

CITY COUNCIL MINUTES

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

June 9, 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 Attorney, Gerald Dahl; City Manager, Patrick Goff; Division Chief, Joe Cassa; Community Development Director, Ken Johnstone; Parks Director, Joyce Manwaring; and interested citizens.

APPROVAL OF MINUTES OF May 12, 2014

Motion by Councilmember Starker to approve the minutes of May 12, 2014; seconded by Councilmember Pond; carried 7-0.

PROCLAMATIONS AND CEREMONIES

Brake for Bela

Mayor Jay read a proclamation recognizing the "Brake for Bela" Summer Safety Campaign from June 1 - August 3. All citizens are encouraged to practice safe driving techniques and be mindful of pedestrians this summer – especially children. Bela Estes and her mother were in attendance to receive the proclamation. Mrs. Estes thanked the Council for its support and addressed safe driving practices and safe playing habits. Bela, who was hit by a car in 2009, thanked Wheat Ridge for supporting her campaign.

CITIZENS' RIGHT TO SPEAK

Tara Jahn (WR) thanked councilmembers who came to the first Friday Night Live event. The other one will be August 1. ~ She also announced the Family Yoga in the Park this Saturday from 9:30 -10:30 and the Cruiser Crawl (6/19 at 6:30pm) at Right Coast Pizza, W 29th and WR Lanes. ~ She is super excited to see Council support for the HEAL Cities and Towns Campaign.

Albert Hohl (WR) lives near the development at 39th and Fenton. He went to the Planning Commission hearing and not one resident supported it. At that meeting he spoke to the representative for Urban Green [the development] about the plan to make

39th Place a through street into the development. The representative said if the engineers find the least amount of resistance they will not make 39th Place a through street. Mr. Hohl believes that 39th Place is too narrow to become a through street and that Fenton is a better exit option.

1. CONSENT AGENDA

- a. Resolution No. 30-2014 – amending the Fiscal Year 2014 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$14,270 for a required upgrade of the Channel 8 scheduling software and hardware.
[The current system, last replaced in 2005, will be upgraded with funds from the PEG (Public Education Government) fees that viewers pay.]
- b. Resolution No. 32-2014 – amending the Fiscal Year 2014 Police Investigation Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$18,500 to be used for specific Law Enforcement purposes as approved by the Seizure Fund Committee
[The Police Seizure Fund unexpectedly received \$74,700 in February from the West Metro Drug Task Force. This \$18,500 will be spent on Police equipment; Council approval is necessary.]
- c. Resolution No. 33-2014 – amending the Fiscal Year 2014 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation for the 2014 Edward Byrne Justice Assistance Grant in the amount of \$15,304
[JAG grant money will be used for night vision equipment and to enhance the Boyd's Crossing Community Policing Program.]
- d. Motion to cancel the study session of the Wheat Ridge City Council on July 7, 2014, due to the Independence Day Holiday
- e. Motion to approve payment of the Sales Tax Increment Share Back for April of Fiscal Year 2014 from the Urban Renewal Authority Town Center Project in the amount of \$39,662.61 to Renewal Wheat Ridge
[The April installment (100%) of the sales tax increment share back to Urban Renewal. This 1981 arrangement sunsets in December, 2014.]
- f. Resolution No. 31-2014 – amending the Fiscal Year 2014 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$5,626 to fund a Part-Time Tour Guide/Museum Host Position at the Wheat Ridge Historical Park
[Restores a budgeted position that was eliminated in 2002 budget cuts.]

Councilmember Urban introduced the consent agenda.

Motion by Councilmember Urban to approve the consent agenda; seconded by Councilmember DiTullio; carried 7-0

PUBLIC HEARING AND ORDINANCES ON SECOND READING

2. Council Bill No. 04-2014 – An Ordinance approving an amendment to the Youngfield Plaza Planned Commercial Development (PCD) Outline Development Plan (ODP) to allow Marijuana Research and Testing on property located at 3924-4096 Youngfield Street (Case No. WZ-14-04/RMBI)

Councilmember Fitzgerald introduced Council Bill No. 04-2014.

This action would allow the additional use of marijuana research and testing at an existing research and testing facility that has operated here for eight years.

Mayor Jay opened the public hearing.

Mayor Jay swore in Ken Johnstone for the staff report.

Mr. Johnstone explained this is a straightforward application which proposes no physical changes for the site, but requests approval of the additional use (marijuana testing). It does not allow for any retail sales, cultivation or manufacturing. The Planning Commission approved this request.

Council Questions

- Councilmember Urban asked if the scope of research and testing would include any ingesting. ~ No, and testing parameters are governed by the state.
- Councilmember Langworthy received confirmation that while the approval is for the full lot, the marijuana testing will occur only on limited areas of the site – the description of which will be formalized and recorded at the County.
- Mayor Jay asked that since this lab already does other testing, why marijuana had to be added. Mr. Johnson explained that general research and testing is allowed in our code, but marijuana testing is identified as a separate use.
- Councilmember Wooden asked if the business was owned by a company or an individual, and where they live.

Mayor Jay swore in **Kevin Marchitto**. He testified he is the CEO and major shareholder of the company, but there are other shareholders – some of whom live outside Colorado. Since state law forbids marijuana businesses from having out-of-state shareholders, they are forming a new LLC that will have only Colorado shareholders. Currently there are two shareholders; Mr. Marchitto is from Golden and his business partner is from Arvada.

Clerk Shaver assigned Ordinance 1549.

Mayor Jay closed the public hearing.

Motion by Councilmember Fitzgerald to approve Council Bill No. 04-2014, an ordinance approving an amendment to the Youngfield Plaza Planned Commercial Development Outline Development Plan to allow marijuana research and testing on property located

at 3924-4096 Youngfield Street, 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 requested 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.

With the following conditions:

1. The additional uses of marijuana research and testing be allowed only on Lot 1 of the Youngfield Plaza Planned Development.
2. All applicable state and city requirements be met by the proposed facility.

Seconded by Councilmember DiTullio;

Councilmember Wooden announced she will be voting against this. She noted that both owners of this business live in cities that have banned marijuana businesses. They are coming to Wheat Ridge for the business and we will have the results and ramifications of that.

Motion carried 6-1, with Councilmember Wooden voting no.

ORDINANCES ON FIRST READING

3. Council Bill No. 05-2014 – amending Sections 11-305, 11-416 and 26-204 of the Wheat Ridge Code of Laws to Prohibit the location of Medical Marijuana-Infused Products Manufacturers and Retail Marijuana Products Manufacturers in the C-1 Zone District; to impose distance requirements between such Manufacturers and certain specified Land Uses; to harmonize other distance requirements for Retail and Medical Marijuana Establishments; and repealing the Temporary Moratorium of all City action relating to new Medical Marijuana-Infused Products Manufacturers and Retail Marijuana Products Manufacturers' applications

Councilmember DiTullio introduced Council Bill No. 05-2014.

Motion by Councilmember DiTullio to approve Council Bill No. 05-2014, an ordinance amending sections 11-305, 11-416 and 26-204 of the Wheat Ridge Code of Laws to prohibit the location of medical marijuana-infused products manufacturers and retail marijuana products manufacturers in the C-1 zone district; to impose distance requirements between such manufacturers and certain specified land uses; to harmonize other distance requirements for retail and medical marijuana establishments; and repealing the temporary moratorium on all City action relating to new medical marijuana-infused products manufacturers and retail marijuana products manufacturers'

applications, on first reading, order it published, public hearing set for Monday, June 23rd, 2014 at 7:00 p.m. in City Council Chambers, and that it take effect on July 1, 2014; seconded by Councilmember Starker; carried 5-2, with Councilmembers Fitzgerald and Wooden voting no.

4. Council Bill No. 06-2014 – amending Chapters 26 and 11 of the Wheat Ridge Code of Laws by the addition of New Section 26-639 concerning Marijuana and amending paragraph 11-321(b)(8) concerning applications for Primary Care-Giver Licenses

Councilmember Starker introduced Council Bill No. 06-2014.

This ordinance adopts restrictions on marijuana cultivation, drying, processing and manufacturing in residential dwellings.

Motion by Councilmember Starker to approve Council Bill No. 06-2014, an ordinance amending Chapters 26 and 11 of the Wheat Ridge Code of Laws by the addition of new section 26-639 concerning marijuana and amending paragraph 11-321(b)(8) concerning applications for primary care-giver licenses, on first reading, order it published, public hearing set for Monday, June 23rd, 2014 at 7 p.m. in City Council Chambers, and that it take effect upon final adoption and signature of the Mayor; seconded by Councilmember Langworthy; carried 6-1, with Councilmember Wooden voting no.

DECISIONS, RESOLUTIONS AND MOTIONS

5. Resolution 34-2014 – establishing a schedule for fees in lieu of parkland dedication as required by Chapter 26, Article IV of the Wheat Ridge Municipal Code

Councilmember Langworthy introduced Resolution No. 34-2014.

Motion by Councilmember Langworthy to approve Resolution No. 34-2014, a resolution establishing a schedule for fees in lieu of parkland dedication as required by Chapter 26, Article IV of the Wheat Ridge Municipal Code and utilizing \$3.64/SF as the land/improvement value used to calculate said fees; seconded by Councilmember Wooden;

Councilmember Urban asked if the formula provides for future adjustments based on real estate prices. Ken Johnstone explained it is anticipated that staff would review this number periodically as the market changes and any recommended revisions would be brought to Council for approval.

Councilmember DiTullio asked if this effectively lowers the fees. Mr. Johnstone agreed, generally, and listed examples of past inconsistencies. Asked if parkland fees are even necessary now, Mr. Johnstone said staff feels they are needed for ongoing capital

maintenance for our parks. Mr. Johnstone also noted that language in this resolution will prevent the fees from being dedicated to specific parks.

Councilmember Starker asked if parkland fees are required for demolitions. Mr. Johnstone explained that straight demo/rebuilds are not subject to parkland fees, but long-vacant land that is rebuilt is subject to the fees.

Councilmember Urban expressed a desire for more comparables from within the City, but acknowledged the challenge for that with sales of large plots (over one acre).

Motion carried, 7-0.

6. Motion to award RFQ-JN-14-07 Clear Creek Trail Relocation 41st Avenue Segment west of Kipling Project to Icon Engineering, Inc., of Centennial, CO, in an amount not to exceed \$86,672 for Trail Design and preparation of construction documents.

Councilmember Pond introduced Agenda Item #6.

The project will move this portion of trail from a residential street and sanitation district property to the open space area to the north.

- The current trail travels on 41st through Northwest Lakewood Sanitation property.
- The trail will be relocated to open space near 42nd & Kipling, cross Clear Creek, and tie into the trailhead at 43rd & Miller.
- This is a budgeted project; our Open Space funds cover the design work.

Motion by Councilmember Pond to award RFQ-JN-14-07 Clear Creek Trail Relocation 41st Avenue Segment West of Kipling Project to Icon Engineering, Inc. in an amount not-to-exceed \$86,672, for trail design and preparation of construction documents; seconded by Fitzgerald; carried 7-0.

7. Motion to approve payment to Miracle Recreation Equipment Company in the amount of \$99,000 for the purchase and installation of new playground equipment in Prospect Park

Councilmember Pond introduced Agenda Item #7.

The playground equipment on the west side of the park, installed in 1996, will be updated to reflect current trends in play structures and meet 2010 ADA Standards.

Motion by Councilmember Pond to approve payment to Miracle Recreation Equipment Co. in the amount of \$99,000 for the purchase and installation of new playground equipment in Prospect Park; seconded by Councilmember Langworthy;

Councilmember Langworthy inquired about the construction timetable.

Councilmember Urban asked about safeguards near the water to prevent balls and small children from ending up in the river. Mrs. Manwaring will check into that.

Councilmember Fitzgerald commented on the design of the equipment as shown in the packet material and wondered if it was actual or representative.

Councilmember Starker asked if the old structures could be recycled. Mrs. Manwaring will check.

Motion carried, 7-0.

8. Resolution 35-2014 – confirming the City's commitment to encourage healthy opportunities and choices for members of the community and providing support of LiveWell Colorado's Healthy Eating Active Living (HEAL) Cities and Towns Campaign

Councilmember Wooden introduced Resolution No. 35-2014.

- The Campaign is a partnership between LiveWell Colorado and the Colorado Municipal League. Jefferson County Public Health is involved.
- The Campaign provides training and technical assistance to advance HEAL.
- The Campaign focuses on the following policy areas:
 - 1) Active Community – land use, planning, zoning, infrastructure development, etc.
 - 2) Healthy Food Access – farmers' markets, urban agriculture, attracting healthy food vendors, etc.
 - 3) Healthy Workplace – increasing opportunities for physical activity and healthy eating for City employees
- Adoption of the resolution causes no direct financial impact to the City.
- The Campaign is funded by the State and supported by Kaiser Permanente.

Rachel Hultin (WR), the transition coordinator for LiveWell Wheat Ridge, encouraged Council to support the resolution and to give this program a high priority.

Motion by Councilmember Wooden to approve Resolution No. 35-2014, a resolution confirming the City's commitment to encourage healthy opportunities and choices for members of the community and support of LiveWell Colorado's Healthy Eating Active Living (HEAL) Cities and Towns campaign; seconded by Councilmember Langworthy;

Councilmembers DiTullio and Langworthy made positive comments about the program.

Motion carried 7-0.

CITY MANAGER'S MATTERS

Mr. Goff announced the inaugural bike racing Ridge at 38 Criterium on June 22. It is a 1.15 mile event for cyclists of all abilities. It's also a daylong community event, with 8 races, music, food, beer, and wine from 7:30am to 3:30pm at WR Cyclery and WR5-8 Green. Anyone interested in riding can register on the Ridge at 38 website.

CITY ATTORNEY'S MATTERS**CITY CLERK'S MATTERS**

Clerk Shaver reminded voters that the outdoor ballot drop box is available in the entrance lane to City Hall. Ballots can be dropped off there any time. Registered Independents can go to a Voter Service Center (such as the one at the motor vehicle office at 20th & Wadsworth) if they want to declare a party affiliation and vote.

ELECTED OFFICIALS' MATTERS

Jerry DiTullio thanked the volunteers, including WRHS students and City staff, who helped with Saturday's clean-up in east Wheat Ridge. Eight dumpsters were filled. ~ He remarked about his support of the HEAL resolution as an example of working together and encouraged Council to work together. ~ He referenced an email he sent to Council asking for a \$5,000 donation from the City to support the Farmers 5000.

Bud Starker thanked those who helped with the East Wheat Ridge clean-up. ~ He reported having attended the First Friday event and thought it was good.

Zachary Urban invited everyone to the Sts. Peter & Paul Festival. It truly is a community event and everyone is welcome. ~ He cautioned about having children near Clear Creek during this dangerous time of high water.

George Pond said he is happy Council passed the HEAL resolution and thanked everyone who helped on the effort.

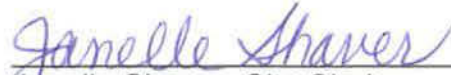
Tim Fitzgerald announced that the developer for 38th & Wadsworth will be at City Hall this Wednesday at 6:30 with the plans for that property. Input is welcome.

Tracy Langworthy is touched that someone from Bela's family comes ever year to speak about the Break for Bela program. ~ She reported that food costs for the Feed the Future backpacks are going up a little. A fundraiser will be held on June 21 from 6-8 pm at the Teller Street Gallery. Tickets are for \$30.

Genevieve Wooden thanked everyone for supporting the HEAL resolution. ~ She also stated she feels she represents people in the community who have concerns about how marijuana is going to affect our city.

Mayor Jay said she appreciates the engaged Council and announced that LiveWell dines will be at Vincenza's this Thursday.

The City Council Meeting adjourned at 8:09pm.



Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON June 23, 2014 BY A VOTE OF 7 to 1

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.