

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

January 28, 2019

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

Zachary Urban	Janeece Hoppe	George Pond
Kristi Davis	Larry Mathews	Leah Dozeman

Absent: Tim Fitzgerald

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; Parks & Recreation Director, Joyce Manwaring; other staff, guests and interested citizens.

APPROVAL OF CITY COUNCIL MINUTES of Study Session Notes of January 7, 2019
There being no objections, the Study Session Notes of January 7, 2019 were approved as published.

PROCLAMATIONS AND CEREMONIES

Appointment of District I City Council Seat

Councilmember Monica Duran, having been elected to the Colorado House of Representatives on November 6, 2018 to represent House District 24, has resigned her Council seat. Section 4.5 of the Wheat Ridge City Charter requires that the remaining councilmembers appoint by majority vote a duly qualified person to fill the vacancy within thirty (30) days of the resignation. At a recent study session applicants for the position presented themselves to the Council and took questions.

Motion by Councilmember Hoppe to appoint David Kueter to District I City Council seat, term to expire November 5, 2019, seconded by Councilmember Pond; carried 4-2, with Councilmembers Mathews and Dozeman voting no.

Judge Randall administered the oath of office to Mr. Kueter. He signed appropriate documents and took his place on the dais.

Outgoing Elected Official Recognition

Councilmember Hoppe read a resolution accepting the resignation of Jerry DiTullio from the office of Wheat Ridge City Treasurer, expressing gratitude for his significant contributions to the City and community, and wishing him good luck in his new position. Mr. DiTullio spoke briefly.

Mayor Starker read a resolution accepting the resignation of Monica Duran from the Wheat Ridge City Council, expressing gratitude for her significant contributions to the City and community, and wishing her good luck in her new position. Ms. Duran was not present.

Mayor Starker read a resolution accepting the resignation of Tim Fitzgerald from the Wheat Ridge City Council, expressing gratitude for his significant contributions to the City and community. Mr. Fitzgerald was not present.

Gifts and flowers were presented for the outgoing officials.

Heart Healthy Month

Mayor Starker read a resolution naming February as Heart Healthy Month. Lindsay Reinhart, Robin Baker, and Janece Hoppe were present to receive the proclamation. Ms. Reinhart, from Lutheran Hospital and member of the Healthy Eating Active Living team spoke briefly about related activities and information that is available. Janece Hoppe directed folks to the HEAL website for more information

CITIZENS RIGHT TO SPEAK

Sunny Garcia (WR) thanked Tim Fitzgerald and Jerry DiTullio for the help they have given her and looks forward to working with Monica Duran and supporting each other in a new path Ms. Garcia will be taking next Saturday.

Roxanne Runkel (unincorporated Jefferson County) lives adjacent to the Clear Creek Crossing development. She told of several old trees on the property that Evergreen Development assured everyone would be saved because they provide important shade for her animals. The trees were cut down and Evergreen sent her a fruit basket as an apology.

Shirley Coen (unincorporated Jefferson County) lives adjacent to a wall that was knocked down by Evergreen Development. She was told the wall would be put back in three weeks. It has been three months, the wall is still not replaced, and she has received no communication about it. She would like Evergreen to have better communication with the neighbors.

John Butler (WR) referenced several articles by medical professionals outlining the negative affects of marijuana.

Chris Chidley (WR) spoke about the proposed ordinance discontinuing administrative variances for flag lots and requiring a public hearing. He suggested that plats of three lots and under also require a public hearing, and urged that be added to the ordinance.

Liz Veeder (WR) made the point that when people move into an area that is zoned R-1 for single family dwellings, they have an expectation that will remain. If there is to be a change, or an entertainment of change, she would like to have a public hearing. This would provide transparency and relieve people from holding their breath.

Ihor Figlus (WR) expressed disappointment that other subdivisions are not included in the flag lot ordinance. He thinks all subdivision should be subject to public hearing and require City Council approval.

Odarka Figlus asked that all subdivisions be brought to the City Council. Staff should not be forced to make those decisions that can change the character of a neighborhood. That is the Council's job.

Greg Veeder (WR) told how a single lot in his neighborhood was subdivided and it changed the nature of the neighborhood. When people buy into a neighborhood, they count on the zoning of a neighborhood to be that neighborhood. He understands the City Council gave away their authority to change the nature of neighborhoods to a small group of administrators, with no public hearing. In his neighborhood the discussion happened after the subdivision was already granted. Behavior like that reduces transparency and harms neighborhoods.

PUBLIC COMMENT ON STUDY SESSION AGENDA ITEMS

Ihor Figlus suggested a couple changes to the Policies and Procedures. 1) People should be allowed to speak for 5 minutes if they need to. 2) The lights should be set up to let folks know their time is running out.

Odarka Figlus noted that it is hard for people to come and speak to Council; it's intimidating. We should encourage people to come; the more participation, the better for the City. When issues are heartfelt by people, it's fair for people to have as much time as the presenter/applicant. Cutting people off before the public hearing should only be done in very exceptional circumstances.

Chris Chidley believes the First Amendment should apply to people's free speech and citizens' time.

Councilmember Mathews asked how many subdivisions were currently in progress, and how people could find out what's in the queue. Mr. Johnstone said none are pending, but five had done the pre-app meeting and could be allowed to submit applications. To find out what's in the hopper, folks can contact the Community Development office.

APPROVAL OF AGENDA

Mayor Starker requested that Item 3, an Ordinance on First Reading, be taken before Item 2.

CONSENT AGENDA

1. CONSENT AGENDA

- a) Motion to approve the purchase and payment of 2019 vehicle replacements and the purchase and payment for installation of lighting and auxiliary and communications equipment in a total amount not to exceed \$740,356 [*\$598K for 16 vehicles; \$142K for auxiliary equipment, lighting, etc.; budgeted*]
- b) Motion to approve payment to Colorado Intergovernmental Risk Sharing Agency (CIRSA) for 2019 Workers' Compensation Premium in the amount of \$294,030 and 2019 Property/Casualty Premium in the amount of \$263,529.55 [*budgeted*]

Councilmember Kueter introduced the Consent Agenda.

Motion by Councilmember Kueter to approve the Consent Agenda items a) and b); seconded by Councilmember Dozeman; motion carried 7-0

ORDINANCES ON FIRST READING

- 3. Council Bill 01-2019 – An Ordinance amending the Wheat Ridge Code of Laws to regulate the creation of Flag Lots (Case No. ZOA-18-05)

The proposed ordinance would end the allowance for administrative approval of a subdivision containing a flag lot, and require, at a minimum, a Planning Commission public hearing.

Councilmember Urban introduced Council Bill 03-2019.

Motion by Councilmember Urban to approve Council Bill 03-2019 - an ordinance amending the Wheat Ridge Code of Laws to regulate the creation of Flag Lots, on first reading for the sole purpose of ordering it published and public hearing set for Monday, February 11 at 7 p.m. in City Council Chambers, seconded by Councilmember Dozeman; carried 7-0.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

- 2. Resolution 06-2019 – A Resolution authorizing the execution of an agreement allowing Rocky Mountain Bottle Company to participate in the Wheat Ridge Business Development Zone Program for the rebate of Building Use Tax equal to twenty five percent (25%) of total Use Tax paid in association with renovations to the company's facility through 2021

The Rocky Mountain Bottle Company (RMBC) has requested a rebate of use tax associated with a multi-phase, multi-million dollar renovation project, totaling approximately \$120 million, at their plant located at 10619 W. 50th Avenue.

Councilmember Dozeman introduced Resolution 06-2019. She read.....

Total use tax generated from all phases of the RMBC project is estimated at \$2,520,000. RMBC is currently investing \$56.2 million for Phase I of the project and has paid a total of \$1,180,200 in use tax at the rate of 3.5%, of which, 0.5% is restricted to the 2E Fund. Future phases of the project are valued at approximately \$63.8 million, which will generate an additional \$1,339,800 in use tax at the rate of 3.5%.

Staff presentation

Steve Art, Economic Development Coordinator, explained that RMBC would like to be included in the Business Development Zone Program (BDZ).

- Eligible city fees, charges and taxes are limited to use tax on furniture, fixtures associated with the development, building materials, building permit fees, and zoning fees.
- The program allows for up to 75% based upon the investment of the company.
- Project costs are estimated to be \$92M, plus \$25M of lease equipment that improves energy efficiency and reduces emissions.
- Phase 2 would begin in 2019. It would add additional capacity for a new product at a cost of \$6M.
- Phase 3 would begin in 2020 to allow new technology for production monitoring and quality inspection at a cost of \$5M.
- Phase 4 to start in 2021 would include the rebuilding of the third furnace and cost about \$10.5M.
- Total investment would be between \$114-120M
- Staff recommends approval of a use tax rebate equal to 25% of the use tax, at the rate of 3.0%, for all phases of the project. (0.5% is held back for 2E funds.)
- The use tax rebate for Phase I (already completed) will total \$252,900 and the use tax rebate for all future phases will total \$287,100 for a total use tax rebate of \$540,000, but not to exceed \$900,000, for the following reasons:

Bill Dillaman (Arvada), the plant manager for RMBC, gave a presentation about the history of the company and plans for the project.

- RMBC is a 400K sq ft plant on 17 ½ acres. This includes the recycling plant.
- They produce about 3.5M beer bottles a day and have 226 full time employees.
- Annual payroll is about \$23M, averaging a little over \$100K including ample benefits.
- There has been no major investment at the facility since 2011.
- The project will last 15 years, but the agreement with the City is for four years.
- The project will retain jobs and may increase employment. Construction will employ local trades.

Meegan Spicer, tax consultant for RMBC, explained that all along they had been calculating 25% of 3.5% tax. Only last week they learned that 0.5% would not be eligible due to 2E. They have been counting on a certain dollar amount. They are requesting 30% of the 3% tax, which will be about the same amount they had planned on.

Mayor Starker was advised that a public hearing is necessary. The public hearing continued.

Public Comment

Leigh Seeger (Denver), vice president of Jefferson County Economic Development Corporation, expressed support for the project.

Robert Robinson (WR) expressed concern about deceipts on the part of RMBC regarding EPA violations. He urged Council to deny the request.

Council Questions

Councilmember Dozeman inquired about the EPA ruling. Mr. Dillaman explained that part of the agreement with the EPA is that RMBC is being held to more stringent emission standards than Title 5 allows. This project includes \$8M worth of state of the art abatement and monitoring equipment and control technology.

Councilmember Dozeman was told RMBC had been in negotiations with the City since last April. They just found out last Thursday that .5% was not available for the incentive rebate. Had they known, they would have asked for 30% sooner. Mr. Art added that he didn't realize the use tax was also included in 3E.

Councilmember Mathews was told that the new furnaces would result in less yearly production, but energy efficiency would be better and no jobs would be lost. **Tom Boese** (Littleton) from RMBC explained their financial practices for depreciation of the furnaces and replacement planning.

Mr. Goff told Councilmember Hoppe this was not factored into the 2019 budget.

Councilmember Urban was informed that RMBC uses 200 tons of recycled glass per day; they purchase about 80K tons of post-consumer recycled glass a year; and no, the EPA did not factor the carbon emissions this saves into the consent decree.

Mr. Goff and Ms. Spicer explained to Councilmember Pond how use tax is calculated/projected.

Mr. Goff explained that if Council approves the change from 25% to 30% only the range of the figures would change: from \$540K - \$900K (at 25%) up to \$648K - \$1.08M (at 30%). Staff recommends the change due to the inadvertent calculations.

Mr. Dillaman explained for Councilmember Mathews further details about the EPA.

Mr. Goff verified some figures for Councilmember Pond.

Mayor Starker closed the public hearing.

Motion by Councilmember Dozeman to approve Resolution No. 06-2019, a resolution authorizing the execution of an agreement allowing Rocky Mountain Bottle Company to participate in the Wheat Ridge Business Development Zone Program for the rebate of Building Use Tax equal to thirty percent (30%) of total Use Tax paid in association with renovations to the company's facility through 2021; seconded by Councilmember Mathews; carried 7-0.

DECISIONS, RESOLUTIONS AND MOTIONS

4. Resolution No. 07-2019 – A Resolution approving a Supplemental Budget Appropriation in the amount of \$1,309,906.04 and award and subsequent payments to Goodland Construction, Inc., of Golden, Colorado for the West 29th Avenue Realignment Project in the amount of \$2,618,096.40 with a 10% Contingency of \$261,809.64 for a total of \$2,879,906.04

The City has been working for several years on reconstruction plans for 29th Avenue between Kendall and Fenton Streets. To simplify design and construction coordination, the City negotiated agreements with Denver Water, the City of Edgewater, and the Wheat Ridge Sanitation District to have them reimburse the City for their shares.

Councilmember Hoppe introduced Item 4.

Staff presentation ~ Mark Westberg

- Goodland Construction, Inc., was the lowest responsive bidder.
- Mark Westberg used a map to indicate the various areas of responsibility of the parties.
- The City of Wheat Ridge's portion of the project is \$1,368,603.
- The remaining \$1,511,302 will be reimbursed by
 - Denver Water - \$540,434
 - City of Edgewater - \$688,123
 - Wheat Ridge Sanitation District - \$282,744
- Construction is planned to start this spring.

Council Questions

- There was discussion about the budget aspects of our share for 2018 and 2019.
- Mr. Westberg and Mr. Goff reviewed how we negotiated with Denver Water to reduce their portion because they preserved the old pump house.
- Mr. Westberg explained the changes in the scope of the project and how rebidding the project resulted in higher costs in some cases and lower costs for others.

Motion by Councilmember Hoppe to approve Resolution No. 07-2019, a resolution approving a Supplemental Budget Appropriation in the amount of \$1,309,906.04 and

award and subsequent payments to Goodland Construction, Inc., of Golden, Colorado for the West 29th Avenue Realignment Project in the amount of \$2,618,096.40 with a 10% Contingency of \$261,809.64 for a total of \$2,879,906.04, seconded by Councilmember Kueter; carried 7-0.

5. Resolution No. 08-2019 – A Resolution approving an Intergovernmental Agreement with the City of Arvada regarding Street Improvements at the Wheat Ridge Ward Station Area

Improvements include 52nd Avenue, Tabor Street and Ward Road.

Councilmember Mathews introduced Item 5.

Staff presentation ~ Mark Westberg

The Ward Station area is one of the four 2E projects funded by ½ cent sales tax.

- Following the City Council's decision not to open 52nd Avenue east of Ward Road, Arvada staff agreed to help fund a portion of the Ridge Road reconstruction.
- A proposed development north of 52nd Avenue was denied by Jefferson County. Consequently the County has withdrawn its partial funding of 52nd Avenue.
- Arvada has agreed to share 50/50 with Wheat Ridge for 52nd Avenue.
- The City share is expected to remain about \$3M for 52nd, Ridge and Tabor.
- Public outreach
 - Block by block meetings were held January 23. Good attendance/discussions.
 - Staff will have an open house on Feb 6 at the Rec Center for a much larger audience, including a couple HOA's and folks from Arvada.
- Next steps
 - Street width designation will come to Council in February.
 - Construction plans will continue through April.
 - ROW acquisition will be done in Mar - May. Bidding and award in Jun-Jul.
 - Construction is planned for Aug 2019 thru Summer 2020.

Questions followed.

- The County will not be a funding partner and we will not have to annex the north side of 52nd Avenue
- Waiver of County fees has not been discussed yet.

Motion by Councilmember Mathews to approve Resolution No. 08-2019, a resolution approving an Intergovernmental Agreement with the City of Arvada regarding Street Improvements at the Wheat Ridge Ward Station Area, seconded by Councilmember Dozeman; carried 7-0.

6. Resolution No. 09-2019 – A Resolution approving a Memorandum of Agreement with the Federal Highway Administration, the Colorado State Historic Preservation Officer, and the Colorado Department of Transportation for the Wadsworth Boulevard Widening Project for Environmental Assessment

The Colorado Department of Transportation (CDOT) and the State Historic Preservation Officer (SHPO) have determined that the widening of Wadsworth may have an adverse effect on three historically significant properties, so a memorandum of agreement (MOA) is necessary between the Federal Highway Administration (FHWA), SHPO, CDOT, and the City.

Councilmember Davis introduced Item 6.

Staff presentation ~ Mark Westberg

- The three properties adversely affected are the Plumb House (Dacko Fleet Maintenance), the CM Dunn building (former Arapahoe House), and the mid-century modern house at 47th & Wadsworth.
- Mitigation will be done with Interpretive Signs on the side panels of the bus shelters at the 38th & 44th stops.
- Signage topics will include 1) Early Agricultural History of the Butters-Plumb & Bacher houses, and Wardle Feed & Wilmore Nursery; and 2) Post War Expansion on the Davis house, Holy Cross Lutheran Church, the CM Dunn Building, and the Fordland dealership.

Motion by Councilmember Davis to approve Resolution No. 09-2019, a resolution approving a Memorandum of Agreement with the Federal Highway Administration, the Colorado State Historic Preservation Officer, and the Colorado Department of Transportation for the Wadsworth Boulevard Widening Project for Environmental Assessment, seconded by Councilmember Urban; carried 7-0.

7. Motion to amend the contract for Professional Services to AECOM Technical Services, Inc., Greenwood Village, CO, for the period of January 1, 2019 – December 3, 2019 in an amount not to exceed \$1,466,966 and approve payments for ongoing Program Management Services for the Investing 4 The Future Program

Existing staff resources and capacities are not sufficient to plan, review and manage construction of the 2E infrastructure improvements. AECOM was hired in November, 2017 to provide those services.

Councilmember Pond introduced Item 7.

Staff presentation ~ Steve Nguyen

The original contract for services to manage the 2E projects was approved in November, 2017. According to the terms of the contract, the contract must be renewed each year. This is because the need for different types of services changes from year to year. Services provided at this time include:

- Deliver specific 2E related public improvements
- Serve as staff extension
- Review design and construction plans

- Construction project oversight and inspection
- Assistance in coordinating public and private improvements

The breakdown of contract costs are

- Overall 2E Program Management - \$119,054
- Clear Creek Crossing - \$945,366
- Wadsworth Boulevard - \$75,163
- Wheat Ridge · Ward Station - \$327,382
- Total - \$1,466,966

A wide variety of services includes

- Manage design consultants and review construction plans for public infrastructure projects
- Manage land use cases and review development plans for private development
- Project management and inspection services for construction
- Miscellaneous: grant management, public/private assistance and public outreach

Where the money will come from

- 2E Program - \$1,362,066
- Public Works CIP - \$54,900
- Community Development Budget - \$50,000

Councilmember Mathews asked what time frame would be covered by this. Mr. Goff said it was for this calendar year of 2019. Approving payment for ongoing services means each bill will not have to come to Council for approval.

Motion by Councilmember Pond to amend the contract for Professional Services to AECOM Technical Services, Inc., Greenwood Village, CO, for the period of January 1, 2019 – December 3, 2019 in an amount not to exceed \$1,466,966 and approve payments for ongoing Program Management Services for the Investing 4 The Future Program, seconded by Councilmember Dozeman; carried 7-0.

CITY MANAGER'S MATTERS

Mr. Goff informed Council they need to appoint a replacement for the vacated District 3 Council seat by March 12. He recommends hearing candidate presentations on Feb 25 and approving a replacement at a special meeting on March 4. Discussion followed. There was consensus to hear the candidates on February 25 and make the appointment on March 4.

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS' MATTERS

Clerk Shaver asked when 29th Avenue is straightened at Fenton Street if the property owners on the south side of 29th will receive a little extra property to work with. Mr. Nguyen said those properties should be getting some extra depth.

Larry Mathews had four items.

- He appreciates the City's effort to put timely information on the City website.

- We currently need 15 volunteers for positions on 7 boards/commissions. He urged people to get involved. Applications are due February 1.
- The Environmental Assessment (EA) for I-70/Kipling interchange will be available for public view Jan 25 – Feb 24th. CDOT will host an open house on Feb 12. It's important for people to come and provide input.
- The Police Dept is forming an advisory committee. It will meet every two months to discuss issues related to delivery of services. Anyone interested can find more details on the City website.

Zachary Urban brought to Council's attention HB 1086 which would require all governments that conduct public inspections to employ journeyman plumbing inspectors. Most cities use ICC certified inspectors or state inspectors. CML opposes this bill as an unfunded mandate. There will be a hearing on this bill this Wednesday at the Capitol. If anyone is interesting in testifying, please do.

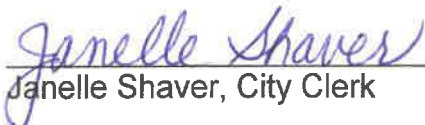
David Kueter thanked the Council for the opportunity. He looks forward to it and hopes to justify their faith in him by appointing him to the Council.

Mayor Starker congratulated Mr. Kueter on his appointment and thanked Mr. Simbai for applying. He thanked Mr. DiTullio, Ms. Duran and Mr. Fitzgerald for their service to the City.

Zachary Urban excused himself from the Study Session.

ADJOURN TO SPECIAL STUDY SESSION

The meeting adjourned at 9:35pm.


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON March 25, 2019


Janece 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.