

CITY COUNCIL MINUTES

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

October 12, 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	Bud Starker	Kristi Davis
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; Administrative Services Director, Heather Geyer; Police Chief Daniel Brennan; Community Development Director; Public Works Director, Scott Brink; other staff and interested citizens.

APPROVAL OF MINUTES OF September 28, 2015 and Study Session Notes of September 21, 2015

Without objection the Minutes of September 28, 2015 and the Study Session Notes of September 21, 2015 were approved as published.

PROCLAMATIONS AND CEREMONIES

Wheaties Academy Proclamation

Mayor Jay read a proclamation explaining the activities of and recognizing the members of the Wheaties Academy class. Rachel Hultin thanked the Mayor, individual councilmembers and the community for their support. Several members of the class were present.

Police Department Presentation to Police Explorers for Skills Competition

Chief Brennan explained the Police Explorer program for teens and young adults that has been resurrected by Officer Jon Pickett. They participated recently in the Night Moves competition which challenges their problem solving skills. They placed 3rd in the Loud Party competition and 2nd in the Shoplifting in Progress category. Officer Pickett and Explorers Michael Lara, Courtney Allsop, Landon Sylvester and Daniel Southwick were on hand for congratulations and presentation of their trophies.

CITIZENS' RIGHT TO SPEAK

Pam Goff (LW) owns a business in Wheat Ridge and spoke in opposition to Question 300. She believes if WR doesn't keep up with amenities, businesses and shopping we will become a drive-through city. She talked about how good she thinks Belmar is.

Tom Lundy (WR) refuted the charge that WR residents aren't up to the challenge of judging the merits of a project requesting a TIF package over \$2.5M. He's talked with many citizens and found them to be knowledgeable and very well informed. They understand taxation, finance and the importance of using TIF, but for the right projects. He noted that Question 300 does not eliminate TIF's – only provides oversight. He feels it is just and proper for voters to evaluate the quality of projects and how they will impact citizens.

Maureen Daly (WR) encouraged a yes vote on 300. She discredited the argument about costly special elections being a reason to vote no. If it falls within 180 before a November election it can just be added to that ballot. The cost of a special election would be relatively small compared to the amount of a large TIF. It also factors in inflation. She noted that in 46 years only 2 developments have ever requested a TIF over \$2.5 M.

Vance Kolesar (Lakewood) spoke against question 300. He believes WR is badly in need of rejuvenation. TIFs provide an opportunity for development the City needs. He believes elected officials should make the decisions and that the \$2.5M figure is a smokescreen and that people are confused.

Vivian Vos (WR) said her yard signs are being stolen from private property and she asked that this stop. ~ She said citizens were not listened to on 2A and 2B last year and the Planning Commission was not listened to about 38th & Wadsworth; the result is Questions 300. She suggested waiting until CDOT transforms Wadsworth and see what projects may come. She noted that developers can default on bond issues. ~ She reported that the amount of TIF money that has not gone into Jefferson County coffers for the seven years from 2008-2014 is \$1,005,627,615. ~ She pointed out that at least 10 businesses have done improvements on their own without asking for citizens' money.

Dorothy Archer (WR) addressed concerns she has about Founders Park. She believes as a natural area it has become a hazardous vacant lot with weeds. Seniors aren't safe walking there, nor are parents with children, because you can't see what's in the weeds. She said it's a fire hazard. She hopes something can be done about this.

Monica Duran (WR) said proponents of 300 were called liars at the recent League of Women Voters (LWV) discussion. People are supporting 300 for many reasons; they shouldn't be labeled for having a different opinion. The ballot initiative was put forward to ensure citizens could have their voices heard. \$2.5M is important and worthy of mature discussion. This should not be a name-calling competition. She asked why some are so fearful of accountability and what are they hiding? She encouraged a yes vote for TIF reform.

Tamara Phelan (WR) encouraged people to vote yes on TIF reform because it provides transparency and good governance by giving people the voice they want. 300 won't stop development; we need development. She offered that there is a wealth of authoritative

information about TIF (pro and con) at the library. 300 isn't anti-business; it encourages good business and helps stop corporate subsidies.

Thomas Slattery (WR) said he will be supporting 300 because he believes TIF's have gotten out of control. He has concerns about asking the taxpayers to pay the developer interest on the money we are giving them. He believes the quality of the development should have priority and the impact on the school district should always be considered.

Karen Adams (WR) expressed concern about ballot issue 300. She's talked to people who are concerned about negative consequences and fear it will stifle growth. They've read their Blue Book and find the initiative to be poorly written, risky and hurtful for redevelopment. She doesn't think this is in the best interest of WR and believes it will put our city at a disadvantage. Voting no on 300 will continue our momentum, attract young families and say that we are open for business.

Kim Calomino (WR) expressed her pride for the Wheaties Academy. ~ Regarding the two TIFs over \$2.5M, she said we've only had 4 TIF's so that's not an argument. For major projects like the light rail station and Clear Creek Crossing, \$2.5M will be a drop in the bucket. ~ She said no one called names at the LWV's forum; there were only disputes of facts. ~ She thinks we should support our representatives; people don't understand the many hours they put in to make decisions. ~ Regarding the interest paid to the developer, she said it's like buying a house or car. The developer is loaning us money that we will repay with new tax dollars; we're paying interest on that up-front loan. ~ She said taxing districts can object if they want; they aren't being robbed.

John Clark (WR) commented on what he calls fearmongering related to 300 and things that were said at the LWV forum. Karen Berry stated that the City is out of money and if 300 passes we'll have to raise taxes and cut services. Not true. She said most of the petitioners were telling people this was all about Walmart. Also not true, and how would she know this? Sue Shaffer said the voters and general public are not smart enough to know all the details and make informed decisions and that's why we have representative government. He said that's not why we have representative government. ~ Tonight he heard it said that the Yes on 300 crowd is against growth; that's also not true. ~ Just because someone says something doesn't make it gospel. He urged people to just read the proposal and not listen to the fearmongering.

Mindy Ancell (WR) spoke about wanting to put an addition on her house. She would like to see attention given to accessory dwellings. She believes senior housing would be helped if accessory dwellings are allowed.

Jennifer Yates (WR) thanked the sitting Council and staff for their time and effort on issues.

Mike Gauthier (WR) said people here have made their minds up on 300. He noted that staff has worked hard and councilmembers studied the issues on 38th & Wadsworth; people did their job. He doesn't like it that councilmembers were pointed out for voting for it. He believes that if it passes the City will be sued.

Councilmember DiTullio received confirmation from Attorney Dahl that the Blue Book contains no information on Question 300 because it's not a TABOR issue. There are no pro and con statements.

APPROVAL OF AGENDA

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

1. Public Hearing on the proposed 2016 City Budget

Councilmember Langworthy introduced Item 1.

Mayor Jay opened the Public Hearing.

Heather Geyer gave the staff presentation of the 2016 budget -- a shortened version of an earlier presentation given to the Council at the September 21, 2015 study session.

The budget is balanced and has a 17% reserve.

Councilmember DiTullio raised a point of order about staff campaigning against Question 300. The chair did not rule. There was discussion, with two additional points of order. The City Attorney recommended that reference to ballot Question 300 be removed from materials that end up on the internet.

Ms. Geyer continued her presentation. (See September 21, 2015 Study Session Notes for details.)

Public Comment

John Clark (WR) appreciates the funding for outdoor lab. ~ He wants Council to represent him in details about the budget. His one comment is he'd like to see WR2020 not be funded. It started out as one thing, but is now something different. -- a party-planning, political organization. Council nit-picked at the Carnation Festival budget, but hemorrhages hundreds of thousands of dollars to WR2020 with no question. He compared the cost and attendance of the Carnation Festival with the Ridgefest. He measured "The Green" and doubts that 5,000 people attended the Ridgefest; he suspects it was maybe 500. He'd like to see those funds removed from the budget and voted on separately. ~ He admitted he was wrong in stating that the executive director of WR2020 makes \$100,000. The fact is she only makes \$95,000 (2013 Budget).

Janice Hoppe (WR), the president of WR2020, encouraged Council to continue funding for WR2020. She explained the structure of the organization's 13-member volunteer board of directors, with a finance committee. They have a yearly audit and their financial information is available on their website. Besides the events they put on, they also have business programs. They have three staff members and hundreds of volunteers.

Kristine Disney (WR), vice-president of WR2020, reported that 350 people attended the Mid-Century Modern home tour – most of which were not residents of Wheat Ridge, but mid-century home enthusiasts. They had fun and it created good will. We have more events now and the word is getting out about Wheat Ridge. Their mission remains to create a sustainable and vibrant community. She encouraged continued funding for WR2020.

Britta Fisher, executive director of WR2020, thanked the City for its partnership. Their organization includes staff, volunteers, businesses, and community members. They work with other governmental agencies.

~She noted that WR2020 only received full funding for two years rather than five, but they have adapted. In the past they bought real estate, but the WR market is hot now so they're using money for leveraging and low interest loans for businesses and residents. They've provided their financials and audits.

~Their 10 year anniversary will be Dec 8 at the Sons of Italy.

~They've gotten other government grants for Wheat Ridge, pulled down neighborhood stabilization program funding, increased sponsorship and gotten a lot of in-kind donations from businesses.

~They want to increase the Ridge at 38 events – biggest of the 50+ events they put on.

They want to increase sponsorship. They have requests for:

- A variable message board for the large events such as the Criterium – which is expensive. Two boards for one week is \$11,000.
- An outdoor movie series
- A small increase for positioning tours (increased realtor tours)
- Grow the Wheaties Academy; it's exciting and fun.
- Their event postcard was well received, so they want to do it again.
- They've expanded the East WR Program to include the TLC program.

2 items that were cut from their budget request are:

- \$10 K for Ridge at 38 Project Management
- \$10K for Capacity Building and Accountability (There's software available to help them tell their story better (strategic plan, goals, time, resources).)

They believe they provide good value to the City. They're transparent and accountable.

Council questions

Councilmember DiTullio: Cost estimates for speed boards are about \$10,000 each.

Councilmember Fitzgerald asked about a discrepancy in the WR2020 financials. Britta Fisher clarified.

Councilmember Davis confirmed with Ms. Geyer that Council has decided to have the Carnation Festival remove the Zoppe Circus. Ms. Geyer said that direction has been given to the Festival directors and the line item has been reduced; Councilmember Davis suggested that reference to the Zoppe Circus be removed.

Councilmember Davis stated that TIF money is paid out of sales tax revenue.

Councilmember Urban inquired about the scoring process being used with priority based budgeting. Ms. Geyer said last year scoring wasn't done due to staffing changes (low staff). Staff prioritizes programs based on criteria. Councilmember Urban has concerns that going into year 5 there is no discussion about scoring or commitment to have

assessments done. Ms. Geyer said that will begin again in January and changes will come in the 2017 budget.

Mayor Jay closed the public hearing

No action was taken. Mayor Jay noted the vote on the budget will be on October 26.

2. Council Bill 22-2015 – An ordinance repealing and reenacting Article II of Chapter 9 and amending Article II of Chapter 17 of the Wheat Ridge Code of Laws to regulate Smoking in Public Places

Councilmember Wooden introduced Council Bill 22-2015.

This ordinance will bring the City Code into alignment with the Colorado Clear Indoor Air Act (CCIAA) with additions that will:

- Broaden the definition of "smoking" to include vaping and all other means of consumption that release secondhand smoke, vapor or particles into the air
- Prohibit outdoor smoking at City parks, playgrounds, facilities and events (such as the Carnation Festival)
- Prohibit smoking at public transit stops
- Permit smoking on the outdoor patios of restaurants and bars
- Expressly prohibit hookah bars
- Reaffirm and reference the City's existing Code that prohibits the open and public consumption of marijuana and the operation of marijuana clubs

The City Attorney noted the study and revision process has resulted in a better ordinance. He reaffirmed that this is an ordinance to regulate second-hand smoke as related to smoking and vaping; it is not an ordinance trying to prevent people from smoking. It's also not a marijuana regulation ordinance. The ordinance defines locations and provides a long list of places (29) where smoking is not allowed and a shorter list of places (10) where smoking is allowed. Per Council's direction smoking is allowed in a retail tobacco business and not allowed in businesses that sell smoking accessories.

Public comment

Morgan Lester, Jessie Jennett, and Tristin Roman, students from the Lakewood High School Breathe Easy team spoke in support of the ordinance.

Kathy Johnson (WR business) spoke on behalf of a vapor device business on 44th Avenue. She asked that sampling be allowed in a vape business. She noted that Arvada allows vaping in vapor businesses.

Charmain Brittain (WR) noted sending an email to councilmembers showing vapor advertisements and she doesn't think it's what Wheat Ridge wants. She encouraged Council to pass it as it's written.

Will Morehead (WR) moved here a few months ago and thinks WR has become a special place. He likes it that the City is promoting a healthy lifestyle.

Theresa Mickiewicz (WR) thinks the ordinance is great and that it will bring WR forward. She believes vaping is a public health disaster. It is unregulated, is a gateway to combustibles, and allows for the masking of marijuana use.

Mayor Jay closed the public hearing.

Clerk Shaver assigned Ordinance 1584.

Motion by Councilmember Wooden to approve Council Bill 22-2015 an ordinance repealing and reenacting Article II of Chapter 9 and amending Article II of Chapter 17 of the Wheat Ridge Code of Laws to regulate Smoking in Public Places on second reading , and that it take effect 15 days after final publication; seconded by Councilmember Langworthy;

Motion by Councilmember Fitzgerald to amend Section 9.22 Definitions, under definition of Tobacco, to include the words "including liquid" after the words "plant matter". He said this is for clarification only and does not change anything.

City Attorney Dahl clarified that the amendment would not change what the goal of the ordinance is – to protect people from second –hand smoke; it only broadens the definition of things other than traditional tobacco to name liquids specifically.

The motion was seconded by Councilmember Langworthy.

Attorney Dahl continued his explanation. Discussion followed.

The amendment passed 5-3, with Councilmembers Wooden, Urban and DiTullio voting no.

The main motion carried 8-0.

A break was taken at 9:24pm.

The meeting resumed at 9:32pm. Councilmember Langworthy did not return.

ORDINANCES ON FIRST READING

3. Council Bill 23-2015 – an Ordinance approving a Zone change from Residential-One (R-1) to Mixed Use-Neighborhood (MU-N) for property located at 10191 W. 38th Avenue (Case No. WZ-15-06/Buck)

Councilmember Pond introduced Council Bill 23-2015.

This rezoning is the first step in the redevelopment of this site as MU-N. If approved, further site plan review and confirmation of compliance will be done administratively with no public hearing required.

Motion by Councilmember to approve Council Bill 23-2015, an ordinance approving a Zone change from Residential-One (R-1) to Mixed Use-Neighborhood (MU-N) for property located at 10191 W. 38th Avenue (Case No. WZ-15-06/Buck) on first reading, order it published, public hearing set for Monday, November 9, 2015, at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication, seconded by Councilmember Fitzgerald; carried 7-0.

4. Council Bill 24-2015 – an Ordinance amending Section 5-38 and Chapter 16 of the Wheat Ridge Code of Laws, to place limits on the hours of private construction activity in the City and providing a remedy for violations of the same

Councilmember Urban introduced Council Bill 24-2015.

Staff proposed this broader definition of “construction activities” and the limitation of hours. Council agreed on 7AM to 7PM and asked that interior construction which does not generate unreasonable noise be exempted from the hours of activity.

There was no staff presentation or discussion.

Motion by Councilmember Urban to approve Council Bill 24-2015, an ordinance amending Section 5-38 and Chapter 16 of the Wheat Ridge Code of Laws, to place limits on the hours of private construction activity in the City and providing a remedy for violations of the same on first reading, order it published, public hearing set for Monday, October 26, 2015, at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication, seconded by Councilmember DiTullio; carried 7-0.

DECISIONS, RESOLUTIONS AND MOTIONS

5. Resolution 41-2015 – a resolution adopting the Wadsworth Boulevard Planning and Environmental Linkage Study

Councilmember Davis introduced Resolution 41-2015.

The study covers Wadsworth from 46th Ave to 36th Ave. The purpose was to identify traffic congestion and safety issues, and add sidewalks and bike lanes.

Mark Westberg gave the staff presentation reviewing the stakeholders, the purpose, the needs, and the process.

- 55 alternatives were taken down to two, and then finally one.

- The purpose of this project is to make Wadsworth Boulevard from 35th Avenue to the eastbound I-70 ramps into a multi-modal facility.
- The design includes a 17 ft center median for the length of the project, 3 through lanes northbound and 3 through lanes southbound, bordered by 10 ft tree lawns and then 10 ft sidewalks on each side.
- South of 44th will also have a 10 ft, two-way cycle track on the east side between the sidewalk and only a 9 ft tree lawn.
- Total project cost is \$45.5M, with CDOT's portion being \$25,280,000 and the City's portion being \$6,320,000.
- There is a funding gap of \$13.9M.
- CDOT has offered to manage the construction, which is valued at \$6-7M.
- Project schedule following City Council Adoption tonight:
 - 2016 Environmental clearance
 - 2017 Final design
 - 2018 ROW Acquisition
 - 2019/2020 Construction

Council questions

Councilmember Urban inquired about the Disadvantaged Business Enterprise (DBE), the Davis-Bacon requirements and who will manage that (State or City?). Mr. Westberg stated this is part of what has yet to be worked out. The DBE will be required during the design phase and we will manage some of that in-house, but details for the construction phase are not yet determined. CDOT wants to manage the construction.

Motion by Councilmember Davis to approve Resolution 41-2015 – a resolution adopting the Wadsworth Boulevard Planning and Environmental Linkage Study; seconded by Councilmember Starker; carried 7-0.

6. Resolution 43-2015 – a resolution approving an Agreement with the Colorado Department of Transportation (CDOT) for the Wadsworth Boulevard Widening Project from 35th Avenue to 48th Avenue

Councilmember Davis introduced Resolution 43-2015.

Per the intergovernmental agreement the City will initially finance the cost of the project and CDOT will reimburse 80% of the costs, not to exceed \$25,280,000. The total cost of the project is \$40,000,000. The \$25,280,000 is coming from a federal grant.

There was no staff presentation, public comment or questions from Council.

Motion by Councilmember Urban to approve Resolution 43-2015 – a resolution approving an Agreement with the Colorado Department of Transportation (CDOT) for the Wadsworth Boulevard Widening Project from 35th Avenue to 48th Avenue; seconded by Councilmember DiTullio;

Discussion

Councilmember Davis asked about the discrepancy in the length of the project in the two resolutions – 36th to 46th or 35th to 48th. Mr. Westberg and Mr. Goff explained that the packet material indicated the scope of the project was expanded during the PEL study because it makes sense. The project will run from 35th to the I-70 ramp.

In response to Councilmember Urban's question Mr. Westberg explained that we will use the state's Disadvantaged Business Enterprise (DBE) program. The state will set the percentage which he expects to be around 10% (\$200,000). Councilmember Urban pointed out the IGA states that even if we use the state's program we are still responsible to defend that program against any legal challenges, so we need to be smart about that.

Councilmember Pond asked if there was a mechanism to accommodate cost escalations, given the "not to exceed" clause. Mr. Westberg said "not to exceed" is specific to this federal grant. We can get other federal or state grants.

Motion carried 7-0.

7. Motion to approve payment to Rocky Mountain Recreation, Inc. in the amount of \$50,235.45 for the demolition, site work and installation of new playground equipment in Stites Park

Councilmember Starker introduced Item 7.

This playground, installed in 1999, will be updated to reflect current trends in playground structures and to meet ADA standards. The design will include new engineered wood fiber and poured-in-place safety surfacing. The equipment is available through a national cooperative procuring service for governmental entities.

Ms. Manwaring was available for questions. This installation will have the same footprint as the current playground. She indicated that construction is to start this fall.

Motion by Councilmember Starker to approve payment to Rocky Mountain Recreation, Inc. in the amount of \$50,245.35 for the demolition, site work and installation of new playground equipment in Stites Park.; seconded by Councilmember Wooden; carried 7-0.

8. Motion to approve payment to Concrete Express, Inc. of Denver, Colorado, in the amount of \$53,386 for purpose of constructing a parking area at 43rd and Moore Street Trail Head as part of the Clear Creek Trail Construction Project

Councilmember Wooden introduced Item 8.

This project is related to the trail relocation project at 42nd & Kipling which will tie into the existing trail south of 43rd and Moore Street.

Approval of an additional scope of work is requested to construct a parallel parking area at the 43rd and Moore Trailhead. Construction will include one parallel ADA parking space, five parallel parking spaces, one ADA concrete ramp, a new ADA accessible concrete sidewalk connection to the trail, new concrete curb/gutter, asphalt parking area, all parking area striping and relocation of the existing fencing.

Funding is available in the project budget. Surplus matching grant funds are also available.

There was no staff presentation. Council had no questions. There was no discussion.

Motion by Councilmember Wooden to approve payment to Concrete Express, Inc. of Denver, Colorado, in the amount of \$53,386 for purpose of constructing a parking area at 43rd and Moore Street Trail Head as part of the Clear Creek Trail Construction Project; seconded by Councilmember Starker; carried 7-0.

CITY MANAGER'S MATTERS

Patrick Goff announced the Optimists Pancake Supper this Thursday from 5-8pm at Wheat Ridge High School. ~ He also noted that due to rescheduling needs there are no agenda items for the October 19th study session.

Motion by Councilmember DiTullio to cancel the October 19 study session; seconded by Councilmember Urban; carried 7-0.

CITY ATTORNEY'S MATTERS

Mr. Dahl explained that current code prohibits sledding in parks. Ms. Manwaring would like to have the administrative authority to permit sledding in certain places and at certain times. Council was agreeable to proceeding with an ordinance effecting that change.

ELECTED OFFICIALS' MATTERS

Clerk Shaver offered that board and commission members who have not RSVP'd are still welcome to attend the appreciation dinner tomorrow night, and asked that they please give Kelly Stevens a call tomorrow. ~ She also informed Council that the County will not be having a voter Service Polling Center in our Council Chambers on Election Day as was reported earlier. That will be reserved for even numbered years. There will be other voting centers where people can register and vote on Election Day. Wheat Ridge will have the outdoor ballot box at City Hall and a ballot box in the City Hall Lobby. She noted the mailing out of ballots by the County began today.

Jerry DiTullio noted he will be unable to attend the Boards and Commissions Dinner because he has class that night, but he offered congratulations to all the volunteers who serve on the boards.

Kristi Davis said she also will not be able to attend the Boards & Commissions dinner due to work. ~ She reported that Newtown Builders received an award for the Perrin's Row housing project.

Bud Starker said he will be at the Boards and Commissions dinner.


George Pond thanked the participants of the Wheaties Academy.

Tim Fitzgerald thanked Heather Geyer for her work on the budget.

Genevieve Wooden thanked the speakers who came in tonight. ~ She congratulated Kristi Davis for completing the Chicago marathon yesterday. ~ She replied to John Clark's remarks about WR2020. She did hear him, but she also listens to other residents. She invited him and anyone else to attend a WR2020 board meeting with her to find out more about the organization. ~ She thanked the Wheaties and hopes that program continues. ~ She thanked Jerry Dahl and Carmen Beery for their tedious work on the smoking ordinance. ~ She thanked Heather Geyer and the staff for the budget. ~ She thanked the student speakers who waited two hours to speak on the smoking ordinance.

ADJOURNMENT

The meeting was adjourned at 10:04 pm.


Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON November 9, 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.