

EMERGENCY CITY COUNCIL MINUTES

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

March 20, 2020

Mayor Starker called the properly public noticed **Emergency Special City Council Meeting** to order at 3:02 p.m.

Councilmembers, the Mayor, staff, guests and the public attended this meeting via phone, owing to the current health emergency.

ROLL CALL OF MEMBERS

Zachary Urban	Judy Hutchinson	Amanda Weaver	Leah Dozeman
Rachel Hultin	Korey Stites	Janeece Hoppe	Valerie Nosler Beck

Also present: Deputy City Clerk, Robin Eaton; City Attorney, Gerald Dahl; Director of Administration, Allison Scheck; City Manager, Patrick Goff and interested citizen.

PLEDGE OF ALLEGIANCE TO THE FLAG

APPROVAL OF THE AGENDA

Councilmember Urban submitted a request to Mayor Starker after the notification of this Emergency Meeting and prior to today to add four items to the agenda. The Mayor had added those four items to the agenda, which was approved as amended by the Mayor without objection.

CITIZENS' RIGHT TO SPEAK

That Mayor explained the process for the interested citizen's right to speak. He invited people in groups, according to the first letter of their last names. No one asked for the opportunity to speak.

Decisions, Resolutions, and Motions

**Item 1: A RESOLUTION OF THE WHEAT RIDGE CITY COUNCIL
DECLARING AN EMERGENCY AS A RESULT OF THE NOVEL
CORONAVIRUS (COVID-19)**

Mr. Goff recounted the Mayor's declaration that an emergency exists, which the Mayor signed on March 18, 2020. He also explained the authority granted to the Council by Charter and Code.

Mr. Goff also explained that reimbursements to the City for staff time and other expenses related to the Coronavirus pandemic are largely reimbursable by FEMA, but only beginning from the time when an emergency is declared. The Mayor's declaration of March 18, 2020 expires 48 hours after issued, per Code. Therefore, a resolution by City Council is required to extend the declaration beyond today at 6:34 PM, the hour when the Mayor signed his declaration on March 18.

Mr. Dahl agreed with Mr. Goff's explanations, and added several comments.

He reviewed Section 5 of Resolution 16-2020, why the language reads as it does and what it means. Mr. Dahl made special mention of the fact that the Resolution empowers the City Manager to designate others to act on his behalf in taking actions related to the Resolution.

The Resolution would, if approved, remain in effect until the Governor's declared State of Emergency ends. However, the Council may amend or revoke the Resolution by a majority vote in a public meeting at any time. A meeting to consider amending or revoking the Resolution may be called at any time with proper public notice by the Mayor, or by members of the Council, per Charter and Code.

The Mayor once again invited members of the public to speak; again, no one came forth.

Councilmembers Questions, Comments and Discussion

The Mayor called upon Councilmembers one by one, to facilitate the conference call format during the discussion.

Councilmember Hutchinson stated that she supported the Resolution, and agreed it is necessary.

Councilmember Urban asked whether any resident of Wheat Ridge has tested positive for the coronavirus.

Mr. Goff reported that there is one confirmed case and five homes on self-quarantine.

Councilmember Urban stated further that he agrees that the proposed Resolution is in order and asked for what kinds of expenses the FEMA may reimburse the City, and whether the reimbursements will cover expenses after the Governor lifts the State of Emergency he declared.

Mr. Goff responded with the information available at present, and an explanation that the nation is still in the early stages of this pandemic and details remain to be clarified.

Councilmember Weaver expressed her support for the Resolution.

Councilmember Hoppe asked Mr. Dahl if Section 5 or the Resolution gives the City the power to use private property to respond to the emergency. Mr. Dahl explained that it does provided the use is related to public health and safety endangered by the pandemic. He illustrated his answer with examples. The City could use a supermarket

parking lot as a staging area, or convert a vacant building, such as the former Lucky's supermarket as a temporary facility.

Councilmember Stites recalled from an earlier comment that FEMA reimbursements are not retroactive to prior to the City's declaration of an emergency. He asked whether the reimbursable expense period began with Mayor Starker's emergency declaration two days ago. Mr. Dahl responded that the City should track those expenses too, again pending further clarification of the FEMA rules.

Councilmember Stites concluded his remarks with a statement in support of the Resolution.

Councilmember Hultin thanked the Mayor and staff for arranging to convene this meeting. She asked whether the City had ever declared a public health or other type of emergency before, and no one present could recall an example of a prior one. She expressed her support and asked whether it would be a wise move to set a timeframe for expiration of the Resolution.

Mr. Dahl opined that since Council will conduct regular meetings every other week going forward, and in Study Sessions between regular meetings, the Council can at any of those regular meetings, or at a Special Meeting, vote to reconsider, amend or revoke the Declaration. Therefore, he concluded, the Resolution offers more flexibility as it stands.

Councilmember Dozeman expressed her support and asked whether the Council will continue to meet during the period the Resolution is in effect, and whether the meetings will all be conference calls or online. Mr. Dahl noted that in Section 8 of the Resolution states that regular meetings will continue.

Ms. Scheck explained that staff are working on a solution to enable Council meetings with public access using a combination of a commercial software called Zoom and the Wheat Ridge Speaks program, to enable full participation in the meetings.

Councilmember Nosler Beck expressed her support and asked whether in addition to FEMA the state or county will reimburse any City expenses and if so, will this Resolution meet those state and county standards. Mr. Dahl replied yes, the Resolution will suffice, and again indicated that the reimbursement rules and details are not all available just yet.

Councilmember Weaver asked about the rollout of Wheat Ridge Speaks, and What's App Wheat Ridge. Ms. Scheck replied that we are working on both channels to allow public participation.

Mr. Urban asked whether the City Manager could, under the proposed Resolution, override the Governor's executive orders or declarations. Mr. Dahl replied that even though Wheat Ridge is a home rule City, in certain matters, including statewide declarations of an emergency, the City may not override the Governor by law.

Councilmember Urban asked whether the Resolution would empower the City to employ private property, such as a shopping center parking lot or a building like the former Lucky's supermarket, for potential use as a temporary hospital. Mr. Dahl opined

that the Resolution gives the City Manager broad authority as it now reads and opined that additional language is unnecessary.

Councilmember Urban made a motion to adopt the following Resolution (16-2020), seconded by Councilmember Hoppe:

**CITY OF WHEAT RIDGE
RESOLUTION NO. 16
SERIES OF 2020**

**TITLE: A RESOLUTION OF THE WHEAT RIDGE CITY COUNCIL
DECLARING AN EMERGENCY AS A RESULT OF THE NOVEL
CORONAVIRUS (COVID-19)**

WHEREAS, on March 10, 2020, the Governor of the State of Colorado declared a statewide state of emergency in response to coronavirus (COVID-19); and

WHEREAS, on March 14, 2020, the President of the United States declared a national emergency in response to the coronavirus (COVID-19); and

WHEREAS, the World Health Organization has declared the coronavirus (COVID-19) to be a worldwide pandemic; and

WHEREAS, the coronavirus (COVID-19) has been confirmed to exist in Jefferson County; and

WHEREAS, the City Council of the City of Wheat Ridge confirms that protecting the public health is the Council's top priority; and

WHEREAS, the City Council is empowered by Chapter 6 of the Wheat Ridge Code of Laws to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, the City Council finds and determines that the adoption of this Resolution is necessary for the promotion of health and the suppression of disease; and

WHEREAS, the City Council further finds and determines that the adoption of this Resolution is proper under Sections 31-15-401(1)(b), 24-33.5-703(3), and 24-33.5-709, C.R.S., and other applicable law.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WHEAT RIDGE, COLORADO:

Section 1. Title. This Resolution shall be known and may be cited as the "City of Wheat Ridge Coronavirus (COVID-19) Resolution"

Section 2. Intent. It is the intent of this Resolution to provide the necessary organization, powers, and authority to enable the timely and effective use of all available City resources to prepare for, respond to, and recover from the declared local public health emergency. This Resolution is intended to grant as broad a power as is permitted within the letter and spirit of the statutes governing the City Government, and this Resolution shall be interpreted in accordance with such intent. The City Council retains all power to direct the City Manager during the pendency of the current coronavirus (COVID-19) public health emergency.

Section 3. Public Health Emergency Declared. The City Council hereby declares that a public health emergency relating to the coronavirus (COVID-19) exists within the City. Such circumstance is referred to in this Resolution as the “public health emergency.” The public shall be notified of this declaration through general dissemination to the news media, posting on the City website, or other means of publicity intended to advise the general public.

Section 4. Duration of Declaration of Public Health Emergency. The declaration of the public health emergency as provided in Section 3 of this Resolution shall remain in effect until the Mayor declares that the emergency has passed.

Section 5. Powers. Until the Mayor declares that the public health emergency has passed, the City Manager has full power and authority to take the following actions and issue the following orders. In doing so, the City Manager may appoint one or more designees:

- A. any action necessary for the protection of life and property, including, but not limited to establishing regulations governing conduct related to the cause of the public health emergency;
- B. an order to direct and compel the evacuation of all or a part of the population from any stricken or threatened areas within the City if the City Manager deems this action is necessary for the preservation of life, property or other public health emergency mitigation, response or recovery activities and to prescribe routes, modes of transportation and destination in connection with an evacuation;
- C. an order controlling, restricting, allocating or regulating the use, sale, production or distribution of food, water, clothing, and other commodities, materials, goods, services and resources;
- D. with the consent of the Mayor, an order requiring the closing of businesses deemed nonessential by the City Manager;
- E. suspend City board and commission meetings to include, but not be limited to, meetings of the City Council and Planning Commission, or modify meeting rules to allow for telephone, teleconferencing or meeting by other electronic means;
- F. as it relates to the City’s response to COVID-19, appropriate and expend funds, execute contracts, authorize the obtaining and acquisition of property, equipment, services, supplies and materials without the strict compliance with procurement regulations or procedures;
- G. transfer the direction, personnel, or functions of City departments and agencies for the purposes of performing or facilitating public health emergency services;
- H. utilize all available resources of the City as may be reasonably necessary to cope with this public health emergency whether in preparation for, response to, or recovery from this public health emergency;

- I. accept services, gifts, grants and loans, equipment, supplies, and materials whether from private, nonprofit or governmental sources;
- J. make application for local, state or federal assistance;
- K. limit the use of any City-owned or controlled building, facility, or property as to time, manner, and permitted activities, including, but not limited to, limiting the permissible number of people that may lawfully occupy such building, facility, or property at any one time;
- L. close and prohibit the use of any City-owned or controlled building, facility, or property;
- M. exercise such powers and functions in light of the exigencies of this public health emergency, including, but not limited to, the waiving of compliance with any time-consuming procedures and formalities, including notices, as may be prescribed by law pertaining thereto; or
- N. issue any and all other orders or undertake such other functions and activities as the City Manager reasonably believes is required under the circumstances to protect the health, safety, welfare of persons or property within the City of Wheat Ridge, or to otherwise preserve the public peace or abate, clean up, or mitigate the effects of the public health emergency.

The restrictions may be changed from time to time during the time frame of the declaration based upon the discretion of the City Manager.

Section 6. Enforcement of Orders.

- A. The members of the City's Police Department, code enforcement, and such other law enforcement and peace officers as may be authorized by the City Manager are hereby authorized and directed to enforce the orders, rules, and regulations made or issued pursuant to this Resolution. All members of the public shall be deemed to have been given notice of all orders, rules, and regulations made or issued pursuant to this Resolution upon their dissemination to the news media or publication on the City website or other means of publicity.
- B. Until the Mayor declares that the public health emergency has passed, no person shall:
 - 1. enter or remain upon the premises of any establishment not open for business to the general public, unless such person is the owner or authorized agent of the establishment;
 - 2. violate the provisions of this Resolution;
 - 3. violate any of the orders duly issued by the City Manager or designee pursuant to Section 5 of this Resolution; or
 - 4. willfully obstruct, hinder, or delay any duly authorized City officer, employee or volunteer in the enforcement or exercise of the provisions of this Resolution, or of the undertaking of any activity pursuant to this Resolution.

It is unlawful and a misdemeanor offense for any person to violate any provision of this Section 6. Any person convicted of a violation of this section shall be subject to the penalties set forth in section 1-5 of the Wheat Ridge Code of Laws.

Section 7. Authority to Enter Property. During the period of the public health emergency, a City employee or authorized agent may enter onto or upon private property if the employee or authorized agent has reasonable grounds to believe that there is a true emergency and an immediate need for assistance for the protection of life or property, and that entering onto the private land will allow the person to take such steps to alleviate or minimize the emergency or disaster or to prevent or minimize danger to lives or property from the declared public health emergency.

Section 8. Council, Board and Commission Meetings. For the duration of the public health emergency, meetings of the City Council, Planning Commission, Liquor Authority, and other boards and commissions of the City may be held exclusively electronically, as the Mayor may determine.

Section 9. Access to TABOR Funds. During the current public health emergency the City Manager shall have access to the Town's emergency funds mandated by the Taxpayer's Bill of Rights (TABOR) as set forth in Article X, Section 20, Subsection (5) of the Colorado Constitution, entitled "Emergency reserves." Funds utilized pursuant to this Resolution shall be replenished no later than the conclusion of the fiscal year following the end of the current public health emergency.

Section 10. Conflict with other Laws. If any provision of this Resolution conflicts with any provision of the Wheat Ridge Code of Laws, or any provision of the City's policies, this Resolution shall control.

Section 11. Police Power Finding. The City Council of the City of Wheat Ridge hereby finds, determines and declares that an emergency exists in the form of the Coronavirus (COVID-19) pandemic and that this Resolution is necessary for the immediate preservation of public property, health, welfare, peace or safety. Accordingly, the City Council determines that the adoption of this Resolution as an emergency Resolution is in the best interests of the citizens of the Town of Morrison.

Section 13. Effective date. This Resolution shall take effect immediately upon adoption by the City Council and signature by the Mayor. This Resolution shall remain in effect until the Governor of the State of Colorado declares the public health emergency no longer in effect, or the Resolution is sooner terminated by the City Council.

CITY OF WHEAT RIDGE

Bud Starker, Mayor

ATTEST:

Steve Kirkpatrick, City Clerk

Motion adopted, Resolution approved unanimously, by a vote of 8-0.

Additional Agenda Items

The Mayor recognized Councilmember Urban to introduce the four agenda items added at his request.

1. Business Relief Grants of up to \$7,500 for each business in Wheat Ridge closed by State order 20-22.

Councilmember Urban stated that there are 226 impacted small businesses in the City, so the total cost for grants of \$7,500 to each would total about \$1.4 million. The sales tax revenue these businesses have provided on an annual basis in the past is tenfold more than the proposed total grant funding. He stated further that the details of how to determine the amount of a business's grant would require some study and consideration.

Mr. Goff explained that early, still speculative estimates of the City's lost revenue will be about \$4 million. He has directed the department heads to begin preparing plans for specific budget cuts, and the need to comply with the requirements that the City maintain a contingency reserve fund.

He also reported that Jefferson County and the US SBA are making resources/loans available to small businesses.

Councilmember Hoppe asked whether the staff will have a better picture of the financial impacts by the March 30th Regular Council Meeting. Mr. Goff answered that we will have no information about March sales tax revenue until April 20, 2020.

Councilmember Dozeman supported Mr. Urban's ideas and stated that if there is a shelter in place order the impacts on businesses will only get worse.

Councilmember Stites stated his support and asserted that the City needs to act on assistance for small businesses quickly, to ameliorate public concerns. He observed that too many citizens are still on the streets working, to feed their families in anticipation of the situation worsening.

Motion by Councilmember Urban, to direct City staff to come up with an amount of money to be used as a financial assistance package for businesses directly impacted by Governor Polis's Public Health Order 20-22, for consideration by City Council at the March 30th meeting date. Seconded by Mr. Stites.

Councilmember Hoppe asked whether the Council should delay any consideration of grants until the April 6th meeting.

Motion to amend Councilmember Urban's motion, made by Councilmember Weaver and seconded by Councilmember Hultin to also require that staff prepare by March 30th projected revenue shortfall due to the pandemic. Amendment passed 8-0.

Motion: Mr. Urban then made a ***substitute motion***, in line with Council procedural rules, to replace his initial motion, seconded by Councilmember Dozeman, to direct City staff to prepare for the March 30th meeting a report on the financial impacts of the

pandemic and a proposed amount to put into a small business relief grant fund. Motion passed unanimously 8-0.

2. Governor Polis' order allowing restaurants and hotels to sell alcoholic beverages along with food orders.

Mr. Dahl commented that to this hour the Colorado Liquor Enforcement Division (LED) has not issued rules or details on the intent and impact of the Governor's order. He recommended that before the Council considers or proposes any action that the City await LED clarifications and assess the initial impacts and outcomes of the Polis order across the City.

3. Use of private property by the City to respond to the public health emergency

Councilmember Urban stated that this third of his four added agenda items had already been discussed earlier in the meeting, during the consideration of the Resolution the Council passed.

4. Plans in anticipation of re-opening businesses when the emergency has passed

Councilmember Urban asked what the City's powers will be when restaurants and schools reopen. Will the City have the power to take local actions once the Governor's orders get lifted?

Mr. Dahl agreed to research that question and confer with his network of municipal attorneys across the state. Mr. Goff stated that the City is also making plans to help businesses re-open.

City Manager's Matters

Mr. Goff expressed his pleasure with the staff's response to the emergency, and their dedication and commitment to the City and its residents.

Elected Officials' Matters

City Clerk Steve Kirkpatrick reported that he has participated in the staff's COVID-19 Response Team since it was formed on Monday last. Mr. Kirkpatrick expressed his gratitude and admiration for the staff's response, and thanked them profusely for the hard work they are doing, the long hours they are spending and the sacrifices they and their families are making

Every Councilmember expressed individually their thanks and gratitude to the City Staff,

Every Councilmember expressed individually their thanks to the people of Wheat Ridge, who have responded to the emergency with grace, kindness and help for one another. The altruism has amazed the Councilmembers.

Councilmembers noted several other observations:

- The 'Notify Me' feature on the City's website, which sends automatic updates on CoVid-19 as they come to light, has proven very helpful.

- Connect for Health Colorado has opened a special enrollment period from now to April 30th. The website is connectforhealthco.com.
- Appealed to residents to continue to support local, Wheat Ridge businesses.
- The City needs to discuss with business landlords the need to give tenants leeway during this time. No one will win if there are a series of evictions during the emergency.
- Residents please, remember to take care of not only your physical health but also their mental health. Jefferson Center, which offers mental health services, is operating. People can reach the Center at:
 - Phone 844-493-8255
 - Or text Talk to 38255
- Colorado farmers are hard at work filling the food supply chain as usual, with extra effort during the emergency.
- Please, donate food to food banks; they are all running low in the face of increasing demand.
- Thanks to the healthcare workers who are on the front line of this struggle.
- Thanks to grocery store and sanitation workers for meeting the need so selflessly.
- Thanks to the police officers for their hard work, long hours and sacrifices.
- Remember that the City's parks and greenbelts remain open and exercising there is a great way to improve health.

The Mayor thanked the staff and first responders and encouraged them to ask the City for help if they need it.


The Mayor also emphasized that the food supply chain is in good order in Colorado, so there is no need to overbuy or hoard.

Mayor Starker also noted that the Country and the City will get through this. He stated that this is an emergency, but not a crisis.

The Country has always risen to respond to challenges like the one we face now.


ADJOURNMENT

The meeting adjourned at 4:55 pm.



 Steve Kirkpatrick, City Clerk

APPROVED BY CITY COUNCIL ON April 27, 2020



 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.