

STUDY SESSION AGENDA

CITY COUNCIL CITY OF WHEAT RIDGE, COLORADO

7500 W. 29th Ave.
Wheat Ridge CO

December 17, 2018

6:30 p.m.

Individuals with disabilities are encouraged to participate in all public meetings sponsored by the City of Wheat Ridge. Call Sara Spaulding, Public Information Officer 303-235-2877 at least one week in advance of a meeting if you are interested in participating and need inclusion assistance.

Citizen Comment on Agenda Items

1. Rocky Mountain Bottling Business Development Zone Agreement
2. Dog Daycare/Boarding in C-1 Zone District
3. Discuss Appointment of City Treasurer
4. Staff Report(s)
5. Elected Officials' Report(s)

ADJOURNMENT

Memorandum

TO: Mayor and City Council

THROUGH: Patrick Goff, City Manager

FROM: Steve Art, Economic Development Manager

DATE: December 10, 2018 (for December 17, 2018 study session)

SUBJECT: Rocky Mountain Bottling Company
Business Development Zone Program Application

ISSUE:

The Rocky Mountain Bottling Company (RMBC) has submitted a request for a rebate of use tax pursuant to the Business Development Zone (BDZ) Program in Section 22-85 of the Wheat Ridge Code of Laws. RMBC has paid a total of \$1,050,000 in use tax to the City associated with the first phase of a multi-million dollar renovation project of their plant located at 10619 W. 50th Avenue in Wheat Ridge. Staff recommends that City Council consider the approval of a use tax rebate equal to twenty-five (25%) of the use tax paid to date, in the amount of \$262,500.

BACKGROUND:

Section 22-85 of the Wheat Ridge Municipal Code established the BDZ Program wherein existing Wheat Ridge companies or companies relocating to the City can request inclusion into the Program that provides for a rebate of use-tax and other fees based upon new construction or redevelopment. The BDZ Program was adopted by City Council for the following reasons:

1. The health, safety and welfare of the city are in large part dependent upon the continued encouragement, development and expansion of opportunities for employment in the private sector.
2. There currently exists in the city businesses or vacant land which require new development or revitalization to overcome unemployment, underemployment, net out-migration of the population, diminution of tax revenues, chronic economic distress and blighting influences, deterioration of business districts, etc.
3. Creating new development, redevelopment or expansion opportunities for the businesses within the City will increase the likelihood that new improved businesses will generate more municipal sales and use tax revenues.

The BDZ Program allows the Council to enter into an agreement to abate certain fees related to new development or redevelopment. These eligible city fees, charges and taxes are limited to use tax on furniture and fixtures associated with the development, use tax on building materials, building permit fees and zoning fees. The Program allows for a rebate up to 75% based upon the following investment amounts:

- \$250,000 – \$499,999 – up to 25%

- \$500,000 - \$999,999 – up to 50%
- \$1,000,000 – Higher – up to 75%

RMBC made a formal request for inclusion into the BDZ Program in July 2018. They anticipated beginning redevelopment work in late fall of 2018 and have requested that use tax paid from the beginning of the project be eligible for refund. To date, RMBC has paid use tax in the amount of \$1,050,000 for the first phase of the project.

PROJECT DESCRIPTION

RMBC will be making a substantial investment at their facility in Wheat Ridge starting in 2018. The last significant investment in the facility was in 2011. Given the capital-intensive nature of the business, this investment project is of critical importance to the viability of the plant and retention of jobs.

The redevelopment includes taking two of the plants three furnaces out of service and replacing them with one larger furnace equipped with new oxy-fuel technology that will lower emissions and maximize energy efficiency. The existing furnaces are reaching the end of their useful lives and must be rebuilt to continue operating safely and efficiently. In addition, there would be investment in forming machines, lehrs and surface treatment equipment, batch distribution and weighing equipment and inspection equipment. The new equipment utilizes enhanced technology, which is expected to improve reliability and productivity. The project costs are estimated at about \$92 million plus \$25 million for the lease of equipment that improves energy efficiency and reduces emissions.

A second phase of investment is being considered to start in 2019 that would add additional capacity at the facility for a new product at a cost of about \$6 million and a third phase slated for 2020 that would add new technology for production monitoring and quality inspections at a cost of about \$5.5 million. A fourth phase would include rebuilding the third furnace in 2021 at an estimated cost of \$10.5 million. Combined these various projects total about \$114 million (excluding the oxy-fuel system lease) in investment in the facility to upgrade equipment needed to remain competitive and improve the viability of the plant for the future.

On August 3, 2018 RMBC deposited \$1,050,000 with the City for first phase redevelopment activities related to the site improvements. RMBC is requesting that use tax paid for the future phases of this project through 2021 be included in the BDZ Agreement.

Company Information

RMBC is a glass container manufacturing joint venture (JV) between Owens-Illinois, Inc. (“O-I”) and MillerCoors (“MC”). RMBC traces its roots back to the Columbine Glass Company, which was founded in 1970 producing about 450,000 bottles per day at the same site being used today. After being purchased by Coors container business and entering into a partnership with Anchor Glass Container, the JV was formed in 1995. O-I purchased the glass container assets of Anchor Glass Container in 1997 and has been the JV partner since that time, partnering with MC since 2008. RMBC is part of both the O-I manufacturing network and the MC enterprise.

O-I is the world's largest glass container manufacturer and preferred partner for many of the world's leading food and beverage brands. O-I had revenues of \$6.9 billion in 2017 and employs more than 26,500 people at 78 plants in 23 countries. With global headquarters in Perrysburg, Ohio, O-I delivers safe, sustainable, pure, iconic, brand-building glass packaging to a growing global marketplace. O-I's principal markets for glass container products are in Europe, North America, Latin America and Asia Pacific. In North America, O-I has 19 glass container manufacturing plants in the U.S. and Canada, and one other joint venture. O-I has the leading share of the glass container segment of the U.S. rigid packaging market, however it faces strong competition from other forms of rigid packaging such as aluminum and plastic containers, as well as non-rigid packaging alternatives. Low cost is a key strength in competing successfully in the rigid packaging market, since glass is more expensive than the alternatives (i.e.: glass is 30% higher in cost than aluminum cans).

Locally, RMBC is one of the largest private employers in the City of Wheat Ridge and part of the targeted industry cluster of Beverage Production in Jefferson County, which has a significant local economic impact. At the state-level, the Company is part of the Food & Agriculture industry, which is designated a key industry for the state of Colorado and a critical driver of the state's overall economy. The facility is approximately 400,000 square feet, on 17.5 acres, and includes a recycling facility which processes cullet (recycled glass) used in the manufacturing process. The plant currently makes six (6) different bottle types and about 3.5 million bottles per day for over 30 varieties of beer. The bottles are shipped primarily to MC brewery locations in California, Colorado, Texas and Wisconsin. The breweries are in close proximity to O-I glass plants, which also supply bottles to the breweries.

Employment

The facility has 226 full-time permanent employees. Total annual payroll exceeds \$23,000,000, with average annual wages per job of about \$100,000 (well above the Jefferson County average wage of \$57,824). These are high-quality jobs contributing to the economic vitality of the City and region.

It is anticipated that about 15-18 new full-time permanent jobs will be created at the facility by the end of 2019, at an average annual wage of about \$100,000. In addition, it is anticipated that a significant amount of local labor will be used to complete the redevelopment project. This includes local millwrights, masons, electricians, etc. It is estimated that the portion of the project costs associated with local labor could be in the range of \$15 - \$17 million.

RECOMMENDATION:

RMBC is an existing business in the City that requires new investment to remain operational and competitive in a capital-intensive business. If investment is not made to rebuild, upgrade and improve the furnaces and production equipment, the operation cannot remain viable. RMBC pays a significant amount of local property and sales/use tax (through direct pay and via vendors including utility providers) and employs many people in the City. These projects will help ensure the retention of the city's tax base and high-quality jobs for its residents, while generating additional tax revenue from the new investment in 2018-2021 and beyond.

In addition, the almost \$25 million in direct payroll generated by the plant annually and paid to local labor hired for furnace construction and equipment installation will support retail sales and associated tax revenue in the City as employees and laborers spend their earnings (induced economic impacts). Suppliers of RMBC similarly contribute to the local economy and tax base as a result of the glass plant operations by making their own purchases of goods and hiring workers (indirect economic impacts).

Participation in the program will help the RMBC plant compete internally for limited allocation of capital dollars. Plants that can implement a project in the most cost-effective manner are best positioned to secure funding from the JV partners. Facility financial metrics impact which plants receive new investment, including ROI, cost structure and profitability. Economic incentives favorably impact these metrics by reducing operational costs and improving ROI. In this case, a favorable use tax rebate from the City is particularly important to reduce project costs given the challenging market conditions and to offset competitive operating cost disadvantages impacting the facility ROI.

Staff recommends a twenty-five percent (25%) rebate on the \$1,050,000 in use tax paid by RMBC which equates to an approximate rebate of \$262,500 for the following reasons:

- The project will assist a major employer in Wheat Ridge and Jefferson County
- The project will retain jobs and may increase employment
- The project will provide a more efficient facility thus reducing power consumption resulting in fuel savings
- The project will create a cleaner air by reducing contaminants released.

Staff also requests that Council consider the extension of this rebate for the entire redevelopment project through 2021.

RMBC Project Profile - Revised
December 3, 2018

Investment Summary – Potential Plant Investment, 2018-2021

Description	Est. Cost	Sub-Total	Timing
<i>Phase 1 - A/B Furnace Project</i>			2018-2019
Cold End Inspection			
Abatement System			
Batch House			
Furnace Demolition and Misc. Repairs			
Furnace Rebuild			
Building Repairs and Alterations			
Lehr and Surface Treatment			
Forming Machines			
Infrastructure & Utilities			
Gen Contractor Services			
Engineering Services			
Contingency			
		\$91,743,000	
<i>Transformation Project</i>			
Forming machine conversion	\$2,800,000		
Inspection machine guarding	\$1,906,000		
Misc. replacement equipment	\$1,300,000		
		\$6,006,000	
<i>Phase 2 - Quality Project A</i>			2020
New quality equipment	\$3,200,000		
Inspection machine guarding	\$980,000		
Misc. replacement equipment	\$1,300,000		
		\$5,480,000	
<i>Phase 3 – C Furnace Project</i>			2021
C Tank Rebuild	\$8,000,000		
New quality equipment	\$1,290,000		
Misc. replacement equipment	\$1,200,000		
		\$10,505,000	
Total Purchases:		\$113,734,000	2018-2021

Important Note: An oxy-fuel equipment lease may be entered into as part of the Phase 1 Project in 2019. This would be a 25-year lease at an annual lease cost of \$1,700,000 for equipment. The Company is assessing how sales/use tax will be paid under the lease agreement. If the Company pays the use tax directly to the City, we are requesting that such payments be included as part of the incentive.

ATTACHMENTS:

1. BDZ program Section 22-85

Business Development Zone Program

Section 22-85

Sec. 22-85. - Program established.

There is hereby established within the city the "Wheat Ridge Business Development Zone" program.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-86. - Legislative declarations.

(a)

The city council of the city hereby finds and declares:

(1)

That the health, safety and welfare of the people of this city are in large part dependent upon the continued encouragement, development and expansion of opportunities for employment in the private sector in this city;

(2)

That there currently exists in this city businesses or vacant land which require new development or revitalization opportunities to overcome conditions of unemployment, underemployment, net out-migration of the population, diminution of tax revenues, chronic economic distress and blighting influences such as, but not limited to, deterioration of business districts, deterioration of public infrastructures, traffic and drainage problems or sudden severe economic dislocations;

(3)

That by creating new development, redevelopment or expansion opportunities for businesses within the city the city council will increase the likelihood that new and improved businesses will generate more municipal sales and use tax revenues for the city in the future.

(b)

It is therefore declared to be the policy of the city, in order to provide incentives for private enterprises to expand or for new businesses to locate in the city, to develop a program which empowers the city council to designate portions of the city as a "business development zone" and to provide for the abatement of certain categories of fees, taxes and other business development-related charges for new development or redevelopment within such districts.

(c)

The city council has enacted this division 5 of article I of chapter 22 of the Code of Laws as a joint benefit to the public at large and to private owners for the purposes of reducing blight in our business districts and of providing the city with increased sales and use tax revenues generated upon and by properties improved as a result of this program and allowing owners and proprietors opportunities to improve properties which generate sales activities, which improvements make those properties more competitive in the marketplace and further provide to owners and proprietors additional contingent sources of revenues for ungrading such properties.

(d)

The city council specifically finds and determines that creation of this "business development zone" division and the exercise of the powers enumerated herein are consistent with and promotes the public health, safety and general welfare of the citizens of Wheat Ridge.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1993-947, § 1, 12-13-93; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-87. - Definitions.

As used in this division, the following phrases shall have the following meanings unless the context clearly indicates another meaning:

(1)

The phrase *eligible city fees, charges and taxes* shall mean and shall be limited to use tax on furniture and fixtures associated with the initial development or redevelopment "project," use tax on building materials, building permit fees and zoning fees.

(2)

The phrase *expected incremental future sales and use tax revenue* shall mean the amount of the additional sales and use tax revenue, as projected by the city, expected to be generated during the council-designated time period from the time of completion of the "project" over and above the sales and use tax fees generated on the premises in the twelve (12) months preceding the application described in section 22-88

(3)

The phrase *owner or proprietor* shall mean the record owner, tenant or operator of an individual business or, in the case of a shopping center, the owner of the real property upon which more than one business is operated.

(4)

Project shall mean the specific development or redevelopment expenditures which relate both to the abatement of "eligible city fees, charges, and taxes" and "expected incremental future sales and use tax revenues."

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-88. - Participation.

Participation in the business development zone program shall be based upon approval by the city council, exercising its legislative discretion in good faith. Any owner or proprietor of an established, proposed or newly purchased business, or the owner or proprietor of an existing business which wishes to expand, may apply to the city for inclusion within the program. Abatement or sharing of eligible city fees, charges, and taxes shall, upon approval of the application by the city council, be granted up to the amount of expected incremental future sales and use tax revenue to be generated by the project during the agreed to time period.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-89. - Approval of agreement; use of funds generally.

Approval by the city council of an agreement implementing the provisions of this division shall entitle the applicant to share in the eligible city fees, charges and taxes up to the amount agreed by the city council; provided, however, that applicant may use such amounts only for the purpose of developing or redeveloping the business within the approved business development zone, which purposes shall be specifically enumerated in the agreement provided for in section 22-94 hereof.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-90. - Uses enumerated.

The uses to which the eligible city fees, charges and taxes may be put by an applicant shall be strictly limited to those which are approved by the city council and relate directly to the development or redevelopment of businesses within the city, which developed or redeveloped businesses will generate more municipal sales and use tax revenues for the city in the future. Priority shall be given to all businesses which make application for inclusion within this program and who agree to utilize the eligible city fees, charges and taxes for the public or public-related purposes identified section 22-78 of this Code of Laws.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-91. - Increments, sharing of funds.

The base figure for eligible city fees, charges and taxes shall be divided into twelve (12) monthly increments, which increments are subject to agreement between the parties and approved by the city council, and which increments shall be reasonably related to the amount of sales and use taxes generated on the premises in the twelve (12) months preceding the application received by the city for participation in this program. The accounting and payment provisions of sections 22-79 and 22-80 hereof are hereby declared to be applicable to any application approved hereunder.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-92. - Capital improvement fund.

The one (1) percent of use taxes earmarked for the capital improvement fund may be utilized in this business development zone program for public improvements so long as the same are within the meaning of the phrase capital improvements as defined in the voter-approved sales tax referendum previously held within the city, and provided the public improvements are found and determined by the city council to be capital improvements which could be provided by the city from the capital improvement fund but for the provision of such improvements by the applicant.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-93. - Criteria for approval of application.

(a)

Approval of an application for inclusion in this business development zone program shall be given by the city council at a public hearing held as a portion of a regularly scheduled city council meeting based upon the following criteria:

(1)

The amount of expected incremental future sales and use tax revenue which [can] reasonably be anticipated to be derived by the city through the expanded or new tax generating business;

(2)

The public benefits which are provided by the applicant through public works, public improvements, additional employment for city residents, etc.;

(3)

The amount, if any, of city expenditures which may be deferred based upon public improvements to be completed by the applicant;

(4)

The conformance of the applicant's property or project with the comprehensive plan and zoning ordinances of the city;

(5)

The agreement required by section 22-94 hereof having been reached, which agreement shall contain and conform to all of the requirements of such section.

(b)

Approval of any application shall be made by motion adopted by a majority of the entire city council.

(c)

The city council may by three-fourths ($\frac{3}{4}$) majority vote approve exceptions to the provisions of this division when such exceptions are found to be in the public's interest and such exceptions provide substantial benefit to the city.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1993-947, § 2, 12-13-93; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-94. - Agreement required.

Each application for approval to the city council shall be subject to approval by the council solely on its own merits. Approval of one application shall not require, or be deemed precedent for, approval of any other application. Approval of an application shall require that an agreement be executed by the owner and the city, which agreement shall, at a minimum contain:

(1) A list of those public or public-related improvements which justify applicant's approval, and the amount which shall be spend on such improvements;

(2) The maximum amount of expected incremental future sales and use tax revenue and the maximum time during which the agreement shall continue, it being expressly understood that

any such agreement shall expire and be of no further force and effect upon the occurrence of the earlier to be reached of the maximum time of the agreement (whether or not the maximum amount to be shared has been reached) or the maximum amount to be shared (whether or not the maximum time set forth has expired);

- (3) A statement that this is a personal agreement which is not transferable and which does not run with the land;
- (4) That this agreement shall never constitute a debt or obligation of the city within any constitutional or statutory provision;
- (5) The base amount which is agreed upon by month, and the fact that if, in any month as specified, expected incremental future sales and use tax revenue received from the property does not at least equal such amount, that there shall be no sharing of funds for such month;
- (6) The base amount shall be agreed upon, which shall consider the use taxes generated by the property in question, or a similar property within the city in the event of a new business;
- (7) A provision that any expected incremental future sales and use tax revenue shall be escrowed in the event there is a legal challenge to this business development zone program;
- (8) An affirmative statement that the obligations, benefits and/or provisions of this agreement may not be assigned in whole or in any part without the expressed authorization of the city council, and further that no third party shall be entitled to rely upon or enforce any provision hereof;
- (9) Any other provisions agreed upon by the parties and approved by the city council.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-95. - Joint venture liability.

The city council has enacted this business development zone as a joint benefit to the public at large and to private owners for the purposes of providing the city with increased tax revenues generated upon and by properties improved as a result of this program; public improvements being completed by private owners through no debt obligation being incurred on the part of the city, and allowing applicants an opportunity to improve properties which generate sales and other business activities. The city council specifically finds and determines that creation of this business development zone is consistent with the city's powers as a home rule municipal corporation, and that exercise of such powers in the manner set forth herein is in furtherance of the public health, safety and welfare. Notwithstanding any provision hereof, the city shall never be a joint venture in any private entity or activity which participates in this business development zone program, and the city shall never be liable or responsible for any debt or obligation of any participant in this business development zone.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Sec. 22-96. - ESTIP and TIF.

If the applicant, owner or proprietor participates in the city's Enhanced Sales Tax Incentive Program ("ESTIP") or if the owner's or proprietor's business is located in an urban renewal area in which all or a portion of sales tax revenues have been pledged as part of a tax increment financing program, he or she shall be ineligible for participation in this business development zone program.

(Ord. No. 888, § 1, 1-13-92; Ord. No. 1272, § 1, 12-9-02)

Secs. 22-97—22-99. - Reserved.



Memorandum

TO: Mayor and City Council

FROM: Kenneth Johnstone, Director of Community Development

THROUGH: Patrick Goff, City Manager

DATE: December 7, 2018 (for December 17 City Council study session)

SUBJECT: Dog daycare and outdoor dog runs

ISSUE:

The City's code is silent to dog daycare uses. However, staff has made the administrative determination that the use is most similar to "animal veterinary hospitals or clinics," which are defined in Chapter 26 of Municipal Code and are permitted in certain zone districts. Chapter 26 regulates those clinics in a different manner when they are proposed to have any outdoor runs; as such, if a dog daycare proposal seeks to have an outdoor activity area (run), they would be required to be located in a Commercial-Two (C-2) or Industrial/Employment (I/E) zone district.

This topic came up most recently in relation to a new business at 4575 Wadsworth, which earlier this year made application for a business license principally as a dog training facility with accessory uses of day care and boarding, when associated with the training component. They were issued a building permit in July of this year on the condition that "there were no outdoor runs or pens." This condition was communicated to the business owner through a July 18, 2018 letter attached to the approved business license.

BACKGROUND:

As noted, the City's Code, including Chapter 26 (Zoning and Development) is silent to "dog daycare." However, staff has made the determination under the terms of 26-204-B that such a use is most similar to an "animal veterinary hospital or clinic" and therefor allowed to operate in the same location as those uses and under the same terms and conditions.

Code requirements for "veterinary hospitals and clinics"

"Veterinary hospital or clinic (small animal, enclosed)" is defined as follows: "a place where small animals or pets (dogs, cats, birds and the like) are given medical or surgical treatment. Use as a kennel shall be limited to short time boarding and shall only be incidental to such hospital use. All uses shall be enclosed within a soundproof building which emits no objectionable odor."

"Animal veterinary hospitals and clinics" that include outdoor runs are permitted in the City's C-2 and I/E zone districts.

"Animal veterinary hospitals and clinics" without outdoor runs or pens are permitted in

additional zone districts, notably Restricted-Commercial (R-C) and Commercial-One (C-1). Further, they can be approved as a special use in Neighborhood-Commercial (N-C).

While we believe the above two definitions are the applicable sections of the code as it pertains to dog daycare business, there are several other sections of the Code worth reviewing as additional reference points regarding domestic animal related activities, particularly those without an outdoor component.

Code requirements for “kennels”

“Kennels” are defined as follows: “A building, structure or open space devoted in its entirety, or in part, to the raising, boarding or harboring of four (4) or more adult dogs and/or five (5) or more cats.”

If approved through a special use permit, Kennels are allowed in the I/E zone district.

“Dog kennels, catteries and veterinary hospitals” are also allowed in Agricultural zone districts, if approved as a special use permit and subject to the following limitation:

- “Outside runs which are adjacent to residentially zoned or used property can be no closer than 25 feet to a side or rear property line.”

RECOMMENDATION:

Staff requests direction from City Council whether they wish to pursue any code amendments adding dog daycare to Chapter 26 or otherwise amending any of our existing regulations pertaining to domestic animal related businesses/land uses.

Memorandum

TO: Mayor and City Council

FROM: Patrick Goff, City Manager

DATE: December 17, 2018

SUBJECT: Appointment of City Treasurer

ISSUE:

City Treasurer DiTullio was elected to the office of Jefferson County Treasurer on November 6, 2018. Mr. DiTullio has submitted his resignation as City of Wheat Ridge Treasurer, effective midnight, January 7, 2019. Consensus was reached by City Council on December 3 to further discuss the City Treasurer appointment on December 17, and a procedure to fill the vacancy has been established by staff.

BACKGROUND:

The Wheat Ridge City Charter addresses vacancies of elected officials as stated below:

Sec. 3.11. Vacancies in elective offices.

- (a) An elected official shall continue to hold his office until his successor is duly qualified. An elective office shall become vacant whenever any officer is recalled, dies, becomes incapacitated, resigns, refuses to serve, ceases to be a resident of the city, or is convicted of a felony.
- (b) ...
- (c) If a vacancy occurs in the office of the city clerk or city treasurer, no special election shall be called but such vacancy shall be filled by appointment by the council for the remainder of the term.

Sec. 4.4. Qualifications.

- (a) No person shall be eligible to hold the office of a councilmember unless, at the time of his election, he is a registered elector, as defined by Colorado Revised Statutes, and is a resident of the district from which he is elected for a period of at least twelve (12) consecutive months immediately preceding the date of the election.

Note: City Treasurer shall have the same qualifications as members of the council.

City Charter, Wheat Ridge Code of Laws or Council Rules and Procedures do not address specific procedures for the appointment of elected officials. To establish a procedure to fill the vacancy, Staff recommends an application process, and has created a draft application for City Council review. The application period for City Treasurer would open the week of December 17 and would close on Friday, January 25, 2019. All qualified candidates would then be contacted by the City Clerk's

Office and informed to prepare a 3-5 minute presentation at the February 4, 2019 study session. Additionally, the City Attorney reviewed City Council's request for information regarding the City Treasurer salary and if the salary could be altered ahead of filling the impending vacancy. It was determined that the salary cannot change prior to filling the vacancy in 2019, but that if City Council would like to change the compensation amount, the earliest it could be altered is before the 2019 election of a Treasurer, which would be effective in 2020. The salary for the role will be \$29,000 in 2019.

ATTACHMENTS:

1. Draft City Treasurer Application
2. Memorandum from the City Attorney regarding setting compensation for the City Treasurer



City Treasurer Application

Contact Information

First Name

Last Name

Address

Email Address

Phone

Occupation

Employer

City Treasurer Duties & Requirements

Duties:

The duties of the Treasurer can be found in [Sec. 3.10 of the Wheat Ridge City Charter](#). The salary for this position will be \$29,000 in 2019.

Requirements:

The City Treasurer is required to be a registered elector of the city for a period of twelve (12) consecutive months immediately preceding appointment, and must remain a resident of Wheat Ridge throughout his or her entire appointment.

Do you live in Wheat Ridge?

☐ Yes ☐ No

Are you registered to vote at your current address?

☐ Yes ☐ No

Have you lived at your current address for the past 12 consecutive months?

☐ Yes ☐ No

Community Involvement & Experience

If you need more space to respond to the questions, you may include one (1) additional, separate page of responses (total, not per question) and include it as an attachment when you submit your application.

Have you ever, or do you currently serve in any appointed position on a Board, Committee or Commission?

☐ Yes ☐ No

If yes, please describe:

Please describe any other community involvement, experience or interests:

Why would you like to serve as City Treasurer?



Please describe your experience with accounting, auditing, cash receivables and the investment of monies:



What qualities do you possess that will make you an effective City Treasurer?



Additional Information

If there anything that would adversely affect your ability to serve as City Treasurer?

☐ Yes ☐ No

If yes, please explain:

Please submit your application, along with any other relevant information (resume, references, additional response page, etc.) to Deputy City Clerk Robin Eaton at reaton@ci.wheatridge.co.us

All qualified candidates will be confirmed by email and asked to provide a 3-5 minute presentation to City Council on Monday, February 4, 2019 at 6:30p.m.

Applications are due by Friday, January 25, 2019 at 5:00p.m.



MEMORANDUM

To: Wheat Ridge Mayor and City Council
From: Gerald Dahl, City Attorney
Date: December 11, 2018
Re: Setting compensation for the City Treasurer

City Manager Goff has relayed your request for my opinion on the ability of the Council to alter the compensation paid to the City Treasurer, and in particular, whether Council can change that compensation so as to apply it to the person appointed to fill the vacancy caused by Mr. DiTullio's resignation.

I have performed the necessary research and conclude that the Council may not alter the Treasurer's compensation applicable to the vacancy appointment; any such change will not take effect until the election of a Treasurer at the November 2019 election.

The City's home rule charter section 3.12 addresses this question:

Elected officials shall receive such compensation as the council shall prescribe by ordinance; provided they shall neither increase nor decrease the compensation of any elected official during his term of office.

While this language leaves room to conclude that "during his term of office" relates personally to the elected officer involved and not to a person appointed to fill a vacancy in the office, language in the Colorado Constitution at Article XII, Section 11 controls:

No law shall extend the term of any elected public officer after his election or appointment nor shall the salary of any elected public officer be increased or decreased during the term of office for which he was elected."

While the difference is subtle, the state Constitution emphasizes the time frame of the elected term of office itself and controls over any conflicting charter provision. Because the elected "term of office" of the Treasurer in this case extends until the November 2019 election, the prohibition against altering the compensation "during the term" for that position also extends to that time.

Of course, the Council is free at any time to set new compensation levels for the City Treasurer, and in fact if it wishes to have such changes become effective, it must do so prior to the November 2019 election in order to apply to the term of office beginning at that election.

ATTACHMENT 2