

AGENDA

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

November 18, 2019

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, at 303-235-2877 at least one week in advance of a meeting if you are interested in participating and need inclusion assistance.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL OF MEMBERS

APPROVAL OF MINUTES

City Council Minutes	Study Session Notes	Special Study Session Notes
October 14, 2019	October 21, 2019	August 26, 2019
October 28, 2019		

PROCLAMATIONS AND CEREMONIES

Swearing-in of Newly Elected Officials
Recognition of Outgoing Elected Officials

APPROVAL OF AGENDA

CITIZENS' RIGHT TO SPEAK

- a. Citizens, who wish, may speak on any matter not on the Agenda for a maximum of 3 minutes and sign the PUBLIC COMMENT ROSTER.
- b. Citizens who wish to speak on an Agenda Item, please sign the GENERAL AGENDA ROSTER.
- c. Citizens who wish to speak on a Public Hearing item, please sign the PUBLIC HEARING ROSTER before the item is called to be heard.
- d. Citizens who wish to speak on Study Session Agenda Items for a maximum of 3 minutes and sign the STUDY SESSION AGENDA ROSTER.

CITY MANAGER'S MATTERS

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS' MATTERS

ADJOURNMENT TO STUDY SESSION

CITY COUNCIL MINUTES

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

October 14, 2019

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

Zachary Urban	David Kueter	Amanda Weaver	Kristi Davis
Janeece Hoppe	Leah Dozeman	Larry Mathews	

Absent: George Pond (not excused)

Also present: City Clerk, Janelle Shaver; City Manager, Patrick Goff; Interim Police Chief, Dave Pickett; Community Development Director, Ken Johnstone; Parks & Recreation Director, Karen O'Donnell; Administrative Services Director, Allison Scheck; City Treasurer, Chris Miller; Judge Randall; other staff, guests and interested citizens.

APPROVAL OF THE AGENDA

CITIZENS' RIGHT TO SPEAK

Vivian Vos (WR) reported attending a test of the ballot counting machines at Jefferson County Elections. She was encouraged to know that the computer system that counts the ballots is a stand-alone system and cannot be hacked. She noted the County will be giving tours of the Elections Division at 1pm on November 4. People can go to their website to find out details about how to do it.

Carol Mathews (WR) recognized and thanked Sara Spalding, the City's Public Information Officer. She is the lady behind the scenes planning and promoting City events. She led the volunteers for the historic 50th Anniversary gala. She facilitates most city gatherings, and takes and posts pictures. She has worked to improve communications to all citizens; she provides factual accounts of accidents and street closings on social media; she has broadened the city's communication network beyond the website to include Facebook and Nextdoor. Communication is key to running a city, and she is always working on it with expertise and grace.

1. CONSENT AGENDA There was no consent agenda.

PUBLIC HEARINGS AND ORDINANCES ON SECOND READING

2. Resolution No. 56-2019 – A Resolution adopting the City Budget and appropriating sums of money to the various funds and spending agencies for the City of Wheat Ridge, Colorado for the 2020 Budget Year

Councilmember Urban introduced Resolution 56 -2019.

Mayor Starker opened the public hearing.

Staff presentation

Mr. Goff presented a quick overview of the budget and a summary of funds since great detail had been provide at a study session a few weeks ago. He noted that best practices have been followed in preparing the budget.

The proposed 2020 budget includes the following:

- General Fund projected revenues of \$39,870,759 -- which would be a 10% increase compared to 2019
- General Fund projected expenditures of \$39,435,240 – a 7.9% increase compared to 2019; primarily due to \$2.5M for Rec Center expenditures. (General Fund expenditures are 51% of the whole budget.)
- An unrestricted fund balance of \$7,404,800 or 18.8% of expenditures. Any extra or unspent revenue will be put in reserves.
- A General Fund transfer of \$3,600,000 to the Capital Improvement Program (CIP), and \$100,000 to the Equipment Replacement Fund
- A 7.9% increase in the General Fund budget compared to the adjusted 2019 budget
- Proposed CIP Fund expenditures in the amount of \$18,361,877
- Proposed 2E Bond Fund totals \$15,109,308 -- includes \$11.6M for projects and \$3.4 for debt service (Debt service is 23% of total bond fund budget)
- Special Revenue Funds in the amount of \$4,022,231
- Proposed Budget (Expenditures) of all funds in the amount of \$76,928,656
- Rec Center Fund (Fund 64) of \$70,977 is being dissolved, moving revenues and expenditures into the General Fund.
- We should have a Reserve of \$7.4M (18%)
- Restricted fund balance is \$2.5M
 - \$1.1M for TABOR 3% emergency reserve
 - PEG fees of \$271K can only be spent on certain things.
 - \$1M for Fruitdale is restricted also.

Capital \$18M; majority for Wadsworth reconstruction for final design and ROW acquisition. Construction could start end of next year.

2E Bond Fund \$11.6M; Anderson Building/Park is finished and the hook ramps for Clear Creek Crossing are being constructed. 2 projects left: Gold Line Station 54%: for infrastructure, and the Wads project 23%, plus the 23% for debt service

Open Space major projects are developing a community gathering place on 38th Ave, trail maintenance repair and an Open Space Master Plan.

Conservation Trust Fund (lottery money) \$821K; complete renovation of Prospect Park, Rec Center maintenance projects, and a new playground at Bonnie's Park.

Rec Center Fund Remaining \$70K to be transferred to the General Fund in 2020.

Staffing changes have a net increase of 3.25 FTE in 2020

- 1 FTE Neighborhood Engagement Specialist - Community Development
 - A Senior Planner was authorized in 2019
- 0.75 FTE Landscape Inspection Program Manager – Comm Dev
- 0.5 FTE part time Payroll Technician – Admin Services
- 0.5 FTE half time Sustainability Coordinator – City Manager's Office
- From Crime Prevention Fund -- 0.5 FTE Homeless Navigator.

Public Comment none

Council Questions

Councilmember Urban was told

- The Green project will come to Council for approval next Monday.
- A modified IGA for Wadsworth will be the next step requiring Council approval.
- All monies for Wadsworth are in – including the federal and DRCOG grants.

Councilmember Mathews asked if the completed 2E projects stayed within budget.

- Mr. Goff reported the money dedicated for the Anderson Building project was combined with \$7M from the Open Space Fund and the Conservation Trust Fund.
- We have \$10M dedicated for the Clear Creek Crossing hook ramps. The contract is \$16M for the work. The Longs Peak Metropolitan District will reimburse the City for the extra \$6M.

Mayor Starker closed the public hearing.

Motion by Councilmember Urban to approve Resolution No. 59-2019, a resolution adopting the City Budget and appropriating sums of money to the various funds and spending agencies for the City of Wheat Ridge, Colorado for the 2020 Budget Year, seconded by Councilmember Weaver; carried 7-0

ORDINANCES ON FIRST READING

3. Council Bill 16-2019 – An Ordinance amending section 26-205 of the Wheat Ridge Code of Laws concerning the regulation of minor accessory structures in the Residential-One zone district (Case No. ZOA-19-04)

The ordinance would modify the standards for minor accessory structures, specifically the rear and side setbacks and maximum square footage allowed per structure.

Councilmember Davis introduced Council Bill 16-2019.

Motion by Councilmember Davis to approve Council Bill 16-2019 - an ordinance amending section 26-205 of the Wheat Ridge Code of Laws concerning the regulation of minor accessory structures in the Residential-One zone district, on first reading, order it published, public hearing set for Monday, October 28, 2019 at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Dozeman; carried 7-0.

4. Council Bill No. 17-2019 – An Ordinance vacating any interest held by the City in a portion of West 38th Avenue, a public roadway

The City of Wheat Ridge holds rights-of-way in trust for the public. An irregular-shaped strip of ROW running along the south side of West 38th Avenue eastward from Youngfield Street has been deemed to be excessive and unnecessary by the Public Works Department. Staff recommends transferring the ROW to U.S. Retail Partners, LLC, owners of the Applewood Shopping Center.

Councilmember Weaver introduced Council Bill 17-2019.

Motion by Councilmember Weaver to approve Council Bill 17-2019 - an ordinance vacating any interest held by the City in a portion of West 38th Avenue, a public roadway, on first reading, order it published, public hearing set for Monday, October 28, 2019 at 7:00 p.m. in City Council Chambers, and that it take effect 15 days after final publication; seconded by Councilmember Urban; carried 7-0

DECISIONS, RESOLUTIONS AND MOTIONS

5. Resolution No. 57-2019 – A Resolution levying general property taxes for the year 2019, to help defray the costs of government for the City of Wheat Ridge, Colorado for the 2020 budget year

Councilmember Hoppe introduced Item 5.

Staff Presentation

Mr. Goff reported the City's property tax mill levy will remain at 1.830 mills for the 2020 budget. Since TABOR still restricts the City from raising the property tax mill levy without voter approval, this approval, while required by statute, is really just a formality.

There was no public comment and no discussion by Council.

Motion by Councilmember Hoppe to approve Resolution No. 57-2019, a resolution levying general property taxes for the year 2019, to help defray the costs of government for the City of Wheat Ridge, Colorado for the 2020 budget year; seconded by Councilmember Dozeman; carried 7-0

6. Motion to cancel the December 23, 2019, regular business meeting of the Wheat Ridge City Council due to the Christmas holiday

Councilmember Dozeman introduced Item 6.

Motion by Councilmember Dozeman to cancel the December 23, 2019, regular business meeting of the Wheat Ridge City Council due to the Christmas holiday; seconded by Councilmember Urban; carried 7-0

CITY MANAGER'S MATTERS

Mr. Goff reported that all the new retail tenants for Applewood Shopping Center are now open. The ones that opened this weekend had people waiting in line for the opening. Unfortunately Hacienda Colorado will be delaying its opening due to corporate priorities. It won't open until after the first of the year.

CITY ATTORNEY'S MATTERS

Mr. Dahl was not in attendance.

ELECTED OFFICIALS' MATTERS

Janece Hoppe thanked Council for the extra time they have spent recently with extra study sessions, late night meetings and executive sessions. She also reminded folks of the District 1 meeting she is having on October 22.

Mayor Starker reminded everyone of the upcoming city election and encouraged everyone to participate.

ADJOURNMENT

The meeting adjourned at 7:38pm.

Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON November 18, 2019

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 in the City Clerk's Office, as well as copies of Ordinances and Resolutions.

CITY COUNCIL MINUTES

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

October 28, 2019

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

David Kueter	Leah Dozeman	Kristi Davis
George Pond	Larry Mathews	Janece Hoppe

Absent: Zachary Urban (excused), Amanda Weaver (unexcused)

Also present: City Clerk, Janelle Shaver; City Attorney, Gerald Dahl; City Manager, Patrick Goff; Acting Public Works Director, Steve Nguyen; Development Director, Ken Johnstone; City Treasurer, Chris Miller; other staff, guests and interested citizens.

PROCLAMATIONS AND CEREMONIES

National Hunger and Homelessness Awareness Week

Mayor Starker proclaimed the week of November 16-24, 2019 as National Hunger and Homelessness Awareness Week in the City of Wheat Ridge. **Kelley Baker**, the Regional Homeless Coordinator for Jefferson County Human Services, was present to receive the proclamation. She thanked the City for the proclamation and its continued willingness to collaborate on this issue.

APPROVAL of Council Minutes of July 8, July 22, August 12, August 26, September 9, September 23, 2019; Study Session Notes of July 15, August 5, August 19, September 16, October 7, 2019 and Special Study Session Notes of September 9, 2019 and September 23, 2019

- Councilmember Hoppe reported that Councilmember Dozeman had called her to say she wouldn't be at the meeting of October 7, so she would like her to be listed as excused.
- Councilmember Kueter requested that his first name be corrected on the July 8 Roll Call.
- Clerk Shaver explained the reason for the backlog of minutes. It has to do with inadvertent, incomplete staff notification since Janice Smothers retired. She apologized and reported the cause for this has finally been identified and is now remedied.

There being no further corrections, the City Council minutes, Study Session Notes and Special Study Session Notes were approved as published.

CITIZENS' RIGHT TO SPEAK

Katy Winner (Arvada) is a member of the Class of 2020 of Leadership Jefferson County. Their class project is related to homelessness and hunger. She thanked Wheat Ridge for hiring a Homeless Navigator. She encouraged the public to help alleviate this widespread concern and help find solutions. The Action Center is currently doing a Sox Drive, and will be doing advocacy and awareness events the week of Nov 16-24.

Pam Brier (Lakewood) from the Action Center thanked the Mayor and Council for the Proclamation. She said the Action Center is seeing increased demand for food and shelter. She advocated for increased awareness. They're going to be reopening their shelter in partnership with Red Rocks Community College. With the cold weather upon us coats, blankets, sleeping bags, mittens, hats, and boots are badly needed. They are also having a sock drive. Socks can be delivered to the Action Center on Dec. 4 from 12-5. The delivery date and time is a fun thing to try to set a world record, but people can bring socks at another time if necessary.

Bob Brazell (WR) recalled at the last study session Mr. Johnstone said Short Term Rentals are not allowed in Wheat Ridge. Mr. Brazell referenced the situation in District 1 where numerous people came in about an STR that has several people living in the basement, that is destroying their property values and neighborhood, and doing it by breaking current codes. He's very disappointed Council hasn't acted on this and staff hasn't met with these people to enforce current codes. That is your job – to protect the citizens, not rant about your own personal beliefs about STRs. Why pass new rules, if the existing ones are not being enforced?

Rachel Hultin (WR) noted this is the last meeting for Councilmembers Pond and Davis and City Clerk Shaver. They have all served longer than she has lived in Wheat Ridge. Over the last 8 years she has seen a lot of things happen that she feels are good for the City and she thanked all of them for their part.

APPROVAL OF AGENDA

PUBLIC HEARING AND ORDINANCES ON SECOND READING

1. Council Bill 16-2019 – An Ordinance amending Section 26-205 of the Wheat Ridge Code of Laws concerning the regulation of minor accessory structures in the Residential-One zone district (Case No. ZOA-19-04)

This ordinance would decrease both the required rear and side yard setbacks and the maximum allowable square footage for minor accessory structures in R-1 zones.

Councilmember Davis introduced Council Bill 16-2019.

City Clerk Shaver assigned Ordinance 1675.

Mayor Starker opened the public hearing.

Staff Presentation - Ken Johnstone

- This is a Council-initiated ordinance.
- R-1 is the largest lot size. Currently in R-1 zones minor accessory structures require 15 foot rear and side yard setbacks.
- All other residential district have setbacks of 5 feet for accessory structures.
- This ordinance will reduce the rear and side setbacks requirements to 5 feet in R-1.
- Council has also requested to reduce the maximum size for minor accessory structures in R-1 from 400sf to 200sf.
- With this change any detached structure over 200 square feet in the R-1 zone district will be classified as a major accessory structure and will require 15-foot side and rear setbacks.
- Planning Commission heard this case and recommends approval.

No one came forward to speak and the Council had no questions.

Mayor Starker closed the public hearing.

Motion by Councilmember Davis to approve Council Bill 16-2019, an ordinance amending Section 26-205 of the Wheat Ridge Code of Laws concerning the regulation of minor accessory structures in the Residential-One zone district on second reading, and that it take effect 15 days after final publication, seconded by Councilmember Hoppe ; motion carried 6-0.

2. Council Bill 17-2019 – An Ordinance vacating any interest held by the City in a portion of West 38th Avenue, a public roadway.

The City holds rights-of-way in trust for the public. An irregular-shaped strip of ROW on the SE corner of West 38th Ave and Youngfield Street has been deemed to be excessive and unnecessary by Public Works. Staff recommends transferring the ROW to the owners of the Applewood Shopping Center.

Councilmember Pond introduced Council Bill 17-2019.

City Clerk Shaver assigned Ordinance 1676.

Mayor Starker opened the public hearing.

Staff Presentation - Steve Nguyen

- This strip of land was, at one time, reserved for a dedicated right turn lane from Youngfield onto eastbound 38th Ave. Since the entrance to I-70 has been moved to the south, a dedicated right turn lane at this location would likely never be needed.
 - The current street standards can be met.
 - The area proposed for vacation is 2,367 sq. ft. (0.05 acres), more or less.
 - U.S. Retail LLC will use the additional square footage for a new developable pad at this intersection.
 - In return for the vacated area, U.S. Retail has agreed to deed to the City a small, irregular-shaped strip of ROW along the east side of Youngfield Street lying just south of the area of vacation. The City needs the area to bring the Youngfield corridor into compliance with current street standards and to allow for construction of public improvements.
 - The area proposed for dedication is 2,187 square feet (0.05 acres), more or less.
- Mr. Cutler went through pictures showing the parcels of land under consideration. The exchange of land between the City and the land owner is about an equal exchange.

Public Comment No one came forward to speak.

Council Questions

Councilmember Mathews verified there will be no interference with the existing City monument.

Mayor Starker closed the public hearing.

Motion by Councilmember Pond to approve Council Bill 17-2019, an ordinance vacating any interest held by the City in a portion of West 38th Avenue, a public roadway on second reading, and that it take effect 15 days after final publication, seconded by Councilmember Davis; carried 6-0.

3. Resolution 58-2019 – A Resolution approving a major subdivision plat with right-of-way dedication for property zoned Planned Residential Development (PRD) and Agricultural-One (A-1) and located at 5352, 5372, and 5392 Quail Street (Case No. WS-18-01/Quail Run Plat)

The purpose of this subdivision request is to establish lot lines, tracts, easements, and right-of-way dedication for a 56-unit development with townhomes and single family detached homes.

Councilmember Mathews introduced Resolution 58-2019.

Mayor Starker opened the public hearing and swore in the speakers.

Staff Presentation - Scott Cutler

Mr. Cutler entered into the record the case file, the subdivision regulations, and the contents of the digital presentation. He testified that all posting and notification requirements had been met.

- The approximately 7.11-acre property is surrounded by Arvada on 3 sides.
- The PRD Zoning was approved by the Council in April, 2018

Proposed conditions

- 42 for-sale townhomes in 10 buildings, and 14 single family home lots.
- 6 tracts, commonly maintained (open space, drainage, and alleys), plus utility easements
- New public streets: 53rd Avenue/Drive, Pierson Court., Quail Street
- He explained why the plat and SDP have different boundaries. The plat has an extended boundary for two reasons. One, the lot to the south of the SDP portion needs to be involved in the plat because the rear portion of that area is being cut off and sold to this project to be used for the detention pond, and the Pierson Court right-of-way will extend south. The second reason is the narrow "tail" of the plat, which is the drainage conveyance, which will tie into the Skyline Estates drainage system via a private property owner's lot. They have signed an agreement which was reviewed and approved by Public Works, as have all drainage and civil documents for this site.

Process

- All outside agencies can serve the property and expressed no concerns.
- Public Works and Planning have found the plat and civil construction documents to be approvable
- No written comments were received for the plat application

The proposal complies with subdivision standards. Staff and Planning Commission both recommend approval.

No one from the public came forward to speak and there were no questions from the Council.

Mayor Starker closed the public hearing.

Motion by Councilmember Mathews to approve Resolution 58-2019, a resolution approving a major subdivision plat with right-of-way dedication for property zoned Planned Residential Development (PRD) and Agricultural-One (A-1) and located at 5352, 5372, and 5392 Quail Street for the following reasons:

1. City Council has conducted a proper public hearing that meets all public notice requirements as required by Section 26-109 and 26-407 of the Code of Laws.
2. The requested subdivision has been reviewed by the Planning Commission, which has forwarded its recommendation of approval.

3. The subdivision plat has been found in compliance with Article IV of Chapter 26 of the Code of Laws.
4. All agencies can provide services to the property with improvements installed at the developer's expense.

and with the following conditions:

1. The reception number of the Quail Street right-of-way in Arvada will be filled in prior to recordation of the SDP and plat.
2. The developer shall enter into a subdivision improvement agreement and a lot sale restriction covenant agreement prior to recordation of the subdivision plat.
3. Prior to issuance of building permits, the developer shall provide homeowner's association covenants for review by staff.
4. Prior to recordation, the applicant shall pay the required fees-in-lieu of parkland dedication.
5. Reconfiguration of the intersection of W. 53rd Avenue and Quail Street shall be completed to the satisfaction of the City.
6. All minor corrections to the plat shall occur prior to recordation.

on second reading, and that it take effect immediately upon Council adoption, seconded by Councilmember Hoppe; motion carried 6-0.

ORDINANCES ON FIRST READING

4. Council Bill 18-2019 – An Ordinance amending Sections 2-30, 2-31 and 2-32 of the Wheat Ridge Code of Laws concerning the Duties of the Chief of Police, Public Works Director and Community Development Director and authorizing changes to the City's organizational chart

The Wheat Ridge Charter §3.5 provides that Council may, by ordinance, consolidate and/or merge City departments and that each department be under the supervision of a department head appointed by the City Manager. Section 2-26 of the Code grants the City Manager the authority to exercise supervision and control over all departments.

The purpose of the proposed ordinance is to reassign duties in the appropriate sections of the City's Code of Laws and to update the City's organizational chart as follows:

1. Move direction of the City's code enforcement program from the Community Development Department to the Police Department
2. Move direction of the City's engineering functions of the current Public Works Department to the Community Development Department

Councilmember Hoppe introduced Council Bill 18-2019.

Motion by Councilmember Hoppe to approve Council Bill 18-2019 - an ordinance amending Sections 2-30, 2-31 and 2-32 of the Wheat Ridge Code of Laws concerning the Duties of the Chief of Police, Public Works Director and Community Development Director and authorizing changes to the City's organizational chart, on first reading, order it published, public hearing set for Monday, November 25, 2019 at 7:00 p.m. in City Council Chambers, and that it take effect immediately; seconded by Councilmember Davis; carried 5-1, with Councilmember Mathews voting no.

CITY MANAGER'S MATTERS

Mr. Goff alerted all to potential early closures tomorrow because of the coming storm. ~ He reminded folks there will be no Council meetings until November 18. ~ He also reported that Rocky Mountain Bottle has sent word they are proceeding with the work to quiet their operation. No dates have been given. Councilmember Mathews noted having calls from neighbors about new, strange noises, some of which are even louder.

CITY ATTORNEY'S MATTERS

ELECTED OFFICIALS' MATTERS

Kristi Davis thanked folks for the last 8 years - including the staff. She thanked her peers, past and present. She thanked her constituents in District 2; she has enjoyed the conversations and the collaboration.

Janeece Hoppe thanked George Pond and Kristi Davis for their help when she came onto the Council. She thanked Janelle Shaver for her diligence in preparing the minutes over the years on top of all the other work she has.

George Pond thanked the staff and Council for the last 8 years. It has been a real learning experience for him and he has enjoyed serving.

Mayor Starker thanked Clerk Shaver and Councilmembers Davis and Pond; it has been a pleasure to serve with you. ~ He urged citizens to vote. ~ In recognition of Veterans' Day, he thanked all veterans for their service.

Janelle Shaver thanked the citizens for allowing her to serve as their Clerk for the last 8 years. She thanked the staff she has had the privilege to work with – particularly Kim Cooke, Lauren Mikulak and Jennifer Nellis with whom she has collaborated on Public Information Requests a great deal. She assured citizens that the worker bees of the City are competent, hardworking and dedicated to providing good service to the citizens and businesses in the City. She thanked Mr. Goff for his cooperation through the years. It has been an honor to serve.

ADJOURNMENT

The meeting adjourned at 7:53 pm.

Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON November 18, 2019

Janeece Hoppe, Mayor Pro tem

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STUDY SESSION NOTES
CITY OF WHEAT RIDGE, COLORADO
City Council Chambers 7500 W. 29th Avenue
October 21, 2019

Mayor Bud Starker called the Study Session to order at 6.30 p.m.

Council members present: Amanda Weaver, George Pond, Janeece Hoppe, David Kueter, Kristi Davis (arrived late), Zachary Urban, Larry Mathews, and Leah Dozeman

Also present: City Clerk, Janelle Shaver; Community Development Director, Ken Johnstone; Parks & Recreation Director, Karen O'Donnell; City Treasurer, Chris Miller; guests and interested citizens.

Citizen Comment on Agenda Items

Albert Gallo (WR) lives next to a short term rental (STR). When the longtime residents moved away an investor bought the house and turned it into an Airbnb. There were lots of cars and carrying on there at first, but the owner finally settled it down. There are permanent renters in the basement. When things get out of hand they can call the owner. He likes having the option for his own house. He spoke on a few of Denver's STR rules. Some nights it's fine having strangers in the neighborhood; some nights not.

Guy Nahmiach (WR) asked for the goal of the discussion on Airbnb's. To turn people away? Generate income? Control what we have? Promote full houses or rooms?

- He shared some fact about Airbnb's in Wheat Ridge.
 - There are 141 Airbnb's in Wheat Ridge.
 - A person at 38th & Parfet is renting his couch out for \$32 a night.
 - A lady on Ames owns 4 houses in a row. Each room in each house has 2 bunkbeds. Each bed rents for \$22 a night, plus \$3 cleaning fee.
- He shared some things for Council to think about.
 - Fee? Denver charges \$50 for the initial fee; \$25 yearly renewal. Boulder charges \$130 for 4/year license; includes the inspection.
 - If the fee is to cover what it costs for inspections, the fee will be about \$300 per license – so high people will not register. About 2,500, half of the Airbnb's in Denver, are not registered.
 - Why set 21 as an age to register? It's 18 to register at a hotel.
 - He favors renting the whole house; thinks it will draw a better quality of renter.
 - 4:20 Special? How do you enforce that?
 - The 200 feet? What about duplexes and condos?

Kristine Jessop (WR) shared her experience of an Airbnb in her cul-de-sac. There is trash, noise, lots of activity and cars. This is a commercial enterprise. We will be known as an Airbnb. Realtors market houses as "perfect Airbnb's". Even if you pass rules, they will not be enforced. This is a business and should not be in a R-1 neighborhood. How would you like to live next to an Airbnb? She can't believe this has gone this far. She thinks they should not be grandfathered in. There was no hearing about having this business in the neighborhood - like there was about the possibility of having a daycare in the neighborhood. We should enforce current zoning laws now.

Ty Jessop (WR) noted that from the time he moved here 40 years ago, he's had to get permission for everything. The fellow who wanted to put in a day care came to the neighbors, and there was a hearing and he got denied. These people who own these Airbnb's don't have to get permission for anything. The one next to him has people coming in at midnight. People never asked him if he wanted a business next door. He is fed up. He has to live by the rules, and others get to do as they please.

Heather VanDeburgh (WR) has hosted 2 Short Term Rentals (STR) for 2 years in an R-2 neighborhood. They've had 200 guests from all over the world. She enjoys providing a welcoming and cozy home away from home for people who come to visit family. She said Airbnb screens their guests and hosts, and her family screens and manages their guests as well. They limit the number of people. They don't allow parties or events. Guests must respect our neighborhood and the home. Reviews of hosts and guests are shared. They hire cleaners and yard crews to take care of the properties. They look forward to smart regulations.

Adom VanDeburgh (WR), age 11, said his family has two short term rentals. He's gotten to meet a lot of new kids. Their guests are super nice.

Benji VanDeburgh (WR) related details and advantages about the two STR's his family runs. He would like to be able to continue having them. No one yet knows how STR's affect real estate prices, rental rates and nuisance violations. He hasn't seen evidence of trash, noise and extra traffic. He suggests license with practical safety requirements.

Mike Pleiss (WR) lives across from a STR. When they moved to this house 2 years ago they wanted their daughter to be able to ride her bike someday; now she is four and can't do it because of the business across the street that exploits the hard work of the neighbors and takes away the quiet neighborhood. The house is advertised as a quiet family neighborhood and a 4:20 house. The neighbors get nothing from this business that profits from their hard work. It's not fair. He has to work for his mortgage, but these owners have a business that contributes nothing to the neighborhood. He feels uncomfortable with the guests. There are events at the house, rude behavior, sometimes 10 cars on the street, drinking in the front yard. There needs to be some regulations to allow people who want to live in their houses to co-exist with people who are running a business in their neighborhood. He suggested no street parking, no parties, nightly minimums, taxing them, and rules.

Cary Whitaker (WR) is here with several neighbors from his street who sent a letter to Council in May, signed by all but 2 residents on the street, about the STR on their street that appears to be converted to an illegal duplex. The basement is rented long term to 2-3 people and the upstairs is rented out short term to up to 12 people. He thanked Councilmembers Kueter and Hoppe, and Dozeman and Urban for meeting with them. He thinks most of the people on the street support Councilmember Hoppe's framework for regulations, but there are details that need to be worked out. He thinks the Council needs to take a deep look at owner occupied. 1) People shouldn't buy homes they can't afford. 2) He provided copies of research from two universities that show STR's increase the cost of living, the cost of homes to buy, and the cost of long term rentals.

Colorado is in the middle of a 20-year affordable housing crisis; the last thing we need is for properties to be more expensive and for the cost of living to go up.

Weston Gallagher (WR), a resident of 3 years, owns/manages an Airbnb on 38th and also Airbnb's his house on Newland. He looks forward to the conversation and wants regulations to make sense for everyone. It's a business, which is taxable and is great for the City's economy, but we need to look at the hosts of Airbnb's. Their cash flow, life choices and property rights are just as important as a jerk across the street making obscene gestures. He suggested a community group to look onto this – not just do what surrounding cities are doing. He empathizes with fear of change, but he thinks choking off economic and cultural growth of the City to appease fear is a bad decision. He urged Council to look at the 38 reviews for his Airbnb on 38th Ave the last 3 months to see what people are saying about our city.

Rachel Hultin (WR) spoke about how she uses Airbnb when she travels. The two in her neighborhood are well kept, but the rental property across the street is not. Rentals impact the quality of life on her block. She likes having an Airbnb down the street for her family to stay at when they come to visit. She thinks regulation, licensing, taxing, and setting high standards aligns with the values of the city. People want to stay in Wheat Ridge; so if converting all or part of your house to an Airbnb allow them to stay here, that is what she thinks Wheat Ridge is. She believes being able to keep your first house as a rental and buying another one to live in is double investment in the City, and provides flexibility.

Tommy Lorden (Boulder) owns an Airbnb at 3351 Yukon Court. It may be a retirement home for him and his wife when their children are grown; to cover costs they've turned it into a STR. He understands some licensing and regulation make sense, but if Council enacts a primary residence requirement, he asked that existing Airbnb owners be grandfathered in. To change the rules suddenly would really disadvantage us.

David Ohmart (WR) has a delightful lady across the fence with an Airbnb. It's amazing to watch people from all over the world come here. STRs may need some regulations, but it shouldn't be out of balance.

Samuel Harris (Denver) lives in Denver but manages Arvada and WR properties - including 9889 W 32nd Ave. He hears negative feedback, but there are ways to combat that. He gets the neighborhood involved. He noted people coming here for family visits, births, funerals, adoptions, medical care, honeymoons. He does what he can to prevent parties and wild activity. There are pro's and con's. He requires a security deposit, and there's a large party of if marijuana is smoked - they don't get it back. He feels STRs connect worlds and neighborhoods. People want to come to Denver and experience it.

1. Preferred Concept Design for "The Green" on 38th Avenue

Ken Johnstone presented background for the discussion.

- We've had a shared use agreement with the school since 2013.

- The Architerra Group was hired in August 2018 to work on design and a procurement process.
- Major design elements are moving the parking lot closer to the school and having the Green closer to the street.
- \$900K is committed in the 2020 budget for this project.

Mark Taylor from Architerra went over the preferred design.

Councilmembers had comments and questions

- Glad the School District supports this.
- Is concerned the school district won't help with affordable housing, but will do this.
- We've moved Trunk or Treat to Lutheran because we need more room; is this space big enough?
- Like the way the design orients toward 38th Avenue.
- Likes that the driveway will help parents with school drop off.
- This is the only space on 38th Ave for a green place like this.
- We will have a lease agreement by the time we break ground.
- Want to know the types of events and the number of people this space will accommodate.
- What happens if the school closes?
- Has there been research on the deed restrictions on the property? Since April 26, 1873, this property has only been used for education purposes. This is the longest use of that kind in the State. There hasn't been any research like that.
- **Bruce Huxley**, Director of Property R-1 Schools, advised the State has allowed school districts to lease property if it is for community good. It will be a long term lease – details which are yet to be worked out. If the property is sold, the lease would have to be honored or negotiated.
- Stakeholder meetings were attended by Jeffco Schools, the principal of Stevens, 38th Ave business owners, City and Parks' staff, and Localworks representatives.
- School District believes this will enhance safety and security for the children. Provides better view of parking lot and ability to queue more cars.
- Hard time investing almost \$1M in a property we don't own when our schools are in danger of closing. The Green as it is now is serving its purpose.
- Need to see the IGA before approving a price tag.

Councilmember Hoppe received consensus to bring a design forward.

**Mayor Starker declared a break at 7:50.
The meeting reconvened at 8:01**

2. Short Term Rentals – City Council Survey Update and Discussion

Ken Johnstone presented. Staff has been monitoring the prevalence of STRs in the City, as well as what regulatory approaches (if any) other cities have taken - locally, statewide and nationally.

Our code is currently silent on the topic; however, looking at various sections of existing codes, staff's interpretation has been that they are not allowed. That is communicated to persons inquiring of their permissibility. Given staff resources and the ambiguity in the Code, enforcement actions to prohibit them is not currently pursued.

Mr. Johnstone went through the results of the internal survey of councilmembers on regulations they wanted for STRs (in the packet). Extra staffing may be necessary. Whatever we do will be complicated and require considerable research. Council may also want to consider what extra public outreach they would like to do. Some things that had consensus were:

- Some kind of licensing program, with some sort of fee
- Collecting lodger's tax
- Consensus to allow partial home STR's; less support for full home STR's
- Agreement that additional staff may be needed to research this program
- Support for having the STR be the primary residence of the owner.
- Mixed views on what zones to allow, but general support for all residential zones.
- No consensus on maximum number of days for STR that is a primary residence.

Councilmember Hoppe read through the list of regulations she would like to see based on discussion she and Councilmember Kueter had with constituents. Residents offered their suggestions and she added things she would like. The list includes:

Lodger's tax; license; renewed every year after inspection; license displayed; two licenses if one is your primary residence; allowed in residential, MU, MU-Commercial and C-1 zones; no more than 4 units in a commercial zone; following inspection required to conform to all life safety issues; fee to offset staff time – which could be significant; loss of license if more than 3 nuisance complaints in 1 year, any life safety complaints, or failure to pay taxes and fees; operating without license requires waiting 1 year to reapply; age 21+ to rent; must rent house or single occupancy in a room; no dorm style arrangements; at least 1 off-street parking space required; no single night rentals, i.e. 2 night minimum; require license number on listing; require 24-hour emergency contact; must notify neighbors within 100 feet that they are an STR and supply emergency contact; not advertise as 4:20 friendly in the listing; some maximum allowance within a radius.

Councilmember Mathews: We haven't yet decided if we are going to even allow STRs in Wheat Ridge. He read that in the NRS survey a majority of citizens expressed that they did not want part of a house to be rented out to non-family members. We need to decide if we are going to allow motels in residential neighborhoods.

Councilmember Urban asked if we had a definition of "family".

- Mr. Johnstone explained the complicated elements of our code.
- How will this intersect with ADU's? Per Mr. Johnstone, ADU's and secondary dwellings aren't allowed at this time.
- Some STR's are well run; regulations are for those who are/will try to skirt the law.

- Airbnb's are popular because of the neighborhoods that have amenities and infrastructure – which is paid for by the people who live here all the time. The STR owners benefit financially from this environment; the neighbors get nothing.
- Doesn't think STR's should not be in R-1 neighborhoods.

Councilmember Davis pointed out that long term rentals are businesses too. She feels that if we're going to license and regulate STR's, we should license and regulate long term rentals too.

Councilmember Pond generally agrees with the framework Councilmember Hoppe presented.

Councilmember Kueter agrees that the basic question of whether we will allow STR's in the city, and from there begin to craft a regulatory framework. He asked for consensus to begin a regulatory framework.

Councilmember Urban noted we already have considerable regulations for Bed & Breakfast; what happens to that? Mr. Johnstone went through some of those regulations for Bed & Breakfast (of which the City has none). He advised B&B is a little different business model and has more requirements.

Councilmember Weaver thinks we need to look at what is happening so we consider future and current hosts. She added some things to Councilmember Hoppe's list (occupancy limits; emergency contact within 30 miles or one hour away; no couch surfing; .no multiple room rental to different parties;

Councilmember Dozeman had questions about minimum lots size and occupancy requirements. Mr. Johnstone indicated staff would take direction from Council.

Councilmember Kueter received consensus to permit STRs in Wheat Ridge subject to a regulatory framework..

There was lengthy discussion about

- allowing corporate ownership of multiple STR's
- owners being partners of multiple LLC's to allow ownership of multiple STR's
- having one owner-occupied STR as a prerequisite for a second non-occupied STR.

Councilmember Hoppe received consensus to allow both non-owner-occupied and owner-occupied STRs.

Discussion continued.

Councilmember Hoppe received consensus to allow only two licenses per owner.

There was discussion about occupancy limits, life/safety/health issues, and what type of complaint process to have.

Councilmember Hoppe received consensus to have staff bring forward options for occupancy caps.

Councilmember Hoppe received consensus to add a requirement that an emergency contact live within 30 miles or one hour.

There was discussion about buffer requirements (to prevent neighborhoods from becoming oversaturated with STRs) and having a fees schedule..

Councilmember Hoppe received consensus to have staff move forward with the list of requirements she shared previously, plus the things added tonight.

Councilmember Kueter received consensus to allow a grace period for compliance on physical requirements, but not for licensing and fees.

Councilmember Urban excused himself.

3. Staff Report(s) There were none.

4. Elected Officials' Report(s)

Leah Dozeman invited folks to Trunk or Treat this Saturday at 4pm at Lutheran Hospital 3555 N Lutheran Parkway.

Janeece Hoppe reminded District 1 she will be at the Rec Center tomorrow from 6:30-8:00pm. She will be talking about why she supports 2E and the County Treasurer will be there to talk about 1A.

ADJOURNMENT

The Study Session adjourned at 9:19pm.

APPROVED BY CITY COUNCIL ON November 18, 2019

Janelle Shaver, City Clerk

Janeece Hoppe, Mayor Pro Tem

SPECIAL STUDY SESSION NOTES
CITY OF WHEAT RIDGE, COLORADO

City Council Chambers 7500 W. 29th Avenue

August 26, 2019

Upon adjournment of the Regular City Council Meeting

Mayor Bud Starker called the Special Study Session to order at 9:28 p.m.

Council members present: George Pond, Amanda Weaver, Janece Hoppe, Kristi Davis, Zachary Urban, Larry Mathews, Leah Dozeman, and David Kueter

Also present: City Manager, Patrick Goff; City Clerk, Janelle Shaver; City Attorney, Jerry Dahl; Assistant City Attorney Jane Greenfield, interested citizens.

CITIZEN COMMENT ON AGENDA ITEMS

David Pettit (Lakewood) is on the Carnation festival board. He spoke in favor of their request for funding. He reported this last festival was the biggest and most successful yet. They actually ran out of beer. \$50K was returned to non-profits in Wheat Ridge.

Mayor Starker announced he was moving Agenda Item 1 to the bottom of tonight's agenda and that Agenda Item 2 would be addressed first.

Mr. Goff prefaced the evening's discussion by informing Council that all the requests on the agenda are as presented by the various groups. Staff has made no changes. Staff will wait for Council approval to add these to the 2020 budget.

2. Carnation Festival 2020 budget request

The Carnation Festival budget and request was in the packet.
The Festival board was present and available for questions.

Council questions

- Event administration includes things like outside security, radios, golf carts, etc.
- There are no paid staff for the festival. Management of the Festival falls to the Board and they are all volunteers. Examples of people who get paid are outside

security, stage hands at the event, and people who handle day-to-day things like managing the vendors throughout the year. This is still much less costly than when there was a hired event planner.

Councilmember Hoppe received consensus to grant the request of \$100K.

3. Sustainable Wheat Ridge 2020 budget request - Joy Opp and Amy DePierre

Joy Opp and **Amy DePierre**, co-chairs of Sustainable Wheat Ridge, gave a Power Point presentation that included accomplishments to date, what will be coming yet in 2019, what is planned for 2020 and a budget request.

Accomplishments

- Six new board members
- Participated in a sustainability panel hoisted by Edgewater
- Logos were adopted
- A “50th Anniversary of Wheat Ridge” tree was planted at the Rec Center
- Received a grant for a charging station; it will be at the Rec Center
- Xcel home energy audits are ongoing; \$7,500 was allocated for this

Still to come in 2019

- Bike/Walk audit of the city with ATAT
- Rain barrel rebate program
- Clear Creek Clean-up Day in October
- Green Business recognition in September
- Apply for another Charge Ahead grant for a charging station at City Hall

Recommended for 2020

- Implement Sustainable Neighborhoods program (developed by Lakewood)
- Quarterly community meetings about sustainability
- Provide Garden in a Box program
- Help the Parks Department plan 2020 50th Anniversary of Earth Day
- Green Business certification program – with an award
- Apply for more grants
- Hopefully hire a sustainability coordinator

2020 Budget

- Continue Partners in Energy Participation with Xcel \$2,000
- Green Business Award & Certification Program \$1,000
- Quarterly Community Engagement Events \$2,000
- Compost Drop Off Partnership \$2,000
- Earth Day 50th Anniversary Event \$500
- Promote Active Transportation \$3,000
- Implement *Sustainable Neighborhoods Program* \$15,000

Council questions

- No data was available on how many people they have touched.

- The grant for the charging station at the Rec Center will cover \$9K of the cost. About \$3,000 will be added from the General Fund. This has yet to be added to the 2020 budget because the grant just came in. Mr. Goff will find the funds in the 2020 budget.
- There will be two stations (i.e. two cars can charge at one time).
- For now the charging station will be free. A policy has yet to be determined.
- Engagement tactics have included: being in the Connections, working with Sara Spalding to get news out via social media, Mayor's Matters, interacting with the community at events, t-shirts. Ms. Dozeman suggested going to the schools. SWR expressed they come by invitation.
- The 2019 budget was the same as this year.
- They explained the Sustainable Neighborhoods program.

Councilmember Hoppe received consensus to add \$25,500 to the 2020 Budget for Sustainable Wheat Ridge.

4. Localworks 2020 budget request

Ashley Holland, marketing and events coordinator for Localworks, introduced the other staff members who were all present: **Carolyn Doran**, events manager; **Jenny Snell**, program coordinator; and **Malachi Goodman**, office manager. Board president **Kelsey Robb** was also available for questions.

Ms. Holland reported Localworks will hold 40-50 events this year and reach 26K people.

Special Events – asking \$190K. The 5 main events are the Criterium and Brewfest, Friday Night Live, Ridgefest, Trunk or Treat, and Holiday Celebration.

Home & Business Loans – asking \$50K. Have 4 business and 1 home loan in progress

Live Local – asking \$41,500. Unique events such as fermented foods, archery classes, tour of Five Fridges Farm

Community Outreach & Education – asking \$40K. Include Wheaties leadership academy, Partners in Progress, partnerships with Artspace, Complete Count Committee (census), and Sustainable Wheat Ridge

Community Marketing & Positioning Tours – asking \$22,500. This year had two bus tours, a progressive dinner tour, Blooms & Brunch tour

TLC Wheat Ridge – asking \$33,750. Partnership with Police Dept. This year had Clean-up days (4), Dumpster grants (17) and Block party grants (12)

HEAL and Active Living Coalition – in third year of a grant from Kaiser Permanente. Focuses on improving infrastructure west of Kipling on 38th Ave. and into side streets. After one year the City purchased a permanent speed checker, increased lighting and will improve wheelchair access to bus stops (to be installed this year). Supports HEAL.

Community Engagement & Communication – asking \$50K. Event postcard (now also in Spanish), school fliers, Localworks open houses at businesses

Commercial Corridors – asking \$93K. Will join branding/marketing/place-making efforts in other corridors

Council questions

Councilmember Dozeman asked about \$10K for volunteers and staffing for 2 tours. Progressive dinner tour paid for the bus, all the food and supplies. \$2K for refreshments and supplies is a separate cost, so what is the \$10K for? Staff time.

Councilmember Davis asked if the need isn't there (e.g. no Director for some time), does that money stay with the City. Yes. Difficult to justify a lofty 18% increase when we don't see the whole budget. Carolyn Doran explained the 18% increase is for the Special Events. Of the \$30K increase, \$10K is for event cost increases; \$20K is to expand to other corridors. (If they don't do it, they won't invoice the City for it.

Councilmember Urban asked how Localworks partners with Sustainable Wheat Ridge (SWR). Work with the businesses. Had a Ridge at 38 community meeting recently. Ms. Holland is on one of the SWR committees and on the Complete Count Committee. Mr. Urban noted there is Community Outreach and Engagement budgeted for SWR, Localworks and the NRS. He encouraged coordination.

Councilmember Kueter noted that staff salaries are not separate line items, but are included in the events. Is the new director's salary included in the 2020 request? Yes.

Councilmember Dozeman asked about the status of hiring a new director. They hired a consultant to help with the process. Expect an announcement in two weeks.

Councilmember Mathews asked about an accounting of in-kind services the City supplies. Mr. Goff said that isn't tracked, but could be. Some staff volunteer their time.

Councilmember Hoppe's consensus to fund Localworks budget request of \$550,750 did not pass.

Councilmember Hoppe asked for a consensus for \$525,000. That did not pass.

Discussion continued.

Councilmember Dozeman had several concerns.

- Localworks was to work towards self-sustaining.
- Tent rental could be saved if the City purchased tents to be used by all groups.
- Wheaties Academy will be different? Yes, will continue under a grant; they want to be sure to always have future leaders in the pipeline – teaching people how to come to council meetings, get on boards or commissions, run for office, connect with councilmembers, find out which district they are in.
- Activate 38 seems to have fizzled; what is the status? Grant ends in March. Have used contractors to get opinions on 38th and in the surrounding areas.

Have a lot of data. Have made recommendations to the City. Having programs this fall with schools along the corridor (Everitt to Youngfield).

Councilmember Hoppe advised that since Localworks does not charge for the events it is unlikely it will ever become self-sustaining.

Councilmember Pond thinks these events and programs are important.

Councilmember Kueter suggested listing things we think should receive less funding.

Councilmember Weaver thinks Localworks is indispensable to the community. Would like to see quarterly reports on funding and collaboration with other city groups.

Councilmember Davis would like it to stay budget neutral. 15% raise is a big ask.

Councilmember Dozeman noted that the 2019 estimated spending is \$10K less than the \$490,500 that was budgeted.

Councilmember Urban doesn't understand the reason for marketing/positioning tours and asked about metrics to determine success. There is a post tour survey. The tours showcase local businesses. Mid-Mod Tour sells out; brings people from around the state; showcases Mod Mood, Bardo's, 1stBank, Remax Professionals, and others; showcases what an amazing community we have.

Councilmember Mathews asked when they will post their 2018 Form 990? Recently received audit; will be reviewed and posted. Several questions about the 2017 Form 990 and net worth. Ms. Holland to have treasurer get back with answers.

Councilmember Urban's consensus for \$490,500 failed.

Councilmember Hoppe received consensus for \$490,500, plus 5% increase (to expand to other corridors) for a total of \$515,025.

1. Wheat Ridge Business District 2020 budget request

Councilmember Hoppe, Council appointee to the WRBD board since 2011, explained.

\$45K for regular grant program

\$45K for the popular Façade Plus program. Total ask of \$90K.

Pictures of past and current projects were distributed.

Monument signs and ADA accessibility grants are popular.

Council questions

Without the grant money, which projects would have been a) done anyway, or b) not done at all? Ms. Hoppe thinks most of them would not have happened without the grant.

Councilmember Pond received consensus to proceed with funding the \$90K requested by the WRBD for 2020.

Mayor Starker announced there would be no meeting next Monday due to the Labor Day holiday. Mayor pro tem Hoppe advised of a Special Study Session on Sept 9.

ADJOURNMENT

The Special Study Session adjourned at 10:56 p.m.

Janelle Shaver, City Clerk

APPROVED BY CITY COUNCIL ON November 18, 2019

Janece Hoppe, Mayor pro tem

STUDY SESSION AGENDA

CITY COUNCIL CITY OF WHEAT RIDGE, COLORADO

7500 W. 29th Ave.
Wheat Ridge CO

November 18, 2019

Upon Adjournment of the Special City Council Meeting

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. Foothills Animal Shelter Update from Executive Director
2. Massage Businesses Ordinance
3. Ethics Code
4. Staff Report(s)
5. Elected Officials' Report(s)

ADJOURNMENT

Memorandum

TO: Mayor and City Council

THROUGH: Patrick Goff, City Manager 

FROM: Marianne Schilling, Assistant to the City Manager

DATE: November 18, 2019

SUBJECT: Foothills Animal Shelter Update from Executive Director

Connie Howard, Executive Director of Foothills Animal Shelter, will be providing a brief presentation to City Council on November 18. The goals of the presentation will be to introduce herself to Council and to provide an overview of the shelter and the services it provides for the community, especially Wheat Ridge residents.

ATTACHMENTS:

1. Foothills Animal Shelter Presentation



Foothills Animal Shelter

Presentation to the City of Wheat Ridge

ATTACHMENT 1

WWW.FOOTHILLSANIMALSHELTER.ORG

We are a part of the socially conscious sheltering movement.



- Every pet should have a shelter that will accept them 24 hours per day, 7 days per week, without exception
- Often a family is in crisis and needs to find a safe place for the pet immediately.
- Ten days of no cost board for families in crisis

We ensure every unwanted or homeless pet has a safe place to go for shelter and care.

- 26 animals benefited from our protective custody program.
- 7 animals were placed on police holds.
(arrests/evictions)
- 21 animals were surrendered because of code violations.



1/3 of all owner surrenders are due to financial reasons.



- In 2018:
 - 89 Animals were surrendered by your citizens
 - 307 stray animals were brought in by animal control or citizens
- As of November 2019:
 - 66 Animals were surrendered by your citizens
 - 132 Stray animals were brought in by animal control or citizens



Wheat Ridge 2019

- 35 animals were brought in by your officers as court holds.
- 25 animals were brought in for end of life services
- 130 animals were received for cremation services.

SHELTER SERVICES

7,775 Animals sheltered

749 Animals fostered

4,300 Adoptions

**2,178 Animals transferred or
returned to owner**

3,000 Animals microchipped

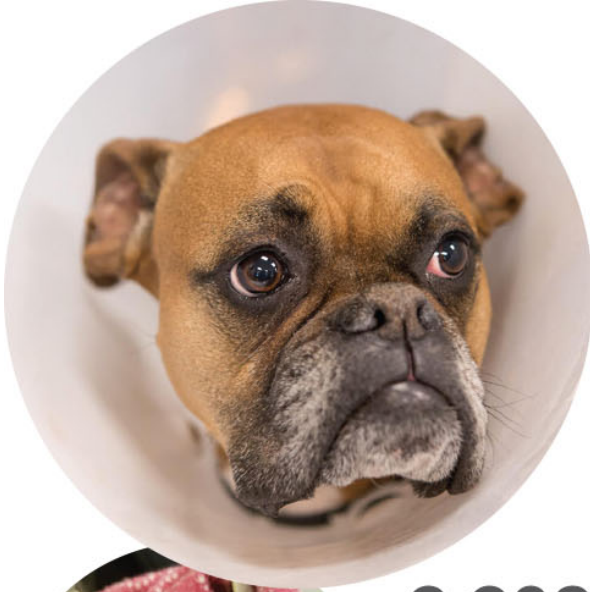
40,539 Dogs licensed



FOOTHILLS
ANIMAL
SHELTER

We assess the medical and behavioral needs of homeless animals and ensure these needs are thoughtfully addressed.





VETERINARY SERVICES

2,209 Shelter animals spayed/neutered

951 Public animals spayed/neutered

**5,234 Vaccines provided to 3,385
dogs and cats in vaccine clinics**

FOOTHILLS
ANIMAL
SHELTER

We enhance the human-animal bond through safe placements and post adoption support.





BEHAVIOR & ENRICHMENT

309 Animals served



Animals benefited from the behavior program through additional activities and enrichment including play groups, walks, toys, and staff and volunteer-supported training groups.

FOOTHILLS
ANIMAL
SHELTER

We align shelter policy with the needs of the community.

- 2019 launched license incentive program
- 1,701 Citizens purchased a license.
- More campaigns coming



We Foster a culture of transparency, ethical decision making, mutual respect, continual learning and collaboration.

- Length of Stay
- Live Release Rate
- Changing face of animal welfare, from overpopulation to an organization addressing the needs of animals that have challenging behavioral and medical needs



FOOTHILLS
ANIMAL
SHELTER

Shelter Revenue

Municipal Fees

568,005 **17%**

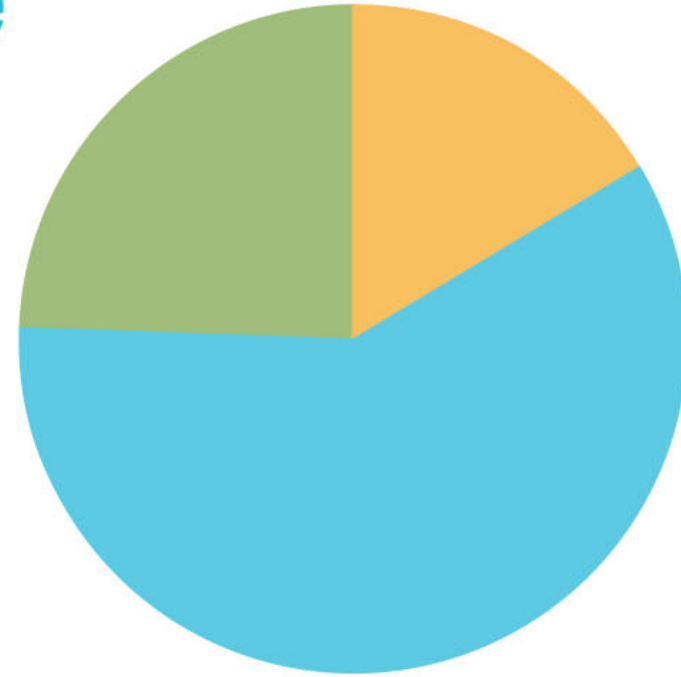
Service Fees

2,046,221 **59%**

Contributions

840,198 **24%**

\$3,454,424



FOOTHILLS
ANIMAL
SHELTER



VOLUNTEERS

464 Volunteers

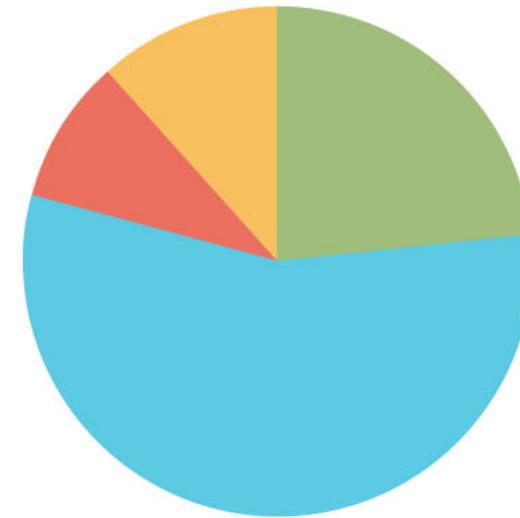
36,396 Hours

That's equivalent to 17.5 full time employees!

166 Foster families

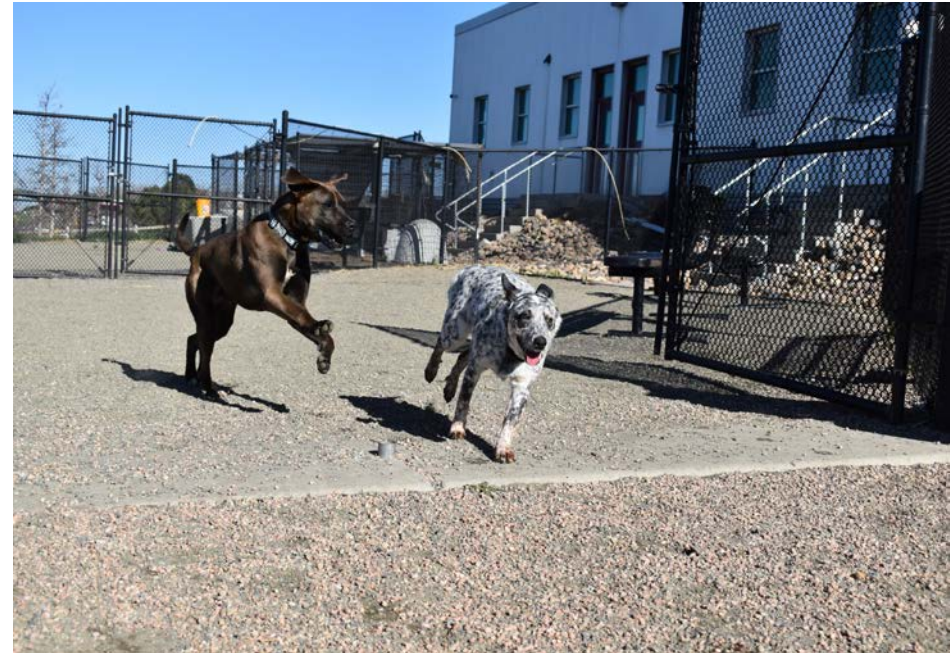
Shelter Expenses

Animal Healthcare	822,804	23%
Animal Welfare, Behavior & Sheltering	1,973,841	56%
Philanthropy & Community Engagement	326,656	9%
Support Services	401,662	11%
	\$ 3,524,962	



FOOTHILLS
ANIMAL
SHELTER

We place every healthy and safe animal.



The cost/benefit analysis to you:

- Cost per capita to citizens for operation of Foothills Animal Shelter in 2018 is \$2.37. National range is between \$1.50 and \$6.30
- Wheat Ridge citizens adopted 191 animals YTD in 2019
- Americans spend an average of \$126.19 every month on their pets, according to a recent survey of over 1,000 pet owners
- Returning \$289,227 to local business's this year alone




Questions?

**Connie Howard
Executive Director**

Memorandum

TO: Mayor Starker and City Council

THROUGH: Patrick Goff, City Manager 
Dave Pickett, Acting City Manager
Gerald Dahl, City Attorney
Staff Working Group

FROM: Darrel Guadnola, Investigations Bureau Commander

DATE: November 8, 2019 (for November 18, 2019 study session)

SUBJECT: Massage Businesses Ordinance

ISSUE:

Last year, the City of Aurora adopted a new ordinance addressing illicit massage businesses, the result of which has been the substantial eradication of massage businesses involved in illegal activities in Aurora. Illicit massage businesses continue to operate in Wheat Ridge. Revising the City's Massage Parlor Code can be an effective path through which the City of Wheat Ridge can control such establishments.

PRIOR ACTION:

In 2015 Council approved an ordinance amending sections of the Wheat Ridge Code of Laws concerning massage parlors. That action was predicated primarily on a change in the Colorado Revised Statutes that removed the State's licensing and regulation of massage parlors, thus transferring the licensing responsibility to municipalities and rendering obsolete several references to the Colorado Revised Statutes (CRS) found in the Wheat Ridge Code. The massage parlor Chapter of the Code was amended to delete these CRS references, but reaffirmed the City's authority to license and regulate massage parlors as businesses. Currently, massage parlors in the City are not required to obtain a specific license as a massage parlor and are only required to obtain a general City business license. Additionally, the current definition of massage parlor excludes "facilities which are operated for the purpose of massage therapy performed by licensed massage therapists pursuant to C.R.S. § 12-235-101."

FINANCIAL IMPACT:

None

BACKGROUND:

Massage businesses have been operating for years in the City of Wheat Ridge and, for that matter, around the country. There is a difference between a legitimate business that offers massage therapy services to clients and an illicit business that uses the cover afforded to a legitimate massage business as a means to engage in criminal activity such as prostitution or human trafficking.

There are many differences between legitimate and illicit massage businesses. Legitimate businesses are open during reasonable business hours, do not require patrons to be "buzzed in" to the premise at all hours, employ state-licensed massage therapists, and generally do not employ an extensive array of surveillance cameras calculated to monitor the exterior perimeter of the business. In addition, they do not allow employees to live on the premise, as evidenced by a lack of living space.

Historically, efforts have been made at the state and local level to address the impact illicit massage parlors have on communities. While all of these efforts have been well-intentioned in their own right, they have failed singularly or in concert to meaningfully impact illicit massage businesses. This failure is the result of several factors, including limited manpower for broad enforcement and a perceived lack of urgency on what many view as merely a sex crime. Also present is the fact that licensing and regulation of these businesses is an easily exploitable patchwork of state and local laws and ordinances that allows this illegal industry to survive and thrive in a public way. This is due, in part, to the variation of regulations and ordinances across jurisdictions.

The new code adopted by the City of Aurora has several features that serve to ferret out and identify illicit massage businesses and, in practical application, have little impact on legitimate massage therapy businesses. Notably, Aurora's code regulates all massage businesses. Examples of some of these code provisions, which could be useful deterrents if added to Wheat Ridge's code, include:

- A prohibition against operating a massage business without a valid massage facility license.
- Massage businesses must employ a manager who is required to obtain a separate manager's license with a unique application form, in addition to the massage facility license and a business license.
- Prior to the issuance of a massage facility license or a manager's license, the applications must be submitted to the police department for its review and comment.
- Establishes the administrative authority to suspend and revoke such licenses, including summary suspension, by issuing a "cease and desist" order for certain code violations.
- A requirement that all persons performing massages must possess a state-issued massage therapist license.
- A prohibition against any massage business being used for housing, sheltering or harboring any person, or as living or sleeping quarters for any person.
- A prohibition against table showers or Vichy showers on the premise without a separate permit.
- A prohibition against operating a massage business between the hours of 10:00 pm and 5:00 am.
- A prohibition against licensing a massage business in the same location as that business has had a license revoked or surrendered for cause anytime within the prior 24 months.

While the Aurora ordinance has several other prohibitions and waivers as appropriate, it is clear the ordinance is calculated to have an impact on the business operations of illicit massage businesses. As other municipalities adopt Aurora-style ordinances, there is a concern that illicit

massage operations may move into other communities whose regulations are not as comprehensive.

Since April of this year, the vice and intelligence detective has identified ten separate illicit massage businesses operating in the City of Wheat Ridge. All have characteristics and red flags present suggesting they are not legitimate massage therapy businesses. County summons have been written charging individuals appropriately when facts and circumstances support such, but it is evident that this form of enforcement, like other methods tried in the past, is not sufficient. It is evident that the business calculations present in illicit massage businesses are such that they will continue to be profitable for their owners until they are actively forced, by some means other than their voluntary compliance, to either comply with legitimate regulations or cease business operations.

The City of Aurora has demonstrated success with the ordinance they have implemented, and revising the Code in Wheat Ridge to add similar provisions may at last give the City the tools needed to permanently shut down illicit massage businesses. Since Wheat Ridge's current massage parlor code currently exempts massage therapy businesses, staff would propose a stakeholder meeting be held with these businesses prior to the adoption of a new ordinance to discuss the proposed code changes and the reasoning therefor. In this way, we hope to address any issues or concerns that existing massage therapy businesses may have, as we want to ensure that they will remain a viable part of our business community.

RECOMMENDATIONS:

Staff recommends that City Council direct that a revision to the Code of Laws, implementing the recommendations in this memorandum related to massage businesses, be drafted and brought forward for approval to include:

- Creation of a separate massage business license, in addition to the required business license, which would continue to be administered by the administrative services department
- Creation of a massage manager/operator license
- Establishment of the authority to administratively suspend or revoke such licenses, including the authority to issue cease and desist orders for summary suspension of operation in certain circumstances
- Provide opportunity for Police Department review and comment on massage business and massage manager license applications
- Amend and clarify the grounds for revocation, suspension, and summary suspension
- Prohibit the licensing of a massage business in the same location as a massage business that has had a license revoked or surrendered for cause anytime within the prior 24 months
- Specifically prohibits sexual acts, as defined in state law, within the massage business premises and prohibits employees from agreeing/arranging to perform sexual acts off-site
- Prohibit concealing persons in a massage business or eluding inspection by authorized personnel
- Requiring that all individuals performing massages must possess a state-issued massage therapist license


- Require entry doors to be unlocked during business hours, with limited exceptions
- Add a requirement authorizing regular inspections and include the right of the City to inspect as a condition of licensure
- Require all employees and other persons present in the massage business, excluding clients, to carry valid government identification, which they shall present to law enforcement or inspectors upon request
- Add a prohibition against any massage business being used for housing or as living or sleeping quarters for any person, with limited exceptions for home occupations
- Add a requirement that industry-standard table showers or Vichy showers must be approved as part of the massage business licensing process or are otherwise prohibited
- Revise the hours of operation to prohibit operating a massage business between the hours of 9:00 pm and 6:00 am
- Revise the clothing requirements for employees
- Revise the posted notice requirements for massage businesses

If Council agrees that the above recommendations should be included in a new Article X of Chapter 11 of the Wheat Ridge Municipal Code, staff will prepare an ordinance for its consideration on first reading.

DG

Memorandum

TO: Mayor and City Council

FROM: Patrick Goff, City Manager 

DATE: November 11, 2019 (for November 18, 2019 study session)

SUBJECT: Ethics Code

ISSUE:

Council Bill 10-2019 was drafted to amend Chapter 2 of the Wheat Ridge Code of Laws to implement an ethics code for City officers and employees. The Bill was presented to City Council at a public hearing on August 12, 2019. After significant discussion, a motion to continue this item to a future study session for additional discussion was approved.

PRIOR ACTION:

City Council reviewed ethics code materials presented by the City Attorney at the July 1, 2019 study session. Consensus was reached by City Council at that meeting to bring forward an ordinance for consideration on 1st reading on July 22, 2019 and public hearing on August 12, 2019. After significant discussion at the public hearing, a motion to continue this item to a future study session for additional discussion was approved.

BACKGROUND:

Amendment 41 was a citizen initiative adopted by Colorado voters in the 2006 general election. It adopted Article XXIX to the Colorado Constitution entitled “Ethics in Government,” which governs gift bans, restrictions on representation after leaving office, and established the Independent Ethics Commission to hear complaints, issue findings, and assess penalties, and issue advisory opinions on ethics issues arising under that article.

Section 7 Article XXIX specifically states: “The requirements of this article shall not apply to home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by this article.” Wheat Ridge City Charter sections 3.14 and 4.10 do not rise to the level of a full local ethics code. Council Bill 10-2019 was drafted for the City to adopt its own ethics code which would allow the City to process ethics complaints locally rather than through the Independent Ethics Commission.

ATTACHMENTS:

1. Memo from Jerry Dahl, dated June 24, 2019
2. Colorado State Statutes, Article XXIX, Ethics in Government
3. Council Action Form, dated August 12, 2019
4. Council Bill No. 10-2019
5. Excerpt from August 12, 2019 minutes



MEMORANDUM

TO: Mayor and Council
FROM: Gerald E. Dahl, City Attorney
DATE: June 24, 2019
RE: **Creation of a City Ethics Code**

Pursuant to Council's direction at study session, this memo has three objectives:

- (1) Summarize the Independent Ethics Commission's (IEC) jurisdiction;
- (2) Describe how Wheat Ridge, as a home rule city, can preempt the IEC's jurisdiction with a local city ethics code; and
- (3) Recommend elements of a local ethics code for Council discussion.

The Colorado Independent Ethics Commission

Amendment 41 was a citizen initiative adopted by Colorado voters in the 2006 general election. It adopted Article XXIX to the Colorado Constitution entitled "Ethics in Government," which governs *gift bans*, *restrictions on representation after leaving office*, and established the IEC to hear complaints, issue findings, and assess penalties, and issue advisory opinions on ethics issues arising under that article.

According to the Colorado IEC "Ethics Handbook," 3rd ed., 2016, although not specifically stated, the IEC also claims matter jurisdiction over: *conflicts of interest*, *appearance of impropriety* and *post-government employment*. This places the City under the IEC's jurisdiction unless it acts to adopt a local ethics code.

Local Preemption

Section 7 Article XXIX specifically states: "The requirements of this article shall not apply to home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by this article."

The Wheat Ridge home rule charter, at Sections 3.14 and 4.10, contains very minimal conflict of interest provisions which likely do not rise to the level of a full local ethics code. Until Wheat Ridge adopts its own Ethics Code, any person may file a written complaint with the IEC asking whether a local official or government employee has failed to comply with that article within the preceding twelve months.

IEC v. Dunafon: Confirming home rule pre-emption (decided 1/3/19)

Summary: Citizen filed ethics complaints with IEC against Glendale mayor. The District Court held that under Article XXIX Section 7, because Glendale had adopted a code of ethics that addressed the subject matters of ethics complaints, the IEC lacked jurisdiction. The Court explained that the plain language of the Constitution Article XXIX Section 7 is clear and allows

a carve-out for a home rule municipality so long as it adopts rules that deal with ethical standards of conduct:

It follows that the jurisdiction of the IEC is determined by whether the municipality is or is not a home rule entity. By adopting a Code of Ethics, Glendale clearly intended to take advantage of Article XXIX's carve-out provision.

Topics to address in a Wheat Ridge ethics code to pre-empt IEC

Gift Bans

Pursuant to Article XXIX of the Colorado Constitution, the IEC has jurisdiction over the “gift ban.” A public official or employee is prohibited from accepting a gift valued in excess of \$59 (originally \$50, adjusted for inflation every four years) from any person in any calendar year, with limited exceptions. If an individual pays for an item, or otherwise provides consideration (the giving of value in exchange for a thing of value) the item may not qualify as a gift. Many decisions by the IEC address the issue of whether or not a given item qualifies as a gift for purposes of Article XXIX. As explained in their “Ethics Handbook,” IEC has interpreted their constitutional authority to impose the following restrictions on gifts:

- A gift may include:
 - Money;
 - Forgiveness of debt;
 - Loans;
 - Rewards;
 - Travel (with some exceptions);
 - Promises of future employment (in certain circumstances);
 - Favors and services;
 - Some forms of honoraria;
 - Entertainment; or
 - Special discounts not available to others.
- Exceptions to gift ban may include:
 - Campaign contributions;
 - Unsolicited items of trivial value (pen, desk set, notepad, calendar, etc.);
 - Unsolicited tokens of appreciation (plaque, trophy, etc.);
 - Admission to and the cost of food and beverages at a reception, meal or meeting when the individual is participating as a speaker or presenter;
 - Travel to conventions or meetings when the offer is made ex officio, is related to the person’s official duties, is of benefit to the state, the individual is representing the state, or the state pays dues to the sponsoring organization (other exceptions may apply depending on circumstances);
 - Gifts from relatives and friends; or
 - Bonuses or other incentives or compensation paid in the course of employment.

Suggested language for a Wheat Ridge ethics code

“Gifts; gratuities”

- (a) No officer or employee of the City may:

- (1) Accept a gift, gratuity or item of substantial value or a substantial economic benefit from a person interested in any public matter over which the officer or employee has authority or control:
 - a. Which would tend improperly to influence a reasonable person in his or her position to depart from the faithful and impartial discharge of his or her public duties; or
 - b. Which he or she knows or which a reasonable person in his or her position should know under the circumstances is primarily for the purpose of rewarding him or her for official action he or she has taken.
- (b) A “substantial economic” benefit includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services
- (c) The following shall not be considered gifts of substantial value or gifts of substantial economic benefit for purposes of this Section:
 - (1) Campaign contributions and contributions in kind reported as required by Section 1-45-108, C.R.S.;
 - (2) An occasional nonpecuniary gift, insignificant in value;
 - (3) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;
 - (4) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such officer or employee is scheduled to participate;
 - (5) Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is not extraordinary when viewed in light of the position held by such officer or employee;
 - (6) Items of perishable or nonpermanent value, including but not limited to meals, lodging, travel expenses or tickets to sporting, recreational, educational or cultural events;
 - (7) Payment for speeches, appearances or publications reported;
 - (8) Payment of salary from employment, including other government employment, in addition to that earned by reason of service in public office;
 - (9) Gifts, gratuities or items of value received by the spouse or dependent children of the officer or employee which do not implicate the standards of Subparagraphs (a)(1)a and b of this Section.
 - (10) Gratuities received by the municipal judge for services rendered in addition to official judicial duties (e.g., marriage ceremonies).
- (d) This Section is to guard officials and employees of the City from relationships which may be construed as evidence of favoritism, coercion, unfair advantage or collusion.

Conflicts of Interest

Article XXIX section 5(1) also bestows jurisdiction on the IEC regarding “any other standards of conduct and reporting requirements as provided by law.” According to the IEC, a few common examples of the “other standards of conduct” under their purview include conflicts of interest, and the appearance of impropriety.

Suggested language for City ethics code:

- (a) No officer or employee shall engage in any employment, business or investment or other undertaking which may substantially conflict with the proper discharge of his or her official duties.
- (b) No officer or employee shall have a substantial financial or personal interest, direct or indirect, in any transaction with any City department, the City Council or any board or commission over which he or she has the power to take or influence official action. A contract in violation of this Section may be declared void at the option of the City Council in addition to any other remedies provided by law.
- (c) No officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further substantially his or her personal financial interests.

Appearance of Impropriety

Suggested language for City ethics code:

- (a) Officers and employees shall at all times be sensitive to and exercise prudent restraint in avoiding even the appearance of impropriety, although the underlying conduct does not in fact violate the Charter, this code of ethics or other applicable City ordinance or state or federal law.
- (b) Officers, including members of the City Council, boards and commissions, who will be or are engaged in quasi-judicial decision-making activities, should avoid contact or discussion outside the hearing process with any of the parties having an interest in the decision.

Enforcement

It will be important to articulate how the City ethics code is enforced, as well as the general process to report and address complaints. The following model language is a combination of a number of cities’ approaches:

- (a) The Council shall have the exclusive authority for enforcement of the ethics code.
- (b) The Council may dismiss frivolous complaints.
- (c) With respect to complaints that the Council does not deem to be frivolous, the Council may hold a public hearing, if desired. The Council may render findings on non-frivolous complaints orally at the hearing or by adopting written findings.
- (d) All complaints must be filed within 90 days after the date of the alleged violation.
- (e) The Council shall take such action and impose such penalty, if any, as it deems appropriate.
- (f) Final action by the Council shall be final action by the City on the matter.

Subject matters not under IEC's jurisdiction, but commonly found in Ethics Codes:

The below topics are not considered as being within the IEC's authority. Nonetheless, they are commonly discussed in many local ethics codes.

Nepotism

- No council member or employee may be in a position to directly or indirectly exercise supervisory, appointment, disciplinary or dismissal authority over a member of that council member's or employee's immediate family.
- No council member or employee may be in a position to audit, verify, receive or to be trusted with moneys received or handled by a member of that council member's or employee's immediate family.
- No council member or employee may have access to the City's confidential information, including payroll and personnel records relating to a member of that council member's or employee's immediate family.

Campaign Finance limitations

We recommend no local rule here, and that Wheat Ridge continue to follow the State constitution at XXVIII and statutes in C.R.S. 1-45-101, et seq, entitled "State and political subdivisions – limitations on contributions."

ATTACHMENTS:

1. Article XXIX Ethics in Government (Amendment 41)

Article XXIX Ethics in government (Amendment 41)

Section 1. Purposes and findings

- (1) The people of the state of Colorado hereby find and declare that:
- (a) The conduct of public officers, members of the general assembly, local government officials, and government employees must hold the respect and confidence of the people;
 - (b) They shall carry out their duties for the benefit of the people of the state;
 - (c) They shall, therefore, avoid conduct that is in violation of their public trust or that creates a justifiable impression among members of the public that such trust is being violated;
 - (d) Any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust; and
 - (e) To ensure propriety and to preserve public confidence, they must have the benefit of specific standards to guide their conduct, and of a penalty mechanism to enforce those standards.
- (2) The people of the state of Colorado also find and declare that there are certain costs associated with holding public office and that to ensure the integrity of the office, such costs of a reasonable and necessary nature should be born by the state or local government.

Section 2. Definitions.

As used in this article, unless the context otherwise requires:

- (1) "Government employee" means any employee, including independent contractors, of the state executive branch, the state legislative branch, a state agency, a public institution of higher education, or any local government, except a member of the general assembly or a public officer.
- (2) "Local government" means county or municipality.
- (3) "Local government official" means an elected or appointed official of a local government but does not include an employee of a local government.

(4) "Person" means any individual, corporation, business trust, estate, trust, limited liability company, partnership, labor organization, association, political party, committee, or other legal entity.

(5) "Professional lobbyist" means any individual who engages himself or herself or is engaged by any other person for pay or for any consideration for lobbying. "Professional lobbyist" does not include any volunteer lobbyist, any state official or employee acting in his or her official capacity, except those designated as lobbyists as provided by law, any elected public official acting in his or her official capacity, or any individual who appears as counsel or advisor in an adjudicatory proceeding.

(6) "Public officer" means any elected officer, including all statewide elected officeholders, the head of any department of the executive branch, and elected and appointed members of state boards and commissions. "Public officer" does not include a member of the general assembly, a member of the judiciary, any local government official, or any member of a board, commission, council or committee who receives no compensation other than a per diem allowance or necessary and reasonable expenses.

Section 3. Gift ban.

(1) No public officer, member of the general assembly, local government official, or government employee shall accept or receive any money, forbearance, or forgiveness of indebtedness from any person, without such person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who accepted or received the money, forbearance or forgiveness of indebtedness.

(2) No public officer, member of the general assembly, local government official, or government employee, either directly or indirectly as the beneficiary of a gift or thing of value given to such person's spouse or dependent child, shall solicit, accept or receive any gift or other thing of value having either a fair market value or aggregate actual cost greater than fifty dollars (\$50) in any calendar year, including but not limited to, gifts, loans, rewards, promises or negotiations of future employment, favors or services, honoraria, travel, entertainment, or special discounts, from a person, without the person receiving lawful consideration of equal or greater value in return from the public officer, member of the general assembly, local government official, or government employee who solicited, accepted or received the gift or other thing of value.

(3) The prohibitions in subsections (1) and (2) of this section do not apply if the gift or thing of value is:

(a) A campaign contribution as defined by law;

(b) An unsolicited item of trivial value less than fifty dollars (\$50), such as a pen, calendar, plant, book, note pad or other similar item;

(c) An unsolicited token or award of appreciation in the form of a plaque, trophy, desk item, wall memento, or similar item;

(d) Unsolicited informational material, publications, or subscriptions related to the recipient's performance of official duties;

(e) Admission to, and the cost of food or beverages consumed at, a reception, meal or meeting by an organization before whom the recipient appears to speak or to answer questions as part of a scheduled program;

(f) Reasonable expenses paid by a nonprofit organization or other state or local government for attendance at a convention, fact-finding mission or trip, or other meeting if the person is scheduled to deliver a speech, make a presentation, participate on a panel, or represent the state or local government, provided that the non-profit organization receives less than five percent (5%) of its funding from for-profit organizations or entities;

(g) Given by an individual who is a relative or personal friend of the recipient on a special occasion.

(h) A component of the compensation paid or other incentive given to the recipient in the normal course of employment.

(4) Notwithstanding any provisions of this section to the contrary, and excepting campaign contributions as defined by law, no professional lobbyist, personally or on behalf of any other person or entity, shall knowingly offer, give, or arrange to give, to any public officer, member of the general assembly, local government official, or government employee, or to a member of such person's immediate family, any gift or thing of value, of any kind or nature, nor knowingly pay for any meal, beverage, or other item to be consumed by such public officer, member of the general assembly, local government official or government employee, whether or not such gift or meal, beverage or other item to be consumed is offered, given or paid for in the course of such lobbyist's business or in connection with a personal or social event; provided, however, that a professional lobbyist shall not be prohibited from offering or giving to a public officer, member of the general

assembly, local government official or government employee who is a member of his or her immediate family any such gift, thing of value, meal, beverage or other item.

(5) The general assembly shall make any conforming amendments to the reporting and disclosure requirements for public officers, members of the general assembly and professional lobbyists, as provided by law, to comply with the requirements set forth in this section.

(6) The fifty-dollar (\$50) limit set forth in subsection (2) of this section shall be adjusted by an amount based upon the percentage change over a four-year period in the United States bureau of labor statistics consumer price index for Denver-Boulder-Greeley, all items, all consumers, or its successor index, rounded to the nearest lowest dollar. The first adjustment shall be done in the first quarter of 2011 and then every four years thereafter.

Section 4. Restrictions on representation after leaving office.

No statewide elected officeholder or member of the general assembly shall personally represent another person or entity for compensation before any other statewide elected officeholder or member of the general assembly, for a period of two years following vacation of office. Further restrictions on public officers or members of the general assembly and similar restrictions on other public officers, local government officials or government employees may be established by law.

Section 5. Independent ethics commission.

(1) There is hereby created an independent ethics commission to be composed of five members. The purpose of the independent ethics commission shall be to hear complaints, issue findings, and assess penalties, and also to issue advisory opinions, on ethics issues arising under this article and under any other standards of conduct and reporting requirements as provided by law. The independent ethics commission shall have authority to adopt such reasonable rules as may be necessary for the purpose of administering and enforcing the provisions of this article and any other standards of conduct and reporting requirements as provided by law. The general assembly shall appropriate reasonable and necessary funds to cover staff and administrative expenses to allow the independent ethics commission to carry out its duties pursuant to this article. Members of the commission shall receive no compensation for their services on the commission.

(2) (a) Members of the independent ethics commission shall be appointed in the following manner and order:

(I) One member shall be appointed by the Colorado senate;

(II) One member shall be appointed by the Colorado house of representatives;

(III) One member shall be appointed by the governor of the state of Colorado;

(IV) One member shall be appointed by the chief justice of the Colorado supreme court; and

(V) One member shall be either a local government official or a local government employee appointed by the affirmative vote of at least three of the four members appointed pursuant to subparagraphs (I) to (IV) of this paragraph (a).

(b) No more than two members shall be affiliated with the same political party.

(c) Each of the five members shall be registered Colorado voters and shall have been continuously registered with the same political party, or continuously unaffiliated with any political party, for at least two years prior to appointment to the commission.

(d) Members of the independent ethics commission shall be appointed to terms of four years; except that, the first member appointed by the Colorado senate and the first member appointed by the governor of the state of Colorado shall initially serve two year terms to achieve staggered ending dates.

(e) If a member is appointed to fill an unexpired term, that member's term shall end at the same time as the term of the person being replaced.

(f) Each member shall continue to serve until a successor has been appointed, except that if a member is unable or unwilling to continue to serve until a successor has been appointed, the original appointing authority as described in this subsection shall fill the vacancy promptly.

(3) (a) Any person may file a written complaint with the independent ethics commission asking whether a public officer, member of the general assembly, local government official, or government employee has failed to

comply with this article or any other standards of conduct or reporting requirements as provided by law within the preceding twelve months.

(b) The commission may dismiss frivolous complaints without conducting a public hearing. Complaints dismissed as frivolous shall be maintained confidential by the commission.

(c) The commission shall conduct an investigation, hold a public hearing, and render findings on each non-frivolous complaint pursuant to written rules adopted by the commission.

(d) The commission may assess penalties for violations as prescribed by this article and provided by law.

(e) There is hereby established a presumption that the findings shall be based on a preponderance of evidence unless the commission determines that the circumstances warrant a heightened standard.

(4) Members of the independent ethics commission shall have the power to subpoena documents and to subpoena witnesses to make statements and produce documents.

(5) Any public officer, member of the general assembly, local government official, or government employee may submit a written request to the independent ethics commission for an advisory opinion on whether any conduct by that person would constitute a violation of this article, or any other standards of conduct or reporting requirements as provided by law. The commission shall render an advisory opinion pursuant to written rules adopted by the commission.

Section 6. Penalty

Any public officer, member of the general assembly, local government official or government employee who breaches the public trust for private gain and any person or entity inducing such breach shall be liable to the state or local jurisdiction for double the amount of the financial equivalent of any benefits obtained by such actions. The manner of recovery and additional penalties may be provided by law.

Section 7. Counties and municipalities.

Any county or municipality may adopt ordinances or charter provisions with respect to ethics matters that are more stringent than any of the provisions contained in this article. The requirements of this article shall not apply to

home rule counties or home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by this article.

Section 8. Conflicting provisions declared inapplicable.

Any provisions in the statutes of this state in conflict or inconsistent with this article are hereby declared to be preempted by this article and inapplicable to the matters covered by and provided for in this article.

Section 9. Legislation to facilitate articles.

Legislation may be enacted to facilitate the operation of this article, but in no way shall such legislation limit or restrict the provisions of this article or the powers herein granted.

This is not an official copy of the Colorado Constitution. Please visit [LexisNexis Legal Resources](#) for the most current version.

REQUEST FOR CITY COUNCIL ACTION**TITLE: COUNCIL BILL NO. 10-2019 – AN ORDINANCE AMENDING CHAPTER 2 OF THE WHEAT RIDGE CODE OF LAWS REGARDING A CODE OF ETHICS FOR CITY OFFICERS AND EMPLOYEES**☒ PUBLIC HEARING
☐ BIDS/MOTIONS
☐ RESOLUTIONS☐ ORDINANCES FOR 1ST READING (07/22/19)
☒ ORDINANCES FOR 2ND READING (08/12/19)QUASI-JUDICIAL: ☐ YES☒ NO

City Attorney



City Manager

ISSUE:

This ordinance amends Chapter 2 of the Code of Laws, to implement an ethics code for city officers and employees. While certain ethics matters are governed by the Home Rule Charter, that coverage is incomplete. This ordinance implements a gift ban, a provision on use of confidential information, and a procedure for enforcement.

PRIOR ACTION:

Council reviewed materials presented by the City Attorney at its July 1 study session and directed preparation of this ordinance. Charter sections 3.14 and 4.10 address conflicts of interest of city elected officials; this ordinance supplements those sections.

FINANCIAL IMPACT:

N/A

BACKGROUND:

Amendment 41 was a citizen initiative adopted by Colorado voters in the 2006 general election. It adopted Article XXIX to the Colorado Constitution entitled "Ethics in Government," which governs gift bans, restrictions on representation after leaving office, and established the IEC to hear complaints, issue findings, and assess penalties, and issue advisory opinions on ethics issues arising under that article.

Section 7 Article XXIX specifically states: “The requirements of this article shall not apply to home rule municipalities that have adopted charters, ordinances, or resolutions that address the matters covered by this article.” Charter sections 3.14 and 4.10 do not rise to the level of a full local ethics code. The attached ordinance addresses the remaining elements necessary for this purpose and enables the City to process ethics complaints locally.

RECOMMENDATIONS:

Staff recommends approval of the ordinance.

RECOMMENDED MOTION:

“I move to approve Council Bill No. 10-2019, an ordinance amending Chapter 2 of the Wheat Ridge Code of Laws regarding a code of ethics for city officers and employees, on second reading, and that it take effect 15 days after final publication.”

Or,

“I move to postpone indefinitely Council Bill No. 10-2019, an ordinance amending Chapter 2 of the Wheat Ridge Code of Laws regarding a code of ethics for city officers and employees for the following reason(s) _____.”

REPORT PREPARED BY:

Gerald Dahl, City Attorney

Patrick Goff, City Manager

ATTACHMENTS:

1. Council Bill No. 10-2019

**CITY OF WHEAT RIDGE, COLORADO
INTRODUCED BY COUNCIL MEMBER WEAVER
COUNCIL BILL NO. 10
ORDINANCE NO. _____
Series 2019**

TITLE: AN ORDINANCE AMENDING CHAPTER 2 OF THE WHEAT RIDGE CODE OF LAWS REGARDING A CODE OF ETHICS FOR CITY OFFICERS AND EMPLOYEES

WHEREAS, the City of Wheat Ridge is a home rule municipality having all powers conferred by Article XX of the Colorado Constitution; and

WHEREAS, in the exercise of their authority under Article XX of the Colorado constitution, the voters of the City have adopted a home rule charter, which addresses, among other things, conflicts of interest of elected officials of the City; and

WHEREAS, the City Council wishes to supplement the Charter to fully address ethics matters for city officials and employees, and to provide for local enforcement of the same.

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

Section 1. A new article VI within Chapter 2 of the Code of Laws, entitled "Code of Ethics" is hereby adopted, to read:

Sec. 2-100. Gifts and gratuities

(a) No officer or employee of the city may:

- (1) Accept a gift, gratuity or item of substantial value or a substantial economic benefit from a person interested in any public matter over which the officer or employee has authority or control:
 - a. Which would tend to improperly influence a reasonable person in his or her position to depart from the faithful and impartial discharge of his or her public duties; or
 - b. Which he or she knows or which a reasonable person in his or her position should know under the circumstances is primarily for the purpose of rewarding him or her for official action he or she has taken.

(b) A "substantial economic" benefit includes, without limitation, a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of such services.

- (c) The following shall not be considered gifts of substantial value or gifts of substantial economic benefit for purposes of this section:
- (1) Campaign contributions and contributions in-kind reported as required by Section 1-45-108, C.R.S.;
 - (2) An occasional nonpecuniary gift, insignificant in value;
 - (3) A nonpecuniary award publicly presented by a nonprofit organization in recognition of public service;
 - (4) Payment of or reimbursement for actual and necessary expenditures for travel and subsistence for attendance at a convention or other meeting at which such officer or employee is scheduled to participate;
 - (5) Reimbursement for or acceptance of an opportunity to participate in a social function or meeting which is not extraordinary when viewed in light of the position held by such officer or employee;
 - (6) Items of perishable or nonpermanent value, including but not limited to meals, lodging, travel expenses or tickets to sporting, recreational, educational or cultural events;
 - (7) Payment for speeches, appearances or publications reported;
 - (8) Payment of salary from employment, including other government employment, in addition to that earned by reason of service in public office;
 - (9) Gifts, gratuities or items of value received by the spouse or dependent children of the officer or employee which do not implicate the standards of subparagraphs (a)(1) and (b) of this section.
 - (10) Gratuities received by the municipal judge for services rendered in addition to official judicial duties (e.g., marriage ceremonies).
- (d) This section is to guard officials and employees of the city from relationships which may be construed as evidence of favoritism, coercion, unfair advantage or collusion.

Sec. 2-101. Conflicts of Interest

- (a) Elected officials are governed by Sections 3.14 and 4.10 of the home rule charter.
- (b) No officer or employee shall disclose or use confidential information acquired in the course of his or her official duties in order to further substantially his or her personal financial interests.

Sec. 2-102. Enforcement

- (a) The council shall have the exclusive authority for enforcement of this article with respect to elected officials. The city manager shall have exclusive enforcement of this article with respect to city employees.
- (b) All complaints must be filed within 90 days after the date of the alleged violation.
- (c) The council or the city manager, as appropriate, may dismiss frivolous complaints.
- (d) Complaints deemed to be frivolous shall remain confidential, to the greatest extent permitted by law.
- (e) With respect to complaints regarding elected officials which the council does not deem to be frivolous, the council may hold a public hearing, if desired. The council

may render findings on non-frivolous complaints by motion or by adopting written findings.

- (f) With respect to complaints concerning elected officials, the council shall take such action and impose such penalty, if any, as it deems appropriate, limited to reprimand and public sanction, and not to include removal from office.
- (g) With respect to complaints concerning employees, the city manager shall process the same in conformance with the current city personnel policies.
- (h) Final action by the council or the city manager, as appropriate, shall be final action by the city on the matter.
- (i) The penalties provided for in this section shall not preclude the application of any other penalty or remedy under law.

Section 2. Severability, Conflicting Ordinances Repealed. If any section, subsection or clause of this Ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. All other ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 3. Effective Date. This Ordinance shall take effect fifteen (15) days after final publication, as provided by Section 5.11 of the Charter.

INTRODUCED, READ, AND ADOPTED on first reading by a vote of 7 to 0 on this 22nd day of July, 2019, ordered published in full in a newspaper of general circulation in the City of Wheat Ridge, and Public Hearing and consideration on final passage set for Monday, August 12, 2019 at 7:00 p.m., in the Council Chambers, 7500 West 29th Avenue, Wheat Ridge, Colorado and that it takes effect 15 days after final publication

READ, ADOPTED AND ORDERED PUBLISHED on second and final reading by a vote of ____ to ____, this ____ day of _____, 2019.

SIGNED by the Mayor on this ____ day of _____, 2019.

Bud Starker, Mayor

ATTEST:

Janelle Shaver, City Clerk

Approved as to Form:

Gerald E. Dahl, City Attorney

First Publication: July 25, 2019

Second Publication:

Wheat Ridge Transcript

Effective Date:

Published:

Wheat Ridge Transcript and www.ci.wheatridge.co.us

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

August 12, 2019

2. Council Bill No. 10-2019 – An Ordinance amending Chapter 2 of the Wheat Ridge Code of Laws regarding a Code of Ethics for City officers and employees

This ordinance would amend and update the Code of Ethics to implement a gift ban, a provision on use of confidential information, and a procedure for enforcement.

Councilmember Kueter introduced Council Bill 10-2019

City Clerk Shaver assigned Ordinance 1671.

Mayor Starker opened the public hearing.

Staff Presentation ~ Jerry Dahl

Mr. Dahl reviewed what had been discussed at a recent study session.

- The City does have a few ethics obligations in the Charter, but it is minor.
- In 2006 an amendment to the Colorado Constitution created a series of ethics rules for government and created an independent ethics commission to enforce the rules.
- Home Rule cities can have their own system, but our system is very incomplete and could be challenged.
- This ordinance fills in the gaps. The areas covered include
 - 1) Gifts of a substantial nature, what is included and what is not
 - 2) Enforcement – Council having exclusive enforcement authority over all elected officials; the City Manager having enforcement authority over employees
 - 3) A process for distinguishing between frivolous and non-frivolous complaints
- He asked that section 2-102 (i), boilerplate language deferring to the Independent Ethics Commission, be deleted when the motion is made. The point of having our own ethics code is to keep enforcement at home.
- Council would have the ability to pose penalties and public sanction, but not remove from office. Council determined that is what recall is for.

Public Comment

Carol Mathews (WR) expressed concern that this Ethics Code is designed to protect the Council from the state Ethics Commission and will not address ethics issues that really affect citizens' civil and property rights – such as massive campaign contributions from organizations who will later benefit from votes on rezonings and land use?

It also leaves the Council to decide the validity of complaints against itself; there is no oversight by an objective, uninvolved third party. Will there be no recourse for citizens

other than law suits and referendums? She thinks the Upham petition is an example of what will result from adopting this ethics program.

Ihor Figlus (WR) expressed disappointment at the ordinance because it would allow for a corrupt City Council to judge itself. One of the basic values of our American system is checks and balances. He believes removing the authority of the state to judge the actions of the City Council is inappropriate. He urged this not be passed.

Odarka Figlus (WR) asked Council to postpone this for further consideration. There are too many issues that need to be resolved.

- In the event of a worst case scenario...
 - A corrupt city council would be the final authority on itself and it appears the matter could not even be taken to district court.
 - Council should be able to have final oversight on employees.
 - Who has oversight on the City Manager?
- She is disappointed the packet is lacking in information. She knows it's for the Council, but it provides good information for citizens too. Lately they have been very stripped down.
- She would like someone to go through each section of the state rules and these rules, step by step, and explain to citizens how this will provide extra protection for them – better than what the state constitution provides.

Council Questions

Councilmember Dozeman asked how many ethics complaints there have been. Mr. Dahl can't remember any.

Councilmember Urban had a question about judges being allowed gratuities for certain services. Mr. Dahl recommended substituting the words "in addition to" with "other than". The issue is primarily for marriage ceremonies. Councilmember Urban would like to see the words specifically reference marriage services.

Councilmember Urban inquired about the liability to the City on an ethics violation by a police officer. Mr. Dahl doesn't envision there being a sanction on the city as a whole. Regarding structure, use of the state's Independent Ethics Commission will not be an option. Council will handle charges about all elected officials; the City Manager will handle charges about employees. Per the Charter Council does not discipline employees.

Councilmember Urban believes this ethics code lacks third party objectivity. He doesn't want to sit in judgement of another councilmember. He will vote no on this – not because he is against ethics, but because he feels the state has the best ability to investigate and judge impartially.

Councilmember Mathews opined that Council having oversight on itself is not right. He believes checks and balances is the answer.

Mayor Starker closed the public hearing.

Motion by Councilmember Kueter to approve Council Bill 10-2019, an ordinance amending Chapter 2 of the Wheat Ridge Code of Laws regarding a Code of Ethics for City officers and employees, with the deletion of Section 2-102 (i) as recommended by the City Attorney, on second reading, and that it take effect 15 days after final publication.

Mr. Dahl asked if Mr. Kueter would include the addition of a change in Sec 2-100 (10) to identify the allowance for municipal judges regarding marriage services. Mr. Kueter declined.

The motion was seconded by Councilmember Hoppe.

Councilmember Mathews asked what a “public sanction” would look like. Mr. Dahl advised the only consequence allowed is a reprimand or public sanction – likely a written or oral letter of reprimand. There are no fines, etc.

Councilmember Hoppe expressed not being opposed to continuing this for further discussion and improvement.

Councilmember Dozeman is ok being governed by the IEC, she thinks it is good to strengthen our Code.

Motion by Councilmember Hoppe to continue for action Council Bill 10-2019 to a future study session followed by Council action after that; second by Councilmember Urban; carried 8-0.