

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

**September 24, 2018**

Mayor 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**

Zachary Urban	Monica Duran	Tim Fitzgerald	Kristi Davis
Janeece Hoppe	Leah Dozeman	Larry Mathews	

Absent: George Pond (excused)

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Treasurer, Jerry DiTullio; Community Development Director, Ken Johnstone, Public Works Director (sitting in for the City Manager), Public Works Director, Scott Brink; other staff, guests and interested citizens.

**APPROVAL OF Council Minutes of August 27, 2018**

There being no objections, the Council Minutes of August 27, 2018 were approved as published.

**ELECTED OFFICIALS' MATTERS**

**Treasurer DiTullio** explained the two revenue reports he had distributed to Council -- one for 38<sup>th</sup> & Kipling and one for Applewood Shopping Center.

**CITIZENS' RIGHT TO SPEAK**

**Dick Orcutt** (WR) offered clarification, appreciation and an apology. He clarified for the record that he truly believes the baseball field is an asset to the City and should stay; he did not advocate for saving the field for any personal gain. He thanked the members of Council who supported keeping the field and those who kept an open mind. He apologized for not doing a better job in making a last ditch effort to advocate for a higher grade of lighting to achieve wider use of the field. They could have handled it better.

**Loretta Tafoya** (WR) said she and her neighbors on Yukon Ct. just found out tonight they should go to the Building Department. Yukon Court used to be a dead end street. Now it is open to delivery traffic, retail traffic, speeding, no stop sign for cars exiting the shopping center, a safety issue for young children, and difficulty in backing out of their parking spaces. Also, the turn signal on Yukon Ct is a flashing yellow arrow, never a green arrow, which makes it very difficult to make a left turn from 38<sup>th</sup> Ave onto Yukon

Ct. She has waited through as many as three light cycles before someone let her turn in. Mayor Starker directed her to talk to Ken Johnstone in Community Development.

**Dorothy Archer** (WR) asked if a date has been set for a study session to discuss bulk plane and residential building height. Councilmember Fitzgerald didn't know the date. She noted an article from the weekend Denver Post about how trends are altering the Tennyson neighborhood. The scraping of old charming buildings that have character is resulting in a loss of charm. She is afraid this will happen to Wheat Ridge. Not much has been said about Upham, Corners, 42<sup>nd</sup> Ave or 300 townhouses on Clear Creek. She is gravely concerned Council is not going to take into consideration the importance of leaving our residential areas intact. Wheat Ridge is highly sought after right now for its ranch style homes. These townhouses will not be "affordable housing". We need to think about where we're going with 35ft, flat roofs, and bulk planes. Councilmember Fitzgerald reported these topics will be discussed on October 15.

**Ralph Camarillo** (WR) repeated concerns about cars speeding on Yukon Ct. He suggested speed bumps.

## **1. CONSENT AGENDA**

- a. Motion to approve payment to Kaiser Permanente for October 2018 Membership Billing in the amount of \$193,398.76 [*budgeted*]
- b. Resolution 60-2018 – authorizing the appropriate City Officials to execute an Intergovernmental Agreement by and between the County of Jefferson, State of Colorado, and the City of Wheat Ridge, CO, regarding the production of a mailed notice concerning Tabor Ballot Issues [*necessary to have the election*]

Councilmember Urban introduced the Consent Agenda.

**Motion** by Councilmember Urban to approve the Consent Agenda Items a) and b); seconded by Councilmember Mathews; motion carried 7-0.

## **ORDINANCES ON FIRST READING**

2. Council Bill 26-2018 – An Ordinance amending the Wheat Ridge Code of Laws concerning hours of operation for Medical Marijuana Centers and Retail Marijuana Stores

The local marijuana industry has requested that City Council extend the hours of operation for all marijuana stores from 7:00 p.m. to 10:00 p.m.

Councilmember Fitzgerald introduced Council Bill 26-2018

**Motion** by Councilmember Fitzgerald to approve Council Bill No. 26-2018, an ordinance amending the Wheat Ridge Code of Laws concerning hours of operation for medical marijuana centers and retail marijuana stores on first reading, order it published, public hearing set for Monday, October 08, 2018 at 7:00 p.m. in City Council Chambers, and, if adopted, that it take effect 15 days after final publication; seconded by Councilmember Duran; carried 7-0.

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

3. Motion to accept the 2017 Comprehensive Annual Financial Report (CAFR) from Hinkle & Company

Section 10.15 of the City Charter requires that an independent audit of all City accounts be performed annually. The CPA firm Hinkle & Company performed the audit of the City's financial statements for the year ending December 31, 2017.

Councilmember Davis introduced Item 3.

#### **Staff presentation**

Treasurer DiTullio introduced **Wendy Swanhorst** of Hinkle & Company that performed the audit, and **Mark Colvin**, the Accounting Manager for the City. Council had been provided with a summary report of the audit (Annual Financial Report 2017).

Ms. Swanhorst explained that the numbers in the accounting report and financial statement come from the accounting records of the City.

- The letter reports on what the audit found. Their audit opinion is that all of the numbers are fairly stated in all respects.
- Regarding identifying any significant deficiencies in the controls, nothing was identified that is of concern.
- Turnover in the City's finance department notwithstanding, the audit went smoothly and she thanked the staff for their cooperation.

There were no questions from Council

**Motion** by Councilmember Davis to accept the 2017 Comprehensive Annual Financial Report from Hinkle & Company; seconded by Councilmember Dozeman; carried 7-0.

4. Resolution 57-2018 – A Resolution amending the Fiscal Year 2018 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation in the amount of \$500,000 for Contractual Building Division Services

Charles Abbott Associates, Inc. has been providing contractual building division services for the City since February, 2018. As a result of the high volume of new commercial and residential construction and continued construction repairs related to

the May, 2017 hail storm, the budgeted amount of \$825,000 for 2018 will be exceeded by the end of 2018. A budget supplement of \$500,000 is requested to cover estimated 2018 expenses.

Councilmember Dozeman introduced Item 4.

Staff presentation – Ken Johnstone

- Mr. Johnstone reviewed briefly the payment arrangement that is in place with Charles Abbott Associates.
- Due to the high volume estimated costs for services by year's end are \$1.217M.
- He pointed out that the 2019 draft budget includes \$580K in additional permit revenue for 2018 over what was predicted for 2018.
- These revenue estimates are conservative and do not include a \$1.25M permit fee for a large commercial development that will start soon.
- He believes they will actually need closer to \$430-440K to finish the year, but these are estimates so they are asking for \$500K to be safe.
- Staff levels have been stable and the turnaround time for permit review of large projects is much faster.

Council Questions

Councilmember Mathews asked how our inspection fees are determined and how they compare to the market. Mr. Johnstone advised fees are based on valuation. Regarding benchmarking, we are not the absolute lowest but we are close to it compared to other Front Range cities. We have the exact same fee structure as Englewood, Littleton, Lafayette and Louisville.

Councilmember Dozeman asked if any standards have been created for continuity in interpretation of our policies/code or any efforts to keep the same inspector for the duration of a project. Mr. Johnstone said the same inspector is kept on a project so there is consistency.

**Motion** by Councilmember Dozeman to approve Resolution No. 57-2018, a resolution amending the fiscal year 2018 General Fund budget to reflect the approval of a supplemental budget appropriation in the amount of \$500,000 for contractual building division services; seconded by Councilmember Urban; carried 7-0.

**5. Resolution 58-2018 – A Resolution approving an amendment to the Intergovernmental Agreement with the City and County of Denver regarding Denver Water's Ashland Reservoir**

When City Council granted a Special Use Permit (SUP) to Denver Water in 2012 for the reconstruction of the Ashland Reservoir at 29<sup>th</sup> & Fenton, the Intergovernmental Agreement (IGA) included street and streetscape improvements to the adjacent streets

and who was responsible for what. Denver Water has requested that the Agreement be amended.

Councilmember Duran introduced Item 5.

Staff presentation - Mark Westberg

- Mr. Westberg showed an aerial view of the Ashland Reservoir and the streets in question. He explained reasons why repair of the streets had been delayed.
- In May 2017 Council approved a previous version of this amendment to the Denver Water IGA. Denver Water never approved that version of the IGA.
- This past July staff met with Denver Water (DW) to discuss adding the resurfacing of 30<sup>th</sup> & Fenton.
- The SUP requires DW to repair damage to streets, but since the streets had not been in good condition originally City staff agreed to cost-share with DW.
- In August DW sent word they want Wheat Ridge to pay for all the resurfacing of 30<sup>th</sup> & Fenton – because they had paid almost \$300K in Use Tax and spent \$80K preserving the pump house.
- The total cost to overlay 30<sup>th</sup> & Fenton is about \$60K. It would be a \$30K split, which staff thought was not unreasonable.
- Originally, DW was to take care of everything immediately around their site. We were to take care of the east side of Fenton St and our section of 29<sup>th</sup> Ave. Edgewater will do their part of 29<sup>th</sup>.
- The 2018 budget estimated the total cost to be \$1,570,000
  - Denver Water's share - \$411,100
  - Edgewater's share - \$322,275
  - City's share \$836,625
- The project was bid in July. It came in high. The low bid + 10% was \$2,691,333
  - Denver Water's share - \$666,022 (up 60%)
  - Edgewater's share - \$690,803 (includes the addition of a water line at their cost)
  - Wheat Ridge Sanitation District's share - \$173,241 (includes a new sewer line)
  - City's share \$1,161,266 (up 40% or \$300K more than we budgeted))
  - Reasons for the higher cost seem to be the market and the delay
- Staff and City Manager have chosen to rebid the project. Besides the hope for a lower bid, good reasons to rebid the project include:
  - Avoid winter shutdown and remobilization in the spring
  - Reduce construction impacts to neighbors
  - Allow dry utilities to relocate facilities this fall
  - A revised bid package would:
    - Provide better direction for scope of work, phasing, traffic control, etc.
    - Incorporate Edgewater's revisions and accommodate their cash flow
- The revised plan is to rebid the project in late 2018, award a construction contract in early 2019, begin construction in Spring 2019 and finish in Summer 2019

### Council Questions

Councilmember Duran: Yes, this includes the work on Fenton. Fenton will be 2 feet wider. The light at 29<sup>th</sup> & Fenton will be removed and become a 2-way stop

Councilmember Mathews: All other parties are OK with the plan to rebid.

Councilmember Urban inquired about the terms of the IGA which obliged DW to repair the streets and preserve the pump house. Mr. Westberg said saving the pump house was not in the IGA. Councilmember Urban suggested DW agreed to do it and has now listed preservation of the well house as one of the improvements on the property. He believes DW should pay for what they agreed to.

Councilmember Mathews raised concerns about DW's resistance to pay for the street because they paid Use Tax. Mr. Johnstone agreed that the Use Tax was understood, was part of the IGA, and was paid. He clarified that preservation of the pump house was something DW originally didn't want to do, but later saw it as an historic asset, and chose to preserve it.

Mr. Dahl elaborated on DW's payment of the Use Tax for Ashland. Much later, when faced with Use Tax for the water project at Clear Creek Crossing and being reminded they paid Use Tax for Ashland, Mr. Dahl speculated that DW changed their mind – regretting paying the Use Tax and paying to preserve the pump house. Those factors have led them to not want to pay for the mill overlay for 30<sup>th</sup> & Fenton.

Mr. Dahl advised that approving this IGA would only cause the City to absorb the cost of 30<sup>th</sup> & Fenton, which is \$30,000.

Discussion continued.

Councilmember Urban pointed out that the Ashland project ended up being more costly than proposed and we could actually levy more Use tax on them for Ashland.

Councilmember Dozeman asked what would happen if this IGA failed. Mr. Dahl advised that the City would communicate to DW that they should pay their share of 30<sup>th</sup> & Fenton or offer another figure. He outlined further steps if DW reneged on this obligation – up to and including a law suit.

Mr. Westberg noted that we saved DW quite a bit in permit fees and ROW fees by doing the work outside the fence ourselves. Their lack of desire to pay Use Tax on water line at Clear Creek Crossing is another conversation.

Discussion followed.

- There was sentiment expressed that DW should follow the terms of the IGA.
- The down side of letting them do their own paving is that it wouldn't be a joint project for Fenton. They would pave the west half; we would pave the east half.
- One thought was they are our neighbors, so we shouldn't argue about \$30K.

- The crux of the matter seems to be that they paid \$80K to preserve the pump house, so they don't want to have to pay \$30K for the resurfacing of 30<sup>th</sup> & Fenton. And, they aren't happy about Use Tax.
- If Council doesn't approve the IGA we don't know what their Plan B is.
- They spent \$80K to save the pumphouse; we should give on the \$30-60K for the roadwork.

Mr. Dahl advised that what we do on this IGA will not set a precedent for future IGA's.

**Motion** by Councilmember Duran to approve Resolution No. 58-2018, a resolution approving an amendment to the intergovernmental agreement with the City and County of Denver regarding Denver Water's Ashland Reservoir; seconded by Councilmember Hoppe;

Councilmember Mathews stated he prefers to pay them for the pumphouse and have DW pay for the roadwork per the IGA. He prefers proper procedure to horse-trading.

Councilmember Urban noted some technical errors involving dates in the amendment to the IGA. Mr. Dahl said those would be corrected.

The motion carried 6-1, with Councilmember Urban voting no.

6. Resolution 61-2018 – A Resolution concerning the proposed Development at the Southwest Corner of the Intersection of Interstate 70 and Colorado Highway 58 known as Clear Creek Crossing, and the proposed incurrence of a loan by the Wheat Ridge Urban Renewal Authority to be secured by certain property tax increment revenues; declaring the City Council's present intent to appropriate funds to replenish the reserve fund moral obligation for Urban Renewal Authority Clear Creek Crossing Loan, if necessary; and authorizing a Cooperation Agreement and other related actions in connection therewith

Evergreen Dev Co has identified a financial gap of about \$20M for the Clear Creek Crossing project due to extraordinary development expenses that would make the project financially unfeasible. This includes such things as public right-of-way improvements, underground infrastructure, hook ramps servicing the development, storm water drainage infrastructure, sidewalks and landscape buffers, pad development, and others. Approval of this Cooperation Agreement will obligate the City to reimburse and replenish a reserve account with Colorado Bank and Trust if property tax increment revenues are not adequate to cover the loan debt service.

Councilmember Hoppe introduced Item 6.

**Staff presentation** – Ken Johnstone

Mr. Johnstone reviewed the steps that already have been taken for the project. This is about the last one.

- The developer and the metropolitan district have an agreement which covers a majority of the public finance aspects. This amounts to about \$20M for public improvements that Urban Renewal and the City are participating in.
- The developer will issue bonds that will be paid back over time from sales tax, lodgers tax, and public improvement fees.
- The last \$5M of public financing is to be paid back using incremental property tax revenues.
- Due to the way the Assessor's Office is calculating property tax, it's not possible to use those property taxes as revenue sources in a traditional way in the bond market.
- However some banks will finance based on anticipated property tax revenues. This was done with Kipling Ridge. Urban Renewal would like to do the same here.
- Urban Renewal needs Council to approve the Cooperation Agreement to finance that final gap.

**Sally Tasker** of Butler Snow, our bond counsel, explained further.

- Urban Renewal will be getting a loan from Colorado State Bank. This loan will cover most of the \$5M.
- A reserve fund of 10% is required by the bank which will be repaid with property taxes from the project. This \$637K will be funded from the proceeds of the loan.
- If the TIF increment is insufficient the reserve fund can be used to repay the loan.
- This moral obligation resolution provides that if the fund is drawn on and there are not other funds sufficient to replenish it, the City Manager would come to Council asking to replenish the reserve fund back up to \$637K.
- Should Council agree to replenish the fund, that money would be a loan and would be paid back to the City by Urban Renewal subordinate to the bank loan.
- This is not a debt. This is not a TABOR obligation.
- The bank will not go forward with the loan if they don't get this.
- Ms. Tasker explained some finer details of how it will work.

#### Council Questions

Councilmember Urban asked what happens if the URA doesn't have enough property tax increment. Ms. Tasker said the URA would pay it back from other sources. This is not the City's loan; there are no consequences for the City.

**Motion** by Councilmember Hoppe to approve Resolution 61-2018, a resolution concerning the proposed development at the southwest corner of the intersection of Interstate 70 and Colorado Highway 58 known as Clear Creek Crossing, and the proposed incurrence of a loan by the Wheat Ridge Urban Renewal Authority to be secured by certain property tax increment revenues; declaring the City Council's present intent to appropriate funds to replenish the reserve fund securing such loan, if necessary; and authorizing a Cooperation Agreement and other related actions in connection therewith; seconded by Councilmember Urban; carried 7-0.



## CITY MANAGER'S MATTERS

## CITY ATTORNEY'S MATTERS

## ELECTED OFFICIALS' MATTERS

**Clerk Shaver** shared that the state legislature had passed a law creating a new fingerprinting system. As of today, businesses and people who need to get fingerprinted for employment purposes should be advised that the City of Wheat Ridge will no longer be doing fingerprinting. Locations where fingerprinting will be available can be found at [coloradofingerprinting.com](http://coloradofingerprinting.com).

**Monica Duran** wanted to make sure the people who spoke about traffic on Yukon Court are contacted. Mr. Johnstone advised that Mr. Brink would be contacting them.


**Janece Hoppe** announced that Family Tree is having a fundraiser on October 10 at the Lamar Street Center. It starts at 5:30pm. Information is available at [thefamilytree.org](http://thefamilytree.org). Tickets are \$60 or four for \$200.

**Zachary Urban** invited everyone to the Sts. Peter & Paul 5K and Oktoberfest on October 6. There is also a spaghetti dinner and bingo on Friday night.

**Mayor Starker** remarked on last Thursday morning's business awards. He thanked City staff, the nominees and the award winners. We have great businesses in the city for products and services. ~ He recognized and congratulated longtime resident Bill Peterson who was stationed with the Flying Tigers in the China Campaign during WW2. His China Campaign medal was presented to him this last week. ~ He noted the passing of Nancy Snow, former City Council member, Planning Commission member, Election Commission member, and longtime supporter of Wheat Ridge. She will be greatly missed. Clerk Shaver added that her memorial service will be Sunday, October 14 at 10am at Crown Hill.

## ADJOURNMENT

The meeting adjourned at 8:38 pm.

  
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Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON November 26, 2018

  
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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.