

City Council Meeting Minutes

CITY OF WHEAT RIDGE, COLORADO

7500 WEST 29TH AVENUE, MUNICIPAL BUILDING

September 25, 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. 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 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

Valerie Nosler Beck was absent for healthcare reasons.

Also, present: City Manager Patrick Goff; City Attorney Gerald Dahl; Deputy City Manager, Allison Scheck; Director of Public Works, Maria D'Andrea; Director of Community Development, Lauren Mikulak; Senior Planner, Scott Cutler; other staff, guests and interested citizens.

APPROVAL OF MINUTES

- Study Session Notes of September 18, 2023
- City Council Meeting Minutes of August 28, 2023, and September 11, 2023

The above Notes and Minutes were approved without changes except for one edit found by CM Hutchinson to the August 28 minutes, which has been corrected.

APPROVAL OF AGENDA

Without objection or correction, the agenda stood as announced.

PROCLAMATIONS AND CEREMONIES

Proclamation honoring Dr. Michele Haney Day, September 25, 2023

Mayor Starker read the proclamation where Dr. Michele Haney serves as the President of Red Rocks Community College, one of the Colorado Community College Systems largest colleges, serving 10,000 students across its two campuses in Lakewood and Arvada. The Mayor presented the proclamation to Dr. Michele Haney who accepted the honor saying this proclamation is a great thing. Dr. Haney graciously accepted the honor.

Proclamation recognizing Cancer Awareness Month

Mayor Starker proclaimed October 2023 as Breast Cancer Awareness month as it marks 38 years that National Breast Cancer Awareness Month has educated women about early breast cancer detection, diagnosis and treatment.

Proclamation Domestic Violence Awareness Month

The Mayor recognized the Porchlight Family Justice Center, which provides comprehensive legal, emotional and critical supportive services for survivors of domestic violence, who thanked the staff across several City departments for their hard work and help.

PUBLIC'S RIGHT TO SPEAK

Dan Larson, 4799 Flower St., came to announce his candidacy for CM in D IV. He recalled his history in Wheat Ridge, and his service to the City on the Planning Commission. He outlined his candidate platform and reminded folks of the Candidates' Forum this Wednesday, September 27.

Jerry DiTullio, Jeffco Treasurer, 100 Jefferson County Pkwy., Golden. Treasurer DiTullio announced the 2023 refunds of property taxes per TABOR. The checks will hit the mail October 16 will average about \$185. Please, do not return the check; the County must by law send the money back.

Alma Carrillo, 550 S. Wadsworth Blvd, Congresswoman Brittany Pedersen's office. She came to announce recognition for our veterans through Representative Pedersen's office.

Jenny Snell, 7020 W. 35th Ave, called to announce her candidacy for CM from D I. She looks forward to continuing the good work Council is doing now.

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).

The following comments appeared in Wheat Ridge Speaks for this session of Council:

Kim Calomino

Sep 25, 2023 at 10:20am

Address:

4070 Dover Street Wheat Ridge, 80033

Comment

I encourage council to approve the proposed zoning change for this property. The proposed change meets the necessary criteria, supports the vision of the comprehensive code, brings the property into alignment with the zoning and future use of the adjacent property, and most importantly provides more land and greater flexibility to Foothills Regional Housing in the development of much needed affordable housing.

Janet M Swank

Sep 24, 2023 at 11:01am

Address:

5091 GARRISON ST Not Hispanic or Latino, 80033

Comment

The location at 44th and Wadsworth seems ideal, close to retail facilities and public transportation. I once saw a program about a section 8 housing development which had been renovated and the citizens living there were given the power to self-govern their community. It seemed to be working well. Perhaps something similar could be part of this development.

Arthur J. Hertel

Sep 24, 2023 at 4:48pm

Address:

10695 W. 26th Ave. Wheat Ridge, 80215

Comment

I urge the council to support the rezoning of the Ives property at 44th and Wadsworth. There is a tremendous need for affordable housing in Wheat Ridge. Affordable housing will enable many workers to live and work in our community which is vital to a vibrant community.

Ken Jahner

Sep 21, 2023 at 8:59am

Address:

2615 Oak Dr. Unit 11 Lakewood, 80215

Comment

I strongly support the rezoning for the property, the Ives, at 44th and Wadsworth. There is a vital need for more affordable housing in Jefferson County and feel that this project would provide another resource for those economically challenged and the homeless.

CONSENT AGENDA

Nothing tonight

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

1. Council Bill No. 22-2023 – An Ordinance approving the rezoning of property located at 7575 W. 44th Avenue from Commercial-One (C-1) to Mixed Use-Commercial (MU-C).

CM Hultin introduced Council Bill 22-2023.

Issue

The City owns the former Bank of the West property at 7575 W. 44th Avenue and is proposing a zone change from Commercial-One (C-1) to Mixed Use-Commercial (MU-C). The zone change will result in a zoning that matches surrounding zoning and enables redevelopment of the site by expanding permitted uses.

The Mayor opened the public hearing, which is quasi-judicial.

Staff Presentation

Planner II, Alayna Olivas-Loera briefly reported on the prior actions, financial impacts and background where the subject property is currently owned by the City. On August 14, 2023, City Council approved Ordinance No. 1770, Series 2023, approving the sale of the property to Foothills Regional Housing (“Foothills”) in anticipation of Foothills including the parcel with the larger Ives affordable housing development. If the sale is completed, any future development plans for the site would have to be approved by the City prior to development.

Ms. Olivas-Loera also gave a detailed description of the property which is 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 entirely surrounded by Mixed Use-Commercial (MU-C) zoning. Surrounding land uses are non-residential in nature, including a propane business, the former Pep Boys building, and the office building owned by Foothills. Recent development projects in the area include Foothills Ives development to the north, and the Town Center and Town Center North Apartments to the southeast at 44th Avenue and Vance Street.

Afterwards she stood by to answer any questions.

Public Comment

Margie Robinson, 4 Hillside Drive. She came to support this rezoning ordinance. She recounted comments she has heard from other WR residents about fears that this change would increase the crime rate in that neighborhood. She cited research that led to the conclusion that low-income housing actually has no effect or slightly decreases the crime rates. Similar research concluded that these projects do not put downward pressure on nearby real estate values. She continued to dispel myths about the impact of affordable housing has on people experiencing homelessness.

Julie Wheelless, 7250 W. 46th Place came to express concerns about the buildings at Wadsworth and 44th. She supports low-income housing but has some questions about security in those locations. Will there be security on site? If so, during what hours? She also commented on a park nearby, Appel Bacher, and asked if there will be police presence or other security to protect residents using the park. Are you expecting increased foot traffic in the park, and what about security when it increases? She asked for a public meeting of neighborhood residents to discuss these issues.

Dawn Underwood came to ask for more information about the plans for the same low-income housing development. She requested specific details on timelines, milestones, plans for security and safety, among other concerns. She asserted that she asked CM Hultin to convene a meeting of residents, Parks and Rec staff and the WR PD to discuss the neighborhood’s concerns about safety and security. She stated that as of today she has not been able to organize that meeting.

Council Questions and comments:

Mr. Dahl asked to be recognized, so that he could explain the rules of quasi-judicial hearing before Council so that the public will understand that CM may not discuss this issue among themselves or with anyone else prior to the public hearing during Council.

CM Hultin commented on the proposed zoning change and the process of involving residents in the decision-making processes. She opined that while staff followed the letter of the law, she and other CM have asked that the notification boundary for projects like this is expanded. She and CM Ohm have organized a public meeting in October. She then asked some detailed questions, to which staff provided specific answers.

MPT Stites asked whether the staff plans for fencing around Apel Bacher Park. Mr. Goff gave a detailed reply.

CM Dozeman echoed residents' concerns about this project. She opined that this rezoning request is for a tiny parcel surrounded by another property, the zoning of which has already been changed. Mr. Goff gave detailed comments on the history of the parcel in question. CM Dozeman then asked a question about the agreements between the City and Foothills Housing Authority; again, Mr. Goff gave a detailed answer.

CM Ohm asked for an explanation of how this project helps the City implement the statewide proposition passed by voters to fund affordable housing. Mr. Goff gave a detailed answer.

The Mayor closed the public hearing.

Motion by CM Hultin to approve Council Bill 22-2023 – an ordinance approving the rezoning of property located at 7575 W. 44th Avenue from Commercial-One (C-1) to Mixed Use-Commercial (MU-C) on second reading, and that it takes effect 15 days after final publication, seconded by CM Hoppe, motion carried 7-0.

During discussion on the motion, CM Hultin opined that the lack of public involvement resulting from the staff adherence to the law has understandably left residents frustrated. She would also be frustrated. She stated that this is not an attempt to “pull a fast one,” by the City. She is looking forward to the public meeting in October, during which there will be detailed and robust discussion of these issues. She understands that people are frustrated by the lack of notice that resulted from complying with the letter of the law, and Council is working to fix that loophole during sessions in November.

MPT Stites agreed with CM Hultin's comments. This is the perfect place for affordable housing, as it is near public transit, shopping and supermarkets. He too looks forward to the public meeting at which CM Hultin and Ohm will help air all of our residents' questions and concerns.

CM Ohm thanked those who came tonight to comment on this proposed ordinance. He also thanked staff for their hard work on this matter, especially help to Council with communicating facts to our residents. He encouraged residents to use the resources at their disposal, such as Wheat Ridge Speaks, to engage and communicate.

CM Dozeman expressed her support for the project, saying it is an ideal place for such a project. The partnership with Foothills Housing Authority makes this project possible. She thinks this will enable nurses, police officers and other young professionals to not only work in WR but also live here. She also recalled the major progress Council and staff have made in improving communication with and from our residents over the past 6 years she has served on Council.

CM Weaver commented on affordability and who that impacts. She said she, as a teacher, would not be able to afford a home in WR today.

CM Hultin also supports the motion for several reasons among them the economic impacts the project will have on the City.

CM Hutchinson opined that this is a very good location for this program, along major corridors with shopping, transit, transportation and other services nearby.

2. Council Bill No. 24-2023 – An Ordinance amending Article III of Chapter 22 of the Wheat Ridge Code of Laws concerning basic local telecommunications service.

CM Weaver introduced Council Bill 24-2023

The Mayor opened the public hearing, noting that this matter is not quasi-judicial.

Issue

The City's code regarding the taxation of basic local telecommunication services requires revision. The current code is based on the false premise that Lumen (formerly US West, Qwest, and Century Link) is still the primary provider of telephone lines in the City. Based on this premise, competitors are charged a per line rate computed from Lumen's number of lines and the flat occupation tax paid by Lumen per ordinance 1997-1072. Due to the rapid decline of land lines provided by Lumen, the per line charge to other providers has risen substantially. Furthermore, the current code is confusing as to how cellular lines are treated from a taxation perspective.

The types and means of delivery of telecommunication services has evolved significantly since the City enacted its telecommunication occupation tax code in 1997. The current code does not reflect the status of the telecommunications industry nor is it consistent with Wheat Ridge's municipal neighbors. Staff recommends an update to the tax code to ensure equity, simplicity, revenue preservation and ease of administration for both telecommunication providers and City staff.

The Mayor opened the public hearing, which is not quasi-judicial.

Staff Presentation

Deputy City Manager Alli Scheck briefly reported on the prior actions where in 1997, Council approved ordinance 1072 substantially amending the Wheat Ridge Code of Laws concerning the taxation of basic local telecommunication services that had been

in force since 1977. That action was driven primarily by the Federal Telecommunications Act of 1996 deregulating basic local telecommunication services to improve competition at the local level.

Key code changes from that action included the creation of a single incumbent basic local service provider, U.S. West, and an occupational tax rate dependent on an annual historical tax value attributed to U.S. West of \$190,575. This ordinance also included the provision of cellular service in the definition of “basic local telecommunications service,” but the text is confusing and contradictory..

Afterwards Ms. Scheck stood by to answer any questions.

Public Comment

There was none.

Council Questions and comments

CM asked detailed questions about how this action will impact businesses and residents, which staff answered.

The Mayor closed the public hearing.

Motion by CM Weaver to approve Council Bill 24-2023 – an ordinance amending Article III of Chapter 22 of the Wheat Ridge Code of Laws concerning basic local telecommunications service., on second reading, and that it takes effect immediately upon adoption, seconded by CM Hoppe, motion carried 7-0.

CM Hultin asked about considering this issue now, instead of after an upcoming hearing in Study Session about uncoded special committees and task forces. Staff explained that there are separate issues, one involving codified and the other non-codified groups. Council will include these two issues in forthcoming Council agendas.

PUBLIC HEARINGS AND ORDINANCES ON FIRST READING

3. Council Bill 25-2023 – An Ordinance amending Sections 2-53 and 2-55 of the Wheat Ridge Code of Laws concerning membership of Boards and Commissions.

CM Hutchinson introduced Council Bill 25-2023

Issue

The City of Wheat Ridge has seen an exceptional increase in the desire to join City Boards and Commissions. Recognizing this, Council studied how to provide greater opportunities for interested residents and make general improvements to the City’s Boards and Commissions.

Staff Presentation

There was none as this is a bill on first reading.

Public Comment

No one came forward in person or online to speak.

Motion by CM Hutchinson to approve Council Bill 25-2023 – an ordinance amending Sections 2-53 and 2-55 of the Wheat Ridge Code of Laws concerning membership of Boards and Commissions on first reading, order it published, public hearing set for Monday, October 9, 2023 at 6:30 p.m. as a virtual meeting and in City Council Chambers, and that it takes effect on March 1, 2024, seconded by CM Hoppe, motion carried 7-0.

4. Council Bill 26-2023 – An Ordinance amending Sections 11-504, 11-506 and 2-80 of the Wheat Ridge Code of Laws concerning short term rental licensing enforcement.

CM Hoppe introduced Council Bill 26-2023

Issue

City Council enacted legislation concerning the licensing and enforcement of short-term rentals (STRs) in February 2021. Since that time, staff has been working to implement the legislation by licensing STRs, collecting the applicable lodgers' tax and enforcing the provisions of the original ordinance. It has become apparent that there are some weaknesses in the existing code that make enforcement action against illegal STRs challenging. Staff recommends a code amendment so that Council's original intent, to ensure that only legally licensed STRs exist in Wheat Ridge, can be realized.

Motion by CM Hoppe to approve Council Bill 26-2023 – an ordinance amending Sections 11-504, 11-506 and 2-80 of the Wheat Ridge Code of Laws concerning short term rental licensing enforcement, on first reading, order it published, the public hearing set for Monday, October 9, 2023 at 6:30 p.m. as a virtual meeting and in City Council Chambers, and that it takes effect upon adoption and signature by the Mayor and City Clerk, as permitted by Section 5.11 of the Charter, seconded by CM Ohm, motion carried 7-0.

DECISIONS, RESOLUTIONS AND MOTIONS

5. Resolution No. 46-2023 – a resolution in support of the City filing a commitment to the State of Colorado, Division of Housing, to increase the City's supply of affordable housing to be eligible for future Proposition 123 funds.

CM Dozeman introduced Resolution 46-2023.

Issue

Addressing housing affordability is one of the City's and State's most pressing issues. Colorado voters enacted Proposition 123 in 2022 that will make several hundred million dollars available for affordable housing statewide starting in late 2023. For a project to be eligible for these funds in Wheat Ridge, the City must file a commitment to increase its supply of affordable housing over the next three years to the State of Colorado, Division of Housing. This commitment is due by November 1, 2023.

Staff Presentation

Planning Manager, Jana Easley recalled to council the prior actions taken where City Council adopted the Affordable Housing Strategy and Action Plan ("Strategy") on January 9, 2023, and subsequently created the Wheat Ridge Housing Fund on June 12, 2023. City Council approved a new position and budget supplemental for a Housing Program Administrator on May 22, 2023. At the August 21, 2023, City Council Study Session, the council offered unanimous support for a resolution in support of filing a three-year commitment.

Ms. Easley added that filing a commitment to increase the City's supply of affordable housing will not have an immediate financial impact on the City; however, it is a necessary step for the City, or any affordable housing developer with a project in the City, to be able to access Proposition 123 funds over the next three years through December 31, 2026.

She spoke on addition topics to include Backgrounds on:

- Proposition 123
- Affordable Housing Commitment
- Establishing a Baseline

Concluding that this is a resolution of support for the City to file this affordable housing commitment in order to be eligible for Proposition 123 funds over the next three years. Staff recommends approval of the resolution and would subsequently file this commitment by November 1, 2023

Project Manager, Jana Easley then stood by to answer questions.

Public Comment

No one came forward to speak.

Council Questions and comments

CM had few questions or comments, having previously studied this issue in depth many times in Study Sessions and Council Meetings.

CM Dozeman asked a detailed question about whether the current project at 44th and Wadsworth will count toward the City's quota of affordable housing. Staff responded that the state has not provided clarity on that question to date.

Motion by CM Dozeman to approve Resolution No. 46-2023, a resolution in support of the City filing a commitment to the State of Colorado, Division of Housing, to increase the City's supply of affordable housing to be eligible for future Proposition 123 funds, seconded by MPT Stites; motion carried 7-0.

6. Motion to amend the contract with Sunland Asphalt and Construction, LLC for the Recreation Center Parking Lot Repair Project to allow for an additional contingency amount of \$30,000 for a total not-to-exceed amount of \$619,400.72.

MPT Stites introduced the Motion.

Issue

A contract for the repair of the Recreation Center parking lot was approved by City Council in June 2023 in the amount of \$485,900.72 plus a staff-managed contingency of \$48,500 for a total not-to-exceed contract amount of \$534,400.72. On August 28, 2023, the City Council approved an additional contingency amount of \$55,000 for additional items associated with ADA modifications, electrical vehicle striping, and drainage improvements. The actual cost of the change order exceeds the approved amount, so staff is requesting that the contingency amount be increased by an additional \$30,000 to cover all these items fully. This would increase the total not-to-exceed amount of the contract to \$619,400.72.

Staff Presentation

Director of Public Works, Maria D'Andrea presented to council the prior actions and financial impact where \$1,832,725.00 was budgeted for design and construction of this project in the 2023 budget from the Urban Renewal Authority (URA) bond funds. Repairs, consisting of a mill and overlay with a geotextile fabric installation below the pavement, was bid in lieu of complete reconstruction resulting in a lower overall cost. Sunland's bid was within the Engineer's Estimate for this work.

Originally, a 10% staff-managed contingency of \$48,500 was recommended to account for unknown circumstances that might be encountered on the project. Additional contingency of \$30,000 is requested to complete additional work that was identified after developing the bid documents. The 10% contingency and additional contingency will only be utilized as needed to pay for items not already in the plans.

Ms. D'Andrea briefly gave background on the following improvements would be added to the project:

- Relocate and increase the number of ADA-accessible parking stalls from eleven to fourteen with the associated striping, pedestrian detection, and concrete sidewalk modifications; and
- Install curb and gutter to replace portions of the existing concrete channel along the rear access road and install a new rip rap channel to improve drainage; and
- Install enhanced electrical vehicle striping.

She then stood by to answer questions.

Public Comment

No one came forward to speak.

Council Questions and comments

CM Dozeman asked for more details concerning why the contingency amount had to be increased. Staff gave a detailed answer, about a design change to accommodate more ADA parking spaces. Then CM Dozeman asked about the longevity of this project; will this project save money in the long run. Again, Ms. D'Andrea gave a detailed answer.

CM Hultin asked if this includes modifications to the access and striping for the Clear Creek Trail users. Again, staff answered in detail.

Motion by MPT Stites to amend the contract with Sunland Asphalt and Construction, LLC for the Recreation Center Parking Lot Repair Project to allow for an additional contingency amount of \$30,000 for a total not-to-exceed amount of \$619,400.72, seconded by CM Hutchinson, motion carried 7-0.

CITY MANAGER'S MATTERS

Mr. Goff deferred until the Special Study Session.

CITY ATTORNEY'S MATTERS

Nothing tonight

ELECTED OFFICIALS' MATTERS

CM Hultin reported that the Happiness Gardens green tomatoes are ready for picking. Referring to the Proclamation to support Breast Cancer Awareness Month earlier this evening, she encouraged women to get screened for breast cancer. Pierce Street is under construction for more bike lanes, and she cannot wait for the new pathways.

CM Ohm and his wife participated in a cleanup effort on Saturday last, which collected 52,000 pounds of refuse.

CM Hutchinson thanked Jon and Chad in the IT department, who helped her get her computer back on track. She asked if we have enough IT people here to smoothly operate our systems for important matters like licensing.

CM Hoppe thanked everyone for supporting the domestic violence proclamation and Porchlight Family Justice Center. She listed the services the agency is providing. On October 19 there will be a fund raiser for the Porchlight Family Justice Center.

CM Hoppe then read a message from County Treasurer DiTullio, who could not cover his entire topic (TABOR refund checks) in his 3 minutes during Public's Right to Speak. The statement emphasized that the County Treasurer cannot accept returned checks; the law requires the Treasurer to issue the checks and the County cannot accept returned funds.

MPT Stites noted the Farmers' 5000 event was another success this year. He thanked the staff and WRPD for their help with the District III meeting recently. He also attended a ribbon-cutting at Wolf and Wildflower on 38th Ave, with the Mayor, a fantastic new

wine bar. Please, go and check it out. He mentioned two grand openings scheduled for later in this week. He reminded folks of the Candidates' Forum this Wednesday. He also thanked all who worked to hold a block party in his neighborhood over the past weekend. He declared that their block party was the best in the City.

Mayor Starker also congratulated Wolf and Wildflower. He again recognized Dr. Haney's work in not only WR but also Jefferson County.

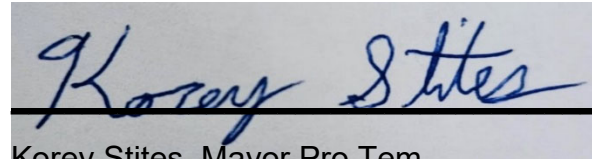
ADJOURN TO SPECIAL STUDY SESSION

The meeting adjourned at 8:24 pm.

APPROVED BY CITY COUNCIL ON October 9, 2023

A handwritten signature in black ink, appearing to read "SK", is written over a horizontal line.

Steve Kirkpatrick, City Clerk

A handwritten signature in blue ink, appearing to read "Korey Stites", is written over a 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.