



TOWN BOARD REGULAR MEETING

February 27, 2012 - 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.

MINUTES

A. CALL TO ORDER

1. Roll Call

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

Absent:

Also present:

Town Manager
Town Attorney
Director of Planning
Chief Planner
Director of Finance
Director of Engineering
Director of Public Works
Director of Human Resources
Business & Development Manager
Town Clerk

Kelly Arnold
Ian McCargar
Joe Plummer
Scott Ballstadt
Dean Moyer
Dennis Wagner
Terry Walker
Mary Robins
Stacy Johnson
Patti Garcia

Absent:

Chief of Police
Director of Parks & Recreation

John Michaels
Melissa Chew

2. Pledge of Allegiance

Town Board Member Thompson 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, O'Neill, Melendez, Shanfelt, 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 discussed the possible landmark designation of the Windsor Depot.
Town Board Member Carrigan - Water & Sewer Board
No 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 Tuesday night at 5:30 p.m.; the items discussed at the Planning Commission meeting are on the current Town Board agenda; and the MPO meets Thursday night in Evans, CO.

- Town Board Member Melendez – Chamber of Commerce; Cache La Poudre Trail Board; Downtown Development Authority
Town Board Member Melendez stated the various boards all have upcoming meetings and she did not have anything new to report.
- Town Board Member Thompson – Parks & Recreation Board (PRAB); Great Western Trail Board; Tree Board
Town Board Member Thompson reported that PRAB would be meeting next week on Wednesday; interviews were held for PRAB vacancies and those recommended for appointment are on the Consent Calendar agenda. The Tree Board is meeting on Tuesday night. Mr. Thompson noted there had not been a lot of activity with the Great Western Trail due to the winter season but reported that a bike rodeo has been scheduled this year in Eaton and they have not received a response to the resurfacing grant that was applied for.
- Mayor Vazquez – North Front Range/MPO; Student Advisory Leadership Team (SALT) report on 4th Monday of the month
Members of SALT were present and reported that the Teen Nights have been a great success and gave an overview of upcoming activities.

5. Public Invited to be Heard

Wendell Bradley, 608 Meadow Drive, Windsor, addressed the Town Board regarding his concerns regarding the fracking industry and related environmental issues.

Tom Loftus brought forward a National Intellectual and Developmental Disabilities Awareness Month proclamation. Mayor Vazquez requested the proclamation be put on the next Town Board agenda.

Carol Householder, 455 Pelican Cove, Windsor, stated she had been before the Board two weeks ago regarding fracking concerns. She is concerned with fracking being done close to surface water and requested that the operation halt or a moratorium be put on the actions such as has been done in Colorado Springs. Ms. Householder stated she believes the Town should exercise some control until there are solid answers.

Doug Patterson, 580 Lakewood Court, Windsor, requested opportunity to address the Town Board on agenda items 5, 6 & 7.

Curt Gramberg, Windsor resident, stated he did not feel it is appropriate for the Town Board to support or oppose ballot issues. Town Attorney McCargar reported the Fair Campaign Practices Act states a Board may approve a resolution in support of ballot issues and have it published.

B. CONSENT CALENDAR

1. Minutes of the February 13, 2012 Regular Town Board Meeting – P. Garcia
2. Liquor License Transfer of Ownership – Los Compadres, LLC dba Sol de Jalisco Mexican Restaurant – P. Garcia
3. Advisory Board Appointments – P. Garcia

Town Board Member Bishop-Cotner motioned to approve the Consent Calendar as presented; Mayor Pro-Tem O'Neill seconded the motion. Roll call on the vote resulted as follows:

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

Nays – None. Motion carried.

C. BOARD ACTION

1. Chamber of Commerce presentation and 2012 funding request

- Legislative action
- Staff presentation: Stacy Johnson, Business Development Manager
Town Board Member Melendez motioned to approve the request for funding; Town Board Member Thompson seconded the motion.

Business and Development Manager Thompson introduced Michal Connors, Chamber of Commerce Executive Director. Ms. Thompson noted the request for the annual \$25,000 in funding was included in the 2012 budget under business retention and growth.

Ms. Connors and Sherry Wertz, Chamber Treasurer, both thanked the Town Board and the Town for their continued partnership. Accomplishments noted included the Windsor Bucks shop local campaign and the all town barbeque. A review of the various large expenditures that were co-sponsored by the Town of Windsor was provided.

Mayor Pro-Tem O'Neill asked if this was the Town's contribution to co-events then what does the Chamber spend on the co-sponsored events? Executive Director Connors stated the Chamber tries to at last match the amount with current funds or in-kind trades. Their total budget is \$100,000 this year.

Ms. Connors noted expenditures for 2012 which include but were not limited to promoting "Shop Local" with coupons, the Windsor business list, community-wide events, new website and mobile applications.

Town Board Member Melendez attested as the Chamber liaison that the organization is working proactively for the business community.

Mayor Vazquez stated the Windsor Bucks/shop local program went very well.

Roll call on the vote resulted as follows:

Yeas – Bishop-Cotner, O'Neill, Melendez, Shanfelt, Thompson, Vazquez
Nayes – None. Motion carried..

2. Public Hearing – Amendments to the lighting regulations of Chapter 16 of the Windsor Municipal Code

- Legislative action
- Staff presentation – Scott Ballstadt, Chief Planner
Mayor Pro-Tem O'Neill motioned to open the Public Hearing; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:
Yeas – Bishop-Cotner, O'Neill, Melendez, Shanfelt, Thompson, Vazquez
Nayes – None. Motion carried.

Chief Planner Ballstadt presented the agenda item to the Town Board and noted the lighting regulations had been before the Town Board at past work sessions, presented to the Planning Commission and also circulated to the development community for their input. The amendments will add intent statements that have been absent in the Town Code in the past and also address current minimal Code references to outdoor lighting. Mr. Ballstadt noted that when the ordinance comes before the Town Board for second reading that there will also be a resolution to bring the items into the Commercial Corridor Plan.

Town Attorney McCargar requested all the packet items be included in the public record.

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

Mayor Pro-Tem O'Neill motioned to close the Public Hearing; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:

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

3. Ordinance No. 2012-1425 - Amending the lighting regulations of Chapter 16 of the Windsor Municipal Code

- First Reading
- Legislative action
- Staff presentation – Scott Ballstadt, Chief Planner

Mayor Pro-Tem O'Neill motioned follow the recommendation of the Planning Commission to approve Ordinance No. 2012-1425; Amending the lighting regulations of Chapter 16 of the Windsor Municipal Code; Town Board Member Melendez seconded the motion.

Chief Planner Ballstadt reported the ordinance was considered by the Planning Commission at their February 15, 2012 meeting at which it was recommended to forward to the Town Board for approval.

Roll call on the vote resulted as follows:

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

4. Ordinance No. 2012-1426 - Ordinance amending Town of Windsor Ordinance 2003-1143 with respect to deposits required for hydrant water meters

- First reading
- Legislative action
- Staff presentation: Terry Walker, Director of Public Works

Town Board Member Bishop-Cotner motioned to approve Ordinance No. 2012-1426, Ordinance amending Town of Windsor Ordinance 2003-1143 with respect to deposits required for hydrant water meters; Town Board Member Thompson seconded the motion.

Director of Public Works Walker reported on the ordinance and noted it had been nine years since the Town increased the cost of hydrant meters. The cost to replace the meters has gone up from \$1,500 to \$2,000 which is reflected in the ordinance being considered.

Roll call on the vote resulted as follows:

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

5. Resolution No. 2012-15 – A Resolution of the Town Board for the Town of Windsor in Favor of the Passage of Downtown Development Authority Ballot Measures Authorizing Imposition of an Ad Valorem Tax on Property within the Boundaries of the Downtown Development Authority and Authorizing the Issuance of Debt by the Town of Windsor, Colorado to Pledge Downtown Development Authority Tax Increment Revenue to the Payment of such Indebtedness

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

Town Board Member Melendez motioned to approve Resolution No. 2012-15; Town Board Member Thompson seconded the motion.

Town Attorney McCargar reported on the next three resolutions and stated state law under the Fair Campaign Practices Act generally prohibits the expenditure of public resources to abdicate for a candidate or ballot issues, but there are exceptions. The availability of the right by the Town

Board to pass a resolution to show support in favor or in opposition of a ballot issue is allowed. It is a legally permitted action.

In response to a question from Town Board Member Shanfelt regarding the ballot question, Mr. McCargar reported the revenue pledge is the increment generated from the downtown area; it is not a general obligation of the Town of Windsor. The statutes provide that the DDA does not have the independent ability to issue bonds and incur debt. It can use its statutorily allowed tax increment, if approved by the voters, to pay its obligations, including debt. The structure is that the Town takes on debt; the income or increment of the DDA is to pay that debt.

Mayor Vazquez stated the Town Board has been committed to the success of the Downtown Development Authority (DDA) and it is up to the stakeholders of the DDA to determine if they want to partner with the Town of Windsor. The Town Board approves the DDA budget on an annual basis and the revenues and increments will be reviewed. Mr. Vazquez stated he did not feel he would be contradicting himself in supporting the resolution.

Town Board Member Melendez spoke in support of the resolution and attested that she has seen devotion and commitment from the members to the DDA and that the ballot issue needs to pass to assure their effectiveness. The ballot question relates to an accumulated debt for the estimated life of the DDA which is 25 years; Ms. Melendez also reported the DDA is concerned with being fiscally responsible with every action they take.

Mayor Pro-Tem O'Neill noted it has taken a long time for members of the DDA to support this type of effort. Mr. O'Neill believes supporting the resolution is the appropriate thing to do.

Town Board Member Thompson reported the purpose to have a Town Board member liaison was to address concerns and provide updates to the Town Board. Mr. Thompson noted that the DDA purpose and funding needs have been discussed over the past couple of years. The Town Board's words and actions show support of the resolution.

Town Board Member Bishop-Cotner noted it has been a long process and that the downtown is worthy of investing in; it is something that he wants to see enhanced. Passage of the ballot questions will give the downtown business owners the opportunity to make it better than what it is.

Roll call on the vote resulted as follows:

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

Nayes – None. Motion carried.

6. Resolution No. 2012-16 – A Resolution of the Town Board for the Town of Windsor in Favor of the Referred Measure Proposing an Excise Tax of Three (3%) Percent on the Lodging Price Paid for Specified Lodging Services Provided within the Town of Windsor, and Urging the Voters to Vote Accordingly
 - Legislative action
 - Staff presentation: Ian McCargar, Town Attorney

Town Board Member Bishop-Cotner motioned to approve Resolution No. 2012-16; Town Board Member Thompson seconded the motion.

Town Attorney McCargar did not have anything additional to add regarding the resolution.

Doug Patterson, 580 Lakewood Court, Windsor, addressed the Town Board and stated he does not believe it is appropriate for the Town Board to take a stand on how taxpayers and citizens should vote

Aaron Lore, Windsor resident, stated he see this as a 3% tax on one group of citizens and does not believe it is right. He has not heard from the businesses that would be affected by the tax. Since he hasn't seen a business proposal, Mr. Lore stated an entity should know where the money is going to be spent before it is collected. He also supported the comment by Mr. Patterson that it is not ethical for the Town Board to be considering resolutions of this nature in a board setting.

Town Board Member Shanfelt stated there is still no answer for what the money will be spent on, which was asked of the proponents several weeks ago; there is no proposal as to where the money is going and he cannot support it.

Town Board Member Melendez stated the Building a Better Windsor committee has a document that provides where the dollars are to go which includes marketing for visitors coming to Windsor, tourism and helping to enhance those aspects. Ms. Melendez noted there are no mechanisms in place for Windsor to collect these types of dollars to purposefully market Windsor as a destination. The other surrounding communities have the same tax and use it to our disadvantage. Ms. Melendez has not found that the tax inhibits lodging stays but that it multiplies three-fold through visitors staying, eating and shopping at the location.

Town Board Member Bishop-Cotner read through a portion of the ballot measure and stated the tax is not on Windsor citizens, but it is on people coming to Windsor participating and taking part in the activities the Town is working to promote.

Mayor Pro-Tem O'Neill stated that he learned in orientation several years ago that his actions are to reflect what is best for the Town of Windsor. He reported he visited the lodging entities within Windsor and found that the AmericInn had not had a manager in several months so had no opinion, the Super 8 was opposed to the ballot measure and stated if visitors are taxed in Windsor they will just go to Loveland. Mr. O'Neill noted that Loveland already has a lodging tax being assessed. Mr. O'Neill believes this is what is best for the Town and is in support of the resolution. Mr. O'Neill reported that the Town has over site of the funds and how the committee is set up.

Town Board Member Thompson concurred with Mayor Pro-Tem O'Neill and noted the funds would not go into a black hole; but there is an expectation that funds and projects are reviewed on an annual basis. The Town has control of the funds and he is comfortable with supporting the resolution.

Charmaine Carpenter, Windsor resident, concurred with the ethics comments brought forward by previous citizens. Ms. Carpenter also inquired as to who was going to assure the funds were being spent as authorized and stated that taxing those who come to Windsor is counter-productive to luring people to come visit. She also asked if all other avenues have been exhausted to receive those types of funds.

Town Manager Arnold noted that the funds will be collected and administered by the Town. As the resolution calls out, there will be a group who will give direction and input as to how the funds should be spent. The final authority of the use of the funds and projects lies within the approval of the Town Board. This a very specific use of funds that may have been able to be collected other ways, but Mr. Arnold believes the proponents of the measure have concluded this is the best way to get some dedicated funds for marketing/tourism purposes.

Mayor Pro-Tem O'Neill stated that this addresses concerns that citizens have when the Town Board provides funding for other activities, such as Harvest Festival and the Fine Arts Festival; if there is a funding source it makes it easier for Town Board to support or oppose the funding.

Town Board Member Melendez stated this would put the Town of Windsor on an equal playing field with surrounding municipalities that have the lodging tax such as Loveland, Greeley and Fort Collins.

Town Board Member Shanfelt stated he wants the idea to work but cannot support an initiative that spends money without knowing whether the spending is getting done for what it was proposed to do.

Mayor Vazquez stated that the first resolution was reinforcing a relationship and building on the trust we have had. He is in favor of the proposed lodging tax and will support it in the community; he is in favor of tourism and providing Windsor with a level playing field in the lodging industry. Mr. Vazquez stated he will be voting against the resolution at this time as he doesn't feel it is an appropriate role, as Mayor, to tell people how they should vote. He will be voting no on the resolution due to some of the perception issues voiced from the citizens and the crowd and believe it gets into a grey area of what the role of the Town Board should be.

Roll call on the vote resulted as follows:

Yeas – Bishop-Cotner, O'Neill, Melendez.

Nayes – Thompson, Shanfelt, Vazquez. Motion fails.

7. Resolution No. 2012-17 – Resolution in Support of the Windsor Town Board in Favor of the Passage of Town of Windsor Ballot Question 2B, a Referred Measure to Amend Certain Provisions of the Town of Windsor Home Rule Charter, the Approval of Which is Intended to Remove Ambiguity, Promote Clarity and Correct a Clerical Error

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

Town Board Member Thompson motioned to approve Resolution No. 2012; Town Board Member Shanfelt seconded the motion.

Town Attorney McCargar reported on the ordinance and noted it's intent is to tidy up the Town charter; the ballot question is asking the voters to approve administrative changes to the charter.

Mayor Vazquez spoke in support of the resolution and noted it is a housekeeping measure and encouraged citizens to eliminate the ambiguity in the current language.

Doug Patterson asked if the information was on the website. Town Clerk Garcia reported the ballot information is on the Town's website.

Roll call on the vote resulted as follows:

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

Nayes – None. Motion carried.

8. Financial Report

- Staff presentation: Dean Moyer, Director of Finance
Director of Finance Moyer provided an overview of the financial report that was included in the packet and noted it was the first time sales and use tax projections have been increased since the 2008 budget. The report was in a new format and the Town Board members appreciated how the information was provided.

9. Recycling Center Discussion

- Staff presentation: Dean Moyer, Director of Finance
Director of Finance Moyer reviewed the memo outlining the current activity at the recycling center. IT was reported that National Recycling had received a grant to operate the center and

they have now gone out of business. Staff is researching ways to continue the service for citizens with little or no interruption. National Recycling has offered to sell the Town the bins and the Town would operate the recycling center. Mr. Moyer reported costs would include the initial purchase of the bins of \$28,000 and then the annual cost to operate the site which is estimated to be approximately \$2,550 per year. The City of Fort Collins had also contracted with National Recycling and they have gone out to bid for recycling services. Windsor has told Fort Collins that we would be interested in piggy-backing on with the bid for service.

Mr. Moyer reported the recycling site is being used much more than anticipated. The Town is currently installing a self-closing gate that will be programmed to open and close during daylight hours only.

Staff recommends continuing to operate the recycling site at no charge to citizens.

Town Board Member Shanfelt stated the recycling center did not make economic sense and did not see an upside to the service other than saying it is being done.

Director of Public Works Walker stated that local trash companies do provide recycling for a nominal fee.

Mayor Vazquez referred to the Strategic Plan and stated his support in keeping the recycling center as a service to for the community and noted it is something to be watched in case costs to keep it open increase.

Town Manager Arnold noted the company that Fort Collins is anticipated to work with provides reports regarding quantity and pricing that would be available for budget purposes.

Curt Gramberg, Windsor resident, expressed concern that those that currently pay for curbside service could cancel their service and use the Town's recycling center which would cause local businesses to lose revenue.

D. COMMUNICATIONS

1. Communications from the Town Attorney

Town Attorney McCargar reminded the Town Board of the executive session scheduled after the regular meeting and noted he had worked with the Windsor High School mock trial group that participated in a mock trial in Greeley over the weekend; he commended the group on their efforts.

2. Communications from Town Staff

Director of Finance Moyer reported the meeting was streamed live through the website for the first time tonight. He also noted the Finance Department was notified by the GFOA that they had won an audit award.

4. Communications from the Town Manager

Town Manager Arnold reported he had a good meeting with the Town of Severance in preparation for the work session next week. The meeting next week will start at 5:30 with dinner being served. Mr. Arnold also distributed copies of the current Style magazine which on page 23, a local developer talks about business in Windsor and provides good quotes on how the Town is working with the development community and with economic development.

5. Communications from Town Board Members

Town Board Member Thompson thanked staff for taking care of the defacing on a stop sign.

Mayor Pro-Tem O'Neill thanked the Parks & Forestry department staff for their work through the last few storms.

Town Board Member Bishop-Cotner congratulated the Windsor wrestling team on their 2nd state title in two years.

Mayor Vazquez congratulated the Windsor High School Winter Guard on winning their first competition in Colorado Springs.

E. EXECUTIVE SESSION

An executive session pursuant to C.R.S § 24-6-402 (4) (b), conference with Town Attorney for purposes of receiving legal advice on specific legal questions; Davis Seep Pipeline – I. McCargar

Mayor Pro-Tem O'Neill motioned to go into an executive session pursuant to C.R.S § 24-6-402 (4) (b), conference with Town Attorney for purposes of receiving legal advice on specific legal questions; Davis Seep Pipeline – I. McCargar; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:

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

Nayes – None. Motion carried.

Upon a motion duly made at 10:15 p.m., the Executive Session was closed and the Town Board returned to the Regular Meeting.

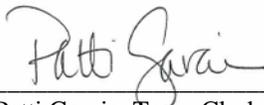
Upon returning to the regular meeting, Mayor Vazquez advised that if any participants in the Executive Session believed the session contained any substantial discussion of any matters not included in the motion to convene the Executive Session, or believed any improper action occurred during the Session in violation of the Open Meetings Law, such concerns should now be stated. Hearing none, the regular meeting resumed.

F. ADJOURN

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

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

Nayes – None. Motion carried.



Patti Garcia, Town Clerk