



TOWN BOARD SPECIAL MEETING

October 5, 2020 - 6:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550 Zoom Meeting, Click on the link <https://windsorgov.zoom.us/j/95126821737?pwd=eDkzc0dmR0dhS1dWc3dTeWlKTnQ0UT09>
OR join by telephone at (888) 788-0099 or (877) 853-5247 -Webinar ID:951 2682 1737

MINUTES

A. CALL TO ORDER

Mayor Rennemeyer called the meeting to order at 6:04 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
Jessica Humphries, Administrative Services Director
Stacy Miller, Economic Development Director
Omar Herrera, Engineering Manager
John Thornhill, Community Development Director
Scott Ballstadt, Planning Director
Rick Klimek, Chief of Police
Dean Moyer, Finance Director
Tara Fotsch, Deputy Director of PRC
McKenzie Paine, Visual Media Coordinator

B. BOARD DISCUSSION ITEMS

1. Meet The Board - New Employees - B. Sorenson, HumanResources Manager

Last Name	First Name	Title	DOH	Supervisor
Omiecinski	Ryne	Wastewater Technician	3/16/2020	Eric Lucas
Sisneros	Anthony	Parks Maint. Operator	3/30/2020	Eric Lucas
Moehling	Ryan	Equipment Operator	3/2/2020	Eric Lucas
Moos	Tim	Utility Technician	3/2/2020	Eric Lucas

Mr. Lucas presented to the Board Ryne Omiecinski, Ryan Moehling, Anthony Sisneros, and Tim Moos, all new staff that was hired in March.

2. Capital Improvement Plan Follow Up - D. Moyer, Finance Director

Per Mr. Moyer, in the packet there is an update to the Capital Improvement Fund program. A couple of questions came up during the August meeting and staff have since made some

changes to the plan presented in August. In this presentation, the changes have been incorporated. In 2017, the Town Board at the time addressed the question regarding monetary excess coming in from development and sales tax and how much the Town should be keeping in reserves for years to come; from that discussion, policies were created and adopted. Each of the funds have what the ending fund balance should be in order to stay in compliance with the policy adopted. The Capital Improvement Fund was short \$660,485 below the required minimum balance. Please note the change here that is different from the version in the packet, the number in the packet shows to be down \$735,485; what has happened since then was staff's ability to save \$75,000 in 2020 expenditures. Mr. Hale stated that the \$660,000 represents what the Board requested that staff bring back in the transportation reserve so that was put in. There was also fifty-percent of the 7th Street Pedestrian Bridge added in, as well as the Tanko lighting project. After those items were brought in – that is where the \$660,000 comes from. Mr. Moyer stated that staff looked to get that number a little closer in order to stay in compliance by removing the DDA lot improvements that were \$94,000 and the railroad quiet zone which was \$408,000.

Mayor Pro Tem Bennett asked regarding the DDA lot improvements, if the DDA is aware of the possibility of the project being pulled. Mr. Hale responded that the suggestion for the project came from Public Works and the comments received from some of Town Board was that knowing the DDA wants to do some improvements in the alley and development is ready to be done. Is it wasting \$100,000 to do the improvements now versus waiting on the investment. Mayor Pro Tem Bennett stated that he just wanted to make sure that any partners would be aware if they were counting on a project that we are communicating.

Per Mr. Hale, looking at the Park Improvement Fund, anything in red was not presented to the Board last time and was not in the last CIP. Staff is suggesting that the 7th Street Bridge project be split fifty-fifty between the Park Improvement Fund and the CIP. The Park Improvement Fund has a reserve balance that could pay for the entirety of the project. Staff is suggesting the split because of upcoming big-ticket parks development in the future. Tanko Lighting had a couple of options that came out of their study. The first option would be that both Poudre Valley REA and Xcel would cost just under \$1.6 million. The second and worse case option since the Town has not begun talking to the utilities is that the cost could change and would cost over \$2.1 million. Under option two, there is an option to do only Xcel which would cost around \$1.5 million. Mr. Hale stated that he believes when the next step is complete that there will be much better data and information provided. Town Board Member Sislowski asked whether we hired Tanko to do a study and wanted to know if they are still under contract now and thus leading the negotiations. Mr. Hale stated that they are not under contract now and have done everything for which we contracted them. What Tanko recommends is the Town re-engage them to do the next step. Town Board Member Charpentier asked if the 7th Street Bridge was the project being presented a few weeks back and whether it was approved. Mr. Hale responded that it was the one presented but has not been approved yet. He further stated that this is just the exercise to get the item in the budget. The next item is the highway bypass reserve; it is a non-project specific set aside that the Board has said to give \$1 million should there be a chance for the Town to improve capacity in Windsor who needs a partner and the Board wants to give itself leeway to do so. Mayor Pro Tem Bennett asked for clarification on the highway bypass reserve whether it was put in a year or two ago and whether it was called a CDOT project, thinking there may be a CDOT project. His understanding is that this has flexibility now and that wherever there is opportunity to improve traffic, this is money that could be utilized. Mr. Hale responded that he believes, as he understands it, that the Board wanted the ability to partner with any other agency when there is a chance to improve traffic in Windsor but it is one-hundred percent discretionary and therefore up to the board to prioritize the transportation projects. Mayor Rennemeyer asked if we are putting it into a separate fund or if it is earmarked for next year and doesn't roll over. Mr. Hale responded that historically, this has just been a budget item that is set aside and has not rolled over, but if the Board would rather this fund build, staff could do that and in next year's budget could bring it in the CIP as a \$2 million set aside.

Mayor Pro Tem Bennett stated that there was a question from another Board Member when talking to Public Works about having money earmarked and not knowing for what type of project it is to be used. However, it is known that this money is for any transportation project that is going to improve truck traffic or transportation patterns in Windsor. When that time comes it is going to cost multi-millions of dollars. If and when there is ever a plan to get something improved, to come up with multi-millions of dollars in one year

would be difficult. Mayor Pro Tem Bennett stated that he was always in favor of a fund that could be built up over time so that when ready, it can be moved on. Mr. Hale stated that he believed it was Town Board Member Cline who had the point that if we don't give it a name, it is easy to sacrifice. Mr. Hale agreed and thinks that is absolutely right and would say that, right now based on this discussion, what would be suggested would be this year without additional cuts, \$1 million is what can be done. Next year when building the CIP, staff can draft in \$2 million dollars and let the Board determine if it looks right or if they want to keep it at \$1 million. Mayor Rennemeyer stated that he is okay with the amount of \$1 million dollars to be put aside, but thinks that it needs to be a fund that is building up over time and asked if it would be difficult to create a fund in which to add money. Mr. Hale responded that it wouldn't be difficult to create the fund in which to put this money. Mayor Rennemeyer stated that if the Board is okay with this being a fund that builds up, what will it be called so that it is within finance guidelines to be able to use it for whatever the Board would deem a project that can use it towards. Mr. Hale responded that even if a fund was opened and called something like Project Match Fund, the Board, in two years, can decide at that point to designate and transfer — say there is \$3 million dollars in that fund and there is a project that is important — the money to another account. Titring the fund is not that important as it is not money that has been collected for a certain reason, so it is not restricted that way. Mr. Hale stated that staff should be able to open up a new fund and budget it separately. Mr. Moyer stated that being that it is not specifically called out like the road impact fund or park improvement fund, it is not so much that a whole separate fund would need to be developed and audited. This money is a mix of construction use tax and sales tax; therefore, in order to accomplish what the Board is asking, staff does not need to create a whole new fund that has to be reported on, but can keep track of it within the Capital Improvement Fund and make sure every year it is being added to and spent out of directly. Mr. Moyer stated that to address the point that Mr. Hale brought up, in order to keep the vision alive when everyone is no longer involved, thinks it would be important to say that this is what this Board set that money aside for. Mayor Rennemeyer stated that if another board feels that there is better use for this money than joint road projects, that he is not trying to set it up to where it can't be used for anything else. Mayor Rennemeyer stated that having it as a revolving earmark fund or something to that affect where the Board is able to say we have this money that can be used without fear of it being in violation of the way money can be used, or violation of the budget.

Town Board Member Wilson stated that he agrees with the Mayor in that building up some funds will provide future boards options to make some major improvements to the Town. Mr. Hale stated that to Ms. Cline's point last time, if there is something identified, or there is an actual project that comes up, once this fund is given a name, it will be a lot easier to put money into. Mayor Rennemeyer stated that he was thinking of a project similar to how they stashed money for the Public Works facility. The Board had said for a number of years that money would be set aside as capital improvement money so it was made up of all different sources and was able to pay cash for that project when the time came. Mr. Hale stated that next year when the Board see this fund, it will say \$2 million and if the board identifies a project between now and then, it will say that project's name.

Town Board Member Sislowski asked whether this is an exhausted list of all of the capital improvement projects that are proposed. Mr. Hale responded that it should be. Town Board Member Sislowski stated that on the original, although not able to spot it now, was the Hollister Lake Road intersection improvement project that some Board Members expressed concern over. Mr. Hale stated that it should still be there but is included in street oversizing. Town Board Member Sislowski asked about the alleyway improvements and said that the Board saw a proposal with a pedestrian walkway within the alley, but asked for clarification whether it is included. Mr. Hale responded that it was the DDA improvements that staff is recommending be delayed. Town Board Member Sislowski stated that there are still alleyway improvements, to which Mr. Hale responded that it is the alley between 6th and 7th Street and is a different project. Mr. Hale stated that there are two alleyway projects, one was labeled "DDA" and the other was labeled "Alleyway". The DDA alleyway improvement has not been removed but is highlighted for discussion. Town Board Member Sislowski stated that he is not clear enough about what the project entails. One of the reasons it jumped out at him is that the current negative balance in that particular fund is about the same amount as this project is reflecting. He further stated that he wasn't clear on what the goal was of that project. Mr. Hale responded that it is the last unpaved alley on Main Street; therefore, the goal is to improve the last unpaved alley. Mr. Hale stated that he did receive a complaint from one of the merchants on that

alley last year stating that it was the only business with an unpaved alley and asked if the Town would consider it. The complaint was forwarded onto engineering and asked for a cost to be considered at budget time. Town Board Member Sislowski asked whether this would not be redundant if the Board decided to do the pedestrian walkway also. Mr. Hale responded that was correct; the pedestrian walkway was between 4th and 5th Street and this would be the alleyway between 6th and 7th.

Mr. Hale stated that the projects that should be deferred between the DDA lot improvements and the railroad quiet zone are the projects that seemed to have the least amount of traction from the Board and staff suggests that they should be deferred. Staff did include brief descriptions of those projects since it has been a while since the Board had reviewed them. Projects for further discussion include the Town Hall remodel, which was highlighted because it is believed that it will be less than for which it was budgeted. The next project, the Windsor Village playground equipment, is scheduled for replacement and is budgeted at \$300,000. The challenge with the deferral is that we have Windsor West playground equipment replacement scheduled for 2022 for \$300,000. We also have Harmony Ridge new construction at \$1 million and have Highland Meadows at \$100,000 and Founder's Green at \$300,000 in 2023. A lot of these are coming up so the concern that staff would have with deferring these is in 2022, the Board is going to see \$600,000 in playground replacements. If we defer that, the Board will see \$1 million in 2023, so it is suggested to leave it in. Mayor Rennemeyer asked why these items would not be coming out of the park improvement fund. Mr. Hale responded that the Town's policy is that park improvement fund pays for the first playground and thereafter the replacement costs come out of the general fund. The Town collects fees from different homeowners and developers to build that initial playground and thereafter, replacements are paid for with money from both property taxes and sales taxes. The next project is the alleyway improvement project paving the alley north of Main Street between 6th and 7th which is the Town's last unpaved alley and is \$175,000. Mayor Rennemeyer stated that he is not in favor of it because of some of the proposed redevelopment of that area of downtown. Town Board Member Sislowski inquired as to whether the alley would be paved with asphalt. Mr. Hale confirmed that it would be paved with asphalt. Mayor Pro Tem Bennett asked whether there is a problem with the alley not being paved when everything else is; and if so, how big of a problem. Mr. Hale responded that it is hard to quantify that because the business owner who contacted him did point out that they had the only unpaved alley, which is correct. It is there but the Mayor brought up a good point that there is an active DDA with different projects. Mayor Rennemeyer stated that he would propose getting a one-year remediation given the current conversations that the DDA. Mayor Rennemeyer asked the Board if there was any objection to removing it from the CIP to which there was none. Mr. Hale stated that the last project is the cemetery improvement project which included the landscaping around the cemetery; it is project that was removed this year due to COVID budget concerns. Mayor Rennemeyer stated that he was in favor of leaving it in the CIP. Mayor Pro Tem Bennett asked whether it would complete a long-term project. He stated it would be nice to have it done.

Per Mr. Hale, with the alleyway project deferred for a year, we would be within the Capital Fund balance at that point. Additionally, believing that the Town Hall remodel will come in under the budget would create a little more room. Town Board Member Sislowski stated that the security and improvements to Town Hall are a priority; the way that anyone can just walk in the back door is unsafe for employees. Further, he inquired regarding the potential to time these projects as well, even though everything is on a green light. That way if something happens and a cost goes higher, the Board could decide to delay a project until clarification is received on the cost of the Town Hall remodel. Mr. Hale responded that all of these projects are contingent on money being available; with the Town Hall, he doesn't anticipate it going over the budgeted amount, but rather anticipates it coming in under budget. If other projects start coming in over budget, at that point it would be recommended that the Board delay some projects another year. Mr. Hale stated that in the Water Fund, there is a possible water and farm purchase; right now, the number represents half of the purchase price due to paying for half of it this year and the other half next year. There are still ongoing discussions about this purchase being had and there will be the chance for staff to update the Board on this purchase at a later date. Mayor Rennemeyer asked whether some of purchase prices come out of this year's budget and if so, how does it work with the funds and the fact that the didn't know about the project months ago. Mr. Hale responded that every

year, the Town staff brings back a supplemental budget so if there is something the Board approves that wasn't budgeted, the Board has to adopt a supplemental budget which would be done going forward if this is approved. Town Board Member Sislowski asked when referring to the first page of the budget with the starting fund balance expenses and ending fund balance expenses, whether that difference reflects half of this purchase. Mr. Moyer responded that it does reflect half of the purchase price being taken out.

Town Board Member Sislowski stated that he remembers talking about the 7th Street Bridge project and thinks that generally there was a supportive atmosphere among the Board. Additionally, he believes at the time, it was a go ahead and now it is in the budget. Mr. Hale stated that the full amount is in the budget. Town Board Member Sislowski stated that he would like to see a little bit more information as to how it will tie into all of the trails heading to the west before he gives his final approval. He also wants to make sure that approving the CIP will not mean giving the final approval on the bridge. Mr. Hale stated that it will still need to come back to the Board in an IGA between both metro districts and the Town; that would be the final approval from the Board. Having it in the CIP still does not make it final. Mr. Lucas stated that you can actually see the connection when looking at the trails master plan on the Town website.

3. Future Meetings Agenda

Per Mr. Hale, staff continues to fill it in through the rest of the year. Staff is going to try and squeeze in as much business as possible.

C. EXECUTIVE SESSION

1. An Executive Session Pursuant to C.R.S. §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 Shared Use of Sports Facilities (S. Hale, Town Manager; E. Lucas, Public Services Director; T. Fotsch, Deputy Director of PRC)

Mayor Pro Tem Bennett moved to enter into an Executive Session pursuant to C.R.S. §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 shared use of sports facilities., 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.

Upon a motion duly made, the Town Board entered into an Executive Session at 6:24 p.m.

Upon a motion duly made, the Town Board returned to the Special Meeting at 8:37 p.m.

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

Upon returning to the Regular Meeting, Mayor Rennemeyer 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 Special Meeting resumed at 8:38 p.m.

Motion Passed.

D. BOARD ACTION

1. Resolution No. 2020-74 - A Resolution Approving the Second Amended and Restated Agreement for Cooperative Development and Use of Diamond Valley Property
As a result of instructions given during a recent executive session, I have negotiated revisions to the *First Amended and Restated Agreement for Cooperative Development and Use of Diamond Valley Property*. The attached *Second Amended Agreement for Cooperative Development and Use of Diamond Valley Property* contains the following key amendments

while restating all other agreements to date:

Recital J refers to confidential financial information provided to us recently by the ownership group.

Section II.A has been revised to state that the Town's forfeiture rights in the property will be extinguished upon completion of the second phase of athletic fields scheduled for completion on or before March 1, 2022.

Section II.C has been modified to reinforce the intention to finalize a water lease for irrigation of the sports fields. This lease is in the final stages of legal review.

Sections II. D and E have been deleted, as they dealt with items that have already been addressed (brush pile, crushed asphalt).

Section II.G allows the ownership group to modify the Facilities Plan, but not in a way that materially limits the Town's fiscal obligations or rights of use.

Section III.A has been modified to allow for-profit sports-anchored schools academies as a permitted use, but prohibiting tax-exempt schools. This change accommodates plans for a sports academy that is for-profit (taxable).

Section III.C and D allow for location of a regional storm drainage facility easement in a location approved by both parties. This change accommodates site development without sacrificing the Town's storm drainage objectives.

Section IV. B.2 & 3 allow for extinguishment of the Town's deed-based reversionary rights in the 6-acre+ parcel being site planned for the Sports Bubble. The Town's quit claim deed giving up these rights to the Bubble Site will not be recorded until the ownership group closes its financing. The ownership group will present a surety bond for \$150,000 to provide security that the Phase 1 Bubble construction will be finalized by December 31, 2022. This form of security is common, and will encourage the ownership group to finish Phase 1 Bubble construction on time.

The remainder of the agreement is largely unchanged from the 2019 First Amended Agreement.

Per Mr. McCargar, the item before the Board is a second amendment to an agreement to transfer ownership of the Diamond Valley property to a private investor to build baseball fields and turn it into a sports destination. The terms of the agreement were negotiated with a prior development group; there is now a new owner, Future Legends LLC. Staff is recommending approval of the amendment and authorize the Mayor to execute the agreement.

Town Board Member Sislowski moved to approve Resolution No. 2020-74, Town Board Member Tallon seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

2. Resolution No. 2020-75 - A Resolution in Support of Town of Windsor Referred Ballot Measure 3A Appearing on the November 3, 2020 General Election Ballot in Larimer and Weld Counties

Per Mr. Hale, staff is bringing before the Board a resolution of support for the lodging tax question that will be on the ballot for the November 3rd election. This will be for a three percent excise tax on hotel short-term lodging. The money will be used exclusively for local business promotion, destination tourism, conventions, planning and marketing of community events. A marketing committee established made up of private citizens to advise the Board of how the money will best be utilized.

Town Board Member Tallon moved to approve Resolution No. 2020-75, 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.

E. ADJOURN

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

Upon a motion duly made, the Town Board adjourned at 8:43 p.m.

A handwritten signature in blue ink, appearing to read "Karen Frawley". The signature is written in a cursive style with a large, stylized initial "K".

Karen Frawley, Town Clerk