



## TOWN BOARD REGULAR MEETING

August 10, 2020 - 5:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550 ZOOM Meeting, Click on the link <https://windsorgov.zoom.us/j/97612901017> OR by join by telephone at (888) 788-0099 or (877) 853-5247 - Webinar ID:97612901017

### MINUTES

#### A. CALL TO ORDER

Mayor Rennemeyer called the meeting to order at 5:03 p.m.

##### 1. Roll call

Mayor Paul Rennemeyer  
Mayor Pro Tem Ken Bennett  
Scott Charpentier  
Barry Wilson  
Julie Cline  
Victor Tallon  
David Sislowski

Also Present:

Shane Hale, Town Manager  
Ian McCargar, Town Attorney  
Kim Emil, Assistant Town Attorney  
Jessica Humphries, Admin Services Director  
Dean Moyer, Director of Finance  
Eric Lucas, Director of Public Services  
Tara Fotsch, Temporary Deputy Director of PRC  
Rick Klimek, Chief of Police  
Aaron Lopez, Commander  
Stacey Miller, Economic Development Director  
Scott Ballstadt, Director of Planning  
Carlin Malone, Chief Planner  
Paul Hornbeck, Senior Planner  
Doug Roth, Civil Engineer  
McKenzie Payne, Visual Media Coordinator  
Karen Frawley, Town Clerk

##### 2. Pledge of Allegiance

Mayor Rennemeyer asked that all rise for 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 Sislowski moved to Motion, Town Board Member Tallon seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson;**

##### 4. Board Liaison Reports

- Town Board Member Charpentier - Chamber of Commerce, Clearview Library Board  
Town Board Member Charpentier reported that there was not much since the last meeting with the Chamber: Michelle keeps continuing to rock it and add more and more new businesses.

As far as the Library, he attended the last meeting as well and most of it was focused on the new additions and remodeling they are doing. It looks like a nice rendition that they have and seem to have the money to be able to accomplish it.

- Town Board Member Wilson - Planning Commission, Larimer County Behavioral Health Policy Council

Town Board Member Wilson reported that regarding the Larimer County Behavioral Health Policy Council, the item that has received the most publicity was the big push from Fort Collins to build the new facility elsewhere. He stated that while he is open to listen to any alternatives, from what he has been able to gather so far, he doubts that it is going to change. There was a very good presentation last week about youth behavioral services in Larimer County and in some cases, the lack thereof. In some cases, he stated that they have some great services available and, in other cases, there are some gaps where they either aren't able to meet those gaps or the gaps are met by sending people outside of the County. The good thing is that every month they talk about a different subject matter and have a tactical team who goes out and does the research and the studies and then reports back to the Policy Council. Even though a lot of the funds go toward building the facility, there are funds available in the short-term, which some have been put back into the community.

For the Planning Commission, Town Board member Wilson stated that there were a few things on the agenda and that he would like to read the disclaimer since he is the Town Board Liaison. Addressing Mayor Rennemeyer, he stated for the record that in his capacity as a Town Board Liaison to the Planning Commission, he was at the Planning Commission meeting, during which matters discussed tonight were previously presented. He wished to state that his participation in the Planning Commission proceedings had in no way influenced him in his capacity as a Town Board Member for the evening. He would make his decisions and cast his votes for the evening based solely on the evidence presented during the public hearings.

- Mayor Pro Tem Bennett - Water and Sewer Board, 34, 74 and I-25 Coalitions

Mayor Pro Tem Bennett reported that the Water and Sewer Board will meet this Wednesday morning at 6:30 a.m. The first thing on the agenda is dealing with a problem that was created by Julie Cline when she came onto the Town Board which is to fill her position as Secretary. Next on the agenda is an update about purchasing industrial park's water shares. Third will be a review of the Water and Sewer Board's bylaws. Fourth will be an update on our water supply; there is a study out that states that one-hundred percent of Colorado is considered to be in a drought stage. Therefore, keeping a close eye on our water supply is very important.

The 34 Coalition met virtually last Thursday evening before the MPO meeting. CDOT is updating some of their accident data for that corridor; for those that don't know, the 34 Corridor starts South of the Big Thompson River Canyon and extends all the way through Loveland, Windsor, Johnstown, and East of Greeley. Therefore, we should have an update on those accident reports next month. CDOT is also doing a traffic modelling study at the intersection of 34 and County Road 13 which is now Colorado Boulevard. It has been slowed down a bit by the key engineer no longer being with CDOT so they are doing a little bit of catch up. The other thing on the agenda was review of their goals and priorities, and again two key members were unable to attend so it has been postponed to the next meeting. Normally, the 34 Coalition meets once a quarter, but will probably schedule a meeting for the first week in September.

- Town Board Member Cline – Tree Board, Poudre River Trail Corridor Authority, Historic Preservation Commission

Town Board Member Cline reported that the Tree Board met on July 28th after not being able to hold one in a while due to COVID. They held their Sick Tree Day in June and had

a good chance to get out and look at some of the trees and the health of the trees in Windsor. They also advised that the greenhouses are having a record number of purchases due to COVID and are getting a lot of questions coming in about anything related to horticulture. They have also been having meetings via zoom for participation through Clearview Library and have had really good attendance. In a couple of weeks, they are actually going to go out and do an assessment on some of the trees at Chimney Park to validate and see their health.

The Poudre River Trail Corridor met last Thursday talked about the purchase of the Lowell Burn property in Greeley, which sits right next to the Poudre Trail. The City of Greeley is in the process of purchasing that property and would like to sell a portion of it to the Poudre River Trail Corridor, but the Poudre River Trail Corridor does not have the funds to purchase it. They are, however, talking about possible easements to be able to extend the trail or to be able to protect the trail from having development right next to it. The City of Greeley is also going to use some of the water rights for that purchase of the property for the usage of water for the City of Greeley. There is going to be a retreat on August 29th to talk about what the trail board is going to do for the next year.

The Historic Preservation Commission is set to meet Thursday to go over their different items on their agenda.

- Town Board Member Tallon - Parks, Recreation and Culture Advisory Board, Great Western Trail Authority

Town Board Member Tallon reported that at this time he does not have anything to report. Last week he was out of town. He did walk the trail Sunday and it is amazing how much they have done since he walked it last time.

- Town Board Member Sislowksi - Windsor Housing Authority, Windsor Severance Fire District

Town Board Member Sislowksi reported that the Fire District meeting is this coming Thursday on the 13th.

The Housing Authority is next Tuesday on the 18th so there is nothing to report since the last board meeting. As a note, due to a previously existing commitment he will be missing the Fire District meeting on the 13th in case there is another board member that might want to attend on his behalf. It is at 7 p.m. which may be conflicting with the strategic plan community meeting.

Mayor Rennemeyer asked if they were meeting in person, or virtually. Town Board Member Sislowksi responded that it has been mixed, but so far to date, he has attended virtually. He believes the bulk of the people at the meeting are there in person. Mayor Rennemeyer stated that perhaps the Chief could send the Board the meeting minutes or the items so they can report on them at the next meeting. Town Board Member Sislowksi stated he would forward them to the Mayor as soon as he gets them.

- Mayor Rennemeyer - Downtown Development Authority, North Front Range MPO

Mayor Rennemeyer reported that the Downtown Development Authority has not met since the last Board meeting, but will be meeting next week.

The North Front Range MPO held its regularly scheduled meeting last Thursday evening. There was quite the conversation on regional air quality with a presentation by Mike Silversteen, Executive Director with the Regional Air Quality Council. The Mayor stated that Silversteen tried to say that air has been very poor which to some degree is valid. However, he took some grief from some of the Council in regards to how he came up with the numbers that he uses to determine regional air quality to which he did not have a response. Many long-standing MPO board members expressed great concern over the MPO's vision and the direction it's head. Some of the members have held their offices for eight to twelve years and now are term limited with their offices expiring prior to year-end.

Mayor Rennemeyer opened the meeting up for public comment to which there was none.

## B. CONSENT CALENDAR

1. Resolution No. 2020-58 - A Resolution Approving the Memorandum of Understanding Between Weld County Department of Public Safety Communication and the Town of Windsor Regarding Emergency Dispatch Services Via "SchoolSAFE" Connection --Rick Klimek, Police Chief  
Improvement of communications processes between school staff and police to better communicate public safety communications via radio.
2. Report of Bills July2020  
**Town Board Member Wilson moved to approve the consent calendar as presented., Board Member Cline seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

## C. BOARD ACTION

1. Public Hearing - Fossil Creek Ranch Major Subdivision 1st Filing Plat – Dallas Horton & Steve Pfister, 3T Investments, LLP, applicants/John Beggs, Russel + Mills Studios, applicants' representative  
**Town Board Member Sislowski moved to open the public hearing, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

The applicants, Mr. Dallas Horton and Mr. Steve Pfister of 3T Investments, LLP, represented by Mr. John Beggs of Russel + Mills Design Studios submitted two final major subdivision plats, known as the Fossil Creek Ranch Subdivision 1st and 2nd Filings. The subdivision encompasses approximately 254 acres and is zoned Residential Mixed Use (RMU).

The preliminary plat was approved by Planning Commission in 2017 as a single filing with 290 single family lots. The final plat has been split into two separate filings with a total of 260 single family lots. Layout of the two final plats are generally consistent with the preliminary plat, although a number of lots were eliminated due to the Arthur Ditch, which was planned to be piped in the preliminary plat, being left in place and not piped (the ditch will be fenced with wrought iron style fencing). At the time of preliminary plat approval, a park site of four to five acres to be dedicated to the Town was envisioned. However, no park site acceptable to the Town was identified so the applicant has elected to pay the fee-in lieu of dedication, a solution which is acceptable to the Parks, Recreation and Culture Department. A small (2/3 acre) park is planned to be built by the developer and maintained by the Metro District. Adjacent to the park are approximately 14 acres of wetlands that will be preserved.

### 1st Filing Plat characteristics:

- 140 single-family residential lots;
- Average lot size of 6,982 square feet;
- 14 open space tracts (drainage, utility & access) = approximately 19 acres;
- 5 future development tracts = approximately 173 acres; and
- Approximately 11 acres of public right-of-way dedication.

### 2nd Filing Plat characteristics:

- 120 single-family residential lots;
- Average lot size of 6,950 square feet;
- 11 open space tracts (drainage, utility & access) = approximately 9 acres;
- 1 future development tract = approximately 35 acres; and
- Approximately 8 acres of public right-of-way dedication.

Three access points will be provided to the development, one from County Road 34C and two from County Road 5. Offsite improvements associated with the development include paving County Road 34C and the following upgrades to County Road 5: two southbound lanes with bike lane, curb, and gutter; left and right turn lanes as needed; and a detached 10' wide multiuse trail. An oil & gas operations area is shown on the northern portion of the first filing and is being provided in accordance with C.R.S 24-65.5-103.5(1)(a)(II). The operations area does not

constitute Town approval of any oil and gas operations. Any such operations remain subject to Conditional Use Grant approval and State approval.

The applicants held a neighborhood meeting on October 22, 2015 in accordance with Chapter 16, Article XXXI of the Municipal Code. There was one neighbor in attendance. Please see the enclosed neighborhood meeting notes for discussion topics and responses.

Per Mr. Ballstadt, this is a Major Subdivision for the Fossil Creek Ranch 1st and 2nd Fillings. The zoning of the property is zoned residential mixed use and general commercial. The application is consistent with the goals of the Comprehensive Master Plan. Public notification was made in accordance with the municipal code guidance. At the August 5, 2020 meeting, the Planning Commission forwarded to the Town Board a recommendation of approval of the final subdivision plat.

Mayor Rennemeyer reminded the Board that the public hearing is for questions of staff and of the applicant and to make sure that conversation of the Board results in questions and not feelings or comments about how you may or may not vote for the issue at hand.

Town Board Member Sislowksi inquired about the results of the neighborhood meeting held in October of 2016 and if there were any comments at that time. Mr. Ballstadt responded that he did not believe there were any comments from that neighborhood meeting and that this has taken quite some time to navigate the process. John Beggs stated he was present at the neighborhood meeting and there was one individual that attended that meeting. There were no real comments just more conversation about the project itself. Town Board Member Sislowksi stated that he was looking at the map of the 1st filling and saw the area that said future development zoned RMU and was curious if there were plans to add additional homes in that particular zoning and what type of development would be allowed in RMU zoning. Mr. Ballstadt responded that the residential mixed-use zoning would allow for any of the various densities in the municipal code. The area being referred to he believed was being planned for some multi-family product but would defer to the applicant to discuss that. Mr. Beggs responded that it is going to be planned for multi-family in the future and there is a stipulation in the I-25 corridor plan that they can't plan any single-family any closer to I-25 than it already is currently. Town Board Member Sislowksi asked if that was for the RMU zoning on the East side also. Mr. Beggs responded that along the West side would be the multi-family, and along the East side where the map has the cutout was an existing wetland area that was going to be retained as open space. Town Board Member Sislowksi asked if that should be changed on the map to reflect the open space zoning. Mr. Ballstadt stated that generally they would use that zoning if the entire property was open space, but typically there are properties with open spaces interspersed in them that are zoned residential mixed-use neighborhoods. Town Board Member Sislowksi stated that his sensitivity is for families buying homes in this area if they were to look at the map and given the zoning, understand what might be built next to that area could be anything under the RMU bucket. Mr. Ballstadt responded that was correct and the I-25 Corridor plan would not allow anymore single-family units closer to I-25. Town Board Member Sislowksi asked for further clarification regarding a box on the South side of filling 2 as to whether it may be for parking. Mr. Beggs responded that was a stormwater detention facility. Town Board Member Sislowksi stated that he looked at the criteria for subdivisions and asked whether the area was going to be dual tap running both potable and non-potable systems. Mary Whonrade, Civil Engineer responded that there would be a dual water tap system although it would not be tapped into the potable water system. It was going to be a completely independent irrigation system based on raw water coming from the ditch.

Town Board Member Wilson stated that just driving by the site and looking at the map, he observed that part of site is going to be a wetland. There is also a ditch running through the property. It is going to be a kind of low-lying area. He asked if this was going to be in a flood plain or how was it classified and whether that was a concern at all? Doug Roth, Civil Engineer responded that the Northeastern portion of the site does fall in the flood plain currently, however it is eligible to be filled in and elevated.

Mayor Pro Tem Bennett stated that he did not see a neighborhood park, trails, or open space and asked what the plan was for those? Mr. Ballstadt responded that the applicant has decided to pay the cash in lieu fee for this particular park site. Parks and Rec has been actively discussing the park site. The challenges with typography, with the ditch, as well as the wetlands have been limiting factors and the reason for the applicant to opt for the cash in lieu of a park site. Mr. Ballstadt stated that he believes there are trails planned in this project. Mr. Beggs

stated that there is a pocket park within this subdivision that will be maintained by the HOA within filing 1 directly West of the wetlands. There is a trail network that extends internal from the wetland area out to the area to the South. The Town trail that is required for this project will be along the future collector road that is going to be occurring in the future with the commercial areas.

Town Board Member Sislowski asked if there is a trail segment within this area that is part of the Poudre Trail extension. Eric Lucas, Public Works Director stated that it does show on the Trails Master Plan Map that there will be a secondary connection to the Poudre Trail. The main connection will leave the Kyger Woodland Bluffs area and head through the open land to the North connecting through Timnath Park and then over to the area of this subdivision.

**Town Board Member Tallon moved to close the public hearing, Town Board Member Sislowski seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

2. Resolution No. 2020-59 - A Resolution Approving Fossil Creek Ranch Major Subdivision 1st Filing Plat – Dallas Horton & Steve Pfister, 3T Investments, LLP, applicants/John Beggs, Russel + Mills Studios, applicants' representative

Please refer to the previous agenda item for discussion.

Town Board Member Sislowski stated that he urged the Planning staff to see if there is something else to these maps that would make it easier for a potential home buyer to look at them and see what may be built across the street at some point in the future just to avoid the kind of issues that we typically do face with a homeowner pretending not to know.

**Town Board Member Tallon moved to approve Resolution No. 2020-59, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

3. Public Hearing - Fossil Creek Ranch Major Subdivision 2nd Filing Plat – Dallas Horton & Steve Pfister, 3T Investments, LLP, applicants/John Beggs, Russel + Mills Studios, applicants' representative

**Town Board Member Sislowski moved to open the public hearing, Board Member Cline seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

Per Mr. Ballstadt, this is the 2nd filing and is being reviewed in accordance with the municipal code. The 2nd filing is the Southern filing of the two and it is zoned residential mixed use. At their August 5, 2020 meeting, Planning Commission forwarded to the Town Board a recommendation of approval of the final subdivision plat.

Town Board Member Sislowski stated that he was looking at the map in the Southeast corner of Fossil Creek Ranch Major Subdivision, and asked why it was outlined and separated. Mr. Beggs responded that the Southeast corner is planned for a commercial site. Town Board Member Sislowski asked if it was zoned as residential mixed unit also or if it is zoned as something else. Mr. Beggs responded that it is within the RMU zone.

**Town Board Member Tallon moved to close the public hearing, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

4. Resolution 2020-60 - A Resolution Approving Fossil Creek Ranch Major Subdivision 2nd Filing Plat – Dallas Horton & Steve Pfister, 3T Investments, LLP, applicants/John Beggs, Russel + Mills Studios, applicants' representative

Please refer to item C.1 for discussion.

**Town Board Member Tallon moved to approve Resolution No. 2020-60, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

5. Public Hearing - An Ordinance for the Regulation of Traffic by the Town of Windsor, Colorado, Repealing and Readopting Article I of Chapter 8, and Portions of Article II, Chapter 8, of The Windsor Municipal Code and Adopting by Reference the 2020 Edition of the "Model Traffic Code", Repealing All Ordinances In Conflict Therewith, and Providing Penalties for Violation Thereof

**Town Board Member Tallon moved to open the public hearing, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowksi, Tallon, Wilson; Motion Passed.**

The *Town of Windsor Home Rule Charter*, Article IV, Section 4.13 authorizes the Town Board to adopt codes by reference as provided by applicable state statutes. As such, proper notice and a public hearing must be conducted pursuant to the requirements of §31-16-203, *Colorado Revised Statutes* ("C.R.S."). This section requires notice of the public hearing to be published twice in a newspaper of general circulation, once at least fifteen (15) days preceding the hearing, and once at least eight (8) days preceding it.

The first publication was on July 26, 2020 and the second publication was on August 2, 2020.

§31-16-2035 C.R.S. requires the publication of the ordinance in full. At least three (3) copies of the adopted code shall be kept by the Town Clerk and be made available for inspection.

The Town currently uses the 2010 Model Traffic Code. The 2020 Code addresses changes adopted by the State Legislature over the past ten years. Since the Model Traffic Code sections closely mirror the title 42 State code sections that are written into County court, this update will more closely align the two codes that our officers must rely upon. Outlined below are the new laws, and/or additions/deletions to the language of existing language, that have been added since 2010 and the recommended deletions from the code that are not needed since they are covered under already existing Town Ordinances.

Differences between the 2010 and the 2020 Model Traffic Codes and recommendations are detailed in the attached Memo, which is incorporated herein by reference.

Per Kim Emil, Assistant Town Attorney that this is a public hearing for an ordinance adopting by reference the 2020 revision to the model traffic code. Windsor is a model traffic code municipality, which means that any traffic violations that go to the Municipal Court are violations of the model traffic code or of the Windsor municipal code section. There are sometimes conflicts between the State's laws and municipal traffic ordinances that can lead to inconsistencies in traffic enforcement and movement requiring uniformity in traffic regulations.

Mayor Pro Tem Bennett stated that on page 65 in the packet in the code is item 106 which talks about local authorities with respect to highways under their jurisdiction and asked what that meant with regards to Hwy 397 and Hwy 257 in our Town- do we have jurisdiction on that? Ms. Emil responded that any road that lies within the Town of Windsor. Mayor Pro Tem Bennett stated that more specifically item 106 talks about weight restrictions, so State highway, State law within our Town limits and local authorities having jurisdiction. Do we have authority to put weight restrictions on those highways for a period of ninety days like it states? Ms. Emil stated that she believes we could do that. Mayor Pro Tem Bennett asked if we could do that without the State's permission? Ms. Emil responded that she believes we would still need to work with CDOT on that. What he is thinking about is if we had a festival or downtown event, we could maybe limit the weight traffic on those streets for a period of time. Ms. Emil responded that she believes we could try it but would have to start well enough in advance to let CDOT know. Mayor Pro Tem Bennett stated that he is just looking for opportunities within the law. Chief Klimek responded that he doesn't believe we can stop the trucks from traveling on Main Street, 257, or 397 for the purpose of what we are talking about, but thinks those are there for road construction or things of that nature. Mayor Pro Tem Bennett stated that on page 69 talks about low-speed electric vehicles, and asked for examples if they are like electric bicycles, Segways, or what does it really mean when it says low-speed electric vehicles? Ms. Emil stated that it is defined on page 192 along with a specific ordinance in our code that outlines what they are. Mayor Pro Tem Bennett stated on page 67 it talks about wildlife crossing, and local authorities can have a reduced speed if there is a wildlife crossing and inquired what the definition of wildlife crossing as he is thinking about the trail that crosses 257 and how there are wild turkeys out there. Mayor Pro Tem Bennett stated that he knows it is a little far-fetched but is looking at how we can use this to benefit our people, so what is the criteria for a wildlife crossing? Ms. Emil stated that it is not in the definitions.

Town Board Member Charpentier stated that he thinks last time we talked about motor homes being parked in subdivisions and since then there seems to be discussions especially in his subdivision that the HOA says there is a new ordinance now that there is no enforcement of mobile homes parking on the street. He knows it was twenty-four hours and believes it got

moved to forty-eight hours under some exceptions but there are still some people that take advantage of that. Commander Lopez stated that the ordinance allows currently for four twenty-four-hour periods per month for folks to park their trailers within the Town of Windsor. Since April, we have been allowing a little bit of leniency for folks due to COVID because we did at that time get one person who was using their mobile home for sequestration so as not to get their family sick. This was not an ordinance change but we put in an internal working policy where they were allowing folks if they had a verified case of COVID, they could call in advance and we would not enforce the ordinance. However, since April we have had zero requests, therefore, we are moving back to the standard enforcement practice. Town Board Member Charpentier asked if it was on the Homeowners Association to start enforcing that. Commander Lopez responded that it is not; HOAs can make their own rules separate from what the Town's law is. Mr. Hale also responded that we are still going to allow quarantining in a recreational vehicle on a case by case basis, but it will be issuing a warning first and then letting them tell us they are quarantining. Chief Klimek responded that the Board is going to be seeing an ordinance coming forward regarding recreational vehicles and parking.

**Town Board Member Tallon moved to close the public hearing, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowksi, Tallon, Wilson; Motion Passed.**

6. Ordinance No. 2020-1613 An Ordinance for the Regulation of Traffic by the Town of Windsor, Colorado, Repealing and Readopting Article I of Chapter 8, and Portions of Article II, Chapter 8, of the Windsor Municipal Code and Adopting by Reference the 2020 Edition of the "Model Traffic Code", Repealing All Ordinances In Conflict Therewith, and Providing Penalties for Violation Thereof

This is the first reading of the Ordinance Adopting the 2020 Model Traffic Code following the Public Hearing.

The MTC has been the standard for local law enforcement in traffic matters for many years. At the State level, it is adopted by the Colorado Department of Transportation. Updating the MTC to the 2020 edition assists law enforcement in providing a consistent set of standards and laws, decreasing the potential for conflicting standards between municipal and county courts.

Windsor last adopted the 2010 MTC in January 2014. Since that time, the basics of traffic law has remained largely unchanged, but the Code has been updated with everything from automated driving systems to electrical assisted bicycles to golf cars, in addition to adding parental responsibility if they are in a vehicle with unrestrained children.

References to all penalty provisions in the Model Traffic Code are being deleted, deferring to our Municipal Code general penalty.

New Windsor Municipal Code Sections are being created to address specific parking violations. These sections previously had been added provisions to the Model Traffic Code, which created some confusion, but will now be ordinance violations as opposed to re-writing the Model Traffic Code.

Town Board Member Sislowksi stated that he wanted to commend staff for the mind-numbing task of reading through the code and trying to rationalize it with what we have in Windsor.

**Town Board Member Sislowksi moved to adopt Ordinance no. 2020-1613, Town Board Member Tallon seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowksi, Tallon, Wilson; Motion Passed.**

7. Ordinance No. 2020-1611 An Ordinance Amending Chapter 4, Article III of the Windsor Municipal Code to Extend the Town's Sales Tax Collection, Remittance And Reporting Requirements to On-Line Transactions and On-Line Vendors

In 2018, the U.S. Supreme Court issued its decision in *SouthDakotav. Wayfair, Inc.*, opening the door to state and local sales tax of internet-based transactions. Since that time, the Colorado Municipal League has worked with various stakeholders to arrive at model ordinance language for adoption by municipalities. The model ordinance has been incorporated into the Windsor Municipal Code in the attached draft.

The draft ordinance adds a Wayfair concept to the definition of Vendor, by including vendors who do not have a physical presence in Town, but who make deliveries of a certain character into Town. Section 3 of the draft ordinance then specifies the transactional characteristics that trigger assessment of sales tax under the Code. This section refers to sales in excess of the amount specified in § 39-26-102 (3) (c), C.R.S. as the trigger for local taxation. The statutory sales level is \$100,000 during the previous calendar year. Once that level of sales occurs within the state, internet sales in Windsor are subject to local sales taxation.

This ordinance has been modified since first reading, but not materially. Some language regarding marketplace sales was clarified by CML since first reading.

Per Mr. McCargar, this is second reading of what has been referred to as the Wayfair ordinance which will allow the Town of Windsor to apply sales tax to vendors who do not have a physical presence in Windsor, but who have reached certain thresholds of \$100,000 in sales volume within the State of Colorado in the previous calendar year. We did make a very small change to the language at the recommendation of the municipal league, it does not change the intent of that section, it actually shortens it and makes it clearer. We have made that change, we will publish it in full accordingly under the Charter.

Mayor Rennemeyer opened the meeting for public comment to which there was none.

**Town Board Member Tallon moved to adopt ordinance no. 2020-16, Town Board Member Sislowksi seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

8. Resolution No. 2020-61 - A Resolution Approving and Adopting the Intergovernmental Agreement Between the Town of Windsor and the Colorado Department of Revenue With Respect to Collection and Distribution of Sales Tax in Accordance With the Sales and Use Tax Software ("SUTS") System

The adoption of Ordinance No. 2020-1611 requires the Town to enter into an administrative IGA with the State Department of Revenue ("CDOR"). The attached reference copy of the IGA has been presented to us for review and execution.

The IGA addresses the details of CDOR's relationship to the Town with respect to collection and distribution of on-line vendor sales tax collection. This agreement is the model form being used by all municipalities who have participated in the CML effort to bring uniformity to the process. Our representative in the CML effort is Dean Moyer.

Assuming adoption of Resolution No. 2020-61, I will work with Dean to fill in the blanks and otherwise, finalize the form of the IGA for the Mayor's execution.

The key legal point to approval of the IGA is to streamline collection to a point where interstate commerce is not materially impaired, a principle that assures adherence to the United States Constitution.

Per Mr. McCargar, this resolution and intergovernmental agreement that it approves is a companion item to the Wayfair ordinance that was just approved. This agreement allows the State of Colorado to serve as our collection agent basically for online sellers so they have a single point of contact within the State of Colorado for the payment of these taxes, then our agreement will collect our cuts in accordance with the terms of the agreement. Legally, this just makes certain that vendors are not over burdened with reporting to all the individual municipalities.

**Town Board Member Tallon moved to approve resolution no. 2020-61, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

9. Ordinance No. 2020-1612 An Ordinance Amending Chapter 4, Article IV of the Windsor Municipal Code to Increase the Time for Which the Town of Windsor Retains Unclaimed Intangible Property and Other Necessary Amendments Consistent with the Revised Uniform Unclaimed Property Act

During the 2019-2020 legislative session, the General Assembly enacted SB 19-088, which adopted the Revised Uniform Unclaimed Property Act in Colorado. The Act contains detailed requirements for entities who wind up holding abandoned/orphaned financial assets. Examples include deposits, checks that have not cleared the bank, escrows, and similar accounts whose rightful owners have gone silent. The Act exempts municipalities who adopt language as specified, in which case the municipality may observe its own requirements for disposition of these accounts. For Windsor, these types of assets are usually deposits, refunds and payments that have not been claimed or accepted by the rightful owner.

Chapter 4, Article IV, of the Windsor Municipal Code contains Windsor's current rules on unclaimed property. The key change to current Code language is that the Town must hold the abandoned asset for five years following required notice to the presumed owner, which notice must await a one-year period following the owner's underlying right to claim the asset. The current Code sets the "claim window" at sixty days following notice. Under this revision, the Town must wait at least six years before the asset becomes eligible for retention by the Town under the Act.

Per Mr. McCargar, this ordinance was before the Board for first reading a couple of weeks ago. There have been no changes to it since its prior presentation. It brings us into compliance with exemptions that are available to local governments under the unclaimed property act and thus prevents us from having to comply with the more burdensome requirements of that statute. This provides for an extensive period of time for during which we must hold unclaimed property. It provides for multiple efforts at communication to the people who might own the property. After going through all of that and waiting the various waiting periods, we are permitted to absorb those dollars into our general fund. These things are generally limited to refunds to utilities, deposits, and occasional paychecks that go unclaimed by a former employee.

Mayor Rennemeyer opened the meeting to public comment to which there was none.

**Town Board Member Tallon moved to approve ordinance no. 2020-1612, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.**

10. Resolution No. 2020-62 - A Resolution Approving Larimer County Lodging Tax election IGA

Per Mr. Hale, this Town Board has indicated that it intends to consider referring a lodging tax question to the voters on November 3rd. This will require a coordinated election with both Larimer and Weld Counties. In order to reserve the Town's ability to participate in the November, 2020 election in Larimer County, the County election office requires the execution of an IGA laying out the responsibility of the parties. The Larimer County election official has presented the attached intergovernmental agreement for conduct of general election as its approved form for election participation. Approval of the IGA does not compel Windsor to participate in the election, but only ensures that Windsor will have the ability to do so if all other required election related matters are approved by the Town Board.

Town Board Member Sislowski stated if we are approving this, it at least gives us the option to move forward with putting this on the Larimer County ballot, and asked if we are having similar discussions with Weld County. Mr. Hale responded that it would be the next resolution for the next item on the agenda.

Town Board Member Cline asked of this cost, of what fund does it come, how is the Town paying for it and was it already budgeted. Mr. Hale responded that this year, we budgeted \$40,000 for elections which basically covered the municipal election. This is a new cost if we send this, we will probably charge that same line item for this election. Mayor Rennemeyer asked if it would come out of the Town Board budget. Mr. Hale responded that it is actually the Town Clerks budget.

Town Board Member Charpentier asked when this gets approved on the ballot, does it go retro back to 2020, or does it start in 2021. Mr. Hale responded no that it would set it forward and would probably set it for January 2021. Mr. McCargar responded that the next step is to refer the question to the voters as to whether they want to do a three percent increase. If the voters say yes, it will come back to the Board to adopt an ordinance that will change the code that will actually build this into the code. When Board adopts that ordinance on final adoption, then wait the thirty days that is built into the charter, it takes effect there. Mr. Hale responded that the

board could also chose to make it start at a later date if decided that the lodging industry needs a little more time to ramp up. Mr. McCargar stated that the important thing to remember is what goes on the ballot is a big long paragraph, but it is not code language. It will come back for the code language and that's when the Board can do something like set the date.

**Town Board Member Tallon moved to approve Resolution no. 2020-62, Board Member Cline seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowksi, Tallon, Wilson; Motion Passed.**

11. Resolution No. 2020-63 - A Resolution Ratifying, Approving and Confirming the Terms and Conditions of an Intergovernmental Agreement for Conduct of General Elections Between the Town of Windsor and County of Weld With Respect to the Coordinated Election Scheduled for November 3, 2020

In order to reserve the Town's ability to participate in the November, 2020, coordinated election in Weld County, the County Election Office requires the execution of an intergovernmental agreement laying out the responsibilities of the parties. The Weld County Election Official has presented the attached Intergovernmental Agreement for Conduct of General Elections as its approved form for election participation.

Approval of the IGA does not compel Windsor to participate in the election, but only assures that Windsor will have the ability to do so if all other required election-related matters are approved by the Town Board

Per Mr. Hale, this is the same as the previous resolution, but for Weld County.

Town Board Member Sislowksi stated that in the prior resolution, there was a catch all clause that said that the agreement could be modified administratively in order to make some changes to terms and correct it, but this one does not have that and would like to get from Mr. McCargar confirmation that this is sufficient. Mr. McCargar stated that he doesn't know how that happened but if he needs to correct it, we will correct it.

**Town Board Member Tallon moved to approve Resolution no. 2020-63, Town Board Member Charpentier seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowksi, Tallon, Wilson; Motion Passed.**

#### D. COMMUNICATIONS

1. Communications from Town Attorney

No communication

2. Communications from Town Staff

Per Mr. Lucas, he was just notified that Village East Park was selected as number two in a competition and received the merit award for landscape and urban development.

Per Mrs. Humphries, the two vacancies in our department are the IT Manager and GIS Analyst. The IT Manager was published at the end of last week; we are going to keep taking in applications. It is a continuous opening until filled. The GIS Analyst position will be interviewing next week. We do have some foam boards for the strategic plan downstairs in the lobby.

- a. Finance Report June 2020

Per Mr. Moyer, the finance report for June is in the packet. We had talked in length about how COVID is going to affect not only this year, but next year as well. What we have found here through June is that the Wayfair decision that we just talked about earlier, has helped us immensely as far as keeping us afloat on our sales tax collections. Year to date, we are up fourteen percent in our retail sales tax. We have found that the wildcard here is the construction use tax and further than that, have discussed the property tax. Mr. Hale reported that this year, we are going to have a lot of budget discussions about projected revenues and trends we see. Even though COVID has been going on for a long time, revenues are often delayed and are having a lot of discussions with the Weld County Assessor who was able to

walk us through her projections and getting it down for Windsor specific. While we appreciate the increase for June, we are not out of the woods yet.

Town Board Member Charpentier asked for clarification as to whether we are up fourteen percent this year in overall revenue. Mr. Moyer responded it is just our retail sales tax. Even though our sectors such as entertainment and bars and restaurants have been affected by COVID, what has helped us is the Wayfair decision, internet sales tax being remitted to us and items that you don't have to go out for.

Mayor Rennemeyer asked if there is any idea when we will have July numbers? Mr. Moyer responded that we will have something at the end of this week. There have been a lot of questions and he likes to have some time to vet it before making it public, but it is not looking as catastrophic as was previous anticipated.

3. Communications from Town Manager

a. Monthly Envisio Report

Per Mr. Hale, on page 336 is the Monthly Envisio Report; if there are any questions on the Strategic Plan or the progress, please contact me. This Thursday, we will hold a Community Open House to present the 2020 Strategic Plan. It will be at the community Recreation Center at 5:00 p.m. We will have an opening presentation and then will move people around. We will have three different sections based on every focus area, and will have a couple staff people in each one. The Board will have the ability to float around. We are also launching a new platform with this called Bang the Table that will allow people to be interactive and give feedback all online. Staff will be taking the foam boards to the Farmer's Market this Saturday to try and get some final public input. If Boards Members would like to come, please let staff know prior to so we can post if needed.

4. Communications from Town Board

Town Board Member Sislowski stated that there was some conversation about changing the hours of the Work Sessions and Town Board Meetings, but doesn't remember when that came up and when we might be switching back. Mr. Hale responded that the time right now will go back to our regular public meeting times in September due to having already published the 5:00 p.m. start time for public hearings for the last meeting in August. The first meeting in September on September 14th, the Work Session will start at either 5:30 or 6:00 p.m. and the Board Meeting will start at 7:00 p.m.

E. ADJOURN

**Town Board Member Wilson moved to adjourn, Town Board Member Tallon seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson;**

The meeting was adjourned at 6:39 p.m.



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Karen Frawley, Town Clerk