

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

**September 11, 2017**

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	Janeece Hoppe
Tim Fitzgerald	Genevieve Wooden	

Members Absent: Kristi Davis (excused), George Pond (excused), Larry Mathews (excused)

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

**APPROVAL OF Council Study Notes of August 21, 2017**

There being no objections, the minutes of August 21, 2017 were approved as published.

**PROCLAMATIONS AND CEREMONIES**

**CITIZENS RIGHT TO SPEAK**

**Dorothy Archer** (WR) repeated her concern about 35 ft flat roofed houses that are allowed in residential zones – excluding R1-C and R-3. She understands Mr. Pond sets the dates for the study session items. She and many others believe this is a matter of great concern. All Wheat Ridge homeowners should be aware of this issue. She recalled the great citizen response when the City had an article on ADU's in the Gazette. This is just as important, if not more so. She suspects 80% of WR home owners have no idea about this 35 ft allowance with a building built five feet from their property line with bulk plane incorporation. She would like to see a model of the changes awarded to R1-C and R-3 zones made available to citizens. Setting this for a study session and letting homeowners know the contents is vitally important to those who desire to keep our sought-after community that offers affordable housing and gracious, friendly neighborhoods. Please consider this.

**APPROVAL OF AGENDA**

## **1. CONSENT AGENDA**

- a) Resolution 33-2017 – A resolution approving the second amended and restated Intergovernmental Agreement between the Juvenile Assessment Center and the City of Wheat Ridge to provide screening, assessment and services to juveniles

Since 2000 the Wheat Ridge Police Department has been operating under an Intergovernmental Agreement (IGA) with the Juvenile Assessment Center (JAC) to provide screening, assessment, and services to juveniles in the criminal justice system, and to provide services to juvenile runaways and other at-risk youth. Partners in the IGA include the District Attorney's Office, the Sheriff's Office, the cities of Golden, Lakewood, Arvada, Edgewater, and Westminster, R-1 Schools, and Jefferson County Human Services. The proposed new IGA includes the Jefferson Center for Mental Health. No changes to the funding formula are proposed.

Councilmember Fitzgerald introduced the Consent agenda.

**Motion** by Councilmember Fitzgerald to approve Resolution No. 33-2017, a resolution approving a second amended and restated intergovernmental agreement between the Juvenile Assessment Center and the City of Wheat Ridge to provide screening, assessment and services to juveniles; seconded by Councilmember Wooden.

Councilmember Urban noted the agreement goes to July 31, 2049 and asked Mr. Dahl why it goes so far into the future. No staff members could tell why. Mr. Dahl agreed there is no multi-year fiscal obligation and noted the termination provision.

Motion carried 5-0.

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

2. Council Bill 16-2017 – An Ordinance approving the rezoning of property located at 6025 West 40<sup>th</sup> Avenue from Commercial-One (C-1) to Residential-One C (R-1C) (Case No. WZ-17-05/Shadow Homes)

The purpose of the rezoning is to bring the property into compliance as a residence. It will also allow staff review and approval for a subdivision and construction of a second home.

Councilmember Urban introduced Council Bill 16-2017.

Clerk Shaver assigned Ordinance 1629.

Mayor Jay opened the public hearing and swore in the speakers.

### **Staff presentation**

Zach Wallace Mendez, City Planner, entered into the record the case file, the zoning ordinance, the comprehensive plan and contents of the digital presentation. He testified that all posting requirements had been met. Additional testimony included:

- The property is on the north side of 40<sup>th</sup> Avenue just west of Harlan Street. It currently has a single family house, a detached garage and a shed.
- It is currently zoned commercial, but it surrounded by residential properties.
- Adjacent residential properties are zoned R-3, R-2, R-1C and C-1 (commercial) as indicated on the Zoning Map.
- The area has some other properties where the actual land use doesn't match the underlying zoning.
- The proposed R1-C is consistent with the Comprehensive Plan.
- A neighborhood meeting was held in May. Six neighbors attended and were mostly curious about what was happening. Upon finding out the maximum would be two houses, fears were assuaged and neighbors were generally supportive.
- No utility agencies have concerns about the ability to serve the property.
- Planning Commission and staff both recommend approval.

#### Council questions

Applicant Katie Sorrenson (Golden) introduced herself and was available for questions from Council. There were none.

#### Public comment

Larry Meyer (WR), an immediate neighbor of the subject property, thinks putting a house in the back of the lot is not wise; it is too crowded. He noted the property is not kept up well.

Mayor Jay closed the public hearing.

Mr. Dahl advised the Mayor that a rezoning requires a positive vote of a majority of the entire Council i.e. 5 votes.

**Motion** by Councilmember Urban to approve Council Bill 16-2017, an ordinance approving the rezoning of property located at 6025 West 40<sup>th</sup> Avenue from Commercial-One (C-1) to Residential-One C (R-1C) on second reading and that it take effect fifteen days after final publication for the following reasons:

1. The proposed zone change will promote the public health, safety, or welfare of the community and does not result in an adverse effect on the surrounding area.
2. Utility infrastructure adequately services the property.
3. The proposed zone change is consistent with the goals and objectives of the City's Comprehensive Plan and consistent with the character of the surrounding area.
4. The zone change will provide additional opportunity for reinvestment in the area.
5. The criteria use to evaluate a zone change support he request.

seconded by Councilmember Fitzgerald.

Councilmember Urban had several questions related to the neighbors' issue of crowding.

- Mr. Mendez testified if the lot was subdivided it would meet the minimum lot requirements for R-1C, and if they subdivided down the middle of the property it would meet the minimum for side yard requirements.

- Nothing in the rezoning applies to subdivision.
- A two-lot subdivision would only require administrative review.
- What requirements are in the administrative review process to notify the neighbors? None. People can call in and ask how the process is going.
- Yes, the applicant has already submitted a subdivision application.
- Regarding protection for the neighbors: The side yard setbacks are 5 ft with bulk plane standards; front yard setbacks are 25 ft; rear setbacks are 10 ft.

Councilmember Urban asked if the bulk plane regulations and setback requirements will avoid the crowding issues of the neighbors. Mr. Mendez said he believed so.

The applicant was asked to address this and the Mayor reopened the hearing.

Ms. Sorrenson stated she believes the neighbors will be happy with their vision for the property. Shadow Homes is a small town developer; they were born and raised here. They feel strongly about keeping the area in good value and appearance. She explained the proposed layout with the lot line to be 5 ft west of the garage; the existing house will have the same street frontage, and the new lot would be similar. Only one single-family house is planned at this time; it will be consistent with what's in the neighborhood now – definitely not three stories, maybe a bungalow.

Councilmember Wooden asked for clarification about the shapes of the proposed lots. Ms. Sorrenson testified that the two lots would be similar in size.

Mayor Jay closed the public hearing.

Councilmember Fitzgerald commented he believes the existing zoning (Commercial-1) would allow five stories with no bulk plane regulations. He thinks this is an improvement for the neighbors' concerns.

The motion carried 5-0.

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

3. Resolution 31-2017 – a resolution amending the Fiscal Year 2017 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$120,000 for the purpose of replacing 30 pedestrian lights on 38<sup>th</sup> Avenue between Harlan Street and Sheridan Boulevard

There are 72 decorative pedestrian lights on 38<sup>th</sup> Ave from Sheridan to Wadsworth. In the May 2017 hailstorm 42 light fixtures were damaged beyond repair. This will be covered by insurance. The remaining 30 lights are operable, but fixtures that match them are no longer available. The Council directed staff to replace all 72 lights with the City's standard LED ornamental fixtures. The estimated cost of the fixtures not covered by insurance is \$97,020, plus the cost of some hardware for retrofitting at the foundations. Installation will be performed in house. The Urban Renewal Authority (URA) has authorized payment of the \$120,000 from their funds.

Councilmember Duran introduced Item 3.

Staff presentation

Scott Brink highlighted the situation with the lights, the lack of availability of replacements, and Council's direction to replace all the lights for the sake of consistency, availability, long term maintenance, and cost efficiency. The City reached out to URA and last week they appropriated \$120,000 to fill the gap for the lights that aren't covered by insurance.

Councilmember Duran followed up on a directive from the study session and asked if staff had found any other areas in the City (e.g. parks) to use the lights that are still operable. Mr. Brink reported no suitable location has been found and no one has come forward. They will be stockpiled or go to auction.

Councilmember Urban asked for an explanation of the URA money. Mr. Goff explained that URA continues to collect funds from the WR Cyclery TIF. That money has to be used in the 38<sup>th</sup> Ave area. The URA felt this was an appropriate use.

Councilmember Urban asked if these lights will help with any dark skies compliance. Mr. Brink stated these lights can be directed more to the ground.

**Motion** by Councilmember Duran to approve Resolution 31-2017, a resolution amending the Fiscal Year 2017 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$120,000 for the purpose of replacing 30 pedestrian lights on 38<sup>th</sup> Avenue between Harlan Street and Sheridan Boulevard, seconded by Councilmember Hoppe; carried 5-0.

4. Resolution 32-2017 – a resolution approving an Intergovernmental Agreement between the City of Wheat Ridge and the City and County of Denver concerning additional construction costs for extending Denver Water Department conduit work in an amount not-to-exceed \$557,335.63

The construction of the hook ramps related to the Clear Creek Crossing project and Denver Water's replacement of a large water distribution main were scheduled at the same time and at the same location. To allow for simultaneous construction Denver Water has redesigned their work. An IGA is needed to cover the additional construction costs.

Councilmember Hoppe introduced Item 4.

Staff presentation

Scott Brink presented background on the timing conflict between the two projects. He touched on some of the major issues involved in redesigning Denver Water's project – changing the location of the bore pit, change in grade, high groundwater, and dewatering. The payment includes only the costs for time and materials; staff is optimistic that this figure is high rather than low. 2E money is available to fund this as well. Staff recommends approval of this IGA with Denver Water to keep the projects on track.



Council Questions

Councilmember Urban asked what happens if time and materials exceed this cost. Mr. Goff explained that the estimates for actual construction of the hook ramps has come in lower than expected. That savings should cover this amount for the IGA. \$10M in 2E funds are earmarked for this project. If costs exceed that amount they would have to be wrapped into the financial agreement for the entire project. This has been discussed with the developer. Those additional costs would be paid through future sales or property tax from this project.

Councilmember Urban inquired about the legality of using 2E hook ramp dollars for the Denver Water bore project. Mr. Dahl advised that Council is governed by the 2E language. It says "approximately" \$10M. He feels this gives Council some flexibility to adjust within this category, but that flexibility is limited by what the voters approved.

Discussion followed.

- Mr. Goff offered that the hook ramp project will happen, but if they aren't built in a timely manner, Clear Creek Crossing might not happen.
- Mr. Dahl advised that eliminating delay is a legitimate part of the hook ramp project. If you need to spend money to get Denver Water out of the way so the hook ramps can happen, that becomes part of the hook ramp project cost.
- Taylor Carlson (Denver), principle for Evergreen, the developer of Clear Creek Crossing, explained that the hook ramps can't start until the bore pit is relocated or finished. His concern is that a delay by Denver Water would put the hook ramps on hold, which would put the development on hold. This is a good insurance policy.

Councilmember Wooden confirmed the size of the underground pipes for the water project -- an 84 inch pipe with a slightly larger bore, under a highway. Noting that the water project is huge -- she believes the City should step up and get this project going. This development has been 10 years on the making, the voters approved the money and we should not stall anymore. This project will benefit our city in numerous ways.

Councilmember Hoppe asked if the development could occur without the hook ramps. Mr. Goff stated that CDOT and the Federal Highway Administration have approved limited development based on the current improvements that were made (40<sup>th</sup> avenue underpass and improvements at 32<sup>nd</sup> Ave). To fully develop the property the hook ramps have to be built. ~ She said she is glad the citizens have given us the money so we are in a position to go forward with this.

There was no public comment.

**Motion** by Councilmember Hoppe to approve Resolution 32-2017, a resolution approving an Intergovernmental Agreement between the City of Wheat Ridge and the City and County of Denver concerning additional construction costs for extending Denver Water Department conduit work in an amount not-to-exceed \$557,335.63; seconded by Councilmember Duran; carried 5-0.

**5. Motion to Ratify the Mayoral appointment of Kevin Hood to the vacant District IV seat on the Wheat Ridge Urban Renewal Authority dba Renewal Wheat Ridge, term to expire November 30, 2021**

This vacancy was properly advertised in the usual manner. Three citizens applied.

Councilmember Wooden introduced Item 5.

Motion by Councilmember Wooden to ratify the Mayoral appointment of Kevin Hood to the vacant District IV seat on the Wheat Ridge Urban Renewal Authority dba Renewal Wheat Ridge, term to expire November 30, 2021; seconded by Councilmember Hoppe; failed 3-2, with Councilmembers Urban and Duran voting no.

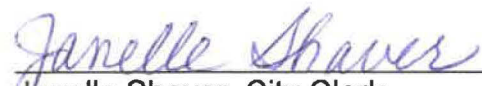
Mr. Dahl explained that Code requires a majority vote of the entire Council (5 votes) to ratify a mayoral appointment to the Urban Renewal Authority. He explained the options: Reconsideration at tonight's meeting or a motion to reconsider at the next regular business meeting. He noted that reconsideration requires a motion by someone from the prevailing side (Duran or Urban).

Discussion followed.

**Motion** by Councilmember Duran to reconsider the ratification of the appointment of Mr. Hood to the Urban Renewal Authority at the September 25<sup>th</sup> Council meeting; seconded by Councilmember Fitzgerald; carried 5-0.

**ADJOURN to Special Study Session** The City Council Meeting adjourned at 7:58 PM

City Manager's Matters, City Attorney's Matters, and Elected Officials Matters were taken at the end of the Special Study Session that followed. See those minutes.

  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON SEPTEMBER 25, 2017

  
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.