

# **CITY COUNCIL MINUTES**

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

**September 25, 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	George Pond
Kristi Davis	Tim Fitzgerald	Genevieve Wooden	Larry Mathews

Also present: City Clerk, Janelle Shaver; City Attorney, Jerry Dahl; Chief Daniel Brennan; other staff, guests and interested citizens.

### **APPROVAL OF Council Minutes of August 28, 2017 and September 11, 2017 and Special Study Notes of August 28, 2017 and September 11, 2017**

There being no objections, the minutes of August 28, 2017 and September 11, 2017 and Special Study Notes of August 28, 2017 and September 11, 2017 were approved as published.

### **PROCLAMATIONS AND CEREMONIES**

#### **Presentation of Police Department CALEA Award**

**Chief Brennan** presented to City Council and the citizens the Police Department's third national advanced accreditation award from CALEA (Commission on Accreditation for Law Enforcement Agencies). Accreditation manager **Colleen Slater** and **Commander Mike Hendershot** were present. The goal of this three-year process is to improve service delivery and establish best business practices in policies, procedures and operations. The standards covers 38 topical areas and 484 standards which cover every aspect of policing. It requires serious teamwork, commitment and perseverance. Besides honoring Ms. Slater, recognized **Michelle Stodden, Nicole Abney, Laura McAvoy**, the police management, and human services for helping to receive the award. In April an out-of-state assessment team spent four days reviewing files, interviewing employees and citizens, and conducting a public hearing on compliance to standards. Their report went to CALEA. On July 29 Ms. Slater, Division Chief Pickett and Chief Brennan met with representatives of CALEA to answer questions about the report. No compliance issues were found.

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

**Thomas Lundy** (WR) urged the City to appeal the summary judgement of Judge Enquist in the case of Longs Peak Metropolitan District v City of Wheat Ridge. He feels this ruling is deeply flawed and could be appealed successfully. He gave reasons:  
1) Judge Enquist failed to accommodate that Wheat Ridge is a home rule city.

- 2) Judge Enquist has a history of handing down uninformed decisions related to municipal law. He cited an example.
- 3) This ruling is inconsistent with the Littleton TIF Reform Charter change which served as some basis for Question 300 and has stood the test of time.
- 4) Expense is no excuse. With CIRSA covering most attorney fees, the cost of the appeal should not be expensive for the taxpayers or time consuming for the staff. He announced his intention and ability to file suit against the City should they decline to defend the will of the voters. He's conferred with expert counsel and as one of the filers of Question 300 he has uncontestable standing. He urged Council to do the right thing.

**Natalie Menten**, RTD Board, gave an update on the Gold Line. The RTD board, including herself, is very frustrated as the process continues to be delayed due to repeated need to file requests for waivers. Most recently the timing of the gates was adjusted; now the FRA (Federal Railway administration) is requesting adjustments to how the system should operate. RTD awaits a response on their most recent submittal and they hope it will be approved. RTD is also filing with the Public Utilities Commission to be able to continue to test. She would like to have a community meeting on this and would appreciate being able to use the Council Chambers and that it be at a time that is convenient for the public. They will continue testing on gates and when that passes they will be able to move forward. She noted RTD is filing a separate application for the A Line – to be able to operate under a permanent waiver.

Ms. Menten also reported it is time to do service changes. There are no changes affecting the Wheat Ridge area - except for the West Line. The closest public hearing for that will be this Thursday at the Golden Community Center at 6pm. She referenced the handout she had distributed to Council showing the service changes. The route from the Federal Center out to the Jeffco Government Center is moving from 15 to 30 min intervals. Also, for all lines, the last trip of the evening, Monday through Thursday at 1:15am, will be eliminated.

She is hopeful a public meeting can be arranged so more detail can be given on the Gold Line and the service changes, and the public can offer input before the board votes on this October 24.

**Motion** by Councilmember Mathews to have a public meeting in Council Chambers at a date and time to be determined before October 24 so RTD can present more information and to allow citizens to ask questions about the service changes and the Gold Line; seconded by Councilmember Fitzgerald.

There were a few questions from councilmembers.

The motion carried 8-0.

There were more questions from councilmembers.

**Dorothy Archer** (WR) asked if a study session date has been set to address the issue of 35 ft flat roofed allowances in all zones except R1-C and R-3. Councilmember Pond said it is tentatively scheduled for November 20. Ms. Archer asked that Council post

articles in all three papers as this issue is of great concern to many citizens. Citizens should be aware that any house in their neighborhood can be purchased, scraped, and replaced with a single home or duplex 35ft high (three stories), flat-roof house only five feet from their property line. She urged people to come to this meeting on November 20 so we can keep Wheat Ridge the bright place that it is. She expressed her concern for affordable housing and gave the market rates for houses in the east and west parts of Wheat Ridge. She urged Council to put articles in the paper making citizens aware of this situation and the meeting on November 20.

**Maureen Daly** (WR) urged the Council to appeal the judge's ruling about Question 300. She acknowledged that Council doesn't always know the wishes of the citizens when they vote on things, but on this item they do know that the majority of Wheat Ridge residents want Question 300. She asked Council to represent the wishes of the majority regardless of their personal views.

## **APPROVAL OF AGENDA**

## **DECISIONS, RESOLUTIONS AND MOTIONS**

1. Resolution 34-2017 – a resolution concerning the proposed Redevelopment at the southeast corner of 44<sup>th</sup> Avenue and Jellison Street authorizing a Cooperation Agreement pertaining to the collection of Tax Increment Financing (TIF)

The Wheat Ridge Urban Renewal Authority (URA) has negotiated a redevelopment agreement with the Sheard Family Trust for a commercial redevelopment of the subject property. The owner has requested financial assistance of \$767,383 for related, eligible improvements. Property and sales tax increment generated by this project will be used for funding. A Cooperation Agreement is required for the TIF to detail the intent of the proceeds and obligations of both parties.

The site previously contained an abandoned house. The owners purchased the property in 2016 with the concept of developing a new retail site for Swiss Flower and Gift Cottage. The owners have been working on site plans and building elevations for the past year. The property consists of two parcels, which were recently replatted to create the development site. A cooperation agreement is required

Councilmember Wooden introduced Item 1.

Mayor Jay opened the public hearing.

### **Staff presentation**

Steve Art reminded Council of the proposal presented to them last week at the study session. With this cooperation agreement the City will relinquish 1.5 cents of the local 3 cents of sales tax. In response to a question from the study session he said that the base [of current sales tax generation] can be calculated into the amount.

Mr. Art outlined the phases of the project.

- Phase 1 (the corner where the vacant house was scraped) will build a 6,600 sf building as the new home for Swiss Flower and Gift Cottage. This 2-story building will sell most of their products. Their current building will remain for sale of larger items such as furniture. The new building will have some artistic features the City requested. These are part of the eligible public improvements.
- Phase 2 will be 6,000 sf of maker space behind the Phase 1. It will be light industrial space that could house artists whose work could be sold at Swiss Flower.
- Phase 3 will be 7,200 sf of maker space – scheduled to be completed by 2025.

The TIF will be divided into three separate TIFs which would only be received upon completion of each phase.

Mr. Art said this is truly what urban renewal was set out to do when it was started. This will help a home-based business, started by Heidi's parents in 1969, go to the next level.

He explained a "base" would be established by the previous 12 months of sales tax. If a base is incorporated, the sales tax that comes in would first have to reach that base before any sales tax is diverted to the project.

**Tim Morzel** from EPS reported on the impact of the base. Absent packet material for the Council he used a power point presentation to explain to Council the figures for what the numbers would look like with and without a base.

#### Council questions

**Heidi Sheard** explained her vision for use of the buildings – moving the existing operation to the new building and leaving the existing space for larger pieces and a gallery.

Councilmember Urban asked about eligible building costs vis a vis the public improvements objective of the I-70/Kipling Urban Renewal Plan. Mr. Art explained that when additional elements are requested for a building that go above and beyond what the owner might normally do, those are eligible costs. The City has done that in the past e.g. additional façade brick at Kipling Ridge Shopping Center. Councilmember Urban noted that in the breakdown for specific public objectives the Kipling Urban Renewal Plan doesn't list (and specifically excludes) site modifications to private property. He asked how eligible building costs do not fall in the category of site modifications to private property. Mr. Art said he would have to look into that, but noted that even without the eligible building costs, the public improvements still exceed what the TIF is being provided for.

Councilmember Davis asked how the motion to approve the Agreement addresses the setting of a base. Mr. Art said the Cooperation Agreement sets the sales tax base at zero because the area for the new buildings currently has no sales tax. If Council wishes it can amend the agreement to include the base – as some other URA projects have done, but the calculations do not currently include that.

There was discussion about having or not having a base.

- We should be consistent with past projects -- not initiate an exception to the rule.
- If the new building was across town, the sales tax would not be included in the base, so the owner should not be penalized because the new building is next door.
- The old (existing) building will not technically register any point of sales but will still be used and generate sales; existing sales will be going to the new building. It is hard to say that sales tax isn't there (at the new building) when it is just moving from next door and using the same register to collect the dollars.
- Using a base would extend the time a little, but WR Cyclery had a base and it paid off five years early.
- The City needs tax dollars, so totally getting rid of a tax base we're used to having is not supported.
- All councilmembers who expressed desire of including a base also expressed support for this project

#### Public Comment

**Vivian Vos** (WR) was permitted to speak on TIF's in general. She distributed to the Council copies of a Denver post editorial about the recent \$30 land deal in Arvada and read portions that spoke of unelected urban renewal boards and city councils giving away sales tax revenue to private for-profit corporations and developers. This manipulates and destroys the free market with taxpayer dollars. In relation to the upcoming executive session she reminded Council that Question 300 passed and citizens do not want large TIFs. There is opposition to sweetheart deals for businesses and developers while City services go wanting. She urged Council to make sure that a small developer adheres to urban renewal laws.

**Motion** by Councilmember Wooden to approve Resolution 34-2017, a resolution concerning the proposed Redevelopment at the southeast corner of 44<sup>th</sup> Avenue and Jellison Street authorizing a Cooperation Agreement pertaining to the collection of Tax Increment Financing (TIF); seconded by Councilmember Hoppe.

Councilmember Urban pointed out that Resolution 34 states that the property and sales tax increment revenues are to be used to finance public infrastructure. He asked that non-public elements be excluded. Mr. Art said the approval of the Cooperation Agreement does not include that aspect of the project proposal. This could go back to the URA to amend the Redevelopment Agreement and remove that cost. Councilmember Urban felt it important that if it says public infrastructure, private elements should not be included – even if they are eligible.

Councilmember Mathews received clarification that these eligible costs are consistent with what was awarded WR Cyclery. He remarked that if this is consistent with what was done in the past we shouldn't punish this one applicant. Changes on what is eligible and ineligible should be a separate issue addressed at another time.

Councilmember Wooden noted this was reviewed by the URA attorney and that TIF's provide the City the ability to have some input on what the buildings look like. This business is taking a huge financial risk and we should help her. The City will reap benefits in the long run.

Councilmember Duran suggested each project should be looked at individually. Swiss Flower has been here for decades and she feels nit-picking it sends the wrong message. She supports having no tax base and believes this will lift up the area.

Councilmember Pond clarified that eligible costs are \$1.2M.

Motion by Councilmember Urban to request that a sales tax base be include in the calculations for the Cooperation Agreement; seconded by Councilmember Davis.

Discussion followed. Councilmember Davis pointed out that the URA did not recommend having a tax base or not having a tax base. Mr. Art acknowledged that was true.

The motion to amend failed 3-5, with Councilmembers Wooden, Mathews, Pond, Hoppe and Duran voting no.

The main motion carried 8-0.

2. Resolution 36-2017 – a resolution approving an Employee Screening Agreement with the Jefferson County Communications Center Authority

The new regional communications authority, Jefferson County Communications Center Authority (Jeffcom), includes the police departments from Arvada, Golden, Lakewood and Wheat Ridge, the fire departments of Arvada, Evergreen and West Metro, and the Jefferson County Sheriff's Office. To help with the transition of dispatch services Jeffcom has agreed to recruit, screen and pre-qualify candidates for call-taker and dispatch positions for the new Emergency Communications Specialist (ECS) position.

Councilmember Pond introduced Item 2.

Chief Brennan reported that Jeffcom is picking up steam. The transition will start in February and hopefully be complete by April. Having Jeffcom assume the recruiting and screening now would save the City staff time and dollars, and help get pre-qualified candidates.

All Wheat Ridge dispatchers will be offered positions with Jeffcom in 2018 and would become employees of Jeffcom.

Councilmember Urban received explanation that the current dispatchers for the eight member agencies will not have to be screened; they will be offered letters of

employment. ~ How will the new dispatchers have geographical knowledge of Wheat Ridge? Chief Brennan said there will be a lot of training.

**Motion** by Councilmember Pond to approve Resolution 36-2017, a resolution approving an Employee Screening Agreement with the Jefferson County Communications Center Authority, seconded by Councilmember Mathews, carried 8-0.

3. Reconsideration of the Mayoral Appointment of Kevin Hood to the vacant District IV seat of the Wheat Ridge Urban Renewal Authority dba Renewal Wheat Ridge, term to expire November 30, 2021

City Council voted 3 to 2 on this appointment on September 11, 2017. This appointment requires approval by a majority of the entire City Council (five votes). A motion was made and approved to reconsider the Mayoral appointment of Kevin Hood to the Urban Renewal Authority at the September 25, 2017 regular business meeting.

Councilmember Davis introduced Item 3.

Mr. Dahl explained that per the Code appointments to the Urban Renewal Authority require five votes of the entire Council. The motion failed on September 11 and a proper motion was made and passed to set reconsideration for September 25.

Mr. Dahl also advised that in order to be able to vote on the reconsideration the councilmembers who were absent on September 11 (Pond, Davis and Mathews) need to affirm they have listened to the relevant portion of that meeting on tape. If they have not listened to that portion of the meeting they cannot vote.

Councilmembers Pond and Davis notified Council they did not listen to the meeting.

Mayor Jay invited Kevin Hood to speak about his interest in this position. He highlighted elements of his resume – living here 18 years (collectively), being president of Localworks and remaining active with them, some of his jobs, and being on several boards. He claims no specialized knowledge in urban renewal, but is curious and asks good hard questions.

**Motion** by Councilmember Davis to change the Council Rules to allow councilmembers who were not present on September 11, but had reviewed the minutes, be allowed to vote without viewing the video; seconded by Councilmember Duran. A supermajority vote was necessary and the motion carried 8-0.

**Motion** by Councilmember Davis to ratify the Mayoral Appointment of Kevin Hood to District IV of the Wheat Ridge Urban Renewal Authority dba Renewal Wheat Ridge, term to expire November 30, 2021; seconded by Councilmember Duran, carried 8-0.

## **CITY MANAGER'S MATTERS**

Chief Brennan noted that the City Manager was away attending the Gold Medal Parks award meeting with Parks Director Joyce Manwaring. Wheat Ridge was one of four national finalists – which is quite an honor. We should know the results early tomorrow.

### **CITY ATTORNEY'S MATTERS**

#### **ELECTED OFFICIAL'S MATTERS**

**Janelle Shaver** reminded Council of the Boards and Commissions Dinner on October 18.

**Larry Mathews** announced that Boy Scout Troop 240, chartered in 1957, is having an ice cream social and movie night sleepover at Wheat Ridge Methodist Church on September 29<sup>th</sup> from 6pm until 9am Saturday. Anyone who is interested in learning more about the troop is welcome to come.

**Kristi Davis** asked about the inquiries she forwarded regarding campaign information. Clerk Shaver said she got the email and a few others, and has talked to the City Attorney. Mr. Dahl said he will be providing the Clerk with an answer on this.

**Zach Urban** announced the Colorado Consortium for Prescription Drug Abuse Prevention launched a new statewide initiative called Recovery Ready Colorado. The purpose is to remove the stigma for recovery to support people in recovery. The focus is on cultural change through public policy and community support. The 4 pillars are 1) suitable employment, 2) safe affordable housing, 3) ability to achieve higher education, and 4) access to recovery related resources. More information is available on Facebook.

**Motion** by Councilmember Pond 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), to receive legal advice concerning the Longs Peak Metropolitan District litigation, and further to adjourn the Council meeting at the conclusion of the executive session; seconded by Councilmember Urban.

**Mayor Jay** announced she will be having Coffee with the Mayor on Saturday, October 7.

There was discussion about transparency -- whether to vote publicly (or in executive session) to give the attorney direction related to the Longs Peak litigation.

Motion to amend by Councilmember Mathews to temporarily adjourn to executive session and reconvene in Council Chambers to take a formal vote on how the Council will direct the City Attorney to proceed in the matter of this litigation; seconded by Councilmember Duran.

Further discussion followed.

Councilmember Hoppe called for the question to vote on the amendment; seconded by Councilmember Mathews.

The call for the question carried 8-0.

Mr. Mathews' motion to amend tied 4-4, with Councilmembers Wooden, Fitzgerald, Pond and Hoppe voting no. The Mayor voted no and the motion failed.


The main motion carried 7-1, with Councilmember Mathews voting no.

### **ADJOURNMENT to Executive Session**

The City Council Meeting was adjourned at 8:56 pm. An executive session followed.

### **EXECUTIVE SESSION**

The executive session convened at 9:02 pm in the Lobby Conference Room and was adjourned at 10:24 pm.

  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON October 23, 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.