

# **CITY COUNCIL MINUTES**

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

**March 14, 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	Janece 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; other staff and interested citizens.

### **APPROVAL OF MEETING MINUTES OF February 8, 2016 and February 22, 2016**

There being no objection, the Meeting Minutes for February 8, 2016 and February 22, 2016 were approved as published.

### **PROCLAMATIONS AND CEREMONIES** none

### **CITIZENS' RIGHT TO SPEAK**

**Adam Wylie** (WR) asked for support for the speed humps on Johnson Street.

**Colin Anonsen** (representative for Congressman Perlmutter) announced there will be a telephone town hall with the Congressman on March 24 from 7-8pm. Those interested in participating can sign up at the website [www.perlmutter.house.gov](http://www.perlmutter.house.gov) or call the office at 303-274-7944. ~ He also announced the Congressional Art Competition is underway. It is open to all high school students in the 7<sup>th</sup> Congressional District. The winning piece will hang in the tunnel between the Capitol and the House office building for one year.

**Bob Brazell** (WR) expressed concerns about how the City is being managed. He learned in civics class that elected representatives should represent *all* the people – not just their own views. The majority of the citizens should carry the weight of how things are done. To determine what the majority wants we have elections and ballot issues. Some councilmembers and the mayor ignored the citizens and voted for the TIF, forcing citizens to put "300" on the ballot. Now we're being sued. Then you don't defend "300" in court. After 2 years of road diet on 38<sup>th</sup> Avenue there was a vote and the public said they

didn't like the 3-lane road. You've ignored the voters and hired a consultant for \$100,000 to have a kindergarten class on cut and paste on designing a road we already voted to put back the way it was. The ultimate voice is when the public votes, but some of you just seem to want to ignore us. Your record on things you wanted is 0-2; you should pay attention to the voters.

**Benny Gonzales** (WR) spoke about a house being built next to him. It was to be two stories with a rooftop deck, but it's three stories and has taken away his view of the mountains. He said he moved here for that view and the quaint little houses; now big houses are going up all over town. He doesn't want WR to end up like north Denver. He believes citizens should have a say about what gets built, that these big structures don't fit the community and that new buildings should match what's here. Investors are buying these properties and making tons of money at the neighborhood's expense. He believes it's degrading the quality of life. He suggested buildings like this might be voted on by the surrounding neighborhood.

**Councilmember Mathews** responded to Mr. Brazell's comments. At the last meeting he and other councilmembers were accused of being divisive for trying to get Council to follow the will of the people. He's also heard several politicians in this chamber say that once representatives are elected they should have free reign because common folks aren't competent or capable of understanding the complicated business of running a city. He disagrees and thinks people do understand what they want. 38<sup>th</sup> Avenue and "300" are examples.

- The fact is that Question 300 is a valid part of our charter until changed or judged otherwise, and should be defended because it is the will of the people.
- The excuse that defending all of "300" would be more expensive is not true. The City Attorney has assured Council the cost to defend Question 300 in its entirety would not be significantly different than to remain neutral.
- One man told him that since 40% of the people didn't vote for "300", only 40% of the Council has to defend the charter. That's not the way our system works.
- The charter says Council should strive to follow the will of the people. Sometimes it's hard to tell what the will of the people is, but when these elections happened that becomes the will of all the people and the Council should not ignore it.
- "In free governments the rulers are the servants and the people are their superiors and sovereigns." ~ Ben Franklin

**Councilmember Davis** asked about the house to which Mr. Gonzales referred. Mr. Johnstone said the house in question had a valid building permit which verified compliance with height and setback requirements. He acknowledged the house is very close to the limits on both, but staff has verified through the permit and subsequent surveys that it does comply.

### APPROVAL OF AGENDA



**ORDINANCES ON SECOND READING**

1. Council Bill 03-2016 – An Ordinance Approving the rezoning of Property located at 3865 Kipling Street from Residential-One (R-1) to Mixed Use-Commercial (MU-C) (Case No. WZ-15-12/Equinox)

Councilmember Pond introduced Council Bill 03-2016.

Clerk Shaver assigned Ordinance 1593.

Mayor Jay opened the Public Hearing

Meredith Reckert, senior planner, gave the staff presentation. She entered into the record the comprehensive plan, the zoning ordinance, the case file and packet material, and the contents of the digital presentation. She testified that all notification and posting requirements have been met.

- The property, owned by Equinox Properties, LLC, is located on the NW corner of 38<sup>th</sup> & Kipling. The proposed rezoning includes two parcels totaling 2.28 acres.
- The irregularly shape lot has frontages on both Kipling and West 38<sup>th</sup> Avenue. The gas station on the corner has a different owner and is not part of this application.
- The purpose of the rezoning is to modify the list of allowed uses. The current R-1 zoning only allows single family residential and public uses (parks, schools, etc.) The MU-C zoning would add a wide range of commercial, office, retail and auto-related uses to the list.
- Height limitations for future buildings: Residential - 35 feet; commercial - 50 feet.
- The applicant has no specific plans for development at this time.
- If approved, any future development of the site would be reviewed and approved administratively.
- Only one person came to the neighborhood meeting and was generally supportive.
- All outside agencies can serve the property and have expressed no concerns.
- The proposed zoning complies with the Comprehensive Plan.
- The Planning Commission unanimously recommended approval of the rezoning.
- Staff recommends approval of the rezoning.

**Council questions**

Councilmember Mathews asked why the request isn't for straight C-1 zoning. Ms. Reckert reported our code doesn't allow that; it would have to be a Planned Commercial Development. Since the owner doesn't know how the land will be used, MU-C makes more sense as far as predictability. MU-C allows a wider range of uses and high density residential. Mr. Mathews expressed concern about a residential use adding more cars to an already terribly congested area – especially on Kipling, and the limited access.

Councilmember Wooden received verification that this does not fall in the flood plain.

In response to a question from Councilmember Mathews earlier in the day, Mr. Johnstone shared with the rest of the Council data about the amount of vacant land left in the city for certain categories. According to the Assessor's office, of completely vacant

land we have 28 acres zoned R-1, 7 acres zoned R-2, and 39 acres zoned A-1 or A-2. Because the two buildings on this property are abandoned it is classified as vacant.

Public comment.

**Guy Stanfield** (WR) received assurance this is across from a school and some uses won't be allowed.

In response to a question from Councilmember Duran Ms. Reckert noted that any site plan will show the use, require a traffic study, indicate needed improvements for Kipling, and show access points.

Councilmember Pond asked for a quick review of the zoning criteria that is in our code of laws. Mr. Johnstone went through the criteria in the Planning Commission attachment in Council's packet material.

Mayor Jay closed the Public Hearing.

**Motion** by Councilmember Pond to approve Council Bill 03-2016, an ordinance Approving the rezoning of Property located at 3865 Kipling Street from Residential-One (R-1) to Mixed Use-Commercial (MU-C) (Case No. WZ-15-12/Equinox) on second reading and that it take effect 15 days after final publication for the following reasons:

1. City Council has conducted a proper public hearing that meets all public notice requirements as required by Section 26-109 of the Code of Laws.
2. The requested rezoning has been reviewed by the Planning Commission, which has forwarded its recommendations of approval.
3. The requested rezoning has been found to comply with the "criteria for review" in Section 26-112-E of the Code of Laws.

Seconded by Councilmember Fitzgerald; carried 8-0

## **DECISIONS, RESOLUTIONS AND MOTIONS**

[Technical note: To allow time for staff set-up for agenda Item #2, Council considered agenda Item #3 first, followed by Item #2.]

### **2.** Motion to approve Johnson Street traffic calming request

The residents on Johnson Street from 35<sup>th</sup> to 38<sup>th</sup> Avenue have petitioned to have speed humps installed on their street.

Councilmember Fitzgerald introduced Item No. 2.



Steve Nguyen, engineering manager for the Public Works Department, gave the staff presentation. He explained how the Neighborhood Traffic Management Program (NTMP) process was followed.

- 1) A neighborhood meeting was held to hear about the problems and inform citizens of the options.
- 2) A traffic study was done.
  - Northbound traffic does tend to speed down the hill.
  - The street is unfortunately a natural by-pass during rush hour.
- 3) Staff surveyed the street to make sure permanent traffic calming devices would have no adverse effect on drainage.
- 4) Johnson street is not an emergency response route.
- 5) A petition was submitted from the residents with 80% supporting speed humps.

Staff concludes this street does meet the NTMP criteria.

If approved, this can be installed this summer.

Councilmember Davis expressed that from her experience with traffic calming on Balsam she's not sure speed humps slow down the traffic. Mr. Nguyen agreed that traffic calming devices can't stop everyone; there will always be some who don't follow the law.

Councilmember Mathews asked about cost. Speed humps cost between \$3-6,000 each.

Councilmember Wooden suggested adding signs that children are playing in the area. Mr. Nguyen said signs warning about the speed humps are planned.

#### Public Comment

**Margaret Nelson** (WR) will be getting a speed hump in front of her house – which she supports, but she noted that drainage is an issue. She asked if the drainage could be channeled a little to the park side of the street. Mr. Nguyen said the street has a crown; west side drainage is handled by the curb and gutter; east side drainage is handled by a natural drainage swale.

**Motion** by Councilmember Fitzgerald to approve installation of a traffic calming device on Johnson Street between 35<sup>th</sup> Avenue and 38<sup>th</sup> Avenue in accordance with the Neighborhood Traffic Management Program; seconded by Councilmember Davis; carried 8-0.

### 3. Motion to appoint Board and Commission Members to Districts II and IV.

Mayor Jay introduced Item No. 3.

**Motion** by Councilmember Urban to appoint **Anthony Davia** to the District II seat on the Liquor Licensing Authority, term to expire March 2, 2019; seconded by Councilmember Davis; carried 8-0.

**Motion** by Councilmember Mathews to appoint **Suzanne Teale** to the District IV seat on the Cultural Commission, term to expire March 2, 2017; seconded by Councilmember Wooden; carried 8-0.

**Motion** by Councilmember Davis to appoint **Rocco Germano** to the At-Large seat on the Board of Adjustment, term to expire March 2, 2019; seconded by Councilmember Urban carried 8-0.

#### **CITY MANAGER'S MATTERS**

**Patrick Goff** reported on last Thursday's ribbon-cutting for Morning Star, the new assisted living and memory care facility. On opening day there was only one room left available; the demand for this service is great. It is a very nice facility. ~ The third Cre8 Your 38 meeting was also last Thursday. An update on the process is planned for April 4, followed by an open house on April 27 for final review and additional comments by the public. May 16 will be the final discussion before Council when staff will ask for direction.

#### **CITY ATTORNEY'S MATTERS** none

#### **ELECTED OFFICIALS' MATTERS**

**Clerk Janelle Shaver** reminded Council and the public that folks who are employees of the City cannot serve on boards and commissions.

**Zach Urban** asked Mr. Goff to explain about the transportation grants available through the state. Mr. Goff said public works is looking at grants available from CDOT and DOT; there are three we might get and applications are due in April. There are also very low-interest federal transportation loans available that are cheaper than issuing bonds.

**George Pond** noted attending the Morningstar ribbon-cutting was a fantastic event.

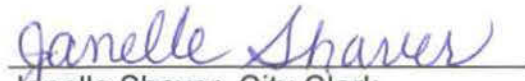
**Kristi Davis** noted that today the community of Bailey buried one of its law enforcement officers and took the opportunity to thank our own police officers.

**Genevieve Wooden** reported meeting with residents near the I-70 Frontage Roads near Garrison about three longstanding concerns. One issue is severe weeds and trash in the steep grassy slope. It's CDOT's responsibility, but they say they have no money. The estimated cost for the City to maintain this area is \$383 per cycle for 9 months, totaling \$3447 per year. Mr. Goff added he's planning to absorb the cost in this year's budget and will plan for it in the future; if we don't, it won't get done. ~ Ms. Wooden also said the frontage road fences from Harlan outward are in quite bad shape. The City's been taking care of the graffiti, but CDOT will be asked to address the fences. ~ There is also concern about the dangerous intersection on the south side of the frontage road at Garrison. It's a CDOT road and we'll be asking them to return it to a four-way stop like the intersection on the south side. ~ Some cost-sharing by CDOT is a possibility, but not guaranteed.

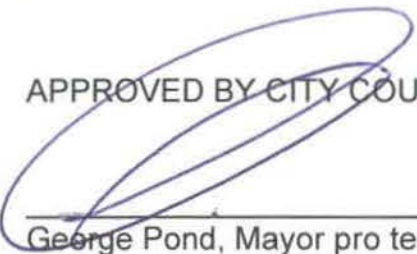
**Mayor Joyce Jay** thanked Mr. Mathews for reminding them that they're here to serve the citizens. That should be kept high. She is glad Council voted to defend Question 300 because it was the citizens' choice and is part of our Charter. She will keep that in mind.

**ADJOURNMENT**

The meeting was adjourned at 8:06 pm.

  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON March 28, 2016

  
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.