



**TOWN BOARD  
REGULAR MEETING**

**June 11, 2018 // 7:00 p.m. // Town Board Chambers  
301 Walnut Street, Windsor, CO 80550**

**MINUTES**

**A. CALL TO ORDER**

Mayor Melendez called the meeting to order at 7:05 p.m.

1. Roll Call

Mayor  
Mayor Pro Tem

Kristie Melendez  
Ken Bennett  
Myles Baker  
Barry Wilson  
Paul Rennemeyer  
Thomas Jones  
David Sislowski

Also Present:

Town Manager  
Town Attorney  
Communications/Assistant to Town Manager  
Engineering Director  
Economic Development Director  
Planning Director  
Senior Planner  
Assistant Town Attorney  
Chief of Police  
Deputy Town Clerk

Shane Hale  
Ian McCargar  
Kelly Houghteling  
Dennis Wagner  
Stacy Johnson  
Scott Ballstadt  
Millissa Berry  
Kim Emil  
Rick Klimek  
Amanda Mehlenbacher

2. Pledge of Allegiance

Town Board Member Wilson led the pledge of allegiance

3. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board

**Town Board Member Baker moved to approve the agenda as presented; Town Board Member Rennemeyer seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

4. Board Liaison Reports

- Mayor Pro Tem Baker – Tree Board  
Town Board Member Baker had no report.
- Town Board Member Wilson – Parks, Recreation & Culture Advisory Board; Poudre River Trail Corridor Board  
Town Board Member Wilson reported the Parks, Recreation and Culture Board has been selected as the 2018 gold medal finalist for the National Recreation

and Parks Association. Mr. Wilson encouraged residents to view the video that was submitted which can be seen on the Town of Windsor website. The Parks and Recreation Department has also been exceeding their revenue goals so far this year and has also been averaging 1192 visits per day. Mr. Wilson reported that the Poudre River Trail Corridor Board held their trailathon on June 2, 2018 which was a great success. Mr. Wilson also highlighted that mile marker 8 near the Kodak trail will undergo maintenance the week of June 18<sup>th</sup> in order to repair the washed out portion of the trail.

- Town Board Member Bennett – Planning Commission; Water & Sewer Board  
Town Board Member Bennett had no report.
- Town Board Member Rennemeyer – Chamber of Commerce  
Town Board Member Rennemeyer reported that he attended the North Front Range MPO meeting and was unable to attend the All Town BBQ in which the Chamber of Commerce Sponsored.
- Town Board Member Jones – Windsor Housing Authority; Great Western Trail Authority  
Town Board Member Jones reported that the Windsor Housing Authority met on May 15<sup>th</sup> and that he also attended a neighborhood meeting near Windshire Park regarding the newly purposed Sr. Citizen Development. The architect who was in attendance alleviated the neighbors' concerns regarding the proximity of the development in regards to their property line as well as the height of the buildings. The Windsor Housing Authority has submitted a bid for the Governors Farm property, however, there is currently a competing bid. Mr. Jones reported that the Great Western Trail Authority is still seeking applications for a Part Time Trail Manager to which the deadline for submission will be June 15<sup>th</sup>.
- Town Board Member Sislowski - Historic Preservation Commission; Clearview Library Board  
Town Board Member Sislowski was unable to attend the Clearview Library Board meeting, however discussion regarding the potential Library expansion and funding was listed on the agenda. Mr. Sislowski reported that there were two site plan presentations and two public hearing matters during the Planning Commission meeting which were then recommended to the Town Board for approval.
- Mayor Melendez – Downtown Development Authority; North Front Range/MPO  
Mayor Melendez reported that the Downtown Development Authority will be meeting June 13, 2018. Ms. Melendez further reported that the Town of Windsor hosted the North Front Range MPO meeting at the Public Works facility where discussion revolved around I-25 transportation, grant funding and ballot initiatives.

5. Public Invited to be Heard

Mayor Melendez opened the meeting up for public comment.

Mike Mitchell, 6771 Steven Street, Windsor, CO., addressed the Board regarding the Avery Substation. Mr. Mitchell presented to the Board a Resolution from the Town of Timnath indicating they requested the transmission lines be placed further east and away from developed property and existing homes into Weld County. Mr. Mitchell expressed his concern stating that there are residents in Weld County that do not wish to have the transmission lines near their property. Mr. Mitchell requested that the Town of Windsor

reach out to Xcel Energy as the Town of Timnath did in order to further address the site location of the Avery Substation.

Joann Perko, 235 Maple Court, Windsor, CO., addressed the Board and presented the new Town Manager, Shane Hale with a book called "Our Towns", by James and Deborah Fallows, as a welcome from the Clearview Library District Board of Trustees.

**B. CONSENT CALENDAR**

1. Minutes of the May 14, 2018 Regular Meeting – Amanda Mehlenbacher
2. Resolution No. 2018 – 54 A Resolution Appointing Ken Bennett To Serve As The Mayor Pro Tem Of The Town Of Windsor, Colorado, And Modifying The Mayoral Proclamation Dated May 14, 2018, Regarding Board And Commission Assignments Accordingly – Ian McCargar
3. Resolution No. 2018–55 - A Resolution Approving and Accepting a Water-Line Easement and Right-of-Way concerning the East Windsor Self Storage Group, LLC within Lot 1, Falcon Point Subdivision, Second Filing – Kim Emil
4. Resolution No. 2018-47 – A Resolution Making Certain Findings of Fact Concerning the Great Western 7th Annexation to the Town of Windsor, Colorado; Determining Substantial Compliance with Section 31-12-101, ET SEQ., C.R.S., "The Municipal Annexation Act of 1965"; and Establishing Dates for Public Hearings Before the Planning Commission and the Town Board of the Town of Windsor, Colorado, with Regard to the Great Western 7th Annexation –GWIP, LLC, Broe Land Acquisitions 10, LLC Broe Land Acquisitions 11, LLC and Windsor Renewal 1, LLC, owners; Erik Halverson, Great Western Development, applicant; Cory Rutz, Otten Johnson Robinson Neff + Ragonetti, applicant's representative – Millissa Berry
5. Advisory Board Appointments – Scott Ballstadt
6. Resolution No. 2018-56 - A Resolution Approving an Intergovernmental Agreement Between the Town of Windsor and the Brands East Metropolitan District No. 1 for the Construction, Operation and Maintenance of a Storm water Drainage Pipeline – Ian McCargar
7. Resolution No. 2018-57 - A Resolution Approving An Intergovernmental Agreement Between The Town Of Windsor and the Brands East Metropolitan District No. 1 for the Construction, Operation and Maintenance of a Storm water Drainage Pond and Related Improvements – Ian McCargar
8. Report of Bills May 2018 – D. Moyer

Town Board Member Baker inquired if the payment to the Weeklands was the reimbursement for their incentives shown on the Report of Bills.

Per Mr. Moyer; Yes.

Town Board Member Rennemeyer inquired about the interest payment on the loan to Chase Bank.

Mr. Moyer responded that the payment was for the Community Recreation Center Expansion Fund.

Town Board Member Jones inquired if the Storm Drainage Pond and Storm water Drainage Pipeline IGA agreements with the Brands East Metropolitan District are part of the overall development agreement.

Mr. McCargar stated that the Metro District in each case is set up to finance both improvements and that the Metro District could have been a party to the development agreement for the 4<sup>th</sup> filing of Eagle Crossing. Instead they were separated due to the fact that the two agreements are very basic and can stand alone.

**Town Board Member Baker moved to approve the consent calendar**

**as presented; Town Board Member Bennett seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

C. BOARD ACTION

1. Ordinance No. 2018-1560 – An Ordinance Annexing Certain Real Property Pursuant to the Powers Granted to Municipalities Under Colorado Revised Statutes Section 31-12-106 with Respect to the Annexation of Enclaves and Municipally-Owned Land, and Designating Such Property as the “Schaefer Annexation to the Town of Windsor.”
  - Second reading
  - Legislative action
  - Staff presentation: Ian D. McCargar, Town Attorney/Carlin Malone, Chief Planner

The Schaefer Annexation to the Town of Windsor is an enclave consisting of 3.61 acres currently in Weld County with 100% of its boundary (1,986.70 feet) contiguous with the Town’s corporate limits. The property is located on the northeast corner of Eastman Park Drive and 7th Street, south of Whitney Ditch. The annexation includes an undeveloped, 3.6-acre parcel of land owned by Betty Schaefer and a 465-square foot parcel owned by the Town of Windsor for the purpose of 7th Street right-of-way.

The subject annexation meets the statutory requirements for an enclave annexation, as it has been completely surrounded by the Town limits at least three years. In this setting, the Town is authorized to annex the property by ordinance. The statutory enclave annexation process eliminates the public hearing requirements usually applicable to annexations by owner petition. Therefore, no public hearing is required for enclave annexations. The Municipal Annexation Act of 1965 only requires that the Town publish notice in the newspaper for four consecutive weeks. The statutory requirements for notice will have been met by the time this annexation is before the Town Board for its second reading.

Although Town staff has been working with the property owner’s representative on an agreement regarding the terms of the annexation and future development of the property, no agreement has been executed at this time. If the second reading for the annexation is under consideration prior to the agreement being executed, staff will recommend that the annexation be adopted, leaving the approval of the agreements with the owner. The owner’s representative may wish to be heard by the Town Board during this process, even though there is no formal public hearing requirement.

The zoning designation for this parcel is generally consistent with the Land Use Map, existing zoning designations and uses within the neighborhood, and fit the overall character of the surrounding area.

The first reading for annexation was held on May 14, 2018 by the Town Board.

Staff recommends the Town Board adopt on second reading the attached Ordinance Annexing Certain Real Property Pursuant to the Powers Granted to Municipalities Under Colorado Revised Statutes 31-12-106 with Respect to the Annexation of Enclaves and Municipally-Owned Land, and Designating Such Property as the “Schaefer Annexation to the Town of Windsor.”

Staff requests that the following be entered into the record:

- Application, petition, and supplemental materials
- Staff memorandum and supporting documents

- All testimony presented
- Recommendation

Town Board Member Baker inquired as to the difference between an enclave and someone who brings it to the Town of Windsor for annexation.

Mr. McCargar responded that the difference between an enclave and an owner petition annexation is that enclaves do not require all the public hearings.

Town Board Member Jones inquired as to what the proposed zoning would be.

Mr. McCargar responded that the Ordinance has it set up as RMU (Residential Mixed Use).

**Town Board Member Sislowski moved to approve Ordinance No. 2018-1560 as presented; Town Board Member Jones seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

2. Ordinance No. 2018-1561- An Ordinance Amending Sections 4-3-350 And 4-3-490 of the Windsor Municipal Code to Align its Terms with Tax Measures Approved by the Voters with Respect to Expansion of the Windsor Community Recreation Center

- First Reading
- Legislative action
- Staff presentation: Kimberly A. Emil, Assistant Town Attorney

Ms. Emil reported that this is a housekeeping matter to correct the Windsor Municipal Code Sections 4-3-350 and 4-3- 490 to reflect the correct sales tax rates. In the November, 2014 election, the Town's sales tax rate was changed from 3.2% to 3.95% to facilitate the Community Recreation Center expansion. As a direct result, Windsor Municipal Code Chapter 4, Article 2 was amended by Ordinance to create the Community Recreation Center Expansion Fund (4-2-20). Chapter 4, Article 3 was amended to impose sales tax (4-3-110) and use tax (4-3-120) at the new rate of 3.95%. Both of these sections also revert to taxes of 3.4% after the debt service on revenue bonds or refunding bonds issued for the expansion have been paid in full. During a recent review, it was discovered that two sections still reflected the old rate of 3.2% and need to be amended to the correct rate of 3.95% and 3.4% thereafter, to align with the language approved in the election, and eliminate inconsistencies within the Code. This Ordinance amends these sections accordingly.

Staff recommends the approval of the attached Ordinance No. 2018-1561 Amending Sections 4-3-350 and 4-3-490 of the Windsor Municipal Code to Align its Terms with Tax Measures Approved by the Voters with Respect to Expansion of the Windsor Community Recreation Center.

Mayor Melendez asked if there were any additional questions or comments from Town Board Members.

There were none.

**Town Board Member Bennett moved to approve Ordinance No. 2018-1561 as presented; Town Board Member Rennemeyer seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

3. Resolution No. 2018-58 – Approving an Agreement for Economic Inducements and Development Incentives (Colorado Cherry Company)

- Legislative action
- Staff presentation: Stacy Johnson, Director of Economic Development

Economic Development staff began working with Kristi Lehnert, one of the owners of the Colorado Cherry Company in July of 2017. Ms. Lehnert had started a discussion about a potential relocation of their pie manufacturing facility to a different location in Northern Colorado. Their goal was to also hopefully have a retail and café component to their relocation/expansion. During our conversations Ms. Lehnert, they identified a couple of locations in Windsor which might work. One final option in Windsor would be locating inside the welcome center at the RainDance Project. Relocating Colorado Cherry Company's manufacturing division and adding a café/retail space would triple the planned welcome center space.

In compliance with our incentive program, Colorado Cherry Company submitted a letter of request for incentives on April 30, 2018. They would like to relocate their manufacturing operations to Windsor and open a retail and café in early 2019.

Staff requests the approval of the incentive request for fee waivers for the attraction prospect Colorado Cherry Company

Mayor Melendez asked if there were any additional questions or comments from Town Board Members.

There were none.

**Town Board Member Wilson moved to approve Resolution No. 2018-58 as presented. Town Board Member Bennett seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

4. Site Plan Presentation – Highlands Industrial Park Subdivision 1st Filing, Lot 6 Block 1 - Logos Imaging - Shawn and Melanie Munn, owners, BJ DeForge, applicant
  - Staff presentation: Millissa Berry, Senior Planner

Ms. Berry introduced the applicant and presented the PowerPoint presentation included in the packet materials, with the following information: The applicant, Mr. BJ DeForge, representing the property owners Mr. Shawn Munn and Ms. Melanie Munn, is proposing a new development on Lots 6, Block 1 of the Highlands Industrial Park Subdivision 1st Filing. The site of the proposed building is addressed as 7292 Highland Meadows Parkway. The site is zoned Limited Industrial (I-L) and is located adjacent to other I-L-zoned properties except to the northeast where it abuts the Estate Residential E-2 District.

Overall development characteristics include:

- Total combined lot area of 2.38 acres
- 32,752 square foot (sf) building total (~24% lot coverage)
  - two stories - 25,396 sf footprint; 7,356 second floor
  - phased building
    - phase 1- south half at 18,776 sf for Logos Imaging's manufacturing area, office and warehouse space
    - Future addition – 13,976 sf
- Logos Imaging: 15 to 20 employees
- phase 1 (Logos Imaging) use mix – 14,672 office, 5,160 sf fabrication, 12,920 storage
- 55 parking spaces (parked at 1 per 300 sf)

- ~ 34% landscaped area (15% required)
  - Includes trees to buffer / screen building from northeast
- access from Highland Meadows Parkway and Greenridge Road
- loading area on west side of building

Building characteristics include:

- pre-engineered steel building with stucco embossed and masonry panel wall finishes on south and east facades and metal panels on rear and north elevations (until second phase is added to north end); cultured stone wainscot
- earthtone colors – light beige stucco, beige masonry panels, brown trim, dark brown wainscot, dark
- bronze canopies
- covered entry
- pitched metal roof
- building height: 30'
- addition will be have complementary / similar design, materials, and colors as phase 1

The site plan was reviewed by the Planning Commission at its June 6, 2018 regular meeting.

Ms. Berry indicated that there is no recommendation, as this item is for presentation purposes.

Mayor Melendez asked if there were any questions or comments from Town Board Members.

Town Board Member Baker inquired if the wainscot will continue onto the future expansion.

Ms. Berry responded that the plan is to have it match if not compliment the first phase.

Town Board Member Sislowksi inquired if there was a timeframe that has been discussed for the completion of the expansion.

BJ DeForge, 3780 E 15<sup>th</sup> Street, Loveland, CO., responded that they hope to have the expansion complete within a year or two, however, five years may be a more reasonable estimate.

Mayor Melendez inquired as to what type business the industrial facility will hold.

Mr. DeForge responded that the business is a world leading portable x-ray company.

5. Resolution No. 2018-59 – A Resolution Approving an Amended and Restated Agreement for Economic Incentives and Inducements Between and Among the Town of Windsor, the Windsor Downtown Development Authority, and Old Windsor Mill, LLC, With Respect to the Redevelopment of the Windsor Mill and Elevator Property

- Legislative action
- Staff presentation: Ian D. McCargar, Town Attorney

Resolution No. 2018-59 and 2018-60 are Resolutions approving two agreements that together facilitate the investment of public funds into redevelopment of the Windsor Mill and Elevator property following the August, 2017 fire. These agreements are presented as amendments to the original agreements approved in late-2016, under

which a total of \$3.7M would be contributed by the Town and DDA to the Mill redevelopment.

In 2016, the redevelopment plan called for a four-story restoration of a historic structure containing restaurant, brew pub, meeting and office space. The August, 2017, fire resulted in a total loss of nearly all the original Mill structure, along with all of the improvements invested by the developer up to that point. The agreements before you this evening take into account a change in redevelopment scope (from four stories to two stories, without adherence to historic preservation requirements), while preserving the former sums of public dollars to be invested.

Item C.5 is a Resolution approving an amendment to the three-way incentive agreement approved in 2016. As was the case under the 2016 agreement, the amended incentive agreement contains two basic forms of funding: initial cash funding (\$2.34M) and partial reimbursements of future tax revenue (\$1.36M), for a combined total of \$3.7M.

Initial Cash Funding. The primary difference between the 2016 incentive agreement and the amended incentive agreement is the *timing* of \$2.34M in initial cash contributions by the Town and DDA. The \$2.34M consists of \$500,000 from the DDA's cash reserves, and \$1.84M from the Town's reserves. Under the former incentive agreement, the Town and DDA initial funds were to pay the developer's costs in contractor progress payments during construction up to the maximum of \$2.34M. Despite this "pay-as-you-go" arrangement, the contractor did not request progress payments before the 2017 fire, so no public funds were invested in the project. The amended incentive agreement calls for the Town and DDA to pay the \$2.34M in a lump sum upon issuance of a Certificate of Occupancy for the Mill Building. This greatly simplifies the agreement, and assures a completed building before any public funds are invested. The Certificate of Occupancy must be issued before March 1, 2020, as a condition of initial funding by the Town and DDA.

Future Tax Reimbursements. In addition to the \$2.34M in initial funding from the Town and DDA, the amended incentive agreement calls for the Town and DDA to reimburse future tax revenue to the developer up to a maximum of \$1.36M. The Town will reimburse 50% of the sales tax revenue generated on the Mill Property. The DDA will reimburse 50% of the property tax generated by the Mill Property. These reimbursements will both continue until the \$1.36M target is reached. At that point, all incentives to the developer will be exhausted. The total investment of public funds is \$3.7M.

DDA Facade Improvement Agreement. The DDA's investment in the Mill Property is further defined by a Facade Improvement Agreement with the developer. Although the Town is not a party to the Facade Improvement Agreement, it is referred to extensively in the amended incentive agreement and amended IGA summarized below. The Facade Improvement Agreement assures that all dollars flowing into the public capital improvements from the DDA (including those supplied by the Town) are secured by an easement in the property. The Façade Agreement contains additional controls, including a requirement that no funds will flow until the Mill Building is leased at no less than 50% of its space for tenancies of no less than five years.

Staff recommends the Town Board approve Resolution No. 2018-59

Mayor Melendez asked if the applicant had anything they wished to add.

Steve Schroyer, representing Blue Ocean and Old Windsor Mill LLC, stated that they are getting ready to submit the final construction drawings to the Town of Windsor and hoping to start construction September 1, 2018.



Town Board Member Jones inquired if the developer decided to not move forward what would happen to the site.

Mr. McCargar stated that if a Certificate of Occupancy is issued and the property is committed to at least 50% occupancy with leases of five years or more, the Town will contribute funds and therefore would have a completed building on that site. If this doesn't take place, then the Town would not invest any further money into the building nor does the Downtown Development Authority. This agreement assumes that the property will be developed as described in Exhibit C with no provisions.

Town Board Member Bennett inquired when the anticipated opening date would be.  
Mr. Schroyer responded Spring of 2019.

Town Board Member Sislowksi inquired if the incentive package is essentially the same as the one that was in place prior to the fire or if it has been scaled differently due to the change in size to the structure.

Mr. McCargar stated that even though the building size has changed, our economic analysis indicated that the \$3.7 Million was still a reasonable contribution.

Mr. McCargar stated for the record that the numbers that have been built into this agreement have all been analyzed by our independent fiscal analysis.

Town Board Member Jones expressed his concern regarding the payback.

Mr. McCargar stated that it depends on revenue generation and may be a longer time period, however, this is a priority by the Town of Windsor, the DDA as well as the community.

**Town Board Member Rennemeyer moved to approve Resolution No. 2018-59 as presented. Town Board Member Baker seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowksi, Melendez; Nays- None; Motion passed.**

6. Resolution No. 2018-60 – A Resolution Approving and Adopting the Amended and Restated Intergovernmental Agreement Between the Town of Windsor and the Windsor Downtown Development Authority Regarding Funding for Redevelopment of the Windsor Mill and Elevator Property
  - Legislative action
  - Staff presentation: Ian D. McCargar, Town Attorney

Item C-6 is a Resolution approving an amended IGA with the DDA to facilitate the payments required under the amended incentive agreement.

DDA as Conduit for Initial Funding. As we did in 2016, the DDA and Town are agreeing to have the DDA serve as the conduit through which public funds will flow under the amended incentive agreement, subject further to the requirements of the Facade Improvement Agreement as described above.

DDA-Town Future Tax Reimbursement Proportions. The amended IGA reaffirms the proportions to be contributed to the \$1.36M tax reimbursement payments under the amended incentive agreement. It is likely that, at the point where the \$1.36M target is reached, either the DDA or Town reimbursements will have outpaced the other. This is due to the differing rates at which property tax and sales tax revenue will flow from the Mill Property. The DDA and Town have agreed that, in the final analysis, the DDA's property tax reimbursements will not exceed \$753,896.00, and the Town's sales tax

reimbursements will not exceed \$606,278.00. Rather than cutting off one or the other sources of payment to the developer when one or the other of these caps are reached, the amended IGA allows for future arrangements between the DDA and the Town that will “square up” these proportions through any combination of payments, offsets, in-kind contributions, etc.

Post-incentive Tax Retention. The amended IGA states that, once the \$1.36M target is reached (and all payments to the developer therefore cease), the DDA will retain 100% of the property tax revenue from the Mill Property, and the Town will retain 100% of the sales tax revenue generated on the Mill Property.

Staff recommends the Town Board approve Resolution No. 2018-60.

Mayor Melendez asked if the applicant had anything they wished to add.

Matt Ashby, Downtown Development Authority Executive Director, stated that the DDA will be reviewing all documents and states that they are comfortable with the arrangement in terms of continuing the partnership that they have experienced with the Town of Windsor in order to see amazing projects like the Windsor Mill move forward.

**Town Board Member Rennemeyer moved to approve Resolution No. 2018-60 as presented. Town Board Member Baker seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

7. Public Hearing – Final Major Subdivision – Jacoby Farm Subdivision 7<sup>th</sup> Filing – Russell Baker, owner/applicant, Cathy Mathis, applicant’s representative
  - Quasi-judicial Action
  - Staff presentation: Millissa Berry, Senior Planner

**Town Board Member Rennemeyer moved to open the public hearing; Town Board Member Jones seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays-None; Motion passed.**

Mr. Sislowski stated, “Madam Mayor, for the record I would like to disclose that in my capacity as Town Board Liaison to the Planning Commission, I was present at the Planning Commission meeting during which this matter was previously presented. I wish to state that my participation during the Planning Commission proceedings has no way influenced me in my capacity as a Town Board member this evening. I will make my decision and cast my vote this evening based solely on the evidence that is presented during this public hearing.”

Ms. Berry introduced the applicant and presented the PowerPoint presentation included in the packet materials, with the following information: The owner/applicant, Mr. Russell Baker, Townhomes at Jacoby Farms, LLC, represented by Ms. Cathy Mathis of TBGroup, has submitted a final major subdivision plat, known as Jacoby Farm Subdivision 7<sup>th</sup> Filing. The subdivision encompasses approximately 5 acres over two properties (Tract A = ~2.7 acres and Tract B = ~2.3 acres). The properties are zoned Residential Mixed Use (RMU). The purpose of the subdivision is to allow for individual ownership of the townhome units proposed on the site.

The subdivision proposal is summarized as follows:

- 61 townhome lots (61 townhome units) = approximately 2.3 acres (~45% of site)
- Tracts A and B: platted common space = approximately 2.7 acres (~55% of site)

- Landscaped areas
- Open yard areas
- Parking and access drives
- Utility / access / drainage easements
- Common space will be owned and maintained by a Homeowners' Association.
- School dedications have been met; dedications were made with the processing of the Jacoby Farm Subdivision 2nd Filing.
- Credit for park dedication from Jacoby Farm Subdivision 2nd Filing will be applied.

During the preliminary major subdivision review, the applicant held a neighborhood meeting on January 30, 2018. There were approximately 18 neighbors in attendance. The notification period for the January neighborhood meeting did not meet code requirements, therefore, a second neighborhood meeting was held on March 26, 2018 in accordance with Chapter 16, Article XXXI of the Municipal Code. Seven neighbors were in attendance, including 5 that attended the January 30th meeting.

At its June 6, 2018 regular meeting, the Planning Commission forwarded a recommendation to the Town Board to approve the final major subdivision as presented subject to the following conditions:

1. All outstanding staff comments on the subdivision plat shall be addressed prior to recording of the subdivision plat.
2. The applicant shall enter into a development agreement with the Town prior to recording of the subdivision plat.

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony received during the public hearing
- Recommendation

Mayor Melendez asked if there were any questions or comments from Town Board Members.

Town Board Member Bennett inquired if there is an HOA and if they would be involved in the Metropolitan District as well as what the parking ratio is for this subdivision. Mr. Bennett also inquired about access directly to 17<sup>th</sup> street.

Ms. Berry indicated that there would be an HOA and yes they would be a part of the Metro District. Ms. Berry also stated that the parking ratio is listed as 2.7 spaces per unit and that due to the spacing of intersections and the high volume of traffic off 17<sup>th</sup> Street, it would be safer to have residents take Grand Ave or Stoll Drive.

Mayor Melendez asked if anyone from the audience wished to speak on this matter. There were none.

Mayor Melendez asked if the applicant had anything further they wished to add. The applicant had nothing to add.

**Town Board Member Bennett moved to close the public hearing; Town Board Member Baker seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays-None; Motion passed.**

8. Resolution No. 2018-61 – A Resolution Approving the Final Major Subdivision – Jacoby Farm Subdivision 7<sup>th</sup> Filing – Russell Baker, owner/applicant, Cathy Mathis, applicant's representative

- Quasi-judicial Action
- Staff presentation: Millissa Berry, Senior Planner

Mayor Melendez asked if Ms. Berry had anything further she wished to add.  
Per Ms. Berry, No Madam Mayor

Mr. Bennett stated that he was concerned regarding the traffic flow and wished to see more options.

**Town Board Member Sislowski moved to approve Resolution No. 2018-61 as presented. Town Board Member Rennemeyer seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

9. Resolution No. 2018-62 – A Resolution Approving the Final Site Plan for Jacoby Farm Subdivision 7<sup>th</sup> Filing – Russell Baker, owner/applicant, Cathy Mathis, applicant's representative

- Quasi-judicial Action
- Staff presentation: Millissa Berry, Senior Planner

Ms. Berry introduced the applicant and presented the PowerPoint presentation included in the packet materials, with the following information: The owner/applicant, Mr. Russell Baker, Jacoby Farm Townhomes LLC, represented by Ms. Cathy Mathis of TBGroup, has submitted a final site plan, known as Jacoby Farm Subdivision 7<sup>th</sup> Filing - Jacoby Farm Townhomes. The project occurs on two separate but adjacent tracts. The sites are located northeast and southeast of the intersection of 17<sup>th</sup> Street and Grand Avenue at the west end of the Jacoby Farm Subdivision.

The site plan consists of 61 townhomes on the two parcels, 31 townhomes on the northern site (identified as Tract A on the site plan) and 30 townhomes on the southern site (identified as Tract B on the site plan). The northern site encompasses approximately 2.7 acres and the southern site encompasses approximately 2.3 acres; both are zoned Residential Mixed Use (RMU). The overall density for each site is 11.9 du/acre. A mix of five-, six-, and seven-unit buildings are proposed. The Jacoby Farm 2<sup>nd</sup> Filing established the multifamily use of the tracts as well as an allowed density of 15 units per acre (~ 76 units total).

Other overall development characteristics include:

- Northern site / Tract A - number of buildings = 5; number of units = 31; overall density = 11.6 du/acre
- Southern site/ Tract B - number of buildings = 5; number of units = 30 ; overall density = 12.9 du/acre
- 30' building heights
- pitched roof and articulated facades
- multiple façade colors
- asphalt shingles, painted lap siding, synthetic stone wainscot, covered entries
- 2-car garage per unit
- 164 parking spaces - 2 garage stalls per unit plus 44 (22 per site) surface stalls – parking ratio of 2.7
- spaces per unit

- access off of Grand Avenue and Stoll Drive , both public streets
- approximately 34% landscaped area
- common areas
- individual trash pick-up; cluster mailbox units

At its June 6, 2018 regular meeting, the Planning Commission forwarded to the Town Board a recommendation of approve the final site plan, subject to the following conditions:

1. All remaining Planning Commission and staff comments shall be addressed.
2. The applicant will enter into a development agreement with the Town.

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- Recommendation

**Town Board Member Rennemeyer moved to approve Resolution No. 2018-62 as presented. Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

10. Public Hearing – Final Major Subdivision – Chimney Park Subdivision 4<sup>th</sup> Filing – Al Haar and Mike Zapf, owners/applicants; Patricia Kroetch, North Star Design, Inc., applicant’s representative

- Quasi-judicial Action
- Staff presentation: Carlin Malone, Chief Planner  
Presented by Scott Ballstadt in place of Ms. Malone

**Town Board Member Rennemeyer moved to open the public hearing; Town Board Member Jones seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays-None; Motion passed.**

Mr. Sislowski stated, “Madam Mayor, for the record I would like to disclose that in my capacity as Town Board Liaison to the Planning Commission, I was present at the Planning Commission meeting during which this matter was previously presented. I wish to state that my participation during the Planning Commission proceedings has no way influenced me in my capacity as a Town Board member this evening. I will make my decision and cast my vote this evening based solely on the evidence that is presented during this public hearing.”

Mr. Ballstadt introduced the applicant and presented the PowerPoint presentation included in the packet materials, with the following information: The applicants, Mr. Al Haar and Mr. Mike Zapf, represented by Ms. Patricia Kroetch of North Star Engineering, have submitted a final subdivision for what is known as Chimney Park Subdivision 4th Filing.

The preliminary subdivision for the subject proposal was approved by the Planning Commission on March 7, 2018. A site plan land use application, Chimney Park Townhomes Site Plan (Item C.12), is being reviewed concurrently with the subject final subdivision application.

The site is located east of Chimney Park and a Town regional detention pond, zoned O (Recreation and Open Space); west of an existing service shop use (Windsor Auto Repair) zoned I-L (Limited Industrial) and State Highway 257; north of Chestnut Street and existing single-family residential, zoned RMU (Residential Mixed Use); and south of a Great Western Railroad spur and a lumber yard (Universal Forest Products), zoned I-H (Heavy Industrial).

The 5.6-acre site is undeveloped and zoned MF-2 (High-Density Multifamily Residential District). The subject final subdivision proposes 51 residential lots and four tracts.

- Proposed final subdivision characteristics include:
- 51 townhome lots
- Four tracts: three for additional garage buildings and one for open space/landscaping common areas.
- 58% of the property consists of common area
- Two access points on Chestnut Street with an internal looped road (private street)
- Adjacent to Chimney Park and in close proximity to schools, downtown, and services

A neighborhood meeting was held by the applicant on January 25, 2018, 6:00 p.m., at the Pelican Lakes Golf Course Banquet Room, 1625 Pelican Lakes Pointe. Notifications for this meeting were as follows:

- January 3, 2018 – affidavit of mailing to property owners within 300 feet
- January 5, 2018 – display ad published in the papers

There was one neighbor/property owner in attendance who stated he was strongly in favor of the proposal, noting there was a need for the type of development in the area, development of the property would improve the neighborhood, and the design proposed was well thought out.

Notifications for this public hearing were as follows:

- May 1, 2018 – affidavit of mailing to property owners within 300 feet
- May 1, 2018 – posted to Town website
- May 2, 2018 – sign posted on property
- May 4, 2018 – published in the papers

At its May 16, 2018 regular meeting, the Planning Commission forwarded to the Town Board a recommendation of approval of the final subdivision, subject to all remaining Planning Commission and staff comments shall be addressed.

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- All testimony received during the public hearing
- Recommendation

Mayor Melendez asked if there were any questions or comments from Town Board Members.

Town Board Member Jones inquired about the four parking spaces per unit.

Mr. Ballstadt responded that there are two parking stalls per unit inside the garage in addition to the surface parking.

Town Board Member Sislowski inquired about the additional land located to the NW of the property.

Mr. Ballstadt responded that it's an extension of the Multi-Family MF-2 zoning which was deeded to the Town as a regional storm water detention facility.

Mayor Melendez asked if anyone from the audience wished to speak on this matter.

There were none.

**Town Board Member Rennemeyer moved to close the public hearing; Town Board Member Bennett seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

11. Resolution No. 2018-63 – A Resolution Approving the Final Major Subdivision for Chimney Park Subdivision 4<sup>th</sup> Filing – Al Haar and Mike Zapf, owners/applicants; Patricia Kroetch, North Star Design

- Quasi-judicial Action
- Staff presentation: Carlin Malone, Chief Planner  
Presented by Scott Ballstadt in place of Ms. Malone

Mayor Melendez asked if Mr. Ballstadt had anything further to add.

Per Mr. Ballstadt, No Madam Mayor

**Town Board Member Rennemeyer moved to approve Resolution No. 2018-63 as presented. Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

12. Resolution No. 2018-64 – A Resolution Approving the Final Site Plan for Chimney Park Subdivision 4<sup>th</sup> Filing, Lot 1 – Al Haar and Mike Zapf, owners/applicants; Patricia Kroetch, North Star Design

- Quasi-judicial Action
- Staff presentation: Carlin Malone, Chief Planner  
Presented by Scott Ballstadt in place of Ms. Malone

Mr. Ballstadt introduced the applicant and presented the PowerPoint presentation included in the packet materials, with the following information: The applicants, Mr. Al Haar and Mr. Mike Zapf, represented by Ms. Patricia Kroetch of North Star Engineering, have submitted a final site plan for Chimney Park Townhomes. The Planning Commission approved the preliminary site plan and preliminary major subdivision for the subject proposal on March 7, 2018. A final major subdivision land use application, Chimney Park Subdivision 4th Filing, is being reviewed concurrently with the subject final site plan application.

The site is located east of Chimney Park and a Town regional detention pond, zoned O (Recreation and Open Space); west of an existing service shop use (Windsor Auto Repair) zoned I-L (Limited Industrial) and State Highway 257; north of Chestnut Street and existing single-family residential, zoned RMU (Residential Mixed Use); and south of a Great Western Railroad spur and a lumber yard (Universal Forest Products), zoned I-H (Heavy Industrial).

The 5.6-acre property is currently undeveloped and zoned MF-2 (High Density Multifamily Residential District). In the past, there was a metal storage shed on the property, which was destroyed in the 2008 tornado. The property was once a sugar beet dump for the

Great Western Sugar Factory, located north of the subject site, and a large structure of concrete from this use remains in the ground. The subject site plan proposes 51 townhome units, with an overall density of 9.1 du/acre.

Proposed development characteristics include:

- 51 townhome units within eleven buildings: seven 4-unit buildings, one 5-unit building, three 6-unit buildings
- three and four-bedroom townhome units ranging in size from 1,759 s.f to 2,140 s.f. finished area; with unfinished basements
- building heights of 19'6" (55 feet maximum height in MF-2 zone district)
- façade colors would be compatible with the surrounding neighborhood
- asphalt shingles, painted lap siding (horizontal and vertical), synthetic stone wainscot, front covered porch entry and rear covered patio.
- 265 parking spaces (109 required) – parking ratio of 5.2 spaces per dwelling unit:
  - 140 garage spaces, 23 surface spaces (not including driveway spaces)
  - 4 parking spaces for each townhome unit: 2-car garage per unit plus two spaces behind each townhome garage = 204 spaces (two spaces required per unit = 102)
  - 23 guest parking spaces (one guest parking space per eight dwellings required = 7 spaces)
  - An additional 38 single-bay garages available, buffering the townhomes from the railroad spur along the northern property boundary.
- approximately 27% landscaped area
- 58% common area
- Two access points on Chestnut Street with an internal looped road (private street)
- Adjacent to Chimney Park and in close proximity to schools, downtown, and services

At its regular meeting of May 16, 2018, the Planning Commission forwarded to the Town Board a recommendation of approval for the final site plan, subject to the following conditions:

1. All remaining Planning Commission and staff comments shall be addressed on the final site plan.
2. The final major subdivision plat for the subject property is approved.

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- Recommendation

Town Board Member Jones inquired as to the construction being completed by the town and what that involves.

Mr. Wagner responded that they built a regional detention facility in 2008 which now has to be expanded due to the development of this property.

Town Board Member Sislowski and Mayor Melendez inquired about a barrier between the development and detention facility and what the liability may be if any if someone fell into the ditch and if signage would be needed.

Mr. Ballstadt stated that there may be some existing fencing along a portion of the eastern side of Chimney Park.

Mr. McCargar stated that the Town's exposure would be very low since we are not inviting people to cross the detention area. Warning signs would be an option, however, we are not compelled to have them.



**Town Board Member Rennemeyer moved to approve Resolution No. 2018-64 as presented. Town Board Member Bennett seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

13. Public Hearing – Conditional Use Grant to allow Oil and Gas Facilities – Water Valley West Subdivision, Lot 5 (Merlin Pad) – Chris Freeman, Extraction Oil and Gas, applicant/Martin Lind, Raindance Aquatics LLC, property owner

- Quasi-judicial Action
- Staff presentation: Carlin Malone, Chief Planner  
Presented by Scott Ballstadt in place of Ms. Malone

**Town Board Member Rennemeyer moved to open the public hearing; Town Board Member Jones seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays-None; Motion passed.**

Mr. Sislowski stated, “Madam Mayor, for the record I would like to disclose that in my capacity as Town Board Liaison to the Planning Commission, I was present at the Planning Commission meeting during which this matter was previously presented. I wish to state that my participation during the Planning Commission proceedings has no way influenced me in my capacity as a Town Board member this evening. I will make my decision and cast my vote this evening based solely on the evidence that is presented during this public hearing.”

Mr. Ballstadt introduced the applicant and presented the PowerPoint presentation included in the packet materials, with the following information: The applicant, Extraction Oil and Gas, is requesting a Conditional Use Grant (CUG) to allow oil and gas facilities in the Residential Mixed Use (RMU) zoning district for what is known as the Merlin Pad, located in the northeast portion of Water Valley West Subdivision Lot 5. Oil and gas facilities are allowed as a conditional use in all zoning districts, per Section 16-7-60 of the Town’s Municipal Code, Oil and Gas Facilities.

The subject lot is located approximately ½ mile west of 7th Street and ½ mile north of New Liberty Road. Lot 5 of Water Valley West Subdivision includes 362 acres. The oil and gas site area (pad) includes seven acres and the proposal includes six wells with associated equipment. The property is currently undeveloped golf course with Poudre River Trail and Whiting Reservoir to the north, undeveloped land (future golf course) to the west, a residence to east, and residential (Hilltop Estates Subdivision [Pelican Hills] and Poudre Heights Subdivision) further east and south of the property boundary.

Oil and gas production will utilize pipelines, which will reduce the amount of truck traffic; however, there will be hauling associated with the operation. The hauling route is proposed from the site to the property’s access point on New Liberty Road/WCR 64, west on WCR 64 to WCR 13, south to Crossroads Boulevard/WCR 62, and west to I-25. Truck traffic would primarily occur during daylight hours and the applicant has stated that truck hauling periods will avoid the peak times of school and commuter traffic.

A neighborhood meeting was held by the applicant on May 3, 2018, 6:00-8:00 p.m., at the Windsor-Severance Fire and Rescue Station No. 1 conference room, 100 7th Street. Notifications for this meeting were as follows:

- April 17, 2018 – affidavit of mailing to property owners within 300 feet
- April 20, 2018 – display ad published in the newspapers

There were two neighbors in attendance who had general questions about the proposal

Notifications for this public hearing were as follows:

- May 24, 2018 – affidavit of mailing to property owners within 500 feet, Hilltop and Poudre Heights homeowner associations
- May 24, 2018 – sign posted on property
- May 25, 2018 – published in the newspapers
- June 1, 2018 – posted to Town website

Section 16-7-60(c) of the Municipal Code lists the following standards and requirements for conditional use grants, with staff analysis below:

***(c) Based upon specific site characteristics, which include but shall not be limited to: nature and proximity of adjacent development; prevailing weather patterns, including wind direction; vegetative cover on or adjacent to the site; and topography of the site, the Town Board may, as a condition of approval of any conditional use grant, require any or all of the following methods to mitigate adverse impacts on surrounding properties:***

***(1) Visual requirements. To the maximum extent practical, abatement of negative visual impacts of oil and gas facilities shall be addressed through one (1) or more of the following methods:***

***a. Use structures of minimal size to satisfy present and future functional requirements.***

The proposed conditions of approval require that the applicant utilize equipment and tanks that are low profile.

***b. The facilities shall be kept clean and otherwise properly maintained.***

The proposed conditions of approval require that the facilities are kept clean and maintained. Maintenance of the facilities includes, but is not limited to, the tracking pads, associated oil and gas equipment, painting of tanks, landscaping, fencing, and disposal of trash. The applicant shall keep public roadways free from mud and debris.

***c. Construction of buildings or other enclosures may be required where facilities create visual impacts that cannot be mitigated because of proximity, density and/or intensity of adjacent residential land use.***

The sites are located on an undeveloped 362-acre property with no existing structures. The proposed wells would be situated on the north half of the property. The closest occupied building is 290 feet from the drilling pad and the property/building owner has provided a setback waiver to Extraction Oil and Gas. The residential subdivisions of Hilltop and Poudre Heights are located south and east of the proposed drilling site, with the closest home in Hilltop located approximately 1,500 feet and the closest home in Poudre Heights located approximately 2,150 feet from the property boundary of the site. The Poudre Trail is north of the drilling pad. Due to the proximity of the Poudre Trail, staff recommends that sound walls are setback a minimum of 30 feet from the existing temporary trail and permanent trail. The recommended trail setback is included in the CUG conditions of approval. Landscape berms will mitigate visual impacts from the trail and surrounding properties both in the interim and in the long-term.

**(2) Landscape requirements. Groundcover, shrubs and trees shall be established and maintained in order to adequately buffer the facility.**

Due to the proximity of the site to the trail and nearest residences, landscape berms, with evergreen trees, would provide the most efficient buffering of the facility. The drilling will occur in one phase (2018), planned for drilling six wells, and screen/sound walls be provided. Landscaping must be completed in a timely manner after the initial drilling phase. As such, staff has included a condition of approval that the landscaping is installed no later than 60 days after the initial drilling phase is completed. The applicant has noted that the landscaping is proposed to be installed with the completion of the golf course, but that timeframe is currently unknown.

**(3) Floodplain requirements. The oil and gas facilities shall comply with all applicable federal, state and local laws and regulations when located in a regulatory floodway or a special flood hazard area. All equipment at oil and gas facilities located within a special flood hazard area shall be anchored as necessary to prevent flotation, lateral movement or collapse. Any activity or equipment at any oil and gas facility within a special flood hazard area shall comply with the Code of Federal Regulations (C.F.R.) for the National Flood Insurance Program (NFIP), 44 C.F.R. Parts 59, 60, 65 and 70, and shall not endanger the eligibility of residents of the Town to obtain federal flood insurance.**

The pad sites are located outside of the floodplain.

**Standard Conditions:**

The Town's standard conditions of CUG approval for oil and gas facilities are included in staff's recommendation. Not all of the Town's standard conditions represent the most current industry standards, rules and regulations, and/or best management practices. As such, recommended deviations or additions for five (5) of the standard conditions are as follows:

h. Oil and gas equipment.

1. The applicant shall utilize electric motors in order to mitigate the noise impacts to the neighboring properties.

**Addition:** *The applicant shall utilize noise dampening methods consistent with the best management practices (BMPs) utilized in the basin. Such methods include, but are not limited to, sound walls, blankets, and other noise mitigation installed at the source of any equipment creating such noise. Noise mitigation methods known as "Quiet Fleet Technology," utilized by Liberty Oilfield Services, shall be used as examples of BMPs to be replicated.*

**Staff comment:** Noise has historically been one of the largest generator of complaints from Windsor residents, particularly noise generated by the applicant's H-Y pad located approximately  $\frac{3}{4}$  mile to the east of the subject pad. In order to minimize such complaints and issues, the applicant shall utilize noise dampening methods consistent with the best management practices (BMPs) utilized in the basin. An example of such method is known as "Quiet Fleet Technology" used by Liberty Oilfield Services, in which noise from a continuously running truck engine is mitigated through use of an engine cover.

- e. Temporary screening. The applicant shall install a buffer to screen the initial drilling activities and installation of site improvements from surrounding neighborhoods and

streets. ~~The temporary buffer shall include hay bales to enclose the drilling operations to provide noise mitigation.~~

**Deviation:** *The temporary buffer/sound walls shall enclose the drilling operations to provide screening and noise mitigation barriers in the direction of nearby homes, as appropriate.*

**Staff comment:** The use of hay bales is no longer a standard practice for sound or visual mitigation. Utilization of sound walls is the standard practice for temporary buffering during the initial drilling activities. The applicant has noted that the east and north sides of the pad will feature 32' high sound walls during drilling and completions. Additionally, the south and west sides of the pad will be set below grade, under about 25 to 30 feet of cut, and will not be visible or audible from land uses to the south and west.

i. Air quality.

(3) The applicant shall submit to the Town copies of all air emissions reporting ***the Colorado Regulation 7 XII annual report***, as required by the COGCC and/or the CDPHE's Air Pollution Control Division.

j. Water quality.

(1) The applicant shall ensure that any hydrocarbon discharges from the site comply with all state and federal water quality requirements.

**Addition:** *Any hydrocarbon discharges shall be properly reported to COGCC, and remediated according to COGCC requirements in all cases. Reportable hydrocarbon discharges shall also be reported to the Windsor Local Government Designee (LGD).*

**Staff comment:** No hydrocarbon discharges are allowed from any oil and gas site in Colorado. If any discharge occurs, the above condition describes the action that will be taken.

3. **Addition:** *All trucks and equipment that are used by primary contractors of Extraction Oil and Gas Company (e.g. drilling, completions, roustabout services) exclusively on the location during drilling and completion activities will be equipped with white noise backup alarms. As per OSHA regulations, in cases where rear view cameras and/or spotters are used 100% of the time, the truck or equipment will not have a backup alarm.*

**Staff comment:** During the Planning Commission public hearing of June 6, 2018, the applicant requested that the above addition be stricken from the conditions. The applicant stated that the internal road within the site would be circular, a best practice standard, as backing up oversized trucks on the site is a safety issue; however, the company is concerned that this requirement is too restrictive and poses a safety concern. The Planning Commission discussed the request, but maintained the condition of approval. Staff does request that the following sentence is added to this condition to recognize that some vehicles may be equipped with backup alarms. This sentence is consistent with the Raindance Drilling and Production Pad CUG approvals:

**Recommended Addition:** *Some vehicles, other than those noted above, may have backup alarms.*

In addition to the Town's standard conditions, staff has included six (6) site-specific conditions of approval. All conditions are included under staff's recommendation.

At its regular June 6 meeting, the Planning Commission forwarded to the Town Board a recommendation of approval of the Conditional Use Grant with the following conditions:

1. All Planning Commission and staff comments are addressed.
2. The truck hauling route shall remain in accordance with Exhibit A seen in packet material, unless otherwise approved by the Town.
3. Truck hauling periods for oversize loads shall avoid before and after school traffic (7:30 a.m. – 8:15 a.m. and 2:45 p.m. – 3:30 p.m.), and avoid peak times of commuter traffic (7:00 a.m. – 8:30 a.m. and 4:30 p.m. – 6:00 p.m.).
4. All landscape screening shown on plan shall be completed no later than 60 days after the initial drilling phase and perimeter berms are constructed, weather permitting, and shall not be postponed until development of the golf course. Irrigation shall be included to ensure establishment of all plant materials.
5. Sound walls shall be setback a minimum of 30 feet from the Poudre Trail temporary and permanent trails.
6. Water Valley (Aquatic Investments LLC) will eliminate the temporary trail and re-establish the permanent trail by Labor Day September 3, 2018, with the reservation that portions of the trail may be closed in the future during the construction of the golf course. During future trail closures due to construction of the golf course, a temporary trail will be provided to accommodate traffic.
7. The Town's standard conditions of approval for oil and gas facilities, with amendments, as noted:
  1. Prior to the commencement of drilling, the applicant shall submit comprehensive "Drilling and Site Improvement Plans" for review and approval by the Town. Such plans shall address initial drilling activities, initial installation of site improvements and details, and on-going perpetual maintenance of the subject site including, but not limited to, the following:
    - a. Site access plan. The Drilling and Site Improvement Plans and supplemental information shall address site access points and haul routes for review and approval.
    - b. Public street clean-up and tracking prevention. The Drilling and Site Improvement Plans and supplemental information shall include a tracking pad for review and approval.
    - c. Site grading. The Drilling and Site Improvement Plans and supplemental information shall address site grading, including any earth berms for emergency containment.
    - d. Site lighting. The Drilling and Site Improvement Plans and supplemental information shall include details regarding site lighting fixtures and locations. Security and other site lighting shall utilize full cutoff light fixtures to mitigate light pollution.
    - e. Temporary screening. The applicant shall install a buffer to screen the initial drilling activities and installation of site improvements from surrounding neighborhoods and streets. The temporary buffer/sound walls shall enclose the drilling operations to provide screening and noise mitigation barriers in the direction of nearby homes, as appropriate.
    - f. Permanent screening. Given the close proximity to residential neighbors, the Drilling and Site Improvement Plans shall depict proposed long-term

- screening materials including landscaping, earth berms and any other screening methods to mitigate visual impacts.
- g. Fencing. The Drilling and Site Improvement Plans shall depict fencing of the perimeter of the site. Fencing materials shall be reviewed for approval by the Town based upon the character of the surrounding neighborhood.
  - h. Oil and gas equipment.
    - (1) The applicant shall utilize electric motors in order to mitigate the noise impacts to the neighboring properties. The applicant shall utilize noise dampening methods consistent with the best management practices (BMPs) utilized in the basin. Such methods include, but are not limited to, sound walls, blankets, and other noise mitigation installed at the source of any equipment creating such noise. Noise mitigation methods known as "Quite Fleet Technology," utilized by Liberty Oilfield Services, shall be used as examples of BMPs to be replicated.
    - (2) The applicant shall ensure that the wells and tanks are of the minimum size required to satisfy present and future functional requirements to mitigate visual impacts.
    - (3) Low profile tanks shall be utilized and shall be installed in the least visible manner possible.
    - (4) All tanks and equipment shall be painted to blend-in with the surrounding landscape.
  - i. Air quality.
    - (1) The applicant shall participate in any required Environmental Protection Agency (EPA) air quality monitoring and/or testing by allowing EPA to install equipment on site for said monitoring and testing.
    - (2) The applicant shall install and operate an emissions control device (ECD) capable of reducing Volatile Organic Compound (VOC) emissions on the subject oil and gas equipment in accordance with Colorado Oil and Gas Conservation Commission (COGCC) and/or the Colorado Department of Public Health and Environment (CDPHE) rules and regulations.
    - (3) The applicant shall submit to the Town copies of the Colorado Regulation 7 XII annual report, as required by the COGCC and/or the CDPHE's Air Pollution Control Division.
  - j. Water quality.
    - (1) The applicant shall ensure that any hydrocarbon discharges from the site comply with all state and federal water quality requirements. Any hydrocarbon discharges shall be properly reported to COGCC, and remediated according to COGCC requirements in all cases. Reportable hydrocarbon discharges shall also be reported to the Windsor Local Government Designee (LGD).
    - (2) The applicant shall provide test results from Groundwater Baseline Sampling and Monitoring required by COGCC Rule 318A.e(4) to the Town. (condition updated 10/28/13 to reflect updated COGCC rule)
  - k. Emergency containment. The secondary containment berm surrounding all storage vessels shall be designed and constructed to contain a minimum of 110% of the volume of the largest vessel located within the containment area or to State of Colorado standards, whichever requirements are more stringent.
  - l. Waste disposal. The applicant shall submit to the Town copies of all waste management reports, as required by the COGCC and/or the CDPHE rules and regulations.

- m. The following certification blocks shall be included on the Drilling and Site Improvement Plans:
  - (1) A signed owner's acknowledgement certification block.
  - (2) A signed drilling operator's acknowledgement certification block.
- n. The following notes shall be included on the Drilling and Site Improvement Plans:
  - (1) The applicant shall comply with all rules and regulations of the Colorado Oil and Gas Conservation Commission (COGCC).
  - (2) The applicant shall comply with all rules and regulations of the Colorado Department of Public Health and Environment (CDPHE).
  - (3) The applicant shall maintain on-going compliance with all conditions of the Town and Windsor-Severance Fire Rescue.
  - (4) The facilities shall be kept clean and otherwise properly maintained at all times.
  - (5) If access to the site is proposed from a Town of Windsor street, such access point(s) shall require approval from the Town of Windsor Engineering Department and any required access improvements, street clean-up, tracking pads, etc., shall be addressed accordingly.
2. The applicant shall address and comply with the conditions of Windsor-Severance Fire Rescue.
3. All trucks and equipment that are used by primary contractors of Extraction Oil and Gas Company (e.g. drilling, completions, roustabout services) exclusively on the location during drilling and completion activities will be equipped with white noise backup alarms. As per OSHA regulations, in cases where rear view cameras and/or spotters are used 100% of the time, the truck or equipment will not have a backup alarm.

Mr., Ballstadt further clarified that after further discussion with the applicant, staff recommends that the condition regarding white noise backup alarms be stricken, as the condition is more applicable to gravel pits where the equipment stays on site versus oil and gas pads where numerous subcontractors come and go.

Staff requests that the following be entered into the record:

- Application and supplemental materials
- Staff memorandum and supporting documents
- Testimony from public hearing
- Recommendation

Troy Owens, Extraction Oil and Gas, gave a detailed presentation to the Town Board regarding timeframe for drilling, traffic routes and landscaping/sound walls to help with visibility and noise reduction.

Mayor Melendez asked if there were any questions or comments from Town Board Members.

Several Town Board Members inquired about the reclamation plan, containment, air quality reports and various tests to insure safety of this site.

Mr. Owens and Chris Freeman, Project Manager with Extraction Oil and Gas, responded to the Town Board Members questions stating that the well has an average life span of 20 years after which the well will be plugged and abandoned. In regards to the containment, Mr. Freeman stated that the entire pad site is contained by a perimeter ditch to a detention basin which can store up to 1/4 acre of fluid. Air quality reports are conducted on annual basis and the Leak Detection and Repair Program requires monthly reporting which is available to the public on the COGCC website.

Mayor Melendez asked if anyone from the audience wished to speak on this matter.

Karen Speed, 8310 Cherry Blossom Drive, Windsor, CO., expressed her concern with regard to the toxins being released into the air and the most recent explosion at the Milkshake Pad. Ms. Speed requested that the Board take into consideration the public health, safety and welfare of the community and to not be so hasty in approving the Merlin Pad.

Diane West, 1056 Larch Drive, Windsor, CO., expressed her concerns regarding gas orders and the effects it will have on human life and the surrounding parks. Ms. West also indicated she was concerned about the distance of the trail from the well site and requests that the Town Board require more tests take place to reveal the dangerous gases.

Mr. Freeman responded that with respect to the hazardous air pollution, the State and Extraction Oil and Gas take it very seriously. Mr. Freeman mentioned that they are required to control 95% of combustion to which Extraction Oil and Gas controls 99.5%, therefore the amount of hazardous air pollution that comes from these sites are very low and requires testing on an annual basis as well as demonstration of equipment compliance with the regulations.

Town Board Member Sislowksi inquired about the Martinez case.

Mr. McCargar stated that the Martinez case is, for now, enforceable under the Court of Appeals ruling, but it does not go as far as many people think it does. The case challenges the COGCC's belief that it can't favor health and environmental effects over commercial aspects of oil and gas development. The case does not ordain any particular approach at this time; the question is whether the COGCC has jurisdiction to consider these things or not, but there was no particular regulation that was in play other than a proposed regulation that the COGCC chose not to consider. The Martinez case could change the regulatory landscape in the future, but it has not yet in its current status. Ultimately, the State Supreme Court is going to make the call on what the authority of the COGCC is, but even if that happens in favor of the plaintiff, it would still have to go back to the COGCC for adoption of a regulation, so Town Board is not compelled to delay or prolong approval of this conditional use grant.

Town Board Member Wilson inquired what the consequences would be if this conditional use grant is not approved.

Mr. Ballstadt stated that if the Town Board were to deny the conditional use grant, staff would likely then have a conversation with the COGCC to determine what the next step would be.

Town Board Member Wilson inquired about the Town's 350-foot setback requirement.

Mr. Ballstadt responded that the Town does regulate new land use proposals and their proximity to existing oil and gas wells, and new land use proposal is defined by the code as any proposal that has not yet received preliminary plat approval. The occupied structure that was mentioned is not subject to the Town's setback.

Mayor Melendez asked for clarification that the owner of the occupied structure signed a waiver.

Mr. Ballstadt replied correct.

Mr. Hale asked for clarification that the Town does not regulate that way because the State pre-empts the Town and the State already has their own regulation.



Mr. Ballstadt replied that is correct; the Town does not have purview to approve the location of new oil and gas wells.

**Town Board Member Rennemeyer moved to close the public hearing; Town Board Member Bennett seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- None; Motion passed.**

14. Conditional Use Grant to allow Oil and Gas Facilities – Water Valley West Subdivision, Lot 5 (Merlin Pad) – Chris Freeman, Extraction Oil and Gas, applicant/Martin Lind, Raindance Aquatics LLC, property owner

- Quasi-judicial Action
- Staff presentation: Carlin Malone, Chief Planner

Mayor Melendez asked if there were any questions or comments from Town Board Members.

There were none.

Mr. Ballstadt reiterated that staff recommends that the condition regarding white noise backup alarms be stricken.

**Town Board Member Bennett moved to approve the Conditional Use Grant as amended by staff. Town Board Member Sislowski seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays- Wilson; Motion passed 6 to 1.**

15 Site Plan Presentation – Falcon Point Subdivision Lot 5 - Falcon Point Flex – Falcon Point Flex, LLC, owner, Mark Morrison, applicant

- Staff presentation: Paul Hornbeck, Senior Planner  
Presented by Scott Ballstadt, Director of Planning

Mr. Ballstadt introduced the applicant and presented the PowerPoint presentation included in the packet materials, with the following information: The applicant Mr. Mark Morrison is proposing a new site development in the Falcon Point Subdivision at 583 Gyrfalcon Court, south of SH 392/ Main Street. The site is zoned Limited Industrial (IL) and is located adjacent to other properties with IL zoning.

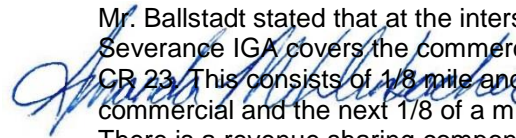
Overall development characteristics include:

- total lot area of 5.88 acres
- an office/ warehouse building of 18,375 square feet
- approximately 15.7% landscaped area
- 27 parking stalls
- 25' maximum building height
- metal building with synthetic stone wainscot

Mr. Ballstadt informed the Town Board that there is no recommendation, as this item is for presentation purposes.

Mayor Melendez asked if there were any additional questions or comments from Town Board Members.

Town Board Member Jones inquired as to what strip of Main Street is included in the Severance IGA.

  
Mr. Ballstadt stated that at the intersection of Main Street and Hwy 257, the Severance IGA covers the commercial and industrial corridor from WCR 19 to CR 23. This consists of 1/8 mile and on either side of Main Street which is commercial and the next 1/8 of a mile beyond is considered limited industrial. There is a revenue sharing component as well as architectural and landscape standards so that if you fall within the 1/4 mile section you would be in compliant with those standards. The intent is to bring consistency in terms of the quality of development in both communities.

Mr. Jones inquired if the revenue is from both property tax and sales tax.

Mr. Ballstadt responded that it would be from only sales tax.

Mr. Hale stated that he would confirm the answer and respond to Mr. Jones within two weeks.

D. COMMUNICATIONS

1. Communications from the Town Attorney

Mr. McCargar stated that he is pleased to have Mr. Hale sitting next to him and that he looks forward to working with him.

2. Communications from Town Staff

Mr. Ballstadt stated that staff would respond to the public request concerning the Xcel Avery Substation as staff has currently been working on the item.

Town Board Member Sislowksi inquired if that item would come before the Town Board as a quasi-judicial proceeding what is done with the information presented during public comment.

Mr. McCargar stated that if an application has not been filed then the information is a no-follow. If an application has been filed then it would be recommended that you not let that information affect how you might view the conditional use grant unless the information is presented to you again.

3. Communications from the Town Manager

Mr. Hale stated that all sales, use and property tax revenues collected by each municipality will be shared.

4. Communications from Town Board Members


Town Board Member Baker wished to thank Mr. Wade Willis in regards to the urgency he displayed in order to fix a leak after hours near a park next to his home.

Mayor Melendez wished to remind everyone of Coffee with the Mayor on June 16, 2018 starting at 7:30 a.m. located at Toast off of 4<sup>th</sup> and Main Street.

E. ADJOURN

**Town Board Member Rennemeyer moved to adjourn; Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Wilson, Bennett, Rennemeyer, Jones, Sislowski, Melendez; Nays-None; Motion passed.**

The meeting was adjourned at 9:27 p.m.

  
Amanda Mehlenbacher, Deputy Town Clerk