

- Town Board Member Bishop-Cotner –Historic Preservation Commission; Planning Commission
Mr. Bishop-Cotner stated no report for Historic Preservation Committee and that he had to miss Planning Commission.
- Town Board Member Adams – Poudre River Trail Corridor Board; Tree Board
Mr. Adams reported that the Tree Board meeting was cancelled.
The Poudre Trail had an interesting meeting and they are still settling easements between Greeley and Fort Collins and are making progress. Mr. Adams said that he was complimented for Windsor on the new trail from Water Valley and Pelican Trails to the Poudre Trail. Last, the GWTA is still trying to get more involved with Windsor at Hwy 257 at the Grove.
- Mayor Vazquez – Windsor Housing Authority; North Front Range/MPO
Absent, No Report

5. Public Invitation to be Heard

Mayor Pro-Tem Baker opened the meeting for public comment, there was none.

B. CONSENT CALENDAR

1. Minutes of the October 13, 2014 Regular Town Board Meeting – B. Roome

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

C. BOARD ACTION

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 for the following Board Action items.

1. 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
Super-majority vote required for adoption on second reading
- Second reading
 - Legislative action
 - Staff presentation: Ian D. McCargar, Town Attorney

Mr. Adams motioned to approve Ordinance No. 2014-1483; Mr. Morgan seconded the motion.

Staff Presentation:

Mr. McCargar explained that this is for final adoption is the ordinance under which the Town will annex the statutory enclave known as the Pace Annexation to the Town of Windsor. This parcel has been surrounded by Town-annexed territory for more than three years, the key statutory

factor that allows the Town to annex the property by Town-initiated ordinance. This is a departure from the more common owner petition for annexation as the property owner is not a required party in the enclave annexation process. The statutory enclave annexation process eliminates the public hearing requirements usually applicable to annexations by owner petition. No public hearing is required for an enclave annexation, although public comment is required on second reading under the Charter. The Municipal Annexation Act of 1965 only requires that the Town publish notice in the newspaper for four consecutive weeks. With the first publication of this annexation occurring on September 25, 2014, the statutory requirements for notice have been met. The question of zoning for this parcel will be deferred, pending staff recommendation and property owner input. Zoning must be accomplished within 90 days of annexation.

Staff recommends adoption of 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.

Public Comment:

Mr. Adams stated concern for new documents given just prior to the meeting, he believes that the authors of the documents need to speak or take a break to read and catch up.

Mr. McCarger stated two of the three authors are here.

The below listed spoke in support of Ordinance 2014-1483:

Earl Pittman, 8413 Cherry Blossom Lane

Dan Johnston, 1504 Arroyo Drive

Shaundra Berry, 6341 Highland Farm Circle

Don Thompson, 1428 Folsom Drive

Rick Amble, 8435 Blackwood Drive

Fred Mitchell, 2056 Ridge West Drive

Chris Das, 8426 Blackwood Drive

Terri Richter, 2057 Arroyo Court

Bob Howard, 5856 Stone Chase Drive

William Miclean, 5154 Blackhawk Drive

For the following reasons:

- Trying to mitigate the impact of the drilling on the property
- Public hearings will provide due process in the process
- Need transparency from Great Western
- 28 super wells and 45 tanks for this property, this will be huge and loud
- Fear for effects of having the site this close to so many homes
- Great Western's CPO has stated he knows the drilling is a nuisance to the neighbors
- This is bigger than a nuisance
- Reality is this is coming to the windows of neighbors and their children
- Needs to be annexed regardless of how they want to develop it
- Pace family has had 35 years to develop the property and they aren't taking their neighbors into consideration
- This isn't an issue of disallowing the pad sites. This is an annexation question, not a use question.
- Potential for drilling up to five years per the Great Western CEO.

- An action to delay this lets the permit process move forward and we lose the chance to enforce .
- Hear and feel the wells operating. Have been awoken by them as they drill.

The below Pace Family members and representatives spoke in opposition of the Ordinance:

John McCoy, Fort Collins
Cindy Bargell, Attorney from Visani and Bargell LLC
Brad Pace, Fort Collins
Sherri McCoy, Fort Collins

For the following reasons:

- Concern about the fast rate that this annexation is happening.
- They feel left out of the loop .
- Would like more time to ensure zoning is set so they don't lose their mineral rights.
- The neighboring property owners have capitalized on the population movement to northern Colorado and the Pace family did not voice any opposition to the developments.
- They have respected their neighbors' rights to develop their private property, and did not object as the open space changed, and development surrounded their land.
- Our voice has been lost in the demands of our new neighbors who want to dictate the development of our private property.
- We let the Town know we needed more time to understand the impact of annexation.

****Letters from Pace Family and their attorney amended to meeting packet***

Ms. Melendez stated annexation is the right course of action.

Mr. Adams stated he supports the annexation.

Mr. Rose stated support for the annexation.

Mr. Morgan stated support for the annexation.

Mr. Baker stated support for the annexation..

Mr. Bishop-Cotner said he is in favor of the ordinance and will vote yes.

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

2. Public Hearing – Rezoning certain property known as Poudre Heights Subdivision, Second Filing, Tract I – Gail E. Rumley, President, Poudre Heights LP, applicant
 - a. Quasi-judicial
 - b. Staff presentation: Paul Hornbeck, Associate Planner

Mr. Bishop-Cotner motioned to open the public hearing; Ms. Melendez seconded the motion. Yeas – Baker, Rose, Morgan, Melendez, Bishop-Cotner, Adams; Nays – None; Motion passed.

Mr. Bishop-Cotner stated:

“Mr. Mayor Pro-Tem, 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. Hornbeck reported that the applicant, Mr. Gail “Spike” Rumley of Poudre Heights, LP, has requested to rezone Tract I of Poudre Heights Subdivision, Second Filing from Single Family residential (SF-1) to Residential Mixed Use (RMU). This proposal to rezone the entire 92 acre tract would allow a multifamily component as a part of the overall development. The associated master plan that is proposed depicts 265 single family lots and 124 multifamily units in the form of two, three, and four unit buildings.

The Second Filing was approved in 2003 and included the platting and subsequent development of 163 single family lots and, as part of that approval, Tract I was designated for future development subject to the Town’s normal review process upon submittal of any development proposal. A preliminary plat for the third filing depicting single family and multifamily uses for Tract I was approved in 2006 but no approvals were received for the final plat, rezoning, or master plan amendment needed to proceed with development. The applicant recently received approval of the land use map amendment from the Planning Commission at its October 1, 2014 meeting, changing the designation from Single Family Residential and Multi-Family Residential to Residential Mixed Use. At this time the applicant is seeking approval of the rezoning and master plan amendment prior to submitting a new preliminary plat.

The Planning Commission recommends approval with the following condition:

1. All staff redlines and comments shall be addressed

Mr. Adams is concerned as we keep getting more homes. With homes comes kids. What is the process of us working with the schools and the potential impacts.

Mr. Arnold stated the school district does participate in the plan review process. They get comments of everything and can comment about the plans. They do plan for the potential impact on their schools from these subdivisions. Take into consideration the size and needs.

Mr. Hornbeck stated that he does not recall if any comments have been received from the school district.

Mr. Plummer says they will consider possible school sites, etc. In the development agreement, before any building permits are issued the applicant must submit written verification from the school district on any future proposals.

Mr. Adams asked if staff is keeping the flooding issue in mind.

Mr. Plummer stated yes, it is definitely being addressed throughout the process.

Mr. Morgan asked with steps being taken for flood prevention in this area what is the liability of the Town Board should they pass the rezoning and then it floods. This area has been overrun twice in the last two years.

Mr. McCargar spoke of the Town Board liability and states that rezoning does not make the Town liable. It falls on the developer to ensure that they have complied with all flood plain regulations at their site.

Mr. Rumley, President, Poudre Heights LP, applicant, stated that they are taking engineering steps to remove the areas that are currently affected by the 100 year storm. Any houses built will need to be at least 24" above the water level as required by FEMA.

Cole Hauber, civil engineer for the project, explained that FEMA has stated that one third of the new filing is in a flood plain so the developer will have to raise the development above the defined flood elevation.

Mr. Rumley is requesting approval of the RMU zoning.

Mr. McCargar wanted to ensure that the record is clear that Mr. Rumley is willing to accept the one condition assuming the rezoning is approved. Mr. Rumley states yes, he does accept the one condition set forth for this particular item.

Public Comment:

The below listed spoke in opposition of Agenda Item C.2.:

John Boyle, 1712 Clear Creek Court
Wayne Plechaty, 1698 Dolores River Drive
Troy Baumruk, 305 Meadow Drive
John Harrington, 1020 Arkansas River Court
Megan Spina, 1743 Platte River Court
Greg Farris, 1756 Green River Drive

For the following reasons:

- There has not been a water study completed and he has not seen any real facts about the water.
- The current neighborhood is full of children and the traffic safety is a concern.
- No one knows where the water really will go.
- Concerns of additional traffic and a single access point is a safety concern
- She now sees that neighbors cannot sell their house because no one wants to buy the flood insurance that is required.
- When they bought the house they had no idea they were in a flood plain.

Ms. Melendez asked for the record if the Planning Commission unanimously approved the rezoning.

Per Mr. Hornbeck that is correct.

Ms. Melendez motioned to close the public hearing; Mr. Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Melendez, Bishop-Cotner, Adams; Nays – Rose; Motion passed.

3. Ordinance No. 2014-1484 – An Ordinance rezoning certain property known as Poudre Heights Subdivision, Second Filing, Tract I – Gail E. Rumley, President, Poudre Heights LP, applicant
 - a. First reading
 - b. Quasi-judicial
 - c. Staff presentation: Paul Hornbeck, Associate Planner

Ms. Melendez motioned to approve Ordinance 2014-1484; Mr. Bishop-Cotner seconded the motion.

Staff Presentation:

Mr. Hornbeck stated that he had nothing further to add as everything was covered in Item C.2.

Ms. Melendez asked for clarifications from the applicant as to if he agrees to the recommendation set forth by the Planning Commission for this agenda item.

Mr. Rumley stated that yes he does agree to the condition.

Mr. McCargar stated that the question of a rezoning is whether the proposed rezoning is consistent with the comprehensive plan. Although there were comments and concerns heard tonight about flooding, school traffic, and traffic issues the rezoning just asks do you want your zoning map to look differently than it does now. The Planning Commission's recommendation is quite relevant and they are saying that they don't believe that the proposed rezoning offends the comprehensive plan or land use map within the comprehensive plan.

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

4. Resolution No. 2014-64 – Ratifying, Approving and Confirming the Terms and Conditions of the Poudre Heights Subdivision, Second Filing, Tract I Amended Master Plan – Gail E. Rumley, President, Poudre Heights LP, applicant
 - Quasi-judicial
 - Staff presentation: Paul Hornbeck, Associate Planner

Ms. Melendez motioned to approve Resolution No. 2014-64; Mr. Bishop-Cotner seconded the motion.

Staff Presentation:

Mr. Hornbeck stated that, Mr. Rumley, has also requested to amend the existing master plan for Tract I of the Poudre Heights Subdivision, second Filing. The master plan must be amended because of proposed changes to the location of the multifamily and single family areas within the development and changes to the number of units. The multi-family units were previously located in the center of the development with single family lots around the perimeter. The new proposal locates the multi-family lots to the east of the B.F. Eaton Ditch with the single family lots located to the west. The overall number of units proposed has decreased from 423 to 389 while the mix of units has changed from 227 single family and 190 multi-family units to 265 single family and 124 multi-family units, respectively.

The approved preliminary plat approved in 2006 shows two streets accessing the Betters/Odau property while the new proposal depicts only one access. The reduced number of access points is relevant because the property lacks any connections to adjacent public streets. Reducing the

access points from two to one would have the effect of potentially reducing the future development potential of the property. Fire codes limit an area with only one access to 25 units unless the units include fire sprinklers. There has been some confusion over this issue and a related reference to aggregate building areas over 24,000 square feet requiring two access points or sprinklers. The Fire Marshal has stated that the square footage requirement only applies to commercial uses. The 25 unit limitation is mitigated somewhat by a drainage conveyance across the property and the location of an oil/gas well easement that would likely eliminate the development potential of a portion of the property for the lifetime of the well.

The preliminary plat gave the owners of the adjacent lot, Mr. Chuck Betters and Mr. Larry Odau, an expectation that the two access points would be provided. Access to this property has been a contentious issue but the applicant has attempted to reach a consensus with the property owners to satisfy both parties. Thus far they have not agreed to any resolution. Therefore, the Planning Commission recommended the master plan be amended to show two access points.

The Planning Commission forwarded a recommendation of approval to the Town Board with the following conditions:

1. Prior to execution of the mylars the master plan shall be updated to show two access points to the adjacent property owned by Chuck Betters and Larry Odau.
2. The overall densities on the amended master plan shall not exceed 265 single-family lots and 124 multi-family townhome units, for a total density of 389 dwelling units; and
3. All staff comments and redlines shall be addressed.

Mr. Rumley and Mr. Hauber, provided the Town Board with information which explains their reasons for proposing only one access point for the development.

Mr. Rumley also asked for the density to remain at 423 units which is the amount approved in the original plat. There are still areas of the project where they don't know precisely what the end unit count will be. This higher number gives them flexibility with the RMU zoning.

Mr. Bishop-Cotner asked if the Planning Commission heard a different staff recommendation than what he is being heard tonight.

Mr. Plummer states that the Planning Commission's recommendation is as presented tonight.

Mr. Betters and Mr. Odau, owners of the property, were both present and each stated that they want two access points.

Per Mr. McCargar he requests that the record include the letter from the Windsor Severance Fire Department Fire Marshal.

**Letter from WSFR amended to meeting packet*

Mr. Adams made a motion to amend the original motion to change Condition #2 to a total density allowed of 423 dwelling units maximum and for conditions #1 and #3 to remain the same; Mr. Rose seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Adams; Nays – Bishop-Cotner; Motion passed.

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

5. Ordinance No. 2014-1485 – An Ordinance Prohibiting the Operation of Internet Sweepstakes Facilities Through the use of Simulated Gambling Devices Within the Town of Windsor
 - First reading
 - Legislative
 - Staff presentation: Ian D. McCargar, Town Attorney

Ms. Melendez motioned to approve Ordinance 2014-1485; Mr. Morgan seconded the motion.

Staff Presentation:

Mr. McCargar reported that on September 8, 2014, the Town Board adopted an emergency Ordinance which placed a moratorium on Town approvals for what were termed “cyber cafes”, but are also known as internet sweepstakes outlets. The Ordinance directed staff to research and formulate policy recommendations directed at regulating or, if warranted, prohibiting facilities in which internet sweepstakes games were offered.

On October 9, 2014, the Colorado Attorney General issued Opinion No. 14-03, in which the Attorney General concluded that internet sweepstakes operations are not lawful sweepstakes under existing law, and are a form of gambling not permitted under existing law. Analysis of these facilities and, in particular, the computer devices used by them, brought the Town Attorney to the same conclusion.

This ordinance contains a ban on facilities offering internet sweepstakes play. The Ordinance is closely modeled on HB 2014-1392, a measure presented to the State House during the 2013-2014 legislative session. This ordinance defines its terms, outright prohibits simulated gambling facilities, establishes penalties and remedies, and sets forth exceptions. The core of this Ordinance is based on the Attorney General’s conclusion that simulated gambling devices are unlawful.

Staff recommends adopting the attached ordinance prohibiting the operation of internet sweepstakes facilities through the use of simulated gambling devices within the Town of Windsor.

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

6. September Financial Report – Dean Moyer

Staff Presentation:

Per Mr. Arnold:

- Highest September sales tax collection on record at \$657,352
- September 2014 year-to-date gross sales tax increased 21.26% over September 2013
- Construction use tax through September is at 65.29% of the annual budget at \$1,142,369
- Single Family Residential (SFR) building permits total 192 through September. This is down from the September 2013 number of 285.
- 42 business licenses were issued in September, 22 of which were sales tax vendors

- Construction use tax through September is at 65.29% of the annual budget at \$1,142,369
- We did not receive any voluntary compliance or audit payments in September, adding strength to the positive indicator of higher collections than last year
- Through September we have collected \$6M in sales tax. This is roughly \$1,000,000 higher than through September 2013.
- Operations expenditures are on track as a whole, expending 70% of the annual budget compared to the benchmark of 75%.
- Through September, operating and capital expenditures combined to equal 67% of the 2014 Budget.

D. COMMUNICATIONS

1. Communications from the Town Attorney
Mr. McCargar reported that next Monday John Frey will be covering for Mr. McCargar.
2. Communications from Town Staff
No communications
3. Communications from the Town Manager
Mr. Arnold interesting letter from Safeway in the packet and wanted to draw the Board members attention to it.

Mr. Arnold said next week the work session is at the Police Department.

4. Communications from Town Board Members
Mr. Adams spoke of commendations for the Town staff from the Windsor Severance Fire Department.

D. ADJOURN

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

The Regular Meeting was adjourned at 10:21 p.m.



Bruce Roome, Deputy Town Clerk