

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

January 14, 2019

Mayor Pro-Tem Hoppe 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	Janece Hoppe	George Pond	
Kristi Davis	Tim Fitzgerald	Larry Mathews	Leah Dozeman

Absent: Mayor Starker (excused)

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Community Development Director, Ken Johnstone; Parks & Recreation Director, Joyce Manwaring; other staff, guests and interested citizens.

**APPROVAL OF CITY COUNCIL MINUTES of November 26, 2018 and December 10, 2018 and Study Session Notes of December 3, 2018 and December 17, 2018**

There being no objections, the City Council minutes of November 26, 2018 and December 10, 2018 and Study Session Notes of December 3, 2018 and December 17, 2018 were approved as published

**PROCLAMATIONS AND CEREMONIES**

**National Radon Action Month**

Mayor Pro-Tem Hoppe read a proclamation designating January 1-31 as National Radon Action Month. **Mitchell Brown**, Environmental Health supervisor for Jefferson County, was present to receive the award. Mr. Brown explained the dangers of radon and announced that free radon test kits are available to homeowners.

**50<sup>th</sup> Anniversary of the City of Wheat Ridge**

Mayor Pro-Tem Hoppe read the proclamation recognizing 2019 as the 50<sup>th</sup> Anniversary of the City of Wheat Ridge and presenting the Wheat Ridge Police Department Anniversary Badge to be worn by sworn officers beginning on January 1, 2019. **Chief Daniel Brennan** and **Division Chief Jim Lorentz** were present to receive the proclamation. Officer Lorentz showed pictures of the badge of Jack Bramble, the City's first Police Chief, and how that badge has been incorporated into the commemorative badge. He showed a picture of the City's first police car; it is being restored for the anniversary. Chief Brennan thanked Division Chief Lorentz for his idea of the commemorative badge and all the work he has put into it.

### **CITIZENS RIGHT TO SPEAK**

**Margaret Nelson** (WR) pointed out there is a drainage ditch in the property on the SE corner of 38<sup>th</sup> & Johnson. She proposed the ditch and the land to the south be removed from the area that can be developed and be preserved as open space.

**Lisa Griffin** (WR) asked the Council for donations for the WR High School after-Prom efforts. She provided a letter.

**John Clark** (WR) spoke about the stock show. He noted that 11 Jeffco kids will be participating this year and encouraged support for them.

**Garrett Lukken** introduced himself. He works for Congressman Perlmutter and has been assigned the Wheat Ridge area.

**Millie Nadler** (WR) presented **Sharon Heinlen** who has been chosen by the Cultural Commission as Poet in Residence for the year. The Poet in Residence program was instituted this year in conjunction with the 50<sup>th</sup> anniversary of the City. Ms. Heinlen will be writing and reading her poetry at a number of celebratory events during the year. Ms. Heinlen spoke; she is honored to represent the City. She read her poem entitled "Neighborly Inspiration" that she submitted for her application for the position.

**Odarka Figlus** asked if on City Council nights the door between the main lobby and the police department could be left open. It is uncomfortable for women and for some seniors to park in the back and have to walk around to the front door to get in. Lighting is not the best and in the winter it can be icy as well.

### **APPROVAL OF AGENDA**

Patrick Goff noted that an amendment was needed for Item 2b on the Agenda.

### **CONSENT AGENDA**

#### **1. CONSENT AGENDA**

- a. Motion to approve quarterly payments to the Jefferson County Communications Authority for E-911 Call-Taking and Police Radio Dispatch Services not to exceed \$645,742 for 2019 *[budgeted; city share is 6.1% of Jeffcom costs]*
- b. Resolution No. 01-2019 – approving an amended Police Recruit Training Agreement to provide Law Enforcement Academy Training for nine Wheat Ridge Police Recruits at the Combined Regional Academy *[budgeted]*
- c. Resolution No. 02-2019- approving an Intergovernmental Agreement between the City of Lakewood and the City of Wheat Ridge for Crime Lab/Crime Scene Services *[budgeted]*

Councilmember Pond introduced the Consent Agenda.

**Motion** by Councilmember Pond to approve the Consent Agenda items a), and c); seconded by Councilmember Urban; motion carried 7-0

**Motion** by Councilmember Pond to approve Consent Agenda Item b); seconded by Councilmember Urban.

Chief Brennan reported that the fee for the training course for police recruits has been raised from \$6,000 per recruit to \$6,500. The training budget has money to cover this.

**Motion** by Councilmember Mathews to amend Item 2b as recommended by Chief Brennan; seconded by Councilmember Urban; carried 7-0.

The main motion carried 7-0.

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

2. Council Bill 32-2018– An Ordinance approving the Rezoning of Property located at 6985 W. 38th Avenue from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) (Case No. WZ-18-21/Barta)

The 1/6 acre parcel has an existing building with four apartments on the second floor and commercial space on the first floor. This historic condition is considered legally non-conforming under the C-1 zoning. The rezone to MU-N would legalize the existing configuration.

Councilmember Urban introduced Council Bill 32-2018.

City Clerk Shaver assigned Ordinance 1662.

Mayor Pro-Tem Hoppe opened the public hearing and swore in the speakers.

### **Staff presentation**

Planner Scott Cutler entered into the record the case file and packet material and testified that all notice and posting requirements had been met.

- The property is zoned C-1 and is surrounded by MU-N zoned properties.
- It was one of seven properties that opted out of a mass rezoning to MU-N in 2010.
- Only one residential unit is allowed in C-1 zoning.
- MU-N will allow the property to become conforming.
- Neighbors have been generally supportive of the zone change.
- All outside agencies can serve the property and have no concerns.
- Planning Commission recommends approval.

### **Council Questions**

Councilmember Mathews asked if any other zonings would apply to this property. He was told that C-1 does not allow residential. A Planned Development is possible but

staff believes that is more appropriate for new construction. If denied, the current use of the property would remain grandfathered in.

No one from the public spoke.

Mayor Pro-Tem Hoppe closed the public hearing.

**Motion** by Councilmember Urban to approve Council Bill 32-2018 an ordinance approving the Rezoning of Property located at 6985 W. 38th Avenue from Commercial-One (C-1) to Mixed Use-Neighborhood (MU-N) for the following reasons:

1. The Planning Commission has recommended approval of the rezoning after conducting a proper public hearing.
2. The proposed rezoning has been reviewed by the Community Development Department, which has forwarded its recommendation of approval.
3. The proposed rezoning has been found to comply with the "criteria for review" in Section 26-112.E of the Code of Laws.

seconded by Councilmember Dozeman. Clerk Shaver noted the very first dentist she visited as a child was Dr. Barta in this building.

The motion carried 7-0.

3. Council Bill 33-2018 – An Ordinance approving a zone change from Agricultural-One (A-1) to Planned Residential Development (PRD) with an Outline Development Plan (ODP) for property located at 4440 Tabor Street (Case No. WZ-18-15/Clear Creek Terrace)

The applicant is requesting the zone change to prepare the property for development of a twenty-six unit townhome project.

Councilmember Dozeman introduced Council Bill 33-2018.

City Clerk Shaver assigned Ordinance 1663.

Mayor Pro-Tem Hoppe opened the public hearing and swore in the speakers.

Staff presentation – Lauren Mikulak

Planner Lauren Mikulak entered into the record the zoning ordinance, the Comprehensive Plan, the case file and packet material, and testified that all notice and posting requirements had been met.

- The vacant property faces Tabor Street and is surrounded by a variety of zonings.
- Staff determines this is a transitional property between commercial and residential.
- A-1 allows one single family house per acre or agricultural related uses..
- The proposed zoning is for 26 attached, single family homes.
- She presented the Outline Development Plan.
- The density is 12.4 units per acre, which is similar to R-3. This is considered "mid-point" of the surrounding densities.
- The setbacks will vary depending on the location.

- Access will come from a single access point on Tabor Street.
- The development will have groups of 6 and 4 units.
- The HOA will require cars to be parked in the garages. 13 guest parking spaces will be provided around the development. No parking will be allowed on Tabor.
- No waivers for architectural standards have been requested.
- This use is consistent with the Comprehensive Plan.
- All public agencies can serve the property
- Planning Commission recommends approval.

**Bill Lyons** (Englewood) gave a power point presentation about his company and the Clear Creek Terrace Development that is planned. His company built Quail Hollow. Onsite amenities include some raised garden planters and a park shelter with 2 tables. The power lines will be underground.

#### Council Questions

Councilmember Mathews noted the documentation before Council says the ownership of the property is unclear at this time. Mr. Lyons said the property is under contract.

Mr. Dahl addressed the legal protests that had been filed by adjacent property owners. He advised that the protest requirements have been met, so it will require 6 votes of Council for approval.

#### Public Comment

**John Clark** (WR) presented to the councilmembers packets of letters of protest from adjacent and nearby property owners.

His concerns from the neighborhood meeting include:

- He suggested there are faults in the HOA document that was presented at the neighborhood meeting. He doesn't believe these units will remain owner-occupied.
- Who owns the property? The applicant doesn't own the property. No answer was given at the neighborhood meeting and there is still no answer.
- Were traffic studies done? At the neighborhood meeting they were told a traffic analysis is being worked on and which is submitted with the application
- Tabor is and will be busier due to the TOD. Were traffic studies done?
- The purchase price \$695K. That is \$350K acre!

His concerns from the Planning Commission hearing include:

- The current zoning is A-1. It could be subdivided to provide for 2 upscale houses on 1 acre each.
- Tabor is a collector street. Traffic counts in 2007 were 2,800 cars a day; by 2016 it had risen to 4,496 per day. This data is now three years old. He lives there and he can attest that traffic has increased dramatically. With all the development that will happen at the top end of Tabor (including Arvada's) and the rail coming in, he thinks not doing a traffic study is wrong.
- A development on Tabor was approved by Council last April; it hasn't even been developed yet.

- Density of 12.5 units per acre is labeled 'medium'; he considers it high density and referenced the density of nearby properties to show this is definitely not a buffer in density.
- Regarding open space - aggregate open space is lost. You can't take 2 acres of open space, put 26 housing units on it, and then say you are creating open space.
- Access and streetscape? All traffic from this development will flow onto Tabor – a 2-lane road. There will be no turn lanes into this development, and there are already long lines of cars on eastbound 44<sup>th</sup> wanting to turn left onto Tabor.
- A traffic study not required? City policy requires a traffic study if impact is 60 trips or more during peak hours. But at the neighborhood meeting folks were assured that a traffic analysis was on its way, and if a signal light was necessary it would be added. The 2016 traffic study is no longer valid.
- Regarding the claim that the land has been underutilized: Who decides that?
- Code enforcement action from the past are weed issues. The current owner should be cited for that – not the person who might buy the property.
- Bringing the property into conformance with the Comp Plan? "Maintain quality and character of neighborhoods": This doesn't do that. "Increasing housing options": They will turn into rentals. "Increase stability": How are 26 units more stable than 1?
- Change in the area is occurring? Yes, the neighborhood is changing and these 26 townhomes are not positive changes for the neighbors.
- Point #2 from the neighborhood meeting states this parcel is one of two remaining parcels zoned A-1. Must we develop every piece of grass? Can we have no Ag land in Wheat Ridge?

He asked Council to please read the letters. The neighbors and the area don't want or need this. If it must be developed, why not subdivide it into 2 lots or four ½ acre plots? He urged Council to deny this request for rezoning.

**Ihor Figlus** (WR) noted the pictures shown by the developer look like slot homes – which have been banned in Denver. He suggested the development to the east, Simms Court, is more reminiscent of single family homes. He doesn't think we should be encouraging this type of development. He asked Council to deny this proposal based on the ODP.

**Susanna Coates** (WR) said this is not in her neighborhood, but she thinks open land does contribute to the character of the neighborhood. She supports denial

**Odarka Figlus** (WR) doesn't live near this area, but believes this is a city-wide concern. She made several points.

- Staff compares this to R-3, but it is surrounded mostly by duplexes.
- She illustrated how the setbacks are not adequate and in some cases non-existent. A 4 ½ -10 foot setback that allows a 10 foot encroachment is not a setback.
- You want to attract families, but be honest: There is no greenery, no open space, no place for kids to play. Calling a strip of grass along the perimeter of the development "open space" is insulting.
- Where are the bulk plane requirements?
- She doesn't think the Comp Plan designates this as an area for higher density. We have an enormous amount of high density housing.

- Minimum lot area is 13,092 sq feet – for the lots! - not the houses.
- The density is not compatible with the surrounding area and does not promote stability.
- Our code says the purpose of the planned development process may not be used to circumvent the intent and spirit of the protections afforded by this chapter. This proposal does exactly that.
- Parking is inadequate.
- Rezoning is a gift of increased value, and that value doesn't come out of thin air for free. Are you transferring value to this developer at the expense of the neighbors and surrounding community?

**Zoriana Morozewych** (WR) thinks this evening is open season on open space. She asked Council to vote against this. This isn't her neighborhood, but she supports her neighbors. This rezoning will just add to the mess on the west end of town.

#### Applicant response

Mr. Lyons presented the contract to buy the property. The property is owned by an LLC and signed by Kirby Kunz. Mr. Dahl advised that staff has the required release from the owner to rezone the property.

- Mr. Lyons noted no one objected at the neighborhood meeting or the Planning Commission hearing.
- He testified that there are no zero setbacks.
- Parking meets requirements. Six guest spaces were required; they're providing 13.
- Units cannot be rented until one year has passed.
- Residents who park in guest spots will be given a letter, then fined.
- A traffic study was not required, but they did get a traffic letter done by a consultant they hired. It indicates the traffic impact will be minimal.

#### Council Questions

Councilmember Pond asked Ms. Mikulak to repeat the setback requirements.

- The Tabor setbacks are 15 feet. The fence around the front patio can encroach into that area, but not the building.
- North side setbacks are 20 feet. East side setback is 50 feet.
- South setbacks are 12 feet. Setback to the SW next to a single family is 20 feet.
- Ms. Mikulak confirmed that architectural standard will have to be met.
- HOA documents are required to assure there's a provision for common areas to be maintained and that adequate parking is built. She noted that the City can't enforce HOA requirements.

Councilmember Davis received confirmation that the height of these buildings is lower than code allowance. Per Mr. Lyons, after one year owners can sell. There are no requirements that a certain percentage of the units remain owner-occupied.

Councilmember Dozeman asked why 26 units. Mr. Lyons said it is the same as a development they did in Lakewood, and suggested million dollar homes wouldn't sell here.

Councilmember Urban expressed concerns about the setbacks. Testimony was given that the developer originally wanted 30 units, but staff cut them back to 26 for setbacks. Councilmember Urban noted the amenity zone and sidewalk will be in the City ROW.

Councilmember Mathews noted the neighbors were told the HOA would prohibit rentals, but that is not the case. Ms. Mikulak said that report was in error. She also said the number of units would have to stay the same.

Councilmember Davis inquired of Mr. Dahl about options for proceeding. He addressed the issue of postponing the vote until an eighth councilmember is seated.

Councilmember Urban was told a metropolitan district is not planned.

Mr. Westberg testified that maximum capacity for a 2-lane collector street is 10K cars. Tabor is approaching half capacity. He thinks most people north of the tracks will go to the west toward Ward Road or east to Kipling, and then come south. Current traffic studies are focused on north of the tracks.

Councilmember Urban noted a recent rezoning on Tabor has not been developed, so that future traffic is not included yet. He exchanged thoughts with Mr. Westberg about traffic.

Mayor Pro-Tem Hoppe closed the public hearing.

Motion by Councilmember Dozeman to approve Council Bill 33-2018, an ordinance approving the rezoning of property located at 4440 Tabor Street from Agricultural-One (A-1) to Planned Residential Development (PRD) with approval of an Outline Development Plan for the following reasons:

1. The Planning Commission has recommended approval of the rezoning after conducting a proper public hearing.
2. The proposed rezoning has been reviewed by the Community Development Department, which has forwarded its recommendation of approval.
3. The proposed rezoning has been found to comply with the "criteria for review" in Section 26-303 of the Code of Laws.

seconded by Councilmember Pond;

Councilmember Mathews is disappointed that developments keep coming to Council with inadequate parking, no places for children to play, and maximized density. We say we want to attract families, but there's no place for kids to play and no place for teenagers to park.

Councilmember Pond favors this development. He thinks the proposal aligns with the Comprehensive Plan and recent strategies for 44<sup>th</sup> Avenue. He'd like to see a study of area traffic. He thinks utilization is the prerogative of the land owner.

Councilmember Urban addressed neighboring densities and suggests a lower density would be more appropriate at this location.



Councilmember Davis suggested we aren't being consistent with parking requirements and defended folks who don't need a place for children to play or more parking, and want to be renters. If these units become renters, it won't be a bad thing. She noted that since this rezoning requires 6 votes to pass, she will be asking for this vote to be continued until we have a full Council.

Councilmember Dozeman like the plan. She appreciates renters, but wishes it was fewer units and could be something that attracts families. She shared personal frustration with the light at I-70 and 44<sup>th</sup> and the ridiculous congestion. She would like to have staff provide more traffic analysis with these developments. She is concerned about the lack of parking spaces and driveways for this proposal and suggested fewer units would solve those issues. She remains committed to efforts to attract more families.

Councilmember Hoppe shared her personal experience with town homes; she had no problems with them. She also likes the way these houses look.

**Motion** A substitute motion was made by Councilmember Davis to continue the case for action to February 11 when we have 8 councilmembers; seconded by Councilmember Dozeman; carried 5-2, with Councilmembers Mathews and Fitzgerald voting no.

Mayor pro tem Hoppe called for a recess at 9:32pm.  
The meeting resumed at 9:42pm.

There was unanimous consent to suspend the rules to allow one of the councilmembers to speak.

Councilmember Fitzgerald informed the assembly that he has a progressive disease and has reached the point where he can no longer do this job. He will be resigning, effective at the end of the next Council meeting.

Another 5 minute break was taken, at which time Councilmember Fitzgerald left the Chambers.

The meeting resumed at 9:52pm.

Mayor pro tem Hoppe made two announcements related to Item 4.

1. Because this item requires a vote of eight seated councilmembers, the public hearing would be opened, the staff presentation heard, public testimony taken, and the public hearing closed. A motion will then be entertained to continue.
2. Because several people are signed up to speak on this, with the lateness of the hour and the amount of business left to be done, she is limiting public testimony on this item to 3 minutes per person.

4. Council Bill 34-2018 – An Ordinance approving the sale of designated park land at the Intersection of West 38<sup>th</sup> Avenue and Johnson Street and, in connection therewith, authorizing execution of an agreement for said sale.

The City has the opportunity to sell the vacant parcel of parkland located on the southwest corner of 38th Avenue & Johnson Street for the development of a CVS Pharmacy. This parcel was not originally developed with Discovery Park. The City Charter Section 16.5 requires a unanimous vote of City Council to dispose of park property.

Councilmember Davis introduced Council Bill 34-2018.

City Clerk Shaver assigned Ordinance 1664.

Mayor pro-tem Hoppe opened the public hearing.

Staff presentation - Joyce Manwaring

- The property was purchased in 2000 with Jefferson County Open Space bond funds.
- The historic zoning is Planned Commercial Development. The diagram shows:
  - Lot 1 is Discovery Park built in 2010.
  - Lot 2 is existing Apple Ridge Café.
  - Lot 3 is the lot in question on the southwest corner of 38<sup>th</sup> & Johnson.
  - Lot 4 is an L shaped parcel deeded to Apple Ridge Café in exchange for land for ROW dedicated to the City for Kipling improvements.
- Community needs are met with the existing park, and there is adequate parking.
- The 2018 appraisal is \$650K. The money will be used for Prospect Park Phase 2.
- Future plans:
  - Apple Ridge Café moves to the vacant lot north of 38<sup>th</sup> & Kipling and south of the Rec Center. This parcel has been hard to develop due to access issues.
  - CVS would build in the former Apple Ridge site – combined with the added lot
- Per Charter Section 16.5, a unanimous vote of the entire Council is required to approve the sale of park land.

Council Questions

Councilmember Mathews asked if we have adequate parkland in the City. Ms.

Manwaring responded that there is not a need for parkland in this area.

Public Comment

**Douglas Linder** (WR) suggested that this issue should be postponed until all the Council is available. He suggested \$650K is inadequate. He noted that CVS will be merging with Aetna, so it is questionable what will be built on this property. Is this what we want in Wheat Ridge? He doesn't think we need a CVS.

**Becky Lewthwaite** (WR) asked if we are short of park land. If we are - why sell this land? Since Council represents the citizens, why would you consider selling this to CVS without pursuing other competitive buyers? Is Council aware there are at least 6 pharmacies within a two mile radius of this property? This land was purchased to be a

park; she'd like to see it developed creatively as part of Discovery Park – perhaps as a community garden.

**Kelly Ehrmann** (WR) expressed her unhappiness with the proposal. She explained how we have enough pharmacies. Will it be a 24-hour pharmacy? She likes the idea of a community or school garden to link to our root. She suggested that a large CVS building would result in icy sidewalks in winter where junior high kids walk

**Don MacDougall** (WR) spoke against turning Wheat Ridge into Denver with all the blacktop and traffic. Traffic has already become bad at 38<sup>th</sup> & Johnson.

**Margaret Nelson** (WR) suspects this is a pre-decided, done-deal. She objects to this because of the traffic it will create for the area. She pointed out that a drug store is not even allowed in the current zoning; it will have to be rezoned. She hopes if this does pass, the architecture will resemble Sprouts - not the ugly concrete box at 38<sup>th</sup> & Sheridan. Also, we don't need another drug store.

**Susanna Coates** (WR) was happy when the Einersen property was purchased for a park. She would like to see this parcel remain as parkland. She noted no actual traffic data has been collected. All the numbers presented are based on scenarios that do not exist; the numbers are imaginary. She agrees we don't need another pharmacy, and suggested a parking lot for the park, a dog park or a community garden.

**Ihor Figlus** (WR) pointed out that no alternate options are presented and the traffic estimate is hypothetical. The proposal is skewed. Council should require a full range of choices. He believes Discovery Park is a jewel with spectacular views and should be preserved. A 50 foot structure with added rooftop equipment on that corner will severely impact the view, while greenery on that corner would enhance the park. He believes citizens should be presented with other options like that.

**Fran Singer** (WR) reminded Council that before any of them were elected the community planned that this space was envisioned as a park. She spoke about the need for green space, now and for the future, and referenced a series of Denver Post articles about the need for green space to make cities livable and citizens healthier and happier. Commercialization of this property will impact the health of residents, create major traffic congestion at 38<sup>th</sup> & Johnson and 38<sup>th</sup> & Kipling, impact safety for walking school children and dramatically change the dynamics of the neighborhood.

**Lynda Ibach** (WR) has lived on 38<sup>th</sup> for 29 years. She is concerned that a CVS pharmacy will compound the traffic problems that already exist. She would like to see something that fits better with the demographic of the neighborhood.

**Guy Nahmiach** (WR) is chair of the Parks Commission. He said we already have a community garden and a dog park. He believes this parcel is not, and never will be, part of Discovery Park. He thinks the money from its sale would be better spent on Prospect Park. He's on the NRS committee and the biggest comment they have heard is that citizens want to preserve the rural feel. He believes people want their neighborhoods preserved, and they want corridors developed.

**Guy Stanfield** (WR) reported attending a Parks Board meeting in October. He recalls the Parks Board voted to deny the sale of this property, so he wonders why we are here. He also expressed concerns about added traffic.

**Alan Wulf** (WR) said he is opposed to development of this parcel for three reasons: Traffic, Traffic and Traffic. We can't handle 4 times the current traffic from that space; we don't need any more tall buildings to block out view; it would ruin the flavor of the neighborhood.

**Odarka Figlus** (WR) gave several reason why she feels this parkland shouldn't be sold:

- She reminded Council that when this property was first purchased for a park, CVS came to the City with a substantial offer for some of the land. That proposal was flatly denied as a bad idea. Now they are back and she suggested the difference is this time they will eventually come to us for a subsidy.
- This entire property was purchased for park use; it was not purchased to land bank and sell off later. Are we really in the business of selling off our valuable park land without a thorough study to see if there is a good park use - just to make some money? Has this been analyzed to see if this is where we're getting the biggest bang for our buck per acre? Maybe there's some other parkland we should be selling instead.
- This reminds her of what happened in eastern Europe countries when the Soviet Union fell – park land being converted to private use.
- The Parks Masterplan shows we have a deficit of 30 acres of parkland.
- Discovery Park is beautiful and oriented to children. What about older residents? A quick google search will reveal lots of ideas for senior parks.
- It took 30 years of work by neighbors and the community to get this parcel for a park. Now there has been no public process about selling it, no neighborhood meetings – and now we can't speak for more than 3 minutes. This should be postponed.
- There isn't even a full Council to vote on this. You're having this hearing tonight and you knew you wouldn't be voting on it.
- Many citizens stayed home tonight because they knew there weren't 8 votes, and now you are going to close the public hearing. What about those people who didn't come?
- What about WR Pharmacy, a locally owned pharmacy? The owner left her a phone message saying she is aghast by this proposal. CVS is on our eastern border and now they want to do this? She said of all the big chain pharmacies CVS is the worst.
- She respects Mr. Nahmiach's opinion, but he doesn't represent the entire Parks Commission. Their vote was to not sell the property and keep it as parkland.

**John Clark** (WR) read from the council rules about time allowances for Public Comment on agenda items. He is against selling open space park land to be developed when we are a landlocked city. He asked where the children are going to play. He reminded Council this land belongs to the citizens.

**Roy Jones** (owner of Apple Ridge Café; no address given) explained how CVS approaching him with the idea of moving. His building is 50 years old and he said he

doesn't have enough parking. He has given this a lot of thought and wants to make the move. He sees this as an opportunity to grow with the community.

**Scott Jones** (son of the owner of Apple Ridge Café, no address given) He has grown up at the restaurant and told of the hard work it takes. Their restaurant has a good reputation. People come back from out of state when they are here. The customers and employees are their family; some of the employees have been here since the beginning. His Dad has thought of everyone on this. They could be in the same neighborhood and provide the same homey food and atmosphere. Traffic is a part of life in Denver, and changing the entrance would be safer for children.

**Ron Benson** (WR) spoke in support of Roy Jones. Mr. Jones has supported the City with tax revenue for 33 years; moving to a larger place will give him ability to grow. He said rooftops don't pay for everything a city needs. The Optimists meet there on Wednesdays.

**Henry Lewthwaite** (WR) said he likes Apple Ridge Café and would like to see them be able to move, but is still concerned about a CVS there and the added traffic it will bring. West 35<sup>th</sup> already brings cars into the neighborhood; he believes a CVS would lure even more cars to use that path onto Johnson Street.

**John McMillin** (WR) noted spending time on the Planning Commission and is concerned that so little information has been provided about such a big change. He had an open mind and came to learn tonight, but he's learned nothing new. CVS wants to buy the land and build something. There are no details about Aetna (Will this be a clinic?); the building height (Will it be five stories?); building style, lot coverage or setbacks. He believes this is oversized, too urban and out of place. By accepting \$650K, are you giving up the right to tell them what they can build? This feels like a behind-the-scenes deal? He thinks this should be put on the open market to see what it would bring, and that citizens deserve proof why this can't be used as a park facility.

**Motion** by Councilmember Urban to suspend Council Rules and continue past 11:00pm; second by Councilmember Dozeman; carried 6-0.

**Amy Adams** (Westminster) is a long timer customer of Apple Ridge Cafe. She believes it is the kitchen of Wheat Ridge. It needs renovation. Many of the customers are elderly and a new building would make them more comfortable.

**Brynne Jorgensen** (unincorporated Jefferson County) spoke in support of letting this parcel go. Apple Ridge is an institution in the community; they feed the homeless and customers who can't come in. By not approving this, we run the risk of losing Apple Ridge. She doesn't support saving a ½ acre of land to put a business out of business.

**Barbara Palaze** (WR) is a big fan of CVS and Apple Ridge Café. She would welcome a 24-hour pharmacy.

**George Palaze** (WR) said that Apple Ridge is an icon of Wheat Ridge, a landmark. He saw customers last week from the stock show. He named Roy Jones a rugged individual who has invested his saving into a business – the American way. The

surrounding land uses are commercial. We should let this business expand and let the traffic engineers handle the traffic.

**Zoriana Morozewych** (WR) distributed an article and a packet to councilmembers.

- There is nothing preventing Apple Ridge from moving.
- CVS's annual revenue is \$188.1 billion. \$650K is a drop in the bucket for them.
- There are 17 pharmacies located within a 3-mile radius of this park.
- The jobs CVS will create are mostly minimum wage and entry level jobs.
- She referenced the article she distributed explaining how Amazon will kill the Walgreens and CVS business model.
- Wheat Ridge Pharmacy, locally owned for 30 years, would be threatened by this.
- Is CVS the best we could do here? There should be some forward thinking.
- Discovery Park is wonderful for kids, but what about seniors?
- She is galled the most by the non-competitive sale of this property.
- Land is scarce and non-renewable; citizens worked 30 years to get this land for a park.

Mr. Dahl advised that this would require a unanimous vote of the sitting Council, whether it is 7 or 8 members. There was some debate.

Mayor Pro-Tem Hoppe closed the public hearing.

**Motion** by Councilmember Davis to continue this case for action until February 11<sup>th</sup>; seconded by Councilmember Urban; carried 5-0.

## **DECISIONS, RESOLUTIONS AND MOTIONS**

5. Resolution No. 05-2019 – A Resolution amending the Fiscal Year 2019 General Fund Budget to reflect the approval of a Supplemental Budget Appropriation for the purpose of accepting a Department of Justice Grant and Authorizing Expenditure of Funds for the purchase of Body Worn Cameras in the amount of \$90,000

This \$90K grant, combined with a City share of \$127K, will cover hardware, a new staff position, training and workstation for two years. Upon expiration of the grant the City will assume the cost of the program beginning at \$96.7K in 2021

Councilmember Mathews introduced Item 5.

**Staff presentation** – Chief Brennan

Chief Brennan gave a brief history of our body camera program, which started in 2015. In 2017 we received a joint grant with Golden. From the Department of Justice we will be reimbursed up to \$1,500 per camera; 60 cameras are needed. This appropriation of \$90K, plus City costs will purchase body-worn cameras, cloud storage, and redaction

software that will allow department personnel to capture, store, and redact video and audio interactions with the community.

There were no questions from Council

**Motion** by Councilmember Mathews to approve Resolution No. 05-2019, a resolution amending the fiscal year 2019 General Fund budget to reflect the approval of a supplemental budget appropriation for the purpose of accepting a Department of Justice grant and authorizing expenditure of funds for the purchase of body worn cameras in the amount of \$90,000; seconded by Councilmember Dozeman; carried 5-0.

6. Resolution 03-2019 – A Resolution concerning the Acquisition and Acceptance of Private Property for the purpose of constructing, installing, maintaining, and using Public Improvements for Improving Ridge Road by either negotiation and voluntary purchase or, if necessary, through the utilization of the City's Power of Eminent Domain, and authorizing such action as necessary to accomplish said purposes.

The proposed improvements for Ridge Road east of Tabor Street require that additional right-of-way be purchased. The City has retained HDR as a third party right-of-way consultant since the roadway widening and addition of bicycle and pedestrian facilities requires both permanent and temporary acquisitions.

Councilmember Dozeman introduced Item 6.

#### Staff Presentation

As Council received several prior presentations on this topic, none was given.

Councilmember Dozeman asked Mr. Dahl if Council could divide the question and approve only "negotiation" and require Council action for "eminent domain". Mr. Dahl advised that could be done and explained how.

Councilmember Mathews suggested eminent domain was best done by the Council – not the staff.

Mr. Dahl advised on the wording for the resolution to require Council action for eminent domain.

**Motion** by Councilmember Dozeman to approve Resolution No. 03-2019, a resolution concerning the acquisition and acceptance of private property for the purpose of constructing, installing, maintaining and using public improvements for improving Ridge Road by negotiation and voluntary purchase, with changes to the title and the deletion of Section 4; seconded by Councilmember Urban; carried 5-0.

7. Resolution No. 04-2019 – a resolution concerning the acquisition and acceptance of private property for the purpose of constructing, installing, maintaining, and using Public Improvements for improving Wadsworth Boulevard by either negotiation and voluntary purchase [or, if necessary, through the utilization of the City's Power of Eminent Domain, and authorizing such action as necessary to accomplish said purposes]

The Environmental Assessment for the widening of Wadsworth Boulevard is currently being reviewed and is expected to be finalized in early 2019. Preliminary and final design has begun and is expected to be completed in early 2020.

Councilmember Urban introduced Item 7. In reading the title he eliminated all wording after "voluntary purchase".

**Motion** by Councilmember Urban to approve Resolution No. 04-2019 minus Section 4 of the resolution; seconded by Councilmember Davis; carried 5-0.

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

Patrick Goff noted the promotional Wheat Ridge Passports are now available for sale from the City for \$25. They include deals and special discounts from over 30 local businesses. The money that is raised from their sale will be used to restore Unit 1, the City's first police car.

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

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

**Leah Dozeman** reported she has been contacted by citizens to study safe injection sites and discounted rate for the Victorian Society and others. Janece Hoppe said the discounted rates are already on a future agenda. Zachary Urban said he would be willing to discuss safe injection sites. The mayor pro tem will schedule it for future study.

**Kristi Davis** thanked Tim Fitzgerald for his service on the Council and told Janece Hoppe she did a good job conducting the meeting.

**Zachary Urban** thanked Tim Fitzgerald for his commitment and level of service; his willingness to come in and serve the citizens tonight took an impressive amount of courage.

**Janece Hoppe** also thanked Mr. Fitzgerald; she has enjoyed working with him. ~ She reminded Council there will be no meeting next week due to the holiday and on January 28 a District 1 councilmember will be appointed. ~ She wanted to be sure of the upcoming process for filling the vacancies for Treasurer, and now District 3. She had some questions of Mr. Dahl. He advised that case law dictates that no secret ballots



are allowed. Discussion and voting for a replacement must be in public. He advised this is not quasi-judicial.


Discussion followed.

There was unanimous consent to appoint someone to fill the District 1 Council vacancy at the beginning of the meeting on January 28.

**Janelle Shaver** reported to Council that due to a resignation in the middle of a term and some folks who are not going to reapply, there is a dire need for people to serve on the Liquor Authority. People are encouraged to apply for this and the other boards and commissions as well.

### **ADJOURNMENT**

The City Council Meeting adjourned at 11:46 pm.

  
Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON FEBRUARY 11, 2019

  
Janeece Hoppe, 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.