

City Council Meeting Minutes

CITY OF WHEAT RIDGE, COLORADO

7500 WEST 29TH AVENUE, MUNICIPAL BUILDING

December 12, 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 7:01 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL OF MEMBERS

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

Also, present: City Attorney Gerald Dahl; City Clerk, Steve Kirkpatrick; Chief of Police, Chris Murtha; Administrative Services Director, Allison Scheck; Interim Director of Comm. Development, Lauren Mikulak; Assistant to the City Manager, Marianne Schilling, Sustainability Coordinator Mary Hester, several city planners and other staff, guests and interested citizens.

*Fully participated virtually via Zoom.

APPROVAL OF MINUTES

The City Council Minutes of December 5, 2022 were approved as published.

APPROVAL OF AGENDA

Without objection or correction, the agenda stood as announced

PROCLAMATIONS AND CEREMONIES

Wheat Ridge 101 Graduation

Mayor Starker welcomed and introduced the members of the Wheat Ridge 101 graduating class of 2022.

Introduction of Wheat Ridge Police Department Officers

Mayor Starker happily introduces the newest members to the Wheat Ridge Police Department and spoke their names.

PUBLIC'S RIGHT TO SPEAK

Van Bruce Arrant, Morrison, CO - came to comment on the right to bear arms in the Second Amendment. Recent Supreme Court decisions obviated 200 years of precedents on the right to bear arms. Now, restrictions on carrying weapons are limited to a few circumstances. Wheat Ridge's current ordinances will stand the test of these new standards with a few exceptions.

Patrick Quinn, 3995 Moore St. – congratulated the City on the opportunity to attend and graduate from Wheat Ridge 101. He has worked with state legislature in previous positions, but found WR 101 to be a totally new perspective on how government operates. He reviewed the major sections of the curriculum and how enlightening each was. He recalled several participative learning experiences he enjoyed.

Claire Fisher, 2822 Teller St. recently moved to WR from the Highlands. She and her husband heard a loud noise and upon investigation found three bullet holes. She called 911, and the operators were so busy stay on the line until the police arrived. There have been 4 incidents of drive by shootings on Teller between 26th and 32nd Avenues. These crimes are a serious but there are too few resources to apprehend these criminals. Please, take whatever action you can to confront this problem.

Margaret Robinson, 4 Hillside Drive. Came to discuss items already on the agenda, so she will make comments at those times.

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 Wheat Ridge Speaks for this session. (A memo to Council with details about one of tonight's agenda items was distributed after the packet was published, and distributed to CM and the Mayor, per the resident's request.)

CONSENT AGENDA

None tonight.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

1. Council Bill No. 19-2022 - An Ordinance amending Article IV of Chapter 26 of the Wheat Ridge Code of Laws, concerning requirements for final subdivision plats, and in connection therewith, addressing race and religion-based covenants on title.

CM Hoppe introduced Council Bill 19-2022

Issue

This Ordinance amends the City's land use code to require that a plat note be affixed on resubdivisions of property advising that race and religion-based covenants on real property are illegal and unenforceable.

Mayor Starker opened the public hearing.

City Clerk Steve Kirkpatrick assigned Ordinance No. 1750

Staff Presentation

City Attorney Gerald Dahl presented the background on the City of Wheat Ridge was incorporated in 1969. At that time the City included a number of subdivisions which had been platted in the county beginning around the 1920's. Some of these subdivisions contain private covenants precluding sales based on religion or race.

In Shelley v. Kraemer, the Supreme Court of the United States struck down race-based covenants as illegal and judicially unenforceable. 334 U.S. 1 (1948). The Supreme Court of Colorado, relying on Shelley v. Kraemer, likewise ruled that restrictive covenants based on race were unenforceable. Capitol Fed. Sav. & Loan Association v. Smith, 136 Colo. 265, 271 (1957). The Colorado State Legislature, with these rulings in mind, enacted C.R.S. § 38-30-169, similarly declaring these covenants illegal and equipping private citizens with a mechanism to remove them.

The Mayor reviewed the procedures for public comments.

Public Comment

Margaret Robinson, 4 Hillside Drive, called to support the ordinance.

Council Questions and comments

None.

Mayor Starker closed the public hearing.

Motion by CM Hoppe to approve Council Bill No. 19-2022 - an ordinance amending Article IV of Chapter 26 of the Wheat Ridge Code of Laws, concerning requirements for final subdivision plats, and in connection therewith, addressing race and religion-based covenants on title, on second reading, and that it take effect 15 days after final publication, seconded by CM Hultin, motion carried 8-0.

2. Council Bill No. 21-2022 - An Ordinance approving the rezoning of property located at 7525 W. 44th Avenue from Commercial-One (C-1) to Mixed Use-Commercial (MU-C) (Case No. WZ-22-08)

CM Ohm introduced Council Bill 21-2022

Issue

The applicant is requesting approval of a zone change from Commercial-One (C-1) to Mixed Use-Commercial (MU-C) for property located at 7525 W. 44th Avenue. The zone change will result in a zoning that matches surrounding zoning and enables redevelopment of the site by expanding permitted uses.

Mayor Starker opened the public hearing.

City Clerk Steve Kirkpatrick assigned Ordinance No. 1751.

Staff Presentation

Planner I Alayna Olivas-Loera spoke on the issue and presented the background and exhibits which included the subject property being located on the east side of Wadsworth Boulevard between W. 44th Avenue and W. 45th Avenue.

The site is zoned Commercial-One (C-1) and is largely surrounded by C-1 and Mixed Use-Commercial (MU-C) zoning. To the northeast, the site is adjacent to Residential-Two (R-2) zoning which is a City-owned parcel containing Apel-Bacher Park. Other surrounding land uses are non-residential in nature, including a propane business, the former Bank of the West (now owned by the City and functioning as a construction office for the Improve Wadsworth Project) and the office building owned by the applicant, Foothills Regional Housing. Recent development projects in the area include Town Center and Town Center North Apartments to the southeast at 44th and Vance.

The Mayor reviewed the procedures for public comments.

Public Comment

Margaret Robinson, 4 Hillside Drive. Several weeks ago, the City denied an affordable housing project while new, million-dollar homes are constructed at 32nd and Kipling. Which do we want: more million-dollar homes or more affordable housing.

Mayor Starker closed the public hearing.

Council Questions and comments

CM Hoppe asked a technical question about the proposed business. Staff answered her question. CM Hoppe also supports this motion.

CM Hultin commented she is looking forward to how this project will evolve. She indicated her support for this motion. Later she commented that this property will be better served by RTD once it is completed, which will add to the attractiveness of this project.

CM Stites echoed his peers' comments, and opined that this is the perfect place for this project.

CM Dozeman also indicated support for the motion for the same reasons.

CM Ohm recalled hearing about this kind of property while he was on the Planning Commission (but not this specific case). He supports the motion as well.

Motion by CM Ohm to approve Council Bill No. 21-2022 - an ordinance approving the rezoning of property located at 7525 W. 44th Avenue from Commercial-One (C-1) to Mixed Use-Commercial (MU-C) (Case No. WZ-22-08), on second reading, and that it take effect 15 days after final publication, seconded by CM Hoppe, motion carried 8-0.

3. Council Bill No. 22-2022 - an ordinance amending Sections 22-58 and 22-67 of the Wheat Ridge Code of Laws to establish an exemption from the city's Sales and Use Tax for carryout bag fees enacted by the State of Colorado

CM Weaver introduced Council Bill 22-2022

Issue

The City of Wheat Ridge's Municipal Code includes a definition of "nuisance" in Section 15-25 which could be interpreted to prohibit composting. The purpose of this ordinance is to clarify existing language in the Municipal Code to allow composting.

Mayor Starker opened the public hearing.

City Clerk Steve Kirkpatrick assigned Ordinance No. 1752.

Staff Presentation

Sustainability Coordinator Mary Hester presented the background where composting has become an increasingly popular activity and provides households with the opportunity to reduce the amount of waste being sent to landfills, as over 30% of household waste is made up of compostable materials such as food scraps and yard waste. In addition to waste reduction, composting enriches soil and improves its moisture retention, reduces methane emissions from landfills, lowers the carbon footprint of participating households, and increases the resilience of soil to extreme heat and flooding events.

The allowance of composting in Wheat Ridge would be in alignment with the City's 2035 Vision Statement, which states: Wheat Ridge is committed to environmental stewardship so that residents have opportunities to recycle, to compost, to reduce air pollution, emissions, litter, and water waste, and to pursue urban agriculture.

The following amendments to Chapter 15 were proposed:

Add definitions for Composting and Compostable materials in Section 15-4

- Change the initial proposed language to state "objectionable" instead of "miscellaneous" condition
- Add language to Section 15-25(c) to exempt composting from the scope

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

CM Hultin asked staff detailed questions about rotating compost mechanisms; will they be legal under the proposed ordinance language? Mr. Dahl gave a detailed answer.

Mayor Starker closed the public hearing.

Motion by CM Weaver to approve Council Bill No. 22-2022 - an ordinance amending the Wheat Ridge Code of Laws to permit composting under prescribed conditions, on second reading, as submitted with the deletion documented below by amendment to CM Weaver's motion, and that it take effect 15 days after final publication, seconded by CM Hutchinson, motion carried 8-0. Words in sec 15-25a.

CM Hultin moved to amend CM Weaver's motion to strike in Sec 2 paragraph A "and shall contain alternate layers of plant material...", Seconded by MPT Stites. Amendment approved 8-0.

The **amended main motion passed** 8-0.

ORDINANCES ON FIRST READING

None tonight

DECISIONS, RESOLUTIONS AND MOTIONS

4. Motion to approve installation of traffic calming devices on Dudley Street between 32nd Avenue and 38th Avenue in accordance with the neighborhood traffic management program

CM Stites introduced the Motion.

Issue

Residents on Dudley Street petitioned the City to address traffic issues on the street segment from 32nd Avenue to 38th Avenue. In accordance with the City's Neighborhood Traffic Management Program (NTMP), the City met with the residents at a neighborhood meeting and subsequently devised a plan to install speed humps to mitigate the traffic issues. The residents then secured a petition with the necessary number of property-owner signatures supporting the installation of speed humps in accordance with the NTMP policy and are hereby seeking approval for implementation.

Staff Presentation

Steve Nguyen presented the staff report. Civil Engineer Jordan Jefferies spoke on the item where on April 28, 2014, City Council approved the NTMP to systematically address traffic issues on residential streets. The goal of the program is to foster safety and livability in neighborhoods by reducing the negative impact of vehicular traffic and speeding on residential streets. The policy intent is to clearly identify a problem, if one exists, and ensure full support from the affected residents in devising a plan through consensus to a solution(s). The NTMP provides a means and process for residents to request consideration for the installation of traffic calming measures on local streets.

Traffic calming measures may include speed humps, curb extensions, signs, speed trailers and enforcement, and other traffic control measures as requested and as applicable

Speeding and safety concerns along this segment of Dudley Street were mentioned numerous times by commenters at public meetings for the Lutheran Campus Master Plan in 2021. Dudley Street was also added to the Police Department's traffic enforcement list in an effort to curb speeding on the street. On October 5, 2021, Dudley Street residents filed a request to participate in the NTMP program. Upon receipt of the request, the City collected traffic data to determine speed, volume, and vehicle classification for the traffic on the segment. An 85th-percentile speed of 32.2 mph was observed on Dudley Street, which has a speed limit of 25 mph. This is indicative of significant driver noncompliance with the speed limit.

Public Comment

Rose Marie Bowden, 3535 Dudley St., came to comment on the proposed no parking zone. She commented at length on questionable parking practices, especially contractors, and changes that have come to pass around water flow nearby. This proposed change will create more problems than it solves.

Walt Kordziel, 3232 Dudley St., came to comment on unintended consequences of the proposed speed bumps. He is concerned about emergency vehicles passing over the speed bump, commercial deliveries. Residents will experience damage to their vehicles from passing over the speed bumps persistently. We never knew about the petition and no one we spoke with understood the purpose of the petition. He urged Council to delay action for further study and resident input.

Frank Cefaratti, 3605 Dudley St. commented on a history of drag racing along Dudley St. Vehicles going 60 mph is too dangerous for anyone. He also agrees with Ms. Bowden's comments on the no parking zone. He supports the speed bumps, especially with the coming increase of traffic with the development of the Lutheran Legacy Campus.

Council Questions and comments

MPT Stites asked Mr. Nguyen why people who had signed the petition later asked that their names be removed. He gave a detailed answer that the primary reason was they did not like the location of the speed bumps/humps.

CM Ohm asked about City policy on parking enforcement, and Mr. Nguyen again gave a specific answer.

CM Nosler Beck asked whether Dudley St has historically been a direct route to the Lutheran Emergency Department. Mr. Nguyen gave a detailed answer.

CM Hultin asked how residents were informed of the proposed solution. Mr. Nguyen gave a detailed answer. CM Hultin then asked when and how residents are informed of the proposed solution. Staff gave a detailed answer.

MPT Stites asked about the mix of residences, single family, duplex and multi-family, on Dudley and how the City contacted whom about this project. Staff answered.

Motion by CM Stites to approve installation of traffic calming devices on Dudley Street between 32nd Avenue and 38th Avenue in accordance with the neighborhood traffic management program, seconded by CM Hoppe, motion carried 8-0.

MPT Stites commented on why he believes the traffic calming devices on Dudley are essential. Slowing the traffic improves public safety.

CM Ohm predicted that traffic will shift from Dudley to adjacent streets. CM Hultin agreed with his analysis and commented on coming opportunities to revisit the TMP.

CM Nosler Beck commented that she will support the motion, because these traffic calming devices are key to reducing speed and improving public safety. Drivers need to know that speed humps indicate a danger to children and other pedestrians and cyclists.

5. Resolution No. 46-2022 - A Resolution approving an agreement with Mile High Flood District regarding funding of major drainageway planning for Clear Creek at Kipling to Wadsworth update

CM Dozeman introduced Resolution 46-2022.

Issue

The Master Drainageway Plan for Clear Creek within Wheat Ridge needs to be updated to reflect the revised flood maps that have recently been adopted by the State of Colorado. An agreement with the Mile-High Flood District needs to be executed to outline the responsibilities and funding obligations to complete the update.

Staff Presentation

Projects Supervisor Mark Westberg, gave a brief background on the item where he reported that Clear Creek is a major drainageway traversing the City for about nine miles, spanning from the west City limit to Harlan Street. In addition to parks and open space, land use adjacent to Clear Creek is predominately residential with some areas of industrial and commercial development scattered throughout the basin. The current official flood maps were completed in April 2007 to reflect changes to the drainageway since the last mapping was done in 1986. Those flood maps were adopted as the City's official maps in early 2014 after having completed the review and approval process with Federal Emergency Management Agency (FEMA).

Funding for this project has been approved in the 2022 Capital Improvement Program (CIP) budget, line item 30-302-800-837 in the amount of \$25,000. This project will be administered by MHFD. A standard agreement has been prepared by MHFD to address participation by the City in updating the Master Drainageway Plan (MDP) within the City. The estimated cost of the MDP update is \$50,000, with MHFD financing 50%. The City is responsible for the remaining 50% or \$25,000.

Mayor Starker reviewed the procedures for public comment.

Public Comment

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

Council Questions

There were none.

Motion by CM Dozeman to approve Resolution 46-2022 - a resolution approving an agreement with Mile High Flood District regarding funding of major drainageway planning for Clear Creek at Kipling to Wadsworth update, seconded by MPT Stites, the motion carried 8-0

6. Resolution No. 45-2022 - A Resolution amending the Fiscal Year 2022 General Fund Budget to reflect the approval of a supplemental budget appropriation in the amount of \$31,273 for the purpose of approving an intergovernmental agreement concerning crisis and withdrawal management services (detox) by and between Jefferson Center for Mental Health, Jefferson County and the Cities of Arvada, Edgewater, Golden, Lakewood, Wheat Ridge and Westminster

CM Nosler Beck introduced Resolution 45-2022.

Issue

The City of Wheat Ridge entered into a memorandum of understanding (MOU) with Jefferson Center for Mental Health (Jefferson Center) and other parties on January 1, 2018 for the provision of Withdrawal Management Services (detox). The MOU established the funding obligations of the local government members that are parties to the MOU and the powers and obligations of Jefferson Center. This resolution will rescind the current MOU and approve an intergovernmental agreement (IGA) to continue these Withdrawal Management Services and add Crisis Services as an obligation of Jefferson Center.

Staff Presentation

City Manager Patrick Goff gave the background on the item where he reported that through a legislative declaration in 1973, the Colorado General Assembly found and declared that alcoholism and intoxication were matters of statewide concern. The General Assembly has appropriated funding annually to support medical detoxification in the Denver metropolitan area since that time. Arapahoe House, a nonprofit health care organization and provider of treatment for drug and alcohol addiction, had a contract with the state of Colorado to provide withdrawal management (detox) services at locations in Aurora, Commerce City, and Wheat Ridge until June 30, 2017.

In late 2016, Arapahoe House announced it could no longer continue to provide detoxification services because the detox program had for years operated at a loss and the nonprofit could no longer continue subsidizing the program while also continuing its more intensive treatment efforts

The Parties to the current MOU decided it would be in the best interest of Jefferson County residents for Withdrawal Management Services to continue into the foreseeable future. Jefferson Center agreed to provide these services at the former Arapahoe House facility located at 4643 Wadsworth Boulevard in Wheat Ridge. Jefferson Center officially took over these services from Arapahoe House at the end of June 2017 and purchased

the property shortly thereafter. Mayor Starker reviewed the procedures for public comment.

The current MOU was approved to establish the funding obligations of the local government members to ensure financial viability of the services to be provided by Jefferson Center. The MOU was executed as written for the first year of the withdrawal management services program in 2017-2018.

Public Comment

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

Council Questions

There were none.

Motion by CM Nosler Beck to approve Resolution 45-2022 - a resolution amending the Fiscal Year 2022 General Fund Budget to reflect the approval of a supplemental budget appropriation in the amount of \$31,273 for the purpose of approving an intergovernmental agreement concerning crisis and withdrawal management services (detox) by and between Jefferson Center for Mental Health, Jefferson County and the Cities of Arvada, Edgewater, Golden, Lakewood, Wheat Ridge and Westminster, seconded by CM Hoppe, the motion carried 8-0

7. Motion to Adopt the 2023 City Council Meeting Calendar

CM Hultin introduced the Motion.

Issue

The calendar of City Council meetings is adopted by a motion of the City Council annually. Adopting the meeting calendar for the year is more efficient and enables the Mayor, Council, and staff to schedule other events and travel in advance. The Council will be able to amend the schedule by motion throughout the year, if necessary.

The following City Council meetings that conflict with observed City holidays or other known events during the year are recommended for cancellation.

- Study Session, January 2, 2023 - New Year's Day observance
- Study Session, January 16, 2023 - Martin Luther King, Jr. Day
- Study Session, February 20, 2023 – President's Day
- Study Session, June 19, 2023, Juneteenth
- Study Session, September 4, 2023 - Labor Day
- Regular City Council Meeting, December 25, 2023 - Christmas Day

Staff Presentation

Ms. Scheck spoke briefly on how City Charter mandates that the meeting requirements are to be held on the second and fourth Mondays of each month at 7pm unless otherwise amended and Study Sessions are held the first and third Mondays at 6:30 pm unless otherwise provided by the Mayor Pro-Tem.

Public Comment

No one came forward to speak neither in person nor on the zoom format.

Motion by CM Hultin to adopt the 2023 City Council Meeting Calendar as presented with the addition of July 3, 2023 Study Session, seconded by CM , motion carried 8-0

CITY MANAGER'S MATTERS

Mr. Goff

CITY ATTORNEY'S MATTERS

None

ELECTED OFFICIALS' MATTERS

CM Nosler Beck commented on her absence due to illness recently and she is glad to be back. She commented on WR 101 and our new police recruits make us proud. In this season of giving, please, consider adopting a family through the Action Center. Until Friday, December 16, you may still participate in the school programs for those in need.

CM Nosler Beck also suggested a study session to look at possible methods to address the apparent problem of drive-by shootings in East Wheat Ridge. Ms. Scheck also reported that Chief Murtha is about to investigate this problem.

CM Hutchinson thanked all the members who came to speak tonight. She is very concerned about the drive-by shootings. She congratulated WR 101 and our four new police officers.

CM Hultin expressed her pride in Wheat Ridge as exemplified by WR 101 and our excellent police department. She asked Mr. Dahl about possible changes to our ordinances in light of the comments from the public on recent Supreme Court decisions. Mr. Dahl agreed to take that research forward.

CM Weaver expressed her pride as well. She reminded all that we have an excellent Community Services team that will help save animals from freezing weather.

MPT Stites also commented on the excellent police recruits who joined the department recently. He congratulated all of the WR 101 graduates. He thanks staff for their amazing work on that program. He also thanked Local Works on their creativity with fund raising efforts. He also commented on ribbon cuttings he recently attended with the Mayor. He also attended Coffee with the Mayor last Saturday and was engaged by the citizens and their insightful comments. If you can find it when Holiday shopping, buy it in Wheat Ridge.

CM Hoppe reported on December 15 there will be a Christmas Party at Colorado Plus. All are invited on December 15 at 6:30.


CM Ohm suggested that perhaps geothermal energy might provide benefits to the City at some future time.

Mayor Starker commented on the Coffee with the Mayor. He also reported on an event he attended at the WR Grange. He congratulated the graduates of WR 101. It's always a pleasure to greet and meet new police recruits. Please, drive alertly and carefully, especially with weather coming. We will be back next week.

ADJOURNMENT

The meeting adjourned at 9:17 pm.

Steve Kirkpatrick, City Clerk



APPROVED BY CITY COUNCIL ON January 9, 2022



Korey Stites, 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.