

**SEPTEMBER 28, 2021, MINUTES  
REGULAR WHEATLAND CITY COUNCIL MEETING  
VIA ZOOM  
6:00 – 8:05 P.M.**

**COUNCIL MEMBERS PRESENT:** R. Coe \*L. McIntosh, J. Pendergraph, P. Shelton  
R. West

\*Council Member L. McIntosh arrived at 6:12 p.m.

**OTHERS PRESENT:** J. Goodwin, City Manager  
J. Buckman, City Attorney  
T. Raney, Community Development Director  
K. Valente, Senior Planner  
D. Schilling, City Engineer  
D. Sylvester, Police Chief  
A. Paquette, Fire Chief  
L. Thomason, City Clerk

**PLEDGE OF ALLEGIANCE:** Mayor R. West led the pledge of allegiance.

**PUBLIC COMMENT:** K. Burnham commented on the possibility of a social event for teenagers held at the Community Center for dances.

**CONSENT CALENDAR**

Motion was made by Council Member J. Pendergraph, Seconded by Vice Mayor R. Coe to **approve minutes from the regular City Council meeting on August 24, 2021, Quarterly Investment Report June 30, 2021, and Lease Amendment with T-Mobile.** Vote called – AYES: Pendergraph, Coe, Shelton, West. ABSENT: McIntosh. Motion carried.

**PUBLIC HEARING**

Mayor R. West announced the order of the Public Hearing items has been changed.

1) Senior Planner Kevin Valente presented the staff report to introduce the ordinance amending Chapter 18.54 of the Wheatland Municipal Code pertaining to Agriculture Combining District regulations and rezone of eight properties totaling 1,639.08 acres (APNs 015-360-030-000, 015-360-031-000, 015-360-038-000, 015-360-051-000, 015-360-052-000, 015-360-053-000, 015-360-054-000, AND 015-360-055-000) into the Agriculture Combining District and waive the full reading of the ordinance. On June 11, 2019, the Wheatland City Council appointed two city council members, two planning commissioners, two local agriculture producers, and a local business owner to an Ad Hoc Committee for the preparation of the Citywide Agricultural Production Standards project. The City of Wheatland held five Ad-Hoc Committee meetings from January 23, 2020, to February 16, 2021. The five Ad-Hoc Committee meetings provided an opportunity for discussion and input from the general public and the committee members to prepare the proposed Agricultural Combining District Amendment. All five public meetings were publicly noticed per the city's standard noticing practices. A combining district is a regulatory tool that creates a special zoning district, placed over an existing base zone, which identifies special provisions in addition to those in the underlying base zone. The City of Wheatland Zoning Code

currently includes an existing Agriculture Combining District (Chapter 18.54); however, the combining district is currently not applied to any properties within the city. Staff worked with the selected Ad-Hoc Committee members and expanded the existing Agriculture Combining District to define the agricultural production allowed in the city, provide standards for such agricultural production, and assist in preserving and protecting existing agricultural uses. The proposed Agriculture Combining District Amendment is intended to ensure that designated agricultural lands on the City of Wheatland's official zoning map are treated sensitively to the location of and pressures from surrounding urban development. The proposed combining district amendment is intended to protect the vital agricultural uses by limiting land use activity to those uses which are compatible and supportive of agricultural and related uses and/or agricultural by-products. Additionally, the proposed combining district Amendment will provide standards for agricultural production and agricultural supportive uses in the city. Furthermore, the proposed Agriculture Combining District Amendment is a way for the city to preserve agriculture as the interim land use of areas of land recently annexed into the city until it is appropriate to commence development of the land. For example, the Johnson Rancho and Hop Farm development will occur over many years, so the underlying base zoning of the Johnson Rancho and Hop Farm properties will be for the future residential or commercial development; however, the proposed Agriculture Combining District would ensure that the interim agriculture uses are protected. In addition to the proposed Agriculture Combining District Amendment, staff is proposing to rezone eight properties, totaling 1,639.08 acres, located in the Johnson Rancho and Hop Farm Annexation Area to include the Agriculture Combining District. Discussion during the August 10, 2021, workshop provided staff with direction to revise the proposed Agriculture Combining District Amendment. Staff included new detail and clarification in the proposed combining district amendment for the following topics pursuant to the council's direction: Agritourism definition: The proposed agritourism definition has been revised to provide additional clarification. "Agritourism" means any activity incidental to the operation of an agricultural operation that brings members of the public to the operation for educational, recreational, or retail purposes. excluding uses that would be considered entertainment (i.e., concerts, roller coasters, hotels). Permitted uses and conditionally permitted uses in the -A district: Proposed land use table 18.54.040 identifies the uses of land that are permitted, conditionally permitted and prohibited in the \_ - A district. Single Dwelling units, certified farmers' markets, fruit stands, offices in conjunction with row, field, tree, plant nursery or crop production operation, not to exceed 1,500 square feet in size (one per parcel), row, field, tree, and crop production, and seasonal sales are the only permitted uses in the proposed \_ -A district. All other allowed uses would require planning commission approval of a use permit. Staff has included an additional note for fruit stands stating if any of the fruit stand requirements identified in table footnote #5 are not met, the proposed fruit stand would require planning commission approval of a use permit. Objective 1.3 and Implementation Measure 1.3.1 in the Citywide Agricultural Goals, Objectives, and Implementation Measures state the following: Implementation Measure 1.3.1 - The city shall amend the existing Agriculture Combining District to allow for vegetation management on agricultural land. Staff has included vegetation management as an allowed accessory use in the proposed \_ -A district for additional clarification (Section 18.54.080 A). Pest control (I.e., discharge of firearms): Objective 1.3 and Implementation Measure 1.3.2 in the Citywide Agricultural Goals, Objectives, and Implementation Measures state the following: Objective 1.3 - Support management programs (controlled burning, etc.) when it is found they improve the quality of rangeland for livestock and wildlife. Implementation Measure 1.3.2 - The city shall amend the existing Agriculture Combining District to allow for pest control on agricultural land. Staff has included pest control as an allowed accessory use in the proposed \_ -A district for additional clarification (Section 18.54.080 B). Agriculture water wells: Pursuant to the City Engineer, existing agriculture water wells may continue as long as there is no change of use on the property. The City of Wheatland does not allow the construction of new agriculture water wells within the city. Staff has included new agriculture water well as a prohibited use in the proposed \_ -A district for additional clarification (Section 18.54.090 D).

Council Member P. Shelton commented on firearms discharged near homes, schools and buffers. Shelton also commented on shortening farming hours (not allow 24-hour).

Council Member J. Pendergraph stated he disagrees with Council Member Shelton's comments regarding firearms discharged near homes and schools and recommendation for buffers. Pendergraph also commented on noise from lawn mowers and farming necessities during quiet hours.

Council Member L. McIntosh commented on concerns in changing the right-to-farm ordinance.

Mayor R. West commented on the right-to-farm ordinance and possibly returning the items for discussion to the Ad Hoc Committee. West also stated that he supports agriculture in the community but consider all constituents.

## **Public Comment**

1) H. Gilbert commented on information from the County to the City regarding regulations (pesticides) and how schools' interface with county regulations.

Motion was made by Council Member J. Pendergraph, Seconded by Vice Mayor R. Coe **introduce and waive the first reading of Ordinance No. 483 Amending Chapter 18.54 of the Wheatland Municipal Code Pertaining to Agricultural Combining District Regulations and the Rezone of Eight Properties Totaling 1,639.08 Acres (APNs 015-360-030-000, 015-360-031-000, 015-360-038-000, 015-360-051-000, 015-360-052-000, 015-360-053-000, 015-360-054-000, AND 015-360-055-000) into the Agriculture Combining District.** Vote called – AYES: Pendergraph, Coe, McIntosh, West. NOES: Shelton. Motion carried.

2) Senior Planner Kevin Valente presented the staff report for adoption of the Citywide Agriculture Goals, Objectives, and Implementation Measures. On June 11, 2019, the Wheatland City Council appointed two city council members, two planning commissioners, two local agriculture producers, and a local business owner to an Ad-Hoc Committee for the preparation of the Citywide Agricultural Production Standards project. The City of Wheatland held five Ad-Hoc Committee meetings from January 23, 2020, to February 16, 2021. The five Ad-Hoc Committee meetings provided an opportunity for discussion and input from the general public and the committee members to prepare the Citywide Agriculture Goals, Objectives, and Implementation Measures. All five public meetings were publicly noticed per the city's standard noticing practices. The proposed Citywide Agriculture Goals, Objectives, and Implementation Measures is intended to implement and expand on the city's adopted plans, including the Wheatland General Plan Policy Document and the City of Wheatland Community Vision. The proposed policy document is exempt from environmental review pursuant to the California Environmental Quality Act (CEQA) Guidelines section 15305, Minor Alterations in Land Use Limitations. On July 6, 2021, staff presented the proposed Citywide Agriculture Goals, Objectives, and Implementation Measures to the Wheatland Planning Commission. The Wheatland Planning Commission voted to recommend city council adoption of the proposed Citywide Agriculture Goals, Objectives, and Implementation Measures. On August 10, 2021, the Wheatland City Council conducted a workshop to discuss the proposed Citywide Agriculture Goals, Objectives, and Implementation Measures. Discussion during the August 10, 2021, workshop provided staff with direction to revise the proposed Citywide Agriculture Goals, Objectives, and Implementation Measures. Staff prepared the following new implementation measures pursuant to the council's direction: Implementation Measure 1.1.4 - New or more intensive agriculture uses shall provide and maintain an adequate buffer from existing residential uses. Implementation Measure 2.2.2 - Conversion of land to more intensive agricultural use shall be expected to address impacts to city services (i.e., streets, police, fire, etc.). This

includes the creation of an appropriate AB1600 impact fee for agricultural structure serving the intensified agricultural uses. Implementation Measure 4.1.1 - The city shall amend the existing Agriculture Combining District to define the agritourism use. Implementation Measure 4.4.1 - The city shall amend the existing Agriculture Combining District to identify agritourism as a discretionary approval; thus, requiring additional review and public noticing.

Motion was made by Council Member J. Pendergraph, Seconded by Vice Mayor R. Coe to **adopt Resolution No. 32-21 Adopting the Citywide Agriculture Goals, Objectives and Implementation Measures**. Vote called – AYES: All. Motion carried.

3) Senior Planner Kevin Valente presented the staff report for consideration to introduce Ordinance No. 482 adding Chapter 18.62 to the Wheatland Municipal Code relating to Right-to-Farm. On June 11, 2019, the Wheatland City Council appointed two city council members, two planning commissioners, two local agriculture producers, and a local business owner to an Ad-Hoc Committee for the preparation of the Citywide Agricultural Production Standards project. The City of Wheatland held five Ad-Hoc Committee meetings from January 23, 2020, to February 16, 2021. The five Ad-Hoc Committee meetings provided an opportunity for discussion and input from the general public and the committee members to prepare the proposed Right-to-Farm Ordinance. All five public meetings were publicly noticed per the city's standard noticing practices. A Right-to-Farm Ordinance is a common strategy available to local governments utilized to protect farmers from nuisance lawsuits and provide incentives to landowners to maintain their lands in agricultural uses. Agriculture producers who are experiencing rural residential development in their area often worry about the conflicts with non-agriculture uses that may not appreciate the noise, smells, and dust associated with normal agricultural activities. While informal and formal legal confrontations between agriculture producers and non-agriculture uses have been rare in the City of Wheatland, it is important that the city provide legal protection to farmers as a means to protect agricultural land from urbanization and reduce the fears of local farmers. Right-to-Farm communities afford certain protections to agriculture producers in case of routine land use conflicts such as noise or odor. These nuisance complaints are kept from litigation and run through a non-punitive hearing process by which consensus can be reached between all parties. Right-to-Farm community residents are informed of a community's status prior to purchase of a property. Although Right-to-Farm Ordinances fall within the regular regulatory powers of county and city governments, the local measures were first created in 1981 by the passage of a State statute (Sect. 3482.5 of the California Civil Code) that declares a farm in operation for more than three years is not to be considered a nuisance due to changed conditions (urbanization) in the area. In 1989, the legislature went further by allowing counties and cities to require relators to disclose to property buyers' particular conditions of the property, including the possible negative impacts of nearby farming (Civil Code Section 1102.6a). The California Farm Bureau prepared a model Right-To-Farm Ordinance at that time, and most counties and cities have since followed the model language in adopting their own ordinances. Thus, most county and city Right-to-Farm Ordinances have similar contents. The purpose and intent of the Right-to-Farm Ordinance is to protect agricultural land uses and designations identified on zoning maps from conflicts with nonagricultural land uses that may result in financial hardship to agricultural operators or termination of farmers' operations. Staff worked with the selected Ad-Hoc Committee members and created the proposed Right-to-Farm Ordinance by using the model prepared by the California Farm Bureau and modifying it specifically for the City of Wheatland. The proposed Right-to-Farm Ordinance would provide a level of protection and importance for the existing agricultural productions within the city and ensure the continued use of agriculture amongst future development. The proposed Right-to-Farm Ordinance includes the following sections: Purpose and Intent; Definitions; Nuisance; Land Use Entitlement Right-to-Farm Restrictions; Notification to Transferees; and Grievance Procedures. The proposed ordinance is exempt from environmental review pursuant to the California Environmental

Quality Act (CEQA) Guidelines section 15305, Minor Alterations in Land Use Limitations. On July 6, 2021, staff presented the proposed Right-to-Farm Ordinance to the Wheatland Planning Commission. The Wheatland Planning Commission voted to recommend city council adoption of the proposed Right-to-Farm Ordinance. On August 10, 2021, the Wheatland City Council conducted a workshop to discuss the proposed Right-to-Farm Ordinance.

Council Member P. Shelton commented on the 24-hour period, arial application, buffers regarding schools and parks and protecting future residents and the AG industry.

Mayor R. West commented on the Ag Overlay location and buffers.

Council Member L. McIntosh commented on vector control, allowing shoot traps and AG wells.

City Manager J. Goodwin provided clarification regarding firearms.

### **Public Comment**

1) K. Burnham commented on the possibility of signs by farmland advising of shoot traps.

2) H. Gilbert commented it is better not to advertise the use of guns with signs.

Motion was made by Council Member P. Shelton, Seconded by Mayor R. West to **send discussion of the proposed ordinance back to the Ad Hoc Committee**. AYES: All. Motion carried.

### **REGULAR CALENDAR**

1) City Manager Jim Goodwin presented the staff report for consideration of Pool Feasibility Analysis. On October 27, 2020 the City Council approved a contract with Melton Design Group (MDG) for assistance with park design projects and grant applications, including the proposed Wheatland Community Pool. With assistance from MGD, outreach meetings were held (both live and via Zoom) to receive input from residents about the project. In addition, presentations were made to both the Wheatland School District and the Wheatland Union High School District boards. The City Council's Ad-hoc Committee Members, Bob Coe and Jay Pendergraph were updated regularly on the process. Based on the input received, a conceptual design was developed. The conceptual design was then reworked to define a project the community can afford. The final report is attached for your review and acceptance. Greg Melton will be present in the meeting to discuss the conceptual design and feasibility analysis. The final report demonstrates the pool project is feasible pending final commitments from partner agencies to participate and an operational commitment from the City of Wheatland beginning in the fiscal year when the pool construction is complete. As outlined in the report, to compete successfully for the \$3 million Prop 68 grant, the Creps donation will need to be redirected into pool construction. Based on these conclusions, staff is requesting the City Council direct staff to prepare the funding application to the State Department of Parks and Prop 68 Rural Recreation and Tourism Program (RRT). Preparation of the application will require receipt of partnership commitments including operations support and financing for the City of Wheatland's local share. A competitive application will demonstrate the ability of the City of Wheatland to operate the pool for 30 years. Staff will bring the final package to the City Council for approval on October 26 prior to the November 5 grant application deadline. If awarded, a contract for receipt of the grant funds will come to Council for final approval sometime in 2022.

Council Member L. McIntosh questioned the buildout of the first 145 units in the Caliterra Subdivision and total revenue per year for the buildout of the entire subdivision. McIntosh questioned if CFD funds can be used for police services for additional population and if the late David Creps would approve if the City reallocated his donation money to a different use. McIntosh commented she is not sure how the

City would move forward with this project, stated concerns with how the City will financially support the pool and questioned if there was an assessment for recreation.

Mayor R. West commented there is a special district for recreation.

Council Member P. Shelton commented on projected revenue sources, apartments and senior housing projects and the time period to move forward on the community pool project. Shelton commented if the City is awarded a grant, how long to move forward with the project.

### **Public Comment**

1) K. Burnham commented on assistance from Beale AFB and perhaps helping with upfront costs.

2) H. Gilbert suggested contacting AKT Investment, Inc. for financial assistance.

Motion was made by Council Member J. Pendergraph, Seconded by Vice Mayor R. Coe to **accept Pool Feasibility Analysis prepare by Melton Design Group and direct staff to prepare funding application to the Department of Parks and Recreation for submission on November 5, 2021.**

Vote called – AYES: Pendergraph, Coe and West. NOES: McIntosh and Shelton. Motion carried.

2) City Manager Jim Goodwin presented the staff report for future council meetings pursuant to AB 361. AB 361 was recently signed by the Governor of the State of California and went into effect immediately upon signature by the governor. It amends the Brown Act to allow local legislative bodies to continue having purely virtual meetings using teleconferencing and virtual meeting technology as long as there is a gubernatorial "proclaimed state of emergency," and either (1) state or local officials imposing or recommending measures that promote social distancing or (2) the legislative body finding that meeting in person would present an imminent safety risk to attendees. The key differences between existing Executive Order N-08-21, which expires September 30, 2021, and AB 361 is that AB 361 imposes particular requirements with respect to public comment, however, the City of Wheatland's current practices with respect to live public comment via Zoom already satisfy all of the new requirements in AB 361. Additionally, public agencies must either make findings by majority vote that the state of emergency still exists and continues to directly impact the ability of the members to meet safely in person, or that health officials continue to impose or recommend measures to promote social distancing. Determinations by the local agency that the emergency impacts the ability to meet safely in person must be re-visited every 30 days. If Council meets in person, current OSHA requirements state unvaccinated persons must wear a mask. In addition, we would need to offer some hybrid model that allows for remote participation for members of the public who cannot attend because of COVID 19 concerns. These hybrid models are not "problem free." A technological glitch in the meeting could prevent action in the meeting. Over the past several months the City has not observed any lessening of public participation in City Council meetings as a result of virtual meetings. Continuing the remote meetings would provide for a consistent meeting format until the pandemic emergency is lifted. Resolution NO. 34-21 has been provided in case council wishes to continue virtual meetings through the end of the pandemic. The resolution makes the appropriate findings. The action would need to be revisited every 30 days.

Council Member P, Shelton commented the City should look into equipment to perform a hybrid version of in person council meetings.

Motion was made by Vice Mayor R. Coe, Seconded by Council Member J. Pendergraph to **adopt Resolution No. 34-21 Authorizing Virtual City Council Meeting During Declared State of**

**Emergency Pursuant to Government Code 54953 (AB 361).** Vote called – AYES: All. Motion carried.

**REPORTS**

Police Chief D. Sylvester reported on challenge coins.

Council Member J. Pendergraph thanked the Police Department on internet theft. Pendergraph reported on the Christmas tree lighting scheduled for December 3<sup>rd</sup>, and the Christmas parade of December 9<sup>th</sup>.

Mayor R. West reported that RD 2103 will hold a meeting September 29<sup>th</sup> via ZOOM and LAFCO application to merge a portion of RD 7184.

There being no further business, Mayor R. West adjourned the meeting at 8:05 p.m. in memory of Walt Boom.

Minutes approved and adopted on this 12<sup>th</sup> day of October 2021.

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Rick West, Mayor

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Lisa J. Thomason, City Clerk