

**STUDY SESSION NOTES**  
**CITY OF WHEAT RIDGE, COLORADO**  
**City Council Chambers 7500 W. 29<sup>th</sup> Avenue**  
**April 6, 2020**

Mayor Bud Starker called the Study Session to order at 6:31 p.m.

This meeting was conducted as a VIRTUAL MEETING.

No members of the Council or City staff were physically present at the Municipal building for this meeting; the public did not attend in person.

Mayor Starker welcomed the Council, other elected officials, staff and interested citizens.

The Mayor also explained the virtual meeting format, how citizens will have the opportunity to be heard, and the procedures and policies to be followed.

Without objection, Council agreed to continue the same suspension of the rules as in the Council Meeting held on March 30, 2020, except that members of the public may yield time to others, up to two speakers yielding.

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

Also present: City Attorney Jerry Dahl; City Clerk, Steve Kirkpatrick; City Manager Patrick Goff; Community Development Director, Ken Johnstone; Director of Administration Allison Scheck; Economic Development Director, Steve Art, guests and interested citizens.

Citizen Comment on Agenda Items – Odarka Figlus, W. 34<sup>th</sup> Ave. Commenting on the fourth item on tonight's agenda, Ms. Figlus stated that under the current Governor's orders citizens may not circulate petitions to submit for the public ballot. Therefore, Council should take into consideration the overriding right to speak at public hearings and to circulate initiative petitions. She strongly urged Council suspend all issues involving public hearings until the Governor's orders are lifted to ensure public participation.

Ihor Figlus, 9775 W. 36<sup>th</sup> Ave. stated he could not join the meeting for 15 minutes, either on Zoom or by phone. City Council should call a special meeting and suspend all public hearings until the public health crisis is resolved and Council can meet in person at City Hall. The virtual meetings do not substitute for in person meetings. Council must postpone all public hearings until two weeks after the public health orders are lifted and Council meets as normal again.

Mrs. Nelson, 9865 W 37<sup>th</sup> Ave., spoke to support the two Figlus speakers before her. This technology is not the same as regular meetings. We must stop public hearings until we can hold them in person.

Cary Whitaker, 6630 W. 30<sup>th</sup> Ave. Spoke about the Short-Term Rentals (STR) item. The City will need a few more tools to regulate STR. The City should require registered STR to provide information needed by the City and the City will need to have the power to subpoena when the residents refuse to provide information relevant to STR. The City should have the enforcement powers, including suspension and revocation of registration. The City should have the right to fine violators up to \$5,000, to allow room for discretion while having the option to use a stringent sanction. Only WR residents, and no corporations, should be registered to operate STR, and no one else.

Mike Pleiss, 6670 W. 30<sup>th</sup> Ave. Spoke about a short-term rental on his block, across the street from his home. He met a young couple staying across the street in an STR, who said they fled New York City before it was locked down. A few days later he saw the STR occupants outdoors in front of the rental and the adult woman said, "stay away, we have the Coronavirus." The next STR occupants of that property also came from New York, checked-in the day after the infected individuals left. This tenant stayed for 2 nights. Another group of 3 stayed 1 night. Two more renters stayed for only one or two nights each. This tourism is spreading disease in our community, and we should not have to deal with all we are experiencing and live in fear that a STR will infect their families.

Mayor asked if there was anyone who had not spoken regardless of their last name. No one else came forth.

**Note about Wheat Ridge Speaks:**

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

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

All citizen comments for this study session regarded Item 4 on the Agenda, and those comments appear below in the section for Item 4.

**1. Grammys Goodies Enhanced Sales Tax Incentive Program (ESTIP) request**

Discussion began at 6:28 pm, approximately 0:28 minutes into the recording of the session

The City of Wheat Ridge received a request from Jeff and Vickie Corder, owners of Grammy's Goodies (Grammy's), to enter into the Enhanced Sales Tax Incentive Program (ESTIP) program for the rebate of sales tax increment associated with a

proposed remodel and addition of an enclosed patio to Grammy's located at 4601 N. Harlan Street. The request is a rebate of 50% (1.5 cents) of the incremental city sales tax generated from Grammy's for a period of 5-years or a not to exceed amount of \$70,000.

Staff (Steve Art) delivered to Council a detailed presentation about this item, its purpose and the background of the reasons for bringing it to Council.

Steve Art reviewed the particulars of the request, and explained an ESTIP, its basis in law and how it works.

Mr. Art reviewed the history of the business, and how a recent appearance of Grammys on the TV show *Diners, Drive-In's and Dives* gave the restaurant great exposure. That exposure dramatically increased their business.

Vickie Corder, owner of Grammys Goodies, spoke about the history of her restaurant, rapid growth of her business since the TV coverage and her plans to expand on the current site.

Mr. Art explained how the process going forward would work, including drafting of the ESTIP contract language, a public hearing, and action by Council.

Councilmembers had questions and comments:

How has the current emergency impacted the business, and will the restaurant survive? What happens if it fails? Mr. Art said the City has no risk.

Councilmember Hoppe asked for a consensus to direct staff to draft an ESTIP Agreement for future consideration at a regular City Council meeting for the following reasons. The Grammy's remodel and expansion project will:

- Increase sales and use tax revenue;
- Maintain permanent employment in the City;
- Create construction-related jobs and the economic activity they bring to the surrounding neighborhood;
- Support a Wheat Ridge based small business; and
- Meet the goals of the City's Comprehensive Plan.

Consensus attained.

## 2. Short-term rentals (STR)

Discussion began at 6:44 pm, approximately :44 minutes into the recording of the session

City Council began discussions of short-term rentals (STRs) at a study session in March 2019. That briefing included the following: 1) an overview of what STRs are; 2) a

description of how current Code does and does not address them; 3) a summary of the results on the 2018 Citizen Survey, which had questions discussing how STRs might be regulated; and 4) an overview of how other cities are regulating this use

Mr. Goff introduced Ken Johnstone, Director of Community Development, and Scott Cutler, City Planner. They discussed the work staff has done on the issues relating to STR. The two staff members gave a formal presentation with PowerPoint slides. Mr. Johnstone asked for Council guidance on how to proceed with STR?

Councilmembers had questions and comments:

- Several Councilmembers thanked the staff for its hard work and for the presentation.
- Public comments to Councilmembers ranges across the spectrum of allowing STR, to regulating them, to outlawing them altogether.
- Several councilmembers agreed that this is an issue the City needs to address. It was also noted that there was no public testimony on this issue from STR owners.
- Several councilmembers commented that they support creating a regulatory environment, with input from residents, and people who do or want to operate an STR.
- Neighboring municipalities have recently regulated STR, and perhaps their work will inform our efforts.

*Council reached a consensus to task staff with continuing their work on regulating STR.*

Mr. Johnstone explained that under the current law, STR are not allowed. So some landowners who hear that advice open and STR anyway, while others obey the current law and refrain. Therefore, any process for initiating a regulatory environment should not penalize those who chose to obey the law, vs. simply grand parenting those who are already operating an STR illegally.

The staff presentation continued with additional PowerPoint slides to support the verbal comments. Having attained a consensus Mr. Johnstone asked what process Council would like to follow going forward.

Council had *further* questions and comments:

- Council wants more study and thought on several issues, including corporate ownerships; minimum stays (one night, two night or more); fines for violations; caps on the number of STR; distancing/spacing of STR in any given neighborhood; and the need for notifying neighbors nearby that an STR is opening, or has already been operating.

- Some neighborhoods already have several STR operating, and the City needs to find a way to identify those already operating and bring them in to the new regulatory environment.
- The new regulations need to address the proliferation of STR in any one neighborhood/ area of the City, to avoid concentrating too many STR.
- We need a robust complaint process so that citizens have recourse when STR's create issues. There should be stringent enforcement, and timely response to complaints, especially noise and nuisances.
- Clear, strict standards for cleaning rental properties between renters must be in place in general, and with leeway in the event of a public health emergency like CoVid-19.
- Councilmembers also discussed issues related to whether STR may only be operated by Wheat Ridge residents; whether STR must be in the STR must be on the property of the renters primary residence; whether the landlord must be living on the property during rentals; and whether residents may rent properties that they own in Wheat Ridge but do not occupy as their primary residence.
- Several councilmembers discussed the need to carefully craft the language around corporate ownership of real property for STR; sometimes people form an LLC and purchase property in the name of that LLC for various reasons.
- We need to look at how STR impact residents in the neighborhoods, in terms of public health and safety and maintaining the quality of life ranging from parking to pet care and noise.
- The new regulations need to include a means for enforcing compliance consistently and strictly, without overloading the PD with new duties or creating cost in excess of the benefits STR will bring to the City, especially revenue.
- Staff was urged to look not only at contiguous municipalities and their work on STR but also suburban communities in other Western US cities, like San Francisco or Seattle.
- Somehow, we need to accommodate those residents who operate an STR as their primary or supplemental source of significant income.
- We need to consider how to handle requirements for age of the renters, how many people may occupy the STR, and similar concerns. One of her biggest concerns is people who abuse STR, for example renting a house for a large, noisy party, and right now we have no real teeth in our enforcement.

Mr. Goff discussed the research staff has done into service providers who enforce STR. For instance, when a loud party occurs on a Saturday night, the vendor calls, or communicates in person with the landlord and the STR renters. Mr. Johnstone is

working with City Attorney and the District Attorney to ensure that whatever regulations are put into effect are enforceable and how that will work.

Mr. Cutler reported that staff have investigated how Denver, Boulder and other local communities, as well as suburban cities in California, Texas and North Carolina have handled and regulated STR.

Mayor Starker noted the fire, health and safety equipment required for new residential property and whether that all should be required of STR landlords. Mr. Johnstone and Mr. Cutler addressed these details and what staff is considering as part of the recommendations to Council. The Mayor also asked about the definition of STR so that it does not flaunt the long-term rental regulations that start at 30-days.

Mr. Johnstone commented on issues involved in transitioning from no regulations to regulating. For instance, what priority should current, illegal STR have when registration begins, vs. the rights of their neighbors who obeyed the law and now may want to register.

Councilmember Hoppe attained a consensus for staff to move forward, including the following:

- A. Remove the allowance for long-term renters; owner operated primary residents only.
- B. Clarify whether a landlord may temporarily vacate their residence and rent the entire dwelling as an STR.
- C. No corporate ownership with careful wording of the language.
- D. Fine authority up a greater and more substantial fine
- E. Add a requirement to send notice to the neighborhood within 150 feet before opening, and public notice of the emergency contact.
- F. Minimum 2-night stay
- G. Find a way to measure caps after the initial registration period and find a way to measure the caps in a specific, enforceable way.
- H. Should include subpoena powers and steps in a regulatory process that is robust and legally enforceable.
- I. The regulations should have staged regulatory enforcement starting with a warning letter, then suspension and ultimately revocation.
- J. Cleaning between rentals meets at least the same standards as required for hotels, motels and other properties operating for short term lodging.
- K. Clarify whether an STR can rent the owner's entire dwelling.

### 3. Staff Report(s)

#### a.) Wheat Ridge Small Business Sustainability Program

Discussion began at 7:48 pm, approximately 1:18 minutes into the recording of the session

The impact of COVID-19 on American businesses has increased dramatically over the last four weeks as state and local governments order mandatory shut-downs and 'shelter in place' orders, further complicating operations for businesses already impacted by COVID-19. Staff has been given the directive, via Resolution 19-2020, to develop a business recovery program to aid Wheat Ridge small businesses during this time.

Mr. Goff reported updates on this program, progress staff has made in the past week.

Mr. Art recommended that we make the program all grants because loans are difficult to manage. Limit the program to 25 employees or fewer, storefront operation in WR, no national franchises eligible. Operating since before January 1, 2020. Limited to rent, payroll, and supplies essential to operating the business.

We are also encouraging local small businesses to take advantage of Federal assistance programs now available.

Council discussed who would sit on the Task Force to receive applications and decide on grants, including a Councilmember.

Mr. Art proposed that the application process will open for a few days, probably 5 days. Random lots will then be drawn to review local business applications and determine which will get funded. When the funds are expended, the applications will end.

Recommended offering \$5,000 grants, to help 50 businesses. Smaller grants will have too little impact, larger grants would limit the program to too few businesses.

Councilmembers had questions and comments:

- Will the 25-employee limit apply to before layoffs during the current crisis?
- What will be the determinant of need?
- Several Councilmember expressed gratitude that staff has done this work so quickly.
- Is there another scheme we can use other than random drawing of applicants? Random drawing may mean a business important to the City's future is passed over. The decision-making process should involve some judgment, to consider individual circumstances.
- Can we vary the amount of the grant for situations where less than \$5000 will make a real difference?
- One criterion used in other communities was that the grant would offset the Federal grants, that businesses that do not qualify for Federal dollars would get priority.

- Parallel the application process so that the City's application process aligns with the County, State or Federal process to save paperwork.
- The threshold of 25 employees, with store fronts: Do we know how many businesses in Wheat Ridge would meet that qualification. Mr. Urban reported that the approximate number of businesses would be between 200 and 250, based on publicly available databases.
- Make it clear that members of the Task Force making the grant decisions cannot apply for a grant, to avoid not only conflicts of interest but also the appearance of conflicts.

Councilmember Hoppe attained a consensus to proceed based on Council's feedback and appoint Mr. Urban as a voting member of the Task Force.

#### 4. **Elected Officials' Report(s)**

- a) Citizen engagement opportunities for official public hearings during the Colorado Stay-at-Home Public Health Order

Discussion of this item began at approximately 8:32 PM.

This item added to the agenda at the last minute, to allow citizens to comment on this topic.

Wheat Ridge Speaks transcript: Citizens entered the following comments about this item on the Wheat Ridge Speaks website, transcribed here in their entirety.

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I believe that during the shutdown that NO decisions be made that effect the long term development of Wheat Ridge--nothing is that important. I believe that study sessions every Monday of each month the city is shut down would be beneficial. A lot of thoughtful discussions can be made during study sessions among council members, but NO long term decisions by Planning, URA, or Council should be made. I believe all decisions effecting how the city is managed during this shut down time should be made by Council members and NOT by staff. Please let the citizens have as great an opportunity to have a voice in citywide, long-term, decisions as any other party involved. Thank you

04/05/2020 3:01 pm

**Vivian Vos**

6920 W 47 place  
Wheat Ridge, 80033

After several false starts, this is where I landed, I hope this is the correct place to post my comments.

- Please, for every item on the agenda, listen to citizens AND hear what they are saying. (This applies to the City Staff and City Council.) Best example: the election results for 2E — 2/3 of the voters turned down the Upham development.



Basically, voters were saying that they don't want density in their neighborhoods. R-2 and R-1 lots must NOT be rezoned to allow for increased density.

- The Colorado Constitution grants citizens the right to protest. That right needs to be respected by the City.  
It is not fair, maybe it's illegal, to pass an ordinance when circumstances make it impossible for citizens to exercise their rights. (i.e., It's not possible to collect signatures when we're under social distancing and stay-at-home orders.)
- The City cannot conduct a fair public hearing when the options (or which there are few) rely on technology. This is especially problematic since these methods are new and are not familiar to the majority of residents.
- The City needs to listen to all voices, but it's important to distinguish between WR residents and land owners vs outside voices that want to influence what's going on in our City (e.g., When developers get friends to speak in their support, that should not influence a decision.)
- Please, when there's an issue before the council, use a decision making models that includes identifying alternatives and discussing pros and cons of each alternative (e.g. Localworks: This is one option for spending \_\_\_\_\_ dollars. What are the advantages of doing so? What are the disadvantages? Are there other ways to meet the same purpose? What other ways could the City spend that money? — And what are the advantages and disadvantages of each?)
- A mock meeting is an interesting idea, but it's not a way that I learn, and the timing isn't convenient for me, so I won't be checking in. I wonder how many people will respond. (I would guess that the people who are already accessing the City happenings are the ones who are most likely to 'attend.' This isn't adequate for connecting with a new audience.)

Thank You for considering this input.

04/06/2020 11:25 am

**Judy Capra**

7070 W. 43rd Ave.

Wheat Ridge, 80033

I am hopeful that City Council will NOT place contentious items on its agenda until meetings can once again be held in person at council chambers. While the electronic meeting program certainly represents a step forward in allowing for citizen participation in meetings, it is not yet "debugged" as evidenced by last week's meeting. The right of citizens to fully participate in our government is paramount to a free and civil society. In the meantime, regular city business can be undertaken electronically, with citizens participating electronically in writing, or by calling into the meetings. Zoning matters, and any other quasi-judicial matters,

should be postponed until either the electronic system is fully operational or until council can again meet in person. I would also suggest that the electronic meetings have a city computer employee available during the session, so that expert help is available whenever glitches occur.

On another note, I hope that in the future council does not appoint members of city staff to establish committees, or to make decisions regarding the city's business. The business of government is certainly made more difficult because of the current pandemic, but council members are elected by our citizens to represent our city, and governing during tough times is a part of what council is elected to do. It is what our councilors signed up for by campaigning for elected office. City staff certainly has a large and important part in day to day city functions; however, I see no need to empower staff to appoint committees, decide agendas or make fiscal decisions. These responsibilities belong to city council.

04/06/2020 11:33 am

**Kathy Havens**  
7060 West 39th Ave  
Wheat Ridge, 80033

End of Wheat Ridge Speaks comments on this item.

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Mr. Goff reported on the efforts staff have been making to inform and train the public about how to participate in virtual Council Meetings. Ms. Scheck reported the details of these efforts, including conducting Mock City Council meetings twice this week on Zoom.

Staff displayed a video they produced to inform citizens how to participate in virtual meetings of Council or boards and commissions. The video illustrates three ways to participate, including lessons on calling in by phone, joining by Zoom and finally Wheat Ridge Speaks.

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#### **Council questions and comments:**

- Other cities have been using this technology, but not for public hearings.
- Our most recent public notice about next Tuesday's Council meeting and public hearing says the hearing will be in Council Chambers, which was the plan when the notice was published, but now it will not.
- Mr. Dahl commented that a new notice would have to be issued for a public hearing a week hence. Despite that caveat, in general there are no impediments to holding virtual public hearings.
- He also said that Council may choose to postpone public hearings. He recommended that we address the three previously noticed public hearings in

specific separately from the more general question of holding City Council and other City meetings during this crisis.

- Mr. Dahl also recounted what Code and Charter state concerning protests of rezoning decisions when a public hearing commences. He also recalled that the law is unclear as to whether the current Stay-At-Home order from the Governor prohibits people from circulating initiative petitions.
- Several councilmembers stated that because of the exigent circumstances perhaps we should postpone at least next week's public hearings.
- The current public health order prohibits contact within 6 feet; how can we circulate petitions for an initiative and protect public health.
- Compared to previous operational practices, citizens now have MORE means and opportunities to participate now than they did when all meetings were in person. Previously, citizens complained that they could not participate in person because they could not, for one reason or another, come to City Hall for Council, board and commission meetings.
- If these public hearings are postponed from April 13, what impact would that have?  
Mr. Goff explained the impact varies among the three public hearing items. The Clear Creek Crossing item would delay issuance of bonds for the project, which would delay funding that the City needs to cover the hook ramp project. The City needs those bonds to fund Clear Creek Crossing.

### **Elected Officials Matters**

Councilmember Weaver announced progress with the gift card program to support WR businesses during the current emergency.

City Clerk Steve Kirkpatrick thanked the City staff for their hard work, which has kept the City operating during this difficult period.

Councilmember Urban noted that there are some outlandish, heinous conspiracy theories floating around, and urged citizens to avoid spreading these ridiculous rumors.

Councilmember Dozeman thanked the City staff for their hard work under extremely difficult circumstances.

Councilmember Hutchinson urged people to go out and enjoy the beautiful outdoors during springtime to decompress and recharge.

The Mayor urged residents to obey the Governor's order and stay home, stay safe and protect the community.

### **City Manager's Matters**

- We have decided to delay the residents' survey until the fall or even in 2021.
- He also explained that cities may not delay or postpone permits for work on small cell mobile phone towers, per Federal law and FCC regulations. The City has received some emails from residents about projects currently in progress, urging the City to stop those projects.

On another matter, Mr. Goff announced that the gardeners' program sponsored by the City will operate but with special social distancing rules.

**ADJOURNMENT**


The Study Session adjourned at 10:05 pm.

APPROVED BY CITY COUNCIL ON May 11, 2020.



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Steve Kirkpatrick, City Clerk



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Janeece Hoppe, Mayor Pro Tem