



TOWN BOARD REGULAR MEETING

July 8, 2019 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Mayor Pro Tem Bennett called the meeting to order at 7:01 p.m.

1. Roll call

Mayor Kristie Melendez - Absent
Mayor Pro Tem Ken Bennett
Myles Baker - Absent
Barry Wilson
Paul Rennemeyer
Tom Jones
David Sislowksi

Also Present:

Shane Hale, Town Manager
Ian McCargar, Town Attorney
Kim Emil, Assistant Town Attorney/Town Prosecutor
Rick Klimek, Chief of Police
Dennis Wagner, Director of Engineering
Carlin Malone, Chief Planner
Dean Moyer, Director of Finance.
Eric Lucas, Director of Parks, Recreation and Culture
John Thornhill, Water Resource Manager
Krystal Eucker, Town Clerk

2. Pledge of Allegiance

Town Board Member Jones led the pledge of allegiance.

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

Town Board Member Jones moved to to approve the agenda as presented, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Rennemeyer, Sislowksi, Wilson; Motion Passed.

4. Proclamation

Mayor Pro Tem Bennett read the Parks and Recreation Month Proclamation.

- Parks & Recreation Month

Mayor Pro Tem Bennett read the Parks and Recreation Month Proclamation.

5. General Counsel Update

- Greeley-Loveland Irrigation Company change of use case update - Brad Grasmick, Town Water Counsel

Mr. Brad Grasmick informed the Board that in April of 2017, the Town of Windsor entered into a water dedication agreement with the developer of Raindance whereby the Town would accept dedication of 34.25 shares of Greeley-Loveland Irrigation Company, 1 1/2 shares of the 7 Lakes Reservoir Company and 9.75 contract rights of the Greeley-Loveland Reservoir Company. This was a big acquisition or dedication at the time because up until that point, the Town accepted CBT or North Poudre Water which included CBT to fulfill the potable raw water dedication requirement. This was the first native water or water that was historically used in the South Platte River Basin that the Town would accept for dedication. The reason that this was workable is that the Town has an IGA with the City of Greeley to treat raw water that the Town supplies to the City of Greeley. Historically that has been CBT water which Greeley can treat in what is known as their Bellvue Plant but they also have a treatment plant off of Boyd Lake which can take delivery of Greeley-Loveland System Water.

The developer owned water that was historically used in what's known as sector 5. That was important as well because the return flows from sector 5 accrue to the Cache la Poudre River. The Town had water supplies that it could use to ensure that those return flows from the historical irrigation were replaced when those water rights are changed from irrigation to use by the Town in the water system. Other parts of the Greeley-Loveland System have return flows that accrue to either the Big Thompson River or to the South Platte River and the Town doesn't have a way to make those return flows but it does have a way to make return flows for water that was historically used in sector 5 because they were accrued to areas where it could be replaced by Kern water or with Kyger water.

In this agreement, the developer was required to dedicate 271 units of CBT to the Town and it was required that the change of use application be completed prior to the developer offering and the Town accepting the water rights from the Greeley-Loveland System at satisfaction of the raw water dedication requirement. This was done to ensure that we knew exactly how much water the Town was going to receive that would be fully consumed from those shares before any credit was allocated. There was an initial estimate that was given based on the historical dry year periods of record and the amount of water delivered. These estimates were 10 acre feet per share for the Greeley-Loveland shares, 11 acre feet for the 7 Lakes shares and 20 acre feet for the Lake Loveland rights so approximately 550 acre feet of water is involved in the application.

As part of the agreement, the Town prosecutes the application so Mr. Grasmick is doing that work on behalf of the Town. The Town will make the decision on what terms to agree to for settlement but the developer reimburses the Town for all fees that are necessarily incurred in order to make this water usable by the Town including the legal and engineering fees to get the case through water court.

In February of 2018, the application was filed with the water court to change the shares on behalf of the Town. There were 12 parties that filed statements of opposition and the most active parties include the City of Loveland, City of Evans, City of Greeley, the Greeley-Loveland Irrigation Company, United Water and Sanitation District and the Northern Water Conservation District. They are the most active objectors in the case; the issues they have raised are not major. The Greeley-Loveland Water System was changed by the City of Greeley on a system wide basis and so a lot of the terms and conditions and the quantification that were done to change the shares has already been decided by the court in a 1987 case that the City of Greeley prosecuted and we are following the same template that the City followed. The City of Evans recently changed shares and they followed the same template as well. One of the biggest issues involved in the case involves the City of Loveland and it deals with some rights that they own that are diverted within the Greeley-Loveland System.

In order to get issues resolved, it is likely a multi-party meeting takes place to work out

settlements that are agreeable to all parties that have an interest in the Greeley-Loveland System. Mr. Grasmick does not believe the case will end up in trial although there will need to be coordination to resolve issues.

United and Northern Water primarily have issues regarding how the fully consumable return flows are quantified. The water from the Greeley-Loveland System that was historically applied for irrigation was partially consumed by crops on the farm. When the water case goes through court, we will be entitled to fully consume the water that was historically consumed on the farm. The first use of this water as it goes through the Town's municipal system will only be a fraction of that consumption. As water is applied to lawns or is discharged from the wastewater treatment plant, part of that water we will still have the right to consume and that is what needs to be quantified. Questions by United and Northern Water are related to how that will be quantified.

The other issue that has been raised by United and Northern Water as well as Greeley, Evans and the Greeley-Loveland Company has to do with the land that was historically irrigated. Back in 1987, when the City of Greeley changed their shares in this company, they did it on a system wide basis and they did an inventory of all the lands that were historically irrigated under the Greeley-Loveland System. The decree in that case has a specific number of land irrigated in what is known as sector 5 and it was around 1,200 acres. There was an exhibit that was attached to that decree that used GIS technology from 1987 and when that exhibit is recreated, it comes out to about 1,100 acres. There is a discrepancy in the exhibit versus what the decree says. We have had our experts go back and they have basically recreated a map that shows the acres that were actually irrigated and the acres that we come up with are within five acres of the decree number. The text of the decree is correct but we have to convince all the objectors of that because some of this land that is outside of that area shown on that exhibit was still inclusive within what was decreed.

The change application was filed in February of 2018. Earlier today, the case was referred from the water referee's docket to the water judge's docket. That means that we will get a firm set trial date which is anticipated to be sometime within the next 12-18 months. At that point in time, we will either go to trial in this case or the more likely outcome is that the case will be settled prior to trial.

Mr. Sislowski inquired if the shares from the three different agencies are handled in the same case.

Mr. Grasmick stated all of the different shares were co-mingled into the one ditch and delivered to the various share holder. Since they were co-mingled they will be handled in the same case.

Mr. Bennett inquired if 12 objectors is unusual.

Mr. Grasmick stated it is not unusual and its actually a smaller number.

Mr. Bennett inquired if there are any consequences to the Town by waiting the 12-18 months for the trial.

Mr. Grasmick stated there wouldn't be consequences to the Town although the sooner the case is done, the sooner the developer could dedicate the shares to the Town.

Mr. Sislowski inquired as to what is happening at Raindance during the time the case is going through the process.

Mr. Grasmick stated until the water is dedicated, there won't be taps issued based on this water.

Mr. Hale stated CBT units and other things have been donated to the Town for the current development.

Mr. McCargar inquired as to when the Board would like to hear the next update from Mr. Grasmick.

Mr. Bennett stated closer to the trial date unless there is sufficient information that

needs to be shared.

6. Board Liaison Reports

- Town Board Member Baker - Tree Board, Historic Preservation Commission
Town Board Member Baker - absent; no report.
- Town Board Member Wilson - Parks, Recreation and Culture Advisory Board; Poudre River Trail Corridor
Town Board Member Wilson reported neither boards have met since the last update but did state the Village East Park Grand Opening will be this Thursday, July 11th at 5:30.
- Mayor Pro Tem Bennett - Water and Sewer Board
Mayor Pro Tem Bennett reported the Water and Sewer Board meeting is this Wednesday.
- Town Board Member Rennemeyer - Chamber of Commerce
Town Board Member Rennemeyer reported there has not been a meeting since the last report although there was a ribbon cutting for American Legend Homes.
- Town Board Member Jones - Windsor Housing Authority; Great Western Trail Authority
Town Board Member Jones reported the Windsor Housing Authority will be meeting next week.

Dr. Jones reported the Great Western Trail is involved in some property disputes and an attorney has been hired.
- Town Board Member Sislowksi - Clearview Library Board; Planning Commission
Town Board Member Sislowksi reported the Planning Commission did not meet.

Mr. Sislowksi reported Amy Kelly with Teen Library gave a presentation on the various teen cooking classes, escape rooms and other programs that the Library is holding for teens. There was also a update from Sheryl Trent who is working with the Library on their strategic plan.
- Mayor Melendez - Downtown Development Authority; North Front Range/MPO
Mayor Melendez - absent; no report.

7. Public Invited to be Heard

Mayor Pro Tem Bennett opened the meeting up for public comment to which there was none.

B. CONSENT CALENDAR

1. Minutes of the June 24, 2019 Regular Town Board Meeting - K. Eucker
2. Resolution No. 2019-49 – A Resolution Approving the Vima-Holguin Post-Annexation Agreement - K. Emil
3. Resolution 2019-50 - A Resolution Vacating a Portion of a Utility Easement on Lot 15 Block 10 of the Corrected Highland Meadows Subdivision 3rd Filing - M. Berry

4. Resolution No. 2019-52 - A Resolution Approving the Accessioning of Items to the Town of Windsor Museum Collections - E. Lucas

Town Board Member Rennemeyer moved to to approve the consent calendar as presented, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Rennemeyer, Sislowski, Wilson; Motion Passed.

C. BOARD ACTION

1. Ordinance No. 2019-1590 Repealing & Adopting by Reference the 2018 International Building Codes

Per Ms. Emil, before the Board is Ordinance No 2019-1590 on second reading. The state has adopted and mandates enforcement of the 2017 National Electrical Code, and the Town also currently enforces the 2012 International Building Codes (IBC) and the 2009 International Energy Conservation Code. Windsor “skipped” the 2015 IBC cycle, as did many other jurisdictions, in order to avoid issues with new code provisions that didn’t yet have a proven track record. The 2018 IBC addresses several issues that were previously addressed in Town amendments to the code, therefore, the 2018 version will actually “streamline” some of the Town’s amendments as well. The enclosed presentation outlines the more substantive changes.

The enclosed ordinance will transition the Town to the 2018 IBC, including the International Building, Residential, Existing Building, Mechanical, Fuel Gas, Plumbing, Energy Conservation and Property Maintenance Codes, in addition to adding the 2018 International Swimming Pool and Spa Code.

Both Weld and Larimer Counties have already adopted the 2018 building codes, and most neighboring jurisdictions have either adopted or are currently in the process of doing the same. Therefore, many of the builders doing business in Windsor are already familiar with and utilizing the 2018 codes.

In addition to notice of this public hearing in the Greeley Tribune, staff included notice of the coming code changes on the Town’s building permit webpage and at the building permit counter in Town Hall, as well as sending direct email notice to the Northern Colorado Homebuilders Association (NoCo HBA) and builders who regularly work in Windsor. Additionally, SAFEbuilt notified the NoCo HBA and has hosted training for builders regarding the building code changes.

The only modifications to the draft ordinance between first and second reading pertain to the organization of the language regarding the Energy Code in the 2018 IBC. No other changes were made to the ordinance.

Mr. Caleb Sulzen reviewed the changes since first reading and the handout that was given to the Board.

Residential Fire Suppression Sprinklers in Townhomes:

Although there was much discussion at first reading regarding the potential for sprinklers in duplexes, there was no consensus at that time, so the ordinance remains as presented at first reading and does not require sprinklers in duplexes.

2018 International Energy Conservation Code (Energy Code)

The state mandates enforcement of one of the three most recent versions of the Energy Code. The attached draft ordinance proposes adoption of the 2018 Energy Code consistent with the other codes proposed for adoption. In recent conversations with several building contractors, SAFEbuilt has found that many builders are already using the 2018 Energy Code and SAFEbuilt heard little concern regarding its adoption. The

estimated cost difference between previous codes and 2018 is approximately \$1,200 - \$1,400 per house for the respective testing and verification of code compliance.

Fire Protection of Floors

There was also discussion at first reading regarding fire protection of floors. The ordinance remains as presented at first reading, including an amendment to provide three options to fire protect floor assemblies, giving builders more flexibility to address this section of the code.

Dr. Jones inquired if the energy code is required by the state.

Mr. Sulzen stated the state requires that at the time any jurisdiction adopts a new building code, an energy code within one of the three most recent updates needs to be adopted as well.

Dr. Jones inquired of the \$1,200-\$1,400 is added to the price of the home to comply with the energy code.

Mr. Sulzen stated that amount would be if all three tests were completed.

Dr. Jones inquired as to the investigation fee if someone starts a project without getting a building permit.

Mr. Sulzen stated there is currently a fee in place for those situations. It is not a set fee due to the various types of permits and permit fees.

Mr. Wilson asked Mr. Sulzen to explain the protective fire barrier on duplexes.

Mr. Sulzen stated there is a 2-hour separation wall required on duplexes instead of a 1-hour wall.

Mr. Bennett opened the meeting up for public comment to which there was none.

Town Board Member Sislowski moved to to approve Ordinance 2019-1590, Town Board Member Jones seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Rennemeyer, Sislowski, Wilson; Motion Passed.

2. Resolution No. 2019-51 - A Resolution of Commitment for GOCO Connect Grant

Mr. Lucas informed the Board that the Town of Windsor is partnering on a Great Outdoors Colorado Connect grant with Larimer County, Timnath, and Fort Collins to complete the Poudre Trail between Windsor and Fort Collins. If awarded, each entity will receive a portion of the \$2 million dollar grant based on their percentage of the overall project. Windsor is utilizing the approved 2019 Kyger trail project as our match. As a part of the grant application, all applicants must submit a letter of financial commitment to complete the project.

The Poudre River Regional trail is part of the Colorado Front Range Trail which currently spans 21 miles from Greeley to Larimer County. There is a five mile section that is separating this trail from Fort Collins; once the connection is completed, the trail will span 45 miles.

This connection will enable thousands of users to safely make the recreational and commuting connection between Fort Collins and Greeley.

The estimated project cost is currently at \$3.8 million and the grant application is for \$2 million. Windsor's portion of the project is \$667,000 and if the grant is awarded, Windsor would receive approximately \$390,000.

Mr. Rennemeyer inquired as to when we will know if the grant has been awarded.

Mr. Lucas stated it will be late August or early September. That is why there has been a delay in the project.

Dr. Jones inquired as to what the other jurisdictions are contributing to the Trail.

Mr. Lucas stated if awarded the grant, GoCO would be \$2 million, Larimer County is \$255,770, Fort Collins is \$857,561, Timnath is \$131,488, Windsor is \$331,307 and CDOT \$122,000.

Mr. Sislowski inquired about not starting the project until we know if the grant was awarded to the project.

Mr. Lucas stated we could have already bid the project and possibly have it competed. Windsor held off on the project so that Windsor's money could be part of the match for the grant. If the grant is not awarded to the project, it will still move forward.

Town Board Member Wilson moved to to approve Resolution 2019-51, Town Board Member Sislowski seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Rennemeyer, Sislowski, Wilson; Motion Passed.

D. COMMUNICATIONS

1. Communications from Town Attorney

None.

2. Communications from Town Staff

Mr. Wagner updated the Board on some unexpected costs that have come up in the construction of the roundabout at 7th and New Liberty.

- \$15,561 to excavate soil and replace with crushed concrete above and between existing storm drain pipes.
- \$84,787 to incorporate fly ash into soft sub-grade soil to stabilize
- \$3,796 to add steel grate over storm drain inlet for public safety.
- \$3,964 to add a manhole on the new storm drain pipe to facilitate connection to existing structure.

Mr. Rennemeyer inquired as to what fly ash is.

Mr. Wagner stated fly ash is a byproduct of what is left after coal is burned. When fly ash is mixed with soil and moisture, it will set up almost like concrete which will make the ground stable.

Mr. Wilson inquired if it is likely the roundabout at 13th and New Liberty will run into the same issues as this roundabout.

Mr. Wagner stated the large drain pipes are not at the 13th and New Liberty roundabout like they are at 7th and New Liberty although it is a strong possibility of the same soil condition.

Mr. Bennett inquired if there was any way to anticipate these costs before construction.

Mr. Wagner stated there is no way to predict these issues until work commences.

Mr. Bennett inquired if with these extra costs, the total is still lower than other roundabouts that Windsor has completed.

Mr. Wagner stated the costs are approaching other roundabout costs.

Mr. Rennemeyer inquired if there are any other unforeseen expenses.

Mr. Wagner stated he does not foresee any but the project is a ways away from being completed.

Mr. Rennemeyer confirmed that the original contingency was \$48,000 and now it is at \$108,000.

Mr. Wagner stated that is correct.

Chief Klimek informed the Board that July 4th was a busy, well attended day with minor problems through the day.

3. Communications from Town Manager

Mr. Hale thanked town staff for all their work on the July 4th holiday.

4. Communications from Town Board

Mr. Sislowksi inquired if there was a way to estimate how many people attended the July 4th celebration.

Mr. Lucas stated by using various resources, it is estimated that 27,000 people attended the celebration in the park although there were various other venues in Town that had a number of individuals watching the fireworks.

Mr. Bennett stated the next round of the water leaders class has four applicants from Windsor.

E. ADJOURN

Town Board Member Rennemeyer moved to to adjourn, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - ; Motion Passed.

The meeting was adjourned at 8:19 p.m.



Krystal Eucker, Town Clerk