

City of Greeley, Colorado
CITY COUNCIL PROCEEDINGS

March 3, 2020

1. Call to Order

Mayor John Gates called the meeting to order at 6:30 p.m., in Council's Chambers at City Center South, 1001 11th Avenue.

2. Pledge of Allegiance

Mayor Gates led the Pledge of Allegiance to the American Flag.

3. Roll Call

Cheryl Aragon, Interim City Clerk, called the roll. Those present were Mayor John Gates and Councilmembers Tommy Butler, Ed Clark, Michael Fitzsimmons, Dale Hall, Brett Payton and Kristin Zasada.

4. Recognitions and Proclamations

Councilmember Zasada presented the What's Great About Greeley Report.

Mayor Gates presented a Proclamation recognizing National Intellectual/Developmental Disabilities Awareness month.

5. Citizen Input

Edwin Grant, Greeley resident, spoke about the futurist who spent time in Greeley recently and mentioned the old Camfield Hotel

Steve Teets, Greeley resident, provided a public service announcement about the City's Food Tax Rebate Program and went on to speak about various services and the Coronavirus.

Louisa Anderson, Greeley resident, was present and addressed Council on the issue of short-term rentals. She noted that the Tier 1 designation was extended to 14 days and appreciated that; however, the Tier 2 needs tweaking.

Sherrie Peif, asked that the Mayor poll the Council about allowing her some additional time to address Council about the municipal broadband issue or allow people to defer their time to her so that she can share all that she needs to share about this important matter. She offered the alternative of Councilmembers and the Mayor meeting with her separately or in teams of two so that she can verbally share her message.

Council consensus was to meet with her individually or in pairs, prior to the March 10th Worksession where this matter will be discussed. Mayor Gates allowed her three minutes at which time she spoke of Longmont's experience with bonding and the municipal broadband issue.

Pastor Grant was present and spoke about Century Link being right across from his church and the issues with existing broadband.

Steve Hall, Greeley property owner, stated that municipalities have no business in the free market of industry and economics and stressed that it is not a smart move for Greeley to pursue broadband.

Valerie Martenson, Greeley resident, expressed disappointment that Sherrie Peif did not get her time to speak, and concern that voices are heard at election time and then not heard after that.

Kris Pickett, Greeley resident, Housing Committee and Short-term Rental Task Force, was present and stated that the issue of short-term rental housing is complicated and needs to be addressed. He stated that what has been developed is a good start in the right direction.

Sally Gooble, Greeley resident, was present to express concerns with short-term rentals and what they will do to her Cranford neighborhood. She asked that the City have a "go-slow" attitude.

Larry Kilpatrick, Greeley resident, expressed an opposite opinion of what has been said and stated that his Air BNB is doing well and not impacting his neighborhood.

Ron Redfern, Greeley resident, also stated that he has an Air BNB in his basement, and it has been low impact to his neighborhood.

Stacey Suniga, Greeley resident, stated that vacation rentals are complicated but need to be carefully studied by Council.

6. Approval of Agenda

The agenda was approved as presented.

7. Reports from Mayor and Councilmembers

Councilmember Butler spoke of his recent Town Hall where Will Jones, Deputy Public Works Director, spoke about the Poudre Express and offered passes to all attendees.

Mayor Gates read a Proclamation that was provided at Greeley Day at the State Capital that Council and staff recently attended.

8. Initiatives from Mayor and Councilmembers

There were no initiatives offered from Councilmembers.

***** Consent Agenda *****

9. Approval of the City Council Proceedings of February 18, 2020

The Council action recommended was to approve the Proceedings.

10. **Consideration of a resolution authorizing the City to enter into Amendment No. 4 of an Intergovernmental Agreement with the Colorado Department of Transportation to update the phase end date for construction of the 10th Street Access Control and Roadway Improvements Project between 23rd Avenue and 35th Avenue**

The Council action recommended was to adopt the resolution. (Resolution No. 7, 2020)

11. **Consideration of a resolution to adopt the updated City Emergency Operations Plan**

The Council action recommended was to adopt the resolution. (Resolution No. 8, 2020)

12. **Consideration of a resolution of the City Council of the City of Greeley, Colorado, authorizing City staff to enter into a settlement agreement with Blanche Marceleno, Susan Ebbs, Edward Caussade, and Tyler Brunner to resolve their claims in the federal action brought by them to challenge the constitutionality of the City's Median Ban**

The Council action recommended was to adopt the resolution. (Resolution No. 9, 2020)

13. **Introduction and first reading of an ordinance changing the official zoning map of the City of Greeley, Colorado from C-D (Conservation District) to I-L (Industrial Low Intensity) for 80 acres of property located at 525 N. 14th Avenue, and known as the Island Grove Rezone**

The Council action recommended was to introduce the ordinance and schedule the public hearing and final reading for March 17, 2020.

***** End of Consent Agenda *****

Councilmember Hall moved, seconded by Councilmember Clark to approve the items on the Consent Agenda and their recommended actions. The motion carried: 7-0

14. **Pulled consent agenda items**

No items were pulled from the Consent Agenda.

15. **Public hearing and final reading of an ordinance to consider a change of zone from PUD (Planned Unit Development) to PUD (Planned Unit Development) changing the underlying land use designations for approximately 295 acres of property located north of US Highway 34 Business, east of 101st Avenue and west of 95th Avenue, known as the Lake Bluff Rezone, and changing the official zoning map to reflect the same**

Brittany Hathaway, Planner, requested that Item Nos. 15 and 16 be considered simultaneously.

Councilmember Butler moved, seconded by Councilmember Zasada to consider Item Nos. 15 and 16 simultaneously. The motion carried: 7-0

Ms. Hathaway went on to report that the applicant, Jonah Weiss, on behalf of Otis C. Moore, III, is requesting a rezone of 294.635 acres of land from Planned Unit Development (PUD) to Planned Unit Development (PUD) with amended underlying land uses for the purpose of developing a mixed-use development consisting of residential, school, and commercial uses.

She stated that in 1985, a 1701-acre property was annexed into the City, known as the Golden Triangle Second Annexation, which included the subject property. The entire annexed area was zoned for a variety of approved land uses, including residential, commercial, industrial, recreation, and open space, and then in 1997 the 1701-acre Golden Triangle PUD was divided into six separate PUD tracts while maintaining all of the underlying land uses. The subject site was included in the new Golden Triangle PUD #3.

Ms. Hathaway advised that in 2009 the first Lake Bluff Preliminary PUD was approved by City Council and included approximately 793 acres of land allowing for up to 3,252 residential units on nearly 350 acres. Uses included 105 acres of commercial, a 27-acre middle school site, a 10-acre elementary school site, 57 acres of parks and open space, and a 33-acre industrial tract. However, the 2009 Preliminary PUD was not finalized through a Final PUD process and therefore expired. In 2013, a second Lake Bluff Preliminary PUD was approved with a plan significantly the same as the 2009 approved plan, also on the larger 793 acres. This 2013 Preliminary PUD plan also did not go through a Final PUD process.

She stated that since there has never been a Final PUD submitted for the property, the PUD has since expired and that a new Preliminary and Final PUD would need to be submitted prior to any development activity.

Ms. Hathaway advised that the original Lake Bluff PUD has since been broken into four different ownership groups and that the subject area for this proposal covers approximately one-third of the original Lake Bluff PUD. The applicant is working with adjacent property owners to the east and west to coordinate development, including roads and planning areas, to ensure a thoughtful transition between developments. Future PUD applications for other ownerships will be required to follow a similar Preliminary and Final PUD process.

The Lake Bluff Metropolitan District was approved in September 2018. Upon approval of a master plan, which this Preliminary PUD would fulfill, the Metropolitan District would be able to begin to issue debt for infrastructure improvements.

She stated that this application addresses the rezoning element of the PUD. The Planning Commission considered this request on February 11, 2020, and unanimously recommended approval to City Council. This ordinance was introduced at the February 18, 2020, Council meeting.

Councilmember Fitzsimmons inquired about xeriscaping, and Ms. Hathaway confirmed that it will be encouraged with this development.

In response to a question from Councilmember Hall, Ms. Hathaway confirmed that the main access would be off of 95th Avenue with 4th street in the middle

Mayor Gates opened the public Hearing at 7:36 p.m.

Steve Teets, Greeley resident, expressed concerns about water with Greeley growing. He stated that there are other things that need to be addressed like additional bike lanes before more development.

Joseph Ballard, Greeley resident, asked about the implications for houses on the north side of 95th Avenue, and City staff indicated they will discuss this further with him.

There being no further public comment offered, Mayor Gates closed the public hearing at 7:42 p.m.

Councilmember Payton moved, seconded by Councilmember Fitzsimmons to find that, based on the application received and the preceding analysis, the proposed rezone from Planned Unit Development (PUD) to Planned Unit Development (PUD) meets Development Code Section 18.32.050(c)(3) a, b, e and g; and, therefore, approve the rezone.

Mayor Gates welcomed discussion from the Council.

Councilmember Payton stated that this plan has been around for quite a while, and that he was glad to see it progress.

Councilmember Clark echoed those comments and stated that he is anxious to see this develop.

A vote on the motion was taken, and it carried: 7-0

Councilmember Payton moved, seconded by Councilmember Fitzsimmons to adopt the ordinance and publish it by reference to title only. The motion carried: 7-0 (**Ordinance No. 3, 2020**)

16. Public hearing to consider a request for a Preliminary PUD (Planned Unit Development) for approximately 295 acres of property located north of US Highway 34 Business, east of 101st Avenue and west of 95th Avenue, known as the Lake Bluff PUD

Mayor Gates opened the public hearing at 7:42 p.m., and no comments were offered.

Councilmember Payton moved, seconded by Councilmember Fitzsimmons to find that, based on the application received and analysis, the proposed Lake Bluff PUD Preliminary Plan is consistent with Development Code criteria, Section 18.32.050(c)(3)a, b, e, and g, and Section 18.32.040(b) and, therefore approve the request.

A vote on the motion carried: 7-0

17. Public hearing and final reading of an ordinance to consider a change of zone from R-M (Residential Medium Density) to R-H (Residential High Density) for approximately 2.77 acres of property located at 1913 5th Street, known as the Regalado Rezone, and changing the official zoning map to reflect the same

Kira Stoller, Planner, reported that the applicant, Mark Taylor, on behalf of Jose Regalado, is requesting a rezone of 2.77 acres of land from Residential Medium Density to Residential High Density, with plans to combine the three neighboring lots into one parcel for the purpose of developing the site with multi-family housing. If approved, the zoning would allow for the proposed land use; however, the applicant must still meet all relevant land use development standards to commence with construction.

The Planning Commission considered this request on February 11, 2020 and unanimously recommended approval to City Council. This ordinance was introduced at the February 18, 2020, Council meeting.

Mayor Gates opened the public hearing at 7:49 p.m.

Melanie Dehart, was present and stated that this parcel abuts her property. She stated that the Planning Commission saw a diagram of 6 buildings. She expressed concerns about high traffic and additional vehicles in this area.

Wendy Mckeen, Greeley resident, echoed a few of Melanie's concerns, and stated that more traffic and congestion is a concern.

Councilmember Hall inquired about 4th and 5th Street traffic capacity, and Ms. Stoller reported that the traffic analysis indicated an increase would be 3 percent above what it currently is, which is not considered to be substantial.

Councilmember Fitzsimmons moved, seconded by Councilmember Clark to find that, that, based on the application received and the preceding analysis, the proposed rezone from R-M (Residential Medium Density) to R-H (Residential High Density) meets the applicable Development Code criteria, Section 18.30.050(c)(3) a, b, e, f and g; and, therefore, the rezone is approved.

Councilmember Zasada stated that traffic concerns can be addressed at the next stage and that they will not be ignored.

Councilmember Butler expressed appreciation for the neighborhood sharing

Mayor Gates agree that this will be a shock to this neighborhood, but echoed that concerns can be addressed at the next phase.

A vote on the motion was taken, and it carried: 7-0

Councilmember Fitzsimmons moved, seconded by Councilmember Hall to adopt the ordinance and publish it by reference to title only. The motion carried: 7-0 (**Ordinance No. 4, 2020**)

18. Consideration of a resolution Changing the Start Time of Regular Meetings and Worksessions of the Greeley City Council

Cheryl Aragon, Interim City Clerk, reported that this item is in response to a Council Initiative at the February 4, 2020, regular meeting, for which there was Council consensus, to change the start times of both the regular Council meetings and worksessions to begin at 6:00 p.m. to provide some meeting consistency, to better accommodate Council schedules, and to maximize the ability of the public to attend and participate in the meetings and worksessions.

She stated that, if adopted at this meeting, this resolution would be effective for Council worksessions beginning March 24th and regular Council meetings beginning April 7th so as to accommodate the needed lead time for the City's closed-captioning service provider to accommodate this time change.

Ms. Aragon concluded upon noting that the City Clerk's Office will work with the Communications & Engagement Department to ensure public notification of and communication regarding this change.

Councilmember Zasada moved, seconded by Councilmember Clark to adopt the resolution.

A vote on the motion carried: 7-0 (**Resolution No. 10, 2020**)

19. Discussion on recommendations regarding short-term rentals

Brad Mueller, Community Development Director, reported that this is in response to Strategy #1 of the City of Greeley Strategic Housing Plan and includes the review and regulation of short-term rentals and to obtain direction from Council concerning initial code recommendations for this category of land use.

He stated that the Housing Task Force was convened to study the emerging land use of short-term rentals such as Air BNB's and VRBO's that host visitors in dwellings traditionally used for full-time residents, and to make recommendations to the City on the regulation of such uses. Such regulations would be specific and targeted to short-term lodging for visitors, and they would not impact the way that the City regulates residency for individuals staying at a property for 30 nights or longer.

He pointed out that the City currently lacks regulations specific to short-term rentals and is not presently issuing licenses or permits to allow short-term rentals to operate. As discussed in the attached staff report, short-term rentals are an emerging – though not yet prevalent – land use.

Through development code regulations, the City can address common concerns expressed by Greeley residents and in other cities related to short-term rentals, such as changes to neighborhood character; additional nuisances including noise, trash, and parking; conversion of dwelling units from residential to vacation lodging; effects on traditional visitor lodging such as hotels; unrealized tax revenue due to a lack of collection mechanisms; tension with neighbors due to unclear expectations; and disillusionment with local government because of unaddressed problems caused by short-term rentals.

Mr. Mueller stated that the Housing Task Force – made up of realtors, property managers, business representatives and neighborhood residents – recommends allowing short-term rentals in owner-occupant dwellings in all neighborhoods. Specifically, the recommendation is to allow the rental of a single spare bedroom to visitors on an ongoing basis in all zoning districts, identified as Tier I Short-term Rentals. Additionally, any owner-occupant could rent out their entire home to visitors for 20% (73 days or 2 ½ months) of the year, identified as Tier II Short Term Rentals. The Task Force proposes that the complete transition of a dwelling unit for residents into a short-term rental for visitors would only be allowed in the zoning districts that already allow traditional bed-and-breakfast uses, and is categorized as a Tier III Short-term Rental.

He shared that public feedback was generally favorable to the proposed Tier I and Tier II Short-term Rental uses. The full-time conversion into a short-term rental was more polarizing. In general, the same number of respondents expressing that the proposed Tier III standards were too permissive, as those who expressed the proposed Tier III standards were too restrictive, but a plurality suggesting the recommendation was the right approach and, as a result, the Housing Task Force did not adjust the original recommended standards.

Mr. Mueller advised that this item was presented to the Planning Commission in worksessions on January 18, 2020, and February 25, 2020. Planning Commission expressed interest in short-term rentals for more than a single spare bedroom in lower density residential zones, and noted that some operations rent out more than a single bedroom but less than an entire dwelling. Planning Commission asked staff to research options to accommodate larger short-term rentals in lower density residential zones which could include a Use by Special Review or additional administrative standards. However, the recommendations do not include this expansion as the Planning Commission continues to weigh the merits of this expanded rental use.

Upon receiving further feedback from City Council, adjustments to the Housing Task Force and Planning Commission's recommendations can be made prior to moving forward with code revision hearings with Planning Commission and City Council.

In response to a question from Councilmember Hall, Mr. Mueller advised that Tier 3 and a bed & breakfasts are not the same because bed breakfasts are already in the Code, and if adopted, differences would be moot and impacts would be different.

Councilmember Zasada stated that there are two Air BNB's in her neighborhood, and stated that one is a problem while the other is not. She stated that the one does stress the neighborhood such as parking and these can open a can of worms in a neighborhood.

Councilmember Hall spoke of definitions for residents, guests, visitors, and wondered if it is intended to be the same, and Mr. Mueller confirmed that it is.

Mayor Gates noted that there is a lot that needs to go into this for sure and that impacts to neighborhoods are important, but he also respects individual property rights, so it is a balance. He suggested the least restrictive route in terms of property rights and noted that this might be close to unenforceable. He stressed that this work is well done by staff.

20. Discussion on proposed amendment to Chapter 18.54 – Signs

Ms. Hathaway reported that the City Planning staff is recommending an amendment to Chapter 18.54 – Signs, in order to comply with recent court decisions regarding sign content neutrality.

She referenced a Supreme Court ruling (Reed v. Gilbert, 2015) determined municipal sign regulations cannot vary standards based on the message for non-commercial signage. This includes sign classifications and regulation for message-defined signs such as ideological, election, real estate, special event signs, etc. that are typically temporary in nature and do not require a permit.

She stated that to adhere to the ruling, an amendment is proposed to Chapter 18.54- Signs. A key change would be to remove all content-based sign definitions and reclassify those sign types as a site or yard sign, which would be subject to size, placement, and duration regulations in place of message content regulations.

Key changes include removal of content-based sign definitions, such as ideological signs, political or election signs, real estate signs, commemorative signs, and contractor signs; inclusion of yard and site sign regulation; correct minor grammatical errors, expand current definitions, and clarify existing sections; include language to ensure legality. This includes a statement on interpretation under Section 18.54.050 (b).

Todd Messenger, Legal Counsel on this matter, reported that he was selected to consult on this sign code change in light of the Reed vs. Gilbert case. He reviewed the process for review and the sections that changed. He referenced the redlined version of the sign code illustrating the proposed changes. He stated that the City staff is proposing minimal revisions needed to insure compliance consistent with Court rulings.

Ms. Hathaway noted that this item was presented to the Planning Commission on January 14, 2020. The Planning Commission voted unanimously to recommend approval to City Council of the proposed amendments to Chapter 18.54, Signs. Minutes will be provided in the future in conjunction with the planned hearing.

Mayor Gates stated that people are generally tolerable of election signs during election season and pointed out that his research has shown that election signs could technically be up 365 days per year, and Mr. Messenger stated that if they are called election signs, it would likely not be enforced. Duration of signs can be regulated, but the enforcement piece is the key.

Mr. Mueller stated that duration has not been proposed here because it brings a whole other set of challenges. He added that a sliding scale was also considered relative to lot size which also brings another set of issues.

Mr. Messenger stated that Council could regulate based on materials or form used, but not based content for temporary durations. Again, enforcement is difficult.

Councilmember Hall asked that staff consider lot size versus accumulative restriction on how any square feet you can have on a lot.

21. Scheduling of meetings, other events

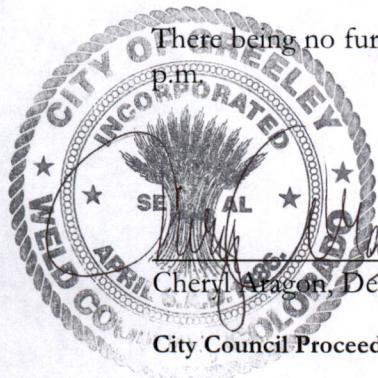
There were no additional meeting or events scheduled.

22. Consideration of a motion authorizing the City Attorney to prepare any required resolutions, agreements, and ordinances to reflect action taken by the City Council at this meeting and at any previous meetings, and authorizing the Mayor and City Clerk to sign all such resolutions, agreements, and ordinances

Councilmember Hall moved, seconded by Councilmember Payton to approve the above authorizations, and the motion carried: 7-0

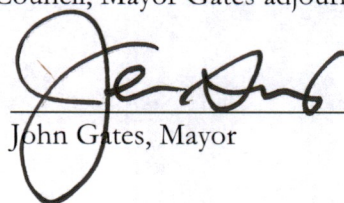
23. Adjournment

There being no further business to come before the Council, Mayor Gates adjourned the meeting at 9:42 p.m.



Cheryl Aragon, Deputy City Clerk

City Council Proceedings


John Gates, Mayor