



TOWN BOARD REGULAR MEETING
December 9, 2019 - 7:00 PM
Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

Mayor Melendez called the meeting to order at 7:00 p.m.

1. Roll call

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

Also Present:

Shane Hale, Town Manager
Ian McCargar, Town Attorney
Scott Ballstadt, Director of Planning
Paul Hornbeck, Senior Planner
John Thornhill, Community Development Director
Jess Humphries, Administrative Services Director
Dean Moyer, Director of Finance
Krystal Eucker, Town Clerk

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

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

4. Board Liaison Reports

- Town Board Member Baker - Tree Board, Historic Preservation Commission
Town Board Member Baker had no report; absent.
- Town Board Member Wilson - Parks, Recreation and Culture Advisory Board; Poudre River Trail Corridor
Town Board Member Wilson had no update.
- Mayor Pro Tem Bennett - Water and Sewer Board
Town Board Member Bennett reported the Water and Sewer Board reviewed the water rate increase that is on this evening's agenda. The Water and Sewer Board has also been working on a citizen outreach program in which they would work with the Weld

County Extension Office to have a homeowner's boot-camp; one night a week for three weeks to provide information on landscaping water efficiency.

- Town Board Member Rennemeyer - Chamber of Commerce

Town Board Member Rennemeyer reported that Subway, Dickey's BBQ and CPP Wind have all joined the Chamber this month.

- Town Board Member Jones - Windsor Housing Authority; Great Western Trail Authority

Town Board Member Jones reported the Housing Authority will be meeting in two weeks.

Dr. Jones reported the Great Western Trail Authority did not have a meeting in December.

- Town Board Member Sislowksi - Clearview Library Board; Planning Commission

Town Board Member Sislowksi will be meeting this Thursday, December 12th at 5:30.

Mr. Sislowksi reported the Planning Commission met and the public hearing from that meeting has been referred to the Town Board and is on this evening's agenda.

- Mayor Melendez - Downtown Development Authority; North Front Range/MPO

Mayor Melendez reported the DDA's budget will be on this evening's agenda. A grant has been submitted to DOLA for the ally improvements. The Elf on the Shelf hunt kicked off on Saturday December 7th which will run through December 21st.

Ms. Melendez reported the MPO did meet in Windsor in December and they received an update from the Southwest Chief and Front Range Passenger Rail Commission; there are four items right now being considered.

5. Public Invited to be Heard

Mayor Melendez opened the meeting up for public comment.

JD Roybul, 224 North 6th, Windsor, CO addressed the Board and showed them an illustration on the number of wells in 1999 compared to 2012.

B. CONSENT CALENDAR

1. Resolution No. 2019-89 - A Resolution Approving A Memorandum Of Agreement; Accepting The Form Of Deeds of Dedication for Rights of Way, Related Utility Easements, Related Slope Easements and Temporary Construction Easements; and Authorizing the Town Manager to Execute Documents on the Town's Behalf in Association With The Larimer County Road 5 And State Highway 392 Roadway Improvements Project - - Ian D. McCargar, Town Attorney
2. Resolution No. 2019-90 - A Resolution Approving the Memorandum of Understanding for the Larimer County Crime Stoppers Program - R. Klimek
3. Resolution No. 2019-91 - A Resolution Approving and Accepting the Easement and Right of

Way for Water Line Facility from Owens-Brockway Glass Container, Inc., serving The Great Western Industrial Park in the Town of Windsor, Colorado - K. Emil

4. Resolution No. 2019-92 - A Resolution Approving the Intergovernmental Agreement with Douglas County and the Douglas County Sheriff's Office for the use of the SOTAR System - R. Klimek
5. Resolution No. 2019-93 - A Resolution Reappointing Kimberly A. Emil as Windsor Town Prosecutor Pursuant to the Town of Windsor Home Rule Charter - I. McCargar
6. Resolution No. 2019-94 - A Resolution of the Windsor Town Board of the Town of Windsor, Colorado Authorizing the Town Clerk to Appoint Election Judges for the Regular Election - K. Eucker
7. Resolution No. 2019-95 - A Resolution Designating a Public Place for the Posting of Notices Concerning Public Meetings - K. Eucker
8. Report of Bills November 2019

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

C. BOARD ACTION

1. Resolution No. 2019-96 - A Resolution Approving an Agreement with SAFEbuilt Colorado, LLC for Building Inspection Services Provided to the Town of Windsor

Per Mr. Ballstadt, the Town's agreement with SAFEbuilt provides for plan review and building inspection services and, in years when no changes are proposed, it is administratively renewed. The enclosed agreement is identical to that which was approved last year, with the exception of minor changes to the time of performance language in Exhibit A.3 as follows:

1. Inspection requests will need to be submitted prior to 4:00 PM for an inspection to be performed the next business day (changed from 7:30 AM the same business day).
2. The AM/PM request option will be removed (although SAFEbuilt will still honor requests from homeowners to accommodate their schedules).
3. Upon request from the permit holder, SAFEbuilt will provide a phone call from the inspector the morning of the inspection with a 2 hour estimated time of arrival on their inspection time (this will replace the current AM/PM request and the ½ hour call ahead).

Russ Weber with SAFEbuilt addressed the Board and offered to answer any questions.

Ms. Melendez inquired if the 20% is enough to cover the costs for Windsor.

Mr. Ballstadt stated that was addressed in the update two years ago, the percentage went from 10% to 20% but that percentage will continue to be monitored.

Town Board Member Jones moved to approved Resolution 2019-96, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

2. Resolution No. 2019-97 - A Resolution Approving the 2020 Windsor Downtown Development Authority Budget; Making Annual Appropriations for the Windsor Downtown Development Authority for the Fiscal Year Ending December 31, 2020; and Fixing the Mill Levy for the Windsor DDA District for the Fiscal Year Ending December 31, 2020

Mr. Ashby with Ayres and Associates addressed the Board and reviewed the 2020 Downtown

Development Authority budget. The DDA is anticipating \$1,032,016.00 in available resources which includes a rollover from 2019 and expenditures of \$959,250. The DDA did conduct a work session on September 17, 2019 to discuss the projects that have been accomplished over 2019 and looking forward to objectives for 2020. That process helped set the initial budget. The DDA district mill levy will be five mills.

Some of the expenditures for 2020 include \$300,000 in support of the back lot project, \$100,000 has been allocated for the ally design and \$120,000 has been allocated to the facade improvement program.

Grants will be pursued through the Main Street Program.

Dr. Jones asked Mr. Ashby to elaborate more on the back lots.

Mr. Ashby stated the DDA wanted to make sure they were prepared for any investment that might be made in that area so rather than getting through the budget and having to reallocate funds in support of improvements or agreements that the joint bodies may make together, the DDA has identified funds that are allocated should an agreement be established.

Dr. Jones inquired if the \$65,000 for parking would be Birch property.

Mr. Ashby stated that is correct; work has commenced on demolition of the existing structure on the property.

Dr. Jones inquired as to what the \$10,000 for elections is for.

Mr. Ashby stated the DDA has been exploring the concept of a lodging tax and identifying if that is a strategy that might make sense for the community.

Dr. Jones inquired as to what the difference between what the Town increment and property tax increment is.

Mr. Ashby stated the incremental property tax is the property tax increment and that is the amount of growth that has taken place since the DDA has been established in 2011. That is the amount that property taxes in the district have increased over that time. The Town increment/transfer is the increase in the sales tax that has occurred within the boundaries of the district since 2011. That was fixed by the MOU between the Town and the DDA that dedicated the \$250,000 which was the base, that is how much sales tax was generated in the district in 2011 and now the additional increment of \$143,000 is the growth.

Mr. Sislowksi inquired about a \$1,000,000 grant.

Mr. Ashby stated the DDA is working with the Town to submit a grant application through the Department of Local Affairs through an energy and mineral impact grant to provide up to \$1,000,000 for ally improvements in the 400 block.

Mayor Pro Tem Bennett moved to Resolution 2019-97, Town Board Member Sislowksi seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

3. Ordinance No. 2019-1599 - An Ordinance Fixing the Compensation of the Municipal Court Judge and Municipal Court Clerk for the Town of Windsor in Compliance with Sections 13-10-107 and 13-10-108, C.R.S., and Section 2-4-90 of the Windsor Municipal Code

Per Mr. McCargar, the statutes governing qualified municipal courts of record require that the compensation of the Municipal Judge and Office of the Municipal Court Clerk be set by ordinance. This requirement has also been incorporated into the Town's Municipal Code. The Town Board has previously approved the 2020 Annual Budget, within which compensation for the Municipal Judge and Municipal Court Clerk's Office has been fixed. However, in order to comply with the requirements of state law and the Code, an Ordinance approving those appropriations is required.

The attached Ordinance Fixing the Compensation of the Municipal Court Judge and Municipal Court Clerk incorporates the appropriations for these offices from the 2020 Annual Budget, thus satisfying the requirements of law.

Town Board Member Rennemeyer moved to approve Ordinance 2019-1599, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

4. Public Hearing - Conditional Use Grant (CUG) - Central Oceans CUG to allow a temporary use not specifically included as a use by right in any zone district – Great Western Industrial Park 7th Filing, Lot 5 – Ben Goldwasser, Central Oceans, Applicant; and Mark Cevaal, Redland, Applicant’s Representative

Town Board Member Rennemeyer moved to open the public hearing, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

Mr. Sislowski stated, "Madam Mayor, in my capacity as the Town Board liaison for the Planning Commission I was present at the Commission meeting during which this matter was previously presented. I wish to state that my participation in the Planning Commission proceedings has in 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 presented during this public hearing."

Per Mr. Hornbeck, the applicant Ben Goldwasser of Central Oceans, represented by Mark Cevaal of Redland, is requesting a Conditional Use Grant (CUG) to allow a temporary use not specifically included as a use by right in any zone district, located on a portion of Lot 5 of Great Western Industrial Park Subdivision 7th Filing. The requested temporary use is a shipping container storage yard. The property is zoned Heavy Industrial (IH) and is generally surrounded by undeveloped or farm land, with an existing industrial business to the west. There are two farm houses located adjacent to the property, one of which is under the same ownership as the subject property.

The proposed use will occupy approximately 25 acres of 136 acres on lot 5. The majority of the 25 acres is dedicated to outdoor storage of approximately 2700 shipping containers housing solar equipment. The majority of containers are 40' long, 8' wide and 9'6" high. The containers are proposed to be stacked up to three high, for a total height of approximately 29'. Containers will arrive and depart the site by truck. Containers are expected to arrive at the site during the first two quarters of 2020 and would begin to be delivered to their final destination in the fourth quarter of 2020 through 2023.

The site will be enclosed by a chain link fence with three strands of barbed wire and monitored by security cameras. Landscaping is proposed along the Great Western Drive frontage, around the detention pond on the southern portion of the site, and as a buffer to the farm house to the east.

Standards and Requirements for Conditional Use Grants

Section 16-7-50 of the Municipal Code outlines the factors to be evaluated prior to the granting of a conditional use.

1. The character and the quality of the area in which the use will be located.

The subject property is located within the Great Western Industrial Park and is generally surrounded by undeveloped or agricultural land, with one industrial business located to the west and two residential homes to the east. Future industrial development is possible on properties to the north, east, and west. Floodplain and the Poudre River make development to the south of the subject area unlikely. The Poudre River Trail passes within approximately ¼ mile south of the subject development. The future Crossroads Boulevard extension from State Highway 257 to O Street in Greeley is anticipated immediately south of the site, but there is no timetable for construction of the roadway at this time.

There are what appear to be two farm houses adjacent to the parcel, including one under the same ownership of the subject parcel. The farmhouse under separate ownership is located immediately east of the site and is zoned Light Industrial in unincorporated Weld County. The remainder of the surrounding properties are zoned Heavy Industrial and are within Windsor Town Limits.

2. The physical appearance of the use, including suitability of architectural and landscaping treatment.

The use will be surrounded by a fence with slats and landscaping in certain areas to provide some ground level screening; however the stacking of containers up to 29' tall means the use will be visible from the surrounding area.

3. Appropriate location of the building or buildings on the lot.

The temporary warehouse would be located on the northwestern portion of the lot, closest to Great Western Drive.

4. Adequate provision of parking, loading and circulation facilities.

Minimal parking is needed for the use due to no full time employees being on site. Two part time employees are anticipated to be on site as needed. Provision for circulation and loading of containers is provided on site. The applicant will need to comply with any applicable requirements from the City of Greeley regarding loading adjacent to and crossing the City's water line and easement. A condition of approval addressing this item is included in staff's recommendation.

5. Potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion.

During the first six months of operation the applicant anticipates up to fifteen trucks per day delivering containers, meaning 30 round trips per day. As containers are shipped offsite, the applicant anticipates three to five trucks per day picking up containers for deliver, meaning up to ten trips per day. During operations there would be one to two employees on site with no customers or other visitors anticipated.

6. Potential effect of the use on storm drainage in the area.

The applicant will be required to coordinate with Town staff to incorporate properly sized drainage facilities at the site. The applicant will also need to comply with the Town's stormwater (Grading Erosion Sediment Control Plan) permit application and construction requirements, including obtaining a Storm Water Permit for Construction Activities from the Colorado Department of Public Health and Environment, to ensure that the project does not impact water quality.

7. Adequacy of planting screens where necessary.

Landscaping is proposed along the Great Western Drive frontage, around the detention pond on the southern portion of the site, and as a buffer to the farm house to the east. Due to the stacking of containers up to 29', landscaping will not entirely screen the use.

8. Provision of operational controls where necessary to avoid hazardous conditions or eliminate potential air or water pollutants or other noxious influences.

No hazardous conditions or pollutants have been identified with the use.

9. The general compatibility of the proposed use with the area in which it is to be located. The use is compatible with the heavy industrial nature of the area. Landscape buffering is proposed adjacent to the adjoining farmhouse to increase compatibility.

Public hearing notifications were completed in accordance with the Municipal Code.

At their December 4, 2019 meeting of the Planning Commission, a recommendation of approval was forwarded to the Town Board with the following conditions:

1. The Conditional Use Grant shall initially be valid for a period of two years. Prior to completion of the two year term, the applicant may request a one year extension to be reviewed by the Planning Director. If the Director determines the use is in conformance with all conditions contained herein and all other applicable code requirements, a one year extension shall be granted administratively by staff. If the Director determines the use is not in conformance with the conditions contained herein or other applicable code requirements, the extension request shall be referred to Planning Commission and Town Board in accordance with CUG procedures per the Town's Municipal Code. A second one year extension may be granted following the same procedure. No further extensions shall be considered.
2. Containers shall be limited to no higher than 19 feet in height except that stacking up 29 feet shall be permissible until December 31, 2021.
3. A site plan in conformance with all Municipal Code requirements, including landscaping, shall be reviewed and approved by staff prior to construction of the facility.
4. Right-of-way shall be dedicated for Great Western Drive and Crossroads Boulevard.
5. Use shall adhere to all Greeley Water requirements regarding waterline easement traversing the site.
6. The applicant shall work with staff to establish a truck route that avoids Main Street.
7. All outstanding Planning Commission and staff comments shall be addressed.

Staff recommends the following be entered into the record:

- Application and supplemental materials
- Staff recommendations and supporting documents
- Testimony
- Recommendation

The applicant, Adam Berg with Central Ocean addressed the Board and informed them that they are a foreign trade zone storage container yard for the temporary storage of solar components solar modules; Mr. Berg is available for questions.

Dr. Jones inquired about the expansion are in the northwest corner of the property.

Mr. Berg stated it is not for additional containers, it would be additional land in case there was a need for overflow.

Dr. Jones inquired if the City of Greeley was in agreement with this proposal.

Mr. Mark Cevaal stated a referral was submitted to the City of Greeley and the Greeley Utility Department gave comments and they established that as long as the containers are 25 feet away from the water lines, that would be acceptable.

Mr. Bennett inquired as to the process for monitoring the height of the containers.

Mr. Hornbeck stated there could be field checks. It would be obvious if the containers were stacked three high and it would then be addressed.

Mr. Hale stated there was a lot of discussion regarding the height of the containers and, the CUG by practice has been two years but it could be longer.

Mr. Brown stated as the land owner, we have included all the conditions of the CUG in the lease agreement.

Mr. Sislowski inquired as to the heavy industrial building height limit.

Mr. Hornbeck stated the maximum is 75 feet, the CUG process allows for additional conditions to be put in place.

Mr. Sislowski inquired if the property owner in close proximity to the area had any concerns with the CUG.

Mr. Hornbeck stated one of the property owners was at the Planning Commission meeting and they expressed some concern but they were not outright opposed to the project.

Mr. Sislowski inquired as to the temporary building that was on the property.

Mr. Hornbeck stated the applicant removed the building from the proposal.

Mr. Berg stated the building was removed for multiple reasons.

Ms. Melendez inquired if the applicant has any objection to the recommended conditions of the Planning Commission or staff comments.

The applicant confirmed they have no objections.

Mayor Pro Tem Bennett moved to close the public hearing, Town Board Member Rennemeyer seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

5. Conditional Use Grant (CUG) - Central Oceans - CUG to allow a temporary use not specifically included as a use by right in any zone district – Great Western Industrial Park 7th Filing, Lot 5 – Ben Goldwasser, Central Oceans, Applicant; and Mark Cevaal, Redland, Applicant's Representative

Please refer to the previous agenda item for discussion.

Mr. Hornbeck had nothing further to add.

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

6. Resolution No. 2019-98 - A Resolution Establishing Rates for Town of Windsor Water Service Customers, and Authorizing the Implementation of Such Rates

Per Ms. Humphries, annually, staff evaluates the water rate structure during the budgeting process. For the last two years, Stantec Consulting has worked with staff to develop a rate model to evaluate all the variables required to provide a secure and resilient water supply to residents and businesses.

At the November 18, 2019 Special Board Meeting, staff and Stantec presented a recommendation to increase rates a total of 7.5% to fund operations and maintenance of the current system, as well as fund the capital improvements required to continue securing our water supply for the future. The rate chart included in Resolution 2019-89 would reflect the increase.

The rates were presented to the Water and Sewer Board and they recommended approval.

Town Board Member Rennemeyer moved to approve Resolution 2019-98, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

7. Ordinance No. 2019-1600 - An Ordinance Repealing, Amending and Readopting Portions of Article III of Chapter 13 of the Windsor Municipal Code With Respect to Stormwater Basin Fees Imposed by the Town's Stormwater Drainage Utility Enterprise

Per Mr. Humphries, the Storm Drainage Fund is by classification, a self-funding enterprise of the Town of Windsor. Revenues in general, must be adequate to pay for both operating and capital expenditures.

Due to increased capital and operating requirements, staff is requesting the following rate increases:

1. Monthly Basin User Fee-that portion that funds future development (impervious multiplier of .00072), staff is requesting an increase of 1.8%.
2. Monthly Basin User Fee - that portion that funds O & M expenses (impervious multiplier of .0002), staff is requesting an increase of 15% to the multiplier.
3. Staff also requests that the New Growth Basin Impact Fee be increased by 1.0%. This

increase meets the current minimum review standard under Section 13-3-80(a) of the Town's Charter, of a two-year moving average of the Colorado Construction Cost Index.

Requested increases to the Monthly Basin User Fee will generate \$23,837 for O & M funding and \$10,298 for capital funding in 2020. Additionally, annual collections thereafter will be compounded with the higher base impervious multipliers. The requested increase to the New Growth Basin Impact Fee will generate between \$17,000 and \$28,000.

Town Board Member Rennemeyer moved to approve Ordinance No. 2019-1600, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

8. Finance Report October 2019

Mr. Moyer gave an overview of the October 2019 Financial Report that was included in packet material.

D. COMMUNICATIONS

1. Communications from Town Attorney
None.
2. Communications from Town Staff
 - a. Site Plan Summary – Eagle Crossing Subdivision 9th Filing, Lot 2 (Cannon Express Carwash) Site Plan
3. Communications from Town Manager
Mr. Hale gave a reminder events on the future meetings agenda.
4. Communications from Town Board
None.

E. EXECUTIVE SESSION

1. An Executive Session Pursuant to Colorado Revised Statutes § 24-6-402 (4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators with respect to cable television franchise (Brandon Dittman, Special Counsel)
2. An Executive Session Pursuant to Colorado Revised Statutes § 24-6-402 (4) (b) to Confer with the Town Attorney for the Purposes of Receiving Legal Advice on Specific Legal Questions Concerning the Town's cable television franchise with Comcast of Colorado IV, LLC (Brandon Dittman, Special Counsel)

Town Board Member Rennemeyer moved to go into Executive Session Pursuant to Colorado Revised Statutes § 24-6-402 (4)(e)(I) for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and an Executive Session Pursuant to Colorado Revised Statutes § 24-6-402 (4) (b) to Confer with the Town Attorney for the Purposes of Receiving Legal Advice on Specific Legal Questions Concerning the Town's cable television franchise with Comcast of Colorado IV, LLC (Brandon Dittman, Special Counsel) instructing negotiators with respect to cable television franchise (Brandon Dittman, Special Counsel), Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion

Passed.

Upon a motion duly made, the Town Board returned to the Regular Meeting at 8:58 p.m.

The Executive Session was closed and the Town Board returned to the Regular Meeting.

Upon returning to the Regular Meeting, Mayor Melendez advised that if any participants in the Executive Session believed the session contained any substantial discussion of any matters not included in the motion to convene the Executive Session, or believed any improper action occurred during the Session in violation of the Open Meetings Law; such concerns should now be stated. Hearing none, the Regular Meeting resumed at 8:58 p.m.

F. ADJOURN

Town Board Member Sislowski moved to adjourn, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson;

The meeting was adjourned at 8:58 p.m.



Krystal Eucker, Town Clerk