

CITY COUNCIL MINUTES

**CITY COUNCIL MEETING
CITY OF WHEAT RIDGE, COLORADO
7500 WEST 29TH AVENUE, MUNICIPAL BUILDING**

September 10, 2012
7:00 p.m.

CALL TO ORDER

Mayor DiTullio called the meeting to order at 7:00 p.m.

PLEDGE OF ALLEGIANCE

ROLL CALL OF MEMBERS

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

Also present: City Clerk, Janelle Shaver; City Treasurer, Larry Schulz; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Police Chief, Daniel Brennan; Public Works Director, Tim Paranto; Community Development Director, Ken Johnstone; other staff, interested parties and interested citizens.

APPROVAL OF MINUTES OF August 27, 2012

Motion by Mr. Stites to approve the minutes of August 27, 2012; seconded by Mr. De Mott; carried 6-0.

PROCLAMATIONS AND CEREMONIES

Wheat Ridge Business District 10th Anniversary

Mayor DiTullio introduced present and past members of the WRBD Board of Directors. He read a proclamation recognizing the 10th Anniversary of the Business District. John Marriott, chairman of the WRBD spoke, thanking the City for their support of the business community. The Mayor also recognized Britta Fisher from WR2020 for her help with the Business District.

CITIZENS' RIGHT TO SPEAK

Peter Walstrom came again to speak about the problem of cats running at large and has concerns that enforcement is not happening. The Mayor asked him to speak to the Police Chief about this.

Britta Fisher announced the upcoming "Celebrate Ridge at 38" on September 22. There will be activities all day on High Court and movies in the evening. Details are available at www.RIDGEAT38.COM

Guy Nahmiach, chair of the Parks and Recreation Commission, said the Commission will be approving a resolution calling on the City Council to support a no smoking rule for City parks, playgrounds and open space.

APPROVAL OF AGENDA

PUBLIC HEARING AND ORDINANCES ON SECOND READING

1. 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

Mayor DiTullio opened the public hearing.

Ms. Davis introduced Agenda Item 1.

Our Code currently does not contain one stand-alone section that defines residential occupancy limits. This makes it difficult for citizens to understand and presents several challenges for enforcement. This ordinance adopts a single Code section concerning those residential occupancy limits which will be easier for people to understand and facilitate the preparation of valid citations. Additionally, staff believes that civil standards are more appropriate for occupancy limit enforcement than criminal standards which include potential jail time and proof beyond a reasonable doubt. No occupancy limits are being changed.

Clerk Shaver assigned Ordinance No. 1520.

Chief Brennan noted that this ordinance only addresses enforcement. The definition of a family will remain the same.

Mr. Dahl suggested extra wording be added on second reading that would signal to a judge that this is a civil matter and no jail should be imposed.

Mayor DiTullio closed the public hearing.

Motion by Ms. Davis 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 second reading and that it takes effect 15 days after publication, seconded by Mr. Reinhart;

Motion by Mr. Reinhart to amend the ordinance by adding the words "as a civil matter for which imprisonment shall not be imposed" to the end of the first sentence in Subsection 638 C; seconded by Mr. DeMott; carried 6-0.

The main motion as amended carried 6-0.

2. 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

Mayor DiTullio opened the public hearing.

Mr. Stites introduced Agenda Item No. 2.

Clerk Shaver assigned Ordinance No. 1521

This ordinance would prohibit the Police Chief from granting variances under Section 4-34 that propose a use of land (kennels and the keeping of extra cats and dogs) prohibited by the City's zoning regulations in Chapter 26. Should it pass the Chief could no longer grant kennel licenses in residential areas or grant variances allowing for three dogs or four cats.

Mayor DiTullio closed the public hearing.

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 second reading and take effect 15 days after publication, seconded by Mr. Reinhart; carried 6-0.

3. 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

Mayor DiTullio opened the public hearing.

Mrs. Langworthy introduced Agenda Item No. 3.

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

Clerk Shaver assigned Ordinance No. 1522

Mayor DiTullio closed the public hearing.

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 and abatement cost recovery through nuisance enforcement and administrative enforcement; on second reading and that it takes effect 15 days after final publication; seconded by Mr. DeMott; carried 6-0.

4. Resolution 44-2012 - A Resolution approving a Special Use Permit to allow reconstruction of a quasi-public facility and a major haul operation with variances in a Residential-One (R-1) Zone District located at 2901 Fenton Street (Case No. Sup-12-03/Ashland Reservoir)

Mayor DiTullio opened the public hearing for Items 4 and 5 and swore in speakers.

Mr. Reinhart introduced Agenda Items No. 4 and No. 5 so they could be discussed together.

Ken Johnstone presented a staff report that included graphics.

Denver Water is undertaking the reconstruction of the Ashland Reservoir at 29th and Fenton Streets. To accomplish this Denver Water is requesting a Special Use Permit, approval of a major haul operation and variances to various provisions of the zoning and development code. Additionally an IGA with Denver Water is necessary.

The reservoir dates from the late 1880's. Several upgrades have occurred over the years including the most recent addition of a concrete roofing system in the 1970's. The total time for this project will last about 3 years. During this time there will be significant disruption for the neighborhood, but in the long run it will be a very attractive site and a positive thing for the neighborhood and the City.

Martin Garcia, project manager for this project for Denver Water, went through a number of improvements that this project will bring about, and had a large list of impact mitigation steps they will be taking throughout the project. They realize that construction will have quite an lengthy impact on the neighborhood, but they will be working closely with the city and the neighborhood throughout the process. He noted that their security expert does not recommend adding brick pillars to the fence as the City staff in recommending because, per Homeland Security, they will present a security risk.

Carl Zarlengo, manager of Wheat Ridge Manor nursing home, said that he just wants reassurance that the access to and operation of their facility will not be compromised during the project.

Jason Albano, a neighbor of the project, has concerns about water pressure.

Mr. Garcia addressed access for the nursing home and water pressure to the satisfaction of the neighbors.

Council's concerns included:

- Screening and buffering during construction
- The size of landscaping features
- Desire to retain the brick pillars in the fence design
- Issues regarding the berms during construction
- Potential repair of 29th Avenue when the project is complete
- Why Denver water is lowering the storage space for water? (The answer to that is two-fold. Denver has built several more water storage facilities since this one was first built; and lengthy storage of such a large amount of water can lead to degradation of water quality (e.g. bacteria).)

Mayor DiTullio closed the public hearing.

Motion by Mr. Reinhart to approve requests for variances for building coverage, front yard setback, fence height, residential screening and construction days and hours associated with Case No. SUP-12-03 for the following reasons:

1. There are unique circumstances relative to property use and site configuration.
2. Given the size of the property, the variances should not be discernible.
3. The variances are required to accommodate site configuration, functionality and safety of the operation and construction requirements.
4. Once construction is finished, there will be no negative impact on the health, safety and welfare of the area.
5. The criteria used to evaluate a variance support the request.

Second by Ms. Davis; carried 6-0.

Motion by Mr. Reinhart to approve Resolution No. **44-2012** - a resolution approving a Special Use Permit to allow reconstruction of a quasi-public facility and a major haul operation in a Residential One (R-1) zone district located at 2901 Fenton Street, (Case No. SUP-12-03) for the following reasons:

1. There will be a public benefit as a result of the reconstruction.
2. The proposed SUP will not contribute to blight in the neighborhood.
3. There will be benefits due to increased landscaping and pedestrian connections.
4. There will be no negative impact to utilities, parks, schools or other public facilities and services.
5. The criteria used to evaluate a Special Use Permit support the request.

With the following conditions:

1. All representations made during public hearing testimony and as detailed in the case file shall be adhered to.
2. Denver Water will keep citizens apprised of the project status through a regularly mailed newsletter.
3. Project status meetings will be held with City office personnel as needed.
4. The monitoring station be redesigned to emulate some of the features of the existing well house on the property including but not limited to some façade features, materials used and glazing, or the well house be rebuilt somewhere else on the site.
5. Perimeter fencing be modified to have enlarged steel pillars with decorative finials every 100' as existing at the Ashland Decentralization Station.
6. Additional plantings be shown on the western side of the access drive from W. 29th Avenue.

Second by Mrs. Langworthy; carried 6-0.

DECISIONS, RESOLUTIONS AND MOTIONS

5. Resolution **45-2012** – A Resolution approving an Intergovernmental Agreement with the City and County of Denver regarding Denver Water's Ashland Reservoir

Motion by Mr. Reinhart to approve Resolution No. 45-2012, a resolution approving an intergovernmental agreement with The City and County of Denver, second by Ms. Davis; carried 6-0.

CITY MANAGER'S MATTERS

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS' MATTERS

Mrs. Langworthy announced the next Live Local event will be held at mod mood this Thursday in conjunction with their second anniversary. It runs from 5 - 7 pm.

Mr. Stites noted to staff there are City signs still around town from old projects, and he asked if staff could see about removing them.


Mayor DiTullio spoke about the graffiti this past weekend in the east part of WR. He also reported that he had spoken with Guy Namiach about the possibility of a no-smoking rule in the parks. He read a memo from the City Attorney which explains that Council could address the no-smoking issue with an ordinance or a resolution. If it is done by resolution it would be a park rule – rather than an actual law – so infractions would not result in court appearances or fines.

Adjourned at 8:29 p.m.

ADJOURNMENT to Special Study Session


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON September 24, 2012 BY A VOTE OF 6 to 0


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.