

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

February 12, 2018

Mayor Bud Starker 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	Janece Hoppe	
Kristi Davis	Tim Fitzgerald	Larry Mathews	Leah Dozeman

Absent: George Pond (excused)

Also present: City Clerk, Janelle Shaver; City Treasurer, Jerry DiTullio; City Attorney, Jerry Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; Public Works Director, Scott Brink; Parks & Recreation Director, Joyce Manwaring; other staff, guests and interested citizens.

APPROVAL OF Minutes of January 8, 2018 and January 22, 2018, Study Session Notes of December 18, 2017 and Special Study Session Notes of January 8, 2018

There being no objections, the minutes of the Regular Meetings of January 8, 2018 and January 22, 2018, the Study Session Notes of December 18, 2017 and the Special Study Session Notes of January 8, 2018 were approved as published.

PROCLAMATIONS AND CEREMONIES

Heart Healthy Week Proclamation

Mayor Starker read a proclamation declaring February 19 - 25, 2018 as Heart Healthy Week. A group of residents were on hand to receive the proclamation. They presented the Mayor with a t-shirt in honor of the week. Rachel Hultin explained how others can earn a t-shirt and directed them to the website heartheathywheatridge.com and .org.

CITIZENS RIGHT TO SPEAK

Brianna Titone (Arvada) is a candidate for HD 27. As a transgender member of the LGBT caucus, Briana urged the Council and everyone in the audience to support a legislative ban on conversion therapy.

DJ Sasso (Littleton) spoke in support of efforts to publicize heart health. Lutheran Hospital is holding a Heart Healthy Day in collaboration with the City on February 22, from 10am – 1pm on the second floor mezzanine at Lutheran. It is free and open to the

public. There will be free health screenings, informational booths, and a women's heart health seminar.

Carol Mathews (WR) reported attending a Localworks Create 38th meeting recently where she learned of a fatality and several injuries on 38th Ave between Kipling and Youngfield. She is concerned that improvements are not expected for 6-10 years. Localworks is proposing some gadgets at \$100K/\$200K each that she believes will only serve as band-aids and do nothing to address growing traffic problems, bus issues, and safety for walkers and bikers. She believes that would be a waste of money and advocated for a turn lane and sidewalks on this stretch of road. It would only cost about \$500K for 5,000 feet of 6-foot sidewalk. She urged Council to make this a priority.

Robin Kupernik (Arvada), representing the human rights team of Arvadans for Progressive Action, spoke against conversion therapy. It is designed to change a child's/teen's sexual orientation. She stated potential risks associated with conversion therapy and read a list of groups that are against it because they believe it is dangerous and has no benefit. She'd like Wheat Ridge to adopt a proclamation against it.

Rachel Hultin (WR) explained the Activate 38 program is funded with a grant from Kaiser Permanente. She stated no recommendations are in place and they are still seeking input. The next meeting will be in March and all are encouraged to come and give input. After that, an Active Living Plan will be presented to Council. If a second round of funding is granted they will look at a more substantial corridor plan. ~ She invited everyone to the Active Transportation Advisory Team (ATAT) annual State of the City tomorrow night at Colorado Plus from 6:30 – 8:30pm.

Rachael Smallwood (Arvada) spoke against conversion therapy for the LGBTQ community. She said it leads to mental illness and suicide. The bill in the legislature addresses children under 18. She noted parental rights do not include neglect and abuse, and stated research overwhelmingly shows this practice causes irreparable damage. She urged Wheat Ridge to join Westminster and Edgewater in supporting the conversion therapy ban.

Dorothy Archer (WR) told the audience of the City's allowance for 35ft tall houses with flat roofs and proposed that east Wheat Ridge is being attacked. She encouraged folks to drive by 3310 Chase Street to see what the City's 15 foot bulk plane "remedy" looks like. She said folks who live in east Wheat Ridge shudder to see a house go up for sale – fearing it will be scraped and replaced with an apartment house. Everyone in a residential zone (except R-1C and R-3) could have a 35 ft flat-roofed house go up next to them; citizens need help. She asked that someone on Council make a motion to address this again properly. Council has heard from citizens – 100 in R-1C, and continues to ignore the fact that 35 ft is not acceptable -- with or without bulk plane. Edgewater has changed to 25 ft; Arvada is studying it; Golden doesn't allow 35 ft. She asked for 25 feet with sloped roofs.

John Clark (WR), president of the Everitt Middle School PTA, thanked Councilmember Hoppe for her generous donation to the PTA. He said there are a lot of great things going on at all the Wheat Ridge schools at all levels. He invited folks who live or work in

Wheat Ridge to come to Everitt's Accountability tomorrow at 5:30pm. Also, Valentine's Day is the PTSA meeting at WR High School. ~ He joined Dorothy Archer in offering words of praise and thanks for Lutheran Hospital.

APPROVAL OF AGENDA

1. CONSENT AGENDA

- a) Resolution 10-2018 – amending the Fiscal Year 2018 Budget to reflect the approval of a Supplemental Budget Appropriation for the Re-Appropriation and Re-Encumbrance of 2017 Fiscal Year Encumbered Funds in the amount of \$3,814,603.10 *[budgeted funds carried over for unfinished 2017 projects]*
- b) Motion to approve payment to Kaiser Permanente for January 2018 Membership Billing in the amount of \$195,189.45 *[employee medical plans]*
- c) Motion to award a contract, and approve subsequent payments, to Daiz Construction Group, Lakewood, CO in the amount of \$347,392 with a contingency amount of \$34,740 for the 2017 Miscellaneous Street and Drainage Project *[reconstruct Union St south of 34th Pl; drainage channel in Union St ROW north of 32nd Dr; irrigation crossing under Miller St at 50th Ave]*
- d) Resolution 11-2018 – amending the Fiscal Year 2017 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$122,327.90 for on-call Building Permit Inspections, Plan Review and other Support Services and related costs *[related to the May 2017 hail storm]*
- e) Motion to make an appointment to fill a vacancy on the Board of Adjustment, District II, term to expire 3/02/20 *[Larry Richmond is the qualified applicant]*
- f) Motion to appoint Wanda Sang and Nancy Snow to the Election Commission *[Wanda Sang and Nancy Snow are the only applicants]*

Councilmember Hoppe introduced the Consent Agenda.

Public Comment

Rachel Hultin expressed her concern that there is a large segment of the population that is not being heard because they are not informed on City issues. It would be nice to hear what the City is doing to reach those people – to ensure their voices are heard too.

Mr. Goff informed Council the title of Item e) (appointment to the Board of Adjustments) is unclear. If Council appoints Larry Richmond to fill the vacancy in District II, staff recommends appointing Robert DeVries to the Alternate At-Large position (currently held by Larry Richmond) that will be created.

Motion by Councilmember Hoppe to approve the Consent Agenda items a), b) c), d), and f); and to change item e) to appoint Larry Richmond to fill the vacancy on the Board of Adjustments, District II, term to expire March 2, 2020, and to appoint Robert DeVries as Alternate At-Large; seconded by Councilmember Duran.

Councilmember Mathews raised a question about the need to advertise the Alternate position. Clerk Shaver pointed out that the appointment of Mr. Richmond to the District II position creates a vacancy for the Alternate position; she believes it should be advertised.

Discussion followed.

Mr. Dahl advised that a newly created vacancy should be advertised.

Motion by Councilmember Urban to remove Item e) from the main motion to approve the Consent Agenda; seconded by Councilmember Duran; carried 7-0.

There was further discussion.

Motion to approve the Consent Agenda, amended to *not* include Item e), carried 7-0.

Mr. Goff suggested doing the appointment for the Alternate position at a later date.

Motion by Councilmember Urban to appoint Larry Richmond to the Board of Adjustments for District II to fill a vacancy, term ending March 2, 2020; seconded by Councilmember Duran; carried 7-0.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Council Bill 01-2018— An Ordinance approving the rezoning of property located on the West of Interstate-70, between approximately 34th Avenue and Clear Creek from Planned Commercial Development (PCD) to Planned Mixed Use Development (PMUD) (Case No. WZ-16-07/Clear Creek Crossing)
CONTINUANCE REQUESTED TO MARCH 26, 2018

Evergreen Devco, Inc. acquired the subject undeveloped 109 acres in December 2016.

- The property is zoned PCD, which focuses on retail development.
- Evergreen is requesting a zone change to PMUD with the intent of creating a development with a broader mix of residential, employment, retail, hotel, restaurant and entertainment uses.
- The applicant is requesting approval of an Outline Development Plan (ODP), supported by a Vision Book and a Design Pattern Book.

Councilmember Fitzgerald introduced Council Bill 01-2018.

Mr. Dahl advised that because of the quasi-judicial nature of this case it is important to create a procedural record on some things before motions are taken.

- Concerning personal interests that could potentially affect a councilmember's ability to make a fair and impartial decision, Mr. Dahl announced that Councilmembers Davis and Dozeman are employees of SCL (Lutheran Hospital) and Councilmember Urban is on the Lutheran Foundation Board. He explained why it is appropriate for them to be able to vote on this case.
 - Their employer's opinion is not imputed to them as employees.
 - If they can declare on the record that they have no financial interest in the property that is proposed to be rezoned, and they are able to make a fair and impartial decision.
- Councilmembers Davis, Dozeman and Urban confirmed publicly that they have no financial interest in the applicant (Evergreen Devco) or the 109 acres under consideration.
- Councilmembers Davis, Dozeman and Urban declared publicly that they believe they are able to make a fair and impartial decision.
- Mr. Dahl acknowledged publicly, for the Council, that a number of communications about this case have been received by the councilmembers, but councilmembers are aware that their response and action on this matter can only happen at the public hearing. The communications have been copied and are part of the record.
- Mr. Dahl received confirmation from all the councilmembers that they have not engaged in discussions where they received information or responded substantively.

At Councilmember Mathews' request Mr. Dahl gave a short explanation of "quasi-judicial".

Mayor Starker announced that the applicant has asked to postpone Council Bill 01-2018. He invited the applicant to address this request for postponement

Tyler Carlson (Denver), Evergreen Development, stated reasons for the request for a continuance:

- To allow time for additional dialog with the neighborhood (another neighborhood meeting) to go over their plan, answer questions and address misinformation
- They want to explore alternate options for Planning Area 1 – the employment area. Mr. Carlson stated they are not under contract with any user – hospital or otherwise. This would give them more time to dialog with the marketplace.

Motion by Councilmember Fitzgerald to postpone Council Bill No. 01-2018 – an ordinance approving the rezoning of property located on the west side of Interstate-70, between approximately 34th Avenue and Clear Creek from Planned Commercial Development (PCD) to Planned Mixed Use Development (PMUD) (Case No. WZ-16-07/Clear Creek Crossing) until March 26, 2018; seconded by Councilmember Hoppe;

Lengthy discussion followed about whether or not the public would be allowed to speak.

- Mr. Dahl advised that this motion is procedural and would preclude any public comment. (Public comment is not taken on procedural motions.)

- Councilmember Urban asked if the application is amended would it be necessary for it to go back to the Planning Commission. Mr. Dahl said he could not say until he sees if any amendments are substantive enough to require presentation to the Planning Commission. If an amended plan is markedly different, it would have to go back to Planning Commission and that would trigger a new advertising process.
- Councilmember Davis noted that if this item is postponed and people can't speak, then they could have signed up to speak under "items not on the agenda".
- Mr. Dahl advised that suspension of the rules to allow public comment could be allowed. He also advised the applicant should be given the opportunity to declare that they don't object to the public comment.
- Mr. Dahl advised that public comment from tonight's meeting could be added to the record of March 26.
- Mr. Dahl said staff has agreed to re-publish and re-post if the hearing is postponed.

The motion to postpone Council Bill No. 01-2018 carried 7-0.

Motion by Councilmember Davis to suspend the rules to allow public comment, and to allow for the applicant to give consent for tonight's comments to be added to the record of the future public hearing; seconded by Councilmember Fitzgerald.

Councilmember Urban inquired about the need to swear in speakers – given that tonight is not a public hearing, but the comments will be added to the record of the public hearing of March 26. Mr. Dahl recommended the speakers be sworn in.

The motion to suspend the rules carried 7-0.

Mr. Dahl publicly asked Tyler Carlson if he objected to having the Council take sworn testimony from the public tonight and have this testimony entered into the record of the hearing on March 26 – with the understanding that comments tonight may not address future amendments to the plan. Mr. Carlson said he did not object; he thought it was fair.

On the advice of the City Attorney Mayor Starker swore in all speakers.

Public Comment

Sarah Ellis (Denver) declined to speak until she sees what the end proposal looks like. **Chris Woolsey** (Golden) declined to speak at this time.

Grant Wicklund (Arvada) from Lutheran Hospital said they support the commercial development at Clear Creek Crossing but cannot support the addition of a fourth health care provider in the area. He gave statistics on the economic impact Lutheran has on the community and the number of services Lutheran Hospital provides. He noted Lutheran's strong commitment to the community as evidenced by their significant capital improvements. ~ Now it appears there will not be a hospital. If Mr. Carlson has no contract with another health care provider and intends to change his plan, Mr. Wicklund asked the Lutheran Hospital supporters to wait and see. He encouraged listening to and talking with Mr. Carlson to hear how we might be able to help him. He has no problem

with healthy competition – as exists between Lutheran, St. Anthony's and Ortho Colorado, but exceeding the number of beds in a market where there is declining usage of in-patient beds is not in the best interest of the community and doesn't help keep health care costs down. He noted that the Denver area is one of the most over-bedded communities in the United States, and this has not helped health care costs go down.

The following individuals came to the podium and stated they would defer their comments until March 26.

Andrea Birch (Lafayette), chief nursing officer, 10 yrs at Lutheran, declined to comment.

Scott Day (Denver), 21 years VP of human resources at Lutheran, declined to speak.

Tom Ripp (Arvada), working 35 years at 4315 Wadsworth, will comment at the hearing.

Cynthia Batchelder (Golden) will wait until March 26 to speak.

Shelley Thompson (Centennial), a member of the leadership team at St Anthony's Hospital, said they stand with Lutheran in opposition to another hospital in the area – regardless of who that may be. She pointed again to the fact that the area already has 100 more hospital beds than are needed, and testified that area population growth is not expected to require more than 20 more beds. She testified they believe between Lutheran and St. Anthony's the health care needs of this area are met. Adding another hospital to the area will jeopardize whether St. Anthony's and Lutheran can continue to provide existing comprehensive services to the community, and there are concerns that another hospital will have difficulty staffing. The Colorado and nationwide shortage of nurses will result in shifted jobs – not new jobs. She noted that all these negative effects have occurred in Longmont since University Health came in.

Freda Miklin (Greenwood Village) expressed concern with the lack of transparency in the rezoning. From the beginning there was no mention of a hospital – but rather the term “employment use” – whatever that means. While the developer probably has good intentions, she said it's important to keep eyes on the ball. It's important to keep focused on the fact that the zoning that is being requested would allow a hospital to be built in Planning Area #1. Recalling that the original plan was Super-Walmart, and when that didn't work, it became a hospital. Remember it is the zoning that allows the hospital – should some future plan fall through.

The following individuals came to the podium and stated they would defer their comments until March 26.

Andy Castro (Broomfield)

Tim Nock (Westminster), 27 years a volunteer in Wheat Ridge

Steve Brown M.D. (Golden) radiologist for 30 years and now Chief Medical Officer

Glenn Most (Greenwood Village) Executive Director of West Pines

Ann Marie Parrish (Brighton) worked at Lutheran 11 years

Karen White (Broomfield) hospice and palliative care nurse at the Collier Center

Collen Hatton (Lakewood) worked at Lutheran for 40.5 years

Karen Masters (Littleton) ER nurse at Lutheran for over 20 years

Mary McNellis (WR) worked at Lutheran in different capacities for 10 years

Max Stich (Denver)

Brian Hansen (Golden)

Sue McKellips (Arvada)

Marjorie Lance (Thornton)

Cathy Crabtree M.D. (Denver)

Jason Cardona (Littleton) worked at Lutheran for 17 years

Barbara Cavanagh (WR) RN with 10 years connection to Lutheran

Kim Calomino (WR) noted being only the third person to speak that actually lives in Wheat Ridge. She elected to defer her comments until she sees what the applicant brings forward. She appreciates the people who came, but advised we should all appreciate the openness of the process and communication from the applicant. She expressed distress to once again see unattributed, misleading information distributed, and to see polling done that she suggested is a push pole – trying to instigate anxiety, scare tactics, misinformation, and accusations. She advised the community to get the facts, speak honestly and not rush to judgement with negative feedback.

Martin Chader (unincorporated Jeffco), who lives near the affected area, expressed concern about the traffic plan for this project. He noted the removal of the I-70/32nd Avenue exit that had been accommodated in the original Cabella's development plan. He would like to see that reinstated into the plan, as a traffic increase is likely.

Craig Davis (Golden) lives 50 feet south of the proposed development. He expressed interest in attending informational meetings.

Thanks were expressed to the folks who came to speak and to the developer. Mayor Starker announced the hearing has been postponed to March 26, notice of which will be published by the City. People are welcome to return and speak at that time.

Mayor Starker declared a recess at 8:48

The meeting resumed at 8:57.

ORDINANCES ON FIRST READING

3. Council Bill 04-2018 – An Ordinance amending Sections 11-291 and 11-401 of the Wheat Ridge Code of Laws, concerning the Authorized Activities of Marijuana Testing Facilities.

The state legislature has approved a new type of “research and development” license for marijuana testing facilities. It will allow additional types of testing activities. This ordinance will allow that type of license to be issued in the City of Wheat Ridge.

Councilmember Davis introduced Council Bill 04-2018.

Motion by Councilmember Davis to approve Council Bill 04-2018 an ordinance amending Sections 11-291 and 11-401 of the Wheat Ridge Code of Laws, concerning the authorized activities of marijuana testing facilities on first reading, order it published, public hearing set for Monday, March 12, 2018, at 7 p.m. in City Council Chambers and

that it take effect 15 days after final publication, seconded by Councilmember Hoppe; carried 7-0.

DECISIONS, RESOLUTIONS AND MOTION

4. Motion to approve a contract in an amount not to exceed \$825,000 to Charles Abbott Associates, Inc. for ongoing Building Permit, Plan Review and Inspection Services and authorizing all subsequent payments.

Charles Abbott Associates (CAA) has been providing professional services for our building division since April 2017. This contract will fully outsource our building division staffing to allow CAA to function as an extension of the city staff.

Councilmember Duran introduced item 4.

Staff presentation

Mr. Johnstone recalled the thorough briefing Council received at the January 22 study session. As was discussed, staff has recommended outsourcing these services to Charles Abbott Associates. They went through a bidding process and have been providing extra building services for the City since April 2017. The ability for the City to provide next-day inspections has not been compromised. Staff believe this arrangement will solve the challenge of providing full time staffing. All current building staff will become employees of Charles Abbott.

He highlighted the financial arrangement.

- Initially 68% of revenue goes back to CAA.
- As revenues go up their percentage goes down, but is attractive for them and us.
- There are enough 2018 funds budgeted to cover this.
- Revenues and expenses are variable, but they expect another busy year with the second wave of roof replacements from the hail storm.

Should this be approved, the transition will begin tomorrow.

Councilmember Mathews encouraged some form of metric to measure improvements in customer satisfaction.

Motion by Councilmember Duran to approve a contract in an amount not to exceed \$825,000 to Charles Abbott Associates, Inc. for ongoing Building Permit, Plan Review and Inspection Services and authorizing all subsequent payments; seconded by Councilmember Hoppe; carried 7-0.

CITY MANAGER'S MATTERS

Patrick Goff announced that the PUC hearing on the commuter A and G lines is this Thursday and Friday. We are hoping for good news. The G Line is still in testing mode.

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS' MATTERS

Monica Duran asked that conversion therapy be added to a study session.


Larry Mathews spoke to the folks at home, noting the large crowd tonight. He encouraged folks to come and give input any time, and participate.

Leah Dozeman reported she and Mr. Mathews will be holding a District 4 meeting on February 27 at the Rec Center at 6:30pm. All are invited. The main topic will be crime.

Mayor Starker thanked all the citizens who came in to speak. ~ He invited citizens to join him for a walk on Monday, February 19 at Crown Hill's south parking lot at 10am.


ADJOURNMENT

The City Council Meeting adjourned at 9:15 pm.



Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON MARCH 12, 2018



Tim Fitzgerald, 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.