

CITY COUNCIL MINUTES

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

January 14, 2013

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

PLEDGE OF ALLEGIANCE

ROLL CALL OF MEMBERS

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

Absent: Bud Starker

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; Public Works Director, Tim Paranto; Parks and Recreation Director, Joyce Manwaring; Police Chief, Dan Brennan; interested parties and interested citizens.

APPROVAL OF MINUTES OF December 10, 2012

Motion by Mr. Stites for approval of the Minutes of December 10, 2012; seconded by Mr. De Mott; carried 7-0.

PROCLAMATIONS AND CEREMONIES

Rotary Presentation

Mike Herman from WR Rotary presented Mayor DiTullio with a check to the City for \$3,000, the second of four installments to be used for public art and the dog park.

Deputy City Clerk Bruce Roome, Certified Municipal Clerk Recognition

Clerk Shaver outlined the extensive requirements necessary for Bruce to become a Certified Municipal Clerk. Mayor DiTullio presented to Bruce the mounted diploma of certification from the International Institute of Municipal Clerks.

CITIZENS' RIGHT TO SPEAK

Eileen Leslie, owner of Walker Transmission, explained some problems she has had with the City's tax division. At issue is the interpretation of the City Code. She reported that the City refused to meet with her because she was not the owner at the time of the audit. This has hurt the reputation of her business. She was a practicing CPA for 15 years and feels the City needs an outside oversight on its conduct and would like to present her complaint to the Council directly.

Jeff Stevens, local artist, is on the Board of Directors of the American Council for the Blind. He spoke about the in-home sight for seniors program they have. They are starting a fundraising program thru March to raise \$10,000 and would like to find businesses that would put donation jars out to help them raise funds.

Julie Marshall has lived in WR for 6 years on a Section 8 voucher and said her most recent location near 38th & Dover is a slum, with bad problems of mold and electrical issues. Revenue is being lost in all cities across the state. She's lived in several states and believes Colorado is the worst for providing federally compliant Section 8 housing. She hasn't been able to find one 1-bedroom Section 8 house that qualifies under federal guidelines. She is now homeless and asks that landlords please be held accountable.

Britta Fisher of WR2020 invited the Council and the public to a community potluck on the last Wednesday of each month in January, February, and March. This film and potluck series is put on by the Live Local Harvest program. After the meal a local farmer will introduce a film about food, and discussion will follow. The events will be held at the Active Adult Center with the meal at 6:30pm and the film at 7:00. She thanked Councilmember Pond for helping sponsor this event and the City for making the Active Adult Center available.

APPROVAL OF THE AGENDA

1. CONSENT AGENDA

- a. Resolution 01-2013 – designating the City Hall Lobby as the Official Public Notice location and the Wheat Ridge Transcript as the official newspaper of general circulation for the City of Wheat Ridge, Colorado
- b. Motion to encumber funds for on-call storm sewer cleaning and on-call traffic signal repair services in a total amount not to exceed \$85,000 for 2013
- c. Resolution 02-2013 – amending the Fiscal Year 2012 General Fund Budget to reflect the approval of a supplemental budget appropriation in the amount of \$3,007 for payment to Jefferson County Clerk and Recorder for conduct of the November 6, 2012 General Election.
- d. Motion to award RFB-13-04-2013 to JPK Micro Supply, Inc. in the amount of \$36,300 for the scheduled upgrade, replacement and standardization of the City's Computer Network
- e. Motion to approve the support and licensing renewal with Logistic Systems, Inc. in the amount of \$83,553 for computer aided dispatch, records management and mobile field reporting systems.
- f. Motion to approve payment of the Sales Tax Increment for November of Fiscal Year 2012 from the Town Center Project in the amount of \$68,094.80 to the Wheat Ridge Urban Renewal Authority

- g. Resolution 04-2013 – approving an Intergovernmental Agreement between the City of Wheat Ridge and the City of Lakewood concerning Academy Training for Police Officer Recruits.

Mr. DeMott introduced the Consent Agenda.

Motion by Mr. DeMott to approve the consent agenda; seconded by Mr. Reinhart; carried 7-0

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Council Bill No. 26-2012 – An Ordinance approving the rezoning of property located at 12600 W. 42nd Ave. from Agricultural-One (A-1) to Mixed Use-Neighborhood (MU-N) (Case No. WZ 12-08/Rock)

Mayor DiTullio opened the public hearing.

Mrs. Langworthy introduced Council Bill No. 26-2012 and read the executive summary.

Clerk Shaver assigned Ordinance No. 1530.

Mayor DiTullio swore in the speakers for this public hearing.

Staff Report:

Meredith Reckert of the Community Development (Planning) staff entered appropriate documents into the record and distributed a legal protest submitted by adjacent neighbors. ~ The subject property is bordered on the east, south and west by A-1 properties, including the WR Greenbelt to the south. RC zoning is across the street to the north. ~ The application to MU-N would allow multi-family residential, limited commercial and live/work. Strict design standards would be required, and standard height limits would apply. Buffering for commercial use would be required. If this rezoning is approved the next step would be a site plan review by staff. A neighborhood meeting was held March, 2012.

The Planning Commission heard the case on October 18, 2012, and recommended denial. Staff recommends approval.

Applicant: **Tom Martinez**, a real estate broker, spoke for the applicants Matt and Trudy Rock. He noted that the subject property was originally 2 separate properties that were purchased at different times from the Lee & Baugh Ditch Company and Coors. He said the immediate area has transitioned to commercial, industrial and office uses, so the Rock's feel their request is appropriate. The construction of residential that is suggested by neighbors and some Planning Commission members will not work. They feel a prior zoning change across the street has affected the practical uses of their land. ~ He cited the staff conclusions for approval, and challenged the Planning

Commission's recommendation for denial. He said denial of this rezoning would be unfair to the applicant.

Public Comment.

Greg Boom lives on Xenon Street next to the Prospect Recreation maintenance Building and opposes this rezoning. He stated the Prospect Recreation building is zoned Agricultural and is not a commercial use; it's a very quiet neighbor. The roads in this neighborhood won't handle more traffic. He said the neighbors were told the MU-N zone is supposed to be a buffer, but the list of allowed uses for MU-N is long and could include things like a hospital, large apartments, or a grocery store. This is not a transition area; it's designed for houses and families; they prefer single family residential and think that use is very viable there. He reminded Council of the Planning Commission's recommendation for denial.

Cindy Beckfeld was born on Xenon Street and grew up there. It is a residential area and the commercial uses that have come in have, contrary to what the neighbors were promised, adversely affected the neighborhood. The variety of trucks and semi's that use Xenon drive too fast; they park on both sides of the street – making it like a one-way street; and they're rude when you try to talk to them about the problems. The street isn't big enough for the traffic that would be generated by yet another commercial business.

Kathryn Murphy lives directly west of the subject property. She appealed to the Council's common sense and hearts. She knows it's business and understands it will generate tax revenue for the City, but there comes a time when the people who live in the City should also be considered. She worked in the City for 13 years; she shops here and encourages others to do so; she supports the City. Their property is a family owned property from his husband's great-grandmother. They were told the diesel business would not have an adverse effect on their neighborhood, but the size and volume of the trucks has had an extreme adverse effect on the neighborhood. She pointed out that the excessive noise, traffic and lighting generated by this rezoning will not meet the criteria for MU-N zoning. Additionally, in uncertain economic times, as businesses may come and go, the neighborhood has no assurance what might go in there. She drew attention to the Planning Commission minutes which point out that the rezoning would have a negative effect on adjacent property. The Planning Commission actually came down and walked the property and realized the negative impact this rezoning would have on the neighborhood. She pled with Council not to approve this.

Marnie Boom reiterated that the Prospect Recreation facility is not an industrial area. It generates very little activity; they are very respectful of the neighborhood and keep in good touch; they treat their property agricultural. The neighbors couldn't fight Head Start, which generates traffic 4 times a day and she feels is actually quite a hazard for the kids. There just is not room for another commercial property with traffic. The Rocks want to sell the property so this leaves the neighborhood no assurance about what would be built there. This area is a neighborhood and they want to preserve it. This

rezoning would not buffer anything, but would actually further split the neighborhood. ~

Mrs. Boom also read a letter from another neighbor, **LaVonne Beckfeld**, who is out of town right now. Mrs. Beckfeld has owned 2 residential properties on Xenon Street since 1940. ~ She explained how a little, non-invasive home business -- a man who sharpened saw blades in his garage - was kicked out of the neighborhood when WR was incorporated because the City said they didn't want businesses there. ~ Another incident developed over a dog day care. Some years ago a lady got hearty approval from the neighborhood and an OK from the City to temporarily care for dogs in her garage. The use was to terminate when she moved away. She moved, but the City couldn't find the paperwork and three different kennels have been there since and it's now three times in size. ~ She mentioned the neighborhood meeting of last year that was attended by nearly all the residents on Xenon Street and even some from Vivian Street. All the neighbors voiced their opposition to the rezoning, but once again the City has gone against them. ~ She referenced the narrow street and doesn't think it can handle further commercial uses. She also referenced the Planning Commission members coming out and listening to them, and thanked them for their support of the neighborhood.

Donna Mefford lives at the other end of the street, and asked that Council please keep this agricultural zoning. The street can't handle more traffic.

A few councilmembers had questions of staff. Mr. Martinez offered rebuttal.

Mayor DiTullio closed the public hearing.

Motion by Mrs. Langworthy to DENY Council Bill No. 26-2012, an ordinance approving the rezoning of property located at 12600 W. 42nd Avenue from Agricultural-One (A-1) to Mixed Use-Neighborhood (MU N) for the following reason(s):

1. The majority of the request does not meet the zone change criteria.
2. More commercial use further destroys the integrity of the neighborhood.
3. The proposed zone change does not seem to create a buffer but rather encourages more commercial conversion.

Seconded by Mrs. Jay; failed 4-3 with Councilmembers DeMott, Stites, Davis and Pond voting no.

Motion by Mr. De Mott to APPROVE Council Bill No. 26-2012, an ordinance approving the rezoning of property located at 12600 W. 42nd Avenue from Agricultural-One (A-1) to Mixed Use-Neighborhood (MU N) for the following reason(s):

1. The proposed zone change is consistent with the goals and objectives of the Comprehensive Plan.
2. The proposed zone change is compatible with the surrounding area.
3. The proposed zone change will not adversely impact the public health, safety, or welfare.
4. The subject property is currently underutilized, and a zone change may increase

the likelihood of the site developing and serving as a transitional site between existing commercial and residential uses.

Seconded by Mr. Reinhart; failed 4-3 with Councilmembers Davis, Jay and Langworthy voted no. Mr. Dahl confirmed that due to the legal protest 6 votes of the Council are required for passage.

Motion by Mr. Reinhart to have Mr. Dahl write findings. Seconded by Mrs. Langworthy; carried 7-0.

Mr. Dahl reminded the assembly that the action at the next meeting will not be a public hearing. The application wasn't approved and that decision has been made. The next action will only be the acceptance of the findings.

The Mayor called a short recess at 8:30 pm and the meeting reconvened at 8:37

3. Council Bill No. 27-2012 – An Ordinance approving the rezoning of property located at 3775 Benton St. from Planned Residential Development (PRD) to the Mixed Use-Neighborhood (MU-N) Zone District (Case No. WZ-12-09)

Mayor DiTullio opened the public hearing.

Ms. Davis introduced Council Bill No. 26-2012 and read the executive summary.

Clerk Shaver assigned Ordinance No. 1530

Mayor DiTullio swore in the speakers for this public hearing.

Staff Presentation

Sarah Showalter of the Community Development Department entered all the packet materials into the record. The subject property is a vacant parcel that has commercial use to the north, R-1B zoning and use to the west, a duplex (R-3) to the south and C-1 zoning across the street to the east. The current PRD zoning only allows for single family use and a height limit of 35 feet. The proposed MU-N zoning will allow a variety of residential uses, limited commercial uses or a mix. Fairly strict architectural standards would be in place to encourage quality development. Due to the narrowness and very small size of the property a commercial use is not really viable because the dimensions don't accommodate a realistic structure or the drainage, parking, access and setback requirements. The applicant has expressed wanting to build something with a residential component. A 3-story, 3-unit residential structure would be possible. The neighborhood meeting brought out concerns about allowed uses. Staff thinks the zoning fits the area. Had this property not had a PRD zoning at the time it could have been included in the legislative rezoning for 38th Avenue.

Applicant: Property owner **Suen Phommatha** lives in Westminster but wants to move near his grandfather. He likes Wheat Ridge and wants to pull more young people to the area.

There was no public comment.

Mayor DiTullio closed the public hearing.

Motion by Ms. Davis to approve Council Bill No. 27-2012, an ordinance approving the rezoning of property located at 3775 Benton Street from Planned Residential Development (PRD) to the Mixed Use-Neighborhood (MU-N) zone district, on second reading and that it take effect 15 days after publication; seconded by Mr. Reinhart ; carried 7-0.

ORDINANCES ON FIRST READING

4. Council Bill No. 01-2013 – An Ordinance approving the rezoning of property located at 4335 Harlan Street from Restricted Commercial (RC) to Mixed Use Neighborhood (MU-N) (Case No. WZ-12-10/Fernandez)

Mrs. Jay introduced Council Bill 01-2013.

The property contains a single family home built in 1954. In 1975 it was converted for commercial use and has been used as such since that time. Many of the properties on this block are converted residences which now serve as low impact offices. The applicant would like to return the structure to residential use, but the change to a MU-N zone category would allow for a live/work option.

Motion by Mrs. Jay to approve Council Bill No. 01-2013, an ordinance approving the rezoning of property located at 4335 Harlan Street from Restricted Commercial (RC) to Mixed Use-Neighborhood (MU N) on first reading, order it published, public hearing set for Monday, February 11, 2013 at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Mr. Reinhart; carried 7-0.

5. Council Bill No. 02-2013 – An Ordinance amending Section 16-131 and Section 16-133 of the Code of Laws concerning possession of marijuana and drug paraphernalia

Mr. Reinhart introduced Council Bill 02-2013. Due to the passage of Amendment 64 by the voters of Colorado in November, 2012 it is necessary to amend our Code to allow the recreational use of one ounce of marijuana and associated drug paraphernalia by persons 21 years of age and older.

Motion by Mr. Reinhart to approve Council Bill No. 02-2013, an ordinance amending Sections 16-131 and 16-133 of the Wheat Ridge Code of Laws on first reading, order it

published, public hearing set for Monday, January 28, 2013 at 7 p.m. in City Council Chambers, and that it take effect upon adoption and signature of the Mayor as provided by Section 5.11 of the Charter; seconded by Mr. DeMott; carried 7-0.

DECISIONS, RESOLUTIONS AND MOTIONS

6. Resolution 03-2013 – approving a Smoke-Free Policy in all parks, playgrounds and open space within the City of Wheat Ridge

Mr. Stites introduced Resolution 03-2013. The resolution creates a new park rule and is not intended to be formally added to the City's Code of Laws.

Motion by Mr. Stites to approve Resolution No. 03–2013, a resolution approving a smoke-free policy in all parks, playgrounds and open space within the City of Wheat Ridge; seconded by Mrs. Langworthy; carried 7-0.

7. Motion to award RFQ-JN-12-35 to DHM Design of Denver, Co., in the amount of \$89,730 for the purpose of preparing the design and construction documents for the park at 44th and Kendall

Ms. Davis introduced Item #7. This contract includes design development, preparation of constructions documents, bidding and bid analysis services.

Motion by Ms. Davis to award RFQ-JN-12-35 to DHM Design, Denver, CO, in the amount of \$89,730 for the purpose of preparing the design and construction documents for the park at 44th and Kendall; seconded by Mrs. Jay; carried 7-0.

8. Motion to approve payment in the amount of \$215,500 to WR2020 for the purpose of funding a Revolving Loan Program for the Building Up Business and Home Improvement Loan Programs and other Community and Economic Development Programs.

Mrs. Jay introduced Item #8.

At the request of WR2020 the City has budgeted money to support the following:

- \$150,000 to support the Home Investment Loan Program (HIP) and Building Up Business Loan (BUBL) Program. 6% will be used for administration and a balance of \$11,141.54 currently exists in the fund.
- \$20,000 to support Live Local Wheat Ridge – a series of social events that support local restaurants and businesses.
- \$20,000 for the East Wheat Ridge Revitalizations Project, a matching grant program to help east WR residents with costs for painting, landscaping, tree trimming and other deferred maintenance.

- \$19,500 for neighborhood dumpster days, block parties, and community education
- \$6,000 to administer the Community Development Block Grant Energy Efficiency Program. \$157,000 in federal money is available to income qualified households for energy efficient upgrades such as windows, attic insulation, roofs and gutters.

Motion by Mrs. Jay to approve payment in the amount of \$215.500 to WR2020 for the purpose of funding a revolving loan program for the Building Up Business and Home Improvement Loan Programs and other community and economic development programs; seconded by Mr. Reinhart; carried 7-0.

9. Motion to direct staff to write an ordinance setting term limits for Board and Commission Members

Mr. Pond introduced Item #9.

Staff report

Clerk Shaver related to Council how there have been times when it's been very hard to find people to serve on certain boards or to serve from certain districts. The provision to allow people to serve out-of-district was a result of this recurring problem. While City Council elections offer one opportunity for the infusion of new ideas and fresh energy, she also stressed the value of the institutional memory that long-time board members bring to the table. She encouraged Council not to impose forced term limits.

Deputy City Clerk Bruce Roome presented some hard numbers for Council to consider. Eight of the 16 cities that responded to an informal inquiry have term limits for their boards. These cities tend to be large cities like Arvada and Aurora. Other information showed the number of years served individually by some 800 volunteer members since incorporation. It showed that term limits have and continue to occur in a natural way – either through attrition, resignations or non-reappointments. Our current boards and commissions actually have a very even distribution of members with various lengths of service.

Motion by Mr. Pond to not direct staff to draft an ordinance setting term limits for Board and Commission members because there is not a compelling need for term limits at this time; seconded by Mrs. Langworthy; carried 7-0.

10. Motion to ratify Mayoral appointment of Zachary Urban to the Housing Authority representing District II, term to expire March 2, 2014

Item #10 was introduced by Ms Davis. This vacancy appointment is for one year.

Mrs. Jay said she would not support the Mayor's appointment because she would rather have Kim Calomino be appointed.

Motion by Ms. Davis to ratify the Mayoral appointment of Zachary Urban to the Housing Authority representing District II, term to expire March 2, 2014; seconded by Mr. Stites : carried 4-3, with Councilmembers Langworthy, Jay, and Reinhart voting no.

11. Motion to ratify Mayoral appointments to Renewal Wheat Ridge

Item #11 was introduced by Ms. Davis. There are two positions up for appointments.

Motion by Ms. Davis to ratify the at-large Mayoral appointments of Walter Pettit and Shane Nicholson to Renewal Wheat Ridge, both terms to expire November 30, 2017; seconded by Mr. Reinhart; carried 7-0.

CITY MANAGER'S MATTERS

Mr. Goff gave updates on some new and redeveloping businesses. The King Soopers at 38th & Sheridan has pulled its permits for their \$6 million remodeling. ~ The new brew pub Colorado + (Plus) that's going in on 38th Avenue is moving forward. It will serve over 52 Colorado beers – including four of their own. ~ Tommy Slalom at 38th & Sheridan in Denver will be moving into Wheat Ridge on 43rd Avenue. They are a retailer of water sport boats, jet skis, etc. ~ The restaurant Taste of Home Cooking is moving in from Arvada into the old Mercedes restaurant location on Kipling.

CITY ATTORNEY'S MATTERS

CITY CLERK'S MATTERS

Clerk Shaver thanked Bruce Roome for his work putting together data on the boards and commissions that helped Council make their decision.

ELECTED OFFICIALS' MATTERS

George Pond appreciates the discussion on term limits for boards. He reminded all of the Live Local Harvest events on January 30, February 27, and March 27.

Joyce Jay thinks it's great we're having discussion on the dais so people can see how we make these decisions, and she's excited people will see some study sessions.

Joe DeMott thanked the Rotary for their contribution and all the hard work they do. He thanked Deputy Clerk Roome for the information he provided tonight and congratulated him on his certification. He thinks the term limit discussion was open and meaningful.

Kristi Davis congratulated Bruce and thanked him for the data. The discussion on the dais was helpful, the data showed there really wasn't the need one might have thought, and she thinks it's good to let the public see how Council reaches its decision. She thinks it's good that the Council discussed the applicants for the Mayoral appointments at a study session, and that it cleared up some glitches in the process.

Tracy Langworthy announced the Meet the Artist event this Thursday, January 17 at 5:30 – 7:00 PM at Home Instead Senior Care, 6191 W. 44th Avenue. The features local artist is Katie Hoffman. ~ The next Live Local event is at Clancy's this Thursday evening. ~ She thanked Bruce Roome for the information. He is always so helpful and she's glad to see we have employees that go above and beyond what their job requires.

Mike Stites's positive thing: Today he saw some kids walking on 38th Avenue after school and they didn't have coats on. He thinks it's likely they didn't have coats. He encouraged folks to check in their neighborhoods to make sure all the children have clothing for the cold weather.

Mayor DiTullio offered congratulations to Bruce Roome. Bruce took over after 30 plus years of the previous Deputy Clerk and he had some big shoes to fill. ~ He congratulated Zach Urban, Walt Petit and Shane Nicholson on their appointments tonight. They bring good experience to the Urban Renewal Authority and the Housing Authority, and with money to spend they should have a productive year. ~ He thanked the Rotary again for their contributions towards the art at Discovery Park and for the dog park. ~ He noted that Wheat Ridge hosted the Metro Mayors Caucus annual retreat this past Saturday morning at the Rec Center. 38 area mayors attended, including Mayor Hancock from Denver, members of CDOT, the Colorado Municipal League and some other organizations. He noted that the Rec Center is 13 years old and still shows well. It looks like it's brand new and they got several compliments on it

Meeting adjourned at 9:37 pm.

Janelle Shaver
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON January 28, 2013 BY A VOTE OF 7 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.