

CITY COUNCIL MINUTES

CITY OF WHEAT RIDGE, COLORADO

April 23, 2012

Mayor DiTullio called the Regular City Council Meeting to order at 7:00 p.m.

ROLL CALL OF MEMBERS

Davis Reinhart
Bud Starker
Joyce Jay
Kristi Davis
Mike Stites
George Pond
Joseph DeMott
Tracy Langworthy -- absent

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Administrative Services Director, Heather Geyer; Community Development Director, Ken Johnstone; Public Works Director, Tim Paranto; Parks and Recreation Director, Joyce Manwaring; staff, interested parties and interested citizens.

APPROVAL OF MINUTES OF April 9, 2012

Motion by Mr. Stites for approval of the Minutes of April 9, 2012; seconded by Mr. Starker; carried 7-0.

PROCLAMATIONS AND CEREMONIES

Arbor Day

City Clerk Shaver read a proclamation on behalf of Mayor DiTullio and City Council declaring Wednesday, May 2, 2012 as City of Wheat Ridge Arbor Day Celebration.

Mark Dinnell, City of Wheat Ridge Forestry Assistant, accepted the proclamation on behalf of the City of Wheat Ridge Forestry, Parks, and Open Spaces Division.

Victims' Rights Week

City Clerk Shaver read a proclamation on behalf of Mayor DiTullio and City Council declaring April 22, 2012 through April 28, 2012 as the City of Wheat Ridge Victims' Rights Week.

Commander Jim Lorentz, Lieutenant Dave Picket and Jill Nore accepted the proclamation. Noted: 1300 crime victims were served in Wheat Ridge in 2011.

Mental Health Month

City Clerk Shaver read a proclamation on behalf of Mayor DiTullio and City Council declaring May, 2012 as Mental Health month.

Paul Barnett, Vocational Services Manager of the Summit Center accepted the proclamation and thanked the City for its support. Summit Center is located just north of 38th on Pierce Street in the old Post Office building and is celebrating its 21st anniversary of operation this Saturday. Mayor DiTullio presented the proclamation to **Shane**, one of the Summit Center members.

Public Health Champion Award Presentation – LiveWell Wheat Ridge

Molly Hanson, President of LiveWell Wheat Ridge, presented Mayor DiTullio an award proclaiming the City Of Wheat Ridge as a Public Health Champion for 2011. This award is in appreciation of the contribution to public health the City made in 2011.

Jody Erwin from Jefferson County Public Health and **Lynette Namba**, a community member, spoke in appreciation of the City's efforts with trails and providing places to walk. Staff members Tim Paranto from Public Works and Joyce Manwaring from the Parks Departments were also recognized for their departments' contributions to public health.

CITIZENS' RIGHT TO SPEAK

Elizabeth Willis asked for people to vote for her for the WR Fire District Board. She has lived in Wheat Ridge for over 50 years, has already been on the Fire Board for eight years, and her husband, Jack Willis, was the Fire Chief for many years. The election is May 8 and voting will be at Fire Station #1 at 3880 Upham Street from 7 AM until 7 PM.

Joseph Giordano, WR resident and board member of WR2020 and Enterprise Wheat Ridge, moved here a year and a half ago from Denver. He thinks WR is an amazing community. He wishes we could "bring our children home" by making it possible for them to move back to Wheat Ridge. He thinks that lack of amenities and affordable housing are preventing our children from returning to Wheat Ridge and that the 38th Avenue restriping and amenities will make Wheat Ridge a world class city. He believes that in five years this section of 38th Avenue will be a piece of Utopia. He needs from Council this year to get our zoning right.

Britta Fisher gave an update from 2020. There will be a focus group this Wednesday night for elected officials and a communitywide forum Tuesday night (tomorrow) from 6:30 – 8 PM at the Rec Center. All are invited. There is also an online survey people are invited to take by going to WheatRidge2020.org and clicking on the 38th Avenue Survey. Those who take the 5-7 minute survey can have their names entered into a drawing for a \$100 gift certificate to any 38th Avenue business. She encouraged

people to take the online survey and come to one of the forums to share their thoughts about 38th Avenue.

APPROVAL OF AGENDA

1. CONSENT AGENDA

- A. Resolution No. 22-2012 – approving an amendment to a contract with the Urban Drainage and Flood Control District (UDFCD) and The City of Arvada for the design, right-of-way acquisition and construction of drainage and flood control improvements for the Ridge Road Tributary, and authorizing payment of an additional contribution in the amount of \$700,000
- B. Resolution No. 20-2012 – amending the Fiscal Year 2012 General Fund Budget to reflect the approval of a supplemental budget appropriation in the amount of \$720.00 to Jefferson Center for Mental Health Benefit
- C. Motion to award ITB-12-10, 2012 Slurry Seal, to A-1 Chipseal Company in the contract amount of \$410,102 and to approve a contingency amount of \$41,010
- D. Motion to approve award of ITB-12-01, Overlay Resurfacing Project Base Bid and Bid Alternates 1 thru 5 to Martin Marietta Materials, Westminster, CO, in the contract amount of \$1,263,358.10, and to approve a contingency amount of \$126,336
- E. Motion to accept assignment of the Drainage Right-Of-Way from Urban Drainage and Flood Control District (UDFCD) to allow RTD to construct drainage facilities for the Gold Line Commuter Rail
- F. Motion to approve payment to Cartegraph Inc. in the amount of \$42,621 for the annual renewal of licensing and support for the Cartegraph System

The Consent Agenda was introduced and read by Mr. Pond.

Mr. DeMott asked to pull Item D.

Motion by Mr. Pond for approval of Consent Agenda Items A, B, C, E, and F; seconded by Mr. Stites; carried 7-0.

Regarding Item D, Mr. DeMott explained that he would like to add Alternative #6 to the project. Although it would make the project over budget, the good price makes it wise to go ahead and do it all – adding 44th Place, 46th Avenue, 46th Place, 47th Avenue, and Webster Street to this year's pavement overlay.

Motion by Mr. DeMott to approve the award of ITB-12-01, Overlay Resurfacing Project Base Bid and Bid Alternates 1 thru 6 to Martin Marietta Materials, Westminster, CO, in the contract amount of \$1,322,936.10 with a contingency amount of \$132,293.61, to be approved by resolution due to the inclusion of Alternative #6 and the resultant budget amendment that is required. Included in the motion is the directive to have the accompanying resolution prepared and for the Clerk to assign a resolution number; seconded by Mr. Starker; carried 7-0. Mr. Goff clarified that if there is not enough money in the capital budget to cover the amended portion of the bid he will take it out of general reserves.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Resolution 21-2012 – approving a Special Use Permit to allow an On-Line Public Charter School for up to 50 students as an Ancillary Use to a church in a Residential-One (R-1) Zone District located at 3010 Newland Street (Case No. Sup-12-01)

Mayor DiTullio opened the public hearing.

Resolution 18-2012 was introduced by Mr. Reinhart. This case would have been handled administratively but written objections received during the public notice period triggered this special use to be considered by City Council at a public hearing.

Mr. Reinhart read the background information about the school. The proposed charter school would be a satellite school for Hope Online Learning Academy, administered by Douglas County. It would serve between 35-50 students in grades K-8 and have open enrollment. Enrollment will be focused on students learning below grade level. The teachers will be state certified with an estimated teacher/pupil ratio of 1:18. The school would use the ground floor classrooms and gymnasium of the church. Lunch will be provided to the students and no extracurricular activities are planned at this time. Two vans will be used to transport students in the morning and afternoon.

Staff Report -- Meredith Reckert of the Community Development Department gave the staff report and entered the case file and zoning ordinance into the record. She provided for each councilmember a packet of letters that were received since the staff report was prepared. She established jurisdiction and declared that all notice and posting requirements have been met. The proposed charter school is in a residential zone that is primarily single and two-family homes, and schools are considered a special use in residential zones. She pointed out that in 2009 a previous congregation had applied to have a day care center at this location and that was ultimately denied by City Council. One of the reasons for denial at that time was the increased amount of traffic. The applicant has tried to address traffic by using the vans. They have also been working with the Fire District and the Building Department on interior upgrades. Four neighbors attended the required public meeting on February 15. Since then there have

been 4 letters of objection, 1 email of objection, 8 phone calls of objection, 1 phone call in support and the additional 3 letters handed out tonight. Staff acknowledges there will be some impact to the neighborhood, but feels the added traffic will be nominal, the existing street network can support the use, and the school has a proposed use of busses – all of which will help alleviate any traffic concerns.

Consideration for an SUP dictates that there be a justification of need, special design considerations, and operational considerations for a special use to be approved. Because the Comprehensive Plan supports quality schools, interior design issues are being addressed, and operational considerations have been addressed by the use of busses, staff is recommending approval of this Special Use Permit.

Public Comment

Angel Zamarripa, a resident of Aurora and member of the church located at 3010 Newland Street, spoke as an advocate for the proposed school. He emphasized that good education is important for a productive society and that students who have been at risk academically have done better with the Hope Online curriculum. Education is so important and they have had to jump through a lot of hoops to prepare for this school – more than liquor stores, bars, and marijuana dispensaries.

Jane Jones, a neighborhood resident who lives directly opposite the property, thinks this land use is not compatible with this quiet neighborhood. As this is a large business moving into a residential neighborhood, traffic will most definitely increase and have a negative impact. The need for quality schools is not the issue, the increase in traffic for this quiet neighborhood is. There is no way this project will enhance this neighborhood in any way. This neighborhood already deals with a church – which is a Special Use; adding another Special Use on top of that is not acceptable. The stringent requirements are there because this is a special use in a residential area -- not on an arterial street.

Michael Cory reminded Council that the previous City Council turned down a similar venture, a daycare, in 2009. The reasons now are very similar. The idea that two vans will fix the traffic issues is not plausible. There are no sidewalks and amenities to accommodate a school. He said he lacks enthusiasm for a business enterprise that seeks to take advantage of a tax-free, tax-exempt organization to avoid paying for essential community services.

Mike Lutrey agrees with the people that spoke ahead of him. He moved there because it is a quiet street with very little traffic. Already the church kids drift into adjacent properties on Sundays.

Erika Harvey, who lives on the corner of 30th and Lamar, would be directly impacted by this change. She agrees with the previous speakers. Besides increased traffic, her concerns are more speeding more cars that will not stop at stop signs, property damage, the reality of reduced property values, and a threat to the country feel of their neighborhood. She believes it is a hazard since there is no entrance or exit, no parking

designations, and no signage. Safety and loitering are also big concerns. Hopefully these things will be taken into consideration before any action is taken.

Noah Kaufmann lives directly across the street from the church. He agrees with the previous speakers. He appreciates what this congregation is trying to do, but thinks it's just not a good fit for the neighborhood. It wasn't in 2009 and it still isn't.

Kay Vincent, who lives nearby on Newland, thinks the school is an admirable endeavor and doesn't see it as a problem. There was a school at the church on 29th and Newland; they used Stites Park (right next to her) and it was never an issue.

Kurt Snyder lives across the street from the church since 1997. He has seen a decline in the property since Grace church moved out. He believes there will be additional traffic from students who will not come on the vans – especially since they have open enrollment. People have driven on his lawn and damaged his sprinkler system, while kids have damaged his trees. His wife, **Tammi**, added that the traffic is already too much on Sundays, sometimes on Saturdays, and sometimes during the week. They've had some good improvements in their neighborhood in the last couple of years and they'd like to keep it that way. Additionally, there isn't enough room on the street for busses to maneuver.

Dave Fisher, directly adjacent to the church, doesn't see the compatibility with the neighborhood. In a 1½ block area they have two more churches (besides this one) and a park; they have their fair share of traffic and any more would be piling on.

Pam Cobb has ownership interests in two properties on 30th Avenue. People who grew up in Wheat Ridge are coming back because it's such a lovely place to live. Wheat Ridge is an up-and-coming city; the Highlands has out-priced itself. People are looking for the convenience that Wheat Ridge offers. Putting a school in a quiet neighborhood will defeat the purpose of the economic efforts. Saying that there are no extracurricular activities *at this time* is the camel's nose under the tent. They will grow the school and the monitoring will not be sufficient.

Councilmembers asked questions of the applicant and the staff.
Kindergarten students will be half day, resulting in extra midday traffic.
The school will be under the administration of the Douglas County School District.
Initially there will be 5 staff members.
City Staff believes this particular use is less intense than the previous application.

Mr. Zamrippa addressed several of the charges made by neighbors and made arguments to refute those claims.

Mayor DiTullio closed the public hearing.

Motion by Mr. Reinhart to adopt Resolution No. 21-2012, a resolution approving a Special Use Permit application for approval of an on-line charter school on property

zoned Residential-One located at 3010 Newland Street (Case No. SUP-12-01), for the following reasons:

1. There are no physical changes proposed for the property.
2. The proposed cap on the number of students will be 50.
3. The existing street network system can accommodate the on-line school.
4. The proposed Special Use Permit will not have a detrimental effect upon the general public health, welfare, and safety of the surrounding area if operational characteristics are adhered to.

With the following conditions:

1. The maximum number of students allowed is 50.
2. The gym shall be used as the primary area for recreation.
3. The school shall provide a minimum of two dedicated vans for morning and afternoon student transportation.
4. The SUP is a grant of use to the Wellspring Bible Church on behalf of Hope Online and shall not be transferred or assigned.
5. That the school continues to meet the State of Colorado Department of Education and Douglas County school standards.
6. That ongoing monitoring of the school occurs to ensure the conditions of approval have been adhered to.

Seconded by Mr. Pond; failed 5-2, with Councilmembers Davis and Pond voting yes.

Motion by Mr. DeMott to postpone indefinitely Resolution No. 21-2012, a resolution approving a Special Use Permit application for approval of an on-line charter school on property zoned Residential-One located at 3010 Newland Street (Case No. SUP-12-01), and have the city attorney draft a resolution with findings for denial; seconded by Mr. Stites; passed 6-1, with Mr. Pond voting no.

3. Council Bill No. 03-2012 – approving the rezoning of property located at 11210 W. 45th Ave. (Lot 2, Pumpkin Patch Subdivision) from Agricultural-One (A-1) to Public Facilities (PF) Zone District (Case No. WZ-12-01/WRMF)

Mayor DiTullio opened the public hearing.

Council Bill 03-2012 was introduced on second reading by Mr. DeMott. City Clerk Shaver assigned ordinance number 1508.

Mr. Johnstone gave the staff report. The property in question is 1.49 acres directly north of the current WR Maintenance Facility. It was purchased by the City in 2009. The area has a mix of uses. The PF zoning district will ensure that buffering such as fences and landscaping will be provided for adjacent neighbors. Access to the lot will be through the existing WRMF via 45th Avenue. There will be an emergency gate that exits onto 46th Avenue.

Public Comment -- none

Mayor DiTullio closed the public hearing.

Motion by Mr. DeMott to approve Council Bill No. 03-2012 an ordinance approving the rezoning of property located at 11210 W. 45th Avenue (Lot 2, Pumpkin Patch Subdivision) from Agricultural-One (A1) to Public Facilities (PF) zone district, on second reading and that it will take effect 15 days after final publication; seconded by Mr. Stites; carried 7-0

4. Council Bill No. 05-2012 – imposing a Temporary Moratorium on the acceptance, processing and granting of applications, permits and approvals for any form of Residential Group Home, Assisted Living Facility, Residential Dwelling Unit for Handicapped Persons or Elderly Persons, or Congregate Care Facility within the City and Declaring an Emergency

Mayor DiTullio opened the public hearing.

Council Bill 05-2012 was introduced by Mr. Starker.

There is a need to amend the City's regulations in the Coded of Laws concerning various forms of group homes to bring them into conformance with current law, and to eliminate internal inconsistencies in the present code treatment of these rules.

Staff Report by Mr. Dahl -- Our group home ordinance was last amended in 1996. The Federal Fair Housing Act requires that group homes be allowed in residential areas. Case law also provides that upper limits can be set for the number of people living in those homes, lest they become institutions. The present code pattern provides regulations and upper limit caps only for group homes for children and the elderly. Homes for handicapped, developmentally disabled, addicts who are not currently using drugs, and elderly people with dementia currently have no upper limit on the number of persons in a group home in a residential area in a family setting. This moratorium on applications will give the staff 84 days to research case law and regulations, draft an ordinance amending our regulations, and do all the steps necessary to bring our code into compliance.

Public Comment

Nancy Snow addressed two issues – that she doesn't think this is an emergency, and the general nature of group homes. If this was such an emergency, why wasn't it on last week's Study session agenda? Per our Charter, emergencies are for "the immediate protection of public property, health, peace or safety." She doesn't think a home for people with disabilities constitutes a big crisis. These facts are also to be stated in the ordinance. The reason stated in this ordinance is to bring our code into conformance with current law. There have actually been no changes in the law to warrant this being considered an emergency. Our law is perfectly legal and has worked

fine since 1996. She feels the real reason is that someone is concerned that we might have too many group homes. She is proud of Wheat Ridge for having a history of accommodating people with disabilities and finds it offensive that opening a group home is considered an emergency. She recommends this be discussed at a Study Session

Tom Abbott spoke in agreement with what Mrs. Snow stated. He does not think this is an emergency.

Mrs. Shaver informed the Council that this will be ordinance number 1509

Mayor DiTullio closed the public hearing.

Motion by Mr. Starker to approve Council Bill No. 05-2012, an ordinance imposing a temporary moratorium on the acceptance, processing and granting of applications, permits and approvals for any form of residential group home, assisted living facility, residential dwelling unit for handicapped persons or elderly persons, or congregate care facility within the City, and declaring an emergency, and order it published; seconded by Mr. Stites; carried 6-1, with Mr. Reinhart voting no.

DECISIONS, RESOLUTIONS, AND MOTIONS

5. Motion to approve award of ITB-12-06, 38th Avenue Lane Reconfiguration, Amenities Project to Colorado Designscares Inc., Centennial, CO, in the contract amount of \$59,739.50 and to approve a contingency amount of \$5,973

This expenditure is for amenity zone construction, including the installation of pedestrian platforms and planters, and the installation and maintenance of landscaping materials. This includes the new and repurposed planters and includes a two-year maintenance contract.

Motion by Mrs. Jay move to award ITB-12-06, 38th Avenue Lane Reconfiguration-Amenities project to Colorado Designscares Inc., Centennial, in the amount of \$59,739.50, with a contingency amount of \$5,973.00 and that the Director of Public Works be authorized to issue change orders up to a total contract and contingency amount of \$65,712.50; I further move to transfer \$597.40 from the Capital Investment Fund to the Public Art Fund; seconded by Mr. Starker; carried 5-2, with Mr. Stites and Mr. DeMott voting no.

6. Motion to approve award of ITB-12-15, 38th Avenue Lane Reconfiguration Striping Project, to Kolbe Striping Inc., Castle Rock CO, in the amount of \$109,015.35 and to approve a contingency amount of \$10,902

Motion by Mr. Starker to award ITB-12-15, 38th Avenue Lane Configuration Striping Project to Kolbe Striping Inc., Castle Rock, CO in the amount of \$109,015.35, with a

contingency amount of \$10,902, and that the Director of Public Works be authorized to issue change orders up to a total contract and contingency amount of \$119,917.35; I further move that \$1,090.15 be allocated to the Public Art Fund Account per Ordinance 15-02; seconded by Mr. Pond; carried 6-2, with Mr. Stites and Mr. DeMott voting no.

7. Motion to approve the proposed changes to Council Rules of Order and Procedure

Motion by Mr. Stites to adopt the amended City Council Rules of Order and Procedure, dating the revisions April 23, 2012; seconded by Mrs. Jay; carried 4-3, with Councilmembers Pond, Jay and Reinhart voting no

8. Motion to approve a \$20,000 Contribution to Wheat Ridge Business District to administer an Accessibility and Usability Matching Grant Program

At its April business meeting the Wheat Ridge Business District approved this concept. It will create a new category of matching grants for business that wish to make permanent upgrades that improve accessibility and usability.

Motion by Ms. Davis to approve a \$20,000 contribution to the Wheat Ridge Business District to administer an Accessibility and Usability matching grant program; seconded by Mr. Stites; carried 7-0.

CITY MANAGER'S MATTERS

Mr. Goff reported to Council about the recent tour of Circle Fresh Farms, located in the greenhouses at 44th & Yarrow. This new operation in Wheat Ridge is an example of state of the art, organic, urban agriculture. It will initially be supplying tomatoes to Whole Foods outlets in the area and some restaurants.

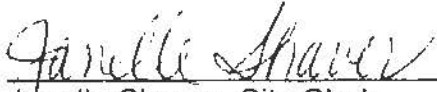
CITY ATTORNEY'S MATTERS -- none

ELECTED OFFICIALS' MATTERS

City Clerk Shaver reported that she too had been on the tour of Circle Fresh Farms and suggested that City Council schedule a tour of this amazing operation. She told Council that the Election Commission will be meeting soon and to look for a report in the near future about last fall's runoff election and possibly some recommendations for changes to avoid that in the future -- if that's the course Council wishes to take. She also asked Council to be thinking about ideas they have for a charter review process.

Ms. Davis reminded folks about the Town Hall meeting for Districts I and II next Monday, April 30 at 6:30 pm, at the Rec Center. People from all the council districts are welcome to attend.

Meeting adjourned at 9:50pm.


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON May 14, 2012 BY A VOTE OF 7 to 0 - 1


Mike 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. 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.