



WESTMINSTER

CITY OF WESTMINSTER, COLORADO MINUTES OF THE HYBRID (IN-PERSON AND VIRTUAL) CITY COUNCIL MEETING HELD ON MONDAY JULY 24, 2023, AT 7:00 P.M.

1. PLEDGE OF ALLEGIANCE

Mayor Nancy McNally led the Council, Staff, and the audience in the Pledge of Allegiance.

2. ROLL CALL

Mayor Nancy McNally, Mayor Pro Tem DeMott, Councillors Baker, Emmons, Ezeadi, Nurmela, and Seymour were all present at roll call. Also present were City Manager Mark Freitag; City Attorney David Frankel; and City Clerk Coordinator Kathryn Schroeder.

3. CONSIDERATION OF MINUTES

DeMott moved to approve the minutes of July 10, 2023, as presented. The motion was seconded by Emmons and the motion passed **(7-0)**.

4. PRESENTATIONS

City Council presented service pins and certificates of appreciation to employees celebrating 20 or more years of service with the City and in five-year increments thereafter. Employees with 20, 25, and 30 years of service were celebrated.

- Councillor Ezeadi presented 20-year certificates and pins
- Mayor McNally presented 25-year certificates, pins, and bonus checks
- Councillor Emmons presented 30-year certificates and pins

5. PUBLIC COMMENT

4 electronic comments were submitted and attached to the packet.

John Palmer asked Council about work on the Swim and Fitness Center. He also expressed concerns with adherence to the code and charter regarding signage for public hearings and expressed displeasure with the location of community meetings not being in close proximity to the properties being discussed.

Tom Lampo offered a prayer for the city.

6. CITY MANAGER'S REPORT

Freitag gave a short report that included a city update, the Westy Wins, things to know, and upcoming events for the next couple of weeks. There was one information only item, Westminster Quiet Zones.

Nurmela asked about the Strong Communities Grant Program and if DOLA is accepting applications now or in the near future. She also asked if the grant would cover quiet zones or undergrounding utilities.

7. CITY COUNCIL COMMENTS

Ezeadi recognized the Human Services Board and its members for their work on the annual grant award process. He stated that their recommendations to provide grants for food, health, mental health, and housing organizations were just finalized and would be coming to City Council for approval in August.

Baker revisited comments he made at the previous City Council meeting to provide additional information regarding a public comment made by Karen Kalavity. Baker reinforced his previous statement regarding the water treatment plant site selection process and read sections of meeting minutes and emails related to the subject. He stated that he felt Council should have spent more time considering other potential sites and expressed concerns about misinformation.

Ezeadi disagreed with Baker's comment and stated that staff and the City Manager do not promote misinformation and lies and believes Baker's comments should be disregarded.

DeMott addressed Baker's comments and stated that perspective is important. He added that different perspectives and misunderstandings can draw different conclusions, but that is different from deliberate spread of misinformation. DeMott stated that Council received information and made a decision they believed was best and would move the city forward. DeMott stated it is important to stop looking in the past, hear other peoples' perspectives, focus on wins, and move the city forward.

Emmons also addressed Baker's comments. She stated that she found it odd that Baker calls out wrongs, but that he does not follow Council protocols including voting no without explanation, keeping fellow Councillors informed to avoid surprises, and misinforming the public with personal opinions. Emmons stated that she appreciates Baker's direct and candid communication, but that he provides partial facts and becomes disingenuous. She stated that, per protocols, Council should listen with an open mind and be willing to learn in order to make the best decisions for residents.

8. CONSENT AGENDA

The following items were presented on the consent agenda for City Council's action: Second Reading of Councillor's Bill 35 Amending Title VI, Chapter 7, of the Westminster Municipal Code Concerning Animals; and Quarterly Insurance Claims Report – April through June 2023.

DeMott moved, seconded by Seymour, to accept the consent agenda items (8A-8B) for July 24, 2023. The motion passed on a **(7-0)** roll call vote.

9. APPOINTMENTS AND RESIGNATIONS

There were no appointments or resignations this evening.

*Clerk's note: City Council was in recess from 7:55 – 8:02 p.m.

10. PUBLIC HEARINGS AND NEW BUSINESS

A. Public Hearing and Approval of the Second Amendment to the Preliminary Development Plan for Filing No. 1, 10th Replat. Block 17, Lot 25, and Lot 26 of the Bradburn Subdivision Planned Unit Development

McNally opened the public hearing at 8:02 p.m.

Stephanie Ashmann, Senior Planner, entered into the public record the agenda memo and all attachments, including the notice of public hearing as required by the Westminster Municipal Code. Ashmann described the site location, presented a vicinity map, preliminary development plan, and detailed the standards of approval for the preliminary development plan.

Nurmela asked for clarification on allowed uses and heights of buildings. Ashman explained the difference between building typologies. Nurmela asked why we are asking for this specific type. Ashman explained the concept of the vertically integrated mixed use that would include retail, office, residential, and restaurants.

Baker asked how staff would answer the person that views the taller building as an adverse influence. Ashmann stated that, at the time the PDP is approved and acted upon, it entitles a 4-story building as a limit at that time. Baker asked if the proposed 4 story building is actually a 5-story building since there is a restaurant on the 5th floor. Ashman stated that it is a 4-story building with 5th story setback.

Nurmela confirmed that current zoning would allow a 4-story apartment building, but that the proposal of mixed uses within the building is why the applicant is making their request.

Seymour asked for the total amount of parking set aside. Ashmann said the developer would address parking in their presentation.

Dan O'Brien, Architect and Planner with Presence Design Group, spoke about the site plan concept and specifically vertical mixed use. He stated that the intent is for the ground floor to be a collective eatery with a second gathering place on the roof. He discussed the concept for the northern and southern lots, showed renderings of the proposal, talked about missing middle housing, and the goal of offering residential spaces at a more moderate cost.

Nurmela stated that this is an ambitious project and that commercial use at the ground level is key. She asked for the square footage of the rooftop area. O'Brien stated that it would need to be large enough for a kitchen to prepare food and drink and that he envisions a semi-casual fine dining atmosphere. Nurmela asked if the ground floor of the building would have a blank wall by the parking garage. O'Brien stated that end of the lot would be parking with a landscaped open wall to be visually appealing, and the west half would be a food hall that would run around the corner. Nurmela asked for the applicant's experience with a building like the one proposed and the applicant described similar live work projects but stated that they do not have any projects with the same level of mixed use. Nurmela clarified that proposed locations for the residential uses and asked about parking. O'Brien stated that there would be a combination of covered and uncovered parking because of the alley system. Nurmela asked if the proposal for the building is dependent upon the office use and that applicant stated that they would like to have office use as part of the project.

Seymour asked additional questions about dedicated parking for residents and offices. The applicant stated that they are working within Westminster's standards and Ashmann confirmed that the Westminster Municipal Code for residential parking was used, and it was described where on street parking can also be utilized. Ashmann stated that there will be a parking study provided at the time of the Official Development Plan (ODP). Seymour asked if there would be at least 128 dedicated spaces between the lots. Johnathan Nasser, Developer, stated that they would provide 109 parking spots and that 135 spaces are required for development as a whole, but with the inclusion of street parking they are at a deficit of 9 spots. He stated that they would be make assessments and adjust as needed based on the number and types of units.

DeMott asked about for the target price range for residential units, if there would be an HOA in the building, and how that would work if some units will be residential, and some will not. Nasser discussed the projected costs and stated that he is assuming the existing HOA will manage new units.

Baker asked if the building would be 70 feet tall. The applicant stated that it would be around 50 feet plus the 9-to-10-foot rooftop space.

Emmons asked for the average height of surrounding buildings. Ashmann stated that there are 2 and 3 story townhomes, 3 story row houses, a 24-foot commercial building, 2 story office building, and a 3 story live-work building. Emmons asked if the city would be able to meet necessary resources including water. Ashmann stated that resources were accounted for in the 2040 Comp Plan and that the current density for Bradburn is R7 and is allowed to be R18. Emmons asked if this project would max out the allowed density. Ashmann stated that the PDP is very specific and that it does max out density for the Bradburn subdivision.

McNally asked about rooftop hours with consideration of neighbors. Ashmann stated that hours for rooftops are not established in the code, but that she would provide further clarification on this. McNally asked Ashmann to check with other rooftop establishments in the city.

Nurmela asked if maxing out the number of units would impact the development east of Tennyson. Ashmann stated that the neighborhood is not within Bradburn so it would not be impacted. Nurmela asked about the affordable housing component behind Noah's and Ashmann stated that this was a condition of approval on the ODP and and saw it was approved in additional to the total units. She added that that it included 25 units for purchase selling for

a maximum of \$170,000 after application of grants. Nurmela said that the does not want the proposed project to preclude that affordable living project. Ashmann confirmed that it does not.

DeMott asked for an update on the affordable living project on another night. Ashmann said that people are lining up to get into a pre application process.

The Mayor asked for public testimony.

Eric Gutzait, stated that as homeowner and HOA board member in Bradburn he is concerned with the addition of a 5-story building that does not look like it has much of a setback. He stated that a building that is 5 stories is out of proportion and out of character for the community. He expressed concerns with the impact on density, traffic on the narrow streets, and parking that is already an issue. He also expressed concerns with snow removal and where the snow would be stored.

Tamela Venard, stated that she has been a resident of Bradburn for 16 years and at the time she moved in the plan for the area was to build 3 story work life condos, but that the recession halted progress. She expressed concerns with the proposed building height blocking sun on existing properties. She also shared concerns with traffic surrounding the Goddard School because it is already an issue. She stated that the proposal would be better suited for the space south of Whole Foods, but that the proposed area is not large enough. She stated that she welcomes development but wants it to be harmonious with Bradburn. She asked Council to vote not to allow tall buildings and that she would like to see it go back to a 3-story building as it was when the development started in 2002.

John Palmer expressed concerns with the color of the public hearing noticing signs and stated that he had taken his concerns to the City Manager's Office. He asked for clarification on the color of signs and stated that it is causing confusion.

DeMott asked if the city code or charter defines the color of signs. City Attorney Dave Frankel stated that it does not, but that the size meets code requirements.

The applicant stated that he had spoken to 55 individuals in Bradburn, 50 of whom signed an information petition and provided feedback on the development. The applicant stated that all 50 signers were for in favor of the development. He added that they will be mindful with neighbors, and the area will be pedestrian friendly.

The public hearing was closed at 9:09 p.m.

Staff and the applicant addressed questions.

Nurmela asked about the original PDP for Bradburn and if the 3-story building was part of a vision or part of zoning. Ashman stated that there was not anything that came through a review process. Nurmela asked if Bradburn design standards would be applied. Ashmann said when the project comes in for ODP they will have the opportunity to review it. Nurmela asked if a public meeting was held and Ashmann said about 5 people attended and there were concerns about height, traffic, and parking.

DeMott confirmed that 4 stories are already allowed so with no changes they could do a 4-story building today. DeMott asked if the set back of the 5th floor is to impact shade and sunlight. Ashmann stated that in standards and planning they take solar orientation into account and that the 5th story being set back will possibly reduce that. DeMott asked about snow removal. Ashmann said that they provide spaces for snow storage when designing spaces especially when it comes to alleys.

Nurmela asked if it is possible to ask for a greater setback. Frankel stated that the ODP would be the time to discuss site planning and that the PDP amendment is addressing unit count and

height so those are the questions before City Council tonight. Nurmela asked for clarification on half stories. Ashman said it is because people do not think in feet, and it gives perspective.

DeMott moved to approve the second amended Preliminary Development Plan for Filing No. 1, 10th Replat, Block 17, Lot 25, and Lot 26 of the Bradburn Subdivision Planned Unit Development. The motion was seconded by Emmons.

Nurmela asked to amend the motion to be 4 stories instead of 4.5 stories. DeMott stated that many concerns about the PDP can be addressed during the ODP process.

Ezeadi asked if reducing to 4 stories would affect the number of residential units or just the rooftop restaurant. The applicant said it would change the way they would look at development concept, but that getting into that level of detail that is not part of the PDP process and that the ODP will address these issues. Applicant said the concept of micro-condos and commercial space would not be viable if the rooftop deck was scraped. Nurmela asked if it would be viable if office space was scraped from the plan. The applicant said it would not. Primary revenue would be from the retail office space if for sale as well as residential.

The amendment to change to 4-story was not accepted.

Demott he would be voting yes because for-purchase condos at this price point are something the city doesn't have and sorely need. He stated that he hears and feels concerns and shares them but knows those are things that are going to be addressed in ODP. He added that tonight's approval doesn't mean this happens, it just means the project will go on to the next phase.

Seymour stated that he has deep concerns about parking and would stand firm on ODP. He stated that he does not have concerns about 9 unit increase but would be voting as a qualified yes.

Emmons stated that she likes the concept and understands the purpose, but also has concerns on height and concerns that this will be the max allowable in Bradburn is also concerning. With first look and information at this time she stated that she cannot move forward.

Ezeadi stated that he would also be a qualified yes, because the for-sale condos in \$300s outweigh concerns that can be addressed in the ODP process.

Nurmela reminded City Council colleagues that the use of condos is not a guarantee with the approval. She stated she is excited about the condo ownership opportunity but stated that it very well could be a rental project.

Baker stated that he would be voting no because of the adverse impacts the building height and parking issues would have on the community.

McNally stated that she has concerns but believes in condos and home ownership and wants to see the concept through, so she doesn't want to say no at this point.

The motion passed on a **(4-3)** roll call vote with Baker, Emmons, and Nurmela voting no.

B. Public Hearing on the 2023 Community Development Block Grant Annual Action Plan and First Reading of Councillor's Bill No. 36 Re: Supplemental Appropriation of Community Development Block Grant Funding

McNally opened the public hearing at 9:41 p.m. and seeing no one wanted to speak, she closed the hearing at 9:42 p.m.

Seymour moved to approve the allocation of Community Development Block Grant funds as set forth in the presented Agenda Memorandum for the 2023 program year and authorize Staff

to submit the 2023 Community Development Block Grant Annual Action Plan to the U.S. Department of Housing and Urban Development. The motion was seconded by Emmons. The motion passed on a (6-1) roll call vote with Baker voting no.

Seymour moved to pass Councillor's Bill No. 36 on first reading providing for a supplemental appropriation of funds to the 2023 Budget of the Community Development Block Grant Fund. The motion was seconded by Emmons. The motion passed on a (6-1) roll call vote with Baker voting no.

C. Resolution No. 23 - 2023 Private Activity Bond Assignment

Seymour moved to adopt Resolution No. 23 authorizing the assignment of \$6,983,558 of the City's Private Activity Bond allocation for 2023 to the Adams County Public Housing Authority, dba Maiker Housing Partners, for the qualified purposes set forth in the Resolution and authorize the Mayor to execute the necessary documents. The motion was seconded by Emmons. The motion passed on a (6-1) roll call vote with Baker voting no.

D. Authorization to Apply for the Colorado Water Conservation Board Water Plan Grant for the Big Dry Creek at City Park Drainage Restoration Project

DeMott moved to authorize staff to apply for the Colorado Water Conservation Board Water Plan grant for the construction of improvements for the Big Dry Creek at City Park Drainage Restoration Project. The motion was seconded by Emmons. The motion passed on a (7-0) roll call vote.

11. OLD BUSINESS AND PASSAGE OF ORDINANCE ON SECOND READING

A. Second Reading of Councillor's Bill No. 34 Re: Providing for a Supplemental Appropriation of Funds from the General Capital Improvement Fund WURP Roadway/Alley Capital Project for the Construction Contract with Hall-Irwin Inc.

Emmons moved to pass Councillor's Bill No. 34 on second reading to provide for a supplemental appropriation of funds in the amount of \$1,273,686 to the 2023 budget of the General Capital Improvement Fund WURP Roadway/Alley capital project. This appropriation will cover the construction contract with Hall-Irwin Inc., totaling \$1,042,336 plus a 15 percent contingency in the amount of \$156,350, and other construction-related services such as restoration and materials testing and construction management services totaling \$75,000. The motion was seconded by DeMott. The motion passed on a (6-1) roll call vote with Baker voting no.

12. MISCELLANEOUS BUSINESS AND EXECUTIVE SESSION

13. ADJOURNMENT

The meeting was adjourned at 9:54 p.m.

THE WESTMINSTER CITY COUNCIL

ATTEST:

Mayor

City Clerk Coordinator