

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

**June 7, 2021**

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

This meeting was conducted both as a virtual meeting and hybrid, where some members of the Council or City staff were physically present at the Municipal building, and some members of the public attended in person as well. All eight members of Council were present in Council Chambers for this session.

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

The Mayor also explained the new virtual/hybrid 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, Corey Stites, Rachel Hultin, Leah Dozeman, Valerie Nosler Beck, Janeece Hoppe.

Also present: City Manager, Patrick Goff; City Clerk, Steve Kirkpatrick; Chief of Police, Chris Murtha; Director of Administration, Allison Scheck; Director of Community Development, Ken Johnstone; Director of Planning, Lauren Mikulak; Renewal Wheat Ridge Executive Director, Steve Art; Assistant to the City Manager, Marianne Schilling; Sally Tasker, with Butler Snow, Attorneys at Law (Item 1), Mark Reagan, Piper Sandler, members NYSE, the bond underwriters, (also item 1) other guests and interested citizens.

**Citizen's Right to Speak**

Peter Baccarini, 11065 Linda Vista Dr., Lakewood – Came to comment on the play equipment, agenda item 2. He came to discuss a half-pipe, approximately 30 feet long and 30 feet high recently constructed near his own home. Every evening there are many adults and children using the half-pipe, making a lot of noise with screams, laughter, and shouting. It disturbs the peace of their home, constantly recurring throughout the evening. It also denies him and his family privacy in their back yard when strangers climb to the top of the structure and overlook his property. He urges Council to adopt building code provisions that limit these kinds of structures and require permits to construct similar permanent structures.

Kathleen Baccarini, 11065 Linda Vista Dr., Lakewood came to support Peter's comments and add more color to their situation. She disclosed that she is a realtor. Her home is next door to the half-pipe. She was shocked to see such a large, imposing and intrusive structure looming over her back yard. When she contacted the City, she was informed that the City does not restrict structures like the 30-foot structure with landing platforms, a storage area and lighting. Is there no limit on the size of such a

structure? If nothing is done, I anticipate we will see more of these structures in Wheat Ridge. She urged Council to consider some kinds of restrictions on such

Dawn Quaiser 10745 W. 38<sup>th</sup> Ave. She lives near the same half-pipe structure and is experiencing the same intrusions as the previous two speakers. She can see the lighting and hear the noise even in her basement. The distractions annoy her son while he is working on his school homework. She urges Council to take a hard look at the need for limits of some kind on such play structures.

**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 comments appeared in Wheat Ridge Speaks for this meeting. Both relate to item 2 on tonight's agenda.

Wow. I was all ready to tell City governing members to stay away from private property, but after seeing photos (view photos on comment left June 4th) of the wood skate park, I am amazed that no permits were required on the building of this structure. Height? the balcony? and looks trashy under the deck-- Code enforcement, administrative policies? Did the surrounding neighbors bring to the city's attention this structure while it was being built? While I truly believe government has no business being involved in outdoor play areas on private property this structure seems to be more aligned with code enforcement already on the books--administrative policy and good common sense as to allowance of the structure. I support some type of resolution on this structure but will never support government on private property. This is a structure type that is already on the books? so find a way to resolve this issue using existing powers, do not add more powers. Are the property owners "attending" the study session tonight? Thank you

06/07/2021 9:53 am

VIVIAN VOS

6920 W 47 PLACE WHEAT RIDGE, 80033

Comments regarding impact of wooden skate park Half pipe structure W35th Place Wheat Ridge June 4, 2021

Our position:

- This structure undermines the "sanctuary" of one's home and inflicts an unreasonable amount of noise and loss of privacy on its neighbors causing undue stress and disturbance in an already turbulent world.

- We believe the impact of this skate park half pipe structure on neighboring properties is way beyond that which can be considered reasonable in a suburban family environment.
- This structure would be more suited in a professional skate park built for such a purpose. It is well beyond a “play structure” and is used predominantly by adults.
- If this skate park is allowed to stay Wheat Ridge needs to consider where this could end? Is a roller coaster or theme park the next iteration?

#### Noise:

- The noise is clearly audible in both the back AND the front yard, plus inside the home and can continue for many hours.
- The sound of small hard skateboard wheels rushing over the wooden halfpipe and its joints is considerably amplified by its hollow structure. This “whooshing” noise (similar to a train passing) is punctuated at variable intervals by a crescendo of crashes and clatters as the skater hits the opposite deck rotates in the air and either continues to ride down the ramp or crashes with a loud bang. The activity is accompanied by a considerable amount of yelling encouragement or condolences from the assembled three – eight skaters on the deck overlooking our back yard.
- Because of the significant variety and intensity of noises, these are not sounds that you can just “tune out”. It is impossible to concentrate or relax in the home with the noise and the anticipation of the crash that will come after an unknown number of rides up and down the half pipe.
- The noise from this activity makes it very difficult to work or study from home.

#### Privacy:

- This structure with its deck that is estimated to be 30ft high looks directly into our back yard and I guess could accommodate up to 8 skaters. It is very uncomfortable to use our back yard when the half pipe is in use. It feels more like a public space rather than our back yard.
- The skaters “hang out” on either of the two decks and have a direct line of site into our yard and the upper and lower windows of our house from the one close to our house. We can hear skater’s conversation clearly from that height and distance and doubtless they can hear ours. One rider waived from the deck and asked how my day was going last week as I was working in the yard.
- It would be difficult for anyone to hold a social function in our backyard with this level of intrusive interaction and associated noise from the half pipe.
- The half pipe structure is also bedecked with a series of bright lights all along the periphery of the structure that are visible from our house. The skating activity is usually associated with loud music.
- The upper deck of the half pipe extends an estimated 15- 20ft above our fence and now we face this imposing structure from our yard, patio and windows.

#### Safety:

- The upper deck overlooking our house and yard appears to be very close to the live electricity wires running parallel to the deck.
- From our perspective it appears as if someone could inadvertently reach out and touch the wires? In addition, skaters often use momentum to “fly” off the side of the pipe and leap beyond the railings of the upper deck as they rotate and position for the return slope. It begs the question if one could lose control and crash into the power lines?
- Studies have shown that unwelcome noise adversely impacts the mental and physical health of victims. I have no proof this has happened as yet but can attest to the fact that listening to the barrage of sounds is a disturbing experience, leaving one to “worry” about how long it will continue when the next event commences to spoil your day.

In conclusion -there is no effective mitigation activity that we have found in dealing with this nuisance, we believe that this half pipe skate park structure is not suitable for a residential environment. Current

and future residents of Wheat Ridge expect a level of protection from inappropriate structures that severely impact the quality of life. We deserve better!

06/04/2021 4:27 pm

Peter and Kathleen Baccarini  
11065 Linda Vista Drive Lakewood, 80215

Clerk's Note: This posting included several photos attached, showing the half-pipe structure. Those photos are still available to view on the Wheat Ridge Speaks website.

### **1. Urban Renewal Authority Tax Increment Revenue Bonds**

Discussion began at 6:44 pm, Approx. :13 minutes into the recording of the session.

#### **Issue**

The Wheat Ridge Urban Renewal Authority (Authority) *dba* Renewal Wheat Ridge (RWR) will be issuing tax-exempt bonds (Bonds) this July for various capital projects within the I-70/Kipling Corridors Urban Renewal Plan Area (Plan Area). In order for RWR to receive the highest rating and lowest interest rate on the Bonds, it is necessary for City Council to approve a Replenishment Resolution authorizing the City Manager to replenish the Reserve Fund on the Bonds, with General Fund reserves, in the event RWR does not have adequate funding to pay annual debt service on the Bonds. A Cooperation Agreement between the City and RWR will require that RWR repay the City for any loan made to replenish the Reserve Fund. Lastly, an Intergovernmental Agreement (IGA) between the City and RWR will detail the partnership between the two parties to fund and construct the capital projects.

#### **Staff reports**

Mr. Goff reviewed the reasons that this item is on the Study Session agenda, the projects that brought these bonds into the City's financial resources, and introduced Steve Art.

Mr. Art gave a formal presentation on the Financial impacts and background. If City Council appropriates funds pursuant to the Replenishment Resolution to replenish the Reserve Fund, such funds shall be a loan from the City to the Authority to be repaid as provided within the existing Cooperation Agreement. This Resolution does not create a general obligation or other indebtedness of the City and will not obligate or compel the City to make payments in the event of a draw on or deficiency in the Reserve Fund beyond those appropriated at the City Council's sole discretion.

Ms. Tasker y's (Butler Snow, the City's bond law firm) explained to Council what action they are asked to take and the reasons, legal and financial, for requesting that Council formally approve this financing. She also introduced Mark Reagan, with Piper Sandler, (members NYSE, the bond underwriter) who presented detailed explanation of how the proposed City action will lower the market interest rate on the bonds when issued.

(During discussion of this item there was a brief recess to handle technical difficulties; the Zoom feed was lost but Channel 8 and YouTube remained live and available to the public.)

**Councilmembers had questions and comments:**

Councilmember Urban asked detailed questions about the impact of the bonds on other projects, and Mr. Art and Ms. Tasker provided a detailed reply.

He also asked what legal risks and financial risks the City undertakes with the requested action on these bonds. Again, Mr. Art and Ms. Tasker gave a detailed answer. Mr. Goff commented that our bond law firm and underwriters have our confidence in terms of mitigating the City's risk and providing reliable, professional advice.

Councilmember Hoppe proposed a **consensus** to ask staff to bring to Council an appropriate item or items to move the bond approval forward.

**Consensus** attained.

**2. Outdoor Recreational Equipment on Private Property**

Discussion began at 7:21 pm, approximately :50 minutes into the session.

**Issue**

Over the past year, while public recreational facilities were closed for extended periods due to COVID-19, the general population was largely at home, and the purchase of personal recreational equipment increased noticeably. This trend includes everything from trampolines to basketball hoops, swimming pools to swing sets. With the increased prevalence and scale of personal recreation equipment on private property (typically residences), Councilmembers Weaver and Stites requested a discussion at a study session concerning a potential regulatory structure for outdoor recreational equipment on private property. Staff has conducted a review of the applicable codes and policies in the City and in neighboring cities.

**Staff reports**

Mr. Goff introduced Ken Johnstone and Lauren Mikulak. Mr. Johnstone and Ms. Mikulak explained that, for residential uses, there are many possible kinds of accessory recreational structures and play equipment including but not limited to in-ground pools, above-ground pools, hot tubs, playsets, tree or play houses, basketball hoops, trampolines, obstacle/ninja courses, skate park equipment, lemonade stands, goals and nets, bounce houses, and movie screens. Some of these are more permanent in nature and some more portable.

The building code has explicit requirements related to pools but specifically exempts play structures from permit requirements. Section 5-76 of the municipal code amends section 105.2 of the International Building Code (IBC) and exempts from permitting the following types of recreational improvements:

- playhouses less than 120 square feet,
- above ground pools that are less than 24 inches in depth and not greater than 5,000 gallons, and
- swings and other playground equipment accessory to detached one- and two-family dwellings.

Staff explained that proposed code changes would clearly help to prevent injuries and fatalities, as well as limiting equipment such as the half-pipe structure described by the citizens who came to speak tonight.

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

Councilmember Weaver asked whether a proposed action would address the specific structures for playgrounds and back yards, the attendant noise, or both. Ms. Mikulak replied that the newly revised noise ordinance addresses that issue, so it will be most effective to look at requiring building permits for permanent recreational structures.

Councilmember Stites asked about the kinds of equipment and structures an ordinance can address. Ms. Mikulak replied that disallowing any specific type of structure, such as a half-pipe, would be problematic to enforce. It would be better to restrict the sizes, heights, and safety of playground equipment without specifically addressing a kind of playground equipment.

Councilmembers stated that they support the limitation of structural features vs. disallowing specific kinds of structure. Councilmember Hultin asked that we not restrict traditional children's playground equipment unduly, that we use some common sense.

Councilmembers asked detailed questions about several topics, including how we should restrict playground structures in a way similar to the way we restrict sheds, including setbacks and height. Council also commented that we should also consider equipment like trampolines and in-ground pools, and the attendant noise and aesthetics.

Councilmembers also asked about restricting play equipment in front yards and in flag lots. They also asked how the City would define a permanent playground structure vs. temporary. Ms. Mikulak responded that codes usually rely upon portability, anchoring and how easy it is to disassemble and remove a playground structure.

Councilmember Weaver suggested that we also look at our current shed restrictions and ensure that any new action aligns with that shed ordinance.

Councilmember Hoppe proposed a **consensus** to direct staff to begin with the accessory structure code and bring forward actions that would address the definition of "permanent" playground equipment structures, the size of playground equipment, especially height, and setbacks in line with the accessory structure code.

**Consensus attained.**

**3. Review of Council Rules of Order and Procedures**

Discussion began at 8:02 pm, approximately 1:31 hours into the session.

**Issue**

The Charter of the City of Wheat Ridge provides that the Council may determine its own rules of procedure for meetings. Section B of Suspension and Amendment of these Rules states “These Rules may be amended, or new Rules adopted by a majority vote of City Council Members present at a Regular or Special Meeting, provided that the proposed amendments or new Rules shall have been submitted in writing to City Council at a preceding meeting or a Study Session. Any City Council Member, or the Mayor, may initiate an amendment of these Rules in the manner provided for initiation of Agenda Items by Rule V.D. These Rules shall be reviewed and revised by the City Council as needed and as provided for herein.

**Staff reports**

Mr. Goff recounted the most recent occasion when the Council Rules of Order and Procedures were amended, in February of 2019.

Recently the Mayor and Council brought potential amendments to those Rules and Procedures. Mr. Goff summarized a conversation with Mr. Dahl about the issues Councilmembers raised.

In what follows, these minutes recreate the list of 12 proposed changes as they appeared in the meeting packet, and the consensuses reached at this session. Councilmember Hultin suggested the first 10 changes, Councilmember Urban number 11 and the Mayor on behalf of the City Attorney, Mr. Dahl, number 12. During the meeting, the Mayor brought forward several additional changes, which are also recorded herein below.

1. Replace "Citizen" with "Public" or "Member of the Public" for "Citizen's Right to Speak"; and replace "Citizen" with "Public" or "Member of the Public" throughout the document.

Councilmember Hultin addressed her request to change references to “citizens” to read “the public” or “members of the public,” and her reasons for requesting the change. Council discussed Councilmember Hultin’s suggestion and other terms that Council could incorporate into the Rules.

Councilmember Hultin proposed a consensus to replace citizen in Council Rules with the term “public” or “member of the public.” **Consensus attained.**

2. Clean up the rules throughout to consistently use the either the term "Chair" or "Presiding Officer".

**Consensus proposed and achieved** to consistently use the term “Chair.”

3. Section 11.4.e. – Written comments – amend to consider comments received by the public through Wheat Ridge Speaks.

Mr. Dahl recommended this change in the language: “Written comments provided to the Council in any of the online tools provided by the City, or in hard copy.”

The mayor proposed a **consensus** to move forward with the changes to these provisions per the City Attorney’s recommendations. **Consensus attained.**

4. Sections II.A.2.a & II.A.3.a: I would like to reduce the number of donated time slots from two to one for a total of 6 minutes.

Councilmember Hultin proposed to change the Citizen’s Right to Speak rules to allow any one speaker to yield his or her time to one other speaker, not two other speakers as currently in the rules.

Other Councilmembers opposed this suggestion on grounds that 9 minutes by one speaker has always been rare and we are just returning to Chambers after a long hiatus due to the pandemic.

Other Councilmembers supported Councilmember Hultin’s suggestion in the interest of efficiency, because limiting the public to two speakers for 6 minutes total time including time yielded would make little perceived or practical difference. In a period of several years, Councilmembers recalled only one or two instances when one speaker spoke for 9 minutes using time yielded by two other speakers.

The Mayor proposed and **achieved a consensus** to make no change in yielding speakers’ time for the present.

5. Sections II.A.2 & II.A.3: can we add a section allowing for additional time in the event the speaker needs translation services?

Councilmember Hultin suggested several accommodations for the disabled, including sign language interpretation for the deaf. She withdrew her suggestion after due discussion about the current availability of such services.

6. Section III.B.1.c: Include option for a nominee to withdraw their name from consideration.”

Mr. Dahl proposed the following language. “Nominees may choose to remove their name from nomination.”

Councilmember Hultin **proposed and achieved a consensus** to adopt Mr. Dahl’s suggested language.

7. Section IV.C: Do we need to specify who has the right to adjourn a meeting?



Mr. Dahl recalled in his suggestions that under our Rules and Robert's Rules of Order, "Any meeting of the Council may be adjourned, by majority vote of members present, to a later date and time."

Mr. Dahl proposes a change to allow a simple majority of the members to pass a motion to adjourn the meeting, or to permit the chair to adjourn the meeting.

**Consensus** proposed to make that change; **consensus attained**.

8. Section V.B: Can we move Approval of Minutes and Approval of Agenda to before Proclamations and Ceremonies? 2 reasons: #1: sometimes we have a lot of proclamations and ceremonies. If the agenda is being modified and affecting people in the room to speak, it would be considerate for them to know earlier in the meeting. #2: The agenda includes the proclamations and ceremonies, so it makes sense to me to approve that agenda beforehand.

The Mayor proposed a **consensus** that we move the approval of minutes and approval of the agenda to prior to the proclamations and ceremonies. **Consensus attained**.

9. Section V.E: Do we need to include any references to the automatic postponement of a hearing due to a protest?
10. Section V.E.2: Did we decide to take any formal action during hearings to acknowledge online comment has been received and reviewed? If so, do we need to include that procedure in the Council Rules?

Following due discussion and deliberation on items 9 and 10, a **consensus was proposed and achieved not** to make any changes to the rules listed in those items. **Consensus attained**.

11. Section IV: Council meetings and meeting procedures for virtual attendance by councilmembers. Add a new Subsection A entitled "Attendance at Meetings, to read (more or less): "Council members are expected to attend Council meetings in person. In the event of illness, weather, or other necessity, members may attend virtually by telephone or through the zoom or other remote attendance platform provided by the City and amend Section A.1 to read "the Council meets for Regular, Adjourned, ...et Meetings..." [thus deleting "in the Municipal Building;" so as to cover situations involving other locations, and virtual meetings.

Mayor Starker proposed a **consensus** to accept Mr. Dahl's recommendations about item 11 in the meeting packet. **Consensus attained**.

Councilmember Urban submitted the following proposed change.

12. Section V.E (Public Hearings, I would revise the second sentence to read: "There is no limit on individual public testimony, provided, however, that the presiding officer may impose a limit on individual speaker's time IN CONSIDERATION OF THE NUMBER

OF SPEAKERS SIGNED UP ON THE HEARING ITEM AND THE AVAILABLE TIME FOR THE HEARING.

The Mayor proposed and attained a consensus to accept Mr. Dahl's recommendation with respect to this rule. **Consensus attained.**

Mayor Starker brought several additional proposed changes to the Council Rules.

The Mayor proposed a **consensus** to change from the word "will" to "may" in the specific rule that governs when citizen's comments are heard during Study Sessions (or Study Sessions conducted in conjunction with other Council sessions). **Consensus attained.**

The Mayor proposed a **consensus** to change the rules related to timekeeping during Citizen's Right to Speak to clarify that the City Clerk, *or his or her designee*, serve as the official timekeeper for Citizens' Right to Speak. **Consensus attained.**

The Mayor proposed that we ask for further discussion with Mr. Dahl concerning the Rule that, during an executive session, Councilmembers have other options than "terminating the executive session," if the conversation wanders from the called purpose of the executive session. The Mayor proposed a **consensus** to add after the word "terminated," language to read "or may request that the discussion return to the matter at hand," or "... returned to the stated purpose for the Executive Session," and seek a review and opinion from the City Attorney as to the exact wording. **Consensus attained.**

The Mayor proposed a **consensus** to strike from the Rules in the section related to Ordinances on First Reading language that states an Ordinance may be amended/changed at the time of the First Reading. **Consensus attained.**

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

This item began at approximately 8:56 p.m.

Mr. Goff reported on the current status of Senate Bill 273, previously introduced as Senate Bill 62, which was killed in committee today, to the great relief of chiefs of police across the state.

This Thursday, June 10 6:30 – 8:00 is a virtual meeting to further discuss the Lutheran legacy campus.

The official groundbreaking for the SCL's new hospital at Clear Creek Crossing is scheduled for this Wednesday, June 9 at 9:00 am.

#### **5. Elected Officials' Report**

City Clerk Kirkpatrick thanked the management team for their outstanding leadership and service during the pandemic.

Councilmember Dozeman has served for the past year on the CML executive board; she sought a **consensus** to reappoint her to that position. Councilmember Hoppe proposed such a consensus to support Councilmember Dozeman's re-application. **Consensus attained.**

Councilmember Hultin updated us on the All-American City competition and reminded us of the festivities coming up on Wednesday, June 10<sup>th</sup>. She thanked the many staff, Councilmembers and community members who have worked so hard on this project.

Clerk's Note, June 10, 2021: This evening the City of Wheat Ridge won the designation, All-American City!

Councilmember Nosler Beck, also on behalf of Councilmember Dozeman, asked that Mr. Goff provide an update on progress with the sound wall at the Rocky Mountain Bottling Plant. Mr. Goff gave a detailed answer.

Councilmembers Stites and Weaver will hold a virtual Applewood neighborhood meeting this Saturday, June 12.

Councilmember Hultin asked whether Council action is required to end the City Manager's emergency authority during the pandemic. Mr. Goff explained that the resolution granting those powers expires when the Governor rescinds the Public Health Emergency Order.

Ms. Scheck reported on the technical issues that caused a glitch this evening in the meeting broadcast. She apologized for the situation and reviewed next steps.

Councilmembers consented to staff's recommendation that as of June 14 Council will once again meet on the dais.

The Mayor thanked the staff and guest presenters who came this evening and contributed to a very productive meeting.

### **ADJOURNMENT**

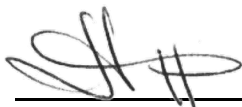
The Study Session adjourned at 9:08 p.m.

APPROVED BY CITY COUNCIL ON June 14, 2021



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Steve Kirkpatrick, City Clerk



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Janeece Hoppe, Mayor Pro Tem