Creek Terrace)

The applicant is requesting approval of a zone change from Agricultural-One (A-1) to Planned Residential Development (PRD) with an Outline Development Plan for property located at 4440 Tabor Street. The purpose of this request is to prepare the property for development of a twenty-six unit townhome project.

Councilmember Dozeman introduced Council Bill 33-2018.

Motion by Councilmember Dozeman to approve Council Bill 33-2018 - an ordinance approving a Zone change from Agricultural-One (A-1) to Planned Residential Development (PRD) with and Outline Development Plan (ODP) for property located at 4440 Tabor Street (Case No. WZ-18-15/Clear Creek Terrace), on first reading, order it published, public hearing set for Monday, January 14, 2018, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Duran; motion carried 8-0.

9. Council Bill No. 32-2018 – An Ordinance approving the Rezoning of property located at 6985 W. 38th Avenue from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) (Case No. WZ-18-21/Barta)

The applicant is requesting approval of a zone change from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for property located at 6985 W. 38th Avenue.

Councilmember Urban introduced Council Bill 32-2018.

Motion by Councilmember Urban to approve Council Bill 32-2018 - an ordinance approving the Rezoning of property located at 6985 W. 38th Avenue from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) (Case No. WZ-18-21/Barta), on first reading, order it published, public hearing set for Monday, January 14, 2018, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Duran; motion carried 8-0.

DECISIONS, RESOLUTIONS AND MOTIONS

10. Reconsideration of Ordinance 1656, Series 2018 imposing a temporary moratorium on the acceptance, processing and approval of building permits for single family residences within administratively approved subdivisions in the R-1 Zone District.

Councilmember Fitzgerald introduced Item 10.

Staff Presentation

Mr. Dahl gave an overview of the steps and process to reconsider ordinances. Specifically that it must be revisited at the next business meeting and if no motion is presented tonight then the emergency ordinance will be left to expire on its own.

Mayor Starker and Mr. Dahl conferred on whether the Mayor is allowed to break a tie concerning procedural matters, such as considering the matter for reconsideration.

Public Comment

Persons speaking for wishing to revisit the emergency moratorium include the applicant for the subdivision Stephanie Garcia, Lori Garcia, Jenny Abel, Taylor Garcia, and Steve Kinney.

Items discussed for revisiting the ordinance included additional costs for delays; both financially and in time constraints with builders; disparaging remarks through electronic venues; misinformation and loss of property rights.

Persons speaking against revisiting the emergency moratorium included Elizabeth Grant, Katheryn Grant, Jay Peck, Susanne Teal, Sandra Nance, Gail Thompson, Amy

Burkett, Karen Jenni, Melissa Chaffin, Connie Herrick, Jim Kaczmarek, Laura Whitfield, Julie Hahn, and Chris Chidley

Items discussed for not revisiting the emergency moratorium included lack of disclosure; people being shocked that the code was changing in 2014 with no notification; keep the farming heritage in the city; quality of life; changing unique neighborhoods; possibly looking into overlays.

Public Comment was closed.

Council Questions and concerns

Councilmember Mathews responded to the complicated issues and the implication that the City needs to change. Explaining his hope for time to seek a proper remedy for subdivisions so this issue does not need to come up again and is against reconsidering the motion.

Councilmember Hoppe supports looking at overlay zonings or special districts, and not retroactively applying it to someone whom already has been approved for a subdivision. Change is apparent every day and even though she cannot ask for a reconsideration she hopes that one is given and will support it if done.

Councilmember Davis received clarification that prior to 2014 that consolidations and lot line adjustments were administratively approved for redrawing. Anything else would have gone in front of the planning commission. The moratorium was approved to give time to hear and look at different ideas. Will ask for a reconsideration so that all voices can be heard from both sides.

Councilmember Fitzgerald wants to thank everyone for coming in and acknowledged how everyone feels about the neighborhood. There is also a bigger picture here and that's being equal under the law. Our code requires us to act, fair or not and he will be voting for reconsideration and hopes the applicant takes into consideration the thoughts of the neighborhood, even as she met the requirements of the code

Councilmember Duran thinks about 2016 and the bulk plane where one side wanted to be heard but only for what mattered to them. She doesn't want people to feel that they are being ignored. She sees both sides of the story and feels more conversations and time needs to take place. Change is inevitable and talking together is a way of moving forward as she will be supporting to keep the moratorium in place.

Councilmember Dozeman is thankful for the citizens speaking their minds and giving us their opinions. Holding meetings that are well attended helps Council and the neighborhoods understand one's apprehensions in a growing and changing environment. Her previous support of the moratorium was not in support of retroactively imposing laws and subdivisions should have had public input. She is not going to support the reconsideration of the moratorium for multiple reasons.

Councilmember Pond repeated the thanks to everyone that came out tonight and agrees that it is a complicated issue. Personally it's hard to sit and listen to the assumptions that we don't care about the city. We may disagree or approach things in a different manner but he loves this city. Each neighborhood has its own unique character and balancing them is hard. We have a commitment to talk about this issue now and in the future and that it's fair to reconsider it, to help straighten it out.

Councilmember Urban sees it as a very difficult situation and that there is no easy way out of it. However the role of a city councilmember shouldn't be hindered by threat of litigation. It is part of the job, given the nature of the work that we do. The approval was made as it was written at the time and cannot be unapproved retroactively. He went on to describe new or amended items to be looked at for a new ordinance on an emergency moratorium or motions to be made.

Discussion on the item continued with Mr. Dahl advising the City Council on the appropriate steps to take if Ordinance 1656 were to be reconsidered.

Mayor Starker thanked everyone who showed up as well as those that couldn't come to speak on this issue. He expressed how they had been very articulate, courteous and respectful to everyone attending. He hopes that everyone felt the meeting was conducted in a fair and open process. He spoke of the recent study session with a unanimous consensus to reconsider this issue. To move forward with new options on how to help the city balance properly, the neighborhood rights and to help provide more input from both sides, on these types of issues.

Motion by Councilmember Davis to reconsider Ordinance 1656, an ordinance imposing a temporary moratorium on the acceptance, processing and approval of certain building permits, and declaring an emergency; seconded by Councilmember Urban; motion carried 7-1 with Councilmember Duran voting no.

Mayor Starker called a short recess

Mr. Dahl described the processing for a new emergency ordinance requested by Councilmember Urban.

Motion by Councilmember Davis to postpone indefinitely Ordinance 1656, an ordinance imposing a temporary moratorium on the acceptance, processing and approval of certain building permits and declaring an emergency for the following reason:

- Will be creating a new emergency ordinance

Seconded by Councilmember Duran; motion carries 8-0

Motion by Urban, as referenced by the City Attorney, to adopt Ordinance 1661 – an ordinance adopting a temporary moratorium on the acceptance, processing and approval of administrative subdivisions within the Bel Aire subdivision and to declare an emergency, seconded by Councilmember Duran.

Discussion followed on why the ordinance is not applied city wide and just in the Bel-Aire neighborhood.

Motion by Councilmember Mathews to amend the motion on Ordinance 1661 and replace the words Bel Aire neighborhood and replace it with the words entire City of Wheat Ridge, seconded by Councilmember Fitzgerald.

Discussion on the amendment motion followed.

Motion to amend the original motion fails 5-3 with Councilmember Mathews, Dozeman and Duran voting yes.

Original Motion carries 6-2 with Councilmembers Pond and Fitzgerald voting no.

11. Motion to Elect the Mayor Pro tem

Mayor Starker introduced Item 11 and read the election process as outlined in the City Council Rules and Procedures.

Mayor Starker declared the floor open for nominations for the position of Mayor Pro tem.

Councilmember Pond nominated Councilmember Hoppe to be Mayor Pro tem

Councilmember Mathews nominated Councilmember Urban to be Mayor Pro tem.

Mayor Starker closed the nominations.

Councilmember Hoppe addressed the Council, stating that she would be honored and excited to have the opportunity to potentially be able to serve the City and team members as Mayor Pro tem. She listed previous scheduling and boards experience and would be a capable and able person to assist the Mayor in this position.

Councilmember Urban also addressed the Council agreeing that whoever is picked would do a good job. He listed understanding parliamentary procedure, the ability to run meetings and being able to provide clarity as it relates to the rules. As Mayor Pro tem, he would do his best to run meetings efficiently and help to keep the calendar up to date and moving forward.

Eight councilmembers voted and passed their ballots to the Deputy Clerk Eaton who counted the ballots and delivered the results to Mayor Starker. Mayor Starker extolled the virtues of both Candidates and congratulated Councilmember Hoppe on her election as Mayor Pro-Tem.

Mr. Dahl advised that a motion was necessary to elect the Mayor Pro tem.

Motion by Councilmember Pond to elect Councilmember Hoppe as Mayor Pro Tem, effective immediately, term to expire upon election of her successor; seconded by Councilmember Urban; motion carried 8-0.

CITY MANAGER'S MATTERS

Mr. Goff reminded everybody of the Holiday lighting ceremony on the Green in front of Stevens elementary. He discussed the City Council seat District one vacancy as well as the City Treasurer position. With the time commitments that requires its announcement as well as the application form that is found on the city website that needs to be submitted. The City Treasurer position has no such required time frame to be appointed but the City will get that procedure out as soon as possible.

Concurrence by Councilmembers to attend to the issue of appointing the city council member first before looking into announcing and appointing for the treasurer position at the December 3rd, Study Session.

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS' MATTERS

Councilmember Urban inquired of Mr. Goff about an opportunity to have a meeting, concerning the Wadsworth Blvd. construction design.

ADJOURNMENT

The meeting adjourned at 10:59 pm.



Robin Eaton, Deputy City Clerk

APPROVED BY CITY COUNCIL ON January 14, 2019



Janeece Hoppe, 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.