

**Special Study Session – City Council
CITY OF WHEAT RIDGE, COLORADO
City Council Chambers 7500 W. 29th Avenue
January 22, 2024**

Upon adjournment of the Regular City Council Meeting, and after a short recess, the Mayor called this Special Study Session to order at 7:06 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.

After calling the meeting to order, presiding official Mayor Starker stated the rules and procedures necessitated by this meeting format.

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: Janeece Hoppe, Scott Ohm, Jenny Snell, Korey Stites, Amanda Weaver, Leah Dozeman, Dan Larson, and Rachel Hultin.

Also, present: City Manager Patrick Goff; City Attorney Gerald Dahl; Deputy City Manager, Alli Scheck; City Clerk, Steve Kirkpatrick; Director of Community Development, Lauren Mikulak; other staff, guests and interested citizens.

Public's Right to Speak

No one came forward tonight.

Note about Wheat Ridge Speaks:

Citizens 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.

There were no citizen comments entered into Wheat Ridge Speaks related to this session,

1. 38th West Street Improvement Project, Youngfield Street to Kipling Street

Issue

In March 2023, the city began a planning study of the 38th Avenue corridor between Youngfield Street and Kipling Street with the goals of improving the roadway to

accommodate pedestrians and bicyclists while still accommodating vehicular traffic as well as providing improved stormwater drainage. The study will combine public input with technical analysis to develop a recommended alternative for the corridor. The final deliverables will be conceptual plans and a preliminary cost estimate.

Staff Report

Infrastructure Project Manager, Mark Westberg, gave a detailed presentation and explanation of the Improvement Project and background where the intent of this planning study is to develop conceptual plans for the addition of bicycle and pedestrian facilities along 38th Avenue from Youngfield Street to Kipling Street. To accomplish this, the city hired Ayres, an engineering and planning firm, to provide analysis and design and vet various alternatives with the public.

He spoke on other topics that included the top three priorities for the corridor, identified by the public during the first round of public outreach, which were:

- Enhance pedestrian safety.
- Provide comfortable bicycle facilities.
- Resolve drainage problems.

He reported that based on this feedback as well as the results of the traffic analysis, the Ayres team prepared three conceptual alternatives:

1. Shared use path on the north side and sidewalk on the south side
2. Shared use path on the south side and sidewalk on the north side
3. Sidewalks on both sides and on-street bike lanes

Where the key takeaways and common themes from the second round of public outreach include:

- Separate travel modes by speed, i.e. separate bikes, and scooters from pedestrians
- Provide connections to regional destinations such as the Recreation Center
- Preserve the existing character and feel of the street.
- Preserve trees.
- Improve roadside drainage.
- Provide traffic calming to slow speeds and enhance safety.
- Underground overhead utility lines.

Mr. Westberg reported that, generally, Alternatives #1 and #3 were the most preferred by all participants. Based on the screening matrix prepared for the public meetings, Alternative 3 scored the highest.

He finished by saying that given the direction from the City Council, the next steps will complete the traffic analysis by finalizing the locations that might need either left turn lanes or roundabouts and prepare the conceptual plans and a preliminary cost estimate, and then gave a calendar of dates when this topic will next be presented for outreach.

Mr. Westberg requested the City Council to provide consensus on the recommended approach and then stood by to answer questions.

Councilmember questions and comments:

CM Weaver commented that she strongly supports Option 3 in the staff report, as a resident and business owner on W. 38th Avenue. She asked about undergrounding utilities and how feasible that would be. Staff gave a detailed answer.

CM Hultin expressed her excitement for the project. She prefers Option 3 and explained why she prefers that opinion. She then asked about lighting at transit stops along this project area. Staff gave a specific answer. CM Hultin also asked about speeding along W 38th Avenue and using new standards to study the speed. Then she asked about an art project along the avenue. Staff made detailed comments. Then she asked about designing bike lanes and sidewalks to avoid disturbing trees along that beautiful canopy of mature trees. Again, staff gave a detailed answer. She supports the staff recommendation.

CM Ohm also supports Option 3 and explained why. He also expressed concern about saving as many trees along the corridor as possible. He hopes the value of the trees is included in any calculus about the cost of the project and special efforts to save trees. He also asked that staff consider traffic rotaries whenever feasible because they reduce accidents.

CM Larson asked detailed questions about the history of this project and its genesis. Mr. Westbrook again gave a detailed answer. CM Larson then asked about a pedestrian and cyclist count as part of the overall traffic analysis. Mr. Westbrook gave a detailed reply. CM Larson asked about the \$25 million price tag for this project and how much of the Prop 2J funding will still be available for other projects with the \$75 million voters approved in November. Another detailed answer followed from Mr. Westbrook.

CM Dozeman commented she understands the optimization of engineering design and the cost for that consulting service. She believes that one of our top priorities for this project is safety, especially cyclists. As a motorist she understands how important it is to carefully plan for safety, even if the cost increased. She would prefer a shared use path from a safety standpoint. Mr. Westbrook commented on staff's analysis of this problem.

CM Stites also supports Option 3. He attended a meeting of residents at which they expressed the same opinion. He had questions about where specific facilities will be located to avoid untoward impacts on residences and other building along the corridor.

CM and Mayor Starker thanked the staff for all of their hard work in preparing for this update. Mayor Starker then asked if there are other sources of funding for this project in addition to the 2J funds. Mr. Westbrook reviewed the staff's research into all possible sources of funding other than the City and 2J and explained that there are several opportunities for further study.

CM Snell also supports Option 3. She opined that it will be important to continue collecting residents' comments and feedback on the design and construction.

CM Hultin then opined about the multiple use design and its disadvantages of putting pedestrians, dogs, children and cyclists in the same space. She also recalled that there are no through streets from 32nd Ave to 44th Ave, so this design needs to accommodate the traffic volume and safety of children. Some parents will now let their children cross an avenue to enjoy a City park.

CM Dozeman asked for an explanation of what is included in the \$2.4 million cost for design. Ms. D'Andrea gave a detailed answer.

MPT Stites proposed a consensus to direct staff to return to Council with further specifics on implementing Option 3.

Consensus achieved.

2. Review of Council Rules of Order and Procedure

Issue

The Charter of the City of Wheat Ridge provides that the Council may determine its own rules of procedure for meetings. Section VII.B 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." Attached are the current Rules, effective February 13, 2023. Council may consider amendments to these Rules at this time.

In response to the antisemitic comments received at the November 13, 2023 City Council meeting, the City Attorney drafted the attached memo "Hate speech in the public forum: options for local governments." Mr. Dahl provided several options for City Council to consider regulating the time, place, and manner of public comment.

Staff Report

City Attorney, Gerald Dahl provided an introduction on the topic of the public's right to speech which takes place at the beginning of regular City Council meetings. Speakers can zoom or call in to deliver comments, in addition to those present in the Council chambers.

He presented a list of potential actions the City might take to govern this part of the agenda, within the limitations necessarily imposed by the First Amendment to the United States Constitution and case law construing it. The list has been materially

enhanced by responses to a listserv post I placed with the municipal attorneys listserv sponsored by CML.

Mr. Dahl spoke on topics that included:

- First Amendment case law
- Speech given in a public forum.
- Intermediate scrutiny
- Limited public forum

He also spoke on topics of times, places and manner of restrictions which can be placed on the opportunity for public comment. Some of those being:

1. Sign in requirements
2. Identification requirements
3. Limit total time for public comment
4. Move public comment to the end of the meeting.
5. Restrict public comment to agenda items only.
6. Written comments in lieu of spoken public comment on non-agenda items.
7. Limit or eliminate the right to donate time.

He finished by addressing Counter speech where public officials and other members of the public certainly have the same right to speak out and contradict hate speech. This can and does occur during Councilmember comments at the end of the meeting.

The tradition has been to not immediately respond to public comment at the beginning of the meeting, but this rule could be changed to allow Councilmembers to affirmatively push back and identify public comments as having been false, hate speech, antisemitic, or any other unsavory category. The Council must balance this opportunity against the potential for the meeting to become a form of shouting match, which undercuts the main purpose of the meeting itself.

Mr. Dahl then stood by to answer questions.

Councilmember questions and comments:

CM thanked staff for their well prepared and informative presentation.

CM, the Mayor and the City Attorney then engaged in a detailed discussion of Council Rules and how to achieve the desired outcomes with potential changes.

CM supported removing the right to yield time from one speaker to another during Public's Right to Speak. They also supported not re-broadcasting Council meeting comments like the ones heard on November 13, 2023. There was also discussion of allowing only spoken comments (without any slides or other AV).

MPT Stites proposed a series of consensuses to ask the City Attorney propose specific revisions to Council Rules with options for language to adopt consistent with this discussion, including:

1. Eliminating the yielding of time by one speaker to another speaker during Public's Right to Speak;
2. Addressing the archiving and rebroadcasting of video records if hate speech or threatening comments occurs;
3. Elect the Mayor Pro-Tem at the first Council regular meeting in January each year;
4. Changing the rules of order, we use from Robert's Rules of Order to Bob's Rules of Order;
5. Changing the parliamentary function from the MPT to the Mayor;
6. Limit Public's Right to Speak to spoken words and handouts only; no AV/slides.
7. Clarify that there is no limit to the number of speakers during Public's Right to Speak but grant the Mayor the right to either limit the total time for speakers, limit the time for each speaker to less than 3 minutes, or limit the number of speakers generally or to comments on a specific topic or agenda item.
8. Restrict the MPT power to call a Study Session to reasonable times and days at the convenience of other Councilmembers.

Consensuses achieved.

3. Staff Report(s)

There is a process underway to find a new Municipal Judge. Would CM like one of their members to sit on that selection committee.

4. Elected Officials' Report(s)

Nothing more.

ADJOURNMENT

The Special Study Session adjourned at 8:53 pm.

APPROVED BY CITY COUNCIL ON February 12, 2024

Steve Kirkpatrick, City Clerk

Korey Stites, Mayor Pro Tem