



TOWN BOARD REGULAR MEETING

January 12, 2015 - 7:00 P.M.

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

MINUTES

Mayor Vazquez called the meeting to order at 7:04 p.m.

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| 1. <u>Roll Call</u> | Mayor
Mayor Pro Tem | John Vazquez
Myles Baker
Christian Morgan
Jeremy Rose
Kristie Melendez
Robert Bishop-Cotner
Ivan Adams |
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Also present:	Town Manager	Kelly Arnold
	Town Attorney	Ian McCargar
	Town Clerk/Assistant to the Town Manager	Patti Garcia
	Communications/Assistant to the Town Manager	Kelly Unger
	Chief of Police	John Michaels
	Director of Economic Development	Stacy Johnson
	Director of Engineering	Dennis Wagner
	Director of Finance	Dean Moyer
	Chief Planner	Scott Ballstadt
	Associate Planner	Josh Olhava
	Associate Planner	Paul Hornbeck

- Pledge of Allegiance
Town Board Member Melendez led the Pledge of Allegiance.
- Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board
Town Board Member Melendez motioned to approve the agenda as presented; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.
- Board Liaison Reports
 - Mayor Pro Tem Baker – Water & Sewer Board; North Front Range/MPO alternate
Mayor Pro Tem Baker stated that there had not been a meeting of the Water & Sewer Board since his last update; they will be holding a work session on January 21, 2015.

Mr. Baker attended the NFRMPO meeting last week at which appointments to subcommittees were made. Items of note included a presentation from CDOT on the TIGER grant, discussion of the Bustang Service from Northern Colorado to Union Station, the widening of Highway 34 which was approved by CDOT, along with the future widening of I-25 is under discussion.

- Town Board Member Morgan – Parks, Recreation & Culture (PReCAB); Great Western Trail Authority

Town Board Member Morgan reported on the January 6, 2015 PReCAB meeting and noted items of discussion included ideas for the 125th anniversary celebration and signage regarding banning of smoking in certain areas and whether there should be an ordinance which would establish a penalty. Board consensus regarding an ordinance was that it will first be tried with signage only; Weld County Health has committed \$2,000 towards the effort.

Mr. Morgan also attended the Great Western Trail Authority meeting on January 8, 2015 and reported on a variety of items: seeding had been done although some of it had to be suspended due to wind; the Youth Conservation Corp had done a lot of work on the trail in the location where there were an abundance of weeds; the Authority is a recipient of a CDOT TAP grant in the amount of \$550,000 and they have additionally submitted an application for a Colorado State Trails grant in the amount of \$250,000 which requires matching to take place for funding. He also noted that there had been work done near County Road 31 towards Severance.

- Town Board Member Melendez – Downtown Development Authority (DDA); Chamber of Commerce

Town Board Member Melendez stated the last meeting of the DDA was held on December 17, 2014 and that the next meeting would be held January 21, 2015 at 7:30 a.m. One of the discussion items at the December 17 meeting was code enforcement in the DDA area which was brought to the attention of the DDA board by the Town Board. DDA members have talked to the property owners who have volunteered to clean up their properties; the DDA board will monitor and assure that clean up is completed. The DDA board will have their first retreat on February 4, 2015 from 7:30 a.m. to noon. Additionally, the Parking Committee will be meeting with a parking consultant on Wednesday to look at challenge and opportunities in the DDA area.

Ms. Melendez also reported out on the Chamber of Commerce which met on January 7, 2015. The Chamber is up to 372 members with a great retention rate. Ms. Melendez noted there are two new board members; Jenni Stanford, Great Western Development Company and Tom Prenger, Bank of Colorado. Business After Hours will be held for tomorrow evening at the CU Health-Poudre Fitness Center. February 4-6, 2015, Executive Director Michal Connor and a board member will be attending the Western Association of Chamber Executives in Disneyland. Due to the conference, the regular Chamber meeting will be postponed to 7 a.m. on February 11, 2015 at the Egg & I at which members will hear about the conference and ideas that will be brought back. Sales for the new member directory are up and running. January 22, 2015 will be an opportunity to network through Networking at Noon which will be held at the Windsor Charter Academy.

- Town Board Member Rose – Clearview Library Board
No report.

- Town Board Member Bishop-Cotner – Historic Preservation Commission; Planning Commission
Town Board Member Bishop-Cotner stated that the Historic Preservation Commission would be meeting on Wednesday. Mr. Bishop-Cotner noted that items discussed at the Planning Commission meeting were on the current Town Board agenda.
- Town Board Member Adams – Tree Board; Poudre River Trail Corridor Board
Mr. Adams reported the last meeting of the Tree Board had been cancelled. Mr. Adams attended the Poudre River Trail Corridor Board meeting and reported on items of discussion including past flooding and how to rectify it; work with the City of Greeley and the Town regarding solutions for the railroad and trail access; marker repairs are being taken care of.
- Mayor Vazquez – Windsor Housing Authority; North Front Range/MPO
Mayor Vazquez reported that the Windsor Housing Authority would be meeting this week.

5. Presentation to Town of Windsor from Broe Family Foundation

Jenni Stanford, representing the Broe Family Foundation, presented the Town of Windsor and the Parks, Recreation & Culture Department with a check for \$25,000 for the creation of The Broe Family Foundation Windsor Scholarship. This will be a scholarship program for qualifying children to participate in town recreation services. Mayor Vazquez thanked the Broe Family and their investment in the children of Windsor.

6. Invited to be Heard

Individuals wishing to participate in Public Invited to be Heard (non-agenda item) are requested to sign up on the form provided in the foyer of the Town Board Chambers. When you are recognized, step to the podium, state your name and address then speak to the Town Board.

Individuals wishing to speak during the Public Invited to be Heard or during Public Hearing proceedings are encouraged to be prepared and individuals will be limited to three (3) minutes. Written comments are welcome and should be given to the Town Clerk prior to the start of the meeting.

Mike Mitchell, 6771 Stevens Street, Windsor, spoke to the Town Board regarding a Denver Post article that stated that there was to be 28 oil wells proposed and he read that they were too big and too close to homes. He lives in the area where the wells are proposed and there is an estimated 16,000 trips down CR 74 for well transportation and is concerned regarding traffic as this is an area where there are 1,600 homes proposed to be built. He stated that he has not seen a plan in place for what is going to happen to traffic due to the increase in oil & gas traffic and new commuters due to the homes. Mayor Vazquez stated that they would follow up with his comments.

Dale Agen, 5973 Woodcliff Drive, Windsor reported to the Town Board his concerns regarding the seismic testing that is scheduled to be done. Mr. Agen has been in touch with many residents in his area who are very concerned as the environment is already charged to the oil and gas activity. He has understood that residents have reported damage to their homes and roads related to past seismic testing. He stated that he does not have a lot of details but has a

lot of questions; he would like to know more about when and where the testing will take place. Mr. Agen requested that the Town not approve any seismic testing until more information is brought forward; he requested there be public meeting in order to learn more. Mr. Agen thanked the Town Board for what they do and hoped that they can continue to work with the Board on this issue.

Town Manager Arnold responded to his concerns and stated that the Town has talked to the company about public input and public relations; they have also been instructed to use the small trucks for their work. Mr. Arnold provided Mr. Agen with his card and requested that he contact him in order to provide up to date information on the process.

B. CONSENT CALENDAR

1. Minutes of the December 8, 2014 Regular Town Board Meeting – P. Garcia
2. Resolution No. 2015-01 – A Resolution Designating a Public Place for the Posting of Notices Concerning Public Meetings – P. Garcia
3. Resolution No. 2015-02 - A Resolution Approving An Intergovernmental Agreement Between The Town Of Windsor, Colorado, And Larimer County Law Enforcement Agencies For The Purpose Of Coordinated Law Enforcement Services, And Authorizing The Mayor To Execute Same – I. McCargar & J. Michaels
4. Resolution No. 2015-03 – A Resolution Approving an Amendment to the Town’s Contract with Safebuilt Colorado with Respect to Building Inspection Services – J. Plummer
5. Letter of Intent - Larimer County Multi-Jurisdictional Hazard Mitigation Plan – J. Michaels
6. Report of Bills for December 2014 – D. Moyer
7. Acceptance of Demographics and Housing Study – J. Plummer

Mayor Pro-Tem Baker motioned to approve the Consent Calendar as presented; Town Board Member Morgan seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; 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. 2014-1489 - Ordinance Annexing Certain Municipally-owned Land Pursuant to the Provisions of § 31-12-106, C.R.S.

Super-majority vote required for adoption on second reading

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

Board Member Melendez motioned to adopt Ordinance No. 2014-1489 – An Ordinance Annexing Certain Municipally-Owned Land Pursuant to the Provisions of § 31-12-106, C.R.S. on second reading; Town Board Member Bishop-Cotner seconded the motion.

Town Attorney McCargar addressed the Town Board and reported that the ordinance is permitted by statute to annex municipally owned land. Once adopted, this Ordinance will bring the Kyger property into Windsor under the statutes which allow for annexation of municipally-owned land. Town Manager Arnold has urged that this property be brought into the Town's corporate limits to assure Town law enforcement authority within the property and to subject the property to the Town's oil and gas CUG regulatory authority, if necessary. No public hearings or publication is required. The legal description approved on first reading contained portions of roadways included in the full Kyger property legal description. With the assistance of staff, the property description has been reduced to not include any county road rights-of-way; the annexation of the Kyger property is that property that is inside the county road rights-of-way.

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

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

2. Public Hearing - Compliance with a Conditional Use Grant approved in 2013 for the property located at 217 2nd Street, Lot 17, Burlington Subdivision – Continued from December 8, 2014 Regular Town Board Meeting

- Staff presentation: Josh Olhava, Associate Planner

Town Board Member Adams motioned to open the Public Hearing; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.

Town Board Member 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.”

Associate Planner Olhava addressed the Town Board and provided an overview of the agenda item. In May 2013, the Planning Commission and Town Board approved a conditional use grant for Lot 17, Burlington Subdivision, to continue the outdoor storage use on the vacant, unimproved property. This conditional use grant was subject to specific conditions, with set deadline dates, agreed to by the applicant as follows:

1. Site Plan requirements:
 - a. A complete Site Plan shall be submitted by May 13, 2015 – *not completed*
2. Alley requirements and improvements:
 - a. A public use perpetual non-exclusive alleyway easement for public access shall be dedicated by November 13, 2013 – *completed*
 - b. Alley shall be paved to Town standards along Lot 17 by October 31, 2014 – *not completed & past due*
3. Replace dead or dying planting materials by June 12, 2013 – *partially complete*

Mr. Olhava stated that staff had tracked deadlines and kept the applicants notified of upcoming deadline dates. In addition, staff has discussed the applicable processes and requirements in emails, letters and meetings with the current business owners.

The Conditional Use Grant on the property began in 2005, with extensions in 2007, 2010 and a new Conditional Use Grant in 2013 based on new business owners. Henderson Brothers Real Estate still owns both properties and is separate from the current business owners.

Certain conditions of approval have not been met by the established deadline date resulting in compliance issues from the 2013 Zoning Certificate conditions of approval. These conditions were agreed to by the applicant's during the May 13, 2013 Town Board meeting.

Section 16-7-40 of the Windsor Municipal Code provides:

Where a permitted conditional use does not continue in conformity with the conditions of the original approval or where a use is no longer compatible with the surrounding area, the conditional use grant may be terminated by the Town Board upon referral to the Planning Commission and public hearing thereon. Such use shall thereafter be classified as a legal nonconforming use; except that, where the action is due to failure to comply with the conditions of the conditional use grant, the Town Board may require complete termination of the use.

At the December 8, 2014 public hearing, the Town Board moved to continue the public hearing to the January 12, 2015 meeting date to allow for a recommendation from the Planning Commission. The Planning Commission held their continued public hearing on January 7, 2015 and recommended the Town Board extend the outstanding and incomplete 2013 Zoning Certificate conditions as follows:

1. The complete Site Plan application shall be completed by May 13, 2015, per the 2013 Zoning Certificate;
2. The applicant shall pave the alley along the length of Burlington Subdivision Lot 17, using concrete pavement in accordance with Town of Windsor Design Criteria and Construction Specifications by May 13, 2015. A grading plan and proposed pavement section and schedule shall be provided to the Town Engineering Department for approval prior to commencing work. Approval of the grading plan shall be conditioned upon sufficient evidence of insurance and indemnification for the Town's benefit;
3. Any dead or dying planting materials shall be replaced by May 13, 2015; and
4. If any remaining conditions are not met by the established deadlines, resulting in compliance issues, the Town has the authority to impose fines for each day the property is not in compliance. The fines should be set by the Town Board following its review of all relevant factors, and may be in differing daily amounts for the property owner and property occupants. Regardless of the amount(s) established by the Town Board, the fines should be expressly enforceable by court action and by imposition of a lien on the subject property.

Mr. Olhava stated that staff supports the recommendation and noted that neither the applicants nor the property owners were present.

Mayor Pro Tem Baker asked who was ultimately responsible.

Town Attorney McCargar stated the use of the property falls to the property owners; both the property owner and the occupant have requested the Conditional Use Grant and extension.

Town Board Member Adams noted the chronology of events and inquired what impact the recession had on the process

Mr. Olhava noted that review of the files and information provided that most of the issue had to do with the site plan process and ultimately the building of a structure for storage as outdoor storage is not a use in the General Commercial zoning district.

Town Board Member Melendez asked what assurance from the applicant that the Town would have that the conditions would be met.

Mr. Olhava stated that the applicants and the property owners were both present at the Planning Commission meeting at which they agreed to the conditions of the paving of the alley way completed to town standards done this spring and landscaping done, weather permitting. The dates are consistent with the site plan which falls on the May 13, 2015 date. As the concept plan was received after the October deadline it has not been reviewed for completeness; staff wanted to receive feedback from the Planning Commission and Town Board for direction on the non-compliance issues before moving forward.

Town Board Member Melendez also inquired if the applicants/property owners have paid or been issued any late penalties to date.

Mr. Olhava stated none that he was aware of.

Ms. Melendez went on to ask what happens if May 13, 2015 arrives and the conditions have not been met or they are just partially completed.

Town Attorney McCargar stated that it is up to the Town Board to impose any conditions they deem appropriate. If fines are established, they could start as of May 14, 2015 if nothing gets done. Mr. McCargar provided several options for the Town Board to achieve the purpose of the Code as it relates to the Conditional Use Grant and any underlying requirements.

Mayor Vazquez voiced concern with the timeframe being set as he does not believe that May 13, 2015 will provide enough time to get the site plan approved.

Mr. Olhava stated that the May 13, 2015 date is for the site plan application to be filed with the Town; the site plan does not need to be approved by May 13, 2015.

Town Board Member Melendez stated that years have gone by during which this could have been taken care of. Mayor Vazquez agreed, but also wanted to assure that the timeline recommended would be achievable.

Ms. Melendez inquired why the applicants or the property owners were not in attendance.

Mr. Olhava stated that they had received notification and had been told about the meeting while before the Planning Commission last Wednesday. Mr. Olhava additionally sent an email and reached out by phone call as a reminder to which he has not received any reply. Mr. McCargar stated that the record should reflect that at the December 8, 2014 Town Board

meeting that the applicants were notified at the meeting that public hearing would reconvene on January 12, 2015.

Mayor Pro Tem Baker asked as long as a site plan application is submitted, that they are in compliance.

Mr. Olhava stated that submitting of the site plan will put it through the review process; it is within the Town's commercial corridor, staff had talked to the applicant about the building being of similar design as the existing building. Design issues are discussed with the applicant during the concept review process to get questions answers and to assist the applicant in heading the right direction for their site plan. Mr. Olhava believes that the site plan expires one year after issues, so within one year of site plan approval, the applicant would be required to pull a building permit.

Town Board Member Rose noted the applicant has stated several times that it is not prudent for them to construct the building but we are requiring them to submit a site plan that says that a building will be constructed. The applicants have stated that it is not economical for them to construct the building.

Mr. Olhava stated that the applicants could come in and request an extension for the site plan if there is an issue with the timing. The business owners who plan to purchase the property have expressed that they want to expand their business and constructing a building on the site in order to meet code standards.

Mr. Rose stated that the problem is that they own the business, they keep storage on an adjacent lot which happens to be separated by a street so that makes it a separate parcel and therefore it does not comply with outdoor storage requirements.

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

Town Attorney McCargar stated that information has been received and the applicant has had fair opportunity to be heard.

Town Board Member Melendez motioned to close the Public Hearing; Town Board Member 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.

3. Compliance with a Conditional Use Grant approved in 2013 for the property located at 217 2nd Street, Lot 17, Burlington Subdivision

- Quasi-judicial action
- Staff presentation: Josh Olhava, Associate Planner

Town Board Member Melendez moved to approve extension of the Conditional Use Grant with the conditions recommended by the Planning Commission; Town Board Member Bishop-Cotner seconded the motion.

Town Attorney McCargar addressed the Town Board noting that part of the recommendation from the Planning Commission was a fine; either a uniform fine as to what the owner or occupant would owe or a fine that is different level for the owner as opposed to the occupant.

If a fine is the direction of the Town Board, a reasonable fine and formula would need to be established so the record is clear and could be passed on to the property owner and occupant.

The recommendation from the Planning Commission states:

If any remaining conditions are not met by the established deadlines, resulting in compliance issues, the Town has the authority to impose fines for each day the property is not in compliance. The fines should be set by the Town Board following its review of all relevant factors, and may be in differing daily amounts for the property owner and property occupants. Regardless of the amount(s) established by the Town Board, the fines should be expressly enforceable by court action and by imposition of a lien on the subject property.

Mr. McCargar stated that any action would not come through municipal court.

Town Board Member Melendez noted that this is the fifth time the Town Board has gone through this process with this applicant; she does not want to tie up Planning Commission and Town Board time if they don't want to move forward with this.

Mayor Vazquez expressed that he hopes the applicants are not using this as another vehicle to delay and extend for another ten years; the Conditional Use Grant process started in 2005.

Ms. Melendez also stated that she was very disappointed that the applicants or the property owners were present on a matter of such great importance; it gave her cause to be more unsure as to what their true purpose is.

Town Board Member Morgan stated that potential fines had not been discussed in the past and assumed that the applicant was aware this was being discussed tonight. Mr. Morgan completely agrees with the comments made and believes setting a firm deadline with potential fines may have some effect on the applicant. He was greatly concerned with the amount of time and effort that has been spent by staff to continually review this.

Town Board Member Bishop-Cotner concurred with the recommendation from the Planning Commission of putting all three items into a deadline of May 13, 2015. Mr. Bishop-Cotner also agreed there should be fine; potentially a minimum of \$1,000 per day from both parties starting on May 14, 2015. His frustration was heightened due to the fact the applicants were not in attendance.

The Town Board discussed the applicability of fines and how they could be assessed and the lien process.

Town Board Member Adams asked if the property owners have been the same since 2005.

Mr. Olhava stated the property owners are the original property owners since 2005; the business owners are different.

Town Board Member Morgan stated that he doesn't see how a fine can be established; it would be an arbitrary number. Mayor Vazquez concurred, and suggested that a future work session would be required to discuss the fine amount and formula.

Town Attorney McCargar stated that because the agenda item is a quasi-judicial action; there can be no work session. Additionally, Mr. McCargar reported that the Town Board, based on the evidence presented during the public hearing, needs to try to derive an amount of money per day, per month, etc., that you feel would be a sufficient incentive to the applicant to meet the requirements by May 13, 2015.

Mayor Vazquez offered that if the conditions aren't met then they can no longer conduct business. Mr. McCargar responded that the Planning Commission had looked at that idea but didn't want to shut a business down; if that option is what has presented itself based on the evidence supplied then if the conditions aren't met then occupancy of the building would be terminated. The municipal code provides for termination of a CUG but the Planning Commission wanted to give the Town Board other avenues through a fine structure to try to reach compliance.

Town Board Member Rose stated that the comment was made that the CUG could be terminated and they would be out of business. The business itself, in the formal structure, would still exist. This would be the secondary use of the offsite storage.

Associate Planner Olhava stated that information was correct; the existing building and its outdoor use is in compliance, the outdoor use on the lot to the east is what is not in compliance which is what the CUG is for. By revoking the CUG they could no longer use the lot to the east.

Mr. Rose asked if the applicants could forfeit their rights under the CUG as they have stated numerous times that they don't have the financial capacity to build the structure.

Town Attorney McCargar stated that the applicants could forfeit their rights under the CUG and terminate the use of the property of the open lot.

Mr. Rose asked what the mechanism would be so they could continue as they do now, without it being enclosed.

Mr. Olhava stated that it would be the Conditional Use Grant process that they are going through now. The zoning that they have does not allow for it and they cannot rezone because Windsor does not allow Heavy Industrial zoning on Main Street.

Mr. Rose stated that he sees CUG compliance as an exercise in futility and recommended revocation of the CUG if the conditions are not met.

The Town Board discussed revoking the CUG for outdoor storage and how to determine compliance.

The Town Board reviewed the four conditions with Town Board Member Adams voicing concern with number 4:

1. The complete Site Plan application shall be completed by May 13, 2015, per the 2013 Zoning Certificate;
2. The applicant shall pave the alley along the length of Burlington Subdivision Lot 17, using concrete pavement in accordance with Town of Windsor Design Criteria and Construction Specifications by May 13, 2015. A grading plan and proposed pavement section and schedule shall be provided to the Town Engineering Department for approval prior to commencing work. Approval of the grading plan shall be conditioned upon sufficient evidence of insurance and indemnification for the Town's benefit;
3. Any dead or dying planting materials shall be replaced by May 13, 2015; and
4. If any remaining conditions are not met by the established deadlines, resulting in compliance issues, the Town has the authority to impose fines for each day the property is not in compliance. The fines should be set by the Town Board following its review of all relevant factors, and may be in differing daily amounts for the property owner and property occupants. Regardless of the amount(s) established by the Town Board, the fines should be expressly enforceable by court action and by imposition of a lien on the subject property.

Town Board Members Melendez and Bishop-Cotner concurred with Mr. Rose's recommendation of revocation.

Mayor Vazquez recommended to keep the first three conditions and to modify the fourth condition as it related to fines.

Town Attorney McCargar provided that a bright line would be easier to enforce than having staff determine what is considered as substantial compliance. Town Manager Arnold noted that a Town Board meeting is scheduled for May 11, 2015 at which time it could be determined if they were in substantial compliance.

Mr. McCargar stated that the black and white version of the discussion would be that all three conditions would be met by a date certain and if any of them are not met, then the CUG for the storage lot would be terminated.

Director of Planning Plummer requested there be a date certain for equipment to be moved off the lot in the case of revocation.

Town Board Member Adams moved to approve extension of the Conditional Use Grant, subject to Conditions 1, 2, and 3 as presented by the Planning Commission and with the amendment of Condition 4 to include that all conditions shall be met by May 13, 2015 and should all conditions not be met by that date, the Conditional Use Grant for Lot 17 will terminate on May 14, 2015. Removal of all equipment and inventory will be required by July 1, 2015; Town Board Member Bishop-Cotner 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. Public Hearing – Zoning of Certain Property Known as the Pace Annexation – Sherry J. McCoy, applicant / John McCoy, property owner's representative
 - Staff presentation: Joe Plummer, Director of Planning

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

Director of Planning Plummer reported that the Town Board approved Ordinance No. 2014-1483 in October 2014, annexing approximately forty-acres known as the “Pace Annexation. The subject property is located along the west side of County Line Road (WCR 13) approximately halfway between State Highway 392 and Crossroads Boulevard. The Town Board deferred zoning of the property until staff had an opportunity to meet with the property owner to obtain input on proposed zoning for the property and formulate a recommendation on how the property should be zoned; 90 days are allowed in order to zone a property once it is annexed.

Mr. Plummer stated that staff had met with John McCoy, property owner’s representative, in December and discussed the land use depictions on the land use plan map; the capability of the property being served by sanitary sewer; which sewer provider could serve the property (and from which direction); and potential zoning scenarios for the property.

Mr. McCoy was informed at a December 1, 2014 meeting with staff that the land use depiction on the land use plan map calls for the future use of the property to be single-family residential. Mr. McCoy then submitted an application requesting that the single-family residential depiction on the land use plan map be amended to show the future use of the property as residential mixed use to be consistent with the proposed zoning request.

Following the December meeting, Mr. McCoy conferred with the property owners who have requested that the property be zoned RMU.

Mr. Plummer reported on information relative to the land use plan and zoning map. He also provided information pertaining to the applicant’s request for the property to be zoned RMU:

- Single-family (SF-1) zoning only allows single-family detached homes to be developed;
- Residential Mixed Use (RMU) zoning allows all types of residential development, including single-family detached homes, duplexes, and multi-family developments to be developed;
- RMU zoning allows up to 25 percent (25%) of commercial development to be developed on the property;
- The zoning classifications for the adjacent subdivisions are RMU zoning to the west, north and southeast, and High-density Single-family (E-2) Residential to the southeast and northeast;
- All of the existing developments to the south, west and north, however, have been developed as single-family subdivisions without the inclusion of any multi-family or commercial developments; and
- The capability of the property being served by sanitary sewer, which sewer provider will be able to serve the property, and from which direction the sewer services will be provided, are still unknown variables at this time.

At the January 7, 2015 planning commission meeting and based upon all of the findings outlined in staff's analysis, the Planning Commission voted to recommend to the Town Board that the Pace Annexation be zoned as Single-family (SF-1), and staff concurs with this recommendation.

Mayor Pro Tem Baker asked when the sewer density will be known.

Mr. Plummer stated that it will be analyzed when there is development proposed.

John McCoy, 1900 S. Shields Street, Fort Collins, was present as the owners representative for the property. Mr. McCoy stated that RMU zoning is what they have requested for the property. Mr. McCoy stated the following:

1. In reviewing the zoning map, RMU is consistent with and compatible with the current land use in the Town of Windsor. It is the zoning of their nearest neighbor.
2. Since the compatibility to serve the property with sanitary sewer is uncertain and the probability of offset expenses for the sanitary sewer would be expensive, the opportunity to spread the expense over the potential for more units through multi-family dwellings through RMU zoning would be beneficial.
3. At the October Planning Commission meeting when the first annexation was written, a staff member had suggested RMU zoning for that property.
4. The applicants believe that RMU is the appropriate zoning for the property.

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

Town Board Member Baker wanted to confirm with SF-1 zoning that there is no opportunity for any other type of housing other than single family detached.

Mr. Plummer confirmed the statement.

Mayor Vazquez reviewed the various types of zoning stating the RMU is a preferred zoning for large parcels such as Water Valley West. He also stated that the Planning Commission has recommended RMU based on existing development not future development. Mr. Plummer stated that if the Planning Commission recommendation is followed, it would not preclude a future rezoning application to come before the Planning Commission and Town Board if the situations change.

Town Board Member Morgan stated had the land owner decided to annex at the same time as the other properties did that it would more than likely be RMU. Now it is different and it is completely surrounded by SF-1.

Mayor Vazquez inquired how this application would have been handled if it had gone to Larimer County first.

Director of Planning Plummer explained that had the applicants gone to Larimer County first; the Town of Windsor gets the first right of refusal for consideration before anything would be done with a land use application pursuant to the Intergovernmental Agreement with the County. If the Town doesn't do anything with the petition then written notice has to be sent to the Larimer County stating why we didn't do anything with it.

Town Board Member Bishop-Cotner motioned to close the Public Hearing; Mayor Pro Tem 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.

5. Ordinance No. 2015-1490 - An Ordinance Pursuant to Chapter 16 of the Windsor Municipal Code Approving a Zoning Designation for the Pace Annexation to the Town of Windsor

- First reading
- Legislative action
- Staff presentation: Joe Plummer, Director of Planning

Town Board Member Bishop-Cotner motioned to approve Ordinance No. 2015-1490 - An Ordinance Pursuant to Chapter 16 of the Windsor Municipal Code Approving a Zoning Designation for the Pace Annexation to the Town of Windsor on first reading; Town Board Member Adams seconded the motion.

Staff had nothing further to add.

Mayor Pro Tem Baker stated that he is okay with SF-1 and understands that the applicants can come back and request rezoning at a later date. Mr. Morgan, Mr. Bishop-Cotner and Mr. Vazquez concurred with Mr. Baker.

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

6. Public Hearing – Rezoning certain property known as Westwood Village Subdivision Fourth Filing, Tract A and Lot 4 – 14th Street Real Estate LLC., applicant/ Cathy Mathis, TB Group, applicant's representative

- Staff presentation: Josh Olhava, Associate Planner

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

Town Board Member 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.”

Associate Planner Olhava presented the agenda item. The applicants, represented by Ms. Cathy Mathis, are requesting to rezone approximately 8.281 acres which includes half of the 14th Street and Westwood Drive rights-of-way from General Commercial (GC) to Residential Mixed Use (RMU) zoning. 14th Street Real Estate LLC is intending to develop approximately 36 residential living units with the objective of creating a synergy with the recently-opened Columbine Commons and to create a campus for an aging in-place senior community. Staff has received a

preliminary site plan and preliminary major subdivision for this project.

On Thursday, October 30, 2014, the applicant's representatives held a neighborhood meeting in the Activity Room at the Columbine Commons Assisted Living Center. There were approximately 20-30 residents in attendance. The neighbors were not concerned with the type of product that is being proposed; the biggest concerns raised involved drainage and erosion control. On January 7, 2015, the Planning Commission held a public hearing prior to providing the Town Board with a recommendation. The applicant's representative was present to answer any questions from the Planning Commission and public. No public were present and the Commission did not have any questions. The Planning Commission has forwarded a recommendation of approval of Ordinance No. 2015-1491 to the Town Board, and staff concurs with this recommendation.

Cathy Mathis, 444 Mountain Avenue, Berthoud, CO stated, on behalf of Columbine Health Systems they are very excited to continue their presence in Windsor for much needed housing for the senior housing population. The site plan may be coming to the Town Board as early as next month. Ted Davis from Columbine Health systems was present to address any questions.

Town Board Member Adams asked what type of housing it would be.

Ms. Mathis replied that they will be duplexes and triplexes; a total of 34 units which will be within walking distance of Columbine Health. Ms. Mathis also noted that the units will be rentals; they will not be for sale.

Mayor Vazquez opened the meeting for public comment.

Joey Markham, 1231 Westwood Drive, Windsor addressed the Town Board regarding the lack of upkeep at the current Columbine location; sidewalks have not been shoveled and the retention wall has fallen since the flooding. Her concern is for safety. Mayor Vazquez requested Mr. Arnold to follow up on the retention wall damage. Ms. Mathis stated that they will look at the damage to the wall and get it fixed.

Town Board Member Adams motioned to close the public hearing; Town Board Member Bishop-Cotner 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. Ordinance No. 2015-1491 – An Ordinance Rezoning certain property known as Westwood Village Subdivision Fourth Filing, Tract A and Lot 4 – 14th Street Real Estate LLC., applicant/ Cathy Mathis, TB Group, applicant's representative
 - First reading
 - Quasi-judicial action
 - Staff presentation: Josh Olhava, Associate Planner

Town Board Member Melendez motioned to approve Ordinance No. 2015-1491 - An Ordinance Rezoning certain property known as Westwood Village Subdivision Fourth Filing, Tract A and Lot 4 on first reading; Town Board Member Bishop-Cotner seconded the motion.

Staff had nothing further to add.

Town Board Member Melendez stated that as an advocate for senior housing, she is excited for this to be moving forward; Mayor Vazquez voiced agreement. Town Board Member Morgan noted that pedestrian traffic across 15th will need to be looked at as there are already problems with people crossing mid-street to the Safeway Parking center.

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

8. Site Plan Presentation – Highland Meadows Golf Course Eighth Filing, Lot 6 – Fitness and Tennis Center – Jon Turner, applicant/ Dennis Fulgenzi, applicant’s representative

- Staff presentation: Josh Olhava, Associate Planner

Associate Planner Olhava provided the site plan presentation noting it is proposing a new building in the Residential Mixed Use (RMU) zoning district in the Highland Meadows Golf Course Subdivision, Eighth Filing, located at 6516 Crooked Stick Drive. The new building is being planned as a fitness and tennis center. Mr. Olhava noted the landscape plan and the pedestrian walkways around the different courts as well as leading to the entrance of the building.

Site characteristics include:

- approximately 39,000 square foot building;
- Includes indoor tennis courts and fitness equipment;
- 5 lighted outdoor tennis courts;
- 2 non-lighted outdoor tennis courts; and
- 88 off street parking spaces, including accessible parking spaces.

On November 5, 2014, the Planning Commission granted a waiver of the Commercial Corridor Design Guidelines to allow the building to have architectural grade metal panels on the prominent building facades. On November 10, 2014, the Town Board approved Resolution No. 2014-67 allowing the maximum height of the structure to exceed the thirty-five foot height requirement in the RMU zoning district by five feet.

Mayor Pro Tem Baker stated the facility looks great and it is a great addition to the community.

Mr. Baker asked if there had been any thought to putting stone on all four sides due to the exposure on the north and west side of the building to the other properties.

Mr. Olhava stated it had been discussed early on. The applicants were to meet the vast majority of the commercial corridor requirements which were imposed on the site but due to costs that is where things were changed. Additionally, the western side of the building the wall may be expanded as a hitting wall and they may also expand to the north.

Town Board Member Melendez inquired about outfitting any of the courts with pickle ball as it has been a request during Coffee with the Mayor.

Cathy Mathis, representing the applicant, reported that it is something that they can ask the tennis facility people about.

Town Manager Arnold asked about the hours of operation and other purposes for the building.

Ms. Mathis did not have the answer and believes it may have been answered with the site plan package. Ms. Arnold requested that they be cognizant of the neighborhood and lights on the tennis courts. Ms. Mathis reported that the current plan for the building is for tennis, work out facility, offices and restrooms.

9. Determination regarding administrative site plan review in accordance with Section 17-9-20(7) – Bill Thomas, Schlumberger Lift Solutions, LLC, applicant/ Jason Jacobowski, DCB Construction Company, applicant’s representative

- Quasi-judicial action
- Staff presentation: Paul Hornbeck, Associate Planner

Associate Planner Hornbeck provided an overview of the agenda item. The applicant, Mr. Bill Thomas of Schlumberger Lift Solutions, LLC, represented by Mr. Jason Jacobowski, DCB Construction Company, is requesting further review of the proposed site plan by the Planning Commission and Town Board in light of irreconcilable differences between the applicant and the Planning Department. At issue is the request by the Planning Department for the applicant to add some form of architectural embellishment to the proposed metal building.

The applicant has requested further review of the project in accordance with Municipal Code Section 17-9-20(7):

In the event irreconcilable differences arise between the applicant and the Planning Department with regard to the administrative site plan review, the applicant may apply to the Town for further review of the site plan by the Planning Commission and Town Board.

The project was before the Planning Commission and Town Board in September 2014 as a Qualified Commercial/Industrial Site Plan. As a Qualified Site Plan it was presented for informational purposes with the opportunity for any comments from the boards. As was outlined at that time, the proposal is to construct a new building in the Heavy Industrial (I-H) zoning district in the Great Western Industrial Park Subdivision, located at 31660 Great Western Drive.

Site characteristics include:

- 17.8 acre property;
- approximately 14,440 square foot metal building;
- approximately 13 acre outdoor storage yard;
- 34 off street parking spaces, including 2 ADA accessible parking spaces; and
- an irrigated landscaped area of approximately 6% of the total site (23% of the developed portion of the site)

During the review process staff requested that the applicant use some form of architectural embellishment on the office portion of the metal building, such as a stone wainscot along the base of the structure. It was asked this be provided on the office portion of the building which is the north and portion of the west elevation. The landscape plan shows some landscaping along the building area.

The Town has historically required a basic level of architectural embellishment on metal buildings in the form of a wainscot, awnings, or other methods. These architectural features help to maintain nearby property values and protect the investment made by adjacent property owners. The Town has required such features throughout the Great Western Industrial Park and other areas in Town, including the Windsor Tech, Windsor Commons, and Highlands Industrial Park subdivisions.

Mr. Hornbeck stated the application was not in conformance with the following goal of the comprehensive plan: All commercial and industrial development should provide a safe, aesthetically-appealing and healthy environment which does not have adverse impacts on surrounding areas.

Mr. Hornbeck went on to report the application was consistent with several commercial goals and policies of the comprehensive plan including encouraging and promoting commercial and industrial development, provisional landscaping and employment centers in the Town.

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

1. The applicant shall add a stone wainscot or similar architectural embellishment around the office portion of the building.
2. All staff redlines and comments shall be addressed.

Mr. Hornbeck noted that the applicants were present to address the Town Board.

Greg Blye, 215 Pinon Drive, Erie, CO and Bill Thomas came before the Town Board and noted that they chose this property and did so carefully. The designers spent time looking at the property and noted that the properties adjacent to it did not have wainscot. Mr. Thomas said they were not aware of the architectural embellishment requirement as it was not called out in the code for a stone or embellishment. The code does call out having to provide for some architectural relief which they felt were taken up by the transitions of the rooflines and landscaping.

Mr. Thomas stated that the client has already earmarked funds for this job in a declining market. He said that if it was imperative to meet this request, if they could do so with a material less costly than stone. They are looking for solutions that would make the Town happy. Mr. Thomas stated they had done a lot of work on this project and suggested the requirement would be forgiven.

Mayor Vazquez asked what other options the Town has accepted. He understands that there have been others that have gone through the process who have held to the requirement.

Mr. Plummer noted the Cargill project which is an adjacent structure but not on a public right of way. Mr. Hornbeck stated the project was approved without a stone wainscot as there is a parcel between it and the public right of way which provided a large portion of the justification of why it was not required. The Schlumberger project fronts directly on the public right of way.

Town Board Member Bishop-Cotner inquired about the cost of the building and the cost for the wainscot.

Mr. Blye stated that the cost for the building, including site work, was \$4.1M; the wainscot is approximately \$8,000. Mr. Thomas stated that they could use a different type or color of metal for the trim piece; the Windsor Municipal Code does not specifically call out for the type of material to be used for wainscot. He also felt that landscaping would suffice.

Town Board Member Baker stated that the Town had provided incentives of \$144,000 of fee waivers and reimbursements; the request is small compared to what has been given to Schlumberger and Mr. Baker feels it is important to maintain our standards.

Town Board Member Melendez stated that the code requirements were not spelled out. Ms. Melendez suggested allowing them to move forward with what they thought they were agreeing to and the Town could look at amending the Code for future applications to provide the specifics.

Mr. Hornbeck stated that the Code does not specify a stone wainscot; it is something the Town has required on similar industrial projects.

Mayor Vazquez asked if the building meets the Town's requirements; does it meet the policy as defined. If yes, then he agrees with the recommendation made by Ms. Melendez.

Mr. Plummer stated yes, it doesn't in practice and theory but does meet the requirements of the Code.

Town Manager Arnold stated that the developer of the industrial park would like to see the wainscot as they believe it is better for the park.

Town Board Member Bishop-Cotner motioned to approve the site plan with the Planning Commission recommendations of requiring wainscot on the building; Town Board Member Baker seconded the motion. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Bishop-Cotner; Nays – Rose, Melendez, Adams, Vazquez; Motion failed.

10. Ordinance No. 2015-1492 - An Ordinance Fixing The Compensation of The Municipal Court Judge and Municipal Court Clerk for The Town Of Windsor in Compliance With Sections 13-10-107 and 13-10-108, C.R.S., and Section 2-4-90 of the *Windsor Municipal Code*

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

Town Board Member Melendez motioned to approve Ordinance No. 2015-1492, An Ordinance Fixing The Compensation of The Municipal Court Judge and Municipal Court Clerk for The Town Of Windsor in Compliance With Sections 13-10-107 and 13-10-108, C.R.S., and Section 2-4-90 of the Windsor Municipal Code on first reading; Town Board Member Adams seconded the motion.

Town Attorney McCargar stated that the statutes require that the compensation of the municipal judge and municipal clerk be set by ordinance each year. The ordinance is incorporating the appropriations made for the municipal judge and municipal court clerk.

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

11. November 2014 Financial Report – Dean Moyer, Director of Finance

Director of Finance Moyer provided an overview of the financial report included in the packet. It was noted that sales tax collections in November were the highest for that month on record. Mr. Moyer reported on the revenue and expenses to date noting that 92% of the budgeted revenue had been collected and expenditures were at 91%. It was also noted that at this time Costco has not affected Windsor sales tax collections.

Town Board Member Melendez stated that she liked the new format for the report of bills and asked if the vendors could be alphabetized on the list. Mr. Moyer will check with staff to see if that can be done.

D. COMMUNICATIONS

1. Communications from the Town Attorney

Town Attorney McCargar stated that John Frey's retirement party would be held on January 22, 2015 from 5-7 pm at the Community Recreation Center.

2. Communications from Town Staff

No communications.

3. Communications from the Town Manager

No communications.

4. Communications from Town Board Members

No communications.

E. EXECUTIVE SESSION

An executive session pursuant to § 24-6-402 (4) (e), C.R.S., for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators – Economic Development Prospect (Stacy Johnson)

Town Board Rose made a motion to go into an executive session pursuant to § 24-6-402 (4) (e), C.R.S., for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators; Mr. 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.

The meeting moved to Executive Session at 10:11 p.m.

Upon a motion duly made, the Town Board closed the Executive Session at 11:37 p.m. Roll call on the vote resulted as follows: Yeas – Baker, Morgan, Rose, Melendez, Bishop-Cotner, Adams, Vazquez; Nays – None; Motion passed.

The Executive Session was closed and the Town Board returned to the Regular Meeting.

F. ADJOURN

Town Board Member Melendez motioned to adjourn the meeting at 11:37 p.m.; Town Board Member 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.



Patti Garcia
Town Clerk/Assistant to the Town Manager