

# **City Council Meeting Minutes**

## **CITY OF WHEAT RIDGE, COLORADO**

### **7500 WEST 29<sup>TH</sup> AVENUE, MUNICIPAL BUILDING**

**June 12, 2023**

**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. Seven 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 6:30 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

Absent: Valerie Nosler Beck

Also, present: City Manager Patrick Goff; City Attorney Gerald Dahl; Chief of Police, Chris Murtha; Deputy City Manager, Allison Scheck; Director of Comm. Development, Lauren Mikulak; Assistant City Manager, Marianne Schilling, Director of Parks and Recreation, Karen O'Donnell; Assistant City Attorney, Nick Klein; Mary Hester, Sustainability Coordinator; Jeff Streeter, Deputy City Clerk, Robin Eaton; other staff, guests and interested citizens.

#### **APPROVAL OF MINUTES**

The Study Session Notes of May 15, 2023, and City Council Meeting Minutes of May 22, 2023, were approved as published.

#### **APPROVAL OF AGENDA**

Agenda item Resolution 33-2023 was pulled from the agenda. The rest of the agenda stood as announced

#### **PROCLAMATIONS AND CEREMONIES**

##### **Juneteenth Proclamation**

Mayor Starker recognized Juneteenth 2023 and urged all community members to work together to advance the principles of equal rights, justice, and opportunity for all regardless of race, gender, age, religion, ability, sexual orientation, or gender identity and expression

## **Leave No Trace Proclamation**

Mayor Starker proclaimed June 17, 2023, as Leave No Trace Day and encouraged all residents to follow Leave No Trace principles and to take active roles in preserving our natural resources for future generations by following the seven principles to plan ahead, prepare, travel and camp on durable surfaces, respect wildlife, and be considerate of others.

Accepting the proclamation is a group from the Parks and Recreation Department and the City Manager's office, Benny Paiz PFOS Supervisor and Susan Bennett, Environmental Interpreter both from Parks and Recreation, and Mary Hester Sustainability Coordinator from the City Manager's office accepted the award.

Multiple Leave no trace Events will be this weekend.

## **PUBLIC'S RIGHT TO SPEAK**

There were 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 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.

## **1. CONSENT AGENDA**

CM Ohm introduced the consent agenda.

- a. Resolution No. 32-2023 – a resolution approving the fourth amendment to an intergovernmental cooperation agreement between Jefferson County and the City of Wheat Ridge, Colorado, pertaining to Community Development Block Grant funding

## **Issue**

Based on a relatively small population, Wheat Ridge is not independently eligible for a direct allocation of Community Development Block Grant funds from the federal Department of Housing and Urban Development. Instead, the City has a longstanding

partnership with Jefferson County whereby the County and its smaller jurisdictions collectively are eligible for these federal funds. This partnership is memorialized in an intergovernmental agreement which has been in place since 2011. The purpose of this resolution is to approve a fourth amendment to the agreement which modifies language in compliance with federal requirements.

- b.** Resolution No. 33-2023 - a resolution approving an agreement with Denver Urban Gardens, Inc. associated with the Happiness Gardens Food Forest

### **Issue**

City staff worked with Denver Urban Gardens (DUG) to create a Food Forest at Happiness Gardens, which was dedicated on May 5, 2023. The agreement details the ongoing relationship between the City and DUG related to the Food Forest, and the responsibilities of each entity.

- c.** Resolution No. 34-2023 – a resolution approving a supplemental budget appropriation in the amount of \$523,551 to appropriate the Metropolitan Football Stadium District reimbursement for youth activity programs

### **Issue**

The City of Wheat Ridge received \$523,551 from the sale of the Denver Broncos Football Club. The funds must be used for “youth activity programs” within the Wheat Ridge community. Staff presented recommendations based on youth feedback at the June 5<sup>th</sup> study session. This resolution will appropriate the stadium district funds for this project(s)

- d.** Motion to approve appointment by City Manager to Cultural Commission

### **Issue**

On May 7, 2023, Nancy Dragani, an At-Large member of the Cultural Commission resigned her position effective immediately. The vacancy was posted for a term of two weeks on the City of Wheat Ridge web site and promoted through various channels from May 8 to May 21. Applications have been compiled for the City Manager’s review so that the seat can be filled.

**Motion** by CM Ohm to approve Consent Agenda Items a.), b.), and d.) seconded by CM Hoppe, motion carried 7-0 Item c. was removed at the beginning of the meeting, and thus not voted on.

## **PUBLIC HEARINGS AND ORDINANCES ON SECOND READING**

- 2.** Council Bill No. 12-2023 – An Ordinance amending Section 17-36 of the Wheat Ridge Code of Laws to address the use of assisted mobility devices in Conservation Areas

CM Hoppe introduced Council Bill 12-2023

### **Issue**

On July 11, 2022, City Council amended Section 17-52 of the Wheat Ridge Code of Laws to permit the use of assisted mobility devices in conservation areas by persons with disabilities. Subsequently, it was determined additional sections of the Code should have also been amended, as well, to address this same issue. This ordinance will amend Section 17-36 to address the use of mobility devices in conservation areas.

Mayor Starker opened the public hearing

Deputy City Clerk Robin Eaton assigned Ordinance No. 1764.

### **Staff Presentation**

Parks and Recreation Director Karen O'Donnell gave a detailed presentation which included the background where the current Section 17-36 of the Code titled "Conservation area" was adopted in 2004. Section 17-52 of the Code titled "Vehicles" was updated on July 11, 2022, to allow for the use of assisted mobility devices in conservation areas.

The Americans with Disabilities Act (ADA) requires public and private entities to make reasonable accommodations to their facilities and programs in order to ensure that persons with disabilities are able to access and use the same in substantially the same manner as other persons. Familiar examples are curb ramps for accommodating wheelchairs, reserved parking spaces and similar accessibility accommodations. Certain City 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. Ms. O'Donnell noted that staff will monitor use of the affected trails and adjust the policy as needed.

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Afterwards she stood by to answer any questions.

### **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**

No comments from Council Members or Mayor.

**Motion** by CM Hoppe to approve Council Bill No. 12-2023 - an ordinance amending Section 17-36 of the Wheat Ridge Code of Laws to address the use of assisted mobility

devices in conservation areas on second reading, ordered it published, and that it takes effect 15 days after final publication, seconded by CM Stites, motion carried 7-0.

3. Council Bill No. 13-2023 – An Ordinance repealing and amending certain weapon offenses in Chapter 16 of the Wheat Ridge Code of Laws in response to U. S. Supreme Court Case Law.

MPT Stites introduced Council Bill 13-2023

### **Issue**

This ordinance will repeal Sections 16-84 and 16-87 and amend Section 16-89 of the Wheat Ridge Code of Laws to conform with the recent Supreme Court ruling in *New York State Rifle & Pistol Association, Inc. v. Bruen*, concerning weapon offenses.

Mayor Starker opened the public hearing.

Deputy City Clerk Robin Eaton assigned Ordinance No. 1765.

### **Staff Presentation**

Chief of Police, Chris Murtha and Assistant City Attorney Nick Klein, City Attorney presented to council where in the recent Bruen decision, the Supreme Court chose to adopt the “historical tradition” test for the constitutionality of government firearm regulations. The burden now falls on a government to show there is a national historic tradition for a given firearm regulation, meaning a tradition generally in place when the Second Amendment was ratified in 1791. In reaching its holding, the Court also upheld the “sensitive places” doctrine, which permits a court to use analogies to “longstanding laws forbidding the carrying of firearms in sensitive places such as schools and government buildings to determine whether modern regulations are constitutionally permissible.”

The Court found that “[t]he Second Amendment's plain text thus presumptively guarantees a right to ‘bear’ arms in public for self-defense”. The Court reasoned that “Americans hazard greater danger outside the home than in it and that the text of the Second Amendment reflects that reality.” The *Bruen* Court held that the definition of “bear” naturally “encompasses public carry” of firearms and that to confine to the “right to ‘bear’ arms to the home would nullify half of the Second Amendment’s operative protections.”

The net of the decision, as affecting the City’s regulation of the possession and public carrying of weapons by citizens, is that it is necessary to revise the City’s Code to reflect the “historical tradition” and “sensitive places” doctrines. While the courts will certainly further define the practical effect of the Supreme Court’s decision, in the meantime it is necessary to revise the Code on the basis of what we now know and can reasonably assume.

In response to *Bruen*, the following code sections should be repealed or amended:

- Sec. 16-84. - Carrying, etc., illegal weapons. (Repealed)
- Sec. 16-87. - Carrying, etc., where intoxicants are sold. (Repealed)
- Sec. 16-89. - Deadly weapons on city property prohibited. (Amended)

After the presentation, they stood by to answer questions.

### **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 Weaver asked detailed questions of the Chief and the City Attorney's office regarding clarification of some of the terms and how residents will navigate through the process. Staff and Mr. Dahl gave specific answers to the inquiries.

**Motion** by MPT Stites to approve Council Bill No. 13-2023 - an ordinance amending repealing and amending certain weapon offenses in Chapter 16 of the Wheat Ridge Code of Laws in response to U.S Supreme Court case law, on second reading, order it published, and that it shall take effect 15 days after final publication., seconded by CM Ohm, motion carried 7-0

### **ORDINANCES ON FIRST READING**

4. Council Bill No. 14-2023 – An Ordinance amending Article XI of Chapter 26 of the Wheat Ridge Code of Laws concerning requirements for mixed-use zone districts.

CM Dozeman introduced Council Bill 14-2023

### **Issue**

The proposed ordinance makes necessary updates to Article XI of Chapter 26 of the Code of Laws specifically to update and clarify development requirements for mixed use zone districts. The ordinance seeks to modernize portions of the mixed-use code, to provide better clarity and organization for easier administration, and to establish standards that were not included in the original regulations.

**Motion** by CM Dozeman to approve Council Bill 14-2023, an ordinance amending Article XI of Chapter 26 of the Wheat Ridge Code of Laws concerning requirements for mixed use zone districts, on first reading, order it published, public hearing set for Monday, June 26, 2023, at 6:30 p.m. as a virtual meeting and in City Council Chambers and that it takes effect 15 days after final publication, seconded by CM Stites, motion carried 7-0.

5. Council Bill No. 15-2023 – An Ordinance amending Articles V and XI of Chapter 26 of the Wheat Ridge Code of Laws, concerning parking requirements for deed-restricted affordable housing, and making conforming amendments therewith

CM Hultin introduced Council Bill 15-2023

### **Issue**

The proposed ordinance reduces minimum parking requirements for deed-restricted affordable dwelling units in multi-unit residential zones and in mixed-use zones, including transit-oriented development (TOD) areas.

**Motion** by CM Hultin to approve Council Bill 15-2023, an ordinance amending Articles V and XI of Chapter 26 of the Wheat Ridge Code of Laws, concerning parking requirements for deed-restricted affordable housing, and making conforming amendments therewith, on first reading, order it published, public hearing set for Monday, June 26, 2023 at 6:30 p.m. as a virtual meeting and in City Council Chambers and that it take effect 15 days after final publication; seconded by CM Ohm, motion carried 7-0.

6. Council Bill No. 16-2023 – An Ordinance amending Articles I and II of Chapter 26 of the Wheat Ridge Code of Laws, concerning definitions and regulations for childcare facilities, and making conforming amendments therewith.

CM Hoppe introduced Council Bill 16-2023

### **Issue**

The proposed ordinance allows day care centers in Neighborhood Commercial (NC) and Restricted Commercial (RC) zone districts, updates the code to align with State regulations, provides cross-references in the zone district use chart for home-based day care which are allowed as home occupations, and permits day care centers at institutional properties in residential and agricultural zone districts. The ordinance is intended to reduce barriers to opening new childcare facilities in Wheat Ridge.

**Motion** by CM Hoppe to approve Council Bill 16-2023, an ordinance amending Articles I and II of Chapter 26 of the Wheat Ridge Code of Laws, concerning definitions and regulations for childcare facilities, and making conforming amendments therewith, on first reading, order it published, public hearing set for Monday, June 26, 2023 at 6:30 p.m. as a virtual meeting and in City Council Chambers and that it take effect fifteen (15) days after final publication; seconded by CM Dozeman, motion carried 7-0.

## **DECISIONS, RESOLUTIONS AND MOTIONS**

7. Motion to Approve an Appointment to the Parks and Recreation Committee

CM Weaver introduced the Motion.

## **Issue**

On May 8, 2023, Patrick Quinn from District III resigned from the Parks and Recreation Committee effective immediately, to accept a position in District III on the Planning Commission. The vacancy was posted for a term of two weeks on the City of Wheat Ridge web site and promoted through various channels from May 8 through May 21. Applications have been compiled for Council's review so that the seat can be filled. While there are no applicants from District III, Council may appoint a member from a different district to fill this seat.

## **Staff Presentation**

Deputy City Manager Allison Scheck gave a brief presentation, where after normal advertisements for the annual Boards and Commissions seats, the resignation of one Parks and Recreation member was received by the Commission Liaison on May 8, 2023. The City retains applications for a period of one year. Council's Appointment Packet included the applications received in the last twelve months and new applications as a result of this vacancy and posting

Motion by CM Weaver to appoint Mark Doody to the Parks and Recreation Committee, term to expire March 02, 2026, seconded by CM Stites, motion carried 7-0.

CM Hultin thanked those just appointed and those continuing to serve for their volunteerism for the benefit of the community.

8. Resolution No. 35-2023 – a Resolution establishing the Wheat Ridge Housing Fund, transferring \$436,680 from General Fund Reserves and authorizing payment to Foothills Regional Housing in the amount of \$400,000 for the purpose of an affordable housing project

CM Hultin introduced Resolution 35-2023

## **Issue**

City Council directed staff to establish the Wheat Ridge Housing Fund, a recommendation of the recently adopted Affordable Housing Strategy and Action Plan, using the General Fund portion of short-term rental (STR) lodgers' tax revenue. Foothills Regional Housing recently approached the City about a rare opportunity to purchase a 24-unit apartment complex at 4097 Vance Street to serve residents in the 50-80% area median income (AMI) category. This is a unique opportunity to take an early implementation step in the Affordable Housing Strategy by creating new affordable units in Wheat Ridge.

This resolution creates the Wheat Ridge Housing Fund, transfers the applicable portion of STR lodgers' tax revenue from the General Fund reserves to the Wheat Ridge Housing Fund, and authorizes a \$400,000 payment to Foothills Regional Housing to assist in the purchase of the 24-unit affordable housing complex.



## **Staff Presentation**

City Manager Patrick Goff presented to council the prior actions and background on the issue where on January 9, 2023, City Council adopted the Affordable Housing Strategy and Action Plan and on the same evening, provided consensus to place all past and future General Fund STR lodgers' tax revenues into the Wheat Ridge Housing Fund for the purpose of funding programs and initiatives designed to increase affordable housing in Wheat Ridge.

In May 2023, Foothills Regional Housing (FRH) approached the City with a rare opportunity to purchase a brand-new building at a price less than a new build would cost. FRH is aware of the City's affordable housing needs and approached the City about contributing to the cost of the building in exchange in for preferential treatment for access to project based voucher units for residents working with the City's housing navigation program.

This 24-unit complex, known as Sweetridge Apartments and located at 4097 Vance Street, includes a mix of one-bedroom and two-bedroom apartments. FRH plans to designate 12 units at a maximum AMI of 50% and 12 units at a maximum AMI of 80%.

## **Public Comment**

No one came forward to speak.

## **Council Questions and comments**

CM Hultin thanked staff on making this happen and shared her appreciation for it.

CM Hoppe thanked CM Hultin for her work on her resolution.

CM Ohm thanked CM Hultin and staff for their work on this.

Mayor Starker commented that he spoke with Foothills Regional Housing, and they were very complimentary toward the staff and City Council for making this happen.

**Motion** by CM Hultin to approve Resolution No. 35-2023, a resolution establishing the Wheat Ridge Housing Fund, Transferring \$436,680 from General Fund reserves and authorizing payment to Foothills Regional Housing in the amount of \$400,000 for the purpose of an affordable housing project, seconded by CM Hoppe, motion carried 7-0.

9. Motion approving a legal services agreement between the City and Murray, Dahl, Beery, Renaud LLP

MPT Stites introduced the Motion

## **Issue**

The City's Home Rule Charter at Section 8.1 provides for appointment of the City Attorney by the City Council. The current legal services agreement is updated and should be renewed.

### **Staff Presentation**

Patrick Goff spoke briefly where Gerald Dahl was appointed City Attorney in 1995, the City Attorney is presently compensated at \$190 per hour. This rate has been in effect since February 2021. The City Attorney is requesting a change in the rate to \$225/hour. City Attorney address staff with comments explaining rate adjustments and explains what a great client the City has been.

### **Public Comment**

No one came forward to speak.

### **Council Questions and comments**

CM Hoppe stated that she was happy to continue to retain City Attorney Dahl and was appreciated his institutional knowledge and service to the City. Mayor Starker also commented his appreciation of Attorney Dahl and the way he keeps his presentations to a minimum of what is needed.

**Motion** by MPT Stites to approve a legal services agreement between the City and Murray, Dahl, Beery, Renaud LLP, seconded by CM Ohm, motion carried 7-0.

13. Resolution No. 36-2023 – A Resolution approving a budget supplemental appropriation to add an IT Project Manager

CM Hutchinson introduced Resolution 36-2023

### **Issue**

The City is in the contracting phase for new enterprise resource planning systems (ERP) with the anticipated project start date of October 2023. Through months of research and discussions with the City's consultant and other jurisdictions, it has become clear that the City is not staffed appropriately to undertake this scale of project and that the addition of a full-time project manager is necessary to ensure success.

### **Staff Presentation**

Deputy City Manager Allison Scheck presented to council the prior actions and background on the issue where one of the of Council's strategic priorities is to streamline permitting and licensing. In discussions with Council previously, staff have shared that the primary solution to enhance the customer experience is to modernize the City's enterprise resource planning systems and depart from the legacy system that hampers collaboration and transparency.

The City now has a preferred system for finance, building permitting and court, and is participating in product demonstrations with human resource information systems

(HRIS) and revenue. Staff expects to have a contract before council later this summer with the implementation kickoff for finance in the fall of this year.

Staff expects the full implementation of all systems to take 24-36 months. A great deal of process improvement and change management will occur before, during and after implementation. Having spoken with a number of professionals who have experienced a transformation such as this, it is evident that we need a dedicated project manager on staff who will lead this effort and remain on board with all the institutional knowledge gained throughout the implementation. A full job description was submitted for Council's review.

### **Public Comment**

No one came forward to speak.

### **Council Questions and comments**

No one came forward to speak.

**Motion** by CM Hutchinson to approve Resolution No. 36-2023, a resolution amending the Fiscal Year 2023 General Fund budget to reflect the approval of a supplemental budget appropriation in the amount of \$62,089 for the addition of one full-time IT Project Manager, seconded by CM Stites, motion carried 7-0.

### **CITY MANAGER'S MATTERS**

Mr. Goff had nothing to report

### **CITY ATTORNEY'S MATTERS**

Attorney Dahl had nothing to report

### **ELECTED OFFICIALS' MATTERS**

CM Nosler Beck – not in attendance

CM Hultin c - District II has two businesses with lines waiting for them, King of Wings and GetRight's. District II has good stuff. Want to continue sharing her trip through Happiness Gardens. If you have not walked through there, I would encourage you to. Regenerate WR program, one Wednesday a month. Please engage in all the good things happening there.

CM Hutchison – nothing to report

CM Ohm a. – had an opportunity to stop at the GetRight's Bakery, and was very happy about his purchase, was a line, and was worth the wait. He would recommend going there.

CM Dozeman – nothing to report

CM Weaver – nothing to report

MPT Stites – if you can find nuggets gear in WR, buy it here.

Mayor Starker – thanks Vinnola's for hosting the Coffee with the Mayor

**ADJOURN TO SPECIAL STUDY SESSION**

The meeting adjourned at 7:30 pm.

APPROVED BY CITY COUNCIL ON July 24, 2023

A handwritten signature in dark ink, appearing to read "Robin Eaton", is written over a solid black horizontal line.

Robin Eaton, Deputy City Clerk

A handwritten signature in dark ink, appearing to read "Korey Stites", is written over a solid black horizontal line.

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.