

City Council Meeting Minutes

CITY OF WHEAT RIDGE, COLORADO

7500 WEST 29TH AVENUE, MUNICIPAL BUILDING

November 9, 2020

Note: This meeting was held virtually, using Zoom video-teleconferencing technology. As duly announced and publicly noticed, Council previously approved this format in order to continue with normal business and respond to the CoVid-19 Pandemic and the related public emergency orders promulgated by the President of the United States, the Governor of Colorado, and the Wheat Ridge City Council. Before calling the meeting to order, Mayor Starker stated the rules and procedures necessitated by this meeting format.

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

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

Also present: City Clerk, Steve Kirkpatrick; City Attorney, Gerald Dahl; City Manager, Patrick Goff; City Treasurer, Chris Miller; Administrative Services Director, Allison Scheck; Community Development Director Ken Johnstone; Patrick Berrend, architect for the proposed PMUD (item 2) and several Wheat Ridge 101 graduates: Lisa Rucker, Al Gallo, Betty Jo , Nancy Dragani, Pat ----, Melody Mascarenes other staff, guests and interested citizens.

PROCLAMATIONS AND CEREMONIES

Mayor Starker read three proclamations.

Wheat Ridge 101 Graduate Recognition

The City recognized the citizens who have completed the course, which addresses the City's operations, structures and strategies for serving the people of our City.

Small Business Saturday Proclamation

Each year since 2010 the nation has recognized the need to patronize local, small businesses. Billions are spent each year on the designated day, which is the Saturday following Thanksgiving (and the day following "Black Friday"). The Mayor read a proclamation declaring Small Business Saturday in Wheat Ridge on November 28, 2020.

Veterans Day Recognition

Mayor Starker recognized Bill Peterson, a veteran of World War II. He was a gunner on a Flying Fortress with the US Army Air Corps unit known as the Flying Tigers. The mayor read a proclamation recognizing Mr. Peterson as an example of the brave men and women who have fearlessly and faithfully served our country, defending our way of life. The Mayor declared November 11 as Veteran's Day in Wheat Ridge.

APPROVAL OF MINUTES

Without objection the Study Session Notes of October 19, 2020, City Council Minutes of October 26, 2020 and Special Study Session Notes of October 26, 2020 were approved as published.

APPROVAL OF AGENDA

Without objection or correction, the agenda stood as announced.

CITIZENS' RIGHT TO SPEAK

This item began at 7:13 PM.

Guy Nahmiach, 3650 Ward Road – called to thank everyone for their support for the *Gazette* as it restarts publication. In 10 days, the next issue will circulate. If you have a letter to the editor please, send it along.

Note about Wheat Ridge Speaks:

Citizens may visit the Wheat Ridge Speaks website and enter written comments of up to 1,000 words on any Council agenda item. The deadline for citizens to submit comments is 12:00 Noon Mountain Time on the day of a Council session so that Council members, other elected officials and City Staff have time to review the comments before the meeting on Monday evening.

The City Clerk's Office transcribes those Wheat Ridge Speaks comments into these minutes, placing each comment along with the record for that agenda item, including items that include a public hearing (verbatim, so long as the comments do not contain lascivious language or unlawful hate speech).

No comments appeared in Wheat Ridge Speaks for this Council session.

1. CONSENT AGENDA

Discussion began at approximately 7:20 PM

Councilmember Stites introduced the consent agenda

- a. Motion to approve monthly payments to Kaiser Permanente for January through December 2021 membership billing not to exceed a total amount of \$2,600,000

- b. Motion to award a contract to Seven Point Construction, of Centennial Colorado, in the amount of \$329,255 for safety and other improvements to City Hall and approve a 5% contingency in the amount of \$16,463 for unforeseen project expenses
- c. Motion to adopt the 2021 City Council Meeting Calendar
- d. Motion to cancel the November 23, 2020 and December 28, 2020 Regular business meetings of the Wheat Ridge City Council due to the Thanksgiving and Christmas holidays.
- e. Resolution No. 56-2020 - a resolution approving an amendment to the intergovernmental agreement with Jefferson County for CARES Act local government distributions

Motion by Councilmember Stites to approve Consent Agenda Items a.), b.), c.), d.), and e.) Seconded by Councilmember Urban; motion carried 8-0.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

Discussion began at approximately 7:29 PM

- 2. Council Bill No. 19-2020 – An Ordinance approving the rezoning of property located at the southeast corner of W. I-70 Frontage Road North and Ward Road from Agricultural-Two (A-2) to Planned Mixed Use Development (PMUD) with an Outline Development Plan (ODP)

Councilmember Dozeman introduced Council Bill No. 19-2020

The applicant is requesting approval of a zone change from Agricultural-Two (A-2) to Planned Mixed Use Development (PMUD) with an Outline Development Plan for property located at the southeast corner of W. I-70 Frontage Road North and Ward Road. The zone change will allow for a variety of commercial, residential, and recreational uses on the property.

Mayor Starker opened the public hearing. The

City Clerk Steve Kirkpatrick assigned Ordinance No. 1699

Staff Presentation by Lauren Mikulak, Director of Planning and Scott Cutler, Planner II with the City of Wheat Ridge: The Planning staff gave a detailed presentation and incorporated into the public record the files related to this case, including but not limited to the proceedings of the Planning Commission, public comments and their presentation to Council.

Public Comment

Guy Nahmiach, 3650 Ward Road. Called to ask if anyone knows how many different species of birds and fishes live in the subject area. He wondered if any of the studies done for this development included an impact study on the fauna.

Elizabeth Smith, 4255 Parfet St. Called to support Guy's concerns about the impact of the project on the birds, animals and fishes living in that habitat. She is concerned that we are losing our attractive wild spaces as the City grows.

Council Questions and comments

Councilmember Hoppe noted that staff who testified were appropriately sworn to tell the truth.

Councilmembers asked a number of questions about the habitat for animals, especially birds and fishes. They asked about any state or county agencies that have regulations concerning the environmental impacts. Staff responded that no agency has expressed concerns because, among other provisions, the project must preserve the pond. Councilmembers asked whether any agencies need to approve the plan, beside the agencies who have already reviewed and commented.

Mr. Berrend testified as to details on the future of the pond and the wildlife living on and near the site. Mr. Cutler also answered Council's questions with details and specifics. For instance, trees other than nuisance species, will be preserved. Council asked about which specific species are considered nuisances, and Mr. Berrend provided a detailed answer; most are invasive species.

Mr. Cutler explained that the trail described in the Plan will be open to the public, however the pond will not be open to the public for boating or fishing.

Councilmember Hoppe asked for the specific language that Mr. Dahl recommends adding to the motion to approve, with respect to an easement yet to be settled.

Mr. Cutler stated the condition: No building permit or grading and drainage permit may be issued until the defect in access in Tract A is resolved to the satisfaction of the City Attorney.

Mayor Starker asked several detailed questions about water rights, the plans for commercial and residential buildings on the East side of the plot, and similar specifics. Mr. Berrend responded with details.

Councilmember Hultin asked at what point in the process Council will have information on what will happen to the trees currently located on the site. Mr. Cutler responded that landscaping and grading plans must, and will, address that and other questions, and Council will approve the final plan. Councilmember Hultin asked about requirements to preserve as many non-invasive species as possible. Mr. Cutler replied that the current plan does require attention to preserving trees and the tree canopy.

Mayor Starker closed the public hearing.

Motion by Councilmember Dozeman to approve Council Bill No.19-2020 – an ordinance approving the rezoning of property located at the southeast corner of W. I-70 Frontage Road North and Ward Road from Agricultural-Two (A-2) to Planned Mixed

Use Development (PMUD) with an Outline Development Plan (ODP), on second reading and that it takes effect 15 days after final publication, 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.

Subject to the following condition (added during the Council meeting):

No building permit or grading and drainage permit may be granted until resolution of the claimed defect in access across Tract A is resolved to the satisfaction of the City Attorney.

Seconded by Councilmember Urban, motion carried 8-0.

3. Council Bill 20-2020 - An ordinance repealing ordinance 1691, Series 2020, an ordinance approving the rezoning of property located at 9800 W. 38th Avenue

Councilmember Weaver introduced Council Bill No. 20-2020

A referendum petition has been found to be sufficient with respect to Ordinance 1691, Series 2020, which rezoned property at 9800 W. 38th Avenue. Under Section 6.2(b) of the Charter, the Council is required to either repeal the ordinance or refer the same to the voters. This ordinance repeals Ordinance 1691.

Mayor Starker opened the public hearing.

The Mayor reviewed the procedures. No citizens appeared in chambers to address this issue. There were none who wanted to speak through the Zoom format or by telephone.

City Clerk Steve Kirkpatrick assigned Ordinance No.1700.

City Attorney Gerald Dahl reviewed the council bill with members where Ordinance 1691 rezoned certain real property at 9800 West 38th Avenue from R-1 to PRD, with an ODP permitting four single family homes and three duplexes. The Ordinance was adopted on July 13, 2020.

A referendum petition was timely filed on August 27, 2020. The City Clerk certified the petition as sufficient, following amendment as permitted by the Charter. Under the Charter, a sufficient referendum petition requires the Council to either repeal the subject ordinance or refer it to the voters of the city "at the next regular municipal election, or at a special election called therefor."

Council has chosen to repeal the ordinance, and this Ordinance doing so was adopted on first reading on October 26, 2020.

Public Comment

Rolly Sorrentino, 4175 Teller St. Called to state that he would prefer to speak in person to Council at City Hall. When he listens to the Council's meetings Council thanks those who come to meetings to speak. I am here tonight to ask if you can give thanks to the over 2,500 citizens who stepped up to help you do your job on this item. You should consider giving those folks a thank you as well.

Council Questions and comments

Councilmember Stites asked for a review of the petition process, which Mr. Dahl and City Clerk Kirkpatrick provided. He asked further whether petition circulators are bound by law to tell the truth about the nature of the issue addressed by the petition, and Mr. Dahl answered that since it is a political and legislative process there is no such requirement under the First Amendment.

In a similar vein, Councilmember Urban asked whether these petitioners have to comply with campaign finance laws. Mr. Dahl replied that until the petition becomes a ballot measure there is no campaign so there is no campaign finance to oversee. Mr. Dahl continued to explain that Home Rule Cities are empowered to make their own regulations on procedures for conducting referendum petition signature collections and conduct of referendum elections.

Councilmember Hutchinson commented that on all petitions there is an introduction section within the petition form. So, signers have the onus to review the language before they sign the petition.

Mayor Starker closed the public hearing.

Motion by Councilmember Weaver to approve Council Bill No. 20-2020 – an ordinance repealing ordinance 1691, Series 2020, an ordinance approving the rezoning of property located at 9800 W. 38th Avenue, on second reading and that it take effect immediately, seconded by Councilmember Urban, motion carried 8-0.

During discussion of the motion, Councilmember Hultin responded to Mr. Sorrentino by saying we should thank the Hardi's for their sensitivity to the City budget by asking for this Ordinance to repeal.

ORDINANCES ON FIRST READING

None were on the agenda tonight.

DECISIONS, RESOLUTIONS AND MOTIONS

Discussion began at approximately 8:35 PM

4. Motion to Elect Mayor Pro Tem

Each year, City Council Members elect by a majority vote a Mayor Pro Tem who serves until their successor is elected. The election is conducted according to Section III (B) of the City Council Rules of Order and Procedure as follows:

B. MAYOR PRO TEM

1. At the first or second Regular meeting in November of each year, the Council shall elect a Mayor Pro Tem who shall serve until their successor is elected. The procedure shall be as follows:
 - a) The Chair will announce that the floor is open for nominations for the position of Mayor Pro Tem.
 - b) Nominations will be taken from City Council members by voice. No second is needed.
 - c) Each nominee will have the opportunity to address the Council.
 - d) A motion and second is then in order to elect one of the nominees to the position of Mayor Pro Tem. If the motion is not carried, additional motions are in order until a Mayor Pro Tem is elected by a majority of Council present.

Mayor Starker introduced item 4, reviewed the procedures and asked for nominations.

Councilmember Stites nominated Councilmember Hoppe.

Councilmember Hutchinson nominated Councilmember Urban, who declined the nomination.

There were no other nominations, so Mayor Starker closed the nomination process.

Councilmember Hoppe gave a brief statement expressing her desire to continue as Mayor Pro Tem, and explained why she likes the work.

Public Comment

No one came forward to speak.

Motion by Councilmember Stites to elect Councilmember Hoppe as Mayor Pro Tem, effective immediately, term to expire upon election of a successor, seconded by Councilmember Hultin; motion carried 8-0.

CITY MANAGER'S MATTERS

Mr. Goff commented on the means citizens have to speak at a Council Meeting, in detail. He explained that recently we have had overarching considerations due to the pandemic that have precluded in person sessions under public health orders. Virtual meetings therefore have become the best feasible means to conduct the City's business and still ensure public access and the citizens' rights to be heard.

He asked Council to consider an exemption from building permit and building use tax for non-profit organization. A specific case has brought this issue forward again. Will Council consider at a future Study Session an ordinance to exempt a specific class of property owner or lessee?

Councilmember Hoppe recommended that Council reach a consensus to bring forward a measure addressing all non-profits. Councilmember Urban urged caution about exempting all non-profits as it would cost the City millions in revenue. Councilmember Dozeman expressed a desire to discuss the item with some attention to how we define the class or exempt non-profits from requirements that all others must fulfill.

CITY ATTORNEY'S MATTERS

Nothing tonight

ELECTED OFFICIALS' MATTERS

Councilmember Nosler Beck asked for a report on the industrial noise abatement contemplated by the new Noise Ordinance; she is hearing from residents near the Rocky Mountain Bottling Plant (RMBP). Mr. Goff replied that the bottling plant is close to submitting a building permit application to make changes and reduce the noise level.

The Councilmember also reported that the Norma Anderson School will not open for pre-school in 2021, and wanted all interested families to know of that plan.

She also thanked Public Works for their effective and efficient snow removal efforts (as did other Councilmembers).

Councilmember Dozeman urged the City officials and staff to keep the public living near the bottling plant informed of progress toward noise abatement at the RMBC facility in Wheat Ridge. Residents report an obtrusive level of noise continues in their homes.

Councilmember Weaver, reporting in her role as an urban farmer and goatherd, thanked those living in District II for their warm welcome to her goat herd.

Councilmember Stites asked that we take care of our neighbors especially the elderly during the snowstorm currently passing. And he once again honored the legacy of former Councilmember Mike Stites, his father, quoting him, "If you can find it in Wheat Ridge, buy it in Wheat Ridge."

Several other Councilmembers supported that sentiment, reminding the public that the tenth annual Small Business Saturday, the Saturday after Thanksgiving as is traditional, falls on November 28, 2020.

Councilmember Hultin thanked the Jefferson County Clerk and Records office for their phenomenal work on the General Election; around or just below 90% of registered voters in Jefferson County voted in last week's General Election.

She also asked for a future Study Session to address a wildlife and habitat management plan. Consensus achieved.

Councilmember Urban asked that either Treasurer Miller or staff provide Council a breakdown of who pays property and use taxes, in terms of factors including profit vs. not-for-profit, organizational/business size (by metrics like annual revenue and numbers of employees) and the contribution of each of these categories to the City's revenue stream from those taxes. Mr. Goff indicated that staff would analyze the data available and provide as much information for Council as it will yield.

Councilmember Hutchinson thanked our Veterans for their service and emphasized the need to recognize their service and sacrifice.

Councilmember Urban echoed those expressions of gratitude to our Veterans.

Several Councilmembers thanked Mayor Pro Tem Hoppe for her service. Mayor Pro Tem Hoppe thanked her peers for their support in the past and for the honor of electing her again, and looks forward to continuing to serve in a role she enjoys.

Mayor Starker congratulated Councilmember Hoppe and thanked her for doing what in his opinion is an excellent job in the role of Mayor Pro Tem.

Councilmember Hoppe asked for a consensus to bring forward in a Study Session the question of finance regulations for petition circulators seeking a referendum. Consensus achieved.

She also emphasized that saluting and honoring all veterans on Veterans Day every year is very important.

The Mayor thanks all who attended and participated. Next Saturday at 9 AM Coffee with the Mayor will be held on Zoom.

ADJOURNMENT

The meeting adjourned at 8:55 pm.



Steve Kirkpatrick, City Clerk

APPROVED BY CITY COUNCIL ON December 14, 2020



Janece 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 by contacting the City Clerk's Office, as well as copies of Ordinances and Resolutions.