

City Council Meeting Minutes

CITY OF WHEAT RIDGE, COLORADO

7500 WEST 29TH AVENUE, MUNICIPAL BUILDING

May 11, 2020

Note: This meeting was held virtually, using Zoom video-teleconferencing technology. As duly announced and publicly noticed, Council previously approved this format in order to continue with normal business and respond to the CoVid-19 Pandemic and the related public emergency orders promulgated by the President of the United States, the Governor of Colorado, and the Wheat Ridge City Council. Before calling the meeting to order, Mayor Starker stated the rules and procedures necessitated by this meeting format.

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

Janeece Hoppe	Judy Hutchinson	Zachary Urban	Rachel Hultin
Amanda Weaver	Korey Stites	Leah Dozeman	Valerie Nosler Beck

Also present: City Clerk, Steve Kirkpatrick; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Police Chief Christopher Murtha; Administrative Services Director, Allison Scheck; Community Development Director, Ken Johnstone; Susan Anderson, Parks and Recreation, Steve Art, Executive Director of Renewal Wheat Ridge, other staff, and guests including Lindsay Reinert, Lutheran Hospital and interested citizens.

PROCLAMATIONS AND CEREMONIES

These presentations began at approximately 7:02 pm

Police Week Proclamation

Mayor Bud Starker called upon all those living and working in Wheat Ridge, and upon all of our community's patriotic, civic and educational organizations to observe the week of May 10-16, 2020, as National Police Week. This nationwide program honors law enforcement officers, past and present, who by their faithful and loyal devotion to their responsibilities have rendered a dedicated service to our community and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all members of the community. Also calling the community to observe May 15, 2020 as National Peace Officers Memorial Day.

Chief Christopher Murtha graciously accepted the Proclamation and thanked the Mayor and Council for their support and recognition.

Mental Health Month Proclamation

Mayor Starker proclaimed May 2020, as Mental Health Month and called upon all residents, government agencies, public and private institutions, businesses, and schools to recommit our communities and resources to increasing awareness and understanding of mental health, providing appropriate and accessible services for all community members, and making mental health a priority.

Ms. Reinert and Ms. Anderson accepted and acknowledged the proclamation and thanked the Mayor and City for supporting and promoting services for mental health on behalf of The Wheat Ridge HEAL Committee.

Wheat Ridge 2020 Graduates Proclamation

Mayor Starker, along with all elected officials and City staff, congratulated all City of Wheat Ridge graduates, wished them well in their future endeavors and proclaimed May 11 – 17, 2020 Wheat Ridge Graduates Week.

APPROVAL OF AGENDA

Accepted without modification or objection.

CITIZENS' RIGHT TO SPEAK

This discussion began at approximately 7:14 pm.

Ihor Figlus, 9775 W. 36th Avenue – called to say that the City has failed to provide any instructions on how to safely conduct an initiative petition drive during this public health emergency. The City is pushing forward with public hearings without regard for the citizens' right to due process or for public health. The safety of citizens should be primary while we protect our Constitutional rights. The City should stop holding public hearings during this crisis.

Zoriana Morozewych, 3651 Ward Rd – called to object to the zoning change at Lutheran Hospital at Clear Creek Crossing and asserted that citizens' concerns are being ignored. We pay your salaries and you are not listening to us. Should not our health and safety come first? The developer's concerns are more important to you the Council than your constituents' rights and well-being.

Corbin Travis, 6910 W. 25th Place, Lakewood – Called to thank the city for its great work during the current public health emergency.

Note about Wheat Ridge Speaks:

Citizens may visit the Wheat Ridge Speaks website and enter written comments of up to 1,000 words on any Council agenda item. The deadline for citizens to submit comments is 12:00 Noon Mountain Time on the day of a Council session so that Council members, other elected officials and City Staff have time to review the comments before the meeting on Monday evening.

The City Clerk's Office transcribes those Wheat Ridge Speaks comments into these minutes, placing each comment along with the record for that agenda item, including items that include a public hearing (verbatim, if the comments do not contain lascivious language or unlawful hate speech).

For this Council session no one entered any comments on Wheat Ridge Speaks about any of the agenda items.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

1. Council Bill No. 06-2020 - An Ordinance approving the rezoning of property located at 9800 W. 38th Avenue from Residential- One (R-1) to Planned Residential Development (PRD) with an Outline Development Plan (ODP)

Discussion began at approximately 7:24 PM

Councilmember Weaver introduced Council Bill 06-2020.

The applicant is requesting approval of a zone change from Residential-One (R-1) to Planned Residential Development (PRD) with an Outline Development Plan for property located at 9800 W. 38th Avenue (southeast corner of W. 38th Avenue and Johnson Street).

Because of insufficiencies in the noticing procedure for the public hearing on this request, the City Attorney is requesting that this Council Bill, presently set for second reading and public hearing on June 8, 2020, be postponed indefinitely. A replacement Council Bill is on the Council's May 11, 2020 agenda, which, when adopted, will set the public hearing on the matter for the same date, June 8, and will enable the City to fully comply with all public noticing requirements.

Mr. Dahl explained why the public notice, although published in the *Transcript* appropriately and timely, did not meet legal requirements as to place (the notice stated City Hall, not a virtual meeting). He also noted that a formal protest was filed, and the person who made the protest rescinded the protest earlier today.

Motion by Councilmember Weaver to postpone indefinitely Council Bill No. 06-2020, an ordinance approving the rezoning of property located at 9800 W. 38th Avenue from Residential-One (R-1) to Planned Residential Development (PRD) with an Outline Development Plan (ODP), upon request of the City Attorney, seconded by Councilmember Urban; motion carried 8-0.

2. Council Bill No. 08-2020 - An Ordinance amending Article II of Chapter 9 of the Wheat Ridge Code of Laws concerning smoking in public places..

Discussion began at 7:31 PM.

Councilmember Hutchinson introduced Council Bill 08-2020.

Article II of Chapter 9 of the Wheat Ridge Code of Laws is being amended to reflect changes to the state smoking law, upon which the City's current ordinance was based.

City Clerk Kirkpatrick assigned Ordinance 1688.

Mayor Starker opened the public hearing.

Mr. Dahl explained the need to update this City ordinance to reflect the use of electronic smoking devices, and to align with state statutes. For instance, the legislature has widened the no smoking zone near entrances to buildings from 15 feet to 25 feet. The City established a 15-foot no smoking zone in 2015 and Mr. Dahl explained the City may retain the limit at 15-feet, and that the ordinance before Council increases that distance to 25 feet.

Public Comment

No members of the public came forth to comment.

Council Questions

Council had no questions.

Mayor Starker closed the public hearing.

Motion by Councilmember Hutchinson to approve Council Bill 08-2020, an ordinance amending Article II of Chapter 9 of the Wheat Ridge Code of Laws concerning smoking in public places, on second reading, and that it takes effect 15 days after final publication, seconded by Councilmember Urban; motion carried 8-0

3. Council Bill No. 09-2020 - An Ordinance amending Chapter 21 of the Wheat Ridge Code of Laws concerning streets and sidewalks.

Discussion of this item began at approximately 7:37 pm.

Councilmember Hoppe introduced Council Bill 09-2020.

Chapter 21 of the Code of Laws, entitled Streets and Sidewalks, regulates all construction and operation activities in public rights of way, and needs a comprehensive revision. Specifically, this chapter is in need of updating for the public works effort to address a series of issues raised by construction activities of various utilities. This ordinance modifies the Code of Laws accordingly and has incorporated suggested language from a model ordinance used as a base by many other Colorado municipalities.

City Clerk Kirkpatrick assigned Ordinance 1690.

Mayor Starker opened the public hearing.

Public Comment

No one came forward to speak.

Council Questions

Mr. Dahl reviewed the process of drafting this ordinance, which took many hours of effort to ensure that the language is appropriate, comprehensive and fair. He reviewed the details of the meaning and importance of the proposed ordinance.

Councilmember Urban asked why the RTD is exempted from this proposed ordinance.

Mr. Steve Nguyen, of the City's Engineering staff, responded that the exemption pertains to right of way (ROW) and our long-standing working relationship with the RTD. Most of the time RTD is working near state highways, so the City does not regulate the ROW. When the RTD proposes a new bus stop, RTD manages installation and operation within the state highway ROW.

Councilmember Hultin asked Mr. Nguyen to clarify the language around ensuring pedestrian ROW during construction of new RTD bus stops, whether there is a sidewalk or not. Mr. Nguyen explained the current practices and procedures.

Ms. Hultin also asked about placing traffic control devices (boxes) where they obstruct either pedestrian ROW or lines of sight. She has seen a couple of instances in which the signs that accompany construction themselves obstruct pedestrian ROW or lines of sight for motorists. Mr. Nguyen explained how the City handles this issue on a project by project basis.

Mayor Starker closed the public hearing.

Motion by Councilmember Hoppe to approve Council Bill 09-2020, an ordinance amending Chapter 21 of the Wheat Ridge Code of Laws concerning streets and sidewalks on second reading, and that it take effect immediately upon adoption, seconded by Councilmember Stites; motion carried 8-0

4. Resolution No. 27-2020 – A Resolution approving an enhanced sales tax improvement program agreement with Grammy's Goodies in the amount not to exceed \$70,000 or for five years, whichever shall occur first

Discussion of this item began approximately 7:55 pm.

Councilmember Hultin introduced Resolution 27-2020.

The City of Wheat Ridge received a request from Jeff and Vickie Corder, owners of Grammy's Goodies (Grammy's), to enter into the Enhanced Sales Tax Incentive Program (ESTIP) for the rebate of sales tax increment (Increment) in association with a proposed remodel and addition of an enclosed patio to their restaurant located at 4601 N. Harlan Street in Wheat Ridge. The rebate would be for 50% (1.5 cents) of City incremental sales tax generated for a period of five years or a total not to exceed amount of \$70,000.

Mayor Starker opened the public hearing.

A Staff Presentation by Mr. Steve Art reviewed the history of this item, why the restaurateur has applied for this ESTIP, and the benefits to the business owners and the City. He reported on the dramatic increase in the restaurant's business after it appeared on a national TV program, which inspired an expansion of the restaurant and hiring of several more employees.

Public Comment

No one came forward to speak.

Council Questions

Council had no questions or comments.

Mayor Starker closed the public hearing.

Motion by Councilmember Hultin to approve Resolution 27-2020, a resolution approving an enhanced sales tax improvement program agreement with Grammy's Goodies in the amount not to exceed \$70,000 or for five years, whichever shall occur first, seconded by Councilmember Urban; motion carried 8-0

ORDINANCES ON FIRST READING

5. Council Bill No. 10-2020 - An Ordinance approving an amendment to the existing Planned Mixed-Use Development (PMUD) zoning to increase the allowable height for hospital uses at Clear Creek Crossing.

Discussion began at approximately 7:59 pm

Councilmember Stites introduced Council Bill 10-2020.

The applicant is requesting to modify the underlying zoning to increase the allowable height for hospital uses. A hospital is already a permitted use in the existing zoning, and the existing zoning also contemplated 6-story employment uses. However, a hospital built to six stories requires an additional 12 feet of height to meet design requirements and current building codes. The applicant is also seeking a limited additional height allowance to accommodate a rooftop elevator associated with a helipad. Staff is recommending the public hearing be set for June 8 in a virtual meeting format; it is reasonable to assume that there will still be limitations on the size of in person gatherings at that time.

Motion by Councilmember Stites to approve Council Bill 10-2020 - an ordinance approving an amendment to the existing Planned Mixed Use Development (PMUD) zoning to increase the allowable height for hospital uses at Clear Creek Crossing, on first reading for the sole purpose of ordering it published for a public hearing set for Monday, June 8, 2020 at 7 p.m. as a virtual meeting, and, if adopted, that it take effect 15 days after final publication; seconded by Councilmember Hoppe.

Councilmember Urban asked if there are any new developments in terms of the procedures for initiative petitions.

Mr. Dahl reported that the Colorado Supreme Court recently issued an order to the effect that the statutes must be followed, notwithstanding the current public health crisis. There is therefore no relief from the requirements for original ink signatures on petitions circulated to put initiative actions by voters on the ballot. The Office of the Secretary of State is rumored to be developing guidance for governments and citizens on how to comply with the decision of the Court while protecting the public health. He emphasized that it is unlikely that there will be a suspension of the requirement that citizens sign petitions in person with original ink on prepared petition forms.

Councilmember Stites asked if there is no relief or Secretary of State does not issue new guidance by June 8th, then what options would Council have? He also asked how other municipalities are handling this issue.

Mr. Dahl explained the procedural options Council would have at its disposal to move forward but continue the process for a period to delay starting the 45-day time limit for circulating and submitting initiative petitions. He reviewed the approaches other municipalities have been following, and they are many and varied.

Councilmember Stites asked his peers and the Mayor if it would make sense to schedule only one or two public hearings on the agenda for virtual meetings.

After due deliberation and discussion, motion carried 8-0.

6. Council Bill No. 11-2020 - An Ordinance approving the rezoning of property located at 9800 W. 38th Avenue from Residential-One (R-1) to Planned Residential Development (PRD) with an Outline Development Plan (ODP)

Discussion began at approximately 8:02 pm

Councilmember Weaver introduced Council Bill 11-2020.

The applicant is requesting approval of a zone change from Residential-One (R-1) to Planned Residential Development (PRD) with an Outline Development Plan for property located at 9800 W. 38th Avenue (southeast corner of W. 38th Avenue and Johnson Street). The purpose of this request is to prepare the property for the development of four (4) single-family homes and three (3) duplexes, for a total of ten (10) dwelling units. Staff is recommending the public hearing be set for June 8 in a virtual meeting format; it is reasonable to assume that there will still be limitations on the size of in person gatherings at that time.

Motion by Councilmember Weaver to approve Council Bill 11-2020 - an ordinance approving the rezoning of property located at 9800 W. 38th Avenue from Residential-One (R-1) to Planned Residential Development (PRD) with an Outline Development Plan (ODP), on first reading, order it published, public hearing set for Monday, June 8,

2020 at 7:00 p.m. as a virtual meeting, and if adopted, that it take effect 15 days after final publication; seconded by Councilmember Urban

Councilmember Hoppe moved to amend this motion to change the date of the public hearing to June 22; seconded by Mr. Stites. Amendment passed 8-0.

Mr. Goff recalled that the legal protest previously filed was rescinded today.

The main motion, as amended, passed 8-0.

DECISIONS, RESOLUTIONS AND MOTIONS

7. Motion to approve appointment of representatives to the 2021 Outside Agency Program Committee

Discussion began at approximately 8:11 pm.

Councilmember Nosler Beck introduced item 7.

The purpose of creating the 2021 Outside Agency Program Committee is to provide an additional opportunity for citizens to participate in the budget process. This committee gives citizens the opportunity to weigh community needs with available resources and provide recommendations to City Council.

Staff Report by Marianne Schilling

Council questions

Councilmember Urban asked about the deadline of May 4th, and how many non-profits applied this year.

Councilmember Hultin asked whether we need to approve the extension of the term for the two committee member who will continue to serve. Mr. Goff reported that a re-appointment is not required.

Motion by Councilmember to appoint Jerry DiTullio, District I, and Genevieve Wooden District IV, to the 2021 Outside Agency Program Committee, District IV, term to expire after 2022 budget recommendations are presented in 2021, seconded by Councilmember Dozeman; carried 8-0

8. Resolution No. 29-2020 – A Resolution approving an intergovernmental agreement with Jefferson County for CARES Act local government distributions

Discussion began at approximately 8:20 pm

Councilmember Dozeman introduced Resolution 29-2020.

The Coronavirus Aid, Relief, and Economic Security (CARES) Act was signed into law on March 27, 2020. This \$2.3 trillion economic relief package provides economic assistance for American workers and families, small businesses, and preserves jobs for

American industries. The CARES Act established the \$150 billion Coronavirus Relief Fund to provide payments to State, Local and Tribal governments navigating the impact of the COVID-19 outbreak.

Only local governments with populations that exceed 500,000 are eligible to receive direct payments from the Relief Fund. Jefferson County's population exceeds 500,000 and the County received approximately \$101 million in funding, a portion of which the County desires to share with municipalities in Jefferson County. This IGA outlines the obligations of the City of Wheat Ridge in receiving these funds.

Staff Presentation

Mr. Goff reviewed the need for this agreement with Jefferson County to share the CARES Act funding with cities in Jefferson County. The City will receive half of approximately \$2.4 million upon passage of this resolution, and the second half when the City submits a spending plan to the County for approval.

Public Comment

No one came forward to speak.

Council Questions

Council had no questions.

Motion by Councilmember Dozeman to approve Resolution 29-2020, a resolution approving an intergovernmental agreement with Jefferson County for CARES Act local government distributions, seconded by Councilmember Stites; motion carried 8-0.

9. Resolution No. 28-2020 – A Resolution amending the Fiscal Year 2020 General Fund Budget to reflect the approval of a supplemental budget appropriation in the amount of \$250,000 for the purpose of funding phase two of the Business Stabilization Program

Discussion began at approximately 8:33 pm

Councilmember Urban introduced Resolution 28-2020.

The impact of COVID-19 on American businesses has increased dramatically over the last two months as state and local governments order mandatory shut-downs and 'shelter in place' orders, further complicating operations for businesses already impacted by COVID-19. The City has recently distributed \$250,000 in grants to ninety-nine Wheat Ridge businesses through the Business Stabilization Program. The City will receive federal funding from the CARES Act, through Jefferson County, which is authorized to be used for business recovery grant programs. This federal funding will enable the City to provide an additional \$250,000 for phase two of the Business Stabilization Program

Staff Presentation

Mr. Goff reviewed the guidance from the US Treasury that allows use of CARES Act funding for this proposed purpose. A potential third round could occur later, depending on further fiscal developments.

Public Comment

No one came forward to speak.

Council Questions

Councilmember Urban commented that as we make these grants, we need to ensure that businesses receiving the grants must comply with the public health orders.

Councilmember Nosler Beck asked Councilmember Urban and Mr. Art if any lessons learned from the first round have informed this second round. Mr. Art discussed the procedure for ensuring grantees have a current Wheat Ridge business license. City Treasurer Chris Miller has created various Xcel tools to help the committee make its decisions. Councilmember Urban said that the scoring mechanism used by reviewers in round one is under review for round two, to ensure that grantees comply with conditions like having a business license and obeying with public health orders.

Ms. Nosler Beck also asked whether grantees in round one can still apply in round two. Mr. Urban replied that they may apply again so long as their total grants for both rounds amount to \$5,000 or less.

Ms. Nosler Beck also thanked Mr. Urban, Mr. Art and the committee for their dynamic, agile work.

Councilmember Weaver asked whether the motion needs to be amended to revise the grant requirements. Mr. Urban replied that the committee and the City Manager have the authority they need.

Councilmember Hultin thanked the committee for its quick, agile work. She wants to make sure that there is ample time for businesses to apply, and significant efforts at public education and information to make sure local businesses know about the program and the application process.

Motion by Councilmember Urban to approve Resolution 28-2020, a resolution amending the Fiscal Year 2020 General Fund Budget to reflect the approval of a supplemental budget appropriation in the amount of \$250,000 for the purpose of funding phase two of the Business Stabilization Program, and further stating in the resolution that Council hereby adopts the findings of fact and the statement of public purpose clause previously adopted by Council in Resolution 25-2020, seconded by Councilmember Hoppe; motion carried 8-0.

CITY MANAGER'S MATTERS

Mr. Goff updated the Council and public on the Denver Water pipe replacement project. The next phase will take the pipe across 32nd Ave., and has been re-scheduled to begin May 26th, while traffic is light. Traffic on 32nd Ave will be diverted at Simms to 26th Avenue. The project is expected to be completed by early July.

CITY ATTORNEY'S MATTERS

Nothing tonight.

ELECTED OFFICIALS' MATTERS

Councilmember Dozeman asked Mr. Goff what kind of public outreach and notifications are planned for the Denver Water project. Mr. Goff explained how the City and Denver Water will take steps to inform the public and merchants in the Applewood Shopping Center.

Councilmember Dozeman asked that the City allow merchants to open outdoor patios for people to wait for their orders while maintaining social distancing. She asked for a discussion at a future Council session.

Councilmember Stites recalled a conversation he had with a young man in middle school who was doing his research and interviews for a merit badge related to municipal government. Mr. Stites was very impressed with the young man, his questions, his comments and his approach.

Councilmember Weaver thanked the City staff for doing a great job. She sent a special kudo to Parks and Recreation for the virtual programs they have launched.

Councilmember Hultin proposed that Council discuss temporary measures about how businesses should implement the public health orders and make optimal use of their indoor and outdoor space. She also asked whether some businesses, such as yoga studios and martial arts instruction, could use our parks for outdoor classes.

Councilmember Urban reminded others that there is an Adopt a Senior Program, to honor and recognize Wheat Ridge High School graduates in the Class of 2020 and urged us to adopt a senior. He also thanked staff for their innovative and creative efforts at ensuring the public cleans up after their dogs.

Councilmember Hutchinson asked whether anyone had contacted other Council members about finding Council meeting outcomes on the website and asked that the Clerk publish minutes in a timelier fashion.

City Clerk Kirkpatrick replied that he had made the decision to delay publishing minutes from the Council sessions since March 30, until the process and details for including comments by citizens entered in Wheat Ridge Speaks can appropriately appear in the minutes. He committed to having the delayed minutes ready for review well before the

next regular Council meeting on June 8th so that Council will have the minutes ready for approval on June 8th.


Councilmember Hoppe commented that we should be proud of the efforts by staff to help citizens make their thoughts and positions heard and known to Council.

Mayor Starker thanked our guests for coming this evening to receive the proclamation on mental health. He thanked Chief Murtha and his force for sterling work in difficult times. He thanked the committee that reviews applications for grants for their quick and successful work.

The Mayor also recognized once again the graduating high school seniors, expressed his sorrow that their graduation ceremonies, celebrations and other social events are denied to them by the coronavirus pandemic. He urged them to go forward, accomplish great things and change the world!

ADJOURNMENT

The meeting adjourned at 9:03 pm.



Steve Kirkpatrick, City Clerk

APPROVED BY CITY COUNCIL ON June 8, 2020



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 by contacting the City Clerk's Office, as well as copies of Ordinances and Resolutions.