

# CITY COUNCIL MINUTES

CITY OF WHEAT RIDGE, COLORADO  
7500 WEST 29<sup>TH</sup> AVENUE, MUNICIPAL BUILDING

January 12, 2015

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	Kristi Davis
Tim Fitzgerald	George Pond	Tracy Langworthy	Genevieve Wooden

Also present: City Clerk, Janelle Shaver; City Treasurer, Larry Schulz; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Police Chief, Daniel Brennan; other staff, guests and interested citizens.

## APPROVAL OF MINUTES OF DECEMBER 1, 2014 and DECEMBER 8, 2014

There being no corrections Mayor Jay declared the Minutes of December 1, 2014 and December 8, 2014 approved as published.

## PROCLAMATIONS AND CEREMONIES

### Gift to the City Presentation

**Jim Niquette**, president of the Wheat Ridge Rotary Club, presented a check to Mayor Jay for the City in the amount of \$3,000 to fulfill their donation for the Dog Park and the sculpture at Discovery Park.

## CITIZENS' RIGHT TO SPEAK

**Thomas Lundy** (WR) commended the WR Planning Commission for rejecting the development proposal for 38<sup>th</sup> & Wadsworth. He listed numerous deficiencies in the plan and application that were brought out by citizens, Urban Renewal members and Planning Commissioners at the Urban Renewal meeting in November, and again at the Planning Commission level in December. He encouraged citizens to view the Planning Commission meeting of 12/18/14 on the City's website on Channel 8 YouTube. ~ He noted the Council will soon consider TIF financing related to sales/property tax for this property. The project filing remains the same - no flaws repaired, no questions answered, no clarification given. He urged Council to join in rejecting this development.

**John Clark** (WR) believes WR2020 should be defunded as it's long overdue to be self-supporting and its primary activities are no longer in line with its original purpose. ~ He also urged that 38<sup>th</sup> Ave. be widened back; the voters clearly rejected the narrow vision.

**Vivian Vos** (WR) said the Issues Committee she's on has been accused of lying and falsifying numbers. She said she doesn't lie, and members of the committee attend

numerous public meetings and only use the facts that are presented. One member of the committee is being emailed excessively by one person to the point of harassment. She suggested we leave 2014 behind us. ~ She also declared she has not, as she has been accused of, spoken of recalling Kristi Davis.

**Jennifer Shepherd** (WR) announced there will be a presentation on how drugs affect adolescents. It is tomorrow night at WR High School at 7 PM.

**Kathy Tolman** (WR) noted that the Vitamin Cottage going in at 49<sup>th</sup> & Kipling is doing so without benefit of a TIF. She appreciates that and would like that fact on the record.

**Jennifer Yates** (WR) thanked the City for closing down Three Kings. The adjacent neighbors are very happy, and it's a good thing for the community. ~ On 2A she voted yes because she thinks we need to invest in our infrastructure. She voted no on 2B because the large price tag, not because she doesn't like what's happening on 38<sup>th</sup>.

**Rachel Hultin** (WR) announced the inaugural Wheaties Academy, a leadership program that she and a couple other citizens have put together with sponsorship from WR2020 and the City. It will be an 8 month experience for 16 WR residents or business owners to learn how to put their ideas into action. It will include 4 mobile sessions, an overnight retreat, and 2 community projects to work on. Applications will be accepted through January 27. Details are available on their website.

**Charlie Myers** (WR), **Maureen Daly** (WR), and **LouAnn Canjar** (WR) all spoke briefly saying they concur with the views expressed by Tom Lundy and hope Council will consider the decision by the Planning Commission to reject the WalMart development.

**Mary Drobnick** (WR) said she loves living in Wheat Ridge. She wishes the City would have a tree and leaf recycling program like Arvada and other cities have.

## **APPROVAL OF AGENDA**

### **1. CONSENT AGENDA**

- a. Motion to encumber funds for bus shelter cleaning and snow removal services, bus bench refuse collection and cleaning services in 2015 in a total amount not to exceed \$36,000
- 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
- c. Resolution 01-2015 – adopting the City of Wheat Ridge Investment Policy
- d. Motion to approve payment of the Sales Tax Increment Share Back for November of Fiscal Year 2014 from the Wheat Ridge Urban Renewal Authority Town Center Project in the amount of \$35,519 to Renewal Wheat Ridge
- e. Motion to adopt the 2015 City Council Meeting Calendar



**Motion** by Councilmember DiTullio to remove Item c. from the Consent Agenda for consideration at a future meeting; seconded by Councilmember Urban; carried 8-0.

Councilmember Davis introduced the Consent agenda.

**Motion** by Councilmember Davis to approve the amended consent agenda; seconded by Councilmember Starker; carried 8-0

## **PUBLIC HEARINGS AND ORDINANCES ON SECOND READING**

2. Council Bill No. 16-2014 – approving the rezoning of property located generally at 3400 Youngfield Street from Neighborhood Commercial (NC), Restricted Commercial (RC), and Commercial-One (C-1) to Planned Commercial Development (PCD) and for approval of an Outline Development Plan (Case No. WZ-14-09/Applewood Village Shopping Center)

Councilmember Pond introduced Council Bill No. 16-2014.

Clerk Shaver assigned Ordinance 1562.

Mayor Jay opened the public hearing and swore in the speakers for the hearing.

Meredith Reckert, City Planner, gave the staff presentation. She entered into the record the case file, packet material, and contents of the digital presentation. She noted that all proper posting, noticing and publishing requirements have been met.

- The rezoning involves a primary parcel at 32<sup>nd</sup> & Youngfield, with additional parcels to the east.
- These parcels will be added to the existing Planned Commercial Development so that the entire shopping center will become a unit.
- The only property not included is the Qdoba/Mattress Firm building.
- The Holly West building will become a drive-through for Wells Fargo.
- The Old Chicago building will be redeveloped.
- Per the Outline Development Plan –
  - Drive-throughs will be allowed, with an administrative review process only.
  - Development standards are outlined, including setbacks and landscaping requirements.
  - New construction adjacent to a public street will have a 0-20 foot setback, pushed out to the street to accommodate pedestrian scale.
  - 35% building coverage, 55% hard surface parking, 10% landscaping
  - Maximum building height will be 50 feet.
  - Parking requires 4 spaces per 1,000 sq ft (shopping center standard)
  - Architectural requirements dictate following the City's design standards manual
- Due to a concern about the impact to neighboring residential properties use limitation and hours of operation can be set by the Planning Commission.
- Existing access points are not guaranteed to remain; staff wants to reserve the right to consolidate access points onto 32<sup>nd</sup> and Youngfield.

- Regarding the 5' X 155' sliver of property that has been discussed in the past: Council has authorized Urban renewal to proceed with acquisition
- This rezoning is consistent with guiding documents: Neighborhood Revitalization Strategy (2005), I-70/Kipling Urban Renewal Plan, the City's Economic Development Strategy, and the 2009 Comprehensive Plan
- All service agencies have indicated they can serve the property.
- Planning Commission approved this rezoning. Staff recommends approval.

Council had no questions.

Will Damrath, representative of Regency Centers, highlighted some key points.

- Regency is a 50 year old, publicly traded, real estate investment trust. They own 328 shopping centers. 86% of their portfolio are anchor centers, with a majority of the anchors being grocery stores.
- They want to increase the occupancy rate and improve the center.
- The rezoning is necessary to allow them to do the things they want to do.
- Site specific plans will be coming in soon.
- Drainage improvements are planned – especially on the south end.
- They are sensitive to the neighboring single family residential, and think their plan will actually provide better buffering.

Council had no questions.

There was no public comment

Mayor Jay closed the public hearing.

**Motion** by Councilmember Pond to approve Council Bill No. 16-2014, an ordinance approving the rezoning of property located generally at 3400 Youngfield Street from Neighborhood Commercial (NC), Restricted Commercial (RC), and Commercial-One (C-1) to Planned Commercial Development (PCD) and for approval of an Outline Development Plan (Case No. WZ-14-09/Applewood Village Shopping Center) 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 and 260-303-D of the Code of Laws.

With the following conditions:

1. A note be added that bicycle parking should be consistent with Section 26-501.E.4 of the zoning and development code.
2. Language be added to the plan that development in the southeast corner of the area include consideration for upgraded vertical landscaping, reduction of lighting at night, and hours of operation limitations.
3. Public Works' recommended language regarding access be included on Sheet 2 of the ODP document.



4. A signature block for the Economic Development Manager must be included on the face of the ODP document as the City will be a cooperation property owner.

seconded by Councilmember DiTullio; carried 8-0

3. Council Bill 17-2014 – vacating any interest held by the City in a portion of 44th Avenue, a public roadway. [Continue to January 26, 2015]

Councilmember Langworthy introduced Item 4.

City Attorney Dahl addressed the issue. The Planning Commission is required by Code to review this case and make a recommendation. They will not hear this case until Thursday, January 15. He advised to open the public hearing, take any testimony, and continue the hearing for additional testimony and final action on January 26.

Mayor Jay opened the public hearing.

**Motion** by Councilmember Langworthy to continue the hearing on Council Bill No. 17-2014, an ordinance vacating any interest held by the City in a portion of 44<sup>th</sup> Avenue, for final action at the regularly scheduled Council meeting of January 26, 2015; seconded by Councilmember Wooden; carried 8-0

### **ORDINANCES ON FIRST READING**

4. Council Bill No. 01-2015- approving the rezoning of property located at 4295 Harlan St. from Restricted Commercial (RC) to Mixed Use-Neighborhood (MU-N) (Case NO. WZ-14-11/Kaplan)

Councilmember Urban introduced Council Bill No. 01-2015

This rezoning would increase the allowable uses for the property and provide the owner with more options. No changes or development are planned at this time.

**Motion** by Councilmember Urban to approve Council Bill No. 01-2015, an ordinance approving the rezoning of property located at 4295 Harlan St. from Restricted Commercial (RC) to Mixed Use-Neighborhood (MU-N) on first reading, order it published, public hearing set for Monday, February 9, 2015 at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Pond; carried 8-0.

5. Council Bill No. 02-2015 – An Ordinance amending Chapters 5, 11 and 26 of the Wheat Ridge Code of Laws concerning the Regulation of Medical Marijuana Establishments and Retail Marijuana Establishments

Councilmember Wooden introduced Council Bill No. 02-2015

As directed by City Council, this ordinance addresses the following marijuana issues:

- Cap the number of marijuana related businesses in the City
- Designate store fronts as a Special Use in C-1 zone districts
- Cultivation limited to maximum 5,000 sf
- Impose a 1,000 ft separation requirement from storefronts to the Rec Center and improved parks
- Impose certain state regulations on signage; set up a review process for signage
- Cultivation associated with a storefront in the C-1 zone will be reviewed as a Special Use. Cultivation associated with a manufacturer in any zone or with a storefront in the IE zone will be reviewed as a permitted use.

Apart from the ordinance, Council will be notified of any application for a Special Use Permit or any application to modify or transfer an existing license.

**Motion** by Councilmember Wooden to approve Council Bill No. 02-2015, an ordinance amending Chapters 5, 11 and 26 of the Wheat Ridge Code of Laws concerning the regulation of medical and retail marijuana establishments on first reading, order it published, public hearing set for Monday, January 26, 2015 at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Langworthy;

**Motion** by Councilmember Pond to amend Council Bill No. 2, Series 2015 to renumber Section 14 as Section 15 and to add a new Section 14 to read:

**Section 14 Moratorium Repealed**

The temporary moratorium on certain City approvals necessary to establish and operate marijuana establishments in the City, originally imposed by Ordinance No. 1554 on August 18, 2014, and as extended by Ordinance No. 1560 on October 27, 2014 is hereby repealed.

seconded by DiTullio; carried 8-0.

The main motion, as amended, carried 8-0

**6. Council Bill No. 03-2015 – amending Sections 11-305, 11-415 and 11-416 of the Wheat Ridge Code of Laws concerning the collocation of Medical Marijuana Establishments and Retail Marijuana Establishments**

Councilmember Fitzgerald introduced Council Bill No. 03-2015

During review of the marijuana regulations Council asked for an ordinance that would permit existing legal nonconforming marijuana businesses to collocate (i.e. medical operations can add retail; retail operations can add medical). Such collocation of nonconforming marijuana businesses will be allowed only to the extent that it does not involve expansion of the business or modification of the sight.

Mr. Dahl explained an amendment he's drafted that corrects a technical drafting issue.



**Motion** by Councilmember Fitzgerald to approve Council Bill No. 03-2015 on first reading, order it published, public hearing set for Monday, January 26, 2015, at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Starker;

**Motion** by Councilmember Pond to amend Council Bill No. 3, series 2015 as follows:

In Section 1, insert the word "MARIJUANA" in the third line of section 11-305(g), following the word "RETAIL."

In Section 3, insert the word "MARIJUANA" in the second line of section 11-416(h), following the word "MEDICAL."

seconded by Councilmember DiTullio; carried 7-1, with Councilmember Wooden voting no.

The main motion, as amended, carried 6-2, with Councilmembers Wooden and Urban voting no.

### **DECISIONS, RESOLUTIONS AND MOTIONS**

7. Motion to direct the City Attorney to draft an ordinance to sunset the Animal Welfare and Control Commission

Mayor Jay and Councilmember Pond requested this motion.

Councilmember Pond introduced Item 7. There was no discussion.

**Motion** by Councilmember Pond to direct the City Attorney to draft an ordinance to sunset the Animal Welfare and Control Commission; seconded by Councilmember Starker; carried 8-0

8. Motion to direct the City Attorney to draft an Ordinance amending the City Code to allow the use of Electric Security Fences on Commercial Property

Councilmembers DiTullio and Urban requested this motion.

Councilmember DiTullio introduced Item 8.

Motion by Councilmember DiTullio to direct the City Attorney to draft an ordinance to amend the City Code to allow the use of electric fences on commercial property; seconded by Councilmember Urban.

Discussion followed.

Motion failed 3-5, with Councilmember Wooden, Langworthy, Fitzgerald, Pond, and Starker voting no.

**CITY MANAGER'S MATTERS**

Patrick Goff announced the School district is having one more public comment meeting on their Jefferson area innovation plan. It will be this Thursday, January 15 at Lumberg Elementary from 8-10 AM. The plan is available on the school district's website. The plan involves shifting schools and grades and will impact Wheat Ridge schools.

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

Clerk Shaver shared a concern from citizens that there is no way for the public to speak on an issue at First Reading; they can't speak during the agenda item or public comment at the start of the meeting. Council might address this at a study session.

**ELECTED OFFICIALS' MATTERS**

**Mayor Jay** reported having done a ride-along with a WR police officer recently and it was quite an education.

**Tracy Langworthy** reminded everyone that next Monday is Martin Luther King Day and there will be no meeting.

**Genevieve Wooden** announced two school events: 1) The Compass Montessori School is hosting a free showing of the documentary Race to Nowhere: The Dark Side of America's Achievement Culture this Tuesday, January 13<sup>th</sup> at 6:30pm at the Compass auditorium at their Golden school. Discussion will follow. 2) Alpine Valley School is hosting an event this Thursday, January 15<sup>th</sup> at 7:00pm entitled Every Child a Pioneer, with an educational expert to speak about the school's philosophy.

The City Council Meeting adjourned at 8:40

  
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Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON January 26, 2015

  
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Bud Starker, 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.