

**STUDY SESSION NOTES**  
**CITY OF WHEAT RIDGE, COLORADO**  
**Virtual Meeting**  
**April 5, 2021**

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

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

Also present: City Manager, Patrick Goff; City Attorney Jerry Dahl; City Clerk, Steve Kirkpatrick; City Treasurer, Chris Miller; Chief of Police, Chris Murtha; Director of Administration, Allison Scheck; Director of Community Development, Ken Johnstone; Senior Neighborhood Planner, Jeff Hirt, and Ashley Holland, Neighborhood Engagement Specialist; other guests and interested citizens.

**Citizen's Right to Speak**

Mo Keller, 4325 Iris St., WR called to discuss the Noise Ordinance. She was impressed with the process of creating the ordinance. She opposes any more than 6 Amplified Sound Event Permits (ASEP). In her view, there are a number of businesses along 38<sup>th</sup> Ave that could hold 6 ASEP events yearly, resulting in 18-24 such events in the same neighborhoods.

Steve Keller, 4325 Iris St., WR also supported the permit system and the limit of 6 ASEP per year. It is a good balance between business needs and the ability of the residents to enjoy their homes in peace and quiet. The reasonable limit of 6 ASEP per annum is adequate and should not be changed. A business does not have a right to disturb our neighborhood so many times a year. The City should not adopt a decibel limit instead of the ASEP, because there would ensue constant arguments over which decibel meter to use, who is exceeding the dB limit and how.

Aaron McCallister, owner of the T-Bird Roadhouse on 44<sup>th</sup> Avenue. His business has encountered many incidents with the Kellers and others in that neighborhood. He and his business have complied with every visit from Wheat Ridge Police, and we have never seen a noise level above 75 dB at the Kellers property line; typically, we measure 65 dB at most. This past Saturday we did \$4000 in business; with a third band we could have done half again as much business. We enjoy a lot of support from others on that

block, including businesses and residents. We have collected 125 signatures from our neighbors who support allowing us to hold more than 6 live band events per year. We need these events for our business.

Laura Jenkins, 9715 W. 43<sup>rd</sup> Ave., WR. Thanked the Mayor and Council for the thoughtful work done on this issue. For me personally, the noise problem has persisted since 2011. Having to live next door to loud sounds, whether a band or industrial operation, disturbs, “the peace within my home when I am just trying to read a book.” She is not opposed to the T-Bird having live bands, but she opposes the sound level she experiences at present. Your survey of WR residents is not reliable because you have no way to verify whether the signatories live nearby or even in the City. To a certain extent, the Council may have to let businesses fail and see them replaced with a better neighbor. She supports the current noise ordinance.

Catherine Grant, 3881 Estes St., called to say we have really enjoyed the Roadhouse and have enjoyed the music while sitting outside. She enjoys getting together with her neighbors. She is delighted that the Roadhouse has done so well and hopes they can continue to prosper. We like their music and the opportunity to enjoy it with our neighbors and friends. She opposes the earlier speaker’s assertion that sometimes a business must be allowed to fail.

Lindi Mills, 7105 W. 35<sup>th</sup> and a neighbor from 3490 Teller St. Called to agree with the previous speaker’s comments, in the paragraph above.

Chris (surname inaudible) 4020 Everett St., called to discuss the Bel Aire neighborhood meeting. He would like to include flagged lots in the discussion of the future of the neighborhood.

**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).

The following appeared in Wheat Ridge Speaks for this Council session.

Last fall, our neighborhood rejoiced in the City Council's updated Noise Ordinance. It promised to rescue us from the loud music from the T-Bird Roadhouse intruding into our lives every weekend. Now, we are under threat again.

Please hold the line on 6 permits! Anything more would be detrimental to our quality of life in Wheat Ridge. I have yet to hear any arguments that suggest continuous amplified sound events enhance the surrounding

community! Instead, we debate what would be "acceptable damage"! Changes to the noise ordinance would only enhance the pockets of business owners.

People speaking in favor of this do not live in close proximity to these businesses. They can leave when they want. We cannot.

Please keep our concerns under consideration when discussing this topic. Thank you!

04/05/2021 9:07 am

**Kathryn Emmack**

4310 Iris Street  
Wheat Ridge, 80033

PUBLIC COMMENT Re: NOISE ORDINANCE, CITY OF WHEAT RIDGE

April 5, 2021 Study Session

I am concerned about Council's plans to re-examine the Wheat Ridge noise ordinance, passed in 2020, that places certain restrictions on electronically amplified music (both recorded and live), played outside various venues, such as bars, restaurants and other social gathering places. I live at 7060 West 39th Avenue, one block north of West 38<sup>th</sup> Avenue, and within three blocks of four existing bars and restaurants, as well as one planned brew pub not yet open, and the "Green" on 38th, which is slated to be developed into an entertainment/activity center by the City of Wheat Ridge, and will include a stage and sound equipment.

If each of these bars, restaurants and entertainment areas is granted 6 permits per year allowing amplified music outdoors on weekends, my neighborhood will be host to at least 24 evenings of amplified music per year--almost a full month. And that's only if the outside entertainment is limited to the six warmest months of the year. Several years ago, during a Ridge Fest celebration, my neighbors and I spent an entire afternoon listening to a polka band (amplified) performing on the "Green" and a blue grass band, (also amplified), performing near 38th and Reed Street. Lest you think I'm an "old fogey" let me explain that I am part of the generation that came of age at the same time technology allowed electric amplification. I love blue grass as much as anyone--young or old--and, having grown up in Wisconsin, I have experienced a variety of polka bands. However, never have I experienced both at the same time in some sort of weird "battle of the bands." Since this ordinance passed after the beginning of the pandemic lock down, I'm curious about what economic basis the various bars are using to back up their statements regarding loss of revenue. Last year was unique in that bars and restaurants were able to open only for limited numbers of patrons, and no doubt the majority experienced a loss of revenue.

Before Council modifies its ordinance, I'd like to know what other cities in the metro Denver area do in regard to permitting outdoor amplified music by bars and restaurants (and other non-public entities) within their jurisdictions.

Thank you,  
Kathy Havens

04/04/2021 6:15 pm

**Kathryn Havens**

7060 West 39th Ave  
Wheat Ridge, 80033

From Michael Hult, submitted by Steve Keller

Dear Mayor and Council Members,

For 30 years I have lived in a house located on Iris St., just south of the Dairy Queen and about 200 ft southwest of a bar at 44th Ave. and Independence St. During the period from 2011 through late 2020, during the fair-weather months, I suffered from frequent and obnoxiously loud noise from live bands playing outdoors on the bar's patio. During 2020 the bands often played on Saturday and Sunday afternoons and evenings. The noise inside my home, even with the doors and windows closed, was unbearable. During spring and summer of 2020 several attempts by myself and neighbors to negotiate with the bar manager were snubbed. As a result, it was necessary to make several noise disturbance complaints to the WRPD.

The new 2020 noise ordinance, with a six-permit-per-year limit on outdoor amplified sound events, has been a lifesaver for my situation. Now I can look forward to being at peace in my home without being assaulted by excessive noise every weekend. The City Council should definitely retain the six-permit limit for the sake of keeping this neighborhood a desirable place to live.

Best regards,  
Michael Hult  
4365 Iris St.  
Wheat Ridge  
04/04/2021 11:10 am

**Stephen M. Keller**  
4325 Iris St.  
Wheat Ridge, 80033

Dear Council Members,

Thank you very much for your deliberations and considerations in your adoption of the new city noise ordinance designed in Dec. of 2019 and adopted in Aug. 2020. Having attended both meetings, I am impressed with the time and thought you gave in fairly writing a noise ordinance that creates a balance between the homeowners in your districts and the businesses providing outdoor amplified music, either bands or sound systems. Sound systems often continue until midnight, but in our case, the nearby business is planning using the sound system until at 2am.

I feel we should let the current noise ordinance move forward this year and not amend the number of permits. We are not even giving this new ordinance a chance to be implemented as designed. It is worth noting that in the city survey 73% of the respondents stated they do not live near a loud music venue, meaning they do not have firsthand knowledge of the effects of unwanted noise intrusion into their homes.

We do.

Moe Keller  
04/03/2021 2:29 pm

**Moe Keller**  
4325 Iris St.  
Wheat Ridge, 80033

Public Comment on the Noise Ordinance: Wheat Ridge City Council Study Session, April 5, 2021

From Moe and Steve Keller, April 2, 2021

Background

Our neighborhood is on Iris St. and Iris Ct. immediately south of 44th Ave. On weekend afternoons and evenings, from spring through fall over most of the last ten years, we and our neighbors (five households in all) suffered persistent and obnoxiously loud noise from frequent outdoor live amplified music events put on by a business at 44th Ave. and Independence St. The live music could be heard in our front and back yards and within our homes even with the doors and windows closed. Also, during summer 2020 an outdoor sound system was in use at this business for several nights per week and could be heard in our own home until as late as 10:00 PM. This frequent noise burden was distracting and distressing and was more than a neighborhood should have to tolerate. The noise deprived us of the peace we previously knew and also impaired the enjoyment of our property. The noise was the subject of numerous complaints from the neighborhood to the Wheat Ridge Police Department (WRPD) over the years. During the period from 2011 through late 2020 the WRPD was hesitant to cite the above business for disturbing the peace, because the old version of the Wheat Ridge noise ordinance was unclear in defining the nature of a noise disturbance. This situation changed in August 2020 when the City Council adopted a revised ordinance that now places outdoor amplified sound events (live or sound system) under a permit system. Permits now are unambiguously limited to six events per year for a given location. The City Council chose the number of six permits after careful deliberation, including public input, that began in December 2019 and concluded in

August 2020. The six permit limit allows us to have peace during most weekends of spring through fall, instead of being assaulted by excessive noise every weekend. We do not want to regress to what we had before the revised ordinance was passed.

Arguments for Retaining the Permit System and the Present Number of Permits:

Our neighborhood, and other neighborhoods that might in the future be within hearing distance of outdoor amplified sound events, now have some protection from noise being imposed upon them against their will. The limit of six events per year is very reasonable. It allows businesses and residences an opportunity to occasionally have outdoor loud live music or sound systems, while it protects nearby residents from the obnoxious frequency of such events. We emphatically endorse retaining the existing permit system and its limit of six permits. The present ordinance could allow (for example) one event per month from late spring into early fall, at a given location. Six permits are tolerable but more than six should not be allowed, because outdoor loud live music events or sound systems, where the originating locations adjoin or lie or within residential neighborhoods, should be the exception and not the rule. A business model of frequent events is a poor fit where the business adjoins a residential neighborhood. Such a model forces neighborhoods to give up too much of their peace and quiet. (We point out that the present ordinance applies only to outdoor amplified sound events and does not limit indoor events.)

We understand that certain Wheat Ridge businesses believe that six permits per year is too low a number, that this restriction may deprive them of revenue, and that the present ordinance should be compromised by increasing the number of permits. We strongly disagree with this view for two important reasons. First, a business does not have an inherent right to impose unwanted noise on an adjacent neighborhood such that the quality of life nearby is degraded and the livability of the neighborhood is threatened. "My rights end where they infringe upon your rights" is an established American principle. Second, a compromise already has been reached in that the six permits are allowed. With six permits a neighborhood is already giving up six days per year of the peace and quiet it previously enjoyed. More than this should not be taken away.

Contrary to the implications in some comments in the What's Up Wheat Ridge noise survey, businesses were not "ambushed" by the 2020 noise ordinance. A business should perform due diligence with a municipality before undertaking a program of frequent, loud outdoor live music events. Even with six permits per year per location a multiplier effect could occur. If two or more businesses relatively close together on a given length of commercial street each begin to have six outdoor, loud live music events per year, it is probable that some nearby neighborhoods would experience many more than six events per year. This would certainly not make such neighborhoods more desirable and would detract from the quality of life that

Wheat Ridge residents have come to enjoy.

We ask the City Council to value the peace and livability of our Wheat Ridge neighborhoods as the noise ordinance is deliberated.

04/02/2021 4:13 pm

**Stephen M. Keller**

4325 Iris St.

Wheat Ridge, 80033

**End of comments entered into WR Speaks for this meeting.**

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## **1. Let's Talk Neighborhood Engagement Program update**

Discussion began at 6:53 pm, Approx. :23 minutes into the recording of the session.

### **Issue**

The Let's Talk Resident Engagement Program stems from the 2019 Neighborhood Revitalization Strategy (NRS) Update. The purpose of this study session agenda item is to:

1. Share detailed reports from the recently completed Bel Aire and East Wheat Ridge resident engagement "blitzes";

2. Share staff's proposed 2021 action items to respond to Bel Aire and East Wheat Ridge resident input; and
3. Provide an update to City Council on the Let's Talk Program following completion of the first two neighborhoods

### **Staff reports**

Mr. Johnstone gave an overview of progress and thanked Mr. Hirt and Ms. Holland for their hard and productive work. Mr. Hirt described the program and then recapped prior Council actions and discussions on this issue, among them the primary recommendations from the 2019 NRS that focused neighborhood engagement.

He also reported on outputs from neighborhood engagement sessions from October 2020 to February 2021. The City heard from over 600 Bel Aire and East Wheat Ridge residents during that engagement "blitz", despite COVID-19 constraints. By comparison, the 2019 NRS Update was a citywide effort and was considered (correctly so) to have had extensive and successful engagement with about 1,000 residents participating over the course of about a year with support from a 26-member resident committee.

Mr. Hirt gave a detailed report supported with a slide presentation.

The next two neighborhood engagement meetings will be in Leppla Manor and Applewood, during May to September 2021.

### **Councilmembers had questions and comments:**

Councilmembers asked detailed questions about several topics, including:

- Several Councilmembers thanked the staff for their hard work and their presentation tonight.
- Raising the issue of flag lots is a good outcome of this engagement process. Are there other issues raised in your report that were not included in previous reports, such as the 2019 NRS? Staff gave a detailed answer. The Notes appendix in the reports gives a complete list of discussions and topics of interest to residents.
- Flag lots have come up in Planning Commission during the past few years. How might Council think about flag lots generally, when there are so many uniquely sized and shaped lots labeled "flag lots." Staff gave a technical and historical review.
- The listening and engagement in small groups during the neighborhood engagement meetings have been a very valuable outcome.
- Please, give us clarification on how you prioritize and compare issues raised by residents, for example with the traffic enforcement vs. the 35<sup>th</sup> Ave bike lane. Staff answered that they balance the frequency of a comment with the history of an issue and how neighboring cities handle a particular issue or project. Mr. Johnstone commented that there are a number of projects in the planning stages for the 2022 budget cycle for Council to consider and evaluate.
- If we are going to budget for a traffic management project, we should look not only at the impact on one block but also adjacent streets.
- What have we heard about a desire for City-wide refuse removal?

- How does this intersect with the City Council Strategic Planning Retreat outputs? Staff referred to the Council packet and how it treats this question, including specific examples.
- How do we meld the priorities developed at the Strategic Retreat and neighborhood engagement sessions? Mr. Goff gave description of staff's plan to bring these issues to Council so it can make informed decisions.
- As we look at other parts of the City, other neighborhoods, does it make sense to wait until we have more feedback from other neighborhoods? Staff answered that some issues will clearly merit attention when raised in a particular neighborhood while others may impact the whole City or several neighborhoods.
- Thanks also to our residents for their time and input. We need to communicate to our residents that some issues are very neighborhood specific and others are of less interest in a specific neighborhood. We need to emphasize that Council looks at both local issues and Citywide issues.
- How does staff feel about the degree of engagement, the numbers of residents participating? What else can we do that will increase participation? Staff reviewed the methods and resources used and how they fostered citizen participation and contributions to the information collected.
- This program is very important to building an infrastructure for two-way communication between Council, government staff and our residents.
- Moving forward, we need to continue developing a virtual platform for citizens to participate in meetings when they cannot attend in person, either Council sessions or other meetings especially boards and commissions.
- Have citizens expressed concerns that this process just puts a good face on citizen input, but the eventual outcomes are already determined? Staff answered that they had heard very few comments in that vein, or in terms of residents feeling that they did not have a chance to give input. Staff also reported that they do follow-up communications with those who participate in neighborhood engagement activities. Staff will also continue to communicate going forward.
- As we collect data from more and more neighborhoods, and begin to take actions, how can we manage expectations among our residents as this process yields more data and we plan more and more actions going forward?

## **2. Review of noise ordinance**

Discussion began at 8:00 pm, approximately 1:30 hours into the session.

### **Issue**

City Council approved Ordinance 1697 on August 24, 2020, an ordinance amending Section 16-103 of the Wheat Ridge Code of Laws concerning the regulation of noise. The Ordinance, among other things, established a permit process which allows up to six outdoor amplified sound events for the same location in a twelve-month period. Councilmembers Dozeman and Nosler-Beck requested this agenda item to review the

permit process established in this Ordinance and to recommend potential amendments to such process to address concerns raised by a Wheat Ridge business.

### **Staff reports**

City Manager Patrick Goff gave an overview of prior instances when city council had taken action on the noise enforcement issues: 2005 (repealed, replaced ordinance), 2012 (ordinance postponed indefinitely), 2019 (consensus), 2020 (approved ordinance), 2021 (ordinance extending effective date).

He also gave background and information from the Acoustical Society, the recent noise ordinance survey results, the residents responses, and business/employee responses.

Mr. Goff also listed some staff recommendations on actions Council might take, including:

- Make no change to the current ordinance.
- Change the number of Amplified Sound Event Permits allowed per year
- Create a new special event process that also regulates amplified sound
- Special Use Permits that Council would issue on a case by case basis

Ms. Scheck recounted the results of an informal, non-scientific survey that collected 199 residents' comments. She addressed the reasons why we can nonetheless attend to patterns in the survey data and how it can inform this discussion.

### **Councilmembers had questions and comments:**

Councilmembers asked detailed questions about several topics, including:

- Councilmembers Dozeman and Nosler Beck asked to add this item to this Study Session agenda, and they started the discussion. They recounted the feedback they have received from businesses and residents. The two Councilmembers initiated this discussion to review the experiences residents and businesses brought to their attention, based on the first 8 months of implementing the Noise Ordinance (1697).
- In addition to a discussion of the permitting, can we address some of the confusion that resulted from the initial rollout of the Ordinance last year. For instance, how do we determine what is a "reasonable noise level."
- Councilmembers stated that the Amplified Event Sound Permit (ASEP) should be the focus of this discussion tonight, as that is the issue about which we have adequate data vs., for example, the industrial noise levels.
- How did we arrive at a limit of 6 ASEP per location per year? It was a consensus reached during a prior Study Session.
- What is the Special Use Permit (SUP) process? What is a SUP? How would we implement that process? Essentially it is based on a series of criteria that would

need to be written and a discussion among the neighbors and the applicant business.

- We must focus on a city-wide solution, not just a solution for one business or one neighborhood.
- Council voted 8-0 to pass this ordinance. People do have a right to a quiet neighborhood. Businesses do have a right to operate as good neighbors. What new approach can we consider that has not been discussed repeatedly for several years? What is the difference between an ASEP and a SUP permit?

Mr. Goff gave a detailed answer describing the two kinds of permits.

- We need to consider neighborhoods and specific businesses and their operating models as we look at the tactics we will use going forward.
- Do SUP's attach to the applicant (a person) or a location/business (specific place). Staff gave a specific answer, including a discussion of who would issue, enforce and revisit SUP by Council if violations occur.
- Staff explained that Special Use Permits are ongoing understandings reached with a specific business vs. ASEP which address a specific date and place.
- Councilmembers had detailed questions about the provisions and definitions in the current Noise Ordinance, which Mr. Goff and Mr. Dahl answered.

Councilmember Hoppe proposed a consensus to bring forward an action or actions to Council that will:

1. Explore an SUP process for 8 or more outdoor sound events in a 12-month period, keeping the current ASEP process for up to 8 events per year.
2. Repeal the current requirement that businesses notify the neighborhood with flyers and posted notices on the business premises.
3. Change the number of ASEP issued to any one business from 6 events during a *rolling 12-month* period to 8 events per *calendar* year.
4. Bring forward the police department's recommendations for specific clarifications and definitions in the Noise Ordinance, including a more specific definition of "reasonable noise, and adding a definition of a new term, "avoidable noise."
5. Remove the words "prima facia" from Sec. 16-103 b.
6. Amend Sec. 16-103 d, to state, "No person shall conduct an Amplified Sound Event in a manner which exceeds the levels specified in Sec. 16-103 b, without first obtaining a permit to do so. An outdoor Amplified Sound Event on private property is permitted under this Section under the following conditions: ..."
7. Add a provision to the Ordinance that "The City Council may cancel, revoke, or suspend a business license of any business for violations of this Ordinance pursuant to Sec. 32-11."

8. Include a provision in any new proposed ordinance to make a smooth transition from the current administration of Ord. 1697 to whatever new ordinance may pass.

Consensus attained.

### **3. Staff Report(s)**

This item began at approximately 9:36 p.m.

Nothing this evening.

### **4. Elected Officials' Report**

City Clerk Kirkpatrick announced the opening of boards and commission seats for the Liquor License Authority board, Board of Adjustment, and Cultural Commission. Applications and more information can be found on the city website.

Councilmember Nosler Beck thanked staff and Council for their hard work tonight. Councilmember Hoppe and I are hosting a town hall on April 13 at 6:00 PM on lessons learned during the pandemic. The meeting will be on a virtual platform with a number of leaders at the City and County levels, including County Treasurer Jerry DiTullio, County Health Department Director Dr. Comstock and Susan Miller from Jeffco Schools. Interested citizens may email questions for discussion to either Councilmember Nosler Beck or Councilmember Weaver.

Councilmember Hultin thanked the staff for hosting the Wadsworth District Meeting, where a lot of good questions arose. Saturday April 17, 9:30 AM is her next District Meeting, which will soon appear on the City Calendar. Councilmember Weaver and I have been working to obtain a grant to improve sustainability programming, and this week we were awarded a grant to foster more local food production. She thanked the staff for their hard work on this grant application.

The Mayor thanked the staff for their hard work on tonight's agenda items, and those residents who called to express their views tonight

He will host a virtual coffee with the Mayor this Saturday at 9 AM virtually.

Drug Take-back Day is scheduled for April 24<sup>th</sup> from 10 AM to 2 PM at Lutheran Medical Center, on 38<sup>th</sup> Avenue.

The mayor wished a happy 100<sup>th</sup> birthday to Ms. Ira Muriel Frank in District I.

### **ADJOURNMENT**

The Study Session adjourned at 9:39 p.m.

APPROVED BY CITY COUNCIL ON April 12, 2021



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Steve Kirkpatrick, City Clerk



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Janeece Hoppe, Mayor Pro Tem