

# CITY COUNCIL MINUTES

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

January 11, 2016

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

Monica Duran	Zachary Urban	Kristi Davis	Janeece Hoppe
Tim Fitzgerald	George Pond	Genevieve Wooden	Larry Mathews

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; Police Chief Dan Brennan; other staff, guests and interested citizens.

### APPROVAL OF MINUTES OF December 14, 2015

There being no objection, the Minutes for December 14, 2015 were approved as published.

### PROCLAMATIONS AND CEREMONIES

Chief Brennan presented **Officer Russ Henzie** with the award for Looking Beyond the License Plate (honorable mention), an award given each year by the International Association of Chiefs of Police Highway Safety Committee and the 3M Company. By following up on two suspicious license plates at one of the motels, Officer Henzie uncovered a check-making and identity theft operation. Both vehicles were stolen. This led to a metro-wide investigation revealing 80 identified victims and over \$160,000 in thefts. The case was taken to the grand jury and both subjects were indicted. Chief Brennan wanted the community to know about this exceptional work as Officer Henzie is the first Wheat Ridge officer to receive an international award. The Chief also noted that these awards are not routinely given; there were only 6 given last year nationwide. His work speaks well for our police department and makes us all proud.

### CITIZENS' RIGHT TO SPEAK

**Dominick Breton** (WR) invited everyone to the WR Grange next Thursday night from 6-8 for the Chili Cook-off. Everyone who participates gets to vote for the best chili. Tickets

are \$2 adults, \$1 under-12, and \$10 to enter your chili. All proceeds go to the WR Backpack Program.

**Paul Fiorino** (Denver) spoke about arts preservation for Wheat Ridge and related his extensive experience with arts' districts and saving facilities around the state and in the metro area for use by the arts. He wants to bring the arts to Wheat Ridge and would like the City to look at Fruitdale School to be saved as an asset for the arts. He believes it's a great opportunity.

### **APPROVAL OF AGENDA**

Mayor Jay announced that public comment for the discussion items would take place later in the meeting, after the regular business and prior to the discussion items.

### **ORDINANCES ON FIRST READING**

1. Council Bill 01-2016 – An Ordinance Amending Sections 16-113 and 16-114 of the Wheat Ridge Code of Laws concerning Solicitation

Councilmember Davis introduced Council Bill 01-2016.

A federal District Court recently struck down several provisions in the City of Grand Junction's panhandling ordinance that prohibit panhandling based solely on time, location or frequency when there was no demonstrated safety risk. This ordinance amends the Wheat Ridge Code to eliminate similar local regulations that are likely now unconstitutional.

**Motion** by Councilmember Davis to approve Council Bill 01-2016 – Amending Sections 16-113 and 16-114 of the Wheat Ridge Code of Laws concerning Solicitation on first reading, order it published, public hearing set for Monday, January 25, 2016 at 7:00 pm in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Duran; carried 8-0 .

2. Council Bill 02-2016 – Repealing and Reenacting Section 16-106 of the Wheat Ridge Code of Laws concerning Loitering

Councilmember Fitzgerald introduced Council Bill 02-2016.

This ordinance amends the language in Code Section 16-106 to mirror current state law regarding loitering.

**Motion** by Councilmember Fitzgerald to approve Council Bill 02-2016 — Repealing and Reenacting Section 16-106 of the Wheat Ridge Code of Laws concerning Loitering on first reading, order it published, public hearing set for Monday, January 25, 2016 at 7:00 pm in City Council Chambers, and that it take

effect 15 days after final publication; seconded by Councilmember Davis; carried 8-0.

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

3. Resolution No. 01-2016 – amending the Fiscal Year 2015 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$14,966 for City Attorney Fees

Councilmember Duran introduced Resolution No. 01-2016.

Budgeted funds for the City Attorney's fees in 2015 have been expended. Due to extended services for code enforcement issues, changes to the smoking ordinance and the November ballot preparation it is necessary to amend the 2015 budget to cover those additional services.

**Motion** by Councilmember Duran to approve Resolution No. 01-2016 a resolution amending the Fiscal Year 2015 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$14,966 for City Attorney Fees; seconded by Councilmember Wooden; carried 8-0.

4. Resolution No. 02-2016 – amending the Fiscal Year 2016 General Fund Budget to reflect the approval of a Supplemental Budget appropriation in the amount of \$29,854 for the replacement of a Parks Department Vehicle

Councilmember Hoppe introduced Resolution No. 02-2016.

A City vehicle (2008 Chevrolet Colorado 4x4 pickup) was involved in an accident last August and is beyond repair. Funding to replace the vehicle requires an additional appropriation from the General Fund reserves. State bid price for this vehicle with options is \$27,354. Outfitting the vehicle with needed additional equipment for use is estimated at \$2,500.

Councilmember Mathews inquired about Insurance. Mr. Goff stated that after the City buys the truck we would be reimbursed \$10,000 from CIRSA insurance.

**Motion** by Councilmember Hoppe to approve Resolution No. 02-2016, a resolution amending the Fiscal Year 2016 General Fund Budget to reflect the approval of a Supplemental Budget appropriation in the amount of \$29,854 for the replacement of a Parks Department Vehicle; seconded by Councilmember Duran; carried 8-0.

### **DISCUSSION ITEMS**

Public Comment

## STEM/STEAM teams

**Jerry DiTullio** from WRHS introduced the student speakers and gave some history on the Foundation. They are asking for \$5,000 for the STEM/STEAM team gala fundraiser and \$5K for the Curtis Gilmore Scholarship.

**Andrew Miller** (WR), senior, lead designer and head of sponsorship, reported the STEM team will be building two cars this year – another prototype car and a street legal car. They will raise \$40K to build the cars, but this \$5,000 request is to help fund the Gala, which will raise money for the students' trip to Detroit.

**Amy Leasure**, junior, explained the STEAM team includes the arts. They are planning a sculpture of a tree held up by a hand, to be permanently placed at the Lutheran hospital campus outside the oncology center. They are working with an engineer and need money for materials.

## Curtis Gilmore Scholarship

**Jaimee Salbato** (WR), a candidate for scholarship, has dyslexia and ADHD. She described her hard work, how much her IEP helps her excel, and the many school and community events she has participated in. She plans to go to a 4-year college and the scholarship will help pay for that education.

**Myles Dolan** (LW), also a scholarship candidate, has dyslexia and has always struggled with school. This year he's able to take some regular classes. He spoke of the need to help keep the cost of higher education affordable. 48% of WRHS students come from low income families and studies show that a scholarship increases graduation rates. He noted the importance for students and their families to see that the community cares about them. He asked the Council to help inspire students.

**Tom Ripp** (office in WR), president of the WR Foundation, explained they are coming to the City because the School Board doesn't have the money and there aren't scholarships to help students go on to learn a trade. They're asking for seed money for the Gala to help raise more money. He invited councilmembers to get to know WRHS. It's a gem, and the STEM and STEAM programs are phenomenal programs of which we can be extremely proud.

**Vicki Ottoson** (WR) from the Foundation spoke of how deserving the kids are.

## From Council questions:

- The Gilmore scholarship goal is for 2-year college programs, public or private.
- They were encouraged to contact the Zarlengo and Community First Foundations. Mr. Ripp said they've already engaged with them.
- Every business that supported them last year has renewed. MedVed is new this year. They're also looking for guidance and expertise from businesses.

The deadline for scholarship applications is Feb 19. They will have until May to raise as many \$1,000 scholarships as possible.

## Fruitdale School

**Janice Thompson** (WR), member of the Housing Authority, spoke in support of Hartman/Ely and their proposal for 16 housing units. She believes it fills a need, will help jump start the area, and that the investment is worth it. She noted that Hartman/Ely has invested a lot of time and money in this project and their reputation is on the line.

**Paul Fiorino** (Denver), representative of the CO Arts Consortium (est. 1978), related that they answered the RFP in 2014 with a proposal to make Fruitdale a cultural center. Their proposal and one other were submitted on time. After several months, when the charter high school pulled out, the art center proposal was not considered. The Consortium feels they've not been given due diligence to look into the possibilities for this educational center which would stay in line with the clause in the 1890 property agreement that this property be used for educational purposes. While affordable housing is badly needed, it is not education. The seed money the Consortium would ask for is less than half of what the housing developers are asking for. The Consortium feels they have been jumped over; they still have an RFP sitting on the desk.

Mayor Jay informed Mr. Fiorino that the topic for discussion tonight was the Hartman/Ely proposal. Mr. Goff confirmed that through the RFP process the Housing Authority chose the Hartman/Ely plan, and that is what's under consideration tonight. If that isn't approved the Housing Authority may look at other proposals. Mr. Fiorino repeated that the Consortium has never been given the chance to make their proposal. The residential proposal under consideration tonight was not submitted on time and the process hasn't been transparent. His remarks were terminated.

**Britta Fisher** (WR) said it's great to see the City show interest in affordable work force housing.

## 1) 2015 TLC Neighborhood Update and 2016 Recommendations

Division Chief Jim Lorentz gave an update on the TLC program. He provided maps and data regarding the number of properties that were addressed and the high success rate for compliance.

Staff believes the 2015 TLC projects were very positive and have been very successful for providing proactive code enforcement. It is recommended to continue the program through 2016.

Proactive enforcement is limited to the designated areas, but staff continues to respond to calls for service. No additional financial impact is expected, but there may be some costs to provide part-time benefits for part-time Community Service team members in the future, based on federal requirements.

Suggested neighborhoods for 2016 are:

- Fruitdale East (Miller to Parfet; 44<sup>th</sup> to I-70) (259 parcels)
- Fruitdale West (Paret to Tabor; 44<sup>th</sup> to I-70) (217 parcels)
- Applewood Villages (Miller to Parfet; 38<sup>th</sup> to 41<sup>st</sup>) (234 parcels)

Commercial Corridors options (maybe limit to two, due to limited resources):

- W. 44<sup>th</sup> Avenue Corridor: Wadsworth to Xenon (152 parcels)
- Kipling Corridor: W. 32<sup>nd</sup> to 51<sup>st</sup> Place (72 parcels)
- Wadsworth Corridor: W. 32<sup>nd</sup> to 47<sup>th</sup> (82 parcels)

Questions and discussion followed.

- The Community Service team selects the areas.
- East Wheat Ridge has been the focus for the last 4-5 years due to crime rates. Problem areas have been narrowed. The idea is to move to some other neighborhoods.
- Building issues such as requirement to build a dumpster require giving the owner a year to comply. Simple code enforcement is accomplished faster.
- WR Business District has grants for signage and facades.
- Partnering with Local Works will continue.
- Non-profits and churches have helped clean up properties owned by seniors who are unable to do the work themselves.
- Clearvale and Clear Creek Station neighborhoods are more self-sustaining now.
- The community is responding.
- There are rental properties and absentee landlord problem in Dist 4. Do our regulations have enough teeth? In the past, when staff brought forth stricter obligations for rental multi-family, previous Councils have chosen not to pursue that.
- Dumpster Days are appreciated. Scheduling has already started for this year.
- There is no timeline for completing the entire City.

As a result of the discussion staff will proceed with the neighborhoods and commercial corridors as presented.

## 2) Fruitdale School Update

### Staff presentation

Ken Johnstone introduced the participants for the HEI proposal:

Jim Hartman, HEI

Grant Bennett, Proximity Green

Chris Maley, Pinnacle Real Estate Management

Mr. Johnstone first addressed concerns expressed earlier by Mr. Fiorina. The Housing Authority (WRHA) advertised for Request For Interest (RFI) in March, 2014. Two proposals were received – the Mountain Phoenix School and the CO Arts Consortium. Hartman/Ely (HEI) did submit information during the required timeframe, but failed to attend a mandatory pre-application meeting at the site; as a result they were disqualified. The WRHA considered the two valid proposals and chose Mountain Phoenix School. After several months of negotiations Mountain Phoenix withdrew. By then HEI had a strong proposal so the WRHA gave them four months (plus two extensions) to firm up

their proposal. The WRHA has been in exclusive negotiations with HEI since February 2015. It has been a long process and some decisions need to be made fairly quickly or part ways with HEI.

Mr. Johnstone noted the 1920's school building was designed by Temple Buell. It is a unique historic asset, was decommissioned as a school in 2007 and has been owned by the WRHA since 2011. The proposal shown to Council on October 5, 2015 has changed.

- After the October 5<sup>th</sup> presentation the artisanal meat processing facility for the west part of the building was determined to be too financially risky and was eliminated.
- The new proposal is 100% residential – now converting the gym into apartments.
- It will be sixteen (16) 2 and 3-bedroom units (5 affordable, 11 market rate).
- Any redevelopment will require very creative financial structure – including grants and historic preservation tax credits. HEI sees this as a significant part of the deal.
- Jefferson County has identified \$640,000 in HOME funds they want to contribute to this project – which results in the 5 affordable units.
- A significant contribution from the City will still be necessary. This is a \$5.35M project.
  - \$640,000 in grants from the City: \$470K from the City plus \$170K from the WRHA. Note: The WRHA has already invested \$300K.
  - Short term loan from the City for \$1.9M (projected to be paid back in year 2 or 3 from HOME funds (\$200K) and selling the tax credits (\$1.7M)
  - Loan from the WRHA for \$400K; terms yet to be set.
  - A \$1.6M conventional bank loan will be secured by the property. The loan from the City will not be secured.

Council will need to decide how much risk is appropriate for the City.

- Staff already has a letter from the County committing the HOME funds.
- Staff has met with three groups that market historic preservation tax credits.
- Yet needed is to firm up the commitment from investors (agreeing to purchase tax credits). The challenge is these credits aren't really available until after the work is done and complies with historic preservation guidelines.

From Council questions:

- The City doesn't own it. The WRHA's mission is to promote affordable housing.
- Historic Preservation tax credits require that the City keep some minority ownership to defer having to pay property taxes to all taxing districts. HEI assumes there would be no property tax; if that changes, the numbers would change.
- Jefferson County disburses the (federal) HOME funds.
- 5 units would be "affordable".
- The \$1.9M bridge loan would come from reserve funds. Mr. Goff reported that rather than a 3.1% increase in the year end reserves, there may be a 6.7% increase. Won't know for a couple months. To do the \$1.9M loan and the \$470,000 grant would require dipping reserves to 13-14%. (Council's minimum reserve requirement is 17%.) It requires a supermajority of Council to go below minimum reserve.

- Eventual property tax assessment would be desirable. HOME funds may have some bearing on that.

Developer presentation -- Jim Hartman of Hartman/Ely Investments (HEI)

Mr. Hartman introduced his team: his partner, Susan Ely; Chris Maley, Pinnacle Real Estate Management; Grant Bennett, Proximity Green, formerly of Denver Urban Renewal and expert in analyzing the financials of public/private partnerships.

Mr. Hartman gave background on their company and projects they've done converting non-residential buildings into residential units. He highlighted the things that are different since last October's presentation:

- The meat processing school was too risky and was eliminated about December 1.
- They've done lots of financial analysis.
  - The City hired a company, EPS, that has provided lots of good ideas.
  - Pinnacle has had input.
  - The HOME people at Jefferson County have provided good data.
- The house in front will be renovated into a 3-bedroom unit.
- The ABO group to do the design work; estimate is now a hard proposal.
- Growling Bear Co. has provided a detailed construction cost estimate.
- Jeffco HOME funds now increased from \$200 to \$420K
- Innovative energy solutions will be incorporated. Xcel had awarded a renewable energy contract on top of solar tax credits. Utility bills for the tenants will be a fraction of normal.
- Tax equity partners and local banks have shown interest.
- Environmental Phase1 has been received (i.e. no impacts)
- Land swap with the school district and school deed restriction removal underway

Grant Bennett talked about public/private partnerships and intangible benefits

- Historic renovation done under historical guidelines.
- Market rate for affordable development isn't happening on this corridor without subsidy.
- Without all the resources (potentially five outside sources, coupled with grant and loan subsidy from the City) the project can't happen.

Between now and March they will firm up tax credits and the City would approve the \$470,000 subsidy and economic development bridge loan of \$1.9M.

Mr. Hartman went through some details on design elements.

- He indicated the trees that will make the Fruitdale orchard.
- Exposed masonry and plaster on some interior walls
- Creative layouts such as garden level apartments from the old boiler room and multi-level units in areas that have tall ceilings.
- At least one electric vehicle charging station

Next steps:

1. WRHA re-confirms its \$170,000 subsidy and development loan of \$400,000

2. Submit tax credit application in early February  
Getting approval from state agencies may require some revisions, which could include reconfiguration or reduction of the number of units. They're hopeful it will remain at 16.
3. Select tax credit partners and redevelopment lender
4. Execute City/WRHA/HEI development agreement
5. Finalize historic tax credit preliminary approval with state/fed agencies; refine the bridge loan amounts and execute tax equity partnership agreements in spring 2016
6. Detailed design begins spring 2016; construction to start in mid to late September
7. Confirm the final bridge loan amounts in late summer 2016, prior to HEI's property purchase and any expenditure of City/WRHA funds
8. Complete project mid 2017
9. Pay back City and WRHA (majority in 2017/2018 from Jeffco HOME funds and tax credits proceeds). Balance repaid over time from future rent sharing and property refinance.

Chris Maley (Denver) of Pinnacle spoke. HEI engaged them to help see what the rental market is. He assured Council this will be a jewel. He manages 100+ smaller apartment communities. Due to the smaller size this property would have no onsite manager's office. They have asset management teams which cover all elements of maintenance (cleaning, plumbing, electric, landscaping, snow removal, etc.). Each complex is walked three times a month by a manager.

Discussion followed.

Councilmember Pond inquired about commitment dates and noted this is not zero-risk.

- HEI wants the supermajority vote on February 8<sup>th</sup> before they start spending money.
- Mr. Goff pointed out that each funding source has its own risk level, and none of this is risk free, but the City and HEI are working to have the least risk as possible.

Councilmember Fitzgerald raised concerns about financial aspects.

- The City and WRHA giving a gift of \$640K – or \$40K per unit.
- Loans totaling \$2.325M, and may have some risk.
- A historic building will be saved, but public will have no access to it.
- Consumes the entire budget of WRHA. Reimbursement to the WRHA would not begin until year 7 and conclude in year 15.
- In weighing the risk vs public benefit it makes no economic sense and public tax dollars are at risk. For public benefit he sees this almost as a private work of art.
- He disclosed he was the single no vote on the WRHA.

Councilmember Mathews had several questions and concerns. (Mr. Hartman responded.)

- Why not go to private market for construction loan? (If a bank won't loan you money, why should the City?) A: Pinnacle did a comp analysis. Data says the market is \$80-130K per unit for similar brick building. Their metric is their equity, plus the construction loan, at \$122K per unit.

- 2005 study says we have too many rentals. Why not condos? A: Condos aren't working due to construction defect lawsuits.
- Who owns it for the next 40 years? A: HEI. What about long term?
- What is the return on investment (ROI) for taxpayers? What is the ROI for HEI? A: Financial ROI for City not so good, but emotional ROI/community benefit, they feel, is high. HEI is willing to have the interior of the building accessible to the public (daily or periodic), and willing to have part of the site for community events. They want the 1<sup>st</sup> floor hall to be a public hall (whether all the time or periodic). A: Their ROI? Their downside risk is higher than they'd normally take because of Temple Buell, the City, the HA and the staff. Projected ROI is 15-20%, which banks will require.
- Why should City risk taxpayer money for you?

Councilmember Wooden had comments and questions.

- Believes we need a cultural center; not sure this is the place for it.
- Hartman/Ely has invested about \$150K so far -- in hard checks, plus their own design time.
- What happens if this doesn't go through? Mr. Johnstone said the WRHA could entertain the other proposal. They did discuss demolition and marketing the land.
- This is in an area that is questionable. This isn't Lowry.
- Concerned about it being rentals, but we are a rental demographic and rentals are here to stay.

Councilmember Hoppe

- The WRHA generally loses money on its projects when it's fulfilling its mission.
- We don't have nice apartments.
- It could be the catalyst.
- Most City money would be paid back.
- Mr. Goff stated that the idea of interest is still under discussion.

Councilmember Urban

- Believes if this doesn't happen the building will likely be torn down.
- This is a plan that will leverage other resources that otherwise wouldn't come into the City.
- This is the most viable plan we've seen since 2011 and will be a significant catalyst for the area.

Councilmember Davis

- Thinks it's a catalyst for redevelopment.
- We should invest in other parts of town. This neighborhood feels neglected.
- Knows there is some risk, but supports moving forward.

Councilmember Wooden asked for consensus to move forward with the next steps.

Councilmember Davis asked to include getting information of how public space will be used and what the structure of the property tax will be, so that eventually there is some return for the City.

Mr. Dahl advised that a resolution of intent can be prepared which would articulate Council's support for conditions to be negotiated in a development agreement, and that the public access and property taxes would be reflected in that agreement.

Councilmember Wooden proposed a consensus for a resolution to be brought forward for HEI to outline the next steps as presented, in addition to an access of public space and addressing the issue of taxes in perpetuity, and that this City Council would have an interest in partial financing of the project.

There was adequate support for consensus.

### 3) Wheat Ridge Foundation Donation Request

The Wheat Ridge Community Foundation is requesting a donation from the City in the amount of \$10,000 for the STEM/STEAM Gala and the Curtis J. Gilmore Lifelong Learning Scholarship.

Councilmember Urban asked for consensus to donate \$10K, plus offer an additional \$10K to use towards matching funds. Discussion followed.

- They know our budget process and should have come during the budget process.
- Not comfortable giving more than what is asked for.
- STEM/STEAM is popular and will get money; it's harder to raise money for the Gilmore fund.
- We have other schools and civic requests that are also very deserving.
- STEM is a fairly new program; we should be flexible and help them so they can line up future funding.
- Suggestion to have councilmembers donate \$250 each from their discretionary fund and the Mayor to donate \$500 – with consideration of the scholarship request as a separate discussion.
- Table sponsorships are available.
- Separating the two requests is a good idea.
- The Gilmore scholarship started in 2014.

***Mayor Jay left the meeting at 10:31. Mayor Pro Tem Pond assumed the chair.***

Councilmember Urban received unanimous consent to donate \$5,000 to the Gilmore scholarship fund.

- There was some discussion about the City also sponsoring a table for the Gala.

Councilmember Wooden received consensus for each councilmember to earmark \$250 from their outreach funds and the mayor \$500 for the STEM/STEAM Gala, for a total of \$2,500.

Councilmember Wooden said she would email Council the table fees for the Gala.

**CITY MANAGER'S MATTERS**

**Mr. Goff** reminded everyone to come to the Cre8 Your 38 meeting this Thursday at the Rec Center. A shuttle bus will leave from the Active Adult Center starting at 5:00. ~ He also announced that if attendance is greater than the fire code permits they will schedule a second meeting.

**CITY ATTORNEY'S MATTERS** none

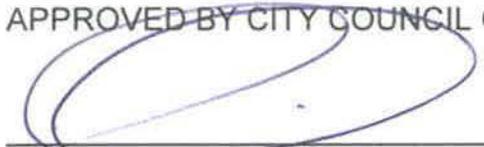
**ELECTED OFFICIALS' MATTERS** none

**ADJOURNMENT**

The meeting was adjourned at 10:37 pm.

  
\_\_\_\_\_  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON January 25, 2016

  
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George Pond, 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.