

# **CITY COUNCIL MINUTES**

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

**April 26, 2010**

Mayor DiTullio called the Regular City Council Meeting to order at 7:00 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 Manager, Randy Young; Deputy City Manager, Patrick Goff; City Attorney, Gerald Dahl; Director of Community Development, Kenneth Johnstone; Director of Public Works, Tim Paranto; Planner, Adam Tietz; Assistant to the City Manager, Heather Geyer; staff; and interested citizens.

### **APPROVAL OF MINUTES OF April 12, 2010**

Motion by Mrs. Sang for approval of the Minutes of April 12, 2010; seconded by Mr. Stites; carried 8-0.

### **PROCLAMATIONS AND CEREMONIES**

Mrs. Wheat Ridge Karen Thaler read the proclamations and Mayor DiTullio presented them.

- Presentation to Mayor's Public Art Donation

Mayor DiTullio recognized Steve Huppert of Temple-Inland Foundation of Wheat Ridge who presented a donation in the amount of \$5,000 to Joyce Manwaring in support of the Mayor's Public Art Project. The sponsored art sculpture will be installed at the park being constructed at 38<sup>th</sup> & Kipling. Tom Abbott thanked Temple Inland for their contribution. Diane & Kevin Robb also thanked Temple Inland and announced that the sculpture would be completed in time for the completion of the park construction late this summer.

- Arbor Day & Tree City U.S.A. – April 29, 2010

Keith Wood, Community Forester from the Colorado State Forest Service, presented Wheat Ridge its 31<sup>st</sup> Tree City USA Award, citing the specific criteria by which a City is awarded this honor. Rick Murray, Parks Manager for the City of Wheat Ridge, recognized Keith for his assistance throughout the year. All interested citizens are invited to participate in one of two tree-planting events to take place later this week as part of the Arbor Day celebrations: Thursday, April 29<sup>th</sup> 10am at Wheat Ridge Recreation Center and on Friday, April 30<sup>th</sup>, 10am at Anderson Park.

- Mental Health Month – May 2010

Julie DiTullio, Board Member, and Mark Johnson with Jefferson Center for Mental Health, were present to accept the proclamation and spoke of the importance of mental health services in the community.

- Building Safety Month – May 2010

Kenneth Johnstone accepted the proclamation of Building Safety Month, sponsored by the International Code Council, on behalf of the City of Wheat Ridge.

- Celebrate Business in Wheat Ridge Week – April 26 – May 2, 2010

Ryan Stachelski, Randy Young, and Tom Ripp of Enterprise Wheat Ridge, were present to accept the City's proclamation and designation of Celebrate Business in Wheat Ridge Week.

Ryan encouraged nominations for business of the year by visiting the City's website under the Economic Page for electronic forms.

### **CITIZENS' RIGHT TO SPEAK**

**Steve Blakesley** from Orion Development, LLC, submitted and read a letter into the record regarding non-payment of work completed for WR2020 and urged Council to consider how taxpayer money is spent through WR2020 before they allocate another dime.

### **APPROVAL OF AGENDA**

#### **1. CONSENT AGENDA**

- A. Motion to appoint **Scott Ohm** to the Building Code Advisory Board, representing District II; term to expire 03/02/2011.
- B. Motion to approve payment to Code Consultants International in the amount of \$17,580 for March 2010 Contract Building Inspections.
- C. Motion to appoint the Mayor as the primary representative and the Community Development Director, or Designee, as the alternate representative on the Jefferson County Community Development Advisory Board.

Consent Agenda was introduced and read by Mr. DeMott.

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

**PUBLIC HEARINGS AND ORDINANCES ON SECOND READING**

2. Resolution 19-2010 – approving a Special Use Permit to allow a Body Art Establishment in a Restricted-Commercial (R-C) Zone District on property located at 4330 Harlan Street.

Resolution 20-2010 – approving a Variance to allow the amount of total floor area devoted to the residential use of the structure to exceed the amount of floor area devoted to the Commercial Use in a Restricted-Commercial (R-C) Zone District.  
(SUP-10-04 and WA-10-03/Fuks and Harris)

Mayor DiTullio opened the public hearing.

Resolutions 19 and 20 were introduced by Council Member Sang.

Mayor DiTullio called for a five minute break at 7:35pm due to technical difficulties; to resume at 7:40pm.

Adam Tietz presented the staff report. He entered a letter of protest into the record, which was submitted to the City of Wheat Ridge from a neighboring business owner, McKinley & Hill, signed by Harold K. (Buddy) Hill (amended to this packet).

**Marc Hansen**, 4340 Harlan Street, employed by McKinley & Hill, spoke for Mr. Hill. He is against the approval of this special use permit. He argues that his business of 50 years, which sits next door to the proposed body art studio, would be detrimentally affected by this type of business. He requests that if the Council does approve this request, that they consider to limit the allowed signage language at the site in order to minimize the stigma that may be inflicted to the neighboring businesses.

**Les Jorgensen**, 4335 Gray Street, owns a property to the northeast of the proposed property, which is now rented by a daycare center. He is concerned that this type of business is not appropriate in a residential area or in the vicinity of a daycare.

**Sharon Galloway**, 43<sup>rd</sup> and Gray, is concerned with the signage of a flashing neon sign indicating tattoos, but would be amenable to body art signage.

Applicants **Bo Fuks and Hillary Harris** of Lakewood, explained that this will not be a tattoo "parlor", but a private studio. Mr. Fuks related his professional experience in body art. He is willing to have his sign read "body art" and not "tattoo". He is willing to close at 8pm to appease the neighbors. Ms. Ajarris pointed out that evening hours are often the only time clients can get body art service after work. He will operate only one of three pneumatic tattoo equipments in the State of Colorado, which is the only type of tattoo equipment that is sterilized in a standard autoclave.

Mr. Dahl indicated tattoo and psychic reading businesses require special use permitting in order to afford a process for neighbors to such businesses have a forum to voice concerns or support for such businesses.

**Don Feltner** is the seller of the property and indicated the property has been vacant for over two years and has been rapidly going downhill.

Mayor DiTullio closed the public hearing.

### **Special Use Permit**

Motion by Mrs. Sang to adopt Council Resolution No. 19-2010, Case No. SUP-10-04, a request for a Special Use Permit to allow a body art establishment at 4330 Harlan Street for the following reasons:

1. This request for a Special Use meets all applicable conditions 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 special use will not create adverse impacts greater than allowed under existing zoning for the property.
4. There will be no impact on the light, air, or water to adjacent property owners.
5. The special use will not create or contribute to blight in the neighborhood and will not over burden the capacities of the existing streets, parks, schools, and other public facilities and services.

With the following conditions:

1. The special use for this establishment shall be issued to the applicant and may not be inherited.
2. The parking lot must be restriped to reflect 90 degree parking.
3. The SUP shall be consistent with the definition of a body art establishment as specified in City Code Section 26-123.
4. The business shall operate in compliance with all State and County regulations regarding safe and sanitary practice of body art, the safe and sanitary physical environment where body art is performed, and the safe and sanitary conditions of equipment utilized in body art procedures.
5. Approval from the Jefferson County Health Department must be obtained and submitted in order for the City of Wheat Ridge to issue building permits and a Certificate of Occupancy.
6. Multiple documented legitimate complaints for the business shall be grounds for initiating enforcement procedures of City Code Section 26-114(F).
7. Operation hours of the business shall cease by 8 p.m., Sunday through Thursday and 10 p.m., Friday and Saturday.
8. The number of artists allowed to perform work in this studio shall be limited to 2 as regulated by the Jefferson County Health Department.

Seconded by Mr. Reinhart; carried 8-0.

**Variance**

Motion by Mrs. Sang to adopt Council Resolution No. 20-2010, Case No. WA-10-03, a variance to allow the amount of total floor area devoted to the residential use of the structure to exceed the amount of floor area devoted to the commercial use on property zoned R-C located at 4330 Harlan Street for the following reasons:

1. There will be no detrimental effect on health, safety, welfare, or convenience to the public in the area.
2. There will be no impact on the light, air, or water to adjacent property owners.
3. The variance will not create or contribute to blight in the neighborhood and will not over burden the capacities of the existing streets, parks, schools, and other public facilities and services.
4. The character of the area will not be altered by the request.
5. The applicants are proposing a substantial investment in the property which would not otherwise happen if the variance is denied.
6. The variance will result in the accommodations for person with disabilities to be made.

With the following conditions:

1. The area floor dedicated to the residence may not be increased either through the conversion of the studio to "livable space" or through the construction of additions to the structure that would be for residential use.
2. The structure may not be used wholly as a residential structure at any point.

Seconded by Mr. Reinhart; carried 8-0.

**ORDINANCES ON FIRST READING**

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

Council Bill 07-2010 was introduced on first reading by Mr. Stites.

Motion by Mr. Stites to approve Council Bill 07-2010 on first reading, order it published, public hearing set for Monday, May 10, 2010 at 7:00 p.m. in the City Council Chambers, and that it take effect 15 days after final publication; seconded by Mr. DeMott; carried 8-0.

**DECISIONS, RESOLUTIONS, AND MOTIONS**

4. Motion to award SOQ-10-09 Design/Build Parks Signs to Gordon Sign in the amount of \$25,000.

Motion by Mr. Reinhart to approve SOQ-10-09 Design Build Parks Signs to Gordon Sign, Denver, CO in the total amount of \$25,000 to be charged to Open Space Fund 32, Acct. #32-601-800-862; seconded by Mrs. Jay; carried 8-0.

**CITY MANAGER'S MATTERS**

Mr. Young asked that Mr. Goff provide a budget update.

Mr. Goff stated that this information had been forwarded to Council last Friday by e-mail, but he would like to repeat this for the public. Fund Balance for 2009 was about \$2.6 million larger than expected. This was mainly accomplished by cut-backs on expenditures. 2009 expenditures were about \$740,000 less than we estimated and the revenues came in at about 1.9 Million more than expected. Most of the variances and revenues were because of the services provided for building permits and building use tax and plan review fees for work related to the July 20 storm.

**ELECTED OFFICIALS' MATTERS**

Mr. Reinhart addressed forming a council committee to exercise a study on the effectiveness on staffing and the pay scales on persons within the administration. He would like 2 volunteers to join him in this exercise. Ms. Berry and Mrs. Sang agreed to be part of the committee.

Mr. DeMott expressed his condolences on the passing of Tom Douglas.

Meeting adjourned at 8:42p.m.



Michael Snow, City Clerk

APPROVED BY CITY COUNCIL ON MAY 10, 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.