

# CITY COUNCIL MINUTES

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

July 13, 2015

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

## PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

### ROLL CALL OF MEMBERS

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

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; Acting City Manager, Joyce Manwaring; Community Development Director, Ken Johnstone; Public Works Director, Scott Brink; Administrative Services Director, Heather Geyer; interested citizens.

### APPROVAL OF THE MINUTES OF June 22, 2015 (Special Meeting) and June 22, 2015 Regular Meeting and Study Session Notes of June 15, 2015

Clerk Shaver noted there are some typos and corrections she will change.

Without objection the minutes of June 22, 2015 (Special Meeting) and June 22, 2015 Regular Meeting and Study Session Notes of June 15, 2015 were approved as published.

Mayor Jay announced that City Manager Patrick Goff will not be present due to the passing of his step-father. In his absence Joyce Manwaring will be filling in.

### PROCLAMATIONS AND CEREMONIES none

### CITIZENS' RIGHT TO SPEAK

**Mike Herman** (Golden) and **Thomas Ripp** (WR) thanked Council for its continued support for the Backpack, Feed the Future program. The program serves Stevens, Pennington, and Kullerstrand Elementary schools, as well as WR 5-8 and Head Start. They have sustained funding of \$40-50,000 a year. Arvada Food Bank is the main supplier. About 400 children currently receive a backpack of food every weekend during the school year. The addition of WR5-8 and Head Start brings the numbers up to around 600. Parent liaisons help ensure the food is going to the right places. They are collaborating with the Golden and Arvada programs to find ways to make the program

better. Their goal is to fund it off-season in the summer as well and to bring Girls and Boys Clubs to Wheat Ridge. They are trying to get a 501c3, but currently operate under the WR Foundation. They thanked Chief Brennan and all the other volunteers. It's a 100% volunteer organization and 100% of the money goes for the kids. Continued funding by the City is crucial and would be appreciated.

### **APPROVAL OF AGENDA**

**Motion** by Councilmember DiTullio to add Agenda Item 8 – a resolution giving notice of and calling an election to be held on an initiated amendment to the Wheat Ridge City Charter at the regular municipal election of November 3, 2015; seconded by Councilmember Urban; carried 8-0

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

#### 1. First Opportunity for Public Input on the 2016 Budget

Councilmember Langworthy introduced Item No. 1.

**Rachel Hultin** (WR) asked that the 2016 budget continue to fund pedestrian and bicycle activity by prioritizing it within individual departments and with a line item dedicated to bike/ped infrastructure.

#### 2. Council Bill No. 10-2015 - an ordinance amending Articles II and VI of Chapter 26 of the Code of Laws, concerning Residential Side and Rear Yard Setbacks (Case No. ZOA-15-02).

Councilmember Pond introduced Council Bill No. 10-2015.

This ordinance amends the street-facing side and rear yard setback requirements for substandard residential lots (60 feet wide or less). This will reduce the setback burden on small properties and set standards for new construction that are consistent with existing neighborhood conditions.

Clerk Shaver assigned Ordinance 1575.

Mayor Jay opened the public hearing.

Staff report ~ Ken Johnstone

Reasons for the proposed changes in the requirements

- The burden of street-facing side setbacks on substandard residential lots
- Street-facing side yard setbacks are identical to street front setbacks. For lots with substandard width this can be burdensome
- Existing structures can be expanded in line with non-conforming setback
- New structures are required to meet current development standards

- The oldest part of East Wheat Ridge was platted in 1889, 1890, and 1919. As a result there are many legally, nonconforming setbacks and lot sizes. The problem exists primarily in these older neighborhoods.

Two amendments are proposed

- Corner lot setbacks – requirements for street-facing side yard setbacks to be reduced by half for lots that are 60 feet in width or less and are located on a corner. This will increase the developable area, but preserve a functional yard and appropriate setback from sidewalks/streets
- Street-facing side yard setback reduction will be based on the average setbacks in the neighboring area -- which already exists in the code for front yard setbacks

The code changes would apply citywide, but would only affect a small class of lots most of which are in East Wheat Ridge.

Public comment

**Jesse Hill** (WR) owns a property that will be affected by this. He thanked Mr. Johnstone and Lauren Mikulak for their work on this and Councilmembers DiTullio and Starker for listening. This will allow for revitalization in the neighborhood. It won't increase density and will retain the character of the neighborhood.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Pond to approve Council Bill No. 10-2015 - an ordinance amending Articles II and VI of Chapter 26 of the Code of Laws, concerning Residential Side and Rear Yard Setbacks (Case No. ZOA-15-02) on second reading and that it take effect 15 days after final publication, with the following condition:

1. The last sentence of Section 26-611.B shall read "...a setback less **THAN** fifteen (15) feet..." ;

seconded by Councilmember Starker; carried 8-0.

3. Council Bill No. 14-2015 –an Ordinance amending Subsection 21-13(3) of the Wheat Ridge Code of Laws concerning Permits for Electrical Work performed in Rights-of-Way.

Councilmember Urban introduced Council Bill No. 14-2015

This ordinance clarifies the authority of City building inspectors to inspect electrical work in the right –of-way. Historically this was done by Xcel Energy, but since the City now owns the LED street and pedestrian lights on new projects that have *not* been installed by Xcel, City staff will need to do those inspections.

Clerk Shaver assigned Ordinance 1576.

Mayor Jay opened the public hearing.

Staff presentation ~ Scott Brink

Mr. Brink noted this will apply as we get new forms of lighting not installed by Xcel, such as the pedestrian and decorative lights at the new Sprouts that are owned by the City or traffic lights and flashing beacons as we add bike/ped improvements. This provides an extra level of protection to ensure correct workmanship and is typical of other cities.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Urban to approve Council Bill No. 14-2015 –an Ordinance amending Subsection 21-13(3) of the Wheat Ridge Code of Laws concerning Permits for Electrical Work performed in Rights-of-Way, on second reading, and that it take effect 15 days after final publication, seconded by Councilmember Langworthy , carried 8-0.

4. Council Bill No. 15-2015 –an Ordinance amending Section 13-8 of the Wheat Ridge Code of Laws concerning prohibited parking in certain Bike Lanes and authorizing the imposition of time restrictions for On-Street Parking

Councilmember DiTullio introduced Council Bill No. 15-2015.

This ordinance will prohibit parking in designated bike lanes (such as occur on Pierce Street and 32<sup>nd</sup> Avenue) and will also allow for enforcement of time-restricted parking spaces on 38<sup>th</sup> Avenue.

Clerk Shaver assigned Ordinance 1577.

Mayor Jay opened the public hearing.

There was no staff report.

#### Public comment

**Rachel Hultin** (WR) urged approval of the ordinance. She explained how cars parked in bike lanes create a hazard for both cyclists and drivers. She thinks this will help reduce conflict on the road for all users.

#### Council questions

- Councilmember DiTullio inquired about having an enforcement grace period and asked if Pierce would be part of the overlay. He suggested fliers might be helpful. Mr. Brink said that only 32<sup>nd</sup> would be restriped and that enforcement could start immediately as resources allow. They will respond to complaints and public works and police staff will report violations. He agreed that public education is important and noted that was done with signage when the bike lanes were put on Pierce.
- Councilmember Davis asked for clarification about the time restricted parking – if it is different from the bike lanes. Yes, it is.
- Councilmember Urban asked how sharrows would be excluded from enforcement. Mr. Brink explained that bike routes with sharrows are not dedicated bike lanes.
- Councilmember Langworthy asked for clarification about wording in Sec E. Mr. Dahl explained.

Mayor Jay closed the public hearing.

**Motion** by Councilmember DiTullio to approve Council Bill No. 15-2015 –an ordinance amending Section 13-8 of the Wheat Ridge Code of Laws concerning prohibited parking in certain bike lanes and authorizing the imposition of time restrictions for on-street parking, on second reading, and that it take effect 15 days after final publication, and further that the new parking restrictions be clearly documented on the City's website and other periodicals. He also asked that Wheat Ridge ATAT promulgate these changes on Facebook and other social media. Seconded by Councilmember Davis, carried 8-0.

5. Council Bill No. 16-2015 –an Ordinance amending Section 21-3 of the Wheat Ridge Code of Laws concerning Street Width Designation.

This ordinance exempts additional activities from the street width designation process required by the Charter. Exempted from the definition of "street reconstruction" are:

Removing or adding pavement and/or curb and gutter for more than 250 feet of an existing street *for the purposes of*

- restriping where there is no curb to reduce lane width for traffic calming,
- restriping to add bicycle lanes,
- constructing curb and gutter where none exists,
- repairing the street to improve drainage,
- reducing maintenance of the edge of the pavement or adjacent shoulder, provided the number of motor vehicle travel lanes or the general street width are not changed.

Councilmember Fitzgerald introduced Council Bill No. 16-2015, noting the changes are proposed to facilitate restriping for bike lanes, traffic calming, and adjustments for drainage, safety and maintenance needs without triggering Section 5.20 of the City Charter. He further announced that changes involving any addition to the pavement width or the addition of sidewalks or amenity zones would continue to require a change in the street width designation.

Clerk Shaver assigned Ordinance 1578.

Mayor Jay opened the public hearing.

City Attorney Dahl explained Council's authority and responsibility to enact legislation to implement the Charter. Since Charter Section 5.20 uses the term "street reconstruction", a code section was created ten years ago to define "street reconstruction". This definition exempts certain things from the process so that minor changes would not trigger the complicated Charter process. Accel/decel lanes and traffic calming devices are already exempt from the process.

There was no discussion.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Fitzgerald to approve Council Bill No. 16-2015 –an ordinance amending Section 21-3 of the Wheat Ridge Code of Laws concerning street width designation, on second reading, and that it take effect 15 days after final publication, seconded by Councilmember DiTullio, carried 8-0.

6. Council Bill No. 17-2015 –an Ordinance reappointing Presiding Municipal Judge Christopher Randall, increasing his hourly compensation and approving a Presiding Municipal Judge Services Agreement

Councilmember Starker introduced Council Bill No. 17-2015.

The Charter provides for a two year term for the Municipal Court Judge. Judge Randall's term expired July 1, 2015. This ordinance reappoints Judge Randall for another two year term, provides for a requested raise from \$91.51 per hour to \$96.09 per hour, and recognizes in his agreement that he works an average of 30 hours per week.

Clerk Shaver assigned Ordinance 1579.

Mayor Jay opened the public hearing.

Mr. Dahl spoke briefly as the staff liaison for the Judge. Judge Randall said there wasn't much to add since this had been addressed at a previous study session. There were no questions from Council.

Mayor Jay closed the public hearing.

**Motion** by Councilmember Starker to approve Council Bill No. 17-2015 –an Ordinance reappointing Presiding Municipal Judge Christopher Randall, increasing his hourly compensation and approving a Presiding Municipal Judge Services Agreement, on second reading, and that it take effect upon adoption at second reading, as permitted by the Charter; seconded by Councilmember Fitzgerald; carried 7-1, with Councilmember DiTullio voting no.

## **DECISIONS, RESOLUTIONS AND MOTION**

7. Motion to award ITB-15-14, 2015 Slurry Seal Project, to A-1 Chipseal Company, Denver Co in the contract amount of \$291,395.60 and to approve a contingency amount of \$14,570

Councilmember Davis introduced Item No. 7.

The Slurry Seal Project provides maintenance to various local streets. This project is the last of three preventative maintenance projects the City will implement this year.

There was no staff report.

Councilmember Davis asked how far we are financially from getting up to date on slurry seal and maintenance for all our roads. ~ Mr. Brink said that would be hard to quantify right now. He explained that mill and overlay is for streets that are starting to get into poor condition; slurry seal is routine maintenance. He'd have to look at the pavement management program rating system and doesn't have that information tonight.

**Motion** by Councilmember Davis to approve the award of ITB-15-14, 2015 Slurry Seal Project, to A-1 Chipseal Company, Denver Co in the contract amount of \$291,395.60 and to approve a contingency amount of \$14,570, seconded by Councilmember Starker, carried 8-0.

8. Resolution No. 34-2015 – A resolution giving notice of and calling an election to be held on an initiated amendment to the Wheat Ridge City Charter at the regular municipal election of November 3, 2015

Councilmember DiTullio introduced Resolution No. 34-2015

Due to the short notice, Clerk Shaver informed Council a resolution number was not available. Mr. Dahl advised it isn't a problem and the number can be added later.

Mr. Dahl explained two documents that were distributed to the Council.

- A Certification of Petition Sufficiency by the City Clerk dated today which certifies as sufficient, as of Friday, July 10, the citizen petition for a charter amendment related to tax increment financing.

By statute, following the certification, the Council shall "at your next meeting" set a ballot title.

- A Resolution he prepared which sets the ballot title and submission clause, and gives notice of and calls an election.

He explained to Council that when an initiative petition is certified as sufficient by the Clerk they have a mandatory duty to set the ballot question and put it before the voters. The title is to be an accurate summary of the proposal; the submission clause, which goes on the ballot, is word for word what the petition requests with the addition of a question mark and the choices of yes or no.

At the request of the Mayor, Clerk Shaver read the title of the resolution and the title of the ballot question.

Mr. Dahl informed Council that both the Title and the Submission Clause will both appear on the ballot. He recommended either changing the title to be something very short with no detail or leave it as is.

#### Public comment

**Maryann Stork** (WR) urged a vote in favor of the TIF charter amendment this November. Council's vote to give TIF funds to corporate welfare has angered citizens; they no longer trust staff and Council to make decisions for them that will improve City finances and bring in additional visitors, dollars or businesses. People should vote to be able to choose what they're willing to risk large TIF amounts on. Staff and Council's future

Wheat Ridge looks like every surrounding community. We should throw out the old urban renewal model and replace it with one that meets the wishes and needs of our changing demographics.

**John Clark (WR)** urged everyone to vote for the Charter amendment. He explained his calculations illustrating how the recently awarded TIF will result in \$967,500 being lost to Jeffco schools over the next 15-25 years. ~ He told of a TIF in Steamboat Springs that has so seriously affected school funding that the school district is considering suing the City of Steamboat for lost revenue. (He presented copies of the article.) ~ When the six councilmembers who voted for the TIF talk about supporting kids they should think about the nearly \$1M that has been stripped from the school budget.

#### Council discussion

There was discussion about the proposed Title for the ballot wording. The Submission Clause is the wording from the citizen petition and is not open for change.

Councilmember Pond noted that the school district, and all other agencies except the Fire District, did not reply with any concern about their funding with respect to the TIF.

Councilmember Davis explained how the City helped develop 44<sup>th</sup> & Wadsworth. The City bought the property with the hope that the County would put in a library and some administrative offices. The County backed out and ultimately the City prepared the site for Wazee partners to buy the property and build income-adjusted senior housing. For this five acres the City spent over \$5.5 M for clean-up, sidewalks, lights, and drainage. There was no TIF, but tax dollars were used. The risk was to the City for borrowing the money and paying interest. TIF projects place the risk on the developer since the City doesn't put out any money until funds are generated from the site. This project is only \$6.2M for 15 acres. There are other ways renewal can work. She believes the ballot question could potentially harm some of the development in the City.

Councilmember DiTullio doesn't think 44<sup>th</sup> & Upham, 38<sup>th</sup> & Kipling, and 38<sup>th</sup> & Wadsworth have anything to do with each other, and gave further details. At 44<sup>th</sup> & Upham, WR2020 purchased options to buy the property, then sold them to Urban Renewal when real estate prices were high. Within a year the 2008 recession happened, causing property values to go down and Jefferson County to withdraw. Urban Renewal didn't ask for a TIF and sold the property at a loss to Wazee -- who had CHFA financing for the senior housing and didn't need a TIF. He noted no one ever came in to oppose 44<sup>th</sup> & Upham or 38<sup>th</sup> & Kipling. On 44<sup>th</sup> & Upham, TIF was an option as it had been used at 38<sup>th</sup> & Depew. ~ 38<sup>th</sup> & Depew received a \$400,000 TIF for residential housing because the developer said they couldn't sell the units for more than \$250-270,000 per unit; they needed a TIF to support their profit margin. In the end those properties are being sold for \$320-340,000. New Town Builders should have gotten the TIF or the higher prices, but not both; they double-dipped. ~ In the end, every project is different, so comparing them doesn't matter. This ballot question addresses the current situation, and moving forward - to give voters a chance to vote on any TIF over \$2.5M.

Councilmember Pond acknowledged this is a mechanical vote, but it's difficult to do given the context. He agrees projects are not related. He thinks one of the pitfalls of what

we're looking at is that it would bind them and relate them in a way that he thinks can be damaging in the future. He said he did hear complaints about 44<sup>th</sup> & Upham when he was on the Planning Commission – that it didn't meet the intent of mixed use zoning. Every project is different and has its own complicating set of circumstances. He thinks some of the language here relates things somewhat artificially.

**Motion** by Councilmember DiTullio to approve Resolution No. 34-2015 giving notice of and calling an election to be held on an initiated amendment to the Wheat Ridge City Charter at the regular municipal election of November 3, 2015, and further that the City Clerk assign a resolution number as soon as possible; second by Councilmember Langworthy; carried 8-0.

## **DISCUSSION ITEMS**

Acquisition of Ward Road Ponds and Applewood Golf Course ~ Joyce Manwaring

### Applewood Golf Course

Ms. Manwaring reported Council probably knows Applewood Golf Course has been under contract for development. It's in Jefferson County and the Prospect Recreation District. Developers have submitted a proposal; it's under review at the County right now.

The City received a letter from resident Elise Brougham asking Council to consider acquisition of Applewood Golf Course. The Parks Commission discussed this and its response is that they think it is an amenity that may be of interest to citizens of Wheat Ridge, but because the golf course is not located in Wheat Ridge, it is not within their purview to consider acquisition.

Ms. Manwaring is in contact with Jeffco Open Space, GOCO, and other parties that are interested in acquisition of the golf course. Prospect Recreation District is taking the lead on that. As it moves forward it could include anything from total acquisition to some type of cooperation within the development agreement for parkland.

### Ward Road Ponds

The Ward Road Ponds are owned by Arvada. They've been open to the public and managed by the Division of Parks and Wildlife. That Division will no longer be stocking the lakes or managing the area. The Parks Commission recommends against acquisition due to location, heavily polluted water, lack of sustainability and the area is not suitable for a park.

Staff recommendations:

- Staff does not recommend acquiring the Ward Road Ponds due to the additional funds required to improve, maintain and patrol the area.
- Staff does not recommend acquiring Applewood Golf Course. The City will be contacted later if there's an opportunity to partner with Prospect Recreation District.

There were no questions, comments or discussion from Council.

**CITY MANAGER'S MATTERS****CITY ATTORNEY'S MATTERS****ELECTED OFFICIALS' MATTERS**

**Clerk Shaver** noted having seen cars parked in the bike lanes by Applewood Swim Club on 32<sup>nd</sup> Avenue last Saturday for a swim meet. She suggested a note of warning be sent to the swim club that enforcement is coming soon.

**Kristi Davis** noted her yard was on the garden tour on Saturday. She thanked the large number of hosts of the garden tour, the gardeners, the volunteers, the artists, the Facebook friends of the tour, folks who donated to the tour, as well as Milly Nadler and Vicki Ottoson for all their efforts putting the event together. ~ She thanked the folks and their hard work on the petition effort; she noted it's a large effort and that's the type of thing that makes our community.

**George Pond** wished everyone a belated happy 4<sup>th</sup> of July.

**Tim Fitzgerald** reminded businesses that the WR Business District has matching funds available for signs, landscaping, facades, painting, and accessibility. If any businesses are considering a project like that they should apply. ~ He thanked Rachel Hultin for summarizing the citizen discussion that have been going on about 38<sup>th</sup> Avenue. It looks like they're having some good discussions.

He also addressed a postcard that is being distributed about him. He defended charges that he believes exceed personal privacy and are a pure smear campaign designed to damage his reputation. He distributed to Council information he uncovered about who is responsible for the website mentioned on the postcard. He doesn't think our citizens want this petty smearing – they want us to cooperate and do our best for the city.

Discussion followed.

- Mayor Jay spoke in Mr. Fitzgerald's defense - noting the high level security clearance he had during his years as a government employee.
- Genevieve Wooden asked Mr. Urban if he was the source of the postcard. He said he didn't create the website; he allowed citizens who didn't have one to use his computer. ~ She asked the City attorney if disclosing a criminal history of domestic violence is a requirement for elections. Mr. Dahl advised that only a convicted felon is ineligible to run for office. ~ She thinks this is petty and low and people need to know it's going on. ~ She reminded the public that elected officials are ordinary citizens who work hard, and put in lots of hours for very little money. She requested the level of respect and integrity on the Council be raised.
- Tracy Langworthy said councilmembers understand they are open to public comment, but the amount of grief they take is sometimes ridiculous. People may disagree with their decisions, but councilmembers do their job with the best of intentions, integrity and honesty. It's heart-breaking that someone would think attacking someone's personal life is a right path.

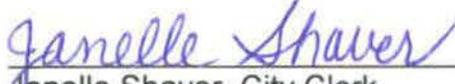
- Jerry DiTullio agreed the postcard was slanderous and wrong, but added that the people who are preaching about fairness likely knew about a flier that came out in 2013 that slandered him, Mike Stites, Joe DeMott and Zach Urban. That flier was mailed to every household in the city. He urged them to carry the message back to Citizens for a Greater Wheat Ridge and their supporters that negative campaigning has to stop on both sides. All the groups need to stop it. Defending Mr. Fitzgerald is fine, but the people who were slandered in 2013 should be defended too. They also put in community service for little money.
- Zach Urban urged that councilmember who have felt threatened or intimidated by being on Council might consider what the residents feel like. He believes recall is legitimate and helping people air their grievances in not out of the realm of what a councilmember should do. This recall effort is done by residents from District 3. He had nothing to do with it. He thinks Tim Fitzgerald is a nice guy, but this was about allowing citizens the room to air their grievances. It's emotionally charging for them too.
- Tim closed by noting there is no legal value in this petition. It is only for smear.

**Tracy Langworthy** thanked the hosts and gardeners for the Garden Tour. It was lovely and the weather was perfect. ~ She announced that this Thursday is the next Cruiser Crawl – starting at WR Cyclery at 6pm. The theme is Star Wars.

**Mayor Jay** noted that two businesses had grand opening this weekend – Felice & Monica Barbershop and Body, Mind & Spirit.

### ADJOURNMENT

The meeting adjourned at 9:04 pm.

  
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Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON July 27, 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.