



## TOWN BOARD REGULAR MEETING

October 13, 2014 - 7:00 P.M.

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

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### MINUTES

#### A. CALL TO ORDER

1. Roll Call

Mayor  
Mayor Pro Tem

John Vazquez  
Myles Baker  
Christian Morgan  
Jeremy Rose  
Kristie Melendez  
Robert Bishop-Cotner  
Ivan Adams

Also present:

Town Manager  
Town Attorney  
Town Clerk/Assistant to Town Manager  
Chief of Police  
Director of Finance  
Chief Planner  
Management Assistant  
Deputy Town Clerk

Kelly Arnold  
Ian McCargar  
Patti Garcia  
John Michaels  
Dean Moyer  
Scott Ballstadt  
Kelly Unger  
Bruce Roome

2. Pledge of Allegiance

Mr. Rose 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

**Mr. Baker motioned to approve the agenda as presented; Mr. Morgan seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

4. Board Liaison Reports

- Mayor Pro-Tem Baker – Water & Sewer Board  
Mr. Baker stated that the Water & Sewer Board met on 10/08/14 and a proposed water rate increase was presented based on Greeley's revised rates. The proposed rate increase is 1.33% which is the increased weighted average of Fort Collins Water (0%), North Weld Water (0%) and Greeley (4%). The Board also toured the new water and storage tank site.
- Town Board Member Morgan – Parks, Recreation & Culture; Great Western Trail Authority  
No report
- Town Board Member Melendez – Downtown Development Authority (DDA); Chamber of Commerce  
Ms. Melendez reported that the DDA meets Wednesday at 7:30 am at Windsor Town Hall. The DDA saw the Mill Feasibility study presentation last week which they will discuss on Wednesday. Ms. Melendez felt there was a lot of interest and excitement at the presentation.

Ms. Melendez reported that the Chamber met on 10/01/14 and several events that they sponsor are coming including: Downtown trick or treating on 10/25/14 from 1-4 pm; Winter Wonderland on 12/06/14 from 12 pm until 5 pm. They did a wrap up of the Windsor Business Exposition that was held in September and they estimated that there were 3,000 attendees and 61 vendors in attendance. Last, they are working on their 2015 budget and planning a Board of Directors retreat in December or January.

- Town Board Member Bishop-Cotner – Clearview Library Board; Historic Preservation Commission; Planning Commission  
Mr. Bishop-Cotner reported that the Clearview Library Board did a general review of the library conduct policy. They passed a resolution that bans the open carry of weapons in the library, concealed carrying is allowed. They began the budget assumptions and staff planning for 2015 and the director evaluation process was discussed. The next meeting is 10/30/14 at 5:30 pm in the library.

Mr. Bishop-Cotner noted that Planning Commission saw several items that the Town Board will see tonight or in the next few meetings.

- Town Board Member Adams – Poudre River Trail Corridor Board; Tree Board  
No report
- Mayor Vazquez – Windsor Housing Authority; North Front Range/MPO  
Mayor Vazquez reported the North Front Range/MPO has made a decision to appropriate authorize the utilization of state transportation planning dollars for the next four years for I-25 from Hwy 14 to Hwy 66. The Mayor also stated that dollars coming available for Region 4 of about \$30 to \$35 million for a project that was funded that is not going to take place. Asked the MPO for support for spending those dollars in Region 4 at the I-25 and Crossroads interchange. These funds must be spent before 2017.

#### 5. Proclamations – National Community Planning Month

Mayor Vazquez read the proclamation.

#### 6. Public Invitation to be Heard

Mayor Vazquez opened the meeting for public comment.

The below listed spoke regarding the Great Western Oil & Gas site:

Marcia Erickson, 8636 Blackwood Drive  
Valerie Schlageter, 2011 Kaplan Drive  
Earl Pittman, 8413 Cherry Blossom Drive  
Todd Sutherland, 1572 Yonkee Drive  
Terri Richter, 2057 Arroyo Court  
Bob Howard, 5856 Stone Chase Drive  
Chris Das, 8426 Blackwood Drive

For the following reasons:

- Afraid that Windsor will turn into a large industrial area.

- The area is already being fracked now by the Extraction company and it is so loud.
- Thanks to the Mayor and Town Board for their efforts with the enclave annexation.
- Worried town regulations aren't strong enough to ensure safety of town residents.
- People move to Windsor because of quality of life. There are wide open spaces, less traffic, peace and quiet.
- Request for constituents to put pressure on the committee
- Performed research and the plan is for 45 tanks in the neighborhood, the most in the US in a neighborhood is 93 tanks. No site as big as this anywhere in Colorado.
- The Great Western application is misleading and should be thrown out because of this.
- Other sites should be considered that are farther away from residential areas.
- This enclave annex should have been completed in May 2014 when it was first brought up.

Those comments were addressed by Mayor Vazquez with the following points made:

- The Mayor, the Board, and Town staff are all listening to the residents and trying to help.
- The Town cannot stop drilling, it is a Colorado Constitutional right.
- With the annexation in place the Town can work with the operator to minimize the adverse effects.
- If the town completes the enclave annexation process before the Great Western site gets approval from Larimer County then the Town standards can be enforced.
- The Mayor and Town Board are trying to give the citizens a voice through this annexation and hopefully it can be completed in a timely matter.
- A local Town designee has filed an extension with Colorado Oil and Gas Conservation Commission (COGCC) and Larimer County for the Great Western site.
- The Town Board and staff have worked over the last three years to build a good rapport with these companies. The companies have shown a willingness to accommodate the Town's requests because of this relationship.
- It is important to preserve property rights while ensuring Windsor remains a great place to live.
- Would never consider a forced annex but because the residents of the neighborhood came to us.
- The Mayor, Town Board, and Town staff are working for pipelines to eliminate truck traffic and tank farms by moving the product out through a pipeline. Extraction Oil Company is investing over \$6 million and the Town is working with GW to get them to invest as well.

## B. CONSENT CALENDAR

1. Minutes of the September 22, 2014 Regular Town Board Meeting – P. Garcia
2. Resolution No. 2014-58 – Resolution Approving An Easement and Right-Of-Way Agreement for Storm Water Drainage Facility Between the Town of Windsor and Broe Land Acquisitions II, LLC, And Authorizing The Mayor To Execute Same – I. McCargar
3. Resolution No. 2014-59 – A Resolution Approving an Agreement Between the Town of Windsor and the Boxelder Sanitation District, and Authorizing the Mayor to Execute Same – I. McCargar
4. Resolution No. 2014-60 – A resolution vacating the northerly 6.7 feet of the 20 foot utility and drainage easement located at the south property line of 680 Dakota Way – P. Hornbeck

5. Resolution No. 2014-61 – A Resolution Approving an Intergovernmental Agreement Between the Town of Windsor and the Town of Timnath With Respect to Maintenance of County Line Road in the Vicinity of its Intersection With Harmony Road – I. McCargar

**Mr. Adams motioned to approve the Consent Calendar as presented; Ms. Melendez seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez Nays – None; Motion passed.**

#### C. BOARD ACTION

1. Ordinance No. 2014-1481 – Amending Chapter 16 of the Windsor Municipal Code for the purpose of adopting regulations for accessory dwelling units in residential zoning districts within the Town of Windsor  
*Super-majority vote required for adoption on second reading*
  - Second reading
  - Legislative action
  - Staff presentation: Scott Ballstadt, Chief Planner

**Ms. Melendez motioned to approve Ordinance No. 2014-1481; Mr. Bishop-Cotner seconded the motion.**

##### Staff Presentation:

Mr. Ballstadt stated at the August 25, 2014 regular meeting, the Town Board approved Ordinance No. 2014-1481 on first reading and a super-majority vote is required to approve on second reading. At the direction of the Planning Commission in early 2013, staff initiated research and worked with the Town Attorney to prepare a draft ordinance adopting regulations for ADUs. The Planning Commission and Town Board discussed ADUs at work sessions on June 6, 2013, September 18, 2013, September 23, 2013, December 2, 2013 and a joint work session of both boards on July 22, 2013.

Following Town Board consideration, Ordinance No. 2014-1473 failed on second reading on April 28, 2014 due to lack of a super majority vote as required by the Town Charter. However, at the May 12, 2014 work session, the Town Board directed staff to schedule further discussion of ADUs and at the subsequent July 7, 2014 Town Board work session staff was directed to schedule additional public hearings and consideration of the enclosed updated ordinance.

Staff recommends that the Town Board approve the ordinance on second reading as presented

Ms. Melendez stated support for the ordinance. She feels this is a good plan for additional housing options for Windsor residents.

Mr. Rose stated that he will support the ordinance as he is a fan of the ADU concept. He is not satisfied with the limitation of three occupants maximum as there will always be reasons for variations of that number but he doesn't have a better answer.

Mr. Morgan stated he is opposed and will vote no on this ordinance. He felt more public involvement might have helped the process but that didn't happen. Mr. Morgan feels ADU's do not follow the Town's vision and believes that negative impacts of this will be realized in the future.

Mr. Baker stated support for the ordinance and thanked staff for reaching out to Metro Districts and HOA's for their input.

Mr. Adams stated support for the ordinance and that he appreciated that it was taken back to staff and the necessary changes were made.

Mr. Bishop-Cotner stated support for the ordinance and likes the possibilities this gives home owners.

Mayor Vazquez stated support for the ordinance because he has heard from the community that they want ADU's.

Public Comment:

Jason Kingeny, 131 N. 6<sup>th</sup> Street, stated that he is excited about the ADU ordinance and appreciates the time and energy by Town staff and the Town Board. He knows several who will benefit from this ordinance.

**Roll call on the vote resulted as follows: Yeas – Baker, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – Morgan; Motion passed.**

2. Ordinance No. 2014-1483 – An Ordinance Annexing Certain Real Property Pursuant To The Enclave Annexation Powers Granted Municipalities Under The Colorado Municipal Annexation Act Of 1965
  - First reading
  - Legislative action
  - Staff presentation: Ian D. McCargar, Town Attorney

**Ms. Melendez motioned to approve Ordinance No. 2014-1483; Mr. Bishop-Cotner seconded the motion.**

Staff Presentation:

Mr. McCargar stated that an enclave annexation is different than a typical annexation. The requirements for an enclave annexation are an ordinance; the Town must publish the annexation for four consecutive weeks in a local newspaper; and final adoption must wait at least 30 days from the first publication. He stated that the statutory requirements either are met or are being met. Mr. McCargar stated that first reading requires a simple majority to pass.

Mr. Baker stated that this is unprecedented for the Town and feels this is the right thing to do for the residents and Town to give everyone a voice in what happens with land within the Town limits.

Ms. Melendez stated that this is making history and setting an unusual precedent but this is why they are elected, to listen to the constituents and their requests and honoring this one is the right thing to do.

Mr. Morgan stated that he has every confidence in the Mayor to answer the citizens and make comments on his behalf. Thanks the Mayor for taking active role in understanding the issue and being able to answer the questions.

Mr. Rose stated that he was out of country for the last month and is catching up on this issue. At this time he doesn't feel like he has a handle on this. Mr. Rose respects property rights and is questioning if this is truly what's best for the community. He is concerned that the impetus behind this is that it will magically change the oil and gas process, because it won't significantly change the development. He will think about it more and welcomes feedback from all but at this time he will vote against it.

Mayor Vazquez supports this enclave annexation. His initial reaction was reservation and reluctance but he believes that the Town can protect individual land rights of the owners. This is an infringement on land rights but it is the smallest that can be done.

**Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – Rose; Motion passed.**

3. Public Hearing – Final Major Subdivision – Brunner Farm Subdivision, Tenth Filing – Cary St. Onge, Windsor CAS, LLC, applicant; Mary B. Wohnrade, Wohnrade Civil Engineers, Inc., applicant's representative.
  - a. Quasi-judicial
  - b. Staff presentation: Scott Ballstadt, Chief Planner

**Ms. Melendez motioned to open the public hearing; Mr. Adams seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

Mr. Bishop-Cotner stated:

“Mr. Mayor, for the record, I would like to point out that in my capacity as Town Board liaison to the Planning Commission, I was present at the Planning Commission meeting during which this matter was previously presented. I wish to state that my participation in the Planning Commission proceedings has in no way influenced me in my capacity as a Town Board Member this evening. I will make my decision and cast my vote this evening based solely on the evidence presented during this public hearing.”

Staff Presentation:

Mr. Ballstadt stated that Mr. Cary St. Onge, Windsor CAS, LLC, represented by Ms. Mary Wohnrade, Wohnrade Civil Engineers, Inc., has submitted a final major subdivision plat, known as the Brunner Farm Subdivision, Tenth Filing. The subdivision encompasses approximately 3.302 acres and is zoned Residential Mixed Use (RMU). The subdivision includes a total of 14 single family residential lots. The single family residential lot sizes range from approximately 7,000 square feet, up to 16,000 square feet, due to the unique orientation and depth of some of the lots. At their June 4, 2014 regular meeting, the Planning Commission approved the preliminary subdivision plat. No concerns or issues were raised during that meeting.

Staff recommendations:

A recommendation of approval of the Brunner Farm Subdivision, 10th Filing, final major subdivision plat and Resolution No. 2014-62, subject to the following conditions, and staff concurs with this recommendation:

1. All subdivision requirements shall continue to be met.

Mr. Arnold asked Mr. Ballstadt to explain what appears to be inactivity from April to September on the timeline. Mr. Ballstadt answered that the neighborhood hearing occurs at the onset of the project and staff review and approval from the Town Board occur at the end of the project which is what is highlighted on the timeline. During this intervening time the staff and the applicant are reviewing and exchanging redline comments.

Mary Wohnrade, Wohnrade Civil Engineers, Inc., applicant's representative. Ms. Wohnrade stated that this is a straight forward project on two tracts of land. Based on current market conditions the owner wants to build single family residents.

Ryan St. Onge, Windsor CAS, LLC, stated they have no objections to the conditions set forth.

**NOTE:** The official record of this evening's proceedings shall include the application, staff memos and recommendations, packet materials and supporting documents, and all testimony received.

Public Comment:

None

**Mr. Morgan motioned to close the public hearing; Mr. Adams seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

4. Resolution No. 2014-62 – A Resolution of the Windsor Town Board approving the final subdivision plat for the Brunner Farm Subdivision, Tenth Filing in the Town of Windsor, Colorado – Cary St. Onge, Windsor CAS, LLC, applicant; Mary B. Wohnrade, Wohnrade Civil Engineers, Inc., applicant's representative.
  - a. Quasi-judicial
    - Staff presentation: Josh Olhava, Associate Planner

**Mr. Bishop-Cotner motioned to approve Resolution No. 2014-62; Mr. Adams seconded the motion.**

Staff Presentation:

Mr. Ballstadt stated that he had nothing further to add than was covered in Agenda Item C.3.

**Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

5. Great Western Trail Authority Presentation and Request
  - Presentation: Tom Jones, Great Western Trail Authority

Presentation:

Mr. Jones, a representative of the Great Western Trail Authority (GWTA), asked the Town Board for a letter of support for their grant application to CDOT. Mr. Jones requested the Town Board to act as a conduit to handle the flow of funds and also to issue a letter of support for their application. He stated the Town did a similar thing in 2011. This grant does not require any matching funds from the Town.

This is the Rails to Trails project which completed its first segment earlier this summer. The next phase is from Eaton to Severance to complete the trail. They hope to do this by using two grants, one is from CDOT and the other is a Colorado State Trails grant. At this time they need to have both applications in by 11/01/14. The GWTA need a sponsor for the CDOT grant and a partner for the Colorado State Trails grant. The Town would be the governmental agency that is required for the process.

At issue is that Colorado State Trails doesn't pay their grant until complete and the GWTA needs the Town to pay the bills as they come due. At the conclusion of the project the Town will be reimbursed 100% by the grant. The amount of the grants are \$550,000 for the CDOT grant and \$200,000 for the Colorado State Trails grant. By receiving two grants for the matching funds requirement they can use each grant to match the other.

The basic timeline of the project is after 1/01/2015 they will find out if they received the grant. The design phase will take place starting in May 2015. The project will go out to bid in January of 2016 and start in May of 2016. Per the grants they have four years to complete the project but the GWTA hopes to complete it in two years.

Karen Schneiders, CDOT Northwest Regional Planner, believes that this project is eligible for a grant. This project is eligible for funding that is being directed by the North Front Range/MPO.

Mr. Adams asked where does the path go. Mr. Jones answered across Hwy 85 into the old sugar factory and dead ends.

Mr. Arnold wanted to verify that Eaton has embraced this project now as they were originally lukewarm to the project. Per Mr. Jones they are on board and in favor of the project as the Eaton Town Board will vote on it this Thursday night.

Mayor Vazquez asked what is involved from the Town. Mr. Moyer answered that this is not a big time requirement of his staff as they mainly just pay the bills and then submit them for reimbursement through CDOT and the Trails grant.

Mr. Morgan speaking as the GWTA liaison passed along that in his opinion that GWTA Board is dedicated and meticulous. They are good stewards with their money and do a great job. Thanks to the CDOT representative for coming tonight

**Mr. Adams motioned to approve the request from Great Western Trail Authority; Ms. Melendez seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

6. Approval of TIGER V Railroad Quiet Zone Grant
  - Legislative action
  - Staff presentation: Kelly Arnold, Town Manager

Staff Presentation:

Mr. Arnold explained in September 2013, the Town of Windsor was awarded the TIGER (Transportation Investment Generating Economic Recovery) grant by the U.S. Department of Transportation for the Great Western Freight Improvement Project. The goal of the project is to improve and add safety measures at thirteen (13) public grade crossings through two main

residential areas in the Town of Windsor, and work with the Federal Railroad Administration (FRA) to determine the feasibility of establishing a Quiet Zone. See Attachment 2: Statement of Work, for more details.

The initial grant funding of \$2.7 million was later reviewed and altered to reflect the total project cost and the addition of three (3) crossing not originally included in the grant. The new project cost of \$3.3 million is fully funded by the FRA. Due to FRA September 30th deadline, the grant contract was signed by the Town Manager to secure grant funding.

Mr. Baker is excited about this project. Congratulations for Mayor and Town Staff for all the hard work on this project.

Mayor Vazquez stated kudos to staff as they deserve credit. It would be an accomplishment to put in two to four Quiet Zones but for thirteen it is unprecedented and very impressive.

**Ms. Melendez motioned to authorize the Town Manager to sign the TIGER V Grant for the Grant Western Freight Improvement Project; Mr. Baker seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

7. Approval of FHU Contract
  - Legislative action
  - Staff presentation: Kelly Arnold, Town Manager

Staff Presentation:

Mr. Arnold explained that in order to properly execute the Western Freight Improvement Project, staff would like to hire Felsburg Holt & Ullevig (FHU) as project consultants. FHU shall perform, furnish, and complete the following professional services: Preliminary Design, Final Design, Permits, Bidding Phase, Construction Observation, and Project Management. According to FHU's design/construction schedule, the Quiet Zone will be completed by December 2015.

Stephanie Anzia, representative from Felsburg Holt & Ullevig, said the diagnostic is complete so they can start immediately on the design process. Four of the crossings are under CDOT jurisdiction which means they have to go through a CDOT review process. The reminder are Town and County jurisdiction, these will go through the Public Utilities Commission for approval. The goal is for final design completed by February as well as PUC applications approvals. After that a bid package has to be compiled for advertisement. The impacts to the community will be low because there are no surface improvements so the crossings do not need to be closed to traffic.

Mr. Morgan asked who is responsible for ongoing maintenance. The Town has basic maintenance agreement with Great Western Railroad and they are responsible.

**Mr. Morgan motioned to authorize the Town Manager to sign the FHU Agreement for Professional Services for the Great Western Freight Improvement Project; Ms. Melendez seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

8. Resolution No. 2014-63 – A Resolution recognizing Colorado Cities and Towns Week, October 20-26th, 2014
  - Staff presentation: Kelly Unger, Management Assistant

**Mr. Bishop-Cotner motioned to approve Resolution No. 2014-63; Mr. Adams seconded the motion.**

Staff Presentation:

Ms. Unger stated that the Resolution is to recognize local towns and municipalities. She stated that there is whole slate of activities planned for that week including dinner with SALT; a Touch a Truck Day where the Police and Public Works will have their equipment available for the kids; Town Board members and Town division directors guest speaking at Windsor High; finishing with “Coffee with the Mayor Pro Tem” at Town Hall.

Mr. Adams last time they Board members sat with students to answer questions

**Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

D. COMMUNICATIONS

1. Communications from the Town Attorney

Mr. McCargar thanked the Town Board and the residents of Windsor because he was able to attend the CML annual town attorney conferences where he was able to meet with other municipal attorneys and exchange ideas.

2. Communications from Town Staff

Chief Michaels stated the drug take back program netted 144 pounds of prescription medications from residents that were handed off to the DEA to destroy. Unfortunately, this is the last time the DEA will do this. The DEA has notified participating agencies that they are passing the program to the State which means it could end up with the Municipalities to handle. This is a good program which enhances citizen safety by giving them a proper method to get rid of expired or unwanted medications. Chief Michaels estimates that Windsor Police has taken in 600 pounds through this program since the program started.

3. Communications from the Town Manager

No report

4. Communications from Town Board Members

Nothing further from the Town Board members

D. ADJOURN

**Mr. Bishop-Cotner made a motion to adjourn the meeting; Mr. Baker seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.**

The Regular Meeting was adjourned at 9:32 p.m.

A handwritten signature in cursive script that reads "Bruce Roome".

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Bruce Roome, Deputy Town Clerk