

CITY COUNCIL MINUTES

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

April 28, 2014

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

ROLL CALL OF MEMBERS

Jerry DiTullio	Bud Starker	Zachary Urban
Tim Fitzgerald	George Pond	Tracy Langworthy Genevieve Wooden

Absent: Kristi Davis

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, Scott Brink; Community Development Director, Ken Johnstone; other staff, guests and interested citizens.

APPROVAL OF MINUTES OF April 14, 2014

Motion by Councilmember DiTullio to approve the minutes of April 14, 2014; seconded by Councilmember Starker; carried 7-0

PROCLAMATIONS AND CEREMONIES

Alzheimer's Association of Colorado – Recognition of Wheat Ridge Police Officers
Sara Spaulding, Amelia Schafer and Jill Lorentz from the Alzheimer Association Colorado Chapter recognized Wheat Ridge police officers Nellie Gisonda and John Parsons for the way they helped an elderly couple in March. Their compassion, care and skill likely saved two lives. She praised the WRPD for the extra training the officers receive for tending to this special population and the commitment that is shown. It is the best in the state.

Traffic Safety Month Proclamation

Mayor Jay read a proclamation designating May as Traffic Safety Month. Chief Brennan accepted the proclamation for the Police Department. He announced that CDOT will be recognizing Officer John Bowman (for his distracted driving program) and Officer Todd Payne (for his DUI enforcement) as Traffic Champions. He noted that John Bowman's distracted driving training program has become a statewide initiative and he has been asked to speak at a variety of statewide educational venues.

Mental Health Month Proclamation

Mayor Jay read the proclamation designating May as Mental Health Month. Pat Wray, Vocational Services Manager at the Summit Center accepted the proclamation and thanked the City. With her were clients Johnny Lewis, Charlotte Harold and Steve Shannon from the Summit Center. ~ Chief Brennan acknowledged the strong collaborative relationship the City has with Jefferson Center for Mental Health. He noted how essential that is for the extra training the department provides in the areas of conflict mediation/resolution and crisis intervention for Alzheimer's, dementia and autism.

CITIZENS' RIGHT TO SPEAK

Margy Seyfer (WR) thanked the Council for their support for the Kite Flight Festival. Almost 1,000 people attended this first vent. She thanked various councilmembers and the police, fire department, and parks folks for all their work on it. She said they're already planning for next year.

Donald Nash (WR), kite master for the festival, thanked everyone for their work on the kite festival. He's excited to be part of an event for younger people.

Rachel Hultin (WR) invited the public to the Live Local Active Run/Walk Club that will restart on Tuesdays at 6:00pm at Right Coast Pizza beginning May 6. ~ She announced the next meeting of the Active Transportation Advisory Team, also on May 6 at 6:30pm at Colorado Plus Brewery. They meet the first Tuesday of every month; this month they are electing officers and adopting a charter. She encouraged people to come and share their interest in creating more biking/walking opportunities. ~ She presented Council with brochures from the Smart Growth conference she attended.

Kim Calomino (WR) spoke about HB 1375 that's currently in the Senate. She believes it will harm redevelopment efforts in Wheat Ridge and other cities that use Tax Increment Financing. She encouraged people to research the bill, and if they don't like the idea of having to share revenue with the county and other entities that don't share in the investment, they should call Sen. Cheri Jahn and urge her to vote against it. ~ She thanked the Police Department for being proactive with Alzheimer's. ~ She thanked Margy Seyfer for all her work on the Kite Festival. Her family thought it was great.

Laurie Odom (WR) spoke on behalf of the Tobacco-Free Jeffco Alliance & Youth Breath Easy (BE) Teams. She presented an update on some of their tobacco prevention activities at Wheat Ridge High School.

Kristi Preston (Lakewood), youth engagement coordinator of the tobacco prevention initiative at WRHS, continued the presentation about the efforts of the student BE teams to educate students about the dangers of smoking.

Skylar Basta, a WRHS student, spoke about the program they have called "Sweet, Cheap and Deadly" to educate students on the dangers of smoking.

APPROVAL OF AGENDA

EMERGENCY ORDINANCE

1. An Ordinance imposing a Temporary Moratorium on the submission, acceptance, processing, and approval of applications for a Land Use Approval, Permit or License for any Medical Marijuana-Infused Products Manufacturer, Retail Marijuana Products Manufacturer or Retail Marijuana Testing Facility and Declaring an Emergency

Councilmember Langworthy introduced Agenda Item No. 1

This ordinance imposes an 90-day, immediately-effective moratorium on the acceptance of new applications and the continued processing of pending applications for marijuana manufacturing and testing facilities. This will provide Council the time to evaluate existing regulations concerning these facilities.

Clerk Shaver assigned Ordinance 1546.

Mayor Jay opened the public hearing.

The City Manager distributed to Council a map of the City illustrating existing and proposed marijuana businesses. Attorney Dahl led the staff presentation.

Mayor Jay swore in the speakers for the hearing.

Public Comment

Steve Hodgdon owns the Independence Square shopping strip at 50th & Kipling. He asked Council not to pass the moratorium because of the significant financial impact it would have on him and his family as he struggles to improve the center. Rent from the proposed Marijuana Infused Products (MIP) facility, which will have no signage, no public face, no sales -- will allow him to continue his efforts to rehabilitate the center.

Cathy Roscio (Monument, CO), property manager for Independence Square, elaborated on the financial struggles associated with rehabilitating this 35 year old center. The proposed lease with the MIP would be a huge financial benefit for the owners and the other businesses at the center.

Jon Cooper (Arvada) is president of the company who has applied to locate at Independence Square. He testified the testing would involve CO₂ extraction, which is a safe process. There will be no cultivation or retail sales. They will use charcoal filters to

remove any odor. Extra security will be installed. There will be no advertising. They will employ about 35-40 people using cutting edge technology. If the moratorium goes through he will be forced to locate elsewhere as he has equipment ordered and he can't wait.

Jennifer Shepherd (WR) thanked Council for bringing forward the moratorium. She is a parent and works in health care. She's worried about the future of the marijuana industry and the impact it will have on children, schools, and the health of our community.

Kevin Marchitto (Golden) president of Rocky Mountain Biosystems, a biotech company on Youngfield, spoke about the research they do on various diseases. They have invested a good bit of money in anticipation of expanding their cannabis research for diseases such as cancer, Alzheimer's, and chronic epilepsy. They believe compliance and industry regulation are important, and Wheat Ridge has the opportunity to set the standard. He's done medical research for 40 years as an analytical chemist, biochemist and microbiologist and wants to research and remedy the things that potentially make cannabis unsafe. They prefer not to have testing facilities included in any moratorium.

Maxim Beerman (Lafayette) testified that his company will be manufacturing high quality infused products. They do their own internal testing and will use labs. They have a lot of experience in chemistry, process engineering and quality engineering. Quality of infused products is lacking because the regulations are still being set and the early producers didn't have the chemistry background. They have the chemistry experience to create safe products and plan to address the looming issue of waste. They will hire a broad range of talent.

Nick Dice (Loveland) owns two medical marijuana shops in Wheat Ridge. He hopes existing applications will be allowed to move forward. He would like to include a MIP with his business at 4800 Lamar and also hopes that existing centers will not require separation buffers to themselves, but to other centers. He also hopes that eventually off-site grows within the city limits will be allowed because having to get grows in other cities has made it hard. He'd hate to have to do that with a MIP too.

Cassandra Dittus (Fort Collins) manages Medical MJ Supply, the company that owns and operates two of the retail stores and grows in Wheat Ridge. As they are looking to add more manufacturing she addressed separation buffers – making the point that it would be better if they could keep their operations close to each other, thereby eliminating transportation and exposure out in the community. She also suggested that allowing MIP's with centers would result in more sales tax for the City.

Mark Barnes (Golden) spoke about the unique nature of testing facilities. They have no signage or public appeal. This is one of the most heavily regulated industries – outside of gaming and nuclear industries. Testing facilities have an extra layer of certification, inspections, and very detailed requirements. If the moratorium is passed, he asked that testing facilities be exempted because 1) their lab isn't located within any

separation limits and the moratorium would cause an unnecessary delay; and 2) he noted that testing facilities are on the side of the City and State. The State has imposed mandatory testing and his company doesn't believe there are enough testing facilities to meet current demand.

Council questions followed.

- There is currently one MIP application pending, and one application for rezoning to allow a testing facility at 50th & Kipling.
- Fire or flash is highly unlikely with the CO₂ extraction process.
- The initial marijuana ordinance didn't address the separation of MIPs and testing facilities because they don't have much public visibility.
- The original ordinance requires that 70% of what centers sell be grown on-site, and the City chose not to allow free standing grows.
- On-site grows are not required for manufacturing or testing.
- The pending MIP on Kipling is less than 1,000 feet from a nearby drug treatment center.
- From a code standpoint, MIPs will be regulated like any other manufacturing operation or commercial kitchen.

Motion by Councilmember Langworthy to approve the Emergency Ordinance imposing a temporary moratorium on the submission, acceptance, processing, and approval of applications for a land use approval, permit or license for any medical marijuana-infused products manufacturer, retail marijuana products manufacturer or retail marijuana testing facility and declaring an emergency, order it published, and that it take effect immediately; seconded by Councilmember Wooden;

Motion by Councilmember DiTullio to amend Ordinance No. 1546 by the addition of a new Section 2, to read: Section 2. Exemption for Pending Applications: This ordinance shall not apply to the processing and final action by the City upon any application for a City land use approval, permit or license for any marijuana-infused products manufacturer or retail marijuana testing facility, which application has been received by the City prior to 5:00 PM on April 28, 2014. Such applications shall be processed and acted upon pursuant to the City regulations in effect as of the effective date of this Ordinance; and further to renumber remaining Sections of the Ordinance; seconded by Councilmember Urban;

The motion to amend carried 6-1, with Councilmember Wooden voting no.

Motion by Councilmember DiTullio to strike "testing facilities" from the moratorium; seconded by Councilmember Starker.

Prompted by a question from Councilmember Urban, Mr. Dahl clarified that the amendment should be to strike "testing facilities" from renumbered Sections 1, 2, 3, 4, and 6. Councilmember DiTullio, maker of the motion, approved.

The motion to amend carried 7-0.

Council comments followed.

The main motion, as amended, carried 6-1, with Councilmember Fitzgerald voting no.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Council Bill No. 02-2014 – An Ordinance Amending Chapter 26 of the Wheat Ridge Code of Laws concerning the Subdivision Regulations and making certain related Amendments to Chapters 2 and 5 in association therewith (Case No. ZOA-14-01)

Councilmember Starker introduced Council Bill No. 02-2014.

The ordinance improves the subdivision regulations by addressing these central goals:

- To simplify the subdivision review process
- To provide more clear and contemporary design standards
- To set consistent and fair requirements for public improvements throughout the code
- To improve clarity and organizations within the zoning code

Clerk Shaver assigned Ordinance 1547.

Mayor Jay opened the public hearing.

Mayor Jay swore in the speakers for the hearing.

Staff Presentation

Lauren Milulak gave the staff presentation, focusing on three major changes.

1. The subdivision review process will be simplified by identifying three types of review and expanding administrative review to include any plat with 3 or fewer lots
2. Parkland dedication remains, but will be less subjective and more technical and straightforward. Council will be asked in May to approve a resolution establishing a value per acre for calculating parkland dedication fees.
3. Requirements for public improvements, especially streetscape requirements (curb, gutter, sidewalks, and amenity zones), will be more consistent and fair throughout the code
 - The intent of the Code isn't being changed; it clears up the language, updates cross-references and makes it more user-friendly.
 - There are no changes related to multi-family or commercial, but fees for single and two-family will be more fair -- based on linear feet.

Planning Commission and staff recommend approval.

Council questions followed. It was noted that developments such as 38th & Kipling and 38th & Wadsworth will require Council approval because they include more than three lots. For the small subdivisions staff review will be sufficient for approval.

Mayor Jay closed the public hearing.

Motion by Councilmember Starker to approve Council Bill No. 02-2014, an ordinance amending Chapter 26 of the Wheat Ridge Code of Laws concerning the subdivision regulations and making certain related amendments to Chapters 2 and 5 in association therewith, on second reading and that it take effect fifteen days after final publication; seconded by Councilmember DiTullio ; carried 7-0.

3. Council Bill No. 03-2014 – An Ordinance amending Section 26-109 of Chapter 26 of the Wheat Ridge Code of Laws, concerning Public Noticing Requirements (Case No. ZOA-14-02)

Councilmember Fitzgerald introduced Council Bill No. 03-2014.

This ordinance:

- Eliminates the requirement to use certified mailing for letter notice, which will increase the likelihood of delivery and save money.
- Clarifies posting and publishing requirements to reflect current practice and rectify inconsistent language.

Mayor Jay swore in the speakers for the hearing.

Clerk Shaver assigned Ordinance 1548

Mayor Jay opened the public hearing.

Lauren Milulak had a few brief words about the new regulations.

Mayor Jay closed the public hearing.

Motion by Councilmember Fitzgerald to approve Council Bill No. 03-2014, an ordinance amending Section 26-109 of Chapter 26 of the Wheat Ridge Code of Laws, concerning public noticing requirements, on second reading and that it take effect 15 days after final publication; seconded by Councilmember Starker ; carried 7-0

4. Resolution No. 26-2014 – approving a second amendment to the I-70/Kipling Corridors Urban Renewal Plan to allow for the Utilization of Tax Increment Financing

Councilmember Pond introduced Resolution No. 26-2014.

This amendment approves the use of Tax Increment Financing for the MVG redevelopment project at 38th & Kipling.

Mayor Jay opened the public hearing.

There was no staff presentation, no public comment and no discussion.

Mayor Jay closed the public hearing.

Motion by Councilmember Pond to approve Resolution No. 26-2014, a resolution approving a second amendment to the I-70/Kipling Corridors Urban Renewal Plan to allow for the utilization of tax increment financing; seconded by Councilmember DiTullio; carried 7-0.

DECISIONS, RESOLUTIONS AND MOTIONS

5. Motion to approve the Neighborhood Traffic Management Plan (NTMP) dated April 28, 2014

Councilmember DiTullio introduced Agenda Item No. 5.

The NTMP will provide a process for residents to request consideration for the installation of traffic calming measures on local streets. The 2014 budget allocates \$100,000 for implementation of the Plan.

Motion by Councilmember DiTullio to approve the Neighborhood Traffic Management Plan dated April 28, 2014; seconded by Councilmember Fitzgerald; carried 7-0.

6. Resolution No. 27-2014 – amending the Fiscal Year 2014 Capital Improvement Program Budget reflecting the approval of a Supplemental Budget Appropriation in the amount of \$76,074.83 for the Clear Creek Crossing Environmental Assessment Reevaluation and awarding a contract to Parsons Brinckerhoff

Councilmember Pond introduced Resolution No. 27-2014.

- The high cost of infrastructure required by the 2006/07 Environmental Assessment (EA) continues to be the primary impediment to the development of the land west of I-70 and north of 32nd Avenue.
- Staff believes the only option is to have the EA reevaluated to allow the development and required infrastructure to be phased in.
- Interest in the Clear Creek Crossing has resumed.
- The reevaluation would include an updated traffic analysis that considers the size and timing (phasing) of anticipated development activities.
- Parsons Brinckerhoff is familiar with the site and its issues, and has successfully completed similar evaluations recently in Colorado. In the interest of urgency staff has decided to sole source this contract.
- The shelf life of an EA is generally about 5 years.

- The initial estimate was for about \$50,000, but a subsequent meeting with the Federal Highway Administration brought further requirements and therefore extra costs.

Motion by Councilmember Pond to approve Resolution No. 27-2014, a resolution amending the fiscal year 2014 Capital Improvement Program budget reflecting the approval of a supplemental budget appropriation in the amount of \$76,074.83 for the Clear Creek Crossing environmental assessment reevaluation and awarding a contract to Parsons Brinckerhoff; seconded by Councilmember Starker; carried 7-0.

7. Motion to award RFB-14-14, 2014 Annual Computer requirements to JPK Micro Supply, Inc., Industry, CA in the amount of \$38,000 for the replacement of 50 computers

Councilmember Wooden introduced Agenda Item No. 7.

This is a scheduled and budgeted replacement of obsolete computer equipment. A five-year rotation schedule is maintained. JPK's is the lowest bid.

Motion by Councilmember Wooden to award RFB-14-14 - 2014 Annual Computer Requirements to JPK Micro Supply, Inc. in the total amount of \$38,000 for the replacement of 50 computers; seconded by Councilmember Langworthy; carried 6-1, with Councilmember DiTullio voting no.

8. Motion approving the revised Council Rules of Order and Procedure dated April 28, 2014

Councilmember Urban introduced Agenda Item No. 8.

Attorney Dahl had a brief staff presentation. He explained some typographical changes that are necessary and recommended that be reflected in the wording of the motion.

Motion by Councilmember Urban to approve the revised Council Rules of Order and Procedure dated April 28, 2014 with the addition of typographical, numerical and formatting changes as discussed during the regular business meeting; seconded by Councilmember Starker; carried 7-0.

9. Motion to appoint Nancy Snow to the Election Commission, term to expire December 12, 2015

Councilmember DiTullio introduced Agenda Item No. 9

This appointment fills a vacancy created by the resignation of Michael Snow who moved out of the City.

Motion by Councilmember DiTullio to appoint Nancy Snow to the Election Commission, term to expire December 12, 2015; seconded by Councilmember Pond; carried 7-0.

CITY MANAGER'S MATTERS

CITY ATTORNEY'S MATTERS

CITY CLERK'S MATTERS

Clerk Shaver informed Council that the installation of a 24-hour ballot drop-off box at City Hall is in progress. It will be located near the south end of the entrance median. It will be in place for three weeks before elections and removed after the elections. It's expected to be ready for the Primary in June.

She suggested, for the required mailed notices of neighborhood meetings and public hearings, in lieu of the certified mail staff might consider a special envelope with outside text, or a colored envelope, identifying it as something important.

ELECTED OFFICIALS' MATTERS

Jerry DiTullio thanked Patrick and Margret Paget for their work on Revive the Greenbelt Part 2. About 40 of his students and staff from Wheat Ridge High School planted 60 willows and cottonwoods in the Greenbelt, did clean-up and placed fencing around the new trees.

Bud Starker said he was pleased to be invited to participate in the Kite Flite Festival. It was a great event and everyone had a good time. He congratulated all the people who worked hard to put it together.

Zachary Urban announced an event called Everitt Fill-A-Truck that will be this Saturday at Everitt Middle School from 9AM-4PM. If people have any gently used clothing or household items to donate please drop them off at Everitt this Saturday. The items will be sold to raise funds for Everitt students. ~ He extended personal thanks to the police department for their work with Alzheimer's patients. His grandfather had Alzheimer's and required assistance from the police department once. ~ His family thoroughly enjoyed the Kite Festival. For next year he encouraged that the City's sponsorship be acknowledged in the sponsorship announcements that occur during the event.

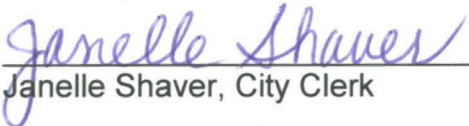
Tracy Langworthy said that although the kite festival was her idea she gave special thanks to Margy Seyfer who is a great organizer and encourager of people. She talked about some of the extra projects and outreach that occurred behind the scenes. ~ She congratulated City employee Nathan Mosely for being recognized by DRCOG for the work he's done with Aging Well Wheat Ridge. ~ She reported that Wheat Ridge Cyclery did a presentation of Safer Routes to School at Prospect Valley Elementary. She hopes it was done at other schools. ~ She inquired of the City Clerk about the posting of the second campaign finance reports. Clerk Shaver said she had hesitated to post them

after hearing at clerk classes that candidate signatures were not to be posted on the internet. At Council's request she will post them.

Genevieve Wooden announced that Mountain Phoenix School is having the Live Local event this Wednesday night at 6:30. It's a local grower's event.

Mayor Jay reported on the narrated, 2-hour bus tour she took of the Gold Line. The tours are done once a month on Fridays and are open to the public. If you're interested please contact her for details. ~ She is excited there were close to 1,000 participants at the kite festival. ~ During March there were 109 incidents of graffiti in our parks and she encouraged folks to report that if they see it.

The City Council Meeting adjourned at 9:30 pm.


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON May 12, 2014 BY A VOTE OF 6 to 0

Kristi Davis, 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.