



## TOWN BOARD SPECIAL MEETING

March 26, 2020 - 4:00 PM

Zoom Meeting

### MINUTES

#### A. CALL TO ORDER

Mayor Melendez called the special meeting to order at 4:02 p.m.

##### 1. Roll call

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

Also Present:

Shane Hale, Town Manager  
Jessica Humphries, Admin Service Director  
Stacy Miller, Economic Development Director  
Dean Moyer, Finance Director  
Ian McCargar, Town Attorney  
Krystal Eucker, Town Clerk

#### B. BOARD ACTION

1. Ordinance No 2020-1606 - An Ordinance Authorizing the Town Manager to Approve Certain Classes of Dining and Drinking Establishments to Temporarily Receive Refunds and Temporarily Defer the Payment of Town Sales Tax in Response to the COVID-19 Virus Public Health Emergency

Per Mr. McCargar, Ordinance 2020-1606 authorizes the Town Manager to approve certain classes of dining and drinking establishments to temporarily receive refunds and to temporarily defer the payment of the sales tax in response to the COVID-19 virus public health emergency.

Mr. McCargar stated establishments eligible for relief would include full service restaurants, drinking establishments, and coffee houses without drive-through services; businesses with drive-through access are still allowed to conduct business potentially at a higher level. There wasn't a discussion on take-out services due to the fact of determining how much of the business is take-out.

Mr. Baker presented concern surrounding eliminating assistance for drive-through businesses. Mr. Shane Hale stated finance staff has the ability to assist businesses, even if they don't fall under the criteria required in this ordinance.

Mr. Moyer stated the sales tax staff works with businesses for payment plans and waiving penalties or reduce those fees in certain instances.

Mr. Sislowski inquired if there should be an objective measure to have identification on the application to know what revenue stems from take-out or dine-in services to not miss those business that are struggling.

Mr. Hale stated staff has that discretion to work with those businesses to determine eligibility.

Ms. Melendez stated Windsor is a pro-business community and we will do everything we can to support those eligible businesses.

Mr. McCargar stated in Section 2, the Town Manager shall provide written notice to all dining and drinking establishments who appear to meet the eligibility criteria set forth in Section 1, which shall invite such establishments to apply by April 19, 2020. Upon receipt of each application submitted, the Town Manager shall apply the criteria and shall make a final determination of eligibility. In making this determination, the Town Manager may consider the particular circumstances of the applicant in relation to the criteria, the need for uniformity and consistency, and the purposes to be achieved by this Ordinance. The Town Manager may reject any application that is incomplete, untimely or which fails to adequately demonstrate adherence to the criteria. The Town Manager or his designee shall notify each applicant of the Town Manager's determination of eligibility within seven (7) days of receipt of each completed application.

Mr. Sislowski stated the language states the Town Manager decides on who is eligible for an application and purposed sending applications to all local businesses as not to exclude eligible businesses.

Mr. Hale stated he's worked closely with finance determining what businesses meet the eligibility criteria, and what applications would be denied.

Dr. Jones stated businesses will be contacting Town Hall about why they don't meet that eligibility criteria.

Mr. Hale stated this is an attempt to support our local businesses; outside of having a drive-through most businesses that show effects of COVID-19 could be eligible.

Per Mr. McCargar, Section 3 refers to temporary deferral of Town sales tax upon eligibility approval by the Town Manager are subject to the following conditions:

(a) Each eligible dining and drinking establishment shall continue to timely and completely file sales tax returns as otherwise required by Chapter 4 of the Windsor Municipal Code.

(b) Subject to the terms set forth, the full remittance of sales tax to the Town shall not be required in association with the sales tax returns filed by each eligible dining and drinking establishment, commencing with taxes due for the month of February, 2020 (payable by March 20, 2020), and concluding with taxes due for the month of June, 2020 (payable by July 20, 2020).

(c) Effective for sales tax payments due beginning July 1, 2020 (payable by August 20, 2020), the deferral of sales tax payments provided in this Ordinance shall terminate, and all establishments shall resume the full and timely payment of sales tax as required under Chapter 4 of the Windsor Municipal Code.

(d) The Town shall not initiate enforcement of unpaid sales tax during the period of deferral set forth in sub-section (b) of this Section 3, so long as the eligible dining and drinking establishment otherwise complies with the requirements of Chapter 4 of the Windsor Municipal Code.

(e) Except as otherwise provided herein, the Town shall not impose any penalty or interest charge for unpaid sales tax during the period of deferral set forth in subsection (b) of this Section 3, so long as the eligible dining and drinking establishment otherwise complies with the requirements of Chapter 4 of the Windsor Municipal Code.

Per Mr. McCargar, Section 4 relates to temporary refunds of February sales tax paid March, 2020.

(a) At the sole election of any dining and drinking establishment deemed eligible for sales tax deferral under this Ordinance, the Town Manager is authorized to refund all or any portion of February sales tax which was paid in full on or before March 20, 2020, by each such eligible dining and drinking establishment.

(b) The Director of Finance shall coordinate the processing of any requests for refunds under this Section 4, and shall coordinate the payment of refunds as approved by the Town Manager.

(c) Any sales tax refund pursuant to this Section 4 shall be deemed temporary, shall be repaid in full to the Town as set forth in Section 5 (a) below, and shall be subject to all enforcement remedies as set forth in Section 5 (b) through (e) below

Ms. Melendez asked whether there were any questions or comments to which there was none.

Per Mr. McCargar, Section 5 relates to the payment of deferred sales tax and enforcement.

(a) All sales tax payments deferred or refunded to each eligible dining and drinking establishment pursuant to this Ordinance shall be paid in full on or before 12:00 p.m. on December 31, 2020. The Director of Finance shall coordinate the manner and form of reporting, payment and record-keeping necessary to carry out this sub-section.

(b) Any deferred and refunded sales tax payments not paid in full as required by subsection (a) of this Section 5 shall be subject to enforcement (including penalties and interest thereon) as provided in Chapter 4 of the Windsor Municipal Code, and shall be further subject to the lien set forth in this Section 5 below.

(c) Any deferred and refunded sales tax payments, together with penalties and interest, not paid in full as required by sub-section (a) of this Section 5 shall create a lien upon all tangible personal property of the dining and drinking establishment in default hereunder. Such lien shall be deemed perfected on and shall relate back to the date any deferred or refunded sales tax payments would have been due under Chapter 4 of the Windsor Municipal Code. Attachment of such lien is not dependent on the recording of written notice, and the lien shall be prior and superior to all other liens, claims, titles and encumbrances, whether or not prior in time, except liens for general taxes. The lien remains attached to the tangible personal property of the eligible dining and drinking establishment from the date of perfection until all unpaid deferred sales taxes are paid in full.

(d) In the event the Town brings suit or initiates distraint to collect unpaid sales tax deferred pursuant to this Ordinance, the Town shall be entitled to recover its reasonable attorney fees and costs of enforcement in addition to any other remedies to which the Town shall be entitled.

Dr. Jones inquired if the Town sends invoices to local business for what they owe.

Mr. Moyer stated that is not our usual practice and businesses will know what they owe based on quarterly returns.

Mayor Melendez asked whether there are any final questions from Town Board.

Mr. Baker inquired are we mailing refunds or do businesses have to request them.

Mr. McCargar stated the application is set-up where businesses have to request the refund.

Mr. Baker inquired if the Town Board can revoke this request.

Mr. McCargar stated; Yes.

Mr. Baker requested for the amount deferred to be listed on the next financial report.

Mr. Moyer stated we can put that information into our monthly financial report and stated

Safeway and King Soopers are Windsor's largest sale tax revenue. It will be interesting to see March revenue and expenditures.

Mr. Bennett stated he wanted to show his support for the February refund to help business pay rent, payroll, and necessities to stay afloat during uncertain times.

Ms. Melendez opened the meeting up for public comment.

Ms. Brooke Hansen stated she owned a salon in Town and wanted to know what relief would be available to salon owners.

Ms. Melendez instructed Ms. Hansen to keep watching because they are working hard to find relief for all businesses in Windsor.

Ms. Hansen stated she spoke to two ladies earlier today from Town of Windsor giving her help and support.

Mayor Melendez asked whether there was any final questions or comments from Town Board; there were none.

**Town Board Member Rennemeyer moved to approve Ordinance 2020-1606, Town Board Member Wilson seconded the motion. Roll Call on the vote resulted as follows; Yeas - Baker, Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.**

2. Time Change - Town Board Meeting

Mr. Shane Hale proposed changing the time of the Town Board meetings to 4:00 p.m. until things are back to normal.

Mayor Melendez asked Town Board Members about changing the meeting to 4:00 p.m. and none were opposed.

Dr. Jones inquired about signing an affidavit to affirm the votes.

Mr. McCargar stated Ms. Eucker will circulate by email, an affirmation for each member to check the box, and sign. Once those affirmation have been returned we will consider the vote final.

C. ADJOURN

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

The meeting was adjourned at 7:59 p.m.



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Krystal Eucker, Town Clerk