

CITY COUNCIL MINUTES

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

August 24, 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	Bud Starker
Tim Fitzgerald	George Pond	Tracy Langworthy	Genevieve Wooden

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Parks Director, Joyce Manwaring; Police Chief Daniel Brennan; Administrative Services Director, Heather Geyer; Treasurer, Larry Schulz; other staff and interested citizens.

APPROVAL OF MINUTES OF August 10, 2015 and Study Session Notes of August 3, 2015

Without objection the minutes of August 10, 2015 and Study Session Notes of August 3, 2015 were approved as published.

PROCLAMATIONS AND CEREMONIES

Citizen Award for Gheorghe Madalina

[To be rescheduled to a later date.]

CITIZENS' RIGHT TO SPEAK

Mariann Stork (WR), with time donated by another speaker, addressed what she feels are false arguments from those opposing TIF reform. To say the \$6.2M being given to the developer is free money and won't cost the taxpayers anything is not true.

1) Asserting the numbers will ultimately benefit Wheat Ridge is not true. Without the \$6.2M TIF the development couldn't stand on its own. Adding another grocery store, when we already have so many, will not generate new sales tax; it will only cannibalize other stores' sales. The numbers don't add up, and Council was never given any spread sheet to show pay-offs via tax dollars collected and pay-off years through 2040.

2) WR will continue to collect the base tax rate of the properties, but the increase in the property tax rate due to improvements goes to the developer. Once the developer has the \$6.2M + interest (\$11M in the end) the new property tax over the base rate goes to the Urban Renewal Authority – an appointed board that will decide how to spend the

money, with no input from taxpayers who have had money sucked from the treasury in the name of urban renewal and TIF.

3) Putting in a development that cannibalizes another business across the street is foolhardy. The City currently collects 3% sales tax from purchases at Safeway, but once shoppers leave Safeway, sales tax revenue from that store will drop. Meanwhile, the City will only collect 2% sales tax from the new development, minus the grocer – who asked to be excluded to remain competitive. Revenue from the other unknown businesses will contribute 1% of our 3% sales tax to the developer.

4) She illustrated how TIF's result in underfunding for schools, libraries and other public services. Eventually an increase in the mill levy is needed to pay for those services. You ultimately pay more taxes. In the 5-county metro area there are currently \$1.26 Billion wrapped up in TIF funds. (Source: Colorado Property Rights Coalition)

She urged people to be informed and vote yes on question #300, TIF reform, in November.

Rachel Hultin (WR) shared her thoughts about the Discovery Park Task Force. She praised elected leaders and senior staff for their participation and was thankful for the community participation and the ideas that came forward. She's excited to see the recommendations that will improve safety, cleanliness and the welcoming environment for the park. She encouraged Council to consider creating a community stewardship program.

Guy Namiach (WR) reported from the Discovery Park Task Force. He thanked everyone who participated; some great ideas were brought forward. Since the meeting they will be doing the same outreach again -- 500 fliers in the neighborhood, going door to door, an online survey to the same meeting participants, and face-to-face conversations with park users – using the same methods to measure progress and effectiveness. This may provide information for City staff to tweak their efforts. The results will be shared with the Task Force at their next meeting.

Barbara St. John (WR) said the more you condone, sanction and legalize something the more people will think it's safe and will do it. This applies to vaping and marijuana. She encouraged Council not to legalize and sanction it; help young people keep from doing something harmful. People who go to enjoy the park shouldn't have to be confronted with all this.

Jim St. John (WR) is sorry that Council took it upon itself to legalize marijuana in WR without giving citizens the opportunity to vote on it. He hopes in a future election citizens will be given the opportunity to make it illegal. He noted that marijuana is often compared to alcohol, but wrongly so. Knowledgeable resources report that, unlike alcohol, the effects of marijuana stay with someone for 30 days. He believes it should be taken to the voters at the next election.

APPROVAL OF AGENDA

City Attorney asked Council to take a motion to add an executive session at the conclusion of the meeting for receiving legal advice concerning the property at 4505 Yarrow Street.

Motion by Councilmember Starker to go into Executive Session for a conference with the City Attorney, City Manager, and appropriate staff under Charter Section 5.7(b)(1) and CRS 24-6-402(4)(b) for the purpose of receiving legal advice concerning the property located at 4505 Yarrow Street, and further to adjourn the Council meeting at the conclusion of the executive session; seconded by Councilmember Langworthy; carried 8-0.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

1. Council Bill 18-2015 – an ordinance adding a new Article XIII Chapter 26 to the Wheat Ridge Code of Laws concerning repair of Construction Defects

Councilmember Starker introduced Council Bill 18-2015.

There exists a climate of litigation that puts builders and developers at risk of substantial judgments, often including punitive damages, for alleged construction defects. Restrictive state laws have discouraged construction of new multi-family housing units. This ordinance will amend the Code to give builders the opportunity to correct construction defects before suit is brought.

Clerk Shaver assigned Ordinance 1580.

Jerry Dahl gave a short staff presentation. This has been discussed twice at study sessions. The Planning Commission reviewed the ordinance and recommends approval with the following changes:

- 1) Restrict the scope of the ordinance only to condominium and co-op projects.
- 2) Eliminate the warranty or repair obligation of architects and designers
- 3) That the actual text of the definition of "Declarant" be included, not merely referenced. (This was inadvertently left out of the staff report.)

Council discussion centered primarily on the following topics:

- The level at which engineers and architects are still liable
- The term "co-op"
- If townhouses should be included

There was no public comment.

Mayor Jay closed the public hearing.

Motion by Councilmember Starker to approve Council Bill No. 18-2015 - an ordinance adding a new Article XIII Chapter 26 to the Wheat Ridge Code of Laws concerning repair of construction defects on second reading, and that it take effect upon approval of second reading, with the following modifications:

- 1) That the second sentence of Sec. 26-1307 be deleted.

2) That the definition of "Declarant" set forth in CRS 38- 33.3-103(12), that is found in Sec.26-1303 "definitions", be set forth in full. seconded by Councilmember Urban; carried 8-0.

ORDINANCES ON FIRST READING

2. Council Bill 20-2015 – an ordinance approving a Zone change from Industrial-Employment (I-E) Commercial-One (C-1) and Agricultural-One (A-1) to Industrial-Employment (I-E) for property located at 4901 Marshall St.

Councilmember Urban introduced Council Bill 20-2015.

This is the first step of the process for redevelopment of this site. If approved, all further review of site plans will be administrative, with no additional public hearings required.

Motion by Councilmember Urban to approve Council Bill 20-2015, an ordinance approving a Zone change from Industrial-Employment (I-E) Commercial-One (C-1) and Agricultural-One (A-1) to Industrial-Employment (I-E) for property located at 4901 Marshall St. on first reading, order it published, public hearing set for Monday, September 28, 2015, at 7 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember DiTullio ; carried 8-0

DECISIONS, RESOLUTIONS AND MOTIONS

3. Motion to accept the 2014 Comprehensive Annual Financial Report (CAFR) from Swanhorst & Company, LLC

Councilmember Langworthy introduced Item 3.

Wendy Swanhorst, of Swanhorst and Company, was present to address the financial report and the management letter.

An unqualified or clean opinion was given – meaning the numbers are clearly stated in all respects. Nothing significant was identified, but there are a few recommendations for internal controls.

- There is an issue when budget amendments are made -- the expenditures are being increased but the revenues are not. They recommend supplemental budget requests include a corresponding increase in revenue if fund balances were not adequate to cover the expenditures.
- Urban Renewal's budget was also over significantly due to a misunderstanding about accounting vs budgeting. Mr. Goff indicated staff is aware of this and will keep a better eye on it.

- They recommend the city evaluate the risks involved with purchasing certificates of deposit from non-PDPA banks. There is a question across the state about the legality of cities putting money in non-PDPA banks. Legal opinions vary. Some legislation may ensue.
- Swanhorst recommends the City implement additional oversight in the journal entry process.
- Grant money needs to be kept track of a little better. We have a lean staff; each department manages its own grants and errors can slip through. Mr. Goff reported that new financial software is under review that will help.
- General Fund actual revenues for FY2014 were \$3.4M more than final budgeted revenue. Actual expenditures were \$1.6M less than final budgeted expenditures.
- There was discussion about the reporting process related to federal grants.

Motion by Councilmember Langworthy to accept the 2014 Comprehensive Annual Financial Report (CAFR) from Swanhorst & Company, LLC; seconded by Councilmember Wooden; carried 8-0.

DISCUSSION ITEMS

1. Marijuana impact update

Chief Brennan gave an annual update on marijuana in our community.

In Wheat Ridge Schools

The number of drug and alcohol charges increased during the 2014-2015 school year from the previous school year.

- The number of marijuana possession *charges* in 2014-2015 was 59 – up 20% from the previous year, which is considered very high.
 - 59 charges for possession = Everitt (7), WR5-8 (13), WRHS (39). None in elementary school this year; last year there was 1.
- The number of marijuana *arrests* (including possession, paraphernalia, production, selling, etc.) in 2014-2015 was 68 – up by 17% (considered moderately high).

Education

- School Resource Officers (SRO's) taught several classes regarding drug awareness and marijuana edibles.
- The Jeffco Sheriff's office gave 2 presentations at WRHS on drug awareness and the effect of drugs on your brain.

In our juvenile community

- 2014 saw 29 juvenile arrests for drugs and alcohol that were not school related
 - 13 possession of alcohol, 16 marijuana related, 1 toxic vapors,
 - Only 5 arrests occurred in parks

Drugs and alcohol in our adult community

- In 2014, 347 adults were arrested for drug/alcohol charges (159 driving related).
- Charges relating to controlled substances increased to 61, a statistically significant increase from the average of 40.
- 14 adults were charged with possession of marijuana in 2014.

Marijuana home grows

- There were no investigations by the West Metro drug task Force for home grows in Wheat Ridge in 2014.
- There were two indoor grows located in 2013. (27th & Pierce-1 arrested; 44th & Ward – 2 arrested)
- To date in 2015, there have been two indoor grows located (42nd & Youngfield – 1 arrested; 38th & Chase – 3 arrested)

Marijuana social bar

- Three Kings Dab Supply received 16 calls for service for a variety of violations.
- No charges resulted. The business is now closed.

DUI for marijuana

- 8 arrests in 2014 = 5% of the total DUI's. No significant change since 2011.
- We have one trained DRE (drug recognition E????)

CFS (calls for service) at marijuana facilities

- 2014 had 82 calls for service at MJ dispensaries and tasting labs.
- 38% of the calls were to Best Colorado Meds
- 73% of the calls were for alarms (2.8% of the alarm calls in the city).
- In 2014 there were 3 burglaries (0.9% of the burglary calls), 2 disturbances (0.1% of the burglary calls, 2 thefts (0.1% of the theft calls), and 1 forgery (0.2% of the forgery calls).
- There were no calls for service regarding juvenile trouble, vehicle theft or robbery.

Summary points

- 2014-2015 school year saw a 20% increase in possession of Marijuana charges – highest increase being at WR5-8
- Juvenile charges for marijuana outside school decreased by 62% (significant decrease)
- The number if DUI/marijuana cases was within the norm.
- The percentage of calls for service to marijuana facilities was down from 2013.

Heroin in our community

- Heroin use, arrests and deaths continue to increase in 2015.
- In the first seven months of 2015 there have been 23 heroin-related arrests and 30 reported heroin overdoses – 5 resulting in death.
- Heroin is cheaper on the street than meth or oxycontin.

Brief discussion followed.

- The Jeffco Courts have drug courts for offenders with small records.
- Students report marijuana use is high; it's available everywhere; and it's the norm.
- A drug prevention counsellor is being hired for the high school and Everitt.
- We could do more if we had more staff.
- Chief Brennan will wait to evaluate the changes with Stevens and Sobesky before staffing the 3rd SRO.

This report will be put on the website and available to the public

2. Police Department Strategic Plan ~ Chief Brennan

- This is the 4th rendition of the strategic plan for the department since 2006.
- 5 broad goals have been identified related to the following areas: 1) Community, 2) Communication, 3) Technology/Regionalization, 4) Organization (staffing needs), and 5) Our employees.
- Each goal has a strategy leader and actionable objectives.
- The 2015-2017 Strategic Plan will be available to the public via the City's website.

3. Discovery Park Task Force Recommendations ~ Joyce Manwaring

The type of activity some of the teen and young adult visitors are engaging in at Discovery Park is impacting other park users and increasing the costs to maintain the park. This includes vandalism, breaking the law, smoking and drug use. A task force was formed to discuss the issues. Three meetings have been held.

Long and short term recommendations include:

- Additional signage
- Surveillance Cameras
- No Smoking Ordinance
- Police Staffing and Patrol of Park

Chief Brennan noted there is salary money available to keep the seasonal code workers until November. He is already using them to staff Discovery Park at times when there are issues. Warnings are issued – no arrests. They are handing out materials and developing a relationship with park users. They are working with principals and SRO's at the schools on truants. This seems to be having a positive effect so far. There will be Saturday morning clean-up on the first Saturday each month.

Ms. Manwaring made note of a skate park clinic that was held recently, as well as on-going sport practices and pavilion rental. The Parks Department continue to pursue more programmed activities; they do serve as deterrents.

4. Mid-year Budget Update ~ Patrick Goff

So far this year

- General Fund Revenues are about \$750,000 higher than expected at this point in the year. This is 106% pro-rated.
- General Fund Expenditures: Based on historical averages we have spent about \$1.7 M less than expected. It should be noted that some funds are not scheduled to be spent until later in the year and Park utility costs are down due to the cool, wet spring.
- Total revenues are down from last year, but Mr. Goff reminded Council of the one-time sales and use tax audit item of \$1.7M in 2014. If that is factored out, total General Fund Revenues are actually up 6.5% (\$768,197) compared to the same period last year.

- Marijuana sales tax revenue through June is \$224,000. Additional operating fees we get from the state are \$63,000 through June.
- City Council has approved supplemental budget appropriations of \$1.4 million for various purposes through the end of July. The two largest appropriations were \$350,000 for the drainage improvements to the Arvada Channel (part of the Gold Line project), and \$330,000 for extra preventative street maintenance and added bike lanes.
- The supplementary budget appropriations brought our reserves down to 15.1%, which is below our 17% minimum policy. However, if revenue trends continue and we don't spend more than is budgeted, our reserves will be over 17% by year's end.

CITY MANAGER'S MATTERS

CITY ATTORNEY'S MATTERS

CITY CLERK'S MATTERS

ELECTED OFFICIALS' MATTERS

Zach Urban acknowledged a Boy Scout in the audience named Jonathan who is going for his Citizenship in the Community merit badge. He is a star rank with Troop 166. ~ He announced that yard signs about driving and speeding in neighborhoods can be ordered on his website www.zacharyurban.com. They say "Drive like our kids live here".

Bud Starker also noted that school is in session and folks should slow down.

Genevieve Wooden reminded everyone of the Face-to-Face Meeting this Monday August 31 at the Rec Center. She will be out of town, but has scheduled another meeting at the Rec Center on September 10 if anyone would like to attend. ~ She noted a movie will be coming out about Freddie Steinmark, a former WRHS student and football in the 1960's who played for Texas. The movie, "My All-American" was written by the same person who wrote "Rudy" and "Hoosiers". Watch for upcoming events related to the book and movie in late September/early October.

Tracy Langworthy commented on seeing the yard signs near schools in Denver. ~ She remarked how many people she saw this weekend, out and about --walking, biking, skate-boarding, and enjoying the community. She saw many young families and that is a positive thing to see.

Tim Fitzgerald said he is impressed with all the citizens who got involved in the Discovery Park task force and took ownership of the park. The staff as well really stepped up and took charge and willing to help.

George Pond reported checking on Discovery Park on Sunday and was able to chat with a CSO for a few minutes. The SCO shared information about the positive interactions they've been having with people in the park. It appears we're on the right track.

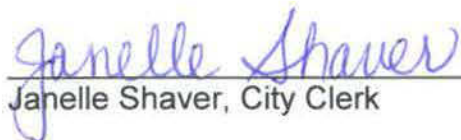
Mayor Joyce Jay said people can come to the Face-to-Face meeting at 6pm to talk to councilmembers and staff. Official presentations will begin at 6:30 and last about 45 minutes. ~ She noted last month's Neighborhood Gazette had an article about the process she's trying to create called Community Exchange. She's looking for 13 citizens to aid in designing a collaborative process to help talk to citizens and have better communications. Interested parties can contact her at her email on the City website.

Motion by Councilmember DiTullio to go into Executive Session for a conference with the City Attorney, City Manager, and appropriate staff under Charter Section 5.7(b)(1) and CRS 24-6-402(4)(b) for the purpose of receiving legal advice concerning the property located at 4505 Yarrow Street, and further to adjourn the Council meeting at the conclusion of the executive session; seconded by Councilmember Starker; carried 8-0.

ADJOURNMENT

The Regular Meeting concluded at 9:11pm.

The Executive Session began at 9:16 pm in the Lobby Conference Room and ended at 9:47pm, at which time the meeting was adjourned.


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON SEPTEMBER 28, 2015


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.