

City Council Meeting Minutes

CITY OF WHEAT RIDGE, COLORADO

7500 WEST 29TH AVENUE, MUNICIPAL BUILDING

November 27, 2023

Note: This meeting was conducted both as a virtual meeting and hybrid, where some members of the Council or City staff were physically present at the Municipal building, and some members of the public attended in person as well. Eight members of Council were present in Council Chambers for this session. 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 6:30 p.m.

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

ROLL CALL OF MEMBERS

Jenny Snell Scott Ohm Rachel Hultin Janeece Hoppe (virtually)
Amanda Weaver Korey Stites Leah Dozeman Dan Larson

Also, present: City Manager Patrick Goff; City Attorney Gerald Dahl; City Clerk, Steve Kirkpatrick; Deputy Mayor, Allison Scheck; Police Chief, Chris Murtha; Director of Public Works, Maria D'Andrea; Director of Community Development, Lauren Mikulak; other staff, guests and interested citizens.

APPROVAL OF MINUTES

There were none tonight.

APPROVAL OF AGENDA

Without objection or correction, the agenda stood as announced.

PROCLAMATIONS AND CEREMONIES

PUBLIC'S RIGHT TO SPEAK

Whitney Dempsey, Arvada, interim Pastor of WR Presbyterian Church came to denounce the despicable antisemitic rhetoric inflicted on Council on November 13. He believes that we should be concerned about other more significant issues, like enfranchisement, affordable housing, and homelessness, to which we should devote thoughtful political discourse. He denounced antisemitism and the individuals who called to spread hate and violence.

John Altman, 4425 Kipling St, pastor of the United Methodist Church, came to support Pastor Dempsey and his refutation of antisemitism and hate. He recounted his experiences during two trips to the Holy Land, including interactions with Palestinians and Israelis. His impression is that both peoples have a history, but they also have love for one another. He proclaimed that "Love God, Serve our Neighbor and Save the World," is his church's mission, which he came this evening to advance.

Becky Jones, 8235 W. 44th Ave., rector at St. James Episcopal Church. She too was appalled by the comments delivered two weeks ago. She opined that those who hate Jews, Muslims, and immigrants need more of our love. We need peacemakers, who are blessed, not the haters who live in the dark corners of the internet. She was not surprised by the antisemitism she heard, but she still has hope that we will not lose our democracy to white supremacists, racists and other haters. She applauded our courage vs. their cowardice, our willingness to stand for what is right.

Guy Nahmiach, 3650 Ward Road, came to thank the people who called for a roundup of the Jews on November 13, (speaking tongue in cheek). We Jews round up regularly, such as for Chinese food on Christmas. Jews are only 14 million of 8.5 billion Earthlings, yet we are the target of endless hate. As a Jew, he wishes us shalom.

Amy Dempsey, of Arvada, and a nurse at Lutheran Med Center. When we came to WR 20 years ago we chose Jefferson County as a safe place to raise our children. There is no room for hatred and racism anywhere at anytime in WR. While we protect people's right to speak, we use our own right to free expression to refute and counteract those who use that right to spread misinformation and hatred.

Jim Niquette, 3800 Everett St.. He attends Pastor Dempsey church. He came to renounce hatred, especially antisemitism, in all forms. Silence shall not rule in the face of these people.

Matt Dempsey, Lakewood, also came to denounce the callers into the Council meeting on November 13 in the strongest possible yet loving terms.

Doug Dawson, 8622 W. 44th Place, came to comment on past periods of anti-Semitism and anti-muslimism speech. He came to ask people to read more about Islam, to better understand Muslim beliefs. Ancient Muslims thought of Jews and Christians as "the other people of The Book." Muhammad became angry because something he perceived as disrespectful. To this day, all sects of Islam want to kill all Jews.

Ellen Daehnick lives in Denver and has a business in WR. She like other speakers who appeared tonight came to condemn the "crouching, little people," who spewed anti-Semitism. The cowards who called refused to come in person or use their own names. They are not from WR and they are not of WR; we as a people renounce their cowardice. The people of WR are not represented by the creeps who called in.

Rhonda Burrows, 3565 Miller St, attends the WR Presbyterian Church. She supports all people of faith and their right to worship in their ways. The cowards using pseudonyms to spew hate speech and bend their First Amendment rights toward evil diminish us all. But we stand against them, staunchly. "You must stand for something, or you will fall for anything."

Rob Robinson, 4 Hillside Drive came to thank us for serving democracy. He condemned the hate speech we heard a fortnight ago. Sadly, and unfortunately, Republicans have fallen into the pit of discrimination along with the haters and the far right. Anyone who does not support them should be throttled. Trump has tried to subvert democracy since the 2020 election, using the same approaches that put Hitler in charge in Germany in 1933. Americans must take a strong stance against these anti-democratic efforts.

Note about Wheat Ridge Speaks:

Members of the Public 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 address a public hearing (verbatim, if the comments do not contain lascivious language or unlawful hate speech)

There were no comments posted for this session of Council.

1. CONSENT AGENDA

CM Hultin introduced the consent agenda.

- a. Resolution No. 50-2023 – a resolution amending the Fiscal Year 2023 budget to reflect the approval of a supplemental budget appropriation in the amount of \$600,000 for the purpose of funding Wadsworth public art and emergency stormwater repairs, amending Fund 40 revenues and reducing Fund 40 expenditures by \$2,695,003.

Issue

On occasion, it is necessary to adjust the current year budget at year end in order to support the City Council's priorities and align with the estimated budget as presented to Council with the next budget year. This year, budget amendments are needed in funds 31 (2E), 12 (Public Art), 12 (Open Space), 30 (CIP) and 40 (Renewal Wheat Ridge Bonds Fund.) It is required that City Council authorize increases and reductions to the City's budget by resolution..

- b. Resolution No. 51-2023 – a resolution amending the Fiscal Year 2023 General Fund budget to reflect the approval of a supplemental budget appropriation in the amount of \$14,177 for the purpose of accepting the 2023 Edward Byrne Justice Assistance Grant to purchase automated external defibrillator units.

Issue

The Police Department received an Edward Byrne Justice Assistance Grant (JAG) Award for \$14,177 from the Department of Justice, Office of Justice Programs. This grant award was not included in the 2023 Budget.

- c. Resolution No. 52-2023 – a resolution supporting an application for the Community Impact Grant Program from the State Board of the Great Outdoors Colorado Trust Fund to support the construction of the Green at 38th.

Issue

The Parks and Recreation Department wishes to apply to the Great Outdoors Colorado (GOCO) Community Impact grant program to request \$700,000 in funding to support

the construction of the Green at 38th project. A City Council Resolution of support is required to apply, which includes supporting the application and, if funded, authorizing the Mayor to sign the grant agreement and accept the funding.

Motion by CM Hultin to approve Consent Agenda Items a.), b.), and c.), seconded by MPT Stites, motion carried 8-0.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Council Bill No. 28-2023 – An Ordinance amending Article VII of Chapter 26 of the Wheat Ridge Code of Laws concerning the City’s billboard regulations, and making conforming amendments therewith.

CM Ohm introduced Council Bill 28-2023.

Issue

The proposed ordinance updates the City’s billboard regulations to accomplish several main goals: to remove the lottery process for billboard vacancies, to reduce the maximum number of billboards within the City as they are abandoned, to establish a maximum distance between billboards and the highway, and to clarify existing development standard.

The Mayor opened the public hearing, which was not quasi-judicial.

Staff Presentation

Lauren Mikulak, Director of Comm Development, gave a detailed presentation which included the background where 1991, the City Code has allowed up to 16 billboards within the city limits. In 2007, the definition of a billboard was revised to include that it must be “oriented to the interstate highway.” Based on that code change, a determination was made in 2015 that two signs previously considered billboards were no longer because they were too far from the highway.

This resulted in two billboard vacancies. One was filled quickly, but the second has yet to be filled after a series of unsuccessful lottery processes. The most recent lottery process resulted in an appeal from the applicant to the Board of Adjustment, District Court, and Colorado Court of Appeals. The appeal is based on the ambiguity of what it means to be “oriented to the interstate highway.”

Ms. Mikulak spoke on how the proposed ordinance consists of several changes, which are based on the consensus of City Council from the September 25, 2023, study session, with additional input from the City Attorney.

The proposed code amendment addresses several main topics:

1. Removes the lottery process for vacancies.
2. Establishes clear language on what constitutes an abandoned billboard.

3. Reduces the maximum number of billboards within the City as they are abandoned.
4. Provides a clear process for non-maintenance that could result in a billboard being deemed abandoned.
5. Establishes a maximum distance between billboards and the highway in the code.
6. Addresses changeable copy signs.
7. Provides clarifications.
8. Amends the Official Billboard Zoning Map.

Afterwards she stood by to answer any questions.

Public Comment

Stephen Shinn with Out-front Media. He takes exception to the fact that no one from the City consulted with his industry before drafting this ordinance. Some of the language is ambiguous. It allows a city executive to determine if a billboard's contents are acceptable. Please, confer with us to clarify these ambiguities before passing this proposed revision ordinance.

Chad Kochenberger – takes exception to the City's failure to consult with the industry while draft was written. He cited research Federal Highway Safety research that indicates that electronic billboards are not a driver distraction. Please, withhold a decision on this proposal until we can sit down with City representatives and discuss this legislation before passing it.

Mark Gibson, an attorney at Holland and Hart who represents the Colorado Outdoor Advertising Association, called to support his client organization. He also decried the lack of consulting with the industry. Hours ago, just this afternoon, was the first time that this ordinance that is on tonight's agenda came to his attention. He cannot understand why the City failed to reach out to the industry. Our members are tax paying businesses offering a legal service. It is puzzling and disturbing to us. Please, delay a vote on this ordinance until we can speak with you. He gave three examples of language in the ordinance where consulting with industry could benefit the residents of WR, the City and his industry association members. He implored Council not to approve this ordinance until after consulting with the industry.

Council Questions and comments

MPT Stites asked that Mr. Dahl and Ms. Mikulak to respond to some of the comments we just heard. They addressed the issues just heard by public speakers. Mr. Dahl reported on provisions of the Ordinance before Council and how they respond to the industry concerns. The industry has sued the City before, and we have defended our policies and Code successfully.

MPT Stites asked Ms. Mikulak whether she thinks more consultation with the industry would benefit anyone. She stood by the draft ordinance. Mr. Dahl opined that many changes in the City Code of Laws have required revisions after they took effect.

CM Hoppe asked Ms. Mikulak to respond to the issues raised. Ms. Mikulak responded with specific examples and previous documentation about this issue in Council packets.

CM Hoppe asked Mr. Dahl if this ordinance is voted down tonight, would that preclude further action on this topic for some period of time. Mr. Dahl opined that there is no such time limit.

CM Dozeman asked staff to comment on the revenue generated by billboards. Mr. Goff reported that there is no revenue to the City from billboards. She also asked if the changing billboards can operate on private property. Ms. Mikulak cited a Supreme Court decision that allows the privately placed billboard owner to advertise both their own business and other businesses.

CM Larson served on Planning Commission when this issue was considered. He supports a postponement of a vote on this item. He cited three reasons why he opines that more study and detailed provisions in the ordinance need more work before we pass this proposed ordinance. He noted changing conditions in the industry as a result of Federal laws, fewer billboards and thus higher rates.

The Mayor closed the public hearing.

Motion by CM Ohm to approve Council Bill 28-2023 – an ordinance amending Article VII of Chapter 26 of the Wheat Ridge Code of Laws concerning the City’s billboard regulations, and making conforming amendments therewith on second reading, order it published, and that it takes effect 15 days after final publication, seconded by CM Hultin, motion carried 6-2, with CM Larson and Dozeman voting nay.

The following comments came as Council debated and commented on the proposed motion:

CM Hultin opined why she supports this action and will vote yes tonight. She believes we have had ample study and deliberation.

MPT Stites stated he will also support this proposed ordinance tonight. This is just the next step in an ongoing process of regulating billboards, knowing that we may and probably will, have to reconsider some language in this ordinance.

CM Dozeman will vote nay because she believes this proposed ordinance needs revision before it is enacted.

CM Ohm stated that he supports the proposed ordinances despite the fact that there are some questions that we will need to address going forward.

PUBLIC HEARINGS AND ORDINANCES ON FIRST READING

3. Council Bill 30-2023 – An Ordinance amending Section 2-33 of the Wheat Ridge Code of Laws concerning Community Service Officer code enforcement powers.

CM Snell introduced Council Bill 30-2023

Issue

In an effort to bring greater compliance to the City's licensing programs, a new compliance officer position is being created through a vacancy on the Community Services Officers (CSO) team. This position will focus on licensing compliance rather than typical CSO duties. In order to meet the objective of ensuring compliance with licensing programs, the City's Code of Laws needs to be amended to expand the scope of City employees that are able to issue municipal court summons, including Chapter 11 licensing violations. Furthermore, the Code should also reflect that compliance officers shall be designated as peace officers akin to a CSO.

Staff Presentation

There was none as this is a First Reading of this proposed ordinance.

Public Comment

There were none.

Motion by CM Snell to approve Council Bill 30-2023 – an ordinance amending Section 2-33 of the Wheat Ridge Code of Laws concerning Community Service Officer code enforcement powers on first reading, order it published, public hearing set for Monday, December 11, 2023, at 6:30 p.m. as a virtual meeting and in City Council Chambers and that it takes effect 15 days after final publication, seconded by MPT Stites, motion carried 8-0.

4. Council Bill 31-2023 – An Ordinance vacating any interest held by the City in a portion of Clear Creek Drive, a public roadway.

MPT Stites introduced Council Bill 31-2023

Issue

Clear Creek Drive is currently under construction to extend the roadway approximately 500 feet to the northwest. As part of this extension, the existing cul-de-sac bulb was demolished and reconstructed. City staff has determined that the sidewalk easements at the previous cul-de-sac location are no longer necessary, and they will be vacated by this ordinance.

Staff Presentation

There was none.

Public Comment

There were none.

Motion by MPT Stites to approve Council Bill 31-2023 – an ordinance vacating any interest held by the City in a portion of Clear Creek Drive, a public roadway, order it published, public hearing set for Monday, December 11, 2023, at 6:30pm as a virtual meeting and in

City Council Chambers and that it takes effect immediately after final publication, seconded by CM Ohm, motion carried 8-0.

5. Council Bill 32-2023 – An Ordinance vacating any right-of-way interest held by the City in a portion of Miller Court.

CM Dozeman introduced Council Bill 32-2023

Issue

A portion of right-of-way near Miller Court and W 37th Place has been deemed to be unnecessary by the Community Development Department. This portion of right-of-way is not built or used as a roadway and is proposed to be vacated.

Staff Presentation

There was none.

Public Comment

There were none.

Motion by CM Dozeman to approve Council Bill 32-2023 – an ordinance vacating any right-of-way interest held by the City in a portion of Miller Court order it published, public hearing set for Monday, December 11, 2023, at 6:30 p.m. as a virtual meeting and in City Council Chambers, and that it takes effect immediately after final publication, seconded by MPT Stites, motion carried 8-0.

DECISIONS, RESOLUTIONS AND MOTIONS

6. Resolution No. 53-2023 – a resolution amending the Fiscal Year 2023 Police Investigations Fund budget to reflect the approval of a supplemental budget appropriation in the amount of \$27,503.77 to be used for specific law enforcement purposes as approved by the Seizure Fund Committee and closing the Fund at the end of Fiscal Year 2023.

CM Larson introduced Resolution 53-2023.

Issue

The Police Investigations Fund, also known as the Seizure Fund 17, consists of money that is forfeited by felony defendants through a civil hearing process. The City has chosen to close Fund 17 in anticipation of changes to asset forfeiture laws and to use the balance of the Fund to purchase law enforcement aircraft drones to be deployed for public safety missions and education.

Staff Presentation

Police Chief Chris Murtha presented to council the background of Fund 17, which is also known as the Seizure Fund, consists of money that is forfeited by felony defendants through a civil hearing process. The Police Department receives state forfeiture funds through cases that it presents to the District Court. Also received are

federal forfeiture funds, which are disbursed through the West Metro Drug Task Force and are primarily made up of drug money seizures that the Task Force receives with the assistance of a federal agency. Money in Fund 17, whether from state or federal sources, can only be used for law enforcement purposes.

Chief Murtha added that historically, the Police Department identifies money in Fund 17 to fund equipment and technology upgrades, as well as training and special project operating costs. The current balance of Fund 17 is \$36,503.77. The City has chosen to close out the Investigations Fund 17 in anticipation of changes to asset forfeiture laws and to use the balance of the fund to purchase law enforcement aircraft drones to be deployed for public safety missions and education at a cost of \$30,041.52 for equipment and licensing and \$6,462.25 for training.

Concluding that these funds will be used to purchase three law enforcement aircraft drones, each with unique capabilities, from Axon Enterprises, Inc. The cost covers the equipment and Axon video licensing fees for the first year of operation. Additional funds from Fund 17 will be used for training and Federal Aviation Administration pilot licensing. Chief closed with the Video licensing fees of \$7,403.06 for the next four years will be covered in the Police Department General Fund budget.

The Chief then stood by to answer questions.

Public Comment

No one came forward to speak.

Council Questions and comments

CM Weaver previously approved this item in a committee meeting and supports this motion. She also asked her peers to support the motion.

CM Dozeman asked about the asset forfeiture laws, which allows municipalities to use assets and funds for law enforcement purposes. Chief Murtha opined that this fund will end soon. CM Dozeman asked for examples of how the drones would be used, and Chief Murtha gave a detailed answer.

CM Ohm recalled an event when he observed a drone helping the WR PD. His experience made him a supporter of this motion.

CM Hultin recalled two anecdotes about situations in which she saw drones in action. In both incidents she learned things that lead to her support for this motion tonight.

CM Larson noted drones are highly effective. He asked that when we get clarity on the asset forfeiture laws we should look at this matter again.

Motion by CM Larson to approve Resolution No. 53-2023, a resolution amending the Fiscal Year 2023 Police Investigations Fund budget to reflect the approval of a supplemental budget appropriation in the amount of \$27,503.77 to be used for specific

law enforcement purposes as approved by the Seizure Fund Committee and closing the Fund at the end of Fiscal Year 2023, seconded by CM Ohm, motion carried 8-0.

During discussion of the motion, CM Dozeman strongly endorsed this motion because of the effectiveness and safety that drones provide.

MPT Stites echoed CM Dozeman's comments. He lamented the end of the asset forfeiture laws and policies.

7. Motion to approve an appointment to the Cultural Commission.

CM Weaver introduced the Motion.

Issue

On November 1, 2023, Teresa Linder from District III resigned from the Cultural Commission effective immediately. The vacancy was posted for a term of two weeks on the City of Wheat Ridge web site and promoted through various channels from November 6-November 19. Applications have been compiled for the Council's review so that the seat may be filled. Council may appoint a member from the open district seat or from a different district to fill this seat, at their discretion.

Staff Presentation

There was none.

Public Comment

No one came forward to speak.

Council Questions and comments

CM had no questions.

Motion by CM Weaver to appoint Sandra Davis, District III, to the Cultural Commission, term to expire March 02,2026, seconded by MPT Stites, motion carried 8-0.

8. Motion to elect Mayor Pro Tem

Mayor Starker introduced the Motion.

Issue

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.

Staff Presentation

Patrick Goff, City Manager listed the Mayor Pro Tem's authority and duties which include:

1. In the absence of the Mayor, the Mayor Pro Tem shall preside as the Chair and shall have the voting privileges of a regular Council Member.
2. Function as the Council Parliamentarian
3. Review and set the Agenda prior to Council Meetings and add emergency items for discussion if necessary.
4. Remove any item from the Agenda or any Regular Meeting or Study Session, before publication, with the exception of:
 - a. Any item placed on the Agenda by two (2) Council Members or by the Mayor and one (1) Council Member prior to the meeting.
 - b. An item added by the Council by majority vote of Council present during any meeting.
5. Arrange for and coordinate the orientation of all newly elected officials, including a review of Rules of Order and Procedure for the City Council.

Public Comment

No one came forward to speak.

Council Questions and comments

CM Weaver nominated CM Stites.

Motion by CM Weaver to elect CM Stites as Mayor Pro Tem, effective immediately, term to expire upon election of a successor, seconded by CM Ohm, motion carried 8-0.

CITY MANAGER'S MATTERS

Mr. Goff announced that the Holiday lighting ceremony this Saturday on the Green from 3 pm to 6:30 pm.

CITY ATTORNEY'S MATTERS

Nothing tonight

ELECTED OFFICIALS' MATTERS

Clerk Kirkpatrick asked Council to provide consultations while the Office of the City Clerk builds on the excellent work staff has already done in drafting the new Boards and Commissions operating ordinance. Kirkpatrick asked that Council designate someone to provide input as the detailed process and procedures get drafted and implemented.

CM Weaver reported that assertions to the effect that her goats are not fed while roaming Happiness Gardens are inaccurate. The goats are well fed by consuming the residue of this season's farming, which is why the goats are in Happiness Gardens.

CM Hultin also noted the presence of the goats at Happiness Gardens. Several residents have asked about the goats, and seem happy that the goats are doing their work.

CM Hultin also thanked all of the speakers who came forward tonight to rebut and rebuff the hate speech we heard two weeks ago tonight. She read a piece about hatred and government, and she believes the speakers this evening demonstrated a lot of love and support.

CM Ohm is also looking forward to the bicycle event this weekend. He noted that he saw CM Snell's Wheelie Bean on the streets recently and was glad to see it. He also recalled a conversation with a resident about excellent bakeries in our City. We are lucky to have so many good small businesses.

CM Snell encouraged those who patronized small business last week on Small Business Saturday to continue throughout the season of giving. She reported on a bicycle repair event coming this weekend. She expressed her pride for Wheat Ridge and how we reject hate in all its forms.

CM Dozeman thanked all the community members who attended this evening's Council to refute the vitriolic hate speech we heard a fortnight ago.

MPT Stites thanked Council for re-electing him MPT. He thanked everyone who came tonight and filled the room with love, the only effective way to counteract hate. Wheat Ridge always stands up when it counts. He saw the WRPD officers at Wal-Mart supporting the Blue Santa program and was glad to see them. This weekend we have a wreath building event on Saturday from 9 am to 1 pm. This Saturday is the grand opening of Chic-Fil-A. If you can find it in Wheat Ridge, buy it in Wheat Ridge.

Mayor Starker thanked all who came tonight to combat hate with love. He cut two ribbons for a grand opening and one-year anniversary in the past week. On Thursday in addition to the Chik-Fil-A ribbon cutting we will also cut a ribbon for a new housing facility.

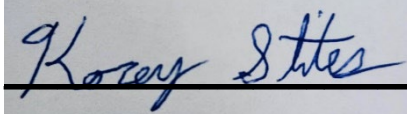
ADJOURNMENT

The meeting adjourned at 8:22 pm.

APPROVED BY CITY COUNCIL ON January 8, 2024.

A handwritten signature in black ink, appearing to be "SK", written over a horizontal line.

Steve Kirkpatrick, City Clerk

A handwritten signature in blue ink, appearing to be "Korey Stites", written over a horizontal line.

Korey Stites, 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.