



TOWN BOARD REGULAR MEETING

June 11, 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 Kristie Melendez
Don Thompson
Robert Bishop-Cotner
Ivan Adams
Jeremy Rose (by telephone)
Myles Baker

Excused

Also present:

Town Manager	Kelly Arnold
Town Attorney	Ian McCargar
Town Clerk	Patti Garcia
Business & Development Manager	Stacy Johnson
Chief of Police	John Michaels
Director of Planning	Joe Plummer
Associate Planner	Elizabeth Fields
Director of Parks & Recreation	Melissa Chew
Director of Public Works	Terry Walker
Director of Finance	Dean Moyer
Director of Engineering	Dennis Wagner
Director of Human Resources	Mary Robins
Management Intern	Lindsey Blomberg

2. Pledge of Allegiance

Town Board Member Bishop-Cotner 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 Attorney McCargar reported that agenda item C.14 – A Resolution Approving an Agreement for Extraterritorial Municipal Utility Service Between the Town of Windsor and Windsor Renewal 1, LLC, has a condition yet to be satisfied and requested the item be removed from the agenda.

Town Board Member Adams motioned to approve the agenda as amended; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion carried.

4. Board Liaison Reports

- Town Board Member Baker – Parks, Recreation and Culture Advisory Board; Cache La Poudre Trail Board Alternate
No report.
- Town Board Member Thompson – Planning Commission; Tree Board; Great Western Trail Board
 - ✓ Town Board Member Thomson noted the items that had been discussed at the last two Planning Commission meetings including those items on the Town Board agenda: Halliburton the conditional use grants. There was also discussion of the train traffic noise and Mr. Thompson noted that the topic has been an ongoing issue that the Town Board has agreed to address.

- ✓ The Great Western Trail Authority will meet next Tuesday.
- ✓ The May meeting of the Tree Board was cancelled; Mr. Thompson reported that June 26 is Sick Tree Day so anyone that wants to take advantage of having an expert look at their tree should call Town Hall to make an appointment.
- ✓
- Mayor Pro-Tem Melendez – Downtown Development Authority (DDA); Chamber of Commerce; North Front Range/MPO Alternate
 - ✓ Mayor Pro-Tem Melendez reported the DDA committees have been active and requested that anyone interested in being involved to go to the DDA website for more information. There is currently an RFP out for the parking study with a decision coming in the next few weeks. The marketing committee is circulating a questionnaire regarding marketing and the beautification committee is reviewing a final list of projects that can be completed in the next few months.
 - ✓ The Chamber of Commerce All Town Barbeque was held last Thursday and deemed a success with members serving approximately 2,100 people. The Chamber thanked the Town, Park and Volunteer staff for their support. The Chamber will be rolling out their new mobile website in the next month, planning the New Teacher Breakfast and the Chamber is also looking at moving the Business Expo back to the Windsor Community Recreation Center.
 - ✓ Mayor Pro-Tem Melendez stated that due to the resignation of the director, a new committee was formed and anticipates a new hire will take place in the next 90 days. The Timnath/Harmony Road was a delayed project that has been approved and is now moving ahead. A report from the Congestion and Management Report that redefined what road congestion is and many roadways have realigned accordingly. The 2013 budget was passed; additional CDOT monies may be coming due to additional funds found in a readjusted fund budget approximating \$105M. \$45M will be allocated to this region with Windsor being able to participate in a percentage of the allocation. A report from Region 4 CDOT noting they are setting for fiscal year 2013 performance measures and noted that next year there will probably be less projects but they will be of larger magnitude. They also continue to look for ways to better manage the traffic on I-25.
- Town Board Member Rose – Water & Sewer Board; Planning Commission Alternate
No report.
- Town Board Member Bishop-Cotner – Historic Preservation Commission (HPC); Clearview Library Board
 - ✓ Town Board Member Bishop-Cotner reported the HPC would be meeting on Wednesday.
 - ✓ The Clearview Library Board met at the end of last month and discussed the following items:
 - They will be expanding work station area and allowing work to take place before and after the library is open;
 - Changing the policy to allowing tutoring to take place at the library; and
 - They will be unlocking the gate between Mountain View Elementary School and the library for easier access.
- Town Board Member Adams – Cache La Poudre Trail Board; Student Advisory Leadership Team (SALT) report September - May on 4th Monday of the month
 - ✓ Town Board Member Adams reported the Poudre Trail Board met on June 7. Dennis Wagner, Director of Engineering attended the meeting to give an update and address questions regarding the Windsor sewer interceptor project that would be closing the trail during construction. Mr. Wagner reported on several options at the meeting and noted that the option that would cut the time of closure from two weeks to one week would have cost the Town \$51,000 along with meals and accommodation for the workers. The Poudre Trail Board understood why that option was not chosen and supported the two

week closure of June 13-26. It was reported the Poudre River Trail-a-Thon was a huge success with over 380 participants. Mr. Adams also reported that after 30 years of planning, project organizers have stated that the 45 mile stretch of trail from Belleview to Greeley is about complete due to the receipt of eight GOCO grants in the amount of \$5.1M.

- ✓ Mr. Adams reported on SALT (Student Advisory Leadership Team) and noted that the group is made up of local middle school and high school students. Their goal is to provide positive, alternative activities for young people in the area. They currently have 12 activities scheduled for the summer. They group will be reporting on events after school starts back in session.

- Mayor Vazquez – North Front Range/MPO
Report provided by Mayor Pro-Tem Melendez.

5. Presentation of Safebuilt Scholarships – J. Plummer

Director of Planning Plummer introduced the Safebuilt Scholarship noting that representatives had contacted staff asking for an idea to allow them to give back to the Windsor community. The concept of a scholarship was presented. David Thompson, Safebuilt, presented two \$500 scholarships to one female and one male student. Mr. Thompson stated that they anticipate this being an annual event with the support of the Town of Windsor.

6. Public Invited to be Heard

Individuals wishing to participate in Public Invited to be Heard (non-agenda item) are requested to sign up on the form provided in the foyer of the Town Board Chambers. When you are recognized, step to the podium, state your name and address then speak to the Town Board.

*Individuals wishing to speak during the Public Invited to be Heard or during Public Hearing proceedings are encouraged to be prepared and individuals will be limited to three **(3) minutes**. Written comments are welcome and should be given to the Town Clerk prior to the start of the meeting.*

Wendell Bradley, Windsor resident, addressed concerns regarding fracking including fissures and links to leaky oil and gas wells. He noted the item submitted in the Town Board packet and brought forward air quality standard concerns and stated that the regulations fall to the Town Board as the state is not regulating at this time. He requested the Town Board implement a moratorium.

Kristy Duffy, Windsor resident, addressed the Town Board regarding oil and gas leasing and commented about the process. She recommended that the public hearing be one of the first actions. Ms. Duffy also inquired what the money that is earned from leasing will be used for. She also recommended that oil & gas companies be required to have a bond prior to work. She also thanked the Town Board for not raising water rates due to the fracking industry.

Bill Miller, Windsor resident, requested the Town Board to look at the fracking issue and asked the Town Board to direct the Town Attorney to look to see how other communities are regulating the industry. Town Attorney McCargar responded that he has spent the last couple of months with municipal attorneys from communities such as Longmont, Loveland, Erie, and others and noted that some Councils are asking for the limits to be pushed when it comes to the issue of oil & gas and fracking; only time will tell if they are successful. Mr. McCargar has not received direction from the Town Board to take any additional risk at this time. Town Manager Arnold stated that no community has made any modifications; Longmont postponed their action after first reading.

Diane West, Windsor resident, stated concerns regarding the safety issues related to the drilling process and her number one concern is related to air quality. She also read from the Colorado Constitution stating that all persons have certain rights and noted specifically safety and happiness.

David Deckers, Windsor resident, addressed the Town Board regarding the parking of boats and trailers on streets in Windsor and stated that the Municipal Code does not address boats under 22 feet as he had at the May 14 Town Board meeting. Mayor Vazquez asked Town Attorney McCargar if his review of the Code found anything ambiguous. Town Attorney McCargar stated that he did not find any inconsistencies between the Model Traffic Code and Municipal Code but was willing to review his findings with the Town Board if directed. The letter that Mr. McCargar had sent to Mr. Deckers will be sent to the Mayor for review.

Robert Winkler, Weld County resident, provided a packet of information to the Town Board regarding the oil/gas fracking industry and addressed the Town Board regarding concerns of the hydraulic fracking taking place in the region.

Carol Householder, Windsor resident, commented on the oil and gas leases in a public park (agenda items 12 and 13). Ms. Householder stated concern regarding signing leases for Poudre Park and drilling in that location. She does not believe that drilling on publicly owned properties supports the health, safety and welfare of the town and does not believe the Town Board is representing the best interests of the community if it is allowed.

Ted Holman, Windsor resident, addressed the Town Board regarding the oil and gas leases up for consideration at Poudre Park. He stated he had contacted town staff but didn't get the information he was looking for. Mr. Holman stated the parks are surrounded by residential areas and believes the people living in the area will be seriously impacted by the noise and light.

Mark Crough, Windsor resident, provided comments regarding the fracking industry and stated the town should consider putting something in place for baseline testing for water conditions, air quality, and the standards that are to be met. He recommended finding an independent party that can be part of the process to assure that Windsor continues being pro-development and pro-growth.

*It was noted by staff that Poudre Park is named Poudre Natural Area and Poudre Pooch Park.

B. CONSENT CALENDAR

1. Minutes of the May 14, 2012 Regular Town Board Meeting and May 25, 2012 Special Meeting – P. Garcia
2. Resolution No. 2012-39 - A Resolution Approving and Adopting a Policy for the Use of Apple iPad Tablets Provided by the Town of Windsor to its Elected Officials
3. Resolution No. 2012-40 - A Resolution Accepting the Audit Report for 2011 prepared by Anton Collins Mitchell LLP, Certified Public Accountants.
4. List of Bills – D. Moyer

Town Board Member Thompson motioned to approve the Consent Calendar as presented; Mayor Pro-Tem Melendez seconded the motion. Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion carried.

C. BOARD ACTION

1. Ordinance No. 2012-1432 - An Ordinance Revising the Daily Use and Volume Rates Imposed upon Persons and Entities Leasing Hydrant Water Meters from the Town of Windsor, Colorado
 - Second Reading
 - Legislative action
 - Staff presentation: Kelly Arnold, Town Manager; Ian McCargar, Town Attorney

Town Board Member Thompson motioned to approve Ordinance No. 2012-1432 - An Ordinance Revising the Daily Use and Volume Rates Imposed upon Persons and Entities Leasing Hydrant Water Meters from the Town of Windsor, Colorado on second reading; Town Board Member Bishop-Cotner seconded the motion.

Town Manager Arnold reported on the ordinance stating it would institute a new rate for hydrant meter usage; changing it from \$4 per 1,000 gallons to \$7.40 per 1,000 gallons. The emergency ordinance that had been adopted at the previous meeting only restricted the amount that could be used on a monthly basis. It was noted that the Town currently has four hydrant meters being rented and all are being used for construction purposes. The rate was one that the Town Board approved of and is higher than our residential rates.

Mayor Vazquez opened the meeting for public comment.

Diane West, Windsor resident, inquired how the meter use was being enforced.

Director of Public Works Walker reported that those renting hydrant meters are required to call in meter reads on a monthly basis and the amount is billed out for payment. Once the emergency ordinance was passed, all meters had to be turned in to the Town to be retro-fitted; once the amount of water allowed was changed to no more than 64,000 gallons per month, no fracking companies have rented the hydrant meters. The application to rent a meter requires information about where it will be used. The Public Works staff, along with the Windsor police department, is watching to make sure that no policies are being violated.

Town Board Member Thompson asked if there had been any feedback from the construction industry. Mr. Walker stated they are satisfied as they are getting the amount of water needed.

Mayor Vazquez stated that he believes that Windsor is the only community that has taken a stand on not selling water to the fracking industry.

Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.

2. Ordinance No. 2012-1433 – An Ordinance Amending the Provisions of Chapter 7, Article IX of the Windsor Municipal Code with Respect to the Keeping of Back Yard Chicken Hens

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

Town Attorney McCargar updated the Town Board on the ordinance and noted that the penalty currently included in the ordinance is a maximum of \$300. Due to the Town becoming a court of record, that amount could be increased to a maximum of \$1,000 which would bring it into alignment with all other penalties. Mr. McCargar stated the Town Board could adopt the ordinance at first reading with an amendment stating “any person found to be in violation of this article upon conviction be fined up to \$1,000 not excluding court costs”.

Town Board Member Bishop-Cotner motioned to approve Ordinance No. 2012-1433 - An Ordinance Amending the Provisions of Chapter 7, Article IX of the Windsor Municipal Code with Respect to the Keeping of Back Yard Chicken Hens as amended on first reading; Town Board Member Thompson seconded the motion.

Town Attorney McCargar stated the item for consideration would extend the chicken ordinance, remove the sunset clause and create a permanent home in the Code for the keeping of back yard chicken hens.

Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.

3. Public Hearing - Request to exceed the maximum height for a structure in the Heavy Industrial (I-H) zoning district in accordance with Section 16-10-50(c) of the Windsor Municipal Code – Halliburton Transload Facility – 31005 Great Western Drive – Halliburton Energy Services, Inc., applicant/Jeremy Thompson, USA Tank, applicant’s representative

- Quasi-judicial action
- Staff presentation: Scott Ballstadt, Chief Planner

Town Board Member Bishop-Cotner motioned to open the public hearing; Mayor Pro-Tem Melendez seconded the motion. Roll call on the vote resulted as follows:

**Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.**

Chief Planner Ballstadt reviewed the agenda item noting that the applicant’s proposed storage tanks exceed the storage height allowed in the Heavy Industrial zoning district in the Windsor Municipal Code. Mr. Ballstadt addressed each of the criteria that any building or structure proposed to be greater than the maximum building height allowed in the respective zoning district are to be met which included views, light and shadow, privacy and neighborhood scale. The maximum height allowed in the Heavy Industrial zoning district is 75 feet; the storage tanks are proposed to be 85 feet tall and the bucket elevators that serve the tanks are proposed to be 120 feet tall. The presentation to the Town Board provided slides which indicated the shadow analysis that had been performed. It was noted that the proposed tanks are compatible with neighboring uses in the industrial park.

Jeremy Thompson, applicant, addressed the Town Board and stated that Mr. Ballstadt had provided a good overview of their request including their efforts in meeting the criteria that was established.

Pursuant to a question from Mayor Vazquez regarding the use of auger feed as opposed to bucket feed which would reduce the overall height; Mr. Thompson explained that they have looked at auger feed in the past but the facilities they are currently building have all been conveyer and bucket elevator type due to maintenance and the speed it provides. It was noted the only thing in the silos will be clean sand.

Mayor Pro-Tem Melendez provided support of the request as there are other structures in the industrial park that exceed the 120 foot height.

Town Board Member Thompson asked if the sand would always be contained during the loading and unloading process. Mr. Thompson stated the sand would always be contained; it is a dustless facility and everything is sealed.

Diane West, Windsor resident, inquired if approval of the request would set precedence for this height of a structure which could contain dangerous fluids in the future. Mayor Vazquez noted that precedence has already been set but the other structures in the industrial park. Each variance is reviewed on a case by case basis and approved or denied based on the merit of each individual application.

Wendell Bradley, Windsor resident, requested the tanks be painted in an earth tone. Jeremy Thompson stated the tanks are currently planned to be grey which is the standard for Halliburton. Mayor Vazquez stated that could be discussed during the site plan presentation.

Carol Householder, Windsor resident, stated that the sand will be coming in by train and going out by truck and asked if it was near Eastman Park Drive. Mayor Vazquez reported the truck route has been defined as coming off the Kodak property onto SH257. Ms. Householder stated her concern is not the sand that will be transported but questioned what is going to happen if or when chemicals start being transported.

Sherry Gramberg, Windsor resident, requested the Town Board table the action on this item and anything forthcoming until there is a written comprehensive plan put in place and that any extra train noise be mitigated as the sand is being delivered by rail through the Town of Windsor. Mayor Vazquez reported that the Town is giving their best effort at finding a long-term alternative to train noise. Ms. Gramberg stated that no one looks at the train and how it affects the residents like it is done for roadways.

Mark Crough, Windsor resident, addressed the Board and noted that the big towers coming in is the next step to making Windsor the center for the fracking industry in northern Colorado. He requested the Town Board put a pause on the process and take a look what is happening.

Aaron Lore, Windsor resident, thanked the Town Board in making the right decision about the oil and gas industry.

Town Attorney McCargar requested that all the packet items be included in the public record; the applicant concurred. Mr. McCargar also noted that the criteria for granting a height modification are set forth in the Code. Mr. Ballstadt has provided the information that the Town Board is to consider related to the height request. What is in the tanks, the industry that is supported is not part of the criteria for consideration. Mr. McCargar encouraged the Town Board to base their decision on the criteria that is set in the Municipal Code.

Town Board Member Adams motioned to close the public hearing; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion carried.

4. Resolution No. 2012-41 - Resolution approving a request to exceed the maximum height for a structure in the Heavy Industrial (I-H) zoning district in accordance with Section 16-10-50(c) of the Windsor Municipal Code - Halliburton Transload Facility – 31005 Great Western Drive - Halliburton Energy Services, Inc., applicant/Jeremy Thompson, USA Tank, applicant's representative

- Quasi-judicial action
- Staff presentation: Scott Ballstadt, Chief Planner

Town Board Member Bishop-Cotner motioned to approve Resolution No. 2012-41; Town Board Member Adams seconded the motion.

Chief Planner Ballstadt stated that at their May 16, 2012 meeting, the Planning Commission voted to recommend approval of the proposed height structure subject to compliance with all applicable building and fire code requirements. Staff concurs with the recommendation.

Town Board Member Thompson stated that this structure will not be the highest in the industrial area and supports the request.

Town Board Member Adams commented the item for consideration is regarding the height, not what is in the tank.

Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion carried.

5. Site Plan Presentation – Great Western Industrial Park Subdivision, Seventh Filing, Lot 2 Site Plan - 31005 Great Western Drive – Halliburton Energy Services, Inc., applicant/Jeremy Thompson, USA Tank, applicant's representative

- Staff presentation: Scott Ballstadt, Chief Planner

Mayor Vazquez explained that the site plan presentation is an administrative process and that this is the Town Boards opportunity to see the proposal and make comment.

Chief Planner Ballstadt reported on the site plan noting the use is a use by right in the heavy industrial zoning district and the site is located on the west side of Great Western Drive and south of Front Range Energy ethanol plant. It is a transload facility to receive sand via rail to be offloaded into tanks for storage and then to be loaded into trucks for transport off-site. The facility is to be operational 24 hours per day, seven days per week. The proposed project includes ten storage tanks, approximately 35 feet in diameter and 80 feet tall and served by bucket elevators. This is a site plan presentation to be administratively reviewed. Mr. Ballstadt stated that any comments or questions would be passed along to staff and incorporated into the review.

Town Board Member Thompson inquired if there were any flood plain issues. Mr. Ballstadt reported that there has been a flood study that has been initiated and believes the applicant has been working closely with Engineering throughout the process to address all floodplain requirements.

Mayor Vazquez requested the applicant provide more information to the Town Board and staff on how they will be ensuring the water quality standards. He is not concerned with the sand cars, it is the locomotives that will be having to tram over and as they are shuffling cars around there is potential for hydrocarbon contamination which could be eventually be discharged into the detention ponds. Mr. Vazquez noted that there isn't any primary treatment being done on the hydrocarbons before they are released into the environment. It was requested by the Mayor that there be an extra level of comfort in how the applicant will deal with the contaminated water that he believes that they will have. Jeremy Thompson stated he would work with staff to formulate alternatives and work with them to come up with the correct one.

Mayor Vazquez requested that Chief Planner Ballstadt bring back the final agreements relative to how the environmental issue will be addressed to the Town Board as an informational piece. Mayor Vazquez stated that doing nothing about the hydrocarbon issue is not an option.

6. Public Hearing – Conditional Use Grant for oil and gas well facilities in the Residential Mixed Use (RMU) zoning district – Water Valley West Subdivision, Lot 4 - Approximately two miles south of Main Street (SH 392) and 1/8 mile east of Weld County Road 13 (County Line Road) – Janni Keidel, Great Western Oil and Gas Company, LLC, applicant/Martin Lind, Raindance Aquatic Investments, LLC, property owner

- Quasi-judicial action
- Staff presentation: Scott Ballstadt, Chief Planner

Town Board Member Bishop-Cotner motioned to open the public hearing; Town Board Member Adams seconded the motion. Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez

Nays – None. Motion carried.

Chief Planner Ballstadt reported on the Conditional Use Grant for oil and gas well facilities located in a residential mixed use zoning district. The original proposal was for four wells to be located approximately one eighth of a mile off of Weld County Road 13 across from Highpointe Subdivision which were approved by the Colorado Oil & Gas Conservation Commission (COGCC). The applicant held the required public meeting on April 11, 2012; the notes from that meeting are included in the packet. Since the meeting, the applicant proposed a new location in an effort to address some of the concerns brought up in the neighborhood meeting as well as working with the surface property owner in order to reduce the surface impacts. The revised location is approximately one half mile east of Weld County Road 13; this location would create a separate of more than one half mile to the nearest residence in the Highpointe Subdivision. This would allow the pad to be combined with the other drilling pads permitted by the COGCC in order to consolidate them into one location. This will result in the combined facilities at this location including eight wells with the related low profile storage tanks and separators. The proposed conditions of approval include:

- The tanks and separators are to be painted in a uniform, non-reflective earthtone color.
- The facilities shall be kept clean and otherwise properly maintained; the application materials state that the mud and cuttings will be trucked offsite to an approved land farming or land spreading site per COGCC regulations. The applicant shall clean up all gravel, mud, dirt, etc. that is on the streets due to the oil and gas well vehicles driving between the street and the unpaved drive within 48 hours.
- Landscape requirements. This location would create a separation of more than one half mile to the nearest residence in the Highpointe Subdivision and would allow the pad to be combined with three other drilling pads permitted by the COGCC in order to consolidate them at this one location. Given the remote location, landscaping will not be necessary.
- Floodplain requirements. The subject property is not located in a floodplain or floodway.

Mayor Vazquez recommended that our minimum containment area be at least 110% of the largest vessel that is at the site. Mr. Vazquez noted that perhaps this is something that can be addressed in future considerations relative to the oil and gas industry or any hazardous material storage area. Our best management practices are going to be to require 110% of the largest vessel for containment. Mr. Ballstadt stated that it is required by the state which is why it is not included in the application.

Tom Rand, Vice President of Operations for Great Western was available for questions. Mayor Vazquez inquired they are planning on using Vapor Recovery Units (VRU)? Mr. Rand replied that a VRU is a likely outcome due to the estimates of the gas/oil ratios that the wells will produce. Mayor Vazquez requested it be a definite outcome; Mr. Rand stated that it is something that could be looked at and make a recommendation to go one way or the other as there are other options that may be worthwhile to look at. Mayor Vazquez stated that the use of VRU's would be something that he would support as a policy which would help build trust in the community as it would not hit just the minimum standard but go above and beyond to address the health, safety and welfare issues. Mr. Rand stated that to set up VRU's to handle small amounts of gases is difficult; it is hard to get the equipment to operate properly.

Mayor Vazquez asked if any water quality testing or baseline water analysis had been done and what the testing regime was. Mr. Rand stated that during the drilling operation and after they have done completions the wells are retested, after that it is done on a yearly basis and then a three to five year basis after that. Mr. Vazquez requested that information to be shared directly to staff as opposed to having to track it down on a website.

Mayor Vazquez additionally discussed air quality and noted that he understand they will be doing a baseline analysis and then determine if a vapor recovery unit is warranted. While the Town Board is working through the process; Mr. Vazquez stated he wanted to work with Mr. Rand to create the baseline to develop monitoring so that there is hard data regarding test results and processes that we can refer back to. This will show that we complied with state standards and well within the minimum limits.

Mayor Vazquez stated that this is the first opportunity that we, as the Town Board, are reaching out to the industry to partner and address the concerns of our community. Mr. Rand noted that they are more than willing to ensure the safety and health of the public. Mr. Vazquez noted that it is important for us to get good information out to the public; we can't control what is being speculated regarding land uses. He would like to be able to assure the residents of Windsor that we are not ignoring their concerns but that we are addressing them and moving forward in a responsible way. Mr. Rand stated that they would provide information to the Town as soon as they could.

Mayor Vazquez requested the following conditions to be added to the conditional use grant for consideration:

- A Vapor Recovery Unit (VRU)
- A baseline water quality
- A baseline air quality
- Once the testing regime is in place, that the data be provided to the Town of Windsor on a regular basis

Town Board Member Thompson asked about the containment berm as he did not feel they had received a firm answer on it. Mr. Rand stated that the multiple tanks will not be interconnected. Mr. Thompson also asked if the VRU was in compliance with the EPA's 1215 to which Mr. Rand stated it is. Mr. Rand stated the standard in the industry is ECD's which is typically put on their tank batteries to burn tank vapors are the standard for the industry in the basin. VRU's typically exceed those standards reducing the amount of hydrocarbon emissions to very small percentage; less than two percent.

Pursuant to a question from Town Board Member Thompson regarding flaring, Mr. Rand explained when it would be required and stated it would be rare to see from the emissions control device. Mr. Thompson asked what happens to the vapors when the lid is taken off. Mr. Rand stated that if the VRU is doing its job, the vapors are minimal. New standards that the state is coming out with establish an inventorying of the vapor releases when the driver is taking samples of the crude oil. There will always be a little bit of vapors that are released, but the VRU helps mitigate this.

Mr. Rand stated that they will be accessing the site from the east using the gravel road that has been used by the gravel pit operation.

Town Board Member Thompson stated he appreciated the applicant working with the neighbors in revising the site location.

Wendell Bradley, Windsor resident, addressed the Town Board and inquired during drilling and when you get the flowback will it be vented or captured by the VRU. Mr. Rand stated during the fracking portion of the completion of the well, once it is complete they go through a process called flowback which is returning a significant portion of the fracture fluid back to the surface. While that is happening, the primary fluid coming back is frack fluid but will continue the flowback until they see indications of oil and gas; at that point they shut the well in and turn the production stream into the tank battery. They try to minimize any amount of gas being released into the atmosphere by doing that. It typically vents an hour, at the most.

Mr. Bradley noted that it is not economically useful to produce gas by fracking to which Mr. Rand responded that it may be the case dependent on the area and project that is being discussed.

Mr. Bradley stated he heard that drilling materials are being dumped at the Greeley Airport. Mr. Rand noted that the state has designated landfills; stringent standards have to be met in order to use the landfill to assure that there is no contamination. The soil is monitored on a regular basis. The hydrocarbon content in drill cuttings have to meet standards or they cannot be disposed of in a landfill. If they are contaminated with hydrocarbon they have to be sent to a disposal site.

Mr. Bradley asked who monitors the toxic materials and determines what is suitable. Mr. Rand stated that a third party is hired to monitor along with the COGCC.

Mark Crough, Windsor resident, commented on the process and stated that he does not believe that residents of Steeplechase know what is going on. He stated concern regarding

visibility and landscaping. He recommended that there be an independent evaluator for air and water quality. Mayor Vazquez stated that the Town is working to determine who should be doing the testing; we don't have any answers at this time. If the state provides the opportunity to collaborate in the compliance/monitoring side of the industry then we will try to engage with them.

Town Attorney McCargar reminded the Town Board that they are addressing particular conditions to apply to this operation.

Mayor Pro-Tem Melendez stated that information regarding the public meeting that was held where citizens and residents were invited and attended was included in the Town Board packet.

Town Board Member Bishop-Cotner motioned to close the public hearing; Town Board Member Adams seconded the motion. Roll call on the vote resulted as follows:

**Yeas – Melendez, Thompson, Bishop-Cotner, Adams
Nays – Vazquez. Motion carried.**

7. Conditional Use Grant for oil and gas well facilities in the Residential Mixed Use (RMU) zoning district – Water Valley West Subdivision, Lot 4 - Approximately two miles south of Main Street (SH 392) and 1/8 mile east of Weld County Road 13 (County Line Road) – Janni Keidel, Great Western Oil and Gas Company, LLC, applicant/Martin Lind, Raindance Aquatic Investments, LLC, property owner

- Quasi-judicial action
- Staff presentation: Scott Ballstadt, Chief Planner

Town Board Member Bishop-Cotner motioned to approve the Conditional Use Grant; Town Board Member Adams seconded the motion.

Chief Planner Ballstadt stated that at their May 16, 2012 Planning Commission meeting, the Planning Commission voted to recommend approval of the Conditional Use Grant to the Town Board subject to the following conditions:

1. Prior to the commencement of drilling, the applicant must submit the following information for review and approval by the Town:
 - a. The applicant shall submit a comprehensive Initial Drilling and Site Improvement Plan regarding drilling activities and initial installation of related site improvements details pertaining to all of the following:
 - (1) Site access plan. This item shall address haul routes and site access points.
 - (2) Public street clean-up and tracking prevention. This item shall include a tracking pad to be reviewed and approved by the Town.
 - (3) Site grading. This item shall address proposed site grading, including any earth berms for emergency containment.
 - (4) The following notes and certification blocks shall be included on the Initial Drilling and Site Improvement Plan:
 - i. The applicant shall comply with all rules and regulations of the Colorado Oil and Gas Conservation Commission.
 - ii. The facilities shall be kept clean and otherwise properly maintained at all times.
 - iii. A signed owner's acknowledgement certification block.
 - iv. The existing access may be utilized for agricultural and oil and gas well activities. This access point is temporary and will be required to be removed at such time that permanent access is available in the future.

- b. The applicant shall submit a comprehensive Perpetual Maintenance Plan regarding the on-going life of the wells that includes, but is not limited to, details pertaining to all of the following:
 - (1) Site access plan. This item shall address haul routes and site access points.
 - (2) On-going public street cleaning. This item shall include a tracking pad to be reviewed and approved by the Town.
 - (3) Site lighting. This item shall include details regarding site lighting fixtures and locations. Security and other site lighting shall utilize full cutoff light fixtures to mitigate light pollution.
 - (4) The following notes shall be included on the Perpetual Maintenance Plan:
 - i. The applicant shall maintain compliance with all rules and regulations of the Colorado Oil and Gas Conservation Commission.
 - ii. The facilities shall be kept clean and otherwise properly maintained at all times.
 - iii. A signed owner's acknowledgement certification block.
 - iv. The existing access may be utilized for agricultural and oil and gas well activities. This access point is temporary and will be required to be removed at such time that permanent access is available in the future.
 - c. The applicant shall obtain any applicable building permits from the Town prior to constructing any improvements on site.
 - d. The applicant shall address and comply with the conditions of Windsor-Severance Fire Rescue.
2. The following conditions of approval shall be incorporated into the aforementioned plans for review and approval:
- a. The applicant shall utilize electric motors in order to mitigate the noise impacts on the adjacent residential neighbors.
 - b. The applicant shall ensure that the wells and tanks are of the minimum size required to satisfy present and future functional requirements to mitigate visual impacts.

Chief Planner Ballstadt recapped requests by the Town Board to the applicant:

- The addition of a Vapor Recovery Unit
- Baseline water quality and monitoring data
- Baseline air quality and monitoring data

Mayor Vazquez requested to add the containment at 110% of the largest vessel.

Town Board Member Bishop-Cotner noted that the four additional conditions are a very positive step forward and stated the applicant's willingness to make the adjustments shows a willingness to work with the community.

Mayor Vazquez asked Mr. Rand that in regard to the disposal of the cuttings and flowback material, that since they do the initial testing and the state does the monitoring for compliance, if they are entitled to the results. Mr. Rand stated they do receive the results. Mr. Vazquez requested that the state documentation be provided to the Town in addition to the baseline reports.

Mayor Vazquez requested a fifth condition that the applicant shall submit to the Town on a regular basis the report regarding hazardous material disposal provided by the State of Colorado. This will be a document trail showing compliance of disposal.

Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez

Nayes – None. Motion carried.

8. Public Hearing – Conditional Use Grant for oil and gas well facilities in the Residential Mixed Use (RMU) zoning district – Water Valley West Subdivision, Lot 4 - Approximately two miles south of Main Street (SH 392) and 7/8 mile east of Weld County Road 13 (County Line Road) near the western terminus of New Liberty Road – Janni Keidel, Great Western Oil and Gas Company, LLC, applicant/Martin Lind, Raindance Aquatic Investments, LLC, property owner

- Quasi-judicial action
- Staff presentation: Scott Ballstadt, Chief Planner

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

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez

Nayes – None. Motion carried.

Chief Planner Ballstadt addressed the Town Board and noted it is the same property as the previous conditional use grant; the wells were originally seven-eighths of a mile from County Line Road and closer to the terminus of New Liberty Road. It was approved and permitted by the State of Colorado, it is consolidated onto the same pad as the previous conditional use grant considered by the Town Board. There was a neighborhood on meeting on April 11, 2012, the meeting notes are attached to the packet materials. The criteria apply to these wells as the first four wells; there are no floodplain issues or landscape requirements due to the location being removed from any residential neighborhoods.

Tom Rand, Vice President of Operations for Great Western, was present to address any questions.

Mayor Vazquez asked Mr. Rand if the same concessions could be agreed to as they were for the previous conditional use grant. Mr. Rand stated that he agreed to the concessions.

Robert Winkler, Weld County resident, asked about the neighborhood meetings and if they were facilitated by the oil and gas companies. Mr. Ballstadt reported that the Municipal Code requires neighborhood meetings be held for residents within 500 feet of a proposed well. The meetings are facilitated by the oil and gas companies; they are required to put advertisements in the newspapers. Town of Windsor staff attend the meetings and keep notes to assure that comments are provided. Mr. Winkler does not believe that both sides of the issue are addressed during the neighborhood meetings. He also noted that he is very concerned regarding the health issues that are being reported regarding the industry.

Diane West, Windsor resident, stated concern regarding the air testing and stated that when she asked Great Western what type of equipment would be used for air quality testing, they didn't know. Mr. Rand stated that they have relied on the EPA to develop the standards and the methodologies to monitor it. This has been regulated by the state and he will need to do more research to find out specifics. Mr. Rand stated that there will be a third party as the testing is not something that is done by the industry. Mayor Vazquez commented that all we can do is to make sure they are in compliance.

Ted Holman, Windsor resident, stated that they are concerned regarding ozone so would need to measure of organic compounds and carcinogens that are known to be in fracking fluids.

Mayor Pro-Tem Melendez motioned to close the public hearing; Town Board Member Bishop Conter seconded the motion. Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez

Nayes – None. Motion carried.

9. Conditional Use Grant for oil and gas well facilities in the Residential Mixed Use (RMU) zoning district – Water Valley West Subdivision, Lot 4 - Approximately two miles south of Main Street (SH 392) and 7/8 mile east of Weld County Road 13 (County Line Road) near the western terminus of New Liberty Road –

Janni Keidel, Great Western Oil and Gas Company, LLC, applicant/Martin Lind, Raindance Aquatic Investments, LLC, property owner

- Quasi-judicial action
- Staff presentation: Scott Ballstadt, Chief Planner

Town Board Member Bishop-Cotner motioned to approve the Conditional Use Grant; Town Board Member Adams seconded the motion.

Chief Planner Ballstadt stated that at their May 16, 2012 Planning Commission meeting, the Planning Commission voted to recommend approval of the Conditional Use Grant to the Town Board subject to the same conditions as the previous agenda item.

To clarify, Mayor Vazquez asked Town Attorney McCargar if the conditions needed to be read to be entered into the record; Town Attorney McCargar stated that it was sufficient to state that the same additional conditions apply to this conditional use grant as in the previous conditional use grant.

Roll call on the vote resulted as follows:

**Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.**

10. Resolution No. 2012-42 - A Resolution Approving an Agreement for the Extinguishment of Certain Conservation Easements Granted to the Town of Windsor by Raindance Aquatic Investments, LLC

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

Town Board Member Bishop-Cotner motioned to approve Resolution No. 2012-42; Town Board Member Adams seconded the motion.

Town Attorney McCargar reported on the resolution and noted that at the urging of Martin Lind, that we agreed to extinguish three conservation easements that had been granted to the Town. One of easements has title issues that legal counsel has not been able to resolve and will take more effort by Mr. Lind. The development of the other two sites is consistent with that of a golf course.

Town Board Member Thompson inquired as to the financial impact. Mr. McCargar stated that Parks, Recreation and Culture would need to send Wade Willis, Manager of Parks & Open Space to inspect the property and then contact Mr. Lind with any concerns. Monitoring should drop and should reduce the amount of resources the town expends.

Roll call on the vote resulted as follows:

**Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.**

11. Resolution No. 2012-43 - A Resolution Approving an Agreement Between the Town of Windsor, Colorado, and the Poudre Heights Master Association with Respect to the Provision of Irrigation Water to the Poudre Heights Park Site, and Authorizing the Mayor to Execute the Same

- Legislative action
- Staff presentation: Melissa Chew, Director of Parks, Recreation & Culture

Town Board Member Bishop-Cotner motioned to approve Resolution No. 2012-43; Mayor Pro-Tem Melendez seconded the motion.

Director of Parks, Recreation & Culture Chew stated this was the last of the water agreements. This agreement allows the use of non-potable water that is supplied by the developer in compliance with the Development Agreement. The Town will be billed proportionally for use; based on calculations that amount will be 18%.

Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.

12. Resolution No. 2012-44 – A Resolution Approving an Oil & Gas Lease, and Related Terms, Between the Town of Windsor, Colorado, and Grizzly Petroleum Company, LLC, and Authorizing the Mayor to Execute the Same (“Grizzly Lease #1”)

- Legislative action
- Staff presentation: Ian McCargar, Town Attorney & Ken Lind, Legal Counsel

Town Board Member Bishop-Cotner motioned to approve Resolution No. 2012-44; Mayor Pro-Tem Melendez seconded the motion.

Ken Lind, legal counsel, reported on the resolution noting the lease covers a small acreage that consists of 2.665 net mineral acres. The Town does not own 100% of the minerals on the acreage but a percentage. This is a prohibited three year surface development lease with a bonus of \$3,196.02. Mr. Lind referenced exhibit A which is legal description which is typically called the water tank site. The lessee cannot conduct drilling or any other type of operations unless approved. The Town Board discussed the location and moved on to approve the lease.

Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.

13. Resolution No. 2012-45 - A Resolution Approving an Oil & Gas Lease, and Related Terms, Between the Town of Windsor, Colorado, and Grizzly Petroleum Company, LLC, and Authorizing the Mayor to Execute the Same (“Grizzly Lease #2”)

- Legislative action
- Staff presentation: Ian McCargar, Town Attorney & Ken Lind, Legal Counsel

Town Board Member Adams motioned to approve Resolution No. 2012-45; Town Board Member Bishop-Cotner seconded the motion.

Ken Lind, legal counsel, reported on the resolution noting it is the second lease between the Town of Windsor and Grizzly Petroleum. Mr. Lind stated that it is more complicated than the first due to the number of tracts that are involved. The total acres is 60.431 and the net mineral acres that the Town owns is 57.816 acres. The lease has a strict no surface development, surface occupancy provision. The total compensation is \$69,379.20. Mr. Lind reviewed Exhibit A and noted the nine tracts and where the drilling is taking place. The lease is for one year.

Roll call on the vote resulted as follows:

Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.

14. Resolution No. 2012-46 - A Resolution Approving an Agreement for Extraterritorial Municipal Utility Service Between the Town of Windsor and Windsor Renewal 1, LLC, and Authorizing the Mayor to Execute the Same on Behalf of the Town

- Legislative action
- Staff presentation: Ian McCargar, Town Attorney
Removed from the agenda.

D. COMMUNICATIONS

1. Communications from the Town Attorney

Town Attorney McCargar stated that he would be providing a presentation regarding virtual meetings at the Colorado Municipal League Conference the following week.

2. Communications from Town Staff

- Business Retention Manager Johnson reported that she had submitted a memorandum in the Town Board packet regarding the retail conference that she and Mayor Vazquez attended. Mayor Pro-Tem Melendez requested the Town Board be updated as things develop.
- Director of Planning Plummer recognized the efforts of Chief Planner Ballstadt related to the presentations that evening.

3. Communications from the Town Manager
No communications.

4. Communications from Town Board Members
Town Board Member Adams recognized Shelly Pringer who was the recipient of the 2012 Reba Ferguson award.

E. EXECUTIVE SESSION

An executive session pursuant to § 24-6-602 (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. Lot Holding Reimbursement Request (Kelly Arnold, Dennis Wagner, Ian McCargar).

Town Board Member Bishop-Cotner motioned to go into an executive session pursuant to § 24-6-602 (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. Lot Holding Reimbursement Request (Kelly Arnold, Dennis Wagner, Ian McCargar); Mayor Pro-Tem Melendez seconded the motion.

Upon a motion duly made at 11:06 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 Meeting Law, such concerns should now be stated. Hearing none, the regular meeting resumed.

F. ADJOURN

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

**Yeas – Melendez, Thompson, Bishop-Cotner, Adams, Vazquez
Nays – None. Motion carried.**



Patti Garcia, Town Clerk