

CITY COUNCIL MINUTES

CITY OF WHEAT RIDGE, COLORADO

May 10, 2010

Mayor DiTullio called the Regular City Council Meeting to order at 7:0 p.m. Councilmembers present: Karen Adams, Karen Berry, Joseph DeMott, Joyce Jay, Tracy Langworthy, Davis Reinhart, Wanda Sang, and Mike Stites. Also present: City Clerk, Michael Snow; City Treasurer, Larry Schulz; City Manager, Randy Young; Deputy City Manager, Patrick Goff; City Attorney, Gerald Dahl; Director of Community Development, Kenneth Johnstone; Chief Building Inspector, John Schumacher; Director of Public Works, Tim Paranto; Parks & Recreation Director, Joyce Manwaring; Chief of Police, Dan Brennan; Planner, Adam Tietz; Assistant to the City Manager, Heather Geyer; staff; and interested citizens.

APPROVAL OF MINUTES OF April 26, 2010

Motion by Mrs. Sang for approval of the Minutes of April 26, 2010; seconded by Mr. Stites; carried 8-0.

PROCLAMATIONS AND CEREMONIES

Mrs. Wheat Ridge Karen Thaler read the Proclamation for 2010 National Police Week. Mayor DiTullio presented the Proclamation to Chief Brennan.

Mayor DiTullio and Denise Balkas of Wheat Ridge 2020 presented Certificates of Recognition to the following Wheat Ridge 2020 Planning and Development Academy Graduates:

*Sally Banghart
Ryan Fisher
Joe Hahn
Lenia Hahn
Kim Harr
Lonna Harris
Paul Hovland
Tara Jahn
Donna Kimsey
Jerry Roach
Erica Severson
Amy Sherman
Joseph Springer
Denise Waddell
Stuart Wright*

CITIZENS' RIGHT TO SPEAK

John Marriott, Chair Person of the Wheat Ridge Business District, encouraged Council Members or the Mayor in standing with Council Member Jay to direct staff to put together the "connecting the dots" summit. He gave an update on the Business District's activities. He offered to give a presentation during a Study Session to show Council why some additional funding is needed.

Nancy Snow urged Council to use the services of City Commissions. The Parks Commission should have been involved in the meetings regarding the bicycle and pedestrian plan and the possible purchase of 3 new parcels for parkland.

Louise Turner is concerned that the City is considering purchasing property along Lena Gulch with the intent of eventually constructing a trail along its south side. This trail was removed from the Bikes and Trail Master Plan in recent years due to lack of interest and strong community objection against such a trail. Lena Gulch should be deemed inappropriate for trail use.

Karen Thaler announced that she will be competing for Mrs. Colorado at the Ellie Caulkins Opera House on May 15 at 6:30pm.

1. CONSENT AGENDA

- A. Motion to approve renewal and encumber funds for 2010 Activities Guide printing services to Publication Printers in the amount of \$39,384.
- B. Contract Award to Complete Climate Control in the amount of \$19,217 for the installation of the mechanical system for the Baugh House.
- C. Motion to approve the annual renewal for the MobileCop Computer System in the amount of \$24,174 to Interact Public Safety Systems.

Consent Agenda was introduced and read by Council Member Langworthy.

Motion by Mrs. Langworthy for approval of the Consent Agenda; seconded by Mr. Stites carried 8-0.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Council Bill 04-2010 – An Ordinance repealing and reenacting certain sections of Chapter 5 of the Code of Laws of the City of Wheat Ridge concerning the Building Code, the Mechanical Code, the Plumbing Code, the Property Maintenance Code, the Energy Conservation Code, the Residential Code, the Fire Code, the Fuel Gas Code and penalties for violation of the same.

Mayor DiTullio opened the public hearing.

Council Bill 04-2010 was introduced on second reading by Council Member Stites. City Clerk Michael Snow assigned Ordinance No. 1460.

Mr. Schumacher presented the staff report.

Kim Calomino spoke of the many purposes for maintaining building codes, protecting property owners; after three task forces studying the building codes being adopted: current does not contain advance review of fence or shed construction to avert potential problems with fences or sheds before they are constructed; encouraged Council to require a planning permit for these types of structures. She also encouraged Council not to adopt the lesser restroom building standards proposed in this ordinance. She also does not believe the permit fees should be so low that the department has to use general funds to pay for its services.

John Marriott, was also a member of one of the task forces that looked at the City's Building Code. He encouraged Council to pass this ordinance as proposed. He believes this ordinance has been well-considered. More restrictive requirements may be a hindrance to business investments and building improvements to these older commercial buildings. With respect to permit fees, he believes lower fees encourage more people to get permits, and therefore more home improvements are likely to be constructed properly.

Mayor DiTullio closed the public hearing.

Motion by Mr. Stites to approve Council Bill 04-2010 (Ordinance 1460) on second reading and that it be effective August 1, 2010, with the following condition:

On Page 36, Section 6(a) of the Bill, the first sentence read as follows: *The International Fire Code, 2006 Edition, is hereby adopted by reference and incorporated into this article as though fully set forth herein as the fire code of the City of Wheat Ridge.*

Seconded by Mr. Reinhart; carried 8-0.

3. Council Bill 05-2010 – An Ordinance amending certain sections of Chapters 5 and 21 of the Code of Laws of the City of Wheat Ridge concerning the licensing of contractors.

Mayor DiTullio opened the public hearing.

Council Bill 05-2010 was introduced on second reading by Council Member Reinhart. City Clerk Michael Snow assigned Ordinance No. 1461.

Mr. Schumacher presented the staff report.

No citizens were present to speak.

Mayor DiTullio closed the public hearing.

Motion by Mr. Reinhart to approve Council Bill 05-2010 (Ordinance 1461) on second reading and that it be effective August 1, 2010; seconded by Mrs. Sang; carried 8-0.

4. Council Bill 07-2010 – An Ordinance approving the sale of designated Park Land near the intersection of West 38th Avenue and Kipling Street, and, in connection therewith, approving an agreement.

Mayor DiTullio opened the public hearing.

Council Bill 07-2010 was introduced on second reading by Council Member Stites. City Clerk Michael Snow assigned Ordinance No. 1462.

No staff report was provided.

No citizens were present to speak.

Mayor DiTullio closed the public hearing.

Motion by Mr. Stites to approve Council Bill 07-2010 (Ordinance 1462) on second reading and that it take effect 15 days after final publication; seconded by Mrs. Adams; carried 8-0.

5. Resolution 15-2010 – approving a Special Use Permit to allow a Major Auto Repair Facility in a Commercial-One (C-1) Zone District on property located at 4395 Xenon Street.

Mayor DiTullio opened the public hearing.

Resolution 15-2010 was introduced by Council Member DeMott.

Mayor DiTullio called for a break at 8:10pm; to resume at 8:16pm.

Mr. Tietz presented the staff report.

Rich Maher, applicant, promised to mitigate the impacts to the adjacent neighbors and be a conscientious neighbor.

Mary Strohmeier is a residential owner in the area and is shocked that the City would consider allowing such a business move into this area that has been largely residential for decades. She contends that there are already problems with traffic in this area.

Trish Tilley pointed out that Xenon does not have any sidewalks and that any pedestrians on the street must walk in the street. This business would pose a safety risk to those pedestrians.

Cindy Beckfield lives in the area three doors down from the proposed site. She visited the applicant's existing business on Ward Road and saw all its bays open during the day, which means they won't be closed at the new site either. She argues that pedestrians and bikes in the area will be at risk with the increased traffic to this site.

Greg Boom owns two properties near the site, one of which is an agricultural site. He does not believe this area and Xenon Street can handle the increased traffic. He is also concerned that the mechanic shop may pollute the groundwater in the area and therefore put the wells in the area at risk. He contends that it requires major spill response plans to assure this will not happen and does not believe a business of this type and size can appropriately mitigate this.

Kathryn Murphy lives in the area and feels that Xenon, being a very narrow street, is not sufficient even for the existing Head Start school that's there, let alone a mechanic's shop. She also contends that the lighting in the area is insufficient. She asked that Council consider if it were their home in which this were proposed and to deny the application.

Ray Strohmeier is concerned for the ditch that straddles the property and the potential risk it poses for contaminants getting into the greenbelt and the freshwater in the area.

Scott Mefford is concerned with whether this area can handle the traffic increases and is most concerned with the groundwater contamination risks, citing that the groundwater level in the area is as little as one foot in most areas. He purchased his home only this past January and reviewed the Comprehensive Plan before purchasing his home. He contends that this property is in an area where the Plan indicates it is desired to be developed for small office type activity, not auto service. The proposed development would not even use the larger Youngfield and 44th Avenue Street adjacent to it – it would use a residential street only. This is more of an industrial type facility and not appropriate for the existing area and not compatible with the Comprehensive Plan. He urges the Council to honor the plan and

Donna Mefford owns a business in the area and is against the proposal for all the reasons already stated.

Virginia Clair read letters from Janice Thompson and Rex Winters who are residents in the area (letters have been amended to this packet).

Joy Mengel lives only 100 feet southeast of the proposed site and uses well water. She is also opposed to a 40-foot sign.

Liz Titus lives in the area and enjoys that it has rural and agricultural qualities. She is concerned that this will damage those qualities. She contends that there have been no specific plans demonstrated to mitigate the groundwater contamination risks. This type of business does not benefit residents in the area as the other small businesses in the area do.

Dave Amdahl lives just east of the proposed site and is concerned that it only further increases the air pollution that already plagues the area. He invites Council to visit the area during an inversion to see how bad the air is already.

Rick Eads owns the property currently being proposed for development. He believes that with the business vacancy rates in the area, this is needed type of business in the area. He points out that there is more traffic in the area already from the businesses already existing there. He asked that Council support the Special Use Permit.

Chris Ball supports the proposed special use and contends that this business will have much less impact than many other types of businesses that could locate here, many without a special use permit. This is a successful business and would be a positive addition to the City of Wheat Ridge.

Brent Allred provided the architectural design for the site and shared the design drawings for the original building design and the proposed design which makes several adjustments in response to neighbors' complaints and concerns.

He described how the design of the building and manner in which services will provided serves to assure no groundwater damage will occur. The groundwater testing in the area indicates that the water is at twelve feet and therefore not at the level of risk purported. He also contends that any noise from this facility will be almost undetectable relative to the level of noise from I-70 and existing roads in the area. The screen wall that will be constructed will block any views from the residents to the south and deflect any sound pollution as well.

Gordon Ballinger is the real estate broker representing the applicant. He stated that the applicant has spent \$25,000 to make changes to the design in response to neighbors' concerns.

James Moore is a resident in the area and pointed out that all those in favor don't live around there.

Joan Amdahl asked Council to please not approve this application.

Ron Bennetts was in the trucking business and knows how much risk there is to groundwater contamination. He does not believe that this business presents a very strong tax revenue opportunity and therefore not very beneficial to the City.

Mike Tilly also asked Council not to approve this application.

Mayor DiTullio closed the public hearing.

Motion by Mr. DeMott to approve Case No. SUP-10-04, Resolution 15-2010, a request for a Special Use Permit to allow a major automotive repair facility located at 4395 Xenon Street for the following reasons:

1. This request for a Special Use meets all applicable criteria as required by Section 26-114 of the City of Wheat Ridge Code of Laws.
2. There will be no detrimental effect on health, safety, welfare, or convenience to the public in the area.
3. The applicant has made an attempt to mitigate all impacts and concerns addressed in the letters of objection, neighborhood comments, and from staff comments.
4. The special use will not create adverse impacts greater than allowed under existing zoning for the property.
5. There will be no impact on the light, air, or water to adjacent property owners.
6. The special use will not create or contribute to blight in the neighborhood and will not overburden the capacities of the existing streets, parks, schools, and other public facilities and services.
7. The proposed facility is in substantial compliance with the ASDM.
8. Given the unusual shape of the property and other encumbrances on the property other development opportunities would be difficult.

With the following conditions:

1. The Special Use Permit be prescribed to the property and may be inherited
2. Proof of all State of Colorado certificates and approvals be submitted along with building permits.
3. The site be developed in compliance with Exhibits 6 and 9.

Seconded by Mr. Reinhart; carried 7-1 with Council Member Sang voting No.

Mayor DiTullio called for a break at 10:16pm; to resume at 10:22pm.

DECISIONS, RESOLUTIONS, AND MOTIONS

6. Resolution 21-2010 – amending the fiscal year 2010 General Fund Budget to reflect the approval of a supplemental budget appropriation in the amount of \$20,966 as a matching contribution for funds raised by Wheat Ridge 2020 through December of 2009.

Resolution 21-2010 was introduced by Council Member Reinhart.

Motion by Mr. Reinhart to approve Resolution 21-2010; seconded by Ms. Berry; carried 6-2 with Council Members DeMott and Stites voting No.

7. Motion to approve award of the ITB-10-07 2010 Overlay Project to Brannan Sand and Gravel in the amount of \$792,979.08.

Motion by Mrs. Sang to award the ITB-10-07 2010 Overlay Project to Brannan Sand and Gravel in the amount of \$792,979.08, and that a contingency amount of \$72,998.00 also be approved.

I further move that the Director of Public Works be authorized to issue change orders up to a total contract and contingency amount of \$802,977.08 and all costs associated with the contract be paid from Acct. No. 30-303-800-884, and that these funds be encumbered for the length of the project in accordance with Ordinance #787, 1989 Series.

Seconded by Mrs. Langworthy; carried 8-0.

8. Resolution 22-2010 – allocating the remainder of the City's 2007 Jurisdictional Allocation of Federal Community Development Block Grant Funds to the Wheat Ridge Housing Authority for the purpose of acquisition of a single family home to be rehabilitated and sold.

Resolution 22-2010 was introduced by Council Member DeMott.

Motion by Mr. DeMott to approve Resolution 22-2010; seconded by Mrs. Jay; carried 8-0.

ELECTED OFFICIALS' MATTERS

Mrs. Jay distributed information on the "Connecting-the-Dots" plan (attached to this packet).

Motion by Mr. Reinhart to convene an Executive Session of the City Council under Charter Section 5.7(b)(1)(D) and 5.7(b)(2) and CRS 24-6-402(4)(b) and (f), specifically for a conference with the City Attorney, City Manager and appropriate staff for legal advice on a personnel matter concerning the employment contract of the City Manager and the negotiation of a new such contract.

I further move to adjourn the Council Meeting at the conclusion of the Executive Session.

Seconded by Mrs. Sang; carried 8-0.

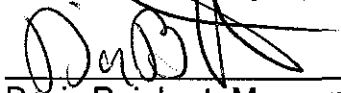
Executive Session was held.

Meeting adjourned at 10:34 p.m.



Michael Snow, City Clerk

APPROVED BY CITY COUNCIL ON MAY 24, 2010 BY A VOTE OF 8 to 0



Davis Reinhart, 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. Recordings and DVD's of the meetings are available for listening or viewing in the City Clerk's Office, as well as copies of Ordinances and Resolutions.