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TO: City Council  
Wheat Ridge Community  
City Manager  
City Attorney

FROM: Councilmember Jerry DiTullio, District 1

DATE: February 10, 2014

RE: City Charter Section 5.20 - Street Width Designation and 38<sup>th</sup> Ave.

Section 5.20 of the City Charter – Street Width Designation (attached) - was proposed and approved by the voters in 1995 after a long battle concerning 38<sup>th</sup> Ave. west of Cody St to Kipling St. The amendment applies to the widening or narrowing (flowline) of a street in Wheat Ridge. The amendment outlines a public and open process for a legal protest and/or a petition/vote of the people when a controversial or expensive flowline change is proposed for a street in the City of Wheat Ridge.

The real “elephant in the room” is a majority of City Council and staff spending more and more taxpayer money on a “final” two-lane road diet design that may never be implemented if adjacent property owners along 38<sup>th</sup> Ave. legally protest the narrowing of 38<sup>th</sup> Ave. and/or petition the flowline changes of 38<sup>th</sup> Ave. to a vote of the people. It is my opinion that staff and Wheat Ridge 2020 have been remiss in educating the City Council and the public about the charter amendment and its potential consequences to the 38<sup>th</sup> Ave. project.

Councilmember Urban and I have proposed simple compromises such as maintaining neighborhood bike lanes on 38<sup>th</sup> Ave. and removing the back-in parking now (not later) to help build a consensus in the community for broader support of the changes to 38<sup>th</sup> Ave. At a recent study session, an alternative design including bike lanes with 5 foot amenity zones was presented to City Council. This unimaginative plan was stark and barren with no street trees even though street trees are vigorously growing in a 5 foot tree lawn east of Harlan St. A few simple design adjustments could have been made to allow for neighborhood bike lanes and street trees in the amenity zones. Unfortunately, the current proposed plan eliminates neighborhood bike lanes for more sidewalks, tables and chairs next to 38<sup>th</sup> Ave. even though the neighborhood bike lanes have been used as a selling point (multi-modal) for the road diet.

It is the opinion of many residents and business owners in Wheat Ridge that spending \$5.5-\$7 million on 38<sup>th</sup> Ave. from Newland St. to Upham St. (7 blocks) does not make fiscal sense since the buried drainage and utility lines will need to be moved again. A permanent and expensive narrowing of 38<sup>th</sup> Ave. via curb, gutter and sidewalk (flowline) does not demonstrate vision or sound planning on 38<sup>th</sup> Ave. For example, bike lanes, multi-modal and other future amenities will not be feasible once 38<sup>th</sup> Ave. is narrowed.

I strongly recommend that spending another \$41,000 on the two-lane road diet design be postponed until the charter amendment for street width can be fully vetted by City Council. The proposed design for 38<sup>th</sup> Ave. is too limiting for the future. Residents, business owners and City Council should look at

multiple designs for 38<sup>th</sup> Ave. together with the broader Wheat Ridge community. We need to find a solution where everyone gives and takes. The City needs to put the best plan forward for a win-win.

#### **Sec. 5.20. Street width designation.**

The city council shall have the sole authority and responsibility to determine the width of all city streets within the boundaries of the City of Wheat Ridge. Such authority and responsibility cannot be delegated to any other body or individual(s), the only exception being the election procedure specifically set forth in this Charter section. Street width shall be determined by the flowline of the street. Flowline is defined as the measurement from the inside edge of one (1) curb to the inside edge of the opposite curb. Where no curb is planned to be constructed, flowline shall be defined as the measurement from the outside edge of one (1) side of the driving surface of the street, to the outside edge of the opposite side of the driving surface of the street.

Within one (1) year prior to construction or reconstruction of a street, the city council shall hold a public hearing to determine the flowline of such street. Following the public hearing, the council shall adopt such flowline as the street's official street width designation.

In the event of a protest against such proposed street width designation signed by the owners of:

- (1) Twenty (20) percent of the property immediately adjacent or contiguous to either side of such street; or
- (2) Ten (10) percent of the property lying within three hundred (300) feet of either side of such street,

such proposed street width designation shall not become effective except by the favorable vote of three-fourths ( $\frac{3}{4}$ ) of the entire city council. Property does not need to be entirely contained within the three hundred (300) foot area to be used in the computation of the ten (10) percent necessary to file a protest. Only the portion of the property that actually lies within the three hundred (300) foot area is used to compute the ten (10) percent required to file a protest. Where the City of Wheat Ridge owns property or has right-of-way within three hundred (300) feet of either side of the street, then such city-owned land or right-of-way shall be excluded from the computation of the required percentage of properties needed to file a protest to the proposed street width designation. Owners of noncity land shall be considered immediately adjacent or contiguous to the street, or within three hundred (300) feet of either side of such street, despite such intervening city-owned land or right-of-way.

The written protest to such proposed street width designation shall be submitted to the city council no later than the conclusion of the public hearing on the proposed street width designation. At least fifteen (15) days' notice of the time and place of the hearing shall be published in the newspaper used by the city to publish legal notices, and notice of such public hearing shall be mailed by certified letter to all property owners within three hundred (300) feet of both sides of such street.

**Said notice shall contain:**

**(1)**

**A description of the proposed street width designation and a statement that the specific plans for the proposed street width designation are available for inspection at the Wheat Ridge Municipal Building; and**

**(2)**

**An explanation of the right of the property owners to protest such proposed street width designation, and how to exercise such right; and**

**(3)**

**The full and complete text of this Charter section.**

**All publication and notification requirements set forth in this Charter section shall be performed by the city clerk.**

**If at any time within forty-five (45) days after a favorable vote by city council of such proposed street width designation, a petition signed by at least five (5) percent of the registered electors of the city council district(s) immediately adjacent or contiguous to such street be presented to the council against the going into effect of such proposed street width designation; the same shall thereupon be immediately suspended and the council shall publish notice of and call an election upon the proposed street width designation. Said election shall be held not less than thirty (30) days nor more than one hundred eighty (180) days after publication of the notice thereof.**

**Only registered electors in the city council district(s) immediately adjacent or contiguous to such street shall be eligible to vote on the proposed street width designation. If a majority of the registered electors in the city council district(s) immediately adjacent or contiguous to such street voting thereon vote for such proposed street width designation, the proposed street width designation shall be deemed approved. For purposes of ballot tabulation, the total votes of all electors who cast ballots from one or more city council district(s) shall be counted together.**

**If any provision of this Charter section or the application in any particular case, is held invalid, the remainder of this Charter section and its application in all other cases shall remain unimpaired. Anything in the Charter or ordinances of the City of Wheat Ridge in conflict or inconsistent with the provisions of this Charter section is hereby declared to be inapplicable to the matters and things covered and provided for by this Charter section. This Charter section shall take effect immediately upon passage.**

*(Amend. of 11-7-95)*