



TOWN BOARD REGULAR MEETING

April 8, 2013 - 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

Mayor Vazquez called the regular meeting to order at 7:05 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 Manager	Kelly Arnold
Town Attorney	Ian McCargar
Town Clerk	Patti Garcia
Director of Finance	Dean Moyer
Director of Planning	Joe Plummer
Director of Human Resources	Mary Robins
Director of Engineering	Dennis Wagner
Director of Public Works	Terry Walker
Director of Parks, Recreation & Culture	Melissa Chew
Economic Development Manager	Stacy Johnson
Chief of Police	John Michaels

2. Pledge of Allegiance

Town Board Member Adams 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 Baker seconded the motion. Roll call on the vote resulted as follows:

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

4. Board Liaison Reports

- Town Board Member Baker – Parks, Recreation & Culture Advisory Board (PReCAB); Cache La Poudre Trail Board Alternate
Town Board Member Baker reported that officers were elected at the last PReCAB. The board members approved a resolution in support of the Community Recreation Center ad hoc committee recommendations along with the conservation easement levels of service
- Town Board Member Thompson – Planning Commission; Tree Board; Great Western Trail Authority
Town Board Member Thompson made note of the upcoming Arbor Day festivities scheduled for April 19 and 20 and the poster and poetry contest presentations on April 22. The Planning Commission approved signs for both Water Valley West and Eagle Crossing properties. There was no report for Great Western Trail Authority.

- Mayor Pro-Tem Melendez – Downtown Development Authority; Chamber of Commerce; North Front Range/MPO Alternate
Mayor Pro-Tem Melendez reported that the Chamber of Commerce Annual Dinner was a success and Ms. Melendez thanked all who had attended and supported the event. The remodel taking place at the Chamber office is under way and new directories should be out soon. The All Town Barbeque is being planned for June 6 at Boardwalk Park. The MPO met in Windsor last Thursday and began with a media event regarding the Buy America Program (van program). Ms. Melendez provided an update regarding the MPO meeting.
 - Town Board Member Rose – Water & Sewer Board; Windsor Housing Authority, Planning Commission Alternate
Town Board Member Rose reported the Water & Sewer Board would be meeting Wednesday morning.
 - Town Board Member Bishop-Cotner – Historic Preservation Commission; Clearview Library Board
Town Board Member Bishop-Cotner stated that the Historic Preservation Commission would be meeting on Wednesday. The Library Board discussed the current adult programming which has been very successful; Mr. Bishop-Cotner recommended that citizens access the library's website where there is some great information. It was also noted that a proclamation for Library Week was included on the Town Board agenda.
 - 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 met last Thursday at which they discussed the appraisal of land between 59th and 71st Street; the appraisal came in at \$1.2M which included all the mineral rights. A picnic shelter outside the Poudre Learning Center is being built and will be a nice addition to the trail. Mr. Adams also stated that May 11 is the Poudre River Trail-a-thon. SALT is keeping busy with the tutoring program and recently held an Easter egg hunt.
 - Mayor Vazquez – North Front Range/MPO
No report.
5. Arbor Day Proclamation
Mayor Vazquez read the proclamation.
 6. National Library Week Proclamation
Mayor Vazquez read the proclamation.
 7. Economic Development Council of Colorado – Small Community of the Year Award
Economic Development Manager Johnson provided an overview of the award and presented it to the Mayor and Town Board.
 8. 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 March 25, 2013 Regular Town Board Meeting – P. Garcia
2. Liquor License Renewal – Los Compadres, Inc. dba Sol de Jalisco, Hotel & Restaurant License – P. Garcia
3. Resolution No. 2013-19 - Vacating a twenty-five foot access easement located parallel to the southern boundary of Lot 2 of the Westwood Village Subdivision, Third Filing in the Town of Windsor, Colorado – J. Olhava
4. Resolution No. 2013-20 – A Resolution Approving an Intergovernmental Agreement Between the Town of Windsor, Colorado, and the Larimer County Department of Human Services with Respect to Protocols for the Investigation of Child Abuse and Neglect and Authorizing the Mayor to Execute the Same – J. Michaels
5. Report of Bills March 2013 –D. Moyer

Town Board Member Thompson motioned to approve the Consent Calendar as presented; Town Board Member Adams seconded the motion. Roll call on the vote resulted as follows:

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

C. BOARD ACTION

1. Short Form Grant Request – DiGGers Demonstration (Treasure Island) Garden
 - Staff introduction: Melissa M. Chew, CPRP, Director of Parks, Recreation & Culture
 - Agency presentation: Bill Pratt

Director of Parks, Recreation & Culture Chew reported the DiGGers are a group of certified master gardeners and Ms. Chew provided an overview of how their efforts have progressed over the year with the Treasure Island demonstration garden. Ms. Chew inquired of the Town Board if the request is more of a partnership request as opposed to a funding request as it would be a contribution of staff time and materials that the Town already has.

Bill Pratt, represented the DiGGers, was present to address any questions from the Town Board.

Town Board Member Bishop-Cotner stated that he was in favor of the partnership would entertain looking at a “wish list” from the group during the Town’s annual budget review.

Town Board Member Thompson concurred that the partnership was the right direction to go. If additional items such as landscaping are added, then those types of requests should be brought forward during budget season. Signage options were discussed along with ideas on implementation; they will work with the Parks, Recreation & Culture department.

Mayor Vazquez recognized the benefit they bring to the community.

Town Board Member Adams motioned to approve a partnership between the Town of Windsor and the DiGGers, authorizing the use of staff time and materials for 2013 in line with past practices;

Town Board Member Thompson seconded the motion. Roll call on the vote resulted as follows:

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

2. Ordinance No. 2013-1448 - An Ordinance Prohibiting the Operation of any Marijuana Business Enterprise Within the Meaning of Article XVIII, Section 16 of the Colorado Constitution Within the Town of Windsor, Colorado
 - Second reading
 - Legislative action
 - Staff presentation: Ian McCargar, Town Attorney

Mayor Pro-Tem Melendez motioned to approve Ordinance No. 2013-1448, An Ordinance Prohibiting the Operation of any Marijuana Business Enterprise Within the Meaning of Article

XVIII, Section 16 of the Colorado Constitution Within the Town of Windsor, Colorado on second reading; Town Board Member Adams seconded the motion.

Town Attorney McCargar stated that Amendment 64 gives local government the opportunity to prohibit the operation of business enterprises that were authorized under Amendment; retail stores, grow operations, cultivation facilities, processing facilities and testing facilities all can be prohibited at the local level. The ordinance does not reach into protected activity under Amendment 64; it goes straight to the business.

Town Board Member Baker inquired if Windsor schools would be eligible for grants that may be made available using the excise tax from the marijuana sales. Mr. McCargar reported that there has been differing opinions if the collection of excise tax would be permitted due to TABOR requirements. Assuming that the excise tax for school building construction grants does take place, Mr. McCargar stated that by prohibiting under 64 it would not deny the opportunity for schools to apply for the grants.

Town Board Member Rose expressed concern regarding the preamble during first reading and voiced his belief that the language is unnecessary and a stretch; specifically the 8th "Whereas" which states that the voters expressed overwhelming opposition to the establishment and operation of marijuana enterprises. Mr. McCargar stated that information relates to the first two votes on medical marijuana in Windsor; those votes were 2-1 and 3-1 in opposition. Amended 64 was opposed by not overwhelming in Windsor from the records that were retrieved.

Mayor Pro-Tem Melendez stated that the conversations she has had to date has been overwhelming in prohibiting the operation of any marijuana business enterprise.

Town Board Member Baker noted that the most recent information was related to Amendment 64 and it was not overwhelming in opposition.

Mayor Vazquez commented that he does not believe that the preamble makes the law and supports the language as presented.

Town Board Member Thompson offered that he has not been approached by anyone asking him not to support the ordinance.

Mayor Vazquez opened the meeting for public comment.

Francine Henderson, representing Weld Count Prevention Partners, voiced support of the prohibition of all areas of the marijuana business.

J.D. Ruybal stated that passage of the ordinance will not change anything as it is now legal and believes that it should be managed as opposed to closing it off.

Roll call on the vote resulted as follows:

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

Nays – None. Motion passed.

3. Ordinance No. 2013-1449 - An Ordinance Prohibiting the Establishment and Operation of Private Marijuana Clubs Within the Town of Windsor, Colorado

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

Mayor Pro-Tem Melendez motioned to approve Ordinance No. 2013-1449, An Ordinance Prohibiting the Establishment and Operation of Private Marijuana Clubs Within the Town of Windsor, Colorado on second reading; Town Board Member Thompson seconded the motion.

Ordinance No. 2013-1449 prohibits the establishment and operation of private marijuana clubs. Mr. McCargar stated it is not clearly granted under the authority of Amendment 64 but does speak to sensibilities of community as requested by the Town Board. The ordinance does not reach into residential uses. It does not penalize assemblies of people, but does penalize an assembly of people in a commercial business with the intent of consuming marijuana. Mr. McCargar indicated that he is unsure how defensible the ordinance is but is presented as an exercise of the Town's land use and police powers.

Mayor Pro-Tem Melendez stated she would support the ordinance on behalf of the constituents she has heard from and received emails from. Town Board Member Adams concurred with Ms. Melendez and stated that children and youth do not need to see this in our community.

Town Board Member Baker stated that when he took his oath of office he was given a copy of the Constitution. Referring to the Constitution, he questioned the authority and logic in banning the assembly of adults to participate in a legal activity in a private setting; whether in their own home or other private venue.

Town Board Member Rose added the he had recommended some alternative language at first reading that would have banned marijuana clubs that would not have infringed on private activity. He is not in support of the ordinance. Town Attorney McCargar stated he understands Mr. Rose's point but is not sure that he could explain the difference between a commercial building and a residence.

Mayor Vazquez reported the challenge is to protect our image and culture. Businesses have been invested in and there have been problems with the medical marijuana due to odor, etc. Mr. Rose stated he understood the importance of keeping our image but steps can be taken to provide for citizen's rights. Mr. Rose noted concern regarding "incidental" in Section 10-4-210 which states that "It shall be unlawful for any persons assembled within a commercial or industrial structure, where such consumption is permitted, encouraged, promoted, enabled, or condoned by persons assembled therein, whether such consumption is the primary intended purpose or an intended purpose incidental to other reasons for assembly therein". Town Attorney McCargar stated that a motion could be made to strike the reference to incidental use although if a primary purpose is removed the ordinance loses its strength.

Mayor Vazquez opened the meeting for public comment.

Francine Henderson inquired about the Colorado Clean Air Act to which Mr. McCargar stated that it did not address marijuana use.

J.D. Ruybal owns commercial property in Windsor and believes it is an infringement on a person's right if the he was told he could not smoke marijuana in his commercial building.

Jason Brown asked about the Clean Air Act; it is unsure if it is violated after a business is closed. Mr. Brown recommended passage of the ordinance.

Roll call on the vote resulted as follows:

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

4. Ordinance No. 2013-1450 - An Ordinance Prohibiting the Establishment and Operation of Certain Marijuana Cultivation Facilities Within the Town of Windsor, Colorado
 - Second reading
 - Legislative action
 - Staff presentation: Ian McCargar, Town Attorney

Mayor Pro-Tem Melendez motioned to approve Ordinance No. 2013-1450, An Ordinance Prohibiting the Establishment and Operation of Certain Marijuana Cultivation Facilities Within the Town of Windsor, Colorado on second reading; Town Board Member Adams seconded the motion.

Town Attorney McCargar reported that Ordinance No. 2013-1450 closes the loophole that was developed after the Town Code was amended prohibiting marijuana grows. The existing Code is specific to medical marijuana cultivation sites. Amendment 64 does not affect anything related to medical marijuana. The ordinance provides that all marijuana cultivation facilities exceeding the stated size or numerical limitations are prohibited within the Town's corporate limits.

Mayor Vazquez opened the meeting for public comment.

J.D. Ruybal stated the issue is complex and appreciated the work done by the Town Board and staff.

Roll call on the vote resulted as follows:

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

Nays – None. Motion passed.

5. Ordinance No. 2013-1451 - An Ordinance Amending Chapters 10 and 11 of the Windsor Municipal Code with Respect to Regulations Applicable to the Conduct of Persons Within Town-Owned Parks and Open Space Areas

- Second reading
- Legislative action
- Staff presentation: Melissa M. Chew, CPRP, Director of Parks, Recreation & Culture and John Michaels, Chief of Police

Town Board Member Thompson motioned to approve Ordinance No. 2013-1451, An Ordinance Amending Chapters 10 and 11 of the Windsor Municipal Code with Respect to Regulations Applicable to the Conduct of Persons Within Town-Owned Parks and Open Space Areas on second reading; Town Board Member Bishop-Cotner seconded the motion.

Director of Parks, Recreation & Culture Chew stated the ordinance was presented on first reading on March 25, 2013. A request was made to clarify restrictions regarding charcoal grills separate propane grill use. The intent has not changed but the information has been clarified. If the ordinance passes, the educational piece will begin immediately.

Town Board Member Baker inquired how a neighborhood could hold a local barbeque in one of the Town's parks; how could they bring and use grills. Ms. Chew responded that a request for permission of that type of use at a neighborhood park could be made.

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

Roll call on the vote resulted as follows:

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

Nays – None. Motion passed.

6. Ordinance No. 2013-1453 - An Ordinance Amending the Windsor Municipal Code to Increase the Per-Acre Value of Land for Purposes of Calculating School District Payments in Lieu of Land Dedication with Respect to Land Development within the Town of Windsor, Colorado

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

Mayor Pro-Tem Melendez motioned to approve Ordinance No. 2013-1453, An Ordinance Amending the Windsor Municipal Code to Increase the Per-Acre Value of Land for Purposes of Calculating School District Payments in Lieu of Land Dedication with Respect to Land Development within the Town of Windsor, Colorado on first reading; Town Board Member Adams seconded the motion.

Town Attorney McCargar stated the ordinance is an amendment to the code which requires land developers in Windsor to either dedicate school land in association with certain types of development or pay a fee in lieu of the land dedication. The Town has an intergovernmental agreement with each of our school

districts. This request is based on a specific request made by the Poudre School District which approved an increase from \$89,000 per acre to \$95,000 per acre. The result is an increase the fee that developers would pay in lieu of land dedication to the Poudre School District for development. The Town does not collect these fees, the developers advise the Town that they have met the requirements of each school district for the fees or land dedication.

Roll call on the vote resulted as follows:

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

D. COMMUNICATIONS

1. Communications from the Town Attorney
Town Attorney McCargar reported on difficulties he was having in serving a landowner; he will keep the Town Board apprised of any new developments.
2. Communications from Town Staff
Director of Parks, Recreation & Culture stated the monthly Special Event Report was included in the Town Board packet.
3. Communications from the Town Manager
Town Manager Arnold stated that he would be attending the spring water users meeting on Thursday at the Ranch along with the Friday board meeting of the Water Conservation District at which the water allocation will be decided.
5. Communications from Town Board Members
Town Board Member Bishop-Cotner reported he rode in a snowplow during the last storm; he was amazed at the experience and time involved in plowing. He stated it was a great experience and recommended others to take advantage of the opportunity during the next snow storm.

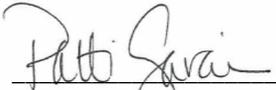
The Town Board recognized the achievements of the Windsor High School Winter Guard who placed third at the state competition and the girls soccer team who remains undefeated.

E. ADJOURN

Town Board Member Bishop-Cotner motioned to adjourn the meeting at 8:32 p.m.; Town Board Member Adams seconded the motion.

Roll call on the vote resulted as follows:

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



Patti Garcia, Town Clerk