

**STUDY SESSION NOTES**  
**CITY OF WHEAT RIDGE, COLORADO**  
**Hybrid - Virtual Meeting**  
**February 6, 2023**

Mayor Starker called the Study Session to order at 6:30 p.m.

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. A quorum of members (eight) of Council were present in Council Chambers for this session.

Mayor Starker welcomed the Council, other elected officials, staff and interested citizens.

The Mayor also explained the virtual/hybrid meeting format, how citizens will have the opportunity to be heard, and the procedures and policies to be followed.

Council members present Scott Ohm, Amanda Weaver, Judy Hutchinson, Janeece Hoppe, Korey Stites, Valerie Nosler Beck, Leah Dozeman, and Rachel Hultin.

Also present: City Attorney, Gerald Dahl; City Clerk, Steve Kirkpatrick, City Treasurer, Chris Miller; City Manager Patrick Goff; Deputy City Manager, Allison Scheck; Senior Planner, Scott Cutler, interested citizens and guests.

**Public's Right to Speak**

None tonight.

**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 the public 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.

No comments appeared in Wheat Ridge Speaks for this session of Council.

**1. Zoning Code Modernization**

**Issue**

From time to time, staff recommends updating the zoning code (Chapter 26) as it relates to best practices, lessons learned from peer cities, updated policies and processes, to correct typographical errors, to clarify code language, and as a result of

long-range plan adoption. Both the City's mixed-use code requirements (Article XI) and subdivision requirements (Article IV) have not been updated in some time.

## **Staff Reports**

Senior Planner Scott Cutler delivered to Council a detailed presentation about this item, and the next steps for bringing it to Council. Where the City's mixed use zone districts and standards were created in 2010 as Article XI of Chapter 26.

### **ARTICLE XI (MIXED USE CODE)**

The mixed-use districts were designed to create a flexible approach to land uses and to enhance the character of Wheat Ridge's commercial corridors. After creating the zone districts, City Council approved legislative rezonings of the 38<sup>th</sup> Avenue corridor in 2011 and the Wadsworth corridor in 2012. Since 2010, the City has seen a large amount of development and reinvestment in properties with mixed use zoning, which shows the success of those districts.

However, the mixed-use code has not been comprehensively reviewed since its adoption nearly 13 years ago. Given the large amount of development continuing to occur in mixed use districts and the continued demand to rezone to mixed use zones, staff has reviewed the code and will provide recommendations, and clarify regulations as needed.

### **ARTICLE IV (SUBDIVISION CODE)**

The City's subdivision requirements are found in Article IV of Chapter 26 of the City Code and were last comprehensively updated in 2014 when Ordinance 1547 repealed an older subdivision code and replaced it with a new version. Since 2014, 125 subdivision applications have been processed by the City. Of those 125 subdivisions, 41 of those required review from Planning Commission *and* City Council, 13 required review from Planning Commission only, and the remaining 71 were reviewed administratively.

In addition to the updates needed to address affordable housing issues, there are other recommendations within this section seek to modernize portions of the subdivision code to provide clarity and organization within the code, to establish consistent public improvement requirements, and to simplify the subdivision review process where feasible.

Councilmembers had questions and comments:

Councilmembers asked detailed questions about several topics, engaging in discussion among themselves along with staff, who answered their questions in detail. Topics discussed included:

- Traffic
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CM universally thanked staff for their hard work on this and gave special thanks

## **2. Clean Fleet Retail Delivery Fee (CFRDF) – Tax Exemption**

### **Issue**

Effective July 1, 2022, SB21-260 created within the Colorado Department of Public Health and Environment a clean fleet enterprise for the purpose of incentivizing and supporting the use of electric motor vehicles and other clean fleet technologies by owners and operators of motor vehicle fleets. The clean fleet enterprise is authorized to impose a clean fleet retail delivery fee (CFRDF) to be paid by the purchaser of tangible personal property delivered to the purchaser by a motor vehicle. The fee is \$.27 per delivery. City staff's recommendation is to follow Colorado Municipal League's (CML) recommendation and exempt the delivery fee from taxation.

### **Staff Reports**

Deputy City Manager, Allison Scheck (???) spoke on the item where the City does not currently require taxpayers to report delivery fee revenues. Therefore, staff have estimated that based on an analysis of the annual taxable revenues of seven well-known delivery-based taxpayers, taxation of the \$.27 CFRDF would generate incremental annual sales tax revenue of \$500 per year. Analyzed differently, staff estimate that if there are 1,000 daily deliveries in Wheat Ridge, on an annualized basis, incremental annual sales tax revenue from the CFRDF would approximate \$3,500.

While the good intentions of SB21-260 are indisputable, it is widely held by municipal finance leadership and CML that the CFRDF, at the State level, is a tax in disguise. In fact, the Colorado Municipal League (CML) has held several forums on the subject since early 2022. CML recommends that home-rule municipalities exempt the fee from sales tax given the absence of clear direction about taxability of the fee from the State. CML also believes that the fee could potentially trigger a TABOR challenge.

Councilmembers had questions and comments:

Councilmembers asked detailed questions about several topics, engaging in discussion among themselves and with staff including        who answered their questions in detail.

CM universally thanked staff for their hard work on this taxing process.

Mayor Starker entertained a consensus to direct staff to return to Council with

**Consensus attained.**

## **3. Review of Council Rules of Order and Procedure**

### **Issue**

Consensus was reached at the City Council Retreat on January 21, 2023 to bring forward three amendments to Council Rules of Order and Procedure. Those amendments are as follows:

1. Change the start of Regular Meetings from 7:00 p.m. to 6:30 p.m. (Section IV.A.2)
2. Add language to the Rules that states Council Members are expected to read online comments submitted through Wheat Ridge Speaks before the respective meeting
3. Add language to the Rules that states Council Members are expected to attend meetings in-person and should attend virtually only as a last resort

## **Staff Reports**

City Manager, Patrick Goff addressed Council that the Charter of the City of Wheat Ridge provides that the Council may determine its own rules of procedure for meetings. Section B of Suspension and Amendment of these Rules states “These Rules may be amended, or new Rules adopted by a majority vote of City Council Members present at a Regular or Special Meeting, provided that the proposed amendments or new Rules shall have been submitted in writing to City Council at a preceding meeting or a Study Session. Any City Council Member, or the Mayor, may initiate an amendment of these Rules in the manner provided for initiation of Agenda Items by Rule V.D. These Rules shall be reviewed and revised by the City Council as needed and as provided for herein.”

He addressed the proposed amendments being:

1. Section 5.1. – Regular meetings of the Wheat Ridge Charter states that “The Council shall meet regularly at least twice each month at a day and hour to be fixed by the rules of council. Section IV.A.2. – Types of Meetings of the Council Rules of Order and Procedures states “Regular Meetings are held the second (2<sup>nd</sup>) and fourth (4<sup>th</sup>) Monday of each month at 7:00 p.m. unless otherwise provided by amendment of these Rules. Proposed amendment is to change the start time of Regular meetings to 6:30 p.m.
2. Wheat Ridge Speaks was launched in 2019 to allow constituents to review and give input on Planning Commission and City Council actions without needing to attend public meetings. City Council Members are notified electronically when comments are submitted. It is the expectation that Council Members will log-in to Wheat Ridge Speaks before the meeting to read those comments.
3. The City implemented virtual meeting technology to allow City Council, staff, and constituents to participate in City meetings during the pandemic. This technology is still in use and used occasionally by council, staff, or the public. The proposed amendment is to include language in the Rules that it is the expectation that City Council Members will participate in council meetings in-person and only virtually as a last resort.

Councilmembers had questions and comments:

Councilmembers asked detailed questions about several topics, engaging in discussion among themselves and with staff, who answered their questions in detail.

CM universally thanked staff for their hard work on this item.

Mayor Starker entertained a consensus to direct staff to return to Council with

**Consensus attained.**

**4. Staff Report(s)**

**5. Elected Officials' Report(s)**

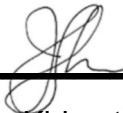
CM

The Mayor

**ADJOURNMENT**

The Study Session adjourned at 9:33 pm.

APPROVED BY CITY COUNCIL ON February 13, 2023.



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Steve Kirkpatrick, City Clerk



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Korey Stites, Mayor Pro Tem