

CITY COUNCIL MINUTES

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

March 25, 2013

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

ROLL CALL OF MEMBERS

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

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

APPROVAL OF MINUTES OF March 11, 2013

Clerk Shaver pointed out a correction for the Minutes of March 11. Mr. Starker was in Washington DC, not Ms. Davis.

Motion by Councilmember Stites for approval of the Minutes of March 11, 2013 as corrected; seconded by Councilmember Reinhart; carried 5-0, with Councilmembers Starker, Langworthy and Reinhart abstaining.

PROCLAMATIONS AND CEREMONIES

Clerk Shaver read a proclamation designating the month of April as Child Abuse Prevention Month.

CITIZENS' RIGHT TO SPEAK

Nancy Snow applauded the measures Council has taken to be open and transparent with meetings and information. However, she thinks the titles of agenda items should accurately reflect the true substance of the item. She referenced the title of Item 5 on tonight's agenda that makes no mention of the request for a rebate of property taxes at 38th & Depew – which is what this item is about. There's absolutely no way an average citizen would have known this. In the future she asks that the agenda titles be more informative for the public.

Dr. Linda Smith had 3 concerns:

Living near the new restaurant going in at 29th & Depew, she is concerned that the sewer for the restaurant was tapped into the residential sewer in the alley, rather than putting in a larger pipe. Will the capacity be adequate to handle increased volume from the restaurant?

- 1) It's very difficult to pull out onto 29th from Depew Street because of the off-street parking at the corner that causes sight problems. She recommended No Parking spaces on Depew near the corner to prevent this hazard.
- 2) She would also like to see the City assist people with tree trimming, especially after a storm.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

1. Council Bill No. 03-2013 – amending the Cable Television Franchise Agreement between the City of Wheat Ridge, Colorado and Comcast of Colorado IV, LLC, to extend the term of the Franchise

Mayor DiTullio opened the public hearing.

Councilmember Pond introduced agenda Item 1.

Clerk Shaver assigned Ordinance 1534.

The City's franchise agreement with Comcast expires on April 1, 2013. An extension of the franchise agreement to December 31, 2014 will allow the cities of Denver and Aurora to complete their franchise negotiations with Comcast which would be in the best interest if the City of Wheat Ridge.

Management Analyst Nathan Mosley gave a brief staff report.

Mayor DiTullio closed the public hearing.

Motion by Councilmember Pond to approve Council Bill No. 03-2013, an ordinance amending the Cable Television Franchise Agreement between the City of Wheat Ridge, Colorado and Comcast of Colorado IV, LLC, to extend the term of the franchise on second reading, and that it take effect fifteen days after final publication; seconded by Councilmember Stites; carried 8-0.

2. Council Bill No. 04-2013 – approving the rezoning of property located at 12390 W. 44th Ave. from Agricultural-Two (A-2) to Mixed Use-Neighborhood (MU-N) (Case No. WZ 12-11/Frisk)

Mayor DiTullio opened the public hearing.

Councilmember DeMott introduced agenda Item 2.

Clerk Shaver assigned Ordinance 1535.

Mayor DiTullio swore in the speakers for the hearing.

Senior Planner Meredith Reichert gave the staff presentation. She entered into the record the case file and the contents of the digital presentation. She also reported that the property had been properly posted.

The property is on the south side of 44th Ave. directly opposite Ward Road. It contains a single-family house; the owners have made improvements including a parking lot and handicapped accessibility. The current A-2 zoning is quite restricting. The MU-N zoning would allow more options for use. Height restrictions remain. The MU-N zoning is in line with the Comprehensive Plan. Access easement to the neighboring property to the south will remain in perpetuity.

The Mayor asked that the record reflect the applicant was in the audience.

Council had no questions or comments.

Mayor DiTullio closed the public hearing.

Motion by Councilmember DeMott to approve Council Bill No. 04-2013, an ordinance approving the rezoning of property located at 12390 W. 44th Avenue from Agricultural-Two (A-2) to Mixed Use-Neighborhood (MU-N) on second reading and that it take effect 15 days after final publication, for the following reasons:

1. City Council has conducted a proper public hearing meeting all public notice requirements as required by Section 26-109 of the Code of Laws.
2. The required rezoning has been reviewed by the Planning Commission, which has forwarded its recommendation.
3. The requested rezoning has been found to comply with the criteria for review in Section 26-112-E of the Code of Laws.

The property is currently underutilized, and a zone change will increase the permitted uses of the site.

Seconded by Councilmember Langworthy; carried 8-0

3. Resolution 11-2013 - approving a two-lot subdivision plat with a Right-Of-Way dedication for property zoned Agricultural-One (A-1) located at 4900 Robb St. (Case No. MS-13-01/Hawn)

Mayor DiTullio opened the public hearing.

Councilmember DeMott introduced agenda Item 3.

Mayor DiTullio swore in the speakers for the hearing.

Meredith Reckert made the staff presentation. She entered into the record the case file, subdivision regulations and the contents of the digital presentation.

This 3.09 acre plot is long and narrow and contains a farm house built in the late 1800's. There are also various farm outbuildings and 2 ditch laterals. Lot 1 would be the western portion of the lot facing Robb Street – the area containing the house and buildings. Lot 2 would be the eastern portion of the lot with access to Robb Street preserved along the southern boundary of new Lot 1.

The applicant indicated that all the documents for historical designation for the house are complete and will be submitted subsequent to the subdivision.

Mayor DiTullio closed the public hearing.

Motion by Councilmember DeMott to approve Resolution No. 11-2013, a resolution approving a two-lot subdivision plat with a right-of-way dedication for property zoned Agricultural-One (A-1) located at 4900 Robb Street, for the following reasons:

1. City Council has conducted a proper public hearing meeting all public notice requirements as required by Section 26-109 and 26-407 of the Code of Laws.
2. The requested subdivision has been reviewed by the Planning Commission, which has forwarded its recommendation.
3. The Subdivision plat has been found in compliance with Article IV of Chapter 26 of the Code of Laws.

Seconded by Councilmember Starker; carried 8-0

ORDINANCES ON FIRST READING

4. Council Bill 07-2013 – An Ordinance extending a Temporary Moratorium on the submission, acceptance, processing, and approval of applications for a permit or license for any Marijuana Establishment or Marijuana Club

Councilmember Stites introduced agenda Item 4.

This ordinance extends the moratorium originally imposed by Emergency Ordinance 1533, on March 11. That ordinance will expire 90 days after adoption. This new ordinance repeals the emergency ordinance and replaces it with a standard moratorium extending to November 1, 2013. This extension will provide the time necessary to develop appropriate policies.

Motion by Councilmember Stites to approve Council Bill No. 07-2013, an ordinance extending a temporary moratorium on the submission, acceptance, processing and approval of any application for a City permit or license to operate

a marijuana establishment or marijuana club, on first reading and schedule public hearing for April 8, 2013 at 7:00 p.m. in City Council chambers; seconded by Councilmember Reinhart;

Mr. Dahl clarified that this ordinance does not affect medical marijuana.
Motion carried 8-0.

DECISIONS, RESOLUTIONS AND MOTIONS

Mr. Reinhart announced he would recuse himself from Item 5 as he has done work on this project and will continue to do so. He left the Council Chambers.

5. Resolution No. 12-2013 – approving a fourth modification to the 38th Ave. Corridor Redevelopment Plan

Councilmember Starker introduced agenda Item 5.

Issue: Should Renewal Wheat Ridge (Urban Renewal) enter into a Tax Increment Financing (TIF) agreement with Crosswire Investments for the development of Perrin's Row townhomes at 5760 W. 38th Avenue?

Steve Art, WR Economic Develop Coordinator, gave background information on the property at 38th & Depew. This proposed revision to the Corridor Plan will allow for 26 residential units with no commercial use. Urban Renewal would enter into an agreement with Crosswire for the placement of public infrastructure (water, sewer, etc.) or modifications to the buildings for beautification for the public realm. A third party analysis indicates public assistance will be necessary for this project to happen. The Urban Renewal board agreed (vote 5-2) in concept to enter into an agreement with Crosswire. The developer would receive 80% of their taxes back in years 1-7. Urban Renewal will receive 20%. In years 8-20 the developer get 55% and Urban Renewal gets 45%. The units will house an estimated 60 people. Staff believes this will be a catalyst for new development and remove the blight of a vacant lot.

Owner **Richard Oneslager** gave some history on prior projects that never happened and how this project came about. He thinks this project fills a void for new residential units in this part of town and reported that having New Town be the developer has already sparked interest in the area by other builders. There is a very thin financial return. The developer will carry all the risk; the City will have no risk

Gene Myers of New Town Builders presented information about his company and why they want to build this project. They will build 1,100-1,500 sq ft, 3-story units modeled after their Central Park Rows at Stapleton, and hope to sell them for well below \$300,000.

Public Comment:

Jay Peck (Lakewood) represents a group of similar investors who would be interested in TIF's. He asked if Council will be supporting other residential TIFs now. Mayor DiTullio told him this hearing was only about the Perrin's Row project and he would need to speak with staff members about future projects. When asked about standards for TIFs, the Mayor told Mr. Peck this project was a unique recommendation from Urban Renewal.

Nancy Snow (Wheat Ridge) objected to the rebate of property taxes. This project has no commercial so it will not generate any sales tax. That is the goal of a TIF. Some years ago the City adopted a mixed use zone for this very property so it could mix residential and commercial uses. Now there is no commercial and no sales tax generated.

- She believes there's no doubt these units will end up as rentals.
- She stated it's very unfair for the City to take all the property tax that would go to the School District, the County, the water and sewer districts, and the Fire District for 20 years. Any dickering behind the scenes about giving the Fire District their share of tax is fine for them, but not fair to the other entities.
- She resents vacant land being labeled as blighted. It's not blighted, it's vacant land. There are law suits all over the state about this.
- She pointed out some things in the third-party analysis that reveal that if the owner sold the property he would make money. The third party analysis contains what the owner wants for the property, not a real market value. The third-party report lists two other options for the owner, but there's not much analysis about them. Urban Renewal jumped straight to the option of giving the tax rebate.

Michael Snow (Wheat Ridge) is involved in and supports the revitalization of Wheat Ridge. We've had some good progress with new businesses and remodeled storefronts. Business and people are starting to move across Sheridan. He does however think this project is the cart before the horse. He believes it's a mistake to think that building apartments will help the process and bring more people to WR. Rentals are exactly contrary to what we're trying to achieve. This is not the right time for council to help this developer with his profit; instead we should be helping other folks that would come into WR to buy a house with a yard and a place for their kids to play.

Tom Slattery (Wheat Ridge) thinks this TIF is a bad precedent. He gave numbers on the fiscal impact this TIF will have on the School District, the County, the Fire District, and the City of WR. Residential construction has the largest impact on the school district, so why take the tax dollars that would go to the school district. There are also numerous county services that rely on tax funding. Even if the Fire Dept ends up receiving its share of taxes, the rest of the entities

will have to take up the slack. TIF's have always been for commercial projects. Residential provides nothing. He urged the Council to reject this proposal

Elizabeth Grant (Wheat Ridge) asked the Council to vote against this. She doesn't think the market is prepared for it. She too believes they will become rentals and doesn't like losing \$467,000 over 20 years. It's very unfair to rob the schools and other entities of the money they need. She thinks the owner should follow his third option and wait.

Brian Hancock, represent a small group of investors. They think this TIF would be a real bargain for them, so they support this revision.

Chief Steve Gillespie of the Wheat Ridge Fire District said the Fire Board requests that the Council deny this application if it supports any loss of revenue for them. 1) They need the money to operate and fulfill their mission. 2) Of equal and possibly greater concern is the precedent it sets for residential property. Where does it stop and what are the short and long term ramifications for the Fire district?

Kim Calomino (Wheat Ridge 2020) is excited about this project. The future residents will spend money in Wheat Ridge. Rooftops bring retail. This is the generator we've been waiting for. She also testified to the integrity of Gene Myers as a builder; she has known him for a long time.

Questions from and comments by Council included the following topics:

- Owner occupancy: Gene Myers said that most of his units remain owner-occupied with only 10-15% being purchased by investors. New Town prefers owner-occupied, but they really can't agree to requiring owner-occupied restrictions.
- The true value of the land.
- Mr. Oneslager will end up with an 18% internal rate of return.
- The project will have a Home Owners' Association with dues for exterior maintenance.
- Glad to have such a reputable builder.
- Vacant land does not produce income, so the shopping the residents do will generate new revenue.
- Vacant land does not require municipal, county or special district services.
- Each of the 26 units would have to spend \$576,000 every year for 20 years for the City to recover what it's giving up in sales tax.
- Could the money TIF's take away from the School District be the cause of their shortage of funds?
- Should the City be in the business of providing profit for developers?
- Would this be setting a precedent for all future residential developers and opening the door for every person who adds on to their house to increase square footage to come to the City to ask for a similar tax break.

- It's a concern that so many economic projects are coming in involving tax rebates.

Motion by Councilmember Starker to adopt Resolution No. 12 -2013, a resolution approving a fourth modification to the 38th Avenue Corridor Redevelopment Plan; seconded by Councilmember Davis;

Motion Councilmember Stites to amend the main motion to provide that the Fire Dept shall receive 100% of the revenue they would get without any TIF; seconded by Councilmember DeMott.

Mr. Dahl and Mr. Goff verified that Council can put restrictions like this into the agreement. Motion to amend carried 6-1, with Councilmember Jay voting no.

The main motion carried 5-2, with Councilmembers Stites and DeMott voting no.

The Mayor called for a short break at 8:53. The meeting resumed at 9:00 and Councilmember Reinhart returned to the Chambers.

6. Motion to approve award of RFB-13-12, for purchase of 38th Ave. Banner Poles, to Wesco Distribution, Denver, CO, in the contract amount of \$36,580

Councilmember Jay introduced agenda Item 6.

This is a budgeted purchase of 2 pairs of banner poles with cable and pulley systems for each pair. Installation, assembly of the cable and pulley systems, wiring and lighting at not included.

Motion by Councilmember Jay to approve the award RFB-13-12, for purchase of 38th Avenue Banner Poles to WESCO Distribution, Denver, CO, in the contract amount of \$36,580; seconded by Councilmember Reinhart; carried 6-2 with Councilmembers Stites and DeMott voting no.

7. Motion to approve the annual support and licensing renewal for the Cartegraph System in the amount of \$43,653 to Cartegraph, Inc.

Councilmember Pond introduced agenda Item 7.

This renewal includes software upgrades and bug fixes and patches, plus technical support to implement these software enhancements and fixes. The package is inclusive for licensing and technical support services and was approved in the 2013 IT Budget.

Motion by Councilmember Pond to approve the annual support and licensing renewal for the Cartegraph system to Cartegraph, Inc. in the amount of \$43,653; seconded by Councilmember DeMott; carried 8-0.

8. Motion to approve the purchase of the 2013 Vehicle Replacements and Accessory Equipment in an amount not to exceed \$167,361

Councilmember Langworthy introduced agenda Item 8.

The following vehicles are recommended for purchase as replacements:

One (1) 2013 Dodge Durango All Wheel Drive SSV	\$26,669/ea
One (1) Large 2013 Ford F-150 XL, 4x4, Crew Cab Pickup	\$26,915/ea
One (1) Large 2013 Chevrolet 1500 Cargo Van	\$17,510/ea
One (1) Large 2013 Ford F-150, 4x4, Extended Cab Pickup	\$22,766/ea
One (1) Large Chevrolet Silverado 2500, 4x4, Extended Cab Pickup with Plow Package	\$28,195/ea
One (1) 2013 Chevrolet Silverado 3500 4x4 Cab & Chassis with Dump Bed Body Package	\$31,306/ea
Total Cost:	\$153,361

Motion by Councilmember Langworthy to approve the purchase of the 2013 vehicle replacements and accessory equipment for a total cost of \$153,361. She further moved to approve the expenditure of the not-to-exceed amount of \$14,000 for the purchase, installation, and/or relocation of auxiliary equipment for the operation of the vehicles along with the installation of markings and communication equipment;

Seconded by Councilmember Jay; carried 6-2, with Councilmember Stites and DeMott voting no.

CITY MANAGER'S MATTERS

Mr. Goff announced a new Civic Academy. This year's focus will be on the results that city departments are working to achieve, how these efforts affect the community, and how residents can become involved. Registration is available on the city website or by contacting Nate Mosley at 303-235-2837

CITY ATTORNEY'S MATTERS

CITY CLERK'S MATTERS

Clerk Shaver informed everyone that longtime resident of Wheat Ridge Ruth Howard passed away about 3 weeks ago in North Carolina. Ruth started the City's youth probation program and ran it for 30-some years. She was buried in North Carolina, but

a memorial service will be held for her here in Wheat Ridge sometime in April. Folks who knew Ruth can watch for that announcement.

ELECTED OFFICIALS' MATTERS

Mayor DiTullio announced that he met with John Zambawa of the Senior Resource Center. He would like to be on the May 6 study session to discuss 1) continued future funding of the senior circulator bus, and 2) waiving the permit and use tax fees for the second phase of enhancements to their building which will amount to about \$20,000.

Bud Starker thanked the 50 citizens who came to the District 1 meeting. There will be having another one in June.

Mike Stites offered condolences to the family of George Putnik who passed away this week. George was on the WR Fire Board and the Sewer Commission and will be missed. Mike's positive thing: He noticed people helping each other with the snow this past weekend.

Kristi Davis announced the District 1 and 2 Town Hall meeting that will be Monday, April 29th from 6:00 – 7:30 in the City Council Chambers. Reminder postcards will be going out with the agenda, and it's also posted on the City website.

Tracy Langworthy had attended the Industry Appreciation Awards hosted by the Jefferson Economic Council. Two WR businesses were honored: Able Planet and Rocky Mountain Bottling Corporation.

Councilmember Pond reminded everyone of the last Food/Film event this Wednesday at the Active Adult Center. The pot luck is at 6:30, with a film "Urban Roots" to follow.

Councilmember Jay wished all a Happy Easter.

Councilmember DeMott wished all a happy and peaceful Easter. He welcomed a new business to Wheat Ridge - Tommy's Slalom Shop in the 44th Industrial Park across from Mount Olivet Cemetery. The grand opening will be Friday and Saturday, April 5-6 starting at 10:30 AM. It will feature live music, food, drink, entertainment, and a wave pool.

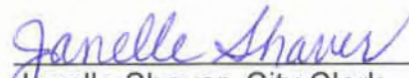
Councilmember Reinhart commented on the Dist 1 meeting he and Councilman Starker had saying there were lots of opinions, but not a real positive discussion.

Motion by Councilmember Stites to go into executive session under Charter Section 5.7(b)(1) and Section 24-72-402(4)(b), C.R.S., specifically for a conference with the City Attorney and appropriate staff for legal advice on the regulation of massage parlors and massage therapists. He further moved to adjourn the open meeting at the conclusion of the executive session; seconded by Mr. Starker; carried 8-0.

The regular Council Meeting adjourned at 9:17 pm

EXECUTIVE SESSION

Legal advice on regulation of massage parlors and massage therapists



Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON April 8, 2013 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.