

STUDY SESSION NOTES
CITY OF WHEAT RIDGE, COLORADO
City Council Chambers 7500 W. 29th Avenue
December 16, 2019

Mayor Bud Starker called the Study Session to order at 6:30 p.m.

Council members present: Amanda Weaver, Judy Hutchinson, Janeece Hoppe, Rachel Hultin, Korey Stites, Zachary Urban, Valerie Nosler Beck, and Leah Dozeman

Also present: Mayor Bud Starker; City Clerk, Steve Kirkpatrick; City Manager Patrick Goff, Community Development Director, Ken Johnstone; Economic Development Director & Executive Director of the Urban Renewal Authority, Steve Art; City Attorney Jerry Dahl, guests and interested citizens.

Citizen Comment on Agenda Items

Ms. Moe Keller of Iris St, WR: The resident spoke in favor of a new City noise ordinance, based on measurable decibel (dB) levels as the best way to regulate noise levels in a way everyone can understand. She commented that her neighborhood is currently "bombarded with loud noise," from a business on W. 44th Ave., near her home on Iris St., that hosts live bands and loud solo performers.

Ms. Keller also emphasized her appreciation that the council is taking up the issue of noise seriously. Although she believes that the measured decibel reading can be helpful, at this point it is hard know how loud "50 or 55 decibels would sound in our neighborhood as we have never measured such."

Mr. Steve Keller of Iris St., WR: Mr. Keller has been a WR resident since 1975. He indicated he speaks for five families who live near a business that hosts live, loud bands and amplified music on 44th Ave in WR. He urged Council to carefully consider how to write an enforceable noise ordinance. He encouraged the Council and staff to consult other municipalities that have already passed similar ordinances to find fair and enforceable legal language.

Ms. Linda Dillon of Brentwood St., WR: The resident also spoke in favor of a noise ordinance, which she hopes will include sounds from sources like leaf blowers, trash collection trucks, chain saws, roofing hammers and all other sources of significant dB levels. She also noted that some of these tools, especially lawn machinery like mowers and blowers disturb or destroy garden plants.

1. Loan Agreement between the City of Wheat Ridge and the Wheat Ridge Urban Renewal Authority

Should the City Council consider entering into a Loan Agreement (the Agreement), in an amount not to exceed \$500,000, with Renewal Wheat Ridge (RWR), to assist in funding

improvements associated with a proposed redevelopment of the Gold's Center located at the northwest corner of 26th Avenue and Kipling Street?

Steve Art presented the background and request details.

Adam Radcliffe, Denver, a partner in the firm proposing the development, gave a presentation on the proposed re-development of the Golds Center, which is currently properly called the Paramount Heights Shopping Center.

The proposed new name is Golds Marketplace.

Mr. Radcliffe explained the thinking behind the proposed re-development, a destination center for shopping, dining, and family entertainment. He showed artists' rendering of the architecture and landscaping. He stated no national chain stores or restaurants will get leases; rather the new owners will recruit new tenants while seeking to keep current tenants.

Councilmembers had comments and questions about:

- Terms of the proposed loan
- Will this project loan allow RWR to continue supporting, funding other projects?
- Will existing tenants be encouraged to stay?
- What will the loan pay for? Mostly sidewalks, gutters, landscaping and other aesthetics.
- Will this \$500,000 be devoted to this project and this project alone?

Mr. Radcliffe also explained the competencies and roles of the five firms involved in design, construction and financing of the project.

Councilmember Hoppe received consensus to bring forward approval to loan RWR \$500,000, with a repayment schedule of up to 5 years, repayment to begin in 2021.

2. Wadsworth Widening ROW Acquisition Update

Staff made a presentation reviewing the history and current status of the project.

On January 14, 2019, Council authorized staff to acquire right-of-way (ROW) for the Wadsworth Boulevard Widening project (Project). Staff had requested the ability to use the City's power of eminent domain, if necessary, to accomplish the necessary ROW acquisitions. At that time, Council did not feel comfortable with authorizing staff to use eminent domain, without first coming back to Council, and so that ability was not included in the Council action.

At the beginning of December, Notice of Intent (NOI) letters for the purchase of the partial property acquisitions were sent to 66 landowners affected by the Project. With the recent mailing of NOIs, Councilmembers may be contacted by their constituents on

this topic. The purpose of the December 16 study session was to provide an update on the ROW acquisition for the Project and also provide information on the ROW acquisition process, including eminent domain, so Councilmembers feel knowledgeable if/when approached by affected property owners. In addition, it is critical for Council to understand the Project deadlines imposed on the City in regard to the federal funding received for this Project.

The staff presentation described the timeline and action steps in detail, including interactions with citizens/landowners. The presentation also included detailed explanations of what eminent domain means, and the judicial process of determining just compensation for property when landowners and the city cannot reach an agreement on fair market value.

Councilmembers had comments and questions.

For one of the impacted properties appraisers for the City and the landowner reached two vastly different figures on the Fair Market Value of the property. Council asked if both are licensed appraisers.

What are the differences between the two appraisal methods?

Why does Midas Mufflers have to be a full acquisition?

Is the current design the best for both residents, and for businesses? Will Council be asked to revisit the Project plan at some point?

Several councilmembers commented that they are very uncomfortable with using eminent domain to acquire properties, emphasizing their unease with eminent domain, and the hope that the use of eminent domain can be avoided. Staff stated that their goal is to avoid eminent domain, but that it may be necessary to complete the bigger project on time and protect our Federal funding.

There were several detailed questions about the design of and transition to CFI (continuous flow intersections).

Have snow removal issues at CFI been addressed?

3. Noise Ordinance

The City occasionally receives complaints from residents concerning loud noises or sounds in the community. Most recently, the City has received complaints emanating from a manufacturing operation located in a planned industrial district and from a restaurant/bar located in a commercial district. The current Wheat Ridge Code of Laws concerning unreasonable noise is qualitative in nature and is limited in scope and difficult to prove in court because it does not set an objective level by which to measure noise. This issue was addressed with City Council at the September 23, 2019 special study session. Due to the fact that there was limited discussion at that study session and the Council now has four new councilmembers, Staff is requesting additional discussion and direction from the current Council on this topic.

Mr. Goff provided an overview of the current noise ordinance, why this issue arose, and what noise ordinances other municipalities have put in effect. In response to a question from a councilmember, Mr. Goff stated that other municipalities have set widely varying dB levels as excessive in their ordinance, but that the typical range is 40-50 dB.

Councilmembers had comments and questions:

- How is noise measured? Where is it measured? Outside a residence or inside the home?
- One Councilmember suggested the City ask an expert to educate the Council on acoustic science, and how when and where to measure sound levels.
- Interim Wheat Ridge Police Chief commented that enforcing a decibel level in a court trial will be subject to attacks on technical/engineering bases, asserting that the defense attorneys will claim measurements were flawed, making convictions problematic.
- Members commented on issues the ordinance would need to address: noise from public celebrations (Carnation Festival, athletic competitions, July 4th...), residential parties, industrial operations, construction, power tools and equipment, motor vehicles (e.g. trash trucks, loud mufflers...).
- Ms. Hoppe commented that there are pros and cons to both qualitative and quantitative noise ordinances, as well as hybrid approaches, and their enforcement. She also noted that there should potentially be different standard for different hours of the day and the duration of the noise (a party with loud music vs. an industrial operation 24x7).

Councilmember Hoppe received consensus to bring forward a proposed Noise Ordinance, using a hybrid approach, paying special attention to industrial noise, time of day limits (7 AM to 10 PM), special events, music electronically amplified and distance from the source of the sound. The proposed ordinance will include exceptions to the ordinance for (legal) fireworks, building construction, road construction and such other exceptions and further investigation may uncover. Special permits would be required for public or private events during or extending into the 10 PM to 7 AM period.

4. Staff Report(s)

None beyond well wishes for the upcoming Holidays.

5. Elected Officials' Report(s)

City Clerk Kirkpatrick announced that regular Council Meeting minutes will be in the form specified by Robert's Rules of Order and recommended by the Colorado County Clerks Association and municipal clerks: action minutes.

He asked that Council consider and provide feedback about the kind of notes Council would like to receive following Study Sessions.

ADJOURNMENT

The Study Session adjourned at 9:45 pm.

APPROVED BY CITY COUNCIL ON January 13, 2020



Steve Kirkpatrick, City Clerk



Janeece Hoppe, Mayor Pro Tem