



TOWN BOARD WORK SESSION

August 11, 2014 – 5:30 P.M.

First Floor Conference Room

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.

GOAL of this Work Session is to have the Town Board receive information on topics of Town business from the Town Manager, Town Attorney and Town staff in order to exchange ideas and opinions regarding these topics.

Members of the public in attendance who have a question related to an agenda item are requested to allow the Town Board to discuss the topic and then be recognized by the Mayor prior to asking their question.

AGENDA

1. Review of Proposed Metropolitan Districts
2. CRC Proposed Expansion Ballot Language Discussion
3. Future meetings agenda

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MEMORANDUM

August 7, 2014

VIA EMAIL

TO: Town Board of Trustees
Town of Windsor

CC: Kelly Arnold, Town Manager
Ian McCargar, Town Attorney
Town of Windsor
Bill Ankele, Esq.
Clint Waldron, Esq.
Brent Butzin, Esq.
Zach White, Esq.
White Bear Ankele Tanaka & Waldron
David S. O'Leary, Esq.
Spencer Fane Britt & Browne, LLP

FROM James M. Mock

RE: **Review of Service Plans for: Eagle Crossing Metro District Nos. 1-4
Harmony Ridge Metro District Nos. 1-3
Northlake Metro District Nos. 1-5
Tacinala Metro District Nos. 1-7**

INTRODUCTION

I have reviewed the consolidated Service Plans for the above-referenced metropolitan districts proposed to be organized within the Town. The Service Plans were submitted between July 11 and 17. The Service Plans were reviewed against the text of the consolidated Service Plan for Raindance Metropolitan District Nos. 1-4 approved by the Town Board in March, 2014 and against Town Code Chapter 19 (Special Districts).

This Memo is in three parts: it addresses the use of the Raindance Service Plan as the basis for reviewing this round of Service Plans; it provides a general recommendation on all four Service Plans; and it calls your attention to a few items requested by the proponents. A more detailed summary of each Service Plan, including proposed *enhancements* (recall that the Code requires a district to “enhance” a project), is attached to this Memo as Appendix 1. **The bottom line is that I recommend all four Service Plans proceed to First Reading on August 25, and I do not believe it is necessary for a discussion at the Study Session scheduled for Monday.**

RAINDANCE MODEL SERVICE PLAN AS BASIS FOR REVIEW

I understand the Town Board has taken the position that for this current Service Plan cycle, Service Plans that follow the recently-approved consolidated Service Plan for Raindance Metropolitan District Nos 1-4 will be received similarly to a Service Plan that follows the Town’s 2007 Model Service Plan. Accordingly, district proponents were given the choice of following either the Town’s Model Service Plan or the Raindance form. At the time Raindance was approved, I advised the Town that it should revisit its metropolitan district policy and model service plan prior to the next service plan cycle and outside the context of a live application. My primary concerns are: (i) metropolitan district laws and practices, particularly in light of the real estate bust commencing in 2008, have outpaced the Model Service Plan; and, (ii) the Model Service Plan was written based on certain assumptions and with certain “checks and balances” built into it. Incremental changes start to tug at the fabric of these checks and balances, raising the possibility of weaknesses. I am not opposed to the Town moving from this more-limited approach to metro districts to a more permissive model, but I believe the Town will be in a better position if the shift is done deliberately.

GENERAL RECOMMENDATION

I prepared a detailed “comments memo” to each of the four Districts directing specific changes or explanations of items. I have received either revised Service Plans that adopt my comments or emails stating conceptual acceptance of the comments. The proponents have also proposed a few new items that I find acceptable in these specific instances but for which I believe the Town Board should be at least advised of at this stage of the process.

Based on the foregoing, I find the four Service Plans sufficiently compliant with the Raindance Service Plan that they can be set aside from discussion at the Study Session, and, presuming acceptable finalization of Service Plans and compliance with the Town Code's Notice requirements, set for First Reading with a recommendation of approval.

NEW ITEMS

Please be advised of the following new items:

1. Districts' reimbursement of already completed and operational infrastructure. Eagle Crossing is proposing to reimburse the project developer for roughly \$1 Million of public improvements that have been completed and are either in or past the dedication warranty period. My concern here is primarily policy-based; specifically, when infrastructure is installed and operating, it raises the question of whether there is any need for a district in the served area. *I am ok with this Service Plan as additional legal safeguards will be written into the Service Plan and counsel has explained that the improvements are an integral part of the mostly-undeveloped project's overall infrastructure plan and that reimbursement is necessary for this project "to work."* Finally, I do note that the Town would need to take greater interest and this would require significant attention if this were a residential district. Additionally, the Town would benefit from articulating a policy on this type of reimbursement in the context of a broader policy review.
2. Capital Improvement Fee on commercial property. Northlake is proposing to impose a capital improvement fee of up to \$.80/sf on commercial property. We addressed the issue of a capital improvement fee in depth in the residential context this past winter. The Town Board was comfortable with it. I believe that extending the fee to commercial property is consistent with the Town Board's policy on fees, and I am comfortable including it here. The rate may require additional examination in the context of a general review of the Town's metro district policies.
3. Trash service. The Districts are requesting the ability to provide trash service as part of their ongoing operations and maintenance functions. I think it is good policy to allow metro districts to provide trash services, and it is likely to provide cost savings to residents. However, the Special District Act has some clear limitations on what metro districts can and cannot do in this area. I have proposed language acceptable to counsel which allows Districts to provide these services to

the extent provided by the applicable statute. This formulation protects the Town, while giving districts flexibility to provide these services to the extent they can legally justify providing them.

Please advise Kelly or Ian if you would like to have discussion on any of these items on Monday night or if you would otherwise like me to attend. As of now, I do not believe it is necessary for me to attend.

APPENDIX 1
SUMMARY OF DISTRICTS

Eagle Crossing

1. The Districts do not anticipate including residential property
2. This is a multiple district project using the Control-Taxing district structure.
3. The District Boundary area is 125 acres. There is no provision for Future Inclusion area.
4. Assessed value at build-out is projected to be \$40.4 Million. Assessed value in 2048, when the last bonds are to be paid off, is projected to be \$48.3 Million.
5. Total debt of all Districts is capped at \$15 Million.
6. V.I.E., Enhancements. The Town Code requires that proponents demonstrate that the formation of a district will result in enhanced benefits to existing or future residents or business owners of the Town and the district. The Service Plan states:

The approval of the District's will help to accelerate the development of the Project, and will provide an inviting gateway to the Town along Crossroads Boulevard. Not only will the Districts finance and construct the necessary Public Improvements to serve the Project, including streets, sewer, and storm water systems, the Districts plan to install, operate and maintain landscape and entryway features that will create attract business and consumers to both the Districts and the Town.

7. Intergovernmental Agreements. The Service Plan authorizes the Districts to enter into Intergovernmental Agreements with metro districts to be formed on the other side of Crossroads Boulevard in Loveland applicable to a related development. An IGA provides for efficiencies and a coordinated project; and counsel has agreed to limit the Districts' ability to enter into long-term pledges of revenue.
8. Exhibit B, Vicinity Map. The Vicinity Map comports with the Town Code. It shows the Districts being located at the northeast corner of Fairground Avenue and Crossroads Boulevard, then extending to the northeast to Highland Meadow Parkway.

9. Exhibit D, Preliminary Infrastructure Plan. The PIP has been prepared by TST, Inc., Consulting Engineers. The estimated cost of Public Improvements is \$12.3 Million. The form is good and it includes quantities and costs for a variety of public improvements. While the Developer and its engineer are responsible for the accuracy of this Exhibit, I generally recommend my municipal clients run this Exhibit by their respective engineers as a matter of course to look for any “red flags” (bearing in mind that these costs and quantities are preliminary estimates). The preceding section of this memo raises some substantive issues with the PIP.
10. Exhibit F, Financial Plan. In general, the form of the Financial Plan is good. It has been prepared by George K. Baum & Company, which firm qualifies as an “External Financial Advisor.” The Petitioner has clearly met the Ordinance’s expectations as to form.

Development. Commercial. Eleven-year build-out; total square footage not stated and not required to be stated. .

Taxes. The Financial Plan anticipates levying 29 mills for debt service and 4 mills for operations and maintenance.

Bonds. The Financial Plan anticipates issuing one series of 30-year term bonds in 2018 for \$14,805,000. Under this model, property owners would be taxed by the Districts at 33 mills through 2048.
11. Exhibit H, District Disclosure Form. The form is consistent with what was required for RainDance.

Harmony Ridge

1. The Districts appear to consist entirely of residential property, although commercial property is not prohibited.
2. This is a multiple district project using the Control-Taxing district structure.
3. The Initial District Boundary area is 187 acres. The Inclusion Area boundary contains 85 acres within the Town and 178 acres outside the Town. After all possible inclusions, the Districts will cover 450 acres.
4. There are no changes requested to the Town’s Model eminent domain clause.

5. Assessed value at build-out is projected to be \$12.1 Million. Assessed value in 2052, when the last bonds are to be paid off, is projected to be \$18.3 Million.
6. Total debt of all Districts is capped at \$8 Million.
7. V.I.E., Enhancements. The Town Code requires that proponents demonstrate that the formation of a district will result in enhanced benefits to existing or future residents or business owners of the Town and the district. The Service Plan states:

1. The existence of the Districts will facilitate and speed the development of the first residential areas in the northwestern quadrant of the Town. The accelerated development schedule enabled by the public improvements to be financed and constructed by the Districts will further make possible the first commercial development within the Town's boundaries along East Harmony Road, which is likely to serve as a catalyst for future commercial development in the corridor, ultimately benefiting the entire northwest quadrant of the Town and its residents.

2. At the Town's request, the Project includes the construction of a 24" water interconnect between the Town's distribution system and the North Weld County Water District system. The oversized waterline, and the master meter to be located immediately south of the Project, will supply the Town with water from the North Weld County Water District, enhancing the Town's ability to deliver safe and reliable water supplies to its customers.

8. Intergovernmental Agreements; Extraterritorial Service. The Districts are authorized to enter into contracts with Boxelder Sanitation District, North Weld Water District and other entities for the provision of water and sanitation services within the District Boundaries and the Future Inclusion area. Please advise if this raises any concerns.
9. Exhibits A & C, Legal Descriptions. These Exhibits appear to be in good form, although I have not reviewed the calls to confirm their accuracy or applicability to the depictions. While the Developer and its surveyor are responsible for the Exhibits' accuracy, I generally recommend my municipal clients run these Exhibits by their respective engineers as a matter of course.
10. Exhibit B, Vicinity Map. The Vicinity Map comports with the Town Code. It shows the Districts being located at the northeast corner of County Road 13 and Harmony Road.

11. Exhibit D, Preliminary Infrastructure Plan. The PIP has been prepared by Northern Engineering. The estimated cost of Public Improvements is \$7.2 Million. The form is good and it includes quantities and costs for a variety of public improvements.
12. Exhibit F, Financial Plan. In general, the form of the Financial Plan is good. It has been prepared by George K. Baum & Company, which firm qualifies as an “External Financial Advisor.” The Petitioner has clearly met the Ordinance’s expectations as to form.

Development. 543 single family residential lots built out over 8 years starting in 2014.

Taxes. The Financial Plan anticipates levying 36 mills for debt service and 3 mills for operations and maintenance. (See comment above)

Fees. The Districts will impose a Capital Improvement Fee in the amount \$2,500 per dwelling unit.

Bonds. The Financial Plan anticipates issuing two series of 30-year term bonds for a total of \$7,940,000 as follows:

2019 - \$3,740,000
2022 - \$4,200,000

Under this model, property owners would be taxed by the Districts at 39 mills through 2052.

Northlake

1. This is a multiple district project using the Control-Taxing district structure. Two financing Districts will be residential, one will be commercial, and the last will be light industrial.
2. The Initial District Boundary area is 461 acres. The Inclusion Area boundary contains 21 acres. After all possible inclusions, the Districts would cover 482 acres.

3. Assessed value at build-out is projected to be \$143,774,837 Million. Assessed value in 2054, when the last bonds are to be paid off, is projected to remain the same.
 4. Total debt of all Districts is capped at \$64 Million.
12. VI.E., Enhancements. The Town Code requires that proponents demonstrate that the formation of a district will result in enhanced benefits to existing or future residents or business owners of the Town and the district. The Service Plan states:
1. *The Districts may provide a non-potable water transmission system to serve all open space tracts within the District Boundaries. The non-potable water transmission system will allow the Districts to create and maintain irrigated open spaces that demand high levels of irrigation without creating any new water demands, non-potable or potable, from the Town's current water supply and water infrastructure system.*
 2. *The Districts also anticipate providing for regional sanitary sewer line, transportation and roadway improvements that are needed for the Northlake project and the Town of Windsor and other related public entities and adjacent property owners. Such public improvements of a regional nature will enhance both the Northlake project and surrounding areas of the Town and promote the development of a significant area of commercial, industrial and residential development within the Town. It is anticipated that the Districts and the Town will work cooperatively to resolve regional public improvement needs for sanitary sewer, roadway, traffic and safety improvement needs and related services which impact both the Northlake Development and the Town.*
5. Exhibits A & C, Legal Descriptions. These Exhibits appear to be in good form, although I have not reviewed the calls to confirm their accuracy or applicability to the depictions. While the Developer and its surveyor are responsible for the Exhibits' accuracy, I generally recommend my municipal clients run these Exhibits by their respective engineers as a matter of course.
 6. Exhibit B, Vicinity Map. The Vicinity Map comports with the Town Code. It shows the Districts being located mostly in the southwest corner of Weld County Road 76 and State Highway 257, with a minor portion to the north of WCR 76.

7. Exhibit D, Preliminary Infrastructure Plan. The PIP is not sourced, but its form is otherwise good. The estimated cost of Public Improvements is \$58.4 Million. It includes quantities and costs for a variety of public improvements. While the Developer and its engineer are responsible for the accuracy of this Exhibit, I generally recommend my municipal clients run this Exhibit by their respective engineers as a matter of course to look for any “red flags” (bearing in mind that these costs and quantities are preliminary estimates).
8. Exhibit F, Financial Plan. In general, the form of the Financial Plan is good. It has been prepared by George K. Baum & Company, which firm qualifies as an “External Financial Advisor.” The Petitioner has clearly met the Ordinance’s expectations as to form.
 - a. Development. 1,220 single family residential homes, 500,000 sf commercial and 750,000 sf industrial development built out over 26 years starting in 2017.
 - b. Taxes. The Financial Plan anticipates levying 35 mills for debt service and 4 mills for operations and maintenance. (See comment above)
 - c. Fees. The Districts will impose a Capital Improvement Fee in the amount \$1,500 per dwelling unit and \$1 per sf of commercial and industrial (see comment above).
 - d. Bonds. The Financial Plan anticipates issuing three series of 30-year term bonds and one series of a 27 year bond for a total of \$64,120,000 as follows:
 - i. 2018 – \$5,340,000
 - ii. 2020 -- \$10,750,000
 - iii. 2024 -- \$11,250,000
 - iv. 2027 -- \$36,780,000
9. Under this model, property owners would be taxed by the Districts at 39 mills through 2054.

10. Exhibit H, District Disclosure Form. The form is consistent with what was required for RainDance.

Tacincala

1. The Districts intend to cover residential and commercial property.
2. This is a multiple district project using the Control-Taxing district structure. Revised Service Plan will have 5 Districts.
3. The Initial District Boundary area is 366 acres. The Inclusion Area Boundaries contain 105 acres. The full Service Area is 471 acres.
4. Assessed value at build-out is projected to be \$32.8 Million. Assessed value in 2054, when the last bonds are to be paid off, is projected to be \$40,103,580.
5. Estimated population at build-out is projected to be 2,608 persons.
6. Total debt of all Districts is capped at \$47 Million. (See preceding Section of this Memo).
7. V.A.14 includes a change allowing a District to assign covenant enforcement responsibilities to any of the Districts, not just the Coordinating District. This is a good change and I am directing the other Service Plans to include this change.
8. The estimated cost of the Public Improvements is \$36.2 Million.
9. The Town Code requires that proponents demonstrate that the formation of a district will result in enhanced benefits to existing or future residents or business owners of the Town and the district. In Section VI.E. the Developer has stated that:

1. The Districts plan to dedicate substantial acreage of open space throughout Tacincala which is planned to include an interconnected trail system for the benefit, use and enjoyment of the residents of the Districts and the Town. The planned open space dedication exceeds that which is required by the Town Code, and will provide a setback from Highway 257.

2. Utilities are anticipated to be connected to offsite systems and significantly oversized based on the Town's master plans. The sanitary sewer is to be extended

through the Brenniman Farm to the east and connect to the existing sewer extended through the Greenspire subdivision. Pursuant to the Town's Master Plan the sanitary sewer is expected to be at a minimum a 24" line. Connecting the Project's sewer system to the existing system allows the Town to service the District, and allows for an increase in density, which will benefit both the Town and the District. Without a connection to the existing system each lot would have to be served by separate septic fields; lot sizes would be increased to allow for additional septic design, the densities would decrease and the Town would not benefit since they would not be providing service to the District.

3. The Districts plan to provide a non-potable water transmission system to serve all open space tracts within the District Boundaries. The non-potable water transmission system will allow the Districts to create and maintain irrigated open spaces that demand high levels of irrigation without creating any new water demands, non-potable or potable, from the Town's current water supply and water infrastructure system.

10. The Service Plan only contemplates Intergovernmental Agreements amongst the Districts and the Town Service Plan IGA. No other IGA's are contemplated.
11. Exhibits A & C, Legal Descriptions. These Exhibits appear to be in good form, although I have not reviewed the calls to confirm their accuracy or applicability to the depictions. While the Developer and its surveyor are responsible for the Exhibits' accuracy, I generally recommend my municipal clients run these Exhibits by their respective engineers as a matter of course.
12. Exhibit B, Vicinity Map. The Vicinity Map comports with the Town Code. It shows the project as bounded on the north by Weld County Road 72, on the east by State Highway 72, and on the south by Weld County Road 70. With inclusion of the Future Inclusion area, a significant portion of the District will be adjacent to the east side of Weld Country Route 15.
13. Exhibit D, Preliminary Infrastructure Plan. The PIP has been prepared by TST, Inc., Consulting Engineers. The estimated cost of Public Improvements is \$36.1 Million. It appears to be in order and includes quantities and costs for a variety of public improvements, parks and ponds work and offsite improvements. While the Developer and its engineer are responsible for the accuracy of this Exhibit, I generally recommend my municipal clients run this Exhibit by their respective engineers as a matter of course to look for any "red flags" (bearing in mind that these costs and quantities are preliminary estimates).

14. Exhibit F, Financial Plan. In general, the form of the Financial Plan is good. It has been prepared by George K. Baum & Company, which firm qualifies as an “External Financial Advisor.” The Petitioner has clearly met the Ordinance’s expectations as to form.

Development. 576 single family units and 369 multi-family units over nine years.

Taxes. The Financial Plan anticipates levying 35 mills for debt service and 4 mills for operations and maintenance.

Fees. The Districts will impose a Capital Improvement Fee in the amount \$2,500 per residential lot and \$2,000 per multi-family unit.

Bonds. The Financial Plan anticipates issuing three series of 30-year term bonds as follows:

2016 - \$7,485,000

2019 - \$8,055,000

2024 - \$9,620,000

for a total debt amount of \$25,160,000. Under this model, residents would be taxed by the Districts at 39 mills through 2054.

15. Exhibit H, District Disclosure Form. The form is consistent with what was required for RainDance.



MEMORANDUM

Date: August 11, 2014
To: Mayor and Town Board
Via: Work Session materials, August 11, 2014
From: Ian D. McCargar, Town Attorney
Re: CRC Expansion Ballot Question
Item #: Work Session - 2

Background / Discussion:

I. Overview and summary:

In summary, the attached Resolution satisfies two basic legal objectives:

- ✓ Meet the legal requirements for a voter-approved tax increase and multiple fiscal year obligation under TABOR; and
- ✓ Set up a Code amendment to carry out the voters' approval.

The referred measure calls for a .75% sales and use tax rate increase to fund constructing, equipping, operating, maintaining and depreciating the Community Recreation Center (CRC). If approved by the voters, these rates will go from 3.2% to 3.95%. At the point where all debt requirements are paid in full, these rates will fall to 3.4%, with .2% set aside for equipping, operating, maintaining and depreciating the CRC.

II. Attached Resolution:

Attached is a revised Discussion Draft of the proposed Resolution referring the CRC Expansion tax and debt questions to the voters. The significant terms are as follows:

Recitals. These clauses provide context for the body of the Resolution.

Section 1. Calls the election for November 4, 2014. States the Ballot Question:

- TABOR requirements for the amount of borrowing, amount of total repayment costs, amount of first fiscal year tax revenue increase.
- Description of debt: "sales and use tax revenue bonds...for the purpose of constructing and equipping the CRC Expansion"; reserves; costs of issuance.
- Description of the tax rate increase: from the current 3.2% to 3.95%.
- Description of disposition of the tax rate increase revenue stream: constructing, equipment, operating, maintaining and depreciating CRC Expansion; debt service.

- Description of sunset terms: rate reduction to 3.4% when the bonds are paid in full.
- De-Brucing clause: removes revenue limitations under TABOR.

Section 2. Sets the Ballot Title as required by statute.

Section 3. Directs the election be conducted as a mail ballot election.

Section 4. Amends the Code (Chapter 4, Article II) by adding a Special Fund (“Community Recreation Center Expansion Fund”), into which 100% of all revenue generated by the .75% increase will flow. This Code amendment is the permanent legislative approval for collection and use of the funds as specified.

- Specifies the purposes for which the revenues can be used, prohibits use for any other purpose. Gives first priority to debt service, then O&M and depreciation.
- Details the use of post-sunset revenues, both sales tax- and use tax-derived.

Section 5. Amends the Code to set initial and post-sunset rates for sales tax.

Section 6. Amends the Code to set initial and post-sunset rates for use tax.

Sections 7 and 8 are boilerplate.

III. Pre-payment requirements:

The attached Resolution does not contain any language requiring pre-payment of debt in the event revenue exceeds current debt payments, equipment, O&M and depreciation costs. Attached is a draft “fragment” for discussion purposes, which defines *Remaining Revenue* and directs its disposition. This is a discussion item at this time.

Financial Impact: Addressed in the referred measure.

Recommendation: Provide final instructions in anticipation of Board Action on August 25, 2014.

Attachments:

Draft referral Resolution;

Draft pre-payment fragment

DISCUSSION DRAFT ONLY

TOWN OF WINDSOR

RESOLUTION NO. 2014-

A RESOLUTION OF THE TOWN OF WINDSOR REFERRING TO THE VOTERS A MEASURE UNDER WHICH THE TOWN'S SALES AND USE TAX RATE WILL BE INCREASED BY SEVENTY-FIVE ONE-HUNDREDTHS OF A PERCENT (.75%); ESTABLISHING A SUNSET REQUIREMENT; RESTRICTING THE USE OF REVENUES GENERATED FROM THE TAX INCREASE; AUTHORIZING THE ISSUANCE OF REVENUE BONDS; SETTING THE BALLOT TITLE AND BALLOT QUESTION REFERRING THIS RESOLUTION AT AN ELECTION TO BE HELD NOVEMBER 4, 2014; PROVIDING THE EFFECTIVE DATE OF THIS RESOLUTION; AND SETTING FORTH DETAILS IN RELATION THERETO

WHEREAS, the Town of Windsor, Colorado ("Town"), is a home-rule municipal corporation duly organized and operating under the Constitution and laws of the State of Colorado; and

WHEREAS, the Town presently imposes a sales and use tax at the rate of 3.2% pursuant to Section 4-3-110 and Section 4-3-120 of the *Windsor Municipal Code*; and

WHEREAS, a portion of the Town's current sales taxes are required by law to be deposited into the Town of Windsor Capital Improvement Fund ("Capital Improvement Fund") and used solely for the purpose of providing capital improvements or paying debt service on bonds issued for such purpose pursuant to state law; and

WHEREAS, pursuant to Ordinance No. 2002-1106, approved and adopted by the qualified electors of the Town at the regular municipal election held April 2, 2002, 0.2% of the revenues generated from the Town's current sales and use tax were restricted and deposited into the Community and Recreation Center Fund, used solely for the purposes for which said fund was established; and

WHEREAS, the Town Board desires to construct and equip an expansion of the Windsor Community and Recreation Center ("Community Recreation Center Expansion") to be financed through the issuance of sales and use tax revenue bonds; and

WHEREAS, it is anticipated by the Town Board that the operation and maintenance of the Community and Recreation Center will not be fully self-supporting; and

DISCUSSION DRAFT ONLY

WHEREAS, in order to provide funds for the repayment of the revenue bonds and the operation and maintenance of the Community Recreation Center, the Town Board desires to increase the rate of the Town's sales and use tax from 3.2% to 3.95%, effective January 1, 2015, and to restrict the revenues generated from the .75% tax rate increase by requiring the revenues from said tax increase be deposited into the Town Community Recreation Center Expansion Fund and used solely for the purposes for which said fund is established; and

WHEREAS, to provide security in addition to the Community Recreation Center Expansion Fund for payment of the revenue bonds and enable them to be issued at lowest interest costs to the Town, the Town Board desires to pledge to payment of the revenue bonds, if necessary, moneys in the Capital Improvement Fund and the additional sales and use tax revenues of the Town; and

WHEREAS, Article X, Section 20 of the Constitution of the State of Colorado requires that the Town have voter approval in advance for any tax rate increase and for the creation of any multiple -fiscal year direct or indirect debt or other financial obligation whatsoever; and

WHEREAS, the Town Board desires to submit a ballot issue to the eligible electors of the Town on November 4, 2014, authorizing the tax rate increase and the issuance of the revenue bonds for the purposes set forth herein.

NOW THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF WINDSOR, COLORADO:

Section 1. Calling the Election. An election shall be held on Tuesday, November 4, 2014, at which there shall be submitted to the eligible electors of the Town a question authorizing a tax increase and the issuance of revenue bonds, which question shall be in substantially the following form:

SHALL THE TOWN OF WINDSOR DEBT BE INCREASED BY AN AMOUNT NOT TO EXCEED \$ [dollar amount], WITH A MAXIMUM REPAYMENT COST NOT TO EXCEED \$ [dollar amount] AND SHALL THE TOWN OF WINDSOR TAXES BE INCREASED BY NOT MORE THAN \$[dollar amount] IN THE FIRST FULL FISCAL YEAR DOLLAR AND BY SUCH AMOUNT AS IS GENERATED ANNUALLY THEREAFTER BY THE TAX INCREASE DESCRIBED BELOW; SUCH DEBT TO CONSIST OF SALES AND USE TAX REVENUE BONDS TO BE PAYABLE FROM ALL OR ANY PORTION OF THE TOWN'S SALES AND USE TAX AND ISSUED SOLELY FOR THE PURPOSE OF CONSTRUCTING AND EQUIPPING AN EXPANSION OF THE WINDSOR COMMUNITY RECREATION CENTER, FUNDING A RESERVE FUND AND PAYING COSTS OF ISSUANCE OF THE

DISCUSSION DRAFT ONLY

BONDS; SUCH BONDS TO BE DATED AND SOLD AT SUCH TIME, AND AT SUCH PRICES (AT, ABOVE OR BELOW PAR) AND CONTAINING SUCH TERMS, NOT INCONSISTENT HEREWITH, AS THE TOWN MAY DETERMINE; SUCH TAX TO CONSIST OF A RATE INCREASE IN THE TOWN-WIDE SALES AND USE TAX OF .75% (SEVENTY-FIVE ONE HUNDREDTHS OF ONE PERCENT), WHICH REPRESENTS .75 CENTS ON EACH ONE DOLLAR PURCHASE COMMENCING JANUARY 1, 2015; SHALL THE PROCEEDS OF THE INCREASE IN THE TOWN SALES AND USE TAX BE DEPOSITED INTO THE WINDSOR COMMUNITY RECREATION CENTER EXPANSION FUND TO BE USED SOLELY FOR CONSTRUCTING AND EQUIPPING THE WINDSOR COMMUNITY RECREATION CENTER EXPANSION, PAYING THE COSTS OF OPERATING AND MAINTAINING WINDSOR COMMUNITY RECREATION CENTER EXPANSION, ESTABLISHING RESERVES FOR DEPRECIATION OR PAYING THE DEBT SERVICE ON REVENUE BONDS OR REFUNDING BONDS ISSUED FOR SAID PURPOSES; SHALL THE INCREASED RATE OF SALES AND USE TAX BE REDUCED TO A LEVEL SUFFICIENT TO FUND OPERATIONS, MAINTENANCE AND DEPRECIATION AT SUCH TIME AS ALL DEBT SERVICE ON REVENUE BONDS OR REFUNDING BONDS FOR SAID PURPOSES ARE PAID IN FULL; AND SHALL ALL MONEYS DEPOSITED IN THE WINDSOR COMMUNITY RECREATION CENTER EXPANSION FUND (REGARDLESS OF AMOUNT) CONSTITUTE A VOTER - APPROVED REVENUE CHANGE, AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Section 2. Setting Ballot Title and Content. For purposes of § 31-11-111, C.R.S., this Resolution shall serve to set the title and content of the ballot issue set forth herein and the ballot title for such question shall be the text of the question itself. Any petition to contest the form or content of the ballot title may be filed with the District Court and a copy served on the Town Clerk within five days after the title of the ballot issue is set by the Town Board upon adoption of this Resolution.

Section 3. Conduct of Election. The officers and employees of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution and the holding of a mail ballot election on November 4, 2014.

Section 4. Addition of sub-section 4-2-20 (9). Upon voter approval, Section 4-2-20 of the *Windsor Municipal Code* is hereby amended by the addition of a new sub-section which shall read as follows:

(9) *Community Recreation Center Expansion Fund.*

DISCUSSION DRAFT ONLY

- (a) There is hereby established a special fund of the Town to be known as the Town of Windsor Community Recreation Center Expansion Fund. Said fund shall be considered a capital improvement fund within the meaning of § 29-2-111, C.R.S. One hundred percent (100 %) of the revenues derived from seventy-five one-hundredths percent (.75%) of the 3.95% sales and use tax imposed by this Chapter shall be deposited into said fund and used solely for the purpose of paying the costs of constructing and equipping the Windsor Community Recreation Center Expansion, paying the costs of operating, maintaining and depreciation of the Windsor Town Community Recreation Center, or paying the debt service on revenue bonds or refunding bonds issued for said purposes. With the exception of said purposes, moneys deposited into such fund from seventy-five one-hundredths percent (.75%) of the 3.95% sales and use tax shall not be available to be pledged or expended, by interfund transfer or otherwise, for any general municipal purposes; provided however, no sales or use tax revenues in the Windsor Community Recreation Center Expansion Fund may be expended for purposes of operating, maintaining, equipping and depreciation of the Windsor Community Recreation Center unless said fund contains sufficient revenues to pay the anticipated annual debt service on any revenue bonds for which moneys in the fund have been pledged.
- (b) At such time as the Reduced Sales Tax Rate set forth in Section 4-3-110 (b) takes effect, all revenues derived from the first twenty one-hundredths percent (.20%) of the Reduced Sales Tax Rate imposed by this Chapter shall be deposited into the Community Recreation Center Expansion Fund and shall be used solely for the purpose of paying the costs of operating, maintaining, equipping and depreciation of the Windsor Community Recreation Center. With the exception of said purposes, moneys deposited into such fund from the first twenty one-hundredths percent (.20%) of the Reduced Sales Tax Rate imposed by this Chapter shall not be available to be pledged or expended, by interfund transfer or otherwise, for any general municipal purposes.
- (c) At such time as the Reduced Use Tax Rate set forth in Section 4-3-120 (b) takes effect, all revenues derived from the first twenty one-hundredths percent (.20%) of the Reduced Use Tax Rate imposed by this Chapter shall be deposited into the Community Recreation Center Expansion Fund and shall be used solely for the purpose of paying the costs of operating, maintaining, equipping and depreciation of the Windsor Town Community Recreation

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Center. With the exception of said purposes, moneys deposited into such fund from the first twenty one-hundredths percent (.20%) of the Reduced Use Tax Rate imposed by this Chapter shall not be available to be pledged or expended, by interfund transfer or otherwise, for any general municipal purposes.

Section 5. Repeal and Re-adoption of Windsor Municipal Code Section 4-3-110. Upon voter approval, Section 4-3-110 of the *Windsor Municipal Code* is hereby repealed and re-adopted to read as follows:

Sec. 4-3-110. Imposition of sales tax.

- (a) **Initial Sales Tax Rate.** There is imposed a sales tax of three and ninety-five one-hundredths percent (3.95%) on the sale of tangible personal property at retail or the furnishing of taxable services, as provided herein at Section 4-3-170 of this Code and at § 29-2-105(1)(d), C.R.S. (the "Statute").
- (b) **Reduced Sales Tax Rate.** At such time as the costs of paying the debt service on revenue bonds or refunding bonds issued for construction of the Windsor Community Recreation Center Expansion or equipping Windsor Community Recreation Center Expansion have been paid in full, the sales tax rate shall be reduced to three and four-tenths percent (3.4 %) without further voter approval or Town Board action.

Section 6. Repeal and Re-adoption of subsection 4- 26(a) Windsor Municipal Code Section 4-3-120. Upon voter approval, Section 4-3-120 of the *Windsor Municipal Code* is hereby repealed and re-adopted to read as follows:

Sec. 4-3-120. Imposition of use tax.

- (a) **Initial Use Tax Rate.** There is imposed a tax of three and ninety-five one-hundredths percent (3.95%) as a use tax, to be imposed only for the privilege of storing, using or consuming within the Town any construction and building materials or construction equipment located within the boundaries of the Town for a period of more than thirty (30) consecutive days.

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(b) Reduced Use Tax Rate. At such time as the costs of paying the debt service on revenue bonds or refunding bonds issued for construction of the Windsor Community Recreation Center Expansion or equipping the Windsor Community Recreation Center Expansion have been paid in full, the use tax rate shall be reduced to three and four-tenths percent (3.4 %) without further voter approval or Town Board action.

Section 7. Ratification of Windsor Municipal Code. With the exception of the provisions of the *Windsor Municipal Code* which are modified as provided herein, all remaining provisions of the *Windsor Municipal Code* shall remain in full force and effect.

Section 8. Severability. Should any one or more sections or provisions of this Resolution be judicially determined invalid or unenforceable, such determination shall not affect, impair, or invalidate the remaining provisions hereof, the intention being that the various provisions hereof are severable.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 25th day of August, 2014.

TOWN OF WINDSOR, COLORADO

By: _____
John S. Vazquez, Mayor

ATTEST:

Patti Garcia, Town Clerk

DISCUSSION DRAFT

Proposed new *Windsor Municipal Code* Section 4-2-20 (9) (d)

Purpose: Accelerated pay-down of CRC Expansion debt.

Overview: The ballot measure will add a new sub-section (9) (a) through (c) to the existing Section 4-2-20 of the *Windsor Municipal Code*, creating the CRC Expansion Fund and directing its permitted uses. Sub-sub-section (d) below would further govern what happens to the revenue by requiring that *Remaining Revenue*, as defined below, be applied to pay down any remaining debt until the debt is paid in full.

(d) **Remaining Revenue, Disposition.**

- (1) **Definition of Remaining Revenue.** For purposes of this sub-section (9), “Remaining Revenue” shall be defined as any sales tax revenue and use tax revenue derived from seventy-five one-hundredths percent (.75%) of the sales tax and use tax rates imposed by this Article and which exceed the annual combined total of:
 - (a) all accrued debt service obligations on revenue bonds or refunding bonds issued pursuant to this sub-section (9) has been paid; and
 - (b) the combined annual operations, maintenance, equipping and depreciation costs of the Community Recreation Center.
- (2) **Disposition of Remaining Revenue.** Until such time as all costs of debt service associated with revenue bonds or refunding bonds issued pursuant to this sub-section (9) are paid in full, all Remaining Revenue shall be first accumulated and applied to paying in advance any remaining debt service on revenue bonds or refunding bonds issued for said purpose, but only so long as doing so does not violate any call restriction provisions of bonded indebtedness issued pursuant to this sub-section (9). Nothing herein shall be construed to prevent the accumulation of Remaining Revenues in a reserve fund for application of such accumulated Remaining Revenue to remaining debt service following the expiration of any call restriction provisions of bonded indebtedness issued pursuant to this sub-section (9).
- (3) **Expiration.** Upon payment in full of all costs of debt service associated with revenue bonds or refunding bonds issued pursuant to this sub-section (9) are paid in full, the requirements of this Section shall expire.



FUTURE TOWN BOARD MEETINGS

Work Sessions & Regular Meetings will be held in the Board Chambers unless otherwise noted.

August 18, 2014 6:00 p.m.	Town Hall Meeting – Strategic Plan
August 25, 2014 6:00 p.m.	Town Board Work Session Review of compensation study information
August 25, 2014 7:00 p.m.	Town Board Meeting
September 1, 2014	Labor Day
September 8, 2014 5:30 p.m./1 st floor conference room	Board/Manager/Attorney Monthly Meeting
September 8, 2014 7:00 p.m.	Town Board Meeting
September 15, 2014 6:00 p.m.	Town Board Work Session Update on Demographic and Housing Study
September 22, 2014 6:00 p.m.	Town Board Work Session
September 22, 2014 7:00 p.m.	Town Board Meeting
September 29, 2014	Fifth Monday
October 6, 2014 6:00 p.m.	Town Board Work Session
October 13, 2014 5:30 p.m./1 st floor conference room	Board/Manager/Attorney Monthly Meeting
October 13, 2014 7:00 p.m.	Town Board Meeting
October 20, 2014 6:00 p.m.	Town Board Work Session
October 27, 2014 6:00 p.m.	Town Board Work Session
October 27, 2014 7:00 p.m.	Town Board Meeting
October 11, 2014	<u>Additional Events</u> Budget work session

Future Work Session Topics

None.