



City of Woodland Park

February 16, 2023 at 7:00 PM

MINUTES

1. CALL TO ORDER AND ROLL CALL

Following an Executive Session - Between the City Council and the Downtown Development Authority Pursuant to C.R.S. Section 24-6-402(4)(e)(1) for determining positions relative to matters that may be subject to negotiations; developing a strategy for negotiations; and instructing negotiators. The following purposes are provided for identification purposes: potential transfer and development of related property within the Woodland Park Downtown Development District and related legal agreements. Mayor LaBarre called the regularly scheduled meeting to order at 7:00PM.

The following individuals were in attendance at the Executive Session: Mayor LaBarre, Mayor Pro-tem Case, Councilmember Connors, Councilmember Nakai, Councilmember Neal, Councilmember Zuluaga, City Manager Lawson, City Clerk Leclercq, City Attorney Williams, Planning Director Schminke, DDA Chair Perry, DDA Treasurer Anderson and DDA Attorney McCaskin.

The following Councilmembers were in attendance at the Council Meeting: Mayor LaBarre, Mayor Pro-tem Case, Councilmember Connors, Councilmember Nakai, Councilmember Neal, Councilmember Zuluaga and Councilmember Ott attended via zoom.

The following Staff members were in attendance at the Council meeting: City Manager Lawson, Deputy City Manager/City Clerk Leclercq, Utilities Director Wiley, Planning Director Schminke, City Planner Gates, Community Engagement Coordinator Higgenbotham, Assistant to the City Manager Johnson and Deputy City Clerk Minton.

Prior to the start of the Council Meeting, Councilmember Zuluaga stated that he felt there were items discussed in the Executive Session that were not germane to the topic.

2. PLEDGE OF ALLEGIANCE

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS

- A. Celebration of the recent selection of the Woodland Park High School Madrigals to attend the Western Slope Honor Choir Festival and being selected by the Colorado Music Educators Association to perform at their clinic. (Presenter Jeff Hemingson, Director of Bands and Choirs, Woodland Park High School)

Director of Bands and Choirs for Woodland Park High School, Jeff Hemingson, introduced the Madrigals to the City Council. Hemingson shared the many accomplishments of the group and they performed for the Council.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA

5. CONSENT CALENDAR

- A.** Approval of the December 2022 Statement of expenditures and authorize the Mayor to sign Warrants in payment thereof.
(Presenter, Finance Director Vassalotti)

City Clerk Leclercq read the Consent Calendar into the record.

The following motion was made.

To approve the December 2022, January 2023 Statement of Expenditures and the minutes from the February 2, 2023 City Council Meeting. Case/Nakai. 7-0.

- B.** Approval of the January 2023 Statement of expenditures and authorize the Mayor to sign Warrants in payment thereof.
(Presenter, Finance Director Vassalotti)
- C.** Approval of the minutes from the February 2, 2023 City Council Meeting. (A)
(Presenter Deputy City Manager/City Clerk Leclercq)

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)

7. UNFINISHED BUSINESS

(Public Comment may be heard)

- A.** Repeal or set for election Ordinance No. 1431, Series 2022 and next steps.
(Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq reviewed the referendum process of Ordinance No. 1431, Series 2022 with the Council. Leclercq shared that following a protest hearing held on February 3, 2023, Deputy Municipal Judge Ron Carlson issued his Opinion and Decision on February 8, 2023. Judge Carlson stated the following "Therefore, I find the protest of Jeremy Lyons should be denied for lack of substantial and competent evidence taken in the record as a whole. The Clerk of the City of Woodland Park has done her job and is affirmed. The Petitions are to be forwarded forthwith to the City Council for action to repeal Ordinance 1431, Series 2022 or setting of an election where public dialog can hopefully sort out the truth of the matter".

Leclercq shared with the Council that Colorado Revised Statute Section 31-11-105 (3) states "If a referendum petition is filed, the ordinance or part thereof protested against shall not take effect, and upon final determination of petition sufficiency, the legislative body shall promptly reconsider the ordinance." Section 31-11-105 (4) states, "If, upon reconsideration, the ordinance or part thereof protested is not repealed, the legislative body shall submit the measure to a vote of the registered electors at a regular or special election held not less than sixty days and not more than one hundred fifty days after the final determination of petition sufficiency..."

Leclercq shared with the council that this evening the Council must decide to either repeal Ordinance No. 1431, Series 2022 and discuss what the next steps will look like or set it up for an election. If the Council decides to set this matter for an election, the 60 day mark for the earliest date for the election is March 24 and the 150 day mark for the latest date for the election would be June 22, 2023. The City Clerk would like to recommend April 4, 2023 as the election date, which is 71 days and well within the time period allowed by State Statute.

Mayor LaBarre asked that the residents signed up for Public Comment speak first and following that the Council will discuss and render a decision.

The following speakers spoke:

1. Arnie Sparnins shared that the Council needed to listen to the Citizens and repeal Ordinance No. 1431.
2. Marry Sekowski shared that Council needed to repeal Ordinance No. 1431.
3. Gene Harris shared that the Council needed to repeal Ordinance No. 1431.
4. Carol Roberts shared that she was a petition circulator and was worried about the character of the neighborhood regarding STR's
5. Tim Northrup shared that if Council/Planning does not bring back an Ordinance agreeable to the Citizens', there will be a Citizen's Initiative.
6. Jerry Penland shared that the Council needs to repeal Ordinance No. 1431.

At this time, the following motion was made:

Motion: To repeal Ordinance No. 1431, Series 2022. Connors/Neal. 7-0.

At this time, Councilmember Zuluaga stated that he felt the Council had three options regarding the next steps.

1. To do nothing
2. To send the Ordinance back to the Planning Commission
- 3 To send the petitioners Ordinance to the Planning Commission

Following additional discussion, the council came to a consensus to hold a work session on March 2, 2023 to discuss further steps.

8. ORDINANCES ON INITIAL POSTING

(Public comment may be heard)

- A.** Consider Ordinance No. 1440, Series 2023, on initial posting, an Ordinance approving the purchase of certain water shares and set the Public Hearing for March 2, 2022.(A)

(Presenter, Deputy City Manager/Director of Operations Kip Wiley)

Utilities Director Wiley introduced Ordinance No. 1440, Series 2023 on initial posting.

Motion: Approve Ordinance No. 1440, Series 2023 on initial posting, an Ordinance approving the purchase of certain water shares and setting the Public Hearing for March 2, 2022. Case/Ott. Motion carried 7-0.

9. PUBLIC HEARINGS

(Public comment may be heard)

- A.** Approval of a change of location of the Beer and Wine Liquor License of Aj's Pizzeria (Aron Melvick M&M Pizza Co) currently located at 751 Gold Hill Place South, Woodland Park CO 80863, to the new location of 250 E Highway 24 Woodland Park, CO 80863 (QJ)

(Presenter Deputy City Manager / City Clerk, Suzanne Leclercq)

City Clerk Leclercq reviewed the change of location of the liquor license for AJ's Pizzeria from 731 Gold Hill Place to 250 East Highway 24. Leclercq reviewed with the Council that their

application is complete and meets all of the criteria needed to be approved. Aaron Melvick shared with the Council that he is excited to be operating at the new location.

Following Council discussion, Mayor LaBarre opened up the Public Comment portion of the Public Hearing. There being no Public Comment, Mayor LaBarre closed the Public Comment portion of the Hearing and the following motion was made.

Motion: To approve the change of location of the Beer and Wine Liquor License for AJ's Pizzeria currently located at 751 Gold Hill Place South, Woodland Park, CO to the new location of 250 East Highway 24, Woodland Park, CO. Case/Connors. 7-0.

- B.** Approve Ordinance No. 1436, Series 2023, an Ordinance Amending Chapter 18.31 of the Woodland Park Municipal Code, Concerning an Expansion of the Woodland Station Overlay District Geographic Boundary Generally Located South of W. Midland Avenue and S. Pine Street Containing Approximately 2.70 Acres. (L) (Presenter, Planning Director Karen L. Schminke, AICP)

City Planner Gates shared the Staff Report with the Council stating the following. The Woodland Station Overlay District zone is located within the Central Business District zone and within the Woodland Park Downtown Development Authority boundary area.

Per MC Section 18.23.005 the purpose of the CBD zone is:

Land use activity in this category is intended for what is considered the downtown area of the city with associated commercial activity that can be accessed by pedestrians as well as the motoring public. Density is considered high and design issues relate to on-street U.S. highway corridor improvements, including efficient off-street parking, landscaping and pedestrian mobility to and from local businesses. Residential activity is appropriate in this area particularly at second or third story levels, above offices or commercial shops.

The DDA was established pursuant to Ordinance 914, Series 2001, and adopted a Foundation Plan setting forth the goals and objectives for the orderly redevelopment of the Woodland Park Downtown area. In 2007, the City Council determined that the establishment of the Woodland Station Overlay District would be in the best interest of Woodland Park citizens. The intent of the overlay designation is to further the goals and objectives of orderly redevelopment of the parcels within the district.

The overall appearance and function of the development within the Woodland Station Overlay District is to be compatible with any existing structures in the area and the community's general mountain historic environment, and to be in harmony within the character of Woodland Park. In addition, Resolution No. 677 was passed to provide design guidelines within the boundary of Woodland Station mixed-use development. Per MC Section 18.31.010 A., the purpose of the Woodland Station Overlay District regulations is to:

1. Promote important community qualities within Woodland Station Overlay District by allowing flexibility in applying the Central Business District standards and the design standards contained in Section 13.33.180 to help achieve desired attributes. Flexibility may be allowed with respect to scale, mass, architectural design and overall site design.
2. Require future development within the Woodland Station Overlay District to be designed in a manner that will protect and promote the character and sense of this critical area.
3. Allow for a variety of design, while still protecting the character of the area.

The benefits for inclusion in the overlay are many. Chapter 18.31 allows the developer to submit a site plan for administrative review for all uses within the CBD including those uses categorized as conditional uses, such as residential occupancies. The developer is allowed to propose parking ratios, setbacks and height standards. The purpose of the overlay is to allow for flexibility in applying the CBD standards and create a “village-like” character that is pedestrian friendly and a vibrant business environment.

REZONING ANALYSIS

Amendments to Title 18 (including supplements, changes, modifications or repeal of boundaries or regulations) are regulated by MC 18.69.010 and City Charter Section 15.7. This section of the Municipal Code outlines the process for review and the review bodies involved, but does not provide any specific review criteria. It is staff policy to use the following review criteria when considering rezoning applications:

1. Is the proposed zoning consistent with the Comprehensive Plan Map?

Yes. The 2030 Woodland Park Future Land Use Map as seen in Figure 4, identifies the subject properties as “Downtown Mixed Use” This request will not cause the Envision 2030 Comprehensive Plan Map to be updated.

2. Is the proposed zoning consistent with the Comprehensive Plan Goals and Objectives?

Yes. Staff believes that the rezoning request meets many Plan Goals and Objectives including: Land Use and Growth Goal 1: Provide opportunities for growth and development while preserving community and environmental quality. Land Use Growth Objective 1.1: Ensure that new development fits the intent of the Future Land Use Map and uses the land and community resources/facilities efficiently and in an environmentally sensitive manner.

3. Have changes occurred in the surrounding properties that warrant a change in zoning classification?

Yes. Currently, no development project for the subject property has been submitted. The Woodland Park DDA has been in conversation with a developer interested in the developing the DDA owned parcel to the east of the subject property.

4. Is the addition of the Woodland Station Overlay Zone District appropriate at this location?

Yes. The subject property is contiguous with the current boundary of the Overlay district. Additionally, two of the properties in question were previously included in the district.

5. Can this rezone be served with planned water resources?

Yes. The underlying zone remains in place and the addition of the overlay will have no net effect on water usage.

6. Can this rezone be served with wastewater treatment resources?

Yes. Wastewater treatment capacity to serve the proposed zoning change is available and

adequate for present and future needs.

REFERRALS AND NOTIFICATIONS

Adjacent property owners within 150 feet were mailed a letter notifying them of the submittal of the application as well as all meeting dates including the scheduled Planning Commission public hearing. The site was posted with a public notice poster and notice of the public hearing was published in the Pikes Peak Courier in compliance with the Municipal Code. Staff has received no written comments regarding this rezoning proposal. The application was referred to the City Utilities/Public Works Director, the City Attorney, the City Inspector, the City Engineer, and the City Manager. Only one comment was received during the referral period and was a "No Comment" from the City of Woodland Park Utilities Department.

PLANNING COMMISSION RECOMMENDATION

The Planning Commission held a public hearing on January 12th, 2023 (draft minutes attached). After consideration of the staff report and comments made at the public hearing, the Planning Commission voted unanimously to recommend City Council approve the requested boundary change for the Woodland Station Overlay District.

At this time, Mayor LaBarre called the applicant, Arden Weatherford, to the podium to answer any questions the Council may have. Councilmember Zuluaga shared that he had concerns about Conflict of Interest regarding Mr. Weatherford and him overstepping boundaries with his position on the DDA and being a landowner. Councilmember Neal shared as the DDA liaison to the Council that he wanted the public to know that Mr. Weatherford has recused himself appropriately and that the current DDA is monitoring this situation closely. Councilmember Zuluaga stated that he has a problem with the Ethics of this and that, as a Councilmember, he has taken an oath to uphold the Constitution and the Charter of the City of Woodland Park.

Mayor LaBarre opened up the Public Comment portion of the Public Hearing. There being no Public Comment Mayor LaBarre closed the Public Hearing.

Councilmember Zuluaga made the following motion.

Motion: To deny the approval of Ordinance No 1436, Series 2023, an Ordinance Amending Chapter 18.31 of the Woodland Park Municipal Code, concerning an Expansion of the Woodland Station Overlay District Geographic Boundary Generally located South of West Midland Avenue and South Pine Street Containing Approximately 2.7 acres. Lack of a second motion died.

Motion: To approve Ordinance No 1436, Series 2023, an Ordinance Amending Chapter 18.31 of the Woodland Park Municipal Code, concerning an Expansion of the Woodland Station Overlay District Geographic Boundary Generally located South of West Midland Avenue and South Pine Street Containing Approximately 2.7 acres. Case/Connors. Motion passed 6-1 with Zuluaga voting no.

- C. Approve Ordinance No. 1438, Series 2023, an Ordinance Declaring the Instrument for Public Notification Process and Method for the City of Woodland Park for the Year 2023. (A) (Presenter, Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq reviewed Ordinance No. 1438, Series 2023 with the Council. Leclercq shared that posting notices on the website not only saved money for the City but also made the notices more accessible to the public.

At this time Mayor LaBarre opened the the Public Comment portion of the Public Hearing. There being no Public Comment Mayor LaBarre closed the Public Hearing.

Motion: To approve Ordinance No. 1438, Series 2023, an Ordinance Declaring the Instrument for Public Notification Process and Method for the City of Woodland Park for the Year 2023. Neal/Nakai. Motion carried 7-0.

- D. Approve Ordinance No. 1439, Series 2023, an Ordinance of the City Council for the City of Woodland Park, Colorado amending Title 5 of the Woodland Park Municipal Code, regarding Small Cell Facilities to Establish a Procedure for the Application, Review, and Siting of Small Cell Facilities (L) (Presenter, City Attorney Nina Williams)

City Attorney Williams reviewed Ordinance No. 1439, Series 2023 regarding amending Title 5 of the Woodland Park Municipal Code, regarding Small Cell Facilities to Establish a Procedure for the Application, Review, and Siting of Small Cell Facilities. Williams shared that in September of 2018 the Federal Communications Commission (FCC) adopted a declaratory ruling and order ("Small Cell Order") that limited local governments' ability to regulate the actual siting and placement of Small Cell Facilities. In addition to limiting local governments' ability to regulate the actual siting and placement, the Small Cell Order also limited the recovery of fees and costs and went on to establish a presumptively valid fee schedule.

The rules created by the Small Cell Order are slightly in conflict with the current law under C.R.S. § 29-27-403 so in an effort to create clarity for the City, the amendments to the City Code ("the Code") are proposed. Within the attached Ordinance are the proposed amendments to Title 5 of the Code as it relates to creating a procedure for the application, review, and siting of small cell facilities and the variance approval criteria. Williams also shared that there is no fiscal impact associated with Ordinance No. 1439, Series 2023.

Councilmember Zuluaga shared that he had concerns about the safety and health of the citizens. Zuluaga shared that he did not have confidence in the FCC and so what if we say no to this Ordinance and they sue us? City Attorney Williams shared that the Ordinance is the most we can do to protect our municipality. Zuluaga shared concerns regarding the frequency/sounds and its effects on the human psyche.

Councilmember Neal shared that the World Health Organization has taken an official position

on 5G and found it to be considered safe. Neal shared that he is more concerned about property values having these cell sites all over the place than transmission effects.

Councilmember Ott shared that he is not concerned about the health portion of the 5G sites.

At this time, Mayor LaBarre opened up the Public Comment portion of this hearing.

Maureen Johnson spoke of the long term exposure to the frequency of these 5G sites. She shared her concern about health risks to humans, plants, trees and animals.

Linda Martin (spoke via zoom) also about the long term effects of these radio frequencies.

There being no further public comment, Mayor LaBarre closed the Public Hearing.

City Attorney Williams reminded Council that Ordinance 1439 is not permitting something that is already permitted but it is putting restrictions on it.

Councilmember Zuluaga suggested that the language Public Health be removed from the Ordinance and that this will give us the ability to discuss at a later time. Councilmember Neal thought that removing Public Health from the ordinance would be a good idea since they cannot definitively say that the frequencies do not cause health issues. City Attorney William stated that removing that language does not change the legality of the ordinance and that can be done. The council agreed that this should be removed.

Motion: To approve Ordinance No. 1439, Series 2023, an Ordinance of the City Council for the City of Woodland Park, Colorado amending Title 5 of the Woodland Park Municipal Code, regarding Small Cell Facilities to Establish a Procedure for the Application, Review, and Siting of Small Cell Facilities. Case/Nakai. 6-1 with Zuluaga voting no.

10. NEW BUSINESS

(Public comment may be heard)

- A.** Approve Resolution No. 899, Series 2023, authorizing the purchase of Water Shares from certain sellers.

(Presenter, Deputy City Manager/Director of Operations Kip Wiley)

Utility Director Wiley reviewed Resolution No. 899, Series 2023 with the Council.

Motion: to approve Resolution No. 899, Series 2023, authorizing the purchase of Water Shares from certain sellers. Nakai/Neal. 7-0.

- B.** Approval of a contract with Leonard and Shirley Talkington in the amount of \$60,000.00 for the purchase of 1.0 Twin Lakes water share.

(Presenter, Deputy City Manager/Director of Operations Kip Wiley)

This item was removed from the agenda.

- C.** Approve Resolution No. 900, Series 2023, a Resolution of the City Council for the City of Woodland Park, Colorado updating the 2023 Fee Schedule to adopt the Presumptively Valid Small Cell Facility Fee Schedule. (A)

(Presenter City attorney Nina Williams)

City Attorney Williams reviewed Resolution No. 900, Series 2023 with the Council.

Motion: To approve Resolution No. 900, Series 2023, a Resolution of the City Council for the City of Woodland Park, Colorado updating the 2023 Fee Schedule to adopt the Presumptively Valid Small cell Facility Fee Schedule. Case/Connors. 7-0.

11. REPORTS

(Public comment not necessary)

A. Mayor's Report

No report.

B. Council Reports

Mayor Pro-tem Case shared that she, City Manager Lawson and Deputy City Manager/City Clerk Leclercq had lunch with the State legislators and other Municipalities to talk about lobbying efforts.

Councilmember Connors talked about Community Partnership and Veterans Affairs.

Councilmember Neal shared a DDA update.

Councilmember Zuluaga shared a KWPB update.

C. City Attorney's Report

D. City Manager's Report

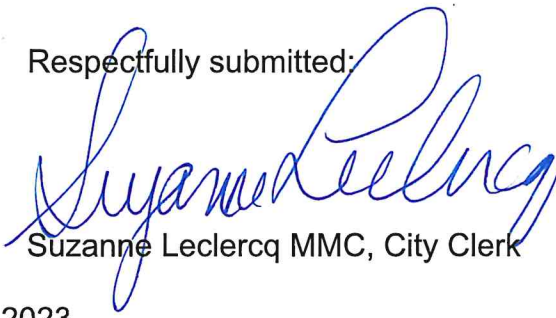
Utility Director Wiley shared an update of the reservoir.

Finance Director Vassalotti reviewed the most recent Sales Tax/Lodging reportw with Council.

12. ADJOURNMENT

The time being 9:21 PM and no further City business Mayor LaBarre adjourned the Council Meeting.

Respectfully submitted:


Suzanne Leclercq MMC, City Clerk

APPROVED THIS 16th DAY OF March, 2023


Hilary LaBarre, Mayor