

City Council Meeting Minutes

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

July 11, 2022

Note: This meeting was conducted both as a virtual meeting and hybrid, where some members of the Council or City staff were physically present at the Municipal building, and some members of the public attended in person as well. Eight members of Council were present in Council Chambers for this session. 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

Judy Hutchinson	Scott Ohm	Rachel Hultin	Janece Hoppe
Amanda Weaver	Korey Stites	Leah Dozeman	Valerie Nosler Beck

Also, present: City Manager, Patrick Goff; City Attorney Gerald Dahl; City Clerk, Steve Kirkpatrick; Division Chief, Jim Lorenz; Director of Parks and Recreation, Karen O'Donnell; Planning Manager Lauren Mikulak; Senior Planner, Scott Cutler; Alayna Olivas-Loera, Planner 1; Assistant to the City Manager, Marianne Schilling, other staff, guests and interested citizens.

APPROVAL OF MINUTES

The Special Study Session Notes of June 27, 2022, and City Council Minutes of June 13, 2022, and June 27, 2022 were approved as published.

APPROVAL OF AGENDA

Without objection or correction, item 5 on the agenda will be heard first, to accommodate a citizen who needs to leave for another engagement. So, ordered.

PROCLAMATIONS AND CEREMONIES

This item began at 7:02 PM.

2022 Mayor's Monarch Pledge Proclamation

Mayor Starker read the Proclamation that emphasized the monarch butterfly is an iconic North American species whose multigenerational migration and metamorphosis from caterpillar to butterfly has captured the imagination of millions of Americans. He has signed the National Wildlife Federation's Mayors' Monarch Pledge and have officially committed to taking meaningful action to protect the monarch butterfly.

PUBLIC'S RIGHT TO SPEAK

Vivian Vos, W 47th Place – came to announced details of the forthcoming Garden Tour, the first since 2016. Please, purchase your tickets sooner than later (information on the Wheat Ridge City website).

Note about Wheat Ridge Speaks:

Members of the Public 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 address a public hearing (verbatim, if the comments do not contain lascivious language or unlawful hate speech)

No comments appeared in WR Speaks for this session of Council.

CONSENT AGENDA

There were no items tonight

Note that Item 5 was addressed first per the above agenda change. Numbering of the other items is unchanged to avoid any confusion.

- 5. Resolution No. 32-2022** - A Resolution supporting zero fare transit on RTD in August 2022

Discussion started at 7:09 pm

CM Weaver introduced the Resolution.

Issue

During the entire month of August, RTD will offer zero fares across its system as part of the Zero Fare for Better Air initiative. This collaborative, statewide initiative, made possible by Colorado Senate Bill 22-180, in partnership with the Colorado Energy Office, is designed to reduce ground level ozone by increasing use of public transit. Current RTD customers will also benefit as they will not have to use or purchase fare products from August 1-31, during Colorado's high ozone season.

Staff Presentation

Patrick Goff, City Manager, described how during the entire month of August, RTD will offer zero fares across its entire system as part of the Zero Fare for Better Air initiative. Together, with non-profit and municipal partners, the goal is to reduce ground-level ozone while promoting the benefits and increasing the use of public transit.

Marjory Sloan, Golden, came to support this resolution as the representative from District M for RTD. She commended Wheat Ridge for our plans and goals related to mass transit and RTD in specific. She described the program: RTD will waive all fares for busses, light rail and the train to DIA throughout August, a program made possible by the Colorado Legislature's funding.

Ms. Sloan briefly spoke on how Colorado's ozone season runs from June 1 to August 31. Ozone is one of the most common ambient air pollutants along the Front Range of Colorado. Ground-level ozone forms when chemical reactions occur between nitrogen emitted from cars and other sources and volatile organic compounds in the presence of sunlight, making levels highest during the summer months.

Council Questions

CM Hultin thanked Director Sloan and noted that this fare holiday extends to nearly every public transit system in the State. Please, replace at least 3 car trips with public transit in August. She thanked the drivers and other transit operators for their public service and cordial contact with the public.

Mayor Starker read the Resolution aloud to emphasize the reasons for asking Council to support the fare holiday and the effort to reduce greenhouse gasses.

Motion by CM Weaver to approve Resolution No. 32-2022, a Resolution supporting zero fare transit on RTD in August 2022, seconded by CM Stites, motion carried 8-0.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

Discussion began at approximately 7:09 PM

1. **Council Bill No. 09-2021** - An Ordinance approving the rezoning of property located at 10101 W. I-70 Frontage Road North from Commercial-One (C-1) to Mixed Use-Commercial Interstate (MU-C Interstate) (Case No. WZ-22-05)

CM Nosler Beck introduced Council Bill 09-2021 at approximately 7: pm

Issue

The applicant is requesting approval of a zone change from Commercial-One (C-1) to Mixed Use-Commercial Interstate (MU-C Interstate) for property located at 10101 W. I-70 Frontage Road North. The zone change will result in a zoning that enables revitalization and redevelopment of the site by expanding permitted uses.

Mayor Starker opened the public hearing.

City Clerk Steve Kirkpatrick assigned Ordinance No. 1743.

Staff Presentation

Alayna Olivas-Loera, a Planner 1 with the City of Wheat Ridge, spoke on the background of the item where the property is located on the north side of Interstate-70

on the I-70 Frontage Road, between Miller Street and Kipling Street. There are currently five access points into the site from the I-70 Frontage Road and W. 49th Avenue. Land on all sides of the property has been dedicated as public right-of-way.

The current zoning is C-1, which is a legacy zone district dating back to 1972 and was established to provide commercial land uses which include office, general business, and retail sales and service establishments. It was originally designed for and is more often seen on larger properties with adjacency to lower density residential uses.

The applicant is requesting the property be rezoned to MU-C Interstate, a zone district established to accommodate a wide range of uses from residential to commercial. This district is intended for properties that are generally within five hundred (500) feet of I-70 and that are located on a commercial corridor with direct access to I-70. It follows the MU-C framework but is intended for highway-adjacent sites that may require variation in design or land use due to direct proximity to the interstate. The highway-adjacency allows for more auto-oriented uses than compared to other mixed-use districts.

The Mayor reviewed the procedures for public comments.

Public Comment

No citizens appeared in chambers to address this issue. There were none who wanted to speak through the Zoom format.

Council Questions and comments

Mayor Starker closed the public hearing.

Motion by CM Nosler Beck to approve Council Bill No. 09-2021 - an ordinance approving the rezoning of property located at 10101 W. I-70 Frontage Road North from Commercial-One (C-1) to Mixed Use-Commercial Interstate (MU-C Interstate) on second reading, and that it takes effect 15 days after final publication, for the following reasons:

1. The Planning Commission has recommended approval of the rezoning after conducting a proper public hearing.
2. The proposed rezoning has been reviewed by the Community Development Department, which has forwarded its recommendation of approval.
3. The proposed rezoning has been found to comply with the criteria for review in Section 26-112 of the Code of Laws,

CM Dozeman seconded the motion, and it carried 8-0.

2. **Council Bill No. 15-2021** - An Ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the regulation of accessory dwelling units and making conforming amendments therewith

CM Dozeman introduced Council Bill 15-2021 at approximately 7:38 pm.

Issue

Accessory Dwelling Units (ADUs) are smaller, independent residential dwelling units located on the same property as a single unit home and can be attached or detached from the main house. ADUs have been identified as one component of the “missing middle” which helps increase housing options in Wheat Ridge. This ordinance proposes to legalize ADUs as an accessory use to single-unit homes, while providing flexibility for homeowners in terms of design, location, and development standards. This ordinance is a response to specific policy direction from City Council based on staff presentations, public feedback, and lessons learned from peer communities.

In addition to providing a regulatory pathway forward for new ADUs, the ordinance also creates a pathway in certain circumstances for existing ADUs to be legalized.

Mayor Starker opened the public hearing.

City Clerk Steve Kirkpatrick assigned Ordinance No. 1744.

Staff Presentation

Scott Cutler, Senior Planner presented to the council on this issue including the background where the City’s zoning code (Chapter 26) does not specifically define Accessory Dwelling Units but does have a definition for dwelling unit. Where Section 26-625 provides regulations on accessory buildings, which are buildings incidental or subordinate to the principal use and structure on a property.

Section 26-625.C.1.c.iv specifically prohibits dwelling units to be located within accessory buildings “except as otherwise expressly allowed.” No other portions of the code expressly allow dwelling units in accessory buildings, so effectively detached ADUs are not permitted in the City of Wheat Ridge.

The Mayor reviewed the procedures for public comments.

Public Comment

John McMillian, 9801 W. 38th Ave. He congratulated Council on finally passing an ADU ordinance. He commented, however, that other municipalities have advanced their ADU ordinances over the past decade, which he asserted have made progress this proposed ordinance will not make. He predicts that the law will result in a net LOSS of residential housing and residential headcounts. You allow those who illegally operated ADU not living on the property to keep their ADU intact. Please, do not pass this Ordinance without re-thinking the implications.

Bob Brazell, 3930 Carr St. commented that any action taken today will change all of the residential zoning in the City. You will change the impacts of ADU on virtually every resident. If you insist on doing this, please, relook at how you are doing this. You need to license ADU, because deed restrictions will create a cumbersome, expensive

process. The NRS updated in 2019, reported that the public only liked ADU if the renter is a family member. I do not think the citizens like this idea.

Carol Mathews, 3851 Hoyt St. commented that this does away with residential housing zones. There too few restrictions on how many people, cars and other impacts this ordinance will have. Over the last 25 years numerous areas in outlying suburbs have attracted more new homebuyers. This question should be considered: Will this ordinance improve our quality of life and make Wheat Ridge more attractive for new homeowners? Are we improving the quality of Wheat Ridge or just opening the City for high density housing?

Mandy Gale (no address given), a third generation Wheat Ridge resident, came to express her excitement and support for this Ordinance. This will allow affordable options for new residents. ADU's are an affordable option for our ageing population looking for ways to augment their income using their property.

Elise Brougham, 3535 Allison Court is appalled that Council wants to change the entire residential zoning scheme in the City. This ADU concept allows for high-density housing. No neighbor will be notified with a public notice of an ADU. Each of these should be considered as a zoning variance. People who own lots with open spaces will all build ADU. These actions should be called Planned Developers Dreams. This will increase traffic and add to parking problems. This drastic change should be put on the ballot.

Brian Kraft, 3495 Ames St. came to speak on behalf of himself and his wife. They both thoroughly support this proposed ordinance. Council and staff have done an extensive and creditable job studying and drafting this ordinance. We need to ensure there is accessible and affordable housing in Wheat Ridge. As a homeowner, I think it's time for this update to pass.

Liz Veeder, 4181 Evert Drive – called in the virtual format to comment on this item. She expressed concerns that this proposed ordinance may allow two homes to be built on one lot zoned Residential. My neighborhood has a lot of larger lots. Young families come to WR for this open space. I am afraid that if people can build a second home on their large lots, we will need parking problems, more traffic and higher density housing. I expect that the lot along Kipling from 44th to I-70 will be wall to wall apartments. We have too much high-density housing now. We came here for the extra space, and this will undo that look and feel of our City forever.

Council Questions and comments

CM Ohm asked if the City could regulate off-street parking. Mr. Dahl gave a thorough and detailed answer. He asked if any notice would be required if an R-2 zoned property wanted to scrape the lot and build a duplex? Mr. Cutler's response was "no there would not be a notice requirement."

CM Hultin asked for clarification of the required utilities infrastructure. Mr. Cutler indicated that the City would have to consider these on a case-by-case basis. CM Hultin then asked if staff makes recommendations on this proposed infrastructures, and Mr. Cutler gave a detailed reply. She then asked for a review of the setback requirements for ADU, and Mr. Cutler gave a detailed answer.

CM Hutchinson asked about the 2019 NRS. She said only 75 people commented on ADU's, but the NRS asked for citywide neighborhood meetings to discuss ADU. Mr. Johnstone gave a report on the actions taken to engage the public in the two years the City studied the subject of ADU. CM Hutchinson asserted East WR was divided in half and the area between 32nd Ave. and south to 26th Ave. between Sheridan and Wadsworth had not been included in this process. She also noted that we allow short term rentals with a 2% cap in each District and Mr. Cutler stated District 1 is almost to the 2% cap. She believes that many of these ADU's will become short-term rentals. Mr. Johnstone and Mr. Cutler provided detailed replies to that last issue the CM raised. He indicated that the owner-occupancy requirement will mitigate this concern. CM Hultin asked about enforcement of the proposed ordinance. Again, staff gave a detailed answer.

CM Dozeman asked why we do not license ADU vs. deed restrictions. Mr. Dahl gave a detailed answer, turning on the certainty of the deed restriction and how other municipalities have used the deed restriction.

CM Nosler Beck asked about the language on p. 14, F(d). One of the things we are trying to accomplish is to allow those who have ADU's now to keep them. This language seems to limit property owners' rights. C

M Dozeman asked about non-conforming units. We might be giving an advantage to those who already have an ADU that does not comply.

CM Hoppe recalled that Council did ask in its consensus for this provision. She further indicated that we also had ADU questions on the last two resident surveys.

CM Hultin commented that this language was also intended to allow owners of non-conforming to come into compliance.

CM Hultin asked about keeping the original August 1 effective date. Mr. Goff explained why staff is recommending the delay until August 15: to ensure a smooth process and adequate time public education.

CM Hutchinson then asked Mr. Goff about how many people responded to the last two resident surveys. Mr. Goff gave a detailed answer, commenting that the surveys have small confidence intervals around the statistical results.

CM Dozeman asked how the application process would work in terms of the deadline set in the ordinance of August 1, 2024. Mr. Johnstone gave a specific answer.

Mayor Starker closed the public hearing.

Motion by CM Dozeman to approve Council Bill No. 10-2021 - an ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the regulation of accessory dwelling units and making conforming amendments therewith, on second reading, and that it take effect on August 15, 2022, seconded by CM Nosler Beck. CM Dozeman and Nosler Beck approved a change to state August 15 throughout the motion and ordinance.

CM Hultin asked whether we need to amend the ordinance to reflect all dates to August 15. Mr. Dahl explained how to do that, and CM Nosler Beck and Dozeman agreed to that change to the motion.

CM Dozeman expressed her support for this motion, and thanked staff.

Motion passed 7-1, with CM Hutchinson voting nay.

3. **Council Bill No. 14-2021** - An Ordinance amending Section 17-52 of the Wheat Ridge Code of Laws to address the use of assisted mobility devices in park and recreation areas.

CM Hultin introduced Council Bill 14-2022 at approximately 8:36 pm .

Issue

This ordinance amends Section 17-52 of the Wheat Ridge Code of Laws to permit the use of assisted mobility devices on certain City recreation trails by persons with disabilities.

Mayor Starker opened the public hearing.

City Clerk Steve Kirkpatrick assigned Ordinance No. 1745

Staff Presentation

Karen O'Donnell, Parks and Recreation Director spoke briefly of the Americans with Disabilities Act (ADA), that requires public and private entities to make reasonable accommodations to their facilities and programs to ensure that persons with disabilities are able to access and use the same in substantially the same manner as other persons.

Familiar examples of accommodations for disabled persons include curb ramps for accommodating wheelchairs, reserved parking spaces and similar accessibility accommodations. Certain of the City's trails have been posted "no bicycles," where such use may be hazardous to other users or injurious to the trail itself. It has come to the attention of Parks and Recreation staff that this restriction prevents some persons from accessing the trail completely, as they have need of assisted mobility devices. This ordinance revises the relevant Code section to make an exception for assisted mobility devices for persons with disabilities. Staff will monitor use of the affected trails and adjust the policy as needed.

The Mayor reviewed the procedures for public comments.

Public Comment

There were none who wanted to speak, neither in person nor through the Zoom format.

Council Questions and comments

CM Weaver asked about how this action will be implemented, and Ms. O'Donnell gave a detailed answer.

CM Ohm supports this action. He asked about signage placed on the trail to address the question of pedestrian and cyclist encounters on the trail. Ms. O'Donnell assured all that her team will address these issues and monitor compliance along with Community Service.

Mayor Starker closed the public hearing.

Motion by CM Hultin to approve Council Bill No. 14-2021 - an ordinance amending Section 17-52 of the Wheat Ridge Code of Laws to address the use of assisted mobility devices in park and recreation areas, seconded by CM Ohm, motion carried 8-0.

ORDINANCES ON FIRST READING

There were none tonight

DECISIONS, RESOLUTIONS AND MOTIONS

Discussion began at approximately 7: p.m.

4. Motion to approve appointments to Boards and Commissions

By tradition, Board & Commission appointments are introduced by each District's senior member and seconded by the junior member.

Issue

There is currently one District I vacancy on the Liquor Licensing Authority, and two Alternate vacancies, both "at large" seats from any district, on the Board of Adjustment.

Public Comment

No one came forward to speak.

Motion by CM Hoppe, seconded by CM Hutchinson, as Councilmembers from District I, to appoint to Brian Rollo, to the Liquor Licensing Authority, term ending March 1, 2024, motion carried 8-0

Motion by Mayor Pro-Tem Hultin to appoint Jesse Pearlman, term to expire March 1, 2023 and Andre Amor, term to expire March 1, 2025 as alternates to the Board of Adjustment, seconded by CM Hultin, motion carried, 8-0

(Item 5 was addressed first, per the approved order of agenda change.)

- 6. Resolution No. 31-2022** - A Resolution amending the 2022 Fiscal Year Equipment Replacement Fund Budget to reflect the approval of a supplemental budget

CM Ohm introduced the Resolution at 8:52 pm.

Issue

The Police Department is requesting authorization of payment to L3Harris Technologies Inc. for replacement of portable police radios, batteries, chargers, belt clips and microphones. The purchase of 160 new portable radios represents a slight increase from the current number, accounting for some growth in the size of the police department over the lifetime of the radios, as well as maintaining enough radios to issue to volunteers for special events, non-sworn personnel who have a need for such to be issued and issuing some to other City departments that are in need such as public works and parks.

Staff Presentation

Darrel Guadnola, Support Services Division Chief spoke on the item including the background where the current portable Harris P7300 radios utilized by the police department were introduced to the market in 2009. In March of 2012 WRPD purchased these radios and such have been in operation since that time. The typical life expectancy of portable radios is 8-10 years and can sometimes be longer if you have the necessary parts to repair and recondition the radios.

The financial impact to purchase 160 L3Harris XL-185P portable radios, with external microphones, belt clips, individual charging stations, 100 spare batteries, seven six-bay charging stations to replace those currently in use, and equipment to outfit three police motorcycles to ensure compatibility, including a credit for the trade-in of old equipment, is approximately \$344,448. This figure represents payment to L3Harris in the amount of \$340,248, and approximately \$4200 to outfit and equip three police motorcycles.

Public Comment

No one came forward to speak.

Council Questions

Council had no questions or concerns

Motion by CM Ohm to approve Resolution No. 31-2022, a resolution amending the 2022 Fiscal Year Equipment Replacement Fund Budget to reflect the approval of a supplemental budget appropriation and subsequent payments in the amount of \$344,448 for the replacement of police portable radios and peripheral equipment, seconded by CM Dozeman. Discussion on the motion ensued.

The Motion carried 8-0.

CITY MANAGER'S MATTERS

The Neighborhood Night Out will be held on Tuesday, August 2, and police will be present in all four Council districts and command staff will move around from district to district.

CM Hultin asked about banners or signs to announce the event.

CITY ATTORNEY'S MATTERS

Nothing tonight.

ELECTED OFFICIALS' MATTERS

CM Hutchinson noticed that today the weather was beautiful. She attended the Om Therapy opening and it was a success.

CM Stites reminded all to buy school supplies in Wheat Ridge. Anytime you can find it in Wheat Ridge, buy it in Wheat Ridge.

CM Weaver thanked those who serve on the Housing Authority Board and staff for their great work.

CM Dozeman reminded all that the Fitness on the Green July 16 and August 6 from 6:00 pm to 8:30 pm on both dates. The events are held in the green space along 38th Avenue in front of Stevens Elementary at 7101. W. 38th Ave.

CM Ohm announced an Italian Car Festival at Anderson Park on August 17.

CM Hultin recalled that her family decided to attend an outdoor concert at Anderson Park. Last week she attended the Affordable Housing and 44th Ave. Subarea plan and both were well attended. She asks that we add composting to a future Study Session.

Mayor Starker expressed his gratitude to those who attended Coffee with the Mayor. Next Month there will be no Coffee with the Mayor – during the Carnation Festival.

He thanked those who came in person and online to comment on tonight's agenda items. Please, be careful as you are out and about, please slow down and watch for our children.

ADJOURNMENT

The meeting adjourned at 9:07 pm.



Steve Kirkpatrick, City Clerk

APPROVED BY CITY COUNCIL ON August 8, 2022

A handwritten signature in cursive script, appearing to read "Rachel Hultin", written in dark ink.

Rachel Hultin, 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.