

CITY COUNCIL MINUTES

CITY OF WHEAT RIDGE, COLORADO
WHEAT RIDGE MUNICIPAL BUILDING
7500 W. 29TH AVENUE

August 27, 2012

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

PLEDGE OF ALLEGIANCE

ROLL CALL OF MEMBERS

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

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Acting Police Chief, Joe Cassa; Public Works Director, Tim Paranto; interested parties and interested citizens.

CITIZENS' RIGHT TO SPEAK

Bob Doyle, member of the Colorado Tobacco Prevention Education Alliance and Breathe Easy Wheat Ridge, spoke against the hookah lounge that is scheduled to open in Wheat Ridge. He believes this type of establishment is not good for our community because it entices youth with tobacco of multiple flavors.

John Odom, Wheat Ridge resident and surgeon, listed the negative medical effects of smoke from hookah lounges. He wishes Wheat Ridge had tighter laws on smoking.

Laurie Odom, Wheat Ridge resident and physician, spoke against the hookah lounge. She implored Council to try to make Wheat Ridge the healthiest community in this region and pass local laws that prohibit hookah lounges from operating in the city.

Sarah Davis, chair of Breathe Easy Wheat Ridge, spoke about how surrounding cities have closed the loopholes to prevent hookah lounges from coming in.

Michael Snow spoke against the hookah lounge. He thinks it's a deplorable business that is not healthy and not attractive to strong families. He believes it's Council's job to protect the health, safety and public welfare of its citizens and noted that surveys say restricting smoking will not harm businesses.

Tom Slattery of Wheat Ridge United Neighborhoods requested the use of Council Chambers on Thursday, September 27 from 7 – 10 PM for the election preview forum they always conduct. The back-up date would be September 28th.

Cheri Jahn came to thank the City of Wheat Ridge for all their efforts for the Carnation Festival – especially Joyce Manwaring and her staff and the Police Department. The great success of this year's festival would not have happened without them. She also reported a record crowd this year – estimated at 25,000 - 30,000 for the two nights.

Gina Hallisey, promoter for the Zoppe Circus, thanked the City and all the sponsors for their support. This is the best attendance and participation this circus has ever had and they are excited to return next year. She will have a full report for Council in the near future.

John Marriott, chair of Wheat Ridge Business District, spoke on several things:
1) He thanked Joyce Manwaring for keeping the outdoor pool open while the Rec Center pool is being cleaned, 2) Last week there was talk of crafting a muffler ordinance. He researched Denver's muffler ordinance and since it was enacted they have written 4, 5, and 0 tickets each year. He suggested that such an ordinance in Wheat Ridge would be a feel good/do nothing ordinance that won't be enforced, 3) He doesn't think an anti-smoking ordinance is necessary. He thinks it's a feel good ordinance and that state law is adequate. He's never had an issue with second hand smoke in a park, and 4) Regarding hookah lounges, they should just follow state law.

Connie Mauldin from unincorporated Jefferson County immediately west of Wheat Ridge spoke against the new animated sign at Good Times. It's lit up 24 hours a day and is very annoying to nearby residents at night. The neighbors wish that Good Times would have to turn off the sign when they close for the night. Code Enforcement has been very cooperative, but the owners of Good Times aren't. It appears that a different ordinance is necessary to govern animated signs.

Motion by Joe DeMott to direct staff to work with Wheat Ridge United Neighborhoods to allow and fund if necessary on September 27 their 2012 candidate forum as they have done so well in the past; seconded by Mr. Reinhart; carried 8-0.

APPROVAL OF MINUTES OF August 13, 2012

Motion by Mr. Stites to approve the minutes of August 13, 2012; seconded by Mr. Starker; carried 7-0, with Mr. Reinhart abstaining.

APPROVAL OF AGENDA

Mrs. Jay introduced the Consent Agenda.

1. CONSENT AGENDA

- A. Motion to approve payment to Insight Public Sector, Inc. in the amount of \$51,618.51 for the annual renewal of the Microsoft Enterprise Agreement
- B. Motion to accept Independence Street right-of-way from the City of Arvada
- C. Motion to award RFB-12-28- On-Call Traffic Signal Maintenance & Repair Services to W.L. Contractors, Inc. of Arvada, Colorado, in an amount not to exceed \$55,000

Motion by Mrs. Jay to approve the Consent Agenda; seconded by Mr. Stites and Mr. DeMott; carried 8-0

PUBLIC HEARING AND ORDINANCES ON SECOND READING

2. Council Bill No. 14-2012 – An Ordinance amending Section 26-603 of Chapter 26 of the Wheat Ridge Code of Laws, concerning regulation of sight distance triangles and swimming pool fences (Case No. ZOA-11-06)

Mayor DiTullio opened the public hearing.

Mr. Pond introduced Council Bill No. 14-2012.

Current regulations to sight distance triangles are difficult to apply, enforce, and explain. In the same section of the zoning code, requirements for swimming pool fences do not correspond with adopted versions if the building code.

Clerk Shaver assigned Ordinance No. 1518

Lauren Mikulak gave the staff presentation. She entered into the record the case file, the draft ordinance and the contents of the digital presentation, and documented that public noticing requirements for this hearing had been met. This change is brought forward because it has been difficult to locate sight distance triangles in the field. Several departments of the City (Publics Works, Police, Code Enforcement, Parks and Rec and Community Development) have given input to the proposal.

It will:

- Move the sight triangle out towards the street to the true corner
- Improve the ability to explain and field locate sight distance triangles
- Provide ease of enforcement and relieve the burden on the property owners

- Put us more in line with national standards
- Raise the upper limits of the clear zone to accommodate truck drivers
- Upgrade diagrams
- Align zoning and building codes related to swimming pool fences
- Reorganize the fence code section
- Defer to the International Building Code for pool fences

The Mayor closed the public hearing.

Motion by Mr. Pond to approve Council Bill No. 14-2012, an Ordinance amending Section 26-603 of Chapter 26 of the Wheat Ridge Code of Laws, concerning regulation of sight distance triangles and swimming pool fences on second reading and that it take effect 15 days after final publication; seconded by Mr. Stites; carried 8-0

3. Council Bill No. 15-2012 – An Ordinance submitting a proposed amendment of the Wheat Ridge Home Rule Charter to the voters of the City pursuant to Charter section 16.8 (b), setting the ballot title for same.

Mayor DiTullio opened the public hearing

Ms. Davis introduced Council Bill No. 15-2012. This Charter amendment would provide that all elected officials be elected by the most votes cast.

Mr. Dahl clarified the content of the ballot wording.

Mrs. Shaver thanked the current Election Commission members, Lloyd Levy and Wanda Sang, for their work leading to the recommendation of this charter change – which was unanimous. She also thanked former City Clerk Michael Snow for his valuable input since he was the one who conducted the runoff election last fall, and also former Commission Member, Peter Marks.

Lloyd Levy addressed the proposed charter change that the Election Commission is recommending. Last fall the regular election on November 1 cost the City \$7,500 because we were/are able to piggy-back on the county's election process. The run-off election that followed, which the City had to conduct and fund entirely on its own, cost around \$37,000. The suggested change would have all elected officials chosen by popular vote (whoever gets the most votes wins), thereby eliminating the possibility of any future, expensive run-off elections. He assured the public and the Council that adopting this process does not violate any principles of fairness, openness, or the representative process.

Clerk Shaver assigned Ordinance No. 1519.

The Mayor closed the public hearing.

Motion by Ms. Davis to approve Council Bill No. 15-2012 – An Ordinance submitting a proposed amendment of the Wheat Ridge Home Rule Charter to the voters of the City pursuant to charter section 16.8 (b), and setting the ballot title for same on second reading and have it take effect upon adoption. Seconded by Mr. DeMott; carried 8-0

4. Council Bill No. 16-2012 – An Ordinance amending Section 16-103 of the Wheat Ridge Code of Laws concerning unreasonable noise and providing for a special events permit for amplified sound on private property

Mayor DiTullio opened the public hearing.

Mr. DeMott introduced Council Bill No. 16-2012. This amendment to the code would provide for a special use permit process for amplified sound events.

Clerk Shaver assigned Ordinance No. 1520.

Staff: Mr. Dahl noted he added the Mixed Use zone district since first reading.

Public comment:

Moe Keller had a handout and updated Council on the current attitude of the Iris Street neighborhood. They prefer that the current noise ordinance remain unamended, that it is adequate for enforcement and they do not want the noise levels raised. If Council still wants to approve this ordinance she suggested these issues be addressed first:

- There is no time limit for the special event permit. They suggest 4 hours.
- Applicants have an appeal process, but neighbors don't.
- Address the impacts on surrounding neighborhoods, including adequate parking and excessive traffic volume. Public safety is a concern.

Laura Jenkins, of Iris Street, added her support for not having a special use permit in the noise ordinance. She thinks loopholes will be used.

Steve Keller said the neighborhood doesn't see a pressing need to approve a special events permit. If council plans to approve the permit process he added further:

- Limit the number of events per year. Four is good, but allow more if there are no complaints, fewer if there are complaints.
- The application be posted *prior* to being granted so neighbors are aware of it.

Mayor DiTullio closed the public hearing.

Motion by Mr. DeMott to postpone indefinitely Council Bill No. 16-2012 an ordinance amending Section 16-103 of the Wheat Ridge Code of Laws concerning unreasonable noise and providing for a special events permit for amplified sound on private property for the following reasons: Some confusion still exists and we have a little bit more work to do on it; seconded by Mr. Langworthy; carried 8-0

ORDINANCES ON FIRST READING

5. Council Bill No. 17-2012 - An Ordinance adding a new Section 26-638 to Chapter 26 of the Wheat Ridge Code of Laws, concerning zoning, to define occupancy limits and authorize the enforcement of such limits as a civil matter

Mr. Starker introduced Council Bill No. 17-2012.

This ordinance would provide for one single code section to govern residential occupancy limits. It will help public understanding of what is permitted and prohibited, as well as facilitate City enforcement.

Motion by Mr. Starker to approve Council Bill No. 17-2012 - An Ordinance adding a new

Section 26-638 to Chapter 26 of the Wheat Ridge Code of Laws, concerning zoning, to define occupancy limits and authorize the enforcement of such limits as a civil matter, on first reading, order it published, public hearing set for Monday, September 10, 2012 at 7 .m. in the City Hall Council Chambers, and that it take effect 15 days after final publication. Seconded by Mr. Pond ; carried 8-0.

6. Council Bill No. 18-2012 - An Ordinance amending Subsection 4-34(e) of the Wheat Ridge Code of Laws, concerning kennel license requirements, to prohibit variances that conflict with the City's zoning regulations

Mr. Stites introduced Council Bill No. 18-2012

This ordinance would prohibit the Police Chief from granting variances under Section 4-34 that proposes a use of land prohibited by the City's zoning regulations in Chapter 26.

Motion by Mr. Stites to approve Council Bill No. 18-2012, an ordinance amending subsection 4-34(e) of the Wheat Ridge Code of Laws, concerning kennel license requirements, to prohibit variances that conflict with the City's zoning regulations, on first reading, order it published, public hearing set for Monday, September 10, 2012 at 7 p.m. in the City Hall Council Chambers, and that it take effect 15 days after final publication; seconded by Mr. DeMott; carried 8-0

7. Council Bill No. 19-2012 - An Ordinance amending Section 24-51 of the Wheat Ridge Code of Laws, concerning weed and tall grass control, to authorize abatement of violations thereof and abatement cost recovery through nuisance enforcement and administrative enforcement

Mrs. Langworthy introduced Council Bill No. 19-2012.

This ordinance would provide property owners with the opportunity for a pre-abatement hearing (due process), and make the abatement cost recovery process and administrative fees consistent with other abatement actions.

Motion by Mrs. Langworthy to approve Council Bill No. 19-2012, an ordinance amending section 24-51 of the Wheat Ridge Code of Laws, concerning weed and tall grass control, to authorize abatement of violations thereof through nuisance enforcement and administrative enforcement, on first reading, order it published, public hearing set for Monday, September 10, 2012 at 7 p.m. in the City Hall Council Chambers, and that it take effect 15 days after final publication; seconded by Mr. Starker; carried 8-0.

DECISIONS, RESOLUTIONS AND MOTIONS

8. Resolution 42-2012 – authorizing the execution of an agreement allowing Walrus 5560 LLC to participate in the Wheat Ridge Business Development Zone Program and for the rebate of eligible City fees, charges and taxes in an amount not to exceed \$25,500 in association with the demolition and remodel of a facility at 5560 W. 29th Ave.

Mr. Starker, being the owner of Walrus 5560 and applicant for this rebate, recused himself and left the room.

Mr. Reinhart introduced Resolution 42-2012.

Motion by Mr. Reinhart to approve Resolution 42-2012, a resolution authorizing the execution of an agreement allowing Walrus 5560 LLC to participate in the Wheat Ridge Business Development Zone Program and for the rebate of building use tax in an amount not to exceed \$25,500 in association with the demolition and remodel of a facility at 5560 W. 29th Avenue in Wheat Ridge; seconded by Mrs. Jay.

Mr. Dahl noted that in this context a majority vote of the entire Council is required for passage. Even though Mr. Starker will not be voting -- five votes are still required.

Bud Starker is requesting to enter into the recently formed Business District Zone (BDZ) program for the rebate of eligible City fees, charges and taxes in association with a proposed partial demolition and remodel of a facility at 5560 W. 29th Avenue. The improvement cost of this demolition and remodel will generate approximately \$25,500 in building use tax. The financial impact to the City will be the rebate of 100% of the building use tax, not to exceed \$25,500.

Issues were raised about whether this is appropriate. Historically only long standing businesses such as King Soopers, or non-profits such as Head Start and the Seniors Resource Center have received 100% rebates like this. Mr. Starker is also receiving grants from WR 2020 and the 38th Avenue Merchants' Group (\$13,000). It looks like a

good plan, but this business is not even open yet. We didn't see this at a study session. Can we find another way to help these kinds of start-ups? These rebates have never been given to restaurants or new business. Approving this would set a precedent.

Mr. Dahl noted the dollar amount or the percentage could be changed.

Mr. Goff explained that only building use tax would be rebated. Other fees will be collected. Rebates are given only after the Certificate of Occupancy is granted. Code allows Council to give the rebate at a different time if they wish, or change the percentage; in this case staff is recommending 100%. Another alternative would be an ESTIP grant.

Considerable discussion followed and there was general agreement that this needed to come to a study session so there could be some discussion. This will affect future applicants with similar circumstances and setting a precedent tonight, without discussion, was not a good way to proceed.

Motion by Davis Reinhart to continue Resolution 42-2012 to the September 10th Study Session; seconded by Mrs. Jay; carried 7-0

Mr. Starker returned to the Council Chambers.

9. Resolution 43-2012 – concerning the Jefferson County School District R-1's bond issue and mill levy override issue on the November 6, 2012 general election ballot

Mr. Pond introduced Resolution 43-2012 and listed reasons why the Jefferson County School Board is bringing a mill levy override and a bond issue to the voters.

Motion by Mr. Pond to approve Resolution 43-2012, a resolution of the Wheat Ridge City Council concerning that Jefferson County School District R-1's bond issue and mill levy override on the November 6, 2012 general election ballot; seconded by Mrs. Langworthy.

Jonna Levine of Arvada addressed the Council in support of the School Board's ballot issues. The school district has a good record of success, but money from the state has been cut severely the last three years, as well as cuts from the school district. The School Board's position is that these ballot measures are necessary to ensure a quality level of education continues. She asked the Council to endorse the ballot issues.

All of the Council members gave their opinions about the ballot issue.

Motion carried 5-3, with Council members DeMott, Stites, and Davis voting no.

CITY MANAGER'S MATTERS

Mr. Goff reminded the public that the Rec Center is closed this week for annual maintenance, but folks can use the Golden Rec Center. He's added he's proud of staff's work to make the Carnation Festival and the Zoppe Circus successful.

CITY ATTORNEY'S MATTERS none

ELECTED OFFICIALS' MATTERS

Mrs. Shaver said she loved the circus and hope it comes back next year.

Mr. DeMott commented on how much fun the festival was and the circus. It was all a great success.

Mrs. Jay mentioned a woman she saw madly pulling weeds on Wadsworth in the vicinity of 44th & Wadsworth. She credited Councilmember Stites for this.

Ms. Davis thanked the city and volunteers for their work on the Carnation Festival. She also gave a shout out to her neighborhood for the successful block party they had. She thanked the police department for their help and encouraged other neighborhoods to do the same because it really brings your neighborhood together. She volunteered to help any neighborhood that wants to have one.

Mrs. Langworthy said she volunteered on the festival shuttle busses. They weren't very full and she encouraged folks to use them next year.

Mr. Starker also thanked the staff, the Police and the Parks people who helped with the Carnation Festival and the Circus. He thanked the citizens who came out to watch the parade and attend the festival and the circus.

Mayor DiTullio thanked people for their work and support for the Circus, and offered congratulations to the Carnation Festival.

ADJOURNMENT

The meeting adjourned at 8:54 p.m.

 6-0

Mike Stites, Council President



Janelle Shaver, City Clerk