



## TOWN BOARD REGULAR MEETING

September 26, 2011 - 7:00 P.M.

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

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

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### MINUTES

#### A. CALL TO ORDER

1. Roll Call

Mayor John Vazquez  
Mayor Pro-Tem Matthew O'Neill  
Robert Bishop-Cotner  
Mike Carrigan  
Kristie Melendez  
Don Thompson  
Don Shanfelt

Absent:

Also present:	Town Manager	Kelly Arnold
	Town Attorney	Ian McCargar
	Director of Planning	Joe Plummer
	Director of Parks & Recreation	Melissa Chew
	Director of Finance	Dean Moyer
	Director of Engineering	Dennis Wagner
	Director of Human Resources	Mary Robins
	Director of Public Works	Terry Walker
	Business Development Manager	Stacy Johnson
	Town Clerk	Patti Garcia

2. Pledge of Allegiance

Town Board Member Carrigan led the Pledge of Allegiance.

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

**Town Board Member Thompson motioned to approve the Agenda as presented; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Thompson, Vazquez  
Nays – None. Motion carried.**

4. Board Liaison Reports

- Town Board Member Bishop-Cotner – Historic Preservation Commission; Planning Commission Alternate  
Town Board Member Bishop-Cotner reported the Historic Preservation Commission meeting scheduled for last week had been cancelled.
- Town Board Member Carrigan – Water & Sewer Board  
Town Board Member Carrigan stated he had nothing new to report.
- Mayor Pro-Tem O'Neill – Library Board; Planning Commission; North Front Range/MPO Alternate

Mayor Pro-Tem O'Neill reported the Library Board would be meeting tomorrow night. At their last meeting, the Planning Commission forwarded recommendations to change Chapter 17 of the Windsor Town Code related to landscaping standards.

- Town Board Member Melendez – Chamber of Commerce; Cache La Poudre Trail Board; Downtown Development Authority  
Town Board Member Melendez stated there was nothing new to report related to the Chamber of commerce. The Cache La Poudre Trail Board held the Poudre River Trail Challenge on September 17. Ms. Melendez noted the event was a huge success with 200 participants and encouraged others to participate next year. The Downtown Development Authority held meetings last Wednesday and Thursday morning and is working on completing the Intergovernmental Agreement that will be presented to the Town of Windsor.
- Town Board Member Thompson – Parks & Recreation Board; Great Western Trail Board; Tree Board  
Town Board Member Thomson noted that the Parks & Recreation Board would be meeting next Tuesday and that the Tree Board meeting had been cancelled. Mr. Thompson also reported the Great Western Trail Board would be meeting this week to finalize long range plans and pursue grant opportunities.
- Mayor Vazquez – North Front Range/MPO; Student Advisory Leadership Team (SALT Report on 3<sup>rd</sup> Monday of the month)  
Mayor Vazquez stated the MPO would be meeting on October 13. Representatives from SALT reported to the Town Board regarding upcoming events related to homecoming and the haunted house for Halloween. They also reported on the Teen Night held a few weeks ago with over 500 middle school students in attendance; the next Teen Night is scheduled for October 14.

5. Public Invited to be Heard

Boyd Evans, Pastor of Cornerstone Baptist Church introduced himself to the Town Board and noted the various areas the church was active.

Bob Folbrecht, representing Stepping Stones of Windsor, addressed the Town Board and reviewed the various areas of assistance they provide for Windsor citizens along with how the \$10,000 donation made by the Town of Windsor was used. Mayor Vazquez thanked him for the hard work done by Stepping Stones and their assistance to the citizens of the Town of Windsor.

**B. CONSENT CALENDAR**

1. Minutes of the September 12, 2011 Regular Town Board Meeting – P. Garcia
  2. Liquor License Renewal – Otie's Wine & Spirits, Retail Liquor Store License – P. Garcia
  3. Liquor License Renewal – Sports Center Discount Liquor, Retail Liquor Store License – P. Garcia
- Town Board Member Carrigan motioned to approve the Consent Calendar as presented; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:**
- Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Thompson, Vazquez**  
**Nays – None. Motion carried.**

**C. BOARD ACTION**

1. Public Hearing – New Retail 3.2% Beer Off-Premises License for Carpco LLC dba 7-Eleven Store #39519A, 7486 Westgate, Windsor, CO 80528. Applicant: Carpco LLC

- Quasi-judicial action
  - Staff presentation: Patti Garcia, Town Clerk & John Michaels, Chief of Police
- Town Board Member Melendez motioned to open the Public Hearing; Town Board Member Thompson seconded the motion. Roll call on the vote resulted as follows:  
Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Thompson, Vazquez  
Nays – None. Motion carried.**

Town Clerk Garcia reviewed the application noting the legal requirements had been met and noted the applicant’s representative was present to present the application to the Town Board.

Kevin Coates addressed the Town Board and noted he was the attorney for the applicant. Mr. Coates reported on the Master File of the applicant and noted there were three witnesses in attendance to present associated with meeting the needs and desires of the community along with ownership of Carpco LLC and 7-Eleven. Mr. Coates requested that the petition and results be included as part of the permanent record.

Carol Johnson, Esquire Petitioning Services, provided an overview of how the petitioning is conducted and reviewed the results as noted in the Town Board packets. It was noted that there had been a positive response from those residing in the affected area.

Town Board Member Thompson inquired if there was compliance training being provided.

Mr. Coates stated this portion of the public hearing was related to meeting the needs and desires of the affected area and would present another witness related to compliance.

Brenda Skacoviak, acting manager for the 7486 Westgate location in Windsor, reported on the compliance training for employees including a “come of age program” and secret shoppers program. It was noted that employees are terminated if they fail a “sting” compliance check and receive one warning if they fail an internal compliance check.

Mr. Coates called forward John Mulholland, Chief Operating Office and Chief Financial Officer for Carpco, LLC. Carpco is owned by David and Jennifer Carpenter who both submitted Individual History Records with the application. It was noted there was nothing related to moral character that would prohibit Mr. or Mrs. Carpenter from holding a liquor license.

Mayor Vazquez opened the meeting for public comment.

Mr. Coates requested that the packet materials, including the petition and survey, be include as part of the public record.

**Town Board Member Thompson motioned to close the Public Hearing; Town Board Member Melendez seconded the motion. Town Board Member Carrigan motioned to approve the Consent Calendar as presented; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:**

- Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Thompson, Vazquez  
Nays – None. Motion carried.**

2. Consideration of a New Retail 3.2% Beer Off-Premises License for Carpc LLC dba 7-Eleven Store #39519A, 7486 Westgate, Windsor, CO 80528. Applicant: Carpc LLC
  - Legislative Action
  - Staff presentation: Patti Garcia, Town Clerk & John Michaels, Chief of Police**Mayor Pro-Tem O'Neill motioned to approve the New Retail 3.2% Beer Off-Premises License for Carpc LLC dba 7-Eleven as presented; Town Board Member Carrigan seconded the motion.**

There was not additional information or comments from staff related to the application.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Thompson, Vazquez**  
**Nays – None. Motion carried.**

3. Ordinance No. 2011-1417 – An Ordinance Authorizing Colorado Water and Power Authority Loan
  - Second Reading
  - Legislative action
  - Staff presentation: Ian McCargar, Town Attorney**Town Board Member Carrigan motioned to approve Ordinance No. 2011-1417, An Ordinance Authorizing Colorado Water and Power Authority Loan on Second Reading; Town Board Member Bishop-Cotner seconded the motion.**

Town Attorney McCargar noted the ordinance is to approve a transaction under which the town's sewer/utility enterprise borrows \$3.6M for construction of needed improvements at sewer plant and related facilities. The water and power authority at the state level will be offering this as revenue bonds and in order to comply with their requirements we need to go through a legislative process to approve the agreement. The town will only be borrowing those funds that will be needed for construction of the project; no administrative or legal fees are included. Mr. McCargar noted it was a 15-year term and stated the bond is being undertaken by the sewer/utilities enterprise so exempt from TABOR requirements because it is supported largely by user fees and there is no tax increase to the public.

Finance Director Moyer reported the \$3.1M listed is the loan that was approved for the bricks and mortar of the project. It talking to the representative from the State it was asked if we wanted to include the cost of issuance into the loan amount; the ordinance was modified to read "not to exceed \$3.3M and shall not exceed 5%".

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

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Thompson, Vazquez**  
**Nays – None. Motion carried.**

4. Resolution No. 2011-36 - A Resolution Approving the Award of Contract to RN Civil Construction for the Construction of Improvements to the Town of Windsor Waste Water Treatment Plant and Associated Facilities, and Directing the Town Manager to Execute such Contract Documents as are Necessary and Proper
  - Legislative action
  - Staff presentation: Dennis Wagner, Director of Engineering

**Town Board Member Thompson motioned to approve Resolution No. 2011-36; Town Board Member Bishop-Cotner seconded the motion.**

Director of Engineering Wagner reported on the resolution and noted the waste water treatment plant construction financing was addressed in the previous agenda item. Although the project information was provided to the Town Board at a previous work session, Mr. Wagner provided an overview to the Town Board as a refresher.

Mr. Wagner provided a map noting the location of the Town's waste water treatment plan and the Kodak/Carestream plant. The project will replace two lift stations and would provide preliminary groundwork for future expansion. Mr. Wager noted the bid schedules A, B and C provided in the Town Board packets and reported that after analyzing the bid costs, staff recommended to go with Bid Schedule A.

Town Board Member Melendez inquired where the investment will take us. Director of Engineering Wagner referred to the sewer master plan stating it will hold us to build out of the plan. Mr. Wagner also noted the sewer boundaries.

Town Board Member Thompson stated there was a wide range of bid numbers; Mr. Wagner noted the first three bidders were fairly close to which Mr. Thompson concurred.

Mayor Vazquez asked if the headworks project would require upgrades as capacity expands. Mr. Wagner stated the project is not the final component but is designed to take us out to 2030 with the flows projected. The pipelines are designed for full build out.

Mr. Wagner reported the project will take approximately 9-12 months to complete once all the paperwork is filed and the project is funded.

Town Manager Arnold provided a brief history of the project and stated it may not be as impressive as an interchange but followed the same logic; there have been discussions for several years on how to make improvements to the sewer system and staff completed the due diligence to find out what was needed and available to best serve Windsor when the money was available. Mr. Arnold commended Mr. Wagner and Public Works Director Walker for their work on the project.

Mayor Vazquez offered that the project will prepare Windsor for industrial growth.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Thompson, Vazquez**

**Nays – None. Motion carried.**

5. Resolution No. 2011-37 – A Resolution Approving a License Agreement for Use of Municipally-Owned Right-of-Way Between the Town of Windsor, Colorado and Dark Comm, LLC, and Authorizing the Town Manager to Execute the Same

- Legislative Action
- Staff presentation: Ian McCargar, Town Attorney

**Town Board Member Melendez motioned to approve Resolution No. 2011-37; Town Board Member Carrigan seconded the motion.**

Town Attorney McCargar reported on the resolution and noted it was pursuant to a presentation during a work session by Jon Jacobs of Dark Comm which would be providing dark fiber optic for Windsor. Mr. McCargar noted the highlights of the agreement and stated the Town Charter requires that use of town property be revocable, with or without cause, and is non-exclusive. The agreement has an initial 20-year term subject to revocation and cancellation. Dark Comm cannot lease its capabilities to any telecom without first giving the Town notice. Those that will benefit from the dark fiber optic are commercial and institutional users; there is a narrow market in communications. Mr. McCargar reviewed the conditions including insurance and security agreement requirements. The town will receive and use six strands of dark fiber optic cable in the agreement and service companies in Windsor will receive a 10% rate reduction.

Town Board Member McCargar inquired if there would be much disruption as much of the fiber optic work is done underground; Mr. McCargar stated he does not anticipate much disruption.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Thompson, Vazquez**  
**Nays – None. Motion carried.**

**D. COMMUNICATIONS**

1. Communications from the Town Attorney

Town Attorney McCargar noted the memo included in the packets regarding his conversation with Larimer County regarding an amendment to their Intergovernmental Agreement related to oil and gas. He also reminded the Town Board of the executive session following the regular meeting. Town Board Member Thompson stated he would like to pursue something formal for coordination on behalf of those who reside in Windsor and in Larimer County. Town Attorney McCargar will provide a written approach to the commissioners that outlines what the Town would like them to consider and why. An amendment to the IGA will have give and take from both sides.

2. Communications from Town Staff

No communications.

4. Communications from the Town Manager

Town Manager Arnold noted the Larimer County discussion will be included in an upcoming work session. He noted the upcoming work sessions and stated the budget document will be provided next Monday in preparation for the budget retreat.

5. Communications from Town Board Members

Town Board Member Thompson stated he appreciated the joint meeting between the school board and library district and would like to do it more often; possibly share strategic plans.

**E. EXECUTIVE SESSION**

An executive session pursuant to § 24-6-402 (4) (e), C.R.S., for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators - Downtown Development Authority Intergovernmental Agreement (Kelly Arnold)

**Mayor Pro-Tem O’Neill motioned to go into An executive session pursuant to § 24-6-402 (4) (e), C.R.S., for the purpose of determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators - Downtown**

**Development Authority Intergovernmental Agreement; Town Board Member Melendez seconded the motion. Roll call on the vote resulted as follows:**

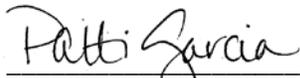
**Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Thompson, Vazquez**

**Nayes – None. Motion carried.**

**Upon returning to the regular meeting, Mayor Vazquez 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 Meeting Law, such concerns should now be stated. Hearing none, the regular meeting resumed.**

**F. ADJOURN**

Upon a motion duly made, the meeting was adjourned.



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Patti Garcia, Town Clerk