



## TOWN BOARD REGULAR MEETING

October 8, 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.

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### MINUTES

#### A. CALL TO ORDER

Mayor Vazquez called the regular meeting to order at 7:11 p.m.

##### 1. Roll Call

Mayor John Vazquez  
Mayor Pro-Tem Kristie Melendez  
Myles Baker  
Don Thompson  
Jeremy Rose  
Robert Bishop-Cotner  
Ivan Adams

Also present: Town Attorney  
Town Clerk  
Chief of Police  
Business Development Manager  
Director of Planning  
Director of Parks & Recreation  
Director of Finance  
Director of Human Resources

Ian McCargar  
Patti Garcia  
John Michaels  
Stacy Johnson  
Joe Plummer  
Melissa Chew  
Dean Moyer  
Mary Robins

Excused: Town Manager  
Management Assistant  
Director of Public Works  
Director of Engineering

Kelly Arnold  
Lindsey Blomberg  
Terry Walker  
Dennis Wagner

##### 2. Pledge of Allegiance

**Mayor Pro Tem Melendez 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 – Thompson, Baker, Rose, Melendez, Bishop-Cotner, Adams, Vazquez**

**Nays – None. Motion carried.**

##### 4. Board Liaison Reports

- Town Board Member Baker – Parks, Recreation and Culture Advisory Board (PReCAB); Cache La Poudre Trail Board Alternate  
Town Board Member Baker reported that PReCAB had met last week; they discussed the Capital Improvement Budget along with the proposed fee increases. The fee increases were approved by PReCAB and the information was forwarded to the Town Board.
- Town Board Member Thompson – Planning Commission; Tree Board; Great Western Trail Board  
Town Board Member Thompson stated he had nothing new to report.
- Mayor Pro-Tem Melendez – Downtown Development Authority; Chamber of Commerce; North Front Range/MPO Alternate  
Mayor Pro-Tem Melendez stated she had nothing new to report.

- Town Board Member Rose – Water & Sewer Board; Windsor Housing Authority, Planning Commission Alternate  
Town Board Member Rose stated the Water & Sewer Board meeting had been cancelled due to lack of agenda items. The Windsor Housing Authority was scheduled to meet on October 16, 2012.
- Town Board Member Bishop-Cotner – Historic Preservation Commission; Clearview Library Board  
Town Board Member Bishop-Cotner reported the Historic Preservation Commission would be meeting on Wednesday. Clearview Library Board had met last week but he was unable to attend.
- Town Board Member Adams – Cache La Poudre Trail Board; Student Advisory Leadership Team (SALT)  
Town Board Member Adams reported the Cache la Poudre Trail Board had met last week and that the current project is preparing the trail for winter. Mr. Adams noted that John Fielder would be providing a presentation on October 30 at 7 p.m. in Greeley. SALT is meeting the 2<sup>nd</sup> and 4<sup>th</sup> Thursday of each month and is working on the Halloween bash scheduled for October 26. Representatives of SALT will be providing a report the last meeting of the month.
- Mayor Vazquez – North Front Range/MPO  
Mayor Vazquez reported that MPO information will be presented at the next Town Board meeting.

5. 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.*

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

**B. CONSENT CALENDAR**

1. Minutes of the September 24, 2012 Regular Town Board Meeting – P. Garcia
2. Liquor License Renewal – Windsor Arena Sports, Beer & Wine License – P. Garcia
3. Liquor License Renewal – 7 Eleven Store #39081, 3.2% Beer Retail License (Off Premises) – P. Garcia
4. Report of Bills – D. Moyer

**Town Board Member Rose 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 – Thompson, Baker, Rose, Melendez, Bishop-Cotner, Adams, Vazquez**

**Nays – None. Motion carried.**

**C. BOARD ACTION**

1. Ordinance No. 2012-1437 – An Ordinance Annexing certain territory known as the 15<sup>th</sup> Street Park Site Annexation to the Town of Windsor, Colorado – Melissa M. Chew, CPRP, Town of Windsor representative
  - Legislative Action
  - Second Reading
  - Staff presentation: Melissa M. Chew, CPRP, Director of Parks, Recreation, and Culture**Town Board Member Bishop-Cotner motioned to approve Ordinance No. 2012-1437, An Ordinance Annexing certain territory known as the 15<sup>th</sup> Street Park Site Annexation to the Town of Windsor, Colorado; Town Board Member Adams seconded the motion.**

Director of Parks, Recreation, and Culture Chew reported on the ordinance and noted that first reading was on September 24, 2012. Ms. Chew reviewed the background of the property and acknowledged that it the Town accepted 27.75 acre in park land north of the Windshire Park subdivision; it was envisioned that additional acreage could be added to the site in the future to create a community park. Although the Town holds the deed to the property, it was never annexed into the Town. In cleaning up annexation lines and park property deeds, staff concurred that property owned by the Town should be annexed into the Town. Ms. Chew reported that there have been no changes since first reading.

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

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

**Yeas – Thompson, Baker, Rose, Melendez, Bishop-Cotner, Adams, Vazquez**  
**Nayes – None. Motion carried.**

2. Resolution No. 2012-63 - A Resolution Approving a No-Surface-Occupancy Oil and Gas Lease, and Related Terms, between the Town of Windsor, Colorado, and Tekton Windsor, LLC, and Authorizing the Mayor to Execute the Same (Various 7.427 Acres)

- Legislative Action
- Staff Presentation: Ian McCargar, Town Attorney
- Legal Counsel Presentation: Jonathan Batt – Lind & Ottenhoff LLP

**Mayor Pro-Tem Melendez motioned to approve Resolution No. 2012-63; Town Board Member Bishop-Cotner seconded the motion.**

Town Attorney McCargar opened the discussion and noted that the Town owns mineral rights under the parcels noted on the lease; Mr. McCargar deferred to Mr. Batt for the background information.

Mr. Batt reported on the lease noting it covers three parcels of land as noted on the maps included in the town board packets. The terms of the lease included a primary term of three years, lease royalty of 17.5%, a bonus consideration of \$750 per mineral acre, net mineral acreage of 7.427 acres more or less, and an initial bonus payment of \$5,570.25. The lease is a “no surface occupancy” oil and gas lease which prohibits all activities of any type regarding oil and gas development on the surface of the properties.

Town Board Member Baker inquired if this would be a forced-pooling situation; Mr. Batt stated that the areas around have already been leased and if the lease was not approved it would probably come to a forced-pooling situation.

Town Board Member Rose inquired if there would be any tanks as they are not addressed in the lease; Mr. Batt stated there is no surface activity related to the leases.

Michael Cuba, Tekton Energy Vice President of Land & Business Development, addressed the Town Board and reported that there was some possibly confusion over the Town’s ownership of the minerals under a 1.56 acre portion of the 7.427 acres that are subject to the lease being presented.

Town Attorney McCargar recommended that the Town Board defer consideration of the lease until the details get worked out.

**Town Board Member Bishop-Cotner motioned to table Resolution No. 2012-63 indefinitely; Mayor Pro-Tem Melendez seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Thompson, Baker, Rose, Melendez, Bishop-Cotner, Adams, Vazquez**  
**Nayes – None. Motion carried.**

3. Resolution No. 2012-64 - A Resolution Approving an Intergovernmental Agreement Between the Town of Windsor and the Windsor Housing Authority with Respect to Community Development Grant Administration

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

- Windsor Housing Authority presentation: John Moore  
**Town Board Member Bishop-Cotner motioned to approve Resolution No. 2012-64; Town Board Member Thompson seconded the motion.**

Town Attorney McCargar addressed the Town Board and provided a review of the agenda item. In August, 2012 representatives of the Windsor Housing Authority (WHA) and Loveland Housing Authority had asked the Town to approve an arrangement under which the Town would administer a Colorado Division of Housing CDBG grant; the purpose would be to provide pass-through “gap” funding for the Windshire Workforce Housing Project. The Town Board approved the request subject to several conditions:

1. Before Town signs the grant documents, WHA must enter into a written agreement that indemnifies the Town for any regulatory exposure associated with administration of the grant.
2. Before Town signs grant documents, WHA must enter into a written agreement that requires the grant funds will be disbursed as closely to the final phases of the project as legally and fiscally possible.
3. Before Town signs grant documents, WHA must enter into a written agreement that covers any other details that arise after full contract review by Town staff and the Town Attorney.
4. Staff will keep the Town Board informed of contract negotiations, and status of funds once received.
5. Until there is a signed agreement, WHA representatives are not authorized to represent there is an agreement on the Town’s part to serve in this capacity - - the terms of the Town’s participation have yet to be determined.

The Intergovernmental Agreement that is being considered addresses the conditions. The disbursement of funds noted in Condition #2 is noted in Section 4 of the intergovernmental agreement (IGA); disbursement of the grant funds are to be tied to two events – the closing of the land acquisition by the WHA and Execution of the partnership agreement with Wells Fargo. The land closing will use a short-term “bridge” loan; the WHA has indicated that without early access to the CDBG funds that interest charges of \$21,000 will be incurred. The closing with Wells Fargo will trigger an investment of approximately \$1.9M and a commitment of over \$7.8M in the Windshire Project. The WHA representatives have noted that although the disbursement will take place fairly early in the project timeframe, the two closings create an assurance that the project will be completed.

John Moore, Windsor Housing Authority, addressed the Town Board and provided an overview of the grant process noting the grant was always set up in order to purchase the land. Mr. Moore indicated that regular progress reports on the project would be provided to the Town Board along with all the grant reporting requirements that are being met.

The project is currently going through the Town review process; the WHA is meeting obligations and deadlines in order to keep the project moving forward. The WHA Board is ready to enter into the agreement as presented.

Town Board Member Thompson stated there had been concerns brought forward in August regarding indemnification and noted it was included in Condition #1 and inquired if the WHA had the resources in order to indemnify the Town. Mr. Moore stated the indemnification would extend to the WHA development partners. Town Attorney McCargar noted the agreement only refers to the WHA. Mr. Moore noted there is a development agreement between WHA and their development partners which is their equity investor and Loveland Housing Authority.

Mr. Thompson included concerns regarding regulatory exposure along with the indemnification.

The Town Board discussed the indemnification concern that Mr. Thompson had brought forward with Mayor Pro-Tem Melendez stating the WHA have met the conditions requested to the best of their

ability and the WHA now has the opportunity to take the project to the next step. It was noted they had been working with the WHA group for some time and a trust level has been established.

Town Board Member Thompson stated that his concerns are not related to trust issues as the Town has experience with the WHA and he knows that Mr. Moore is dedicated to the project and will do everything he can to make it successful. Mr. Thompson reiterated that there is exposure out there that we don't know about and he doesn't feel comfortable with indemnification.

Town Board Member Adams noted the IGA states that the WHA agrees to fully indemnify the Town. Mr. McCargar responded that he believes Mr. Thompson is concerned that the WHA may not have the wherewithal to financially back the promise.

Town Board Member Rose stated the request of the Town Board was that the funds would be used at the end of the project; the IGA for consideration does not provide for that. He understands the financial reason for the WHA wanting to disperse the funds earlier but it still does not change the fact that was not what the Board agreed to; the Town has lost the protection we had agreed to.

Town Board Member Baker concurred with the indemnification concerns and noted that timing is the least of his worries as he believes even after the project is completed that the Town is still liable for certain conditions of operation that could still come after the fact.

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

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

4. Resolution No. 2012-65 - A Resolution Accepting the Deed of Easement for the sign easement for the Welcome to Windsor monument sign to be constructed on the northeast corner of Crossroads Boulevard and Fairgrounds Avenue in the Town of Windsor, Colorado

- Legislative Action
- Staff presentation: Joe Plummer, Director of Planning

**Mayor Pro-Tem Melendez motioned to approve Resolution No. 2012-65; Town Board Member Rose seconded the motion.**

Director of Planning Plummer addressed the Town Board regarding the agenda item noting that the Town Board had appropriated funds for the design and construction for "Welcome to Windsor" signs. In order to install the signs, sign easements needed to be acquired from the property owners of each respective site. The resolution would approve the Deed of Easement which grants the sign easement or the installation of the large monument sign on the northeast corner of Crossroads Boulevard and Fairgrounds Avenue. Mr. Plummer noted that there are no issues with the locates and the Town has worked with local companies to assure that electricity will be provided.

Mayor Pro-Tem Melendez stated she had been part of the sign committee and thanked the members along with Martin Lind. The Town Board members concurred and thanked the group for their work.

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

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

5. Resolution No. 2012-66 - A Resolution Accepting the Deed of Easement for the sign easement for the Welcome to Windsor monument sign to be constructed along the west side of Weld County Road 17 in the Town of Windsor, Colorado

- Legislative Action
- Staff presentation: Joe Plummer, Director of Planning

**Town Board Member Thompson motioned to approve Resolution No. 2012-66; Mayor Pro-Tem Melendez seconded the motion.**

Director of Planning Plummer noted the resolution for consideration was similar to the previous agenda item except for the sign location which is for the west side of Weld County Road 17 north of U.S. Highway 34.

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

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

6. Resolution No. 2012-67 - A Resolution Establishing Rates for Town of Windsor Water Service Customers, and Authorizing the Implementation of Such Rates

- Legislative Action
- Staff presentation: Dean Moyer, Director of Finance

**Town Board Member Rose motioned to approve Resolution No. 2012-67; Town Board Member Baker seconded the motion.**

Director of Finance Moyer reported on the resolution noting the water rates had been discussed at the September 17, 2012 work session. The Town had a water conservation rate study conducted several years ago and one of the recommendations of the study was to go to a three-tier system. Pursuant to meetings with the Water & Sewer Board and the Town Board, the three-tiered rate was reviewed for single family homes with ¾ inch taps, no dual systems would be included. The tiers are tied to the Colorado-Big Thompson (CBT) water share allocation; one tier at the historical allocation of 16,000 gallons per month, the second tier at 16,001 up to 22,500 per month, and the third tier being consumption over 22,500 gallons per month. Mr. Moyer reviewed the corresponding dollar amounts for the proposed tiers which were included in the Town Board packet and noted the effective date would be January 15, 2013.

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

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

**D. COMMUNICATIONS**

1. Communications from the Town Attorney

Town Attorney McCargar reported the I25 SH392 cost recovery documents are being modified by Fort Collins and the Windsor Town Board would be reviewing it in two weeks for official action. Mr. McCargar also reported the Colorado Court of Appeals would be at Windsor High School on November 7.

2. Communications from Town Staff

- Police Chief Michaels reported the September 29, 2012 Drug Take Back Day had brought in 140 pounds of drugs which were picked up by the DEA for disposition. The annual Police Department/Optimist Halloween Party is scheduled for October 31 from 6-8 p.m. at the Community Recreation Center.
- Director Parks, Recreation & Culture Chew reported that a contract had been awarded to Duran Excavating for the paving of the trail behind Windsor High School.

2. Communications from the Town Manager

No communications.

3. Communications from Town Board Members

No communications.

**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; Eagle Crossing development incentives (Stacy Johnson & Ian McCargar)

**Town Board Member Thompson motioned to go into executive session at 8:13 p.m. 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; Eagle Crossing**

**development incentives; Town Board Member Adams seconded the motion. Roll call on the vote resulted as follows:**

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

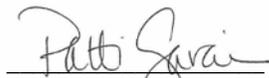
**Upon a motion duly made at 8:43 p.m., the Executive Session was closed and the Town Board returned to the Regular Meeting.**

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 at 8:45 p.m., Town Board Member Baker seconded the motion. Roll call on the vote resulted as follows:**

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



Patti Garcia, Town Clerk