



**TOWN BOARD REGULAR MEETING**  
October 12, 2015 - 7:00 P.M.  
Town Board Chambers  
301 Walnut Street, Windsor, CO 80550

The Town of Windsor will make reasonable accommodations for access to Town services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call (970) 674-2400 by noon on the Thursday prior to the meeting to make arrangements.

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MINUTES

A. CALL TO ORDER

Mayor Pro Tem Baker called the regular meeting to order at 7:00 p.m.

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| 1. Roll Call | Mayor- Absent<br>Mayor Pro Tem | John Vazquez<br>Myles Baker<br>Christian Morgan<br>Jeremy Rose<br>Kristie Melendez<br>Robert Bishop-Cotner<br>Ivan Adams |
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| Also Present: | Town Manager<br>Town Attorney<br>Town Clerk/Assistant to Town Manager<br>Chief of Police<br>Director of Planning<br>Director of Parks, Recreation and Culture<br>Communications/Assistant to Town Manager<br>Associate Planner<br>Manager of Art and Heritage<br>Assistant Town Attorney/Town Prosecutor<br>Deputy Town Clerk | Kelly Arnold<br>Ian McCargar<br>Patti Garcia<br>John Michaels<br>Scott Ballstadt<br>Eric Lucas<br>Kelly Unger<br>Josh Olhava<br>Andrew Dunehoo<br>Kim Emil<br>Krystal Eucker |
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2. Pledge of Allegiance  
Town Board Member 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  
**Town Board Member Morgan motioned to approve the agenda as presented. Town Board Member Melendez seconded the motion. Roll call on the vote resulted as follows: Yeas –Rose, Morgan, Melendez, Bishop-Cotner, Adams, Baker; Nays- None; Motion passed.**
4. Board Liaison Reports
  - Mayor Pro Tem Baker – Water & Sewer Board; North Front Range/MPO alternate  
Mayor Pro Tem Baker had no report for the Water & Sewer Board and the MPO did not meet in October.
  - Town Board Member Morgan – Parks, Recreation & Culture; Great Western Trail Authority  
Town Board Member Morgan reported the Great Western Trail Authority met and discussed the proposed budget for 2016. There was also discussion regarding the how the Severance

Business Park would affect the trail. Mr. Arnold informed the Town Board the plans for the Business Park in Severance have been quashed.

Mr. Morgan reported the Parks, Recreation and Culture Board discussed the upcoming year and wants the Town Board to know that connectivity by trails is a top priority. Also the pond at Eastman Park will become overfished and the intended use should primarily be for juvenile fishing. The board also discussed how they will recognize companies in commercial areas that go above and beyond landscape regulations.

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

Town Board Member Melendez was not able to attend Chamber of Commerce meeting and the next meeting for Downtown Development Authority is October 21, 2015.

- Town Board Member Rose – Clearview Library Board

Town Board Member Rose had no report. The next meeting is scheduled for October 29, 2015.

- Town Board Member Bishop-Cotner – Historic Preservation Commission; Planning Commission

Town Board Member Bishop-Cotner reported the Historic Preservation Commission meeting has been cancelled and the Planning Commission items are on tonight's agenda.

- Town Board Member Adams – Tree Board; Poudre River Trail Corridor Board

Town Board Member Adams had no report for the Tree Board and the Poudre River Trail Corridor Board did not meet last month.

- Mayor Vazquez – Windsor Housing Authority; North Front Range/MPO  
Absent. No Report.

5. Mayor Pro Tem read the National Community Planning Month Proclamation.

Mayor Pro Tem Baker read the proclamation.

6. Invited to be Heard

Mayor Pro Tem Baker opened the meeting for public comment. Mr. Baker informed the audience of the upcoming meeting between the Town of Windsor and the City of Fort Collins to discuss if the Intergovernmental Agreement (IGA) will be amended on November 2, 2015.

Debbie Dean, 8024 North Loudon Crossing Court, Windsor, CO

Ms. Dean expressed her concern regarding car dealerships. Ms. Dean feels they will be disruptive to the area.

Jana Anderson, 7930 Bayside Drive, Windsor, CO

Ms. Anderson wanted to express concern regarding the potential changes with the IGA with Fort Collins. Ms. Anderson asked the Town Board to keep in mind that area is gateway into Windsor and is concerned about increased traffic. Also, Ms. Anderson would like to see Windsor keep the small town feel within the community.

Chris Behnke, 4926 Broadmoor Ct, Windsor, CO

Ms. Behnke is a member of homeowner's board. Ms. Behnke stated she would like to go on record to oppose the IGA Amendment. Ms. Behnke is concerned with traffic and light pollution as well as drainage issues. Ms. Behnke stated if the amendment should go through, we would like some sort of say on how it is managed.

Mary Kay Morrison, 4824 Owl Nest Circle, Windsor, CO

Ms. Morrison stated she has owls living in backyard and they like having the wildlife around the neighborhood. Ms. Morrison stated they purchased their property 16 years ago when the property behind them was owned by Poudre Valley. They would have never invested in their property if they would have thought a car dealership would be going in. Ms. Morrison asked that the Town Board consider the homeowners when thinking about amending the IGA.

Michael Morrison, 4824 Owl Nest Cir, Windsor, CO

Mr. Morrison stated consistency and variances with zoning decisions allows the area to be developed in the way that it was originally designed. Mr. Morrison urges the Town Board not amend the IGA or zoning.

Elaine Burritt, 7931 Bayside Drive, Windsor, CO

Ms. Burritt stated the IGA that was approved in 2011 specifically excluded car dealerships. Ms. Burritt reported that Darrin Atteberry, City of Fort Collins City Manager stated during the September 22, 2015 work session "I don't think that was accidental then that council adopted an IGA that prohibited auto dealerships. I think that was very intentional." Mr. Burritt stated she would not have considered a purchased in the area knowing a car dealership could go in.

Don Buritt, 7931 Bayside Drive, Windsor, CO

Mr. Burritt stated he feels amending the IGA to allow car dealerships is a fiscally poor decision for Windsor. Mr. Burritt stated the a new dealership would add zero sales tax revenue to Windsor from the sales of vehicles as the taxes will go to the jurisdiction the purchaser resides in. Also, the property being discussed is a shared revenue site; 65% to the Town of Windsor and 35% to the City of Fort Collins. On average, a car dealership in Fort Collins generates \$6 million in sales from services; 50% is taxable. Mr. Burritt requests the IGA not be amended for this property.

Diane Howell, 7919 Bayside Drive, Windsor, CO

Ms. Howell stated 200 homeowners could be affected if the IGA is amended to allow car dealerships. Ms. Howell stated she feels is the IGA was good to start with when it excluded car dealerships. Ms. Howell stated the interchange at highway 392 and I-25 is already congested as ramp meters are going to be installed in the spring.

Mr. Bishop-Cotner stated although the audience is commenting in the Public Invited to be Heard portion of the meeting, this is not a public hearing. Unfortunately, if and when the issue comes up regarding the amendment of the IGA, all the comments being made tonight will need to be made again.

Griff Evans, 7927 Bayside Drive, Windsor, CO

Mr. Evans stated he enjoys the eagles, owls and hawks. Mr. Evans stated his main concern is drainage and he does not want his back yard flooded. If this does come to fruition, consider restricting what future landowners do about drainage and sewer.

Mr. Arnold requested to hold a small impromptu neighborhood meeting with the individuals in attendance this evening and asked individuals interested in discussing how staff can communicate with residents of the area regarding the 392/I-25 IGA.

## B. CONSENT CALENDAR

1. Minutes of the September 28, 2015 Regular Town Board Meeting – K. Eucker
  2. Advisory Board Appointments – P. Garcia
  3. Report of Bills for September 2015 – D. Moyer
  4. Resolution No. 2015-59 – A Resolution Approving Cooperation Between the Town Of Windsor, Colorado, and the Great Western Trail Authority for the Purpose of Obtaining Colorado State Trails Grant Funding – K. Emil
  5. Resolution No. 2015-60 - A Resolution of the Windsor Town Board Approving the Accessioning of Items to the Town of Windsor Museum Collection – A. Dunehoo
  6. Resolution 2015-61 - A Resolution of the Windsor Town Board Approving the Deaccession of Items to the Town of Windsor Museum Collection – A. Dunehoo
  7. Resolution No. 2015-62 - A Resolution Approving a Mineral Quitclaim Deed from the Town of Windsor and the Water Valley Metropolitan District No. 2 to Trollco, Inc, for the Purpose of Clarifying Mineral Ownership Associated With Streets in the Hilltop Estates Subdivision – I. McCargar
  8. Consideration of Colorado Mosquito Control Contract – T. Walker
  9. Resolution No. 2015-63 - A Resolution Approving an Amendment and Ratification of an Oil And Gas Lease between the Town Of Windsor, Colorado and Great Western Leasing –K. Emil
- Town Board Member Bishop-Cotner motioned to approve the Consent Calendar as presented. Town Board Member Melendez seconded the motion. Roll call on the vote resulted as follows: Yeas –Rose, Morgan, Melendez, Bishop-Cotner, Adams, Baker; Nays- None; Motion passed.**

## C. BOARD ACTION

1. Public Hearing – Ordinance No. 2015-1507 - Amending Section 18-10-10 of the Windsor Municipal Code with respect to minimum standards governing the planning, laying out and installing or the making of additions, alterations and repairs in the installation of wiring apparatus and equipment for electric light, heat and power within the Town of Windsor
  - First reading
  - Staff presentation: Scott Ballstadt, 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 –Rose, Morgan, Melendez, Bishop-Cotner, Adams, Baker; Nays- None; Motion passed.**

Town Attorney Ian McCargar stated the Director of Planning would normally present the ordinance. Mr. McCargar stated this is a legislative public hearing. The Town of Windsor adopted the 2012 International Building Codes by reference and concurrently adopted the 2011 National Electrical Code (NEC) by reference in Section 18-10-10 of the Municipal Code. However, the Colorado State Electrical Board requires municipalities to enforce the most current electrical code as adopted by the state, which is currently the 2014 NEC. Therefore, the reference in the Municipal Code is currently dated and the proposed ordinance will correct this by excluding the reference to a specific edition of the code. It should be noted that the Town of Windsor is currently enforcing the 2014 NEC pursuant to the state requirements. This ordinance

will ensure that the Municipal Code remains consistent in the future as newer editions of the NEC are adopted by the State of Colorado.

Ms. Melendez inquired if there is still opportunity for individuals in the community that may have concerns about some of those adoptions to come before and express those concerns.

Mr. McCargar stated the electrical code that is applicable state wide is handled by the State Electrical Board. If local citizens have concerns regarding the code, their comments should be directed to the State Electrical Board.

Mr. Rose inquired if the Town of Windsor is required to follow the State Electrical Code, why is there a public hearing.

Mr. McCargar stated is if an individual wants to do business in Windsor, they look to the state electrical code which will align with the Town of Windsor's code.

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

2. Ordinance No. 2015-1507 - Amending Section 18-10-10 of the Windsor Municipal Code with respect to minimum standards governing the planning, laying out and installing or the making of additions, alterations and repairs in the installation of wiring apparatus and equipment for electric light, heat and power within the Town of Windsor
  - First reading
  - Legislative action
  - Staff presentation: Scott Ballstadt, Director of Planning

**Town Board Member Melendez motion to approve Ordinance No. 2015-1507 - Amending Section 18-10-10 of the Windsor Municipal Code with respect to minimum standards governing the planning, laying out and installing or the making of additions, alterations and repairs in the installation of wiring apparatus and equipment for electric light, heat and power within the Town of Windsor; Town Board Member Bishop-Cotner seconded the motion.**

Town Attorney Ian McCargar had nothing further to add.

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

3. Public Hearing – Ordinance No. 2015-1508 - Amending Section 18-3-10 of the Windsor Municipal Code with respect to exceptions for building permit issuance within the Town of Windsor
  - First reading
  - Staff presentation: Scott Ballstadt, Director of Planning

**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 –Rose, Morgan, Melendez, Bishop-Cotner, Adams, Baker; Nays- None; Motion passed.**

Town Attorney Ian McCargar stated the proposed ordinance will correct conflicting building height allowances in the Municipal Code. Section 16-8-30 of the Municipal Code zoning regulations allows for accessory buildings no larger than one hundred twenty (120) square feet and no taller than eight (8) feet in height to be installed without requiring a building permit. The eight (8) foot maximum height in the zoning code is consistent with Section 18-2-10 of the Municipal Code which adopts the Town's amendments to the International Building Code (IBC). However, when the Town approved Ordinance No. 2013-1452 adopting Windsor's amendments to the building codes, the amendments referring to storage sheds exempt from building permits differed between the IBC and the International Residential Code (IRC). While the IBC amendment refers to a height of eight (8) feet, the IRC amendment refers to a height of ten (10) feet. Therefore, this ordinance will simply update Section 18-3-10 to refer to a maximum roof height of eight (8) feet to be consistent with Sections 16-8-30 and 18-2-10 of the Municipal Code.

Mr. Morgan inquired if those heights would be set regardless of what an HOA imposes as they could be more restrictive.

Mr. McCargar stated that is correct.

Mr. Adams inquired if there has been some investigation as to how many accessory buildings are over the 8'.

Mr. McCargar stated not in association with this legislation.

Mr. Adams inquired about the consequences if the accessory buildings are over the 8'.

Mr. Ballstadt stated in that case a building permit would be required.

**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 –Rose, Morgan, Melendez, Bishop-Cotner, Adams, Baker; Nays- None; Motion passed.**

4. Ordinance No. 2015-1508 - Amending Section 18-3-10 of the Windsor Municipal Code with respect to exceptions for building permit issuance within the Town of Windsor
  - First reading
  - Legislative action
  - Staff presentation: Scott Ballstadt, Director of Planning

**Town Board Member motioned to approve Ordinance No. 2015-1508 - Amending Section 18-3-10 of the Windsor Municipal Code with respect to exceptions for building permit issuance within the Town of Windsor**

Director of Planning Scott Ballstadt had nothing further to add.

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

5. Public Hearing – Conditional Use Grant to allow temporary agricultural uses for seasonal cattle grazing in the General Commercial (GC) zone district, located at 8420 SE Frontage Road – Doug Moreland, Manager, Downsmore, LLC. , applicant
  - Staff presentation: Josh Olhava, Associate Planner

Mr. Arnold asked the Town Board move to item B7 as some of the individuals in the neighborhood meeting would like to be heard on this item.

The Town Board agreed with the request.

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

Town Attorney Ian McCargar stated there has not been a recommendation from the Planning Commission nor is the applicant or applicant's representative in attendance. Neither the applicant nor a representative was present at the Planning Commission meeting and that is why there is no recommendation. Mr. McCargar stated if the Town Board wanted to proceed, the record would be incomplete. The Town Board may proceed with an incomplete record or take whatever testimony is appropriate this evening and entertain a motion to continue the public hearing and leave it open until a date in the future. In the interim, the applicant can be notified of the public hearing to make arraignments to be present. Mr. McCargar is recommendation taking some testimony this evening and continuing the public hearing to a later date.

Mr. Rose inquired if the applicant was notified of the Planning Commission meeting.

Mr. Olhava stated the application was notified of the Planning Commission and Town Board meeting. Mr. Olhava stated they knew about the meetings ahead of time as they were responsible for some of the public hearing notices as well. Mr. Olhava stated an email was sent as a reminder to the application and a response was received that neither the applicant nor a representative will be available for the meetings.

Mr. Rose inquired if the public hearing is postponed to a future date to give the applicant a chance to attend the next Planning Commission meeting, what are the odds that he will attend.

Mr. Olhava stated the applicant was out of town for the Planning Commission and Town Board meetings.

Mr. Adams commented that under the circumstances he is in favor of listening to the individuals that came to the public hearing tonight and then continuing the hearing.

Mr. Morgan concurs with Mr. Adams.

Associate Planner Josh Olhava, the applicant, Mr. Doug Moreland, is requesting a Conditional Use Grant (CUG) to allow temporary seasonal cattle grazing to occur at the subject property, 8420 SE Frontage Road. The property encompasses approximately 60 acres and is zoned General Commercial (GC) and is located within the Corridor Activity Center (CAC), as identified in the Town's Intergovernmental Agreement with the City of Fort Collins pertaining to development of the I-25/SH 392 interchange.

The applicant's proposal includes:

- approximately fifteen (15) animal units on approximately 60 acres;
- a domestic water tank for the cattle; and
- the use of cattle grazing on the property for approximately four (4) months per year.

At the October 7, 2015 Planning Commission meeting, neither the applicant nor a representative were present to answer the Planning Commission and public's questions and concerns. There were approximately 10 neighbors in attendance at the meeting and they were split on support or opposition to the conditional use grant as presented.

Neither the Comprehensive Plan nor the Vision 2025 Document address specific conditions of this conditional use grant request.

At their October 7, 2015 regular meeting, the Planning Commission continued this agenda item to their October 21, 2015 regular meeting, due to neither the applicant nor a representative being in attendance.

Staff's recommendation at the October 7, 2015 Planning Commission meeting was to forward to the Town Board a recommendation of approval of the conditional use grant, subject to the four conditions outlined in Staff's memo.

Mr. Rose inquired as to why the IGA does not apply to this activity.

Mr. Olhava inquired if Mr. Rose was implying to the use of the property.

Mr. Rose confirmed and inquired if it is because it is not a permanent use.

Mr. Olhava stated that is correct. The application was forwarded to the City of Fort Collins and they returned no comments.

Mr. Rose inquired how it all works if it is not a permitted use under the IGA.

Mr. Ballstadt stated the IGA does speak to development of the property but this is being looked at as more of an interim use and didn't consider it development to the property.

Mr. Adams inquired as to how this relates to a previous issue of not having over six animals on a property.

Mr. Olhava stated that was a temporary use on a different property with different circumstances. That property would have to be looked at separately.

Mr. Baker inquired if this will be a three year term.

Mr. Olhava stated staff's recommendation to the Planning Commission was for a three year term on the Conditional Use Grant (CUG) which is similar to a lot of CUG's.

Mr. Baker inquired if a yearlong term could be done.

Mr. Olhava stated that could be done.

Mr. Baker inquired if the area could be a smaller area.

Mr. Olhava stated that is something that could be considered.

Allan Fegley, 8325 South Loudon Crossing Court, Windsor, CO

Mr. Fagley stated the land had been used in the past by a rancher that grazed a lot more than 15 cows at a time. Mr. Fegley stated the cow manure has never been an issue but the weed control on the property is his main concern as well as the prairie dog population that is moving into the neighborhood. Mr. Fegley requests that if the CUG is approved, to stress weed control.

Chris Behnke, 4926 Broadmoor Court, Windsor, CO

Ms. Behnke stated she has no problem with cattle but is concerned with the weeds that have grown and not been contained.

**Town Board Member Bishop-Cotner motioned to table the public hearing to October 26, 2015; Town Board Member Adams seconded the motion. Roll call on the vote resulted as follows: Yeas –Rose, Morgan, Melendez, Bishop-Cotner, Adams, Baker; Nays- None; Motion passed.**

6. Conditional Use Grant to allow temporary agricultural uses for seasonal cattle grazing in the General Commercial (GC) zone district, located at 8420 SE Frontage Road – Doug Moreland, Manager, Downsmore, LLC., applicant
  - Quasi-judicial action
  - Staff presentation: Josh Olhava, Associate Planner

**Town Board Member Bishop-Cotner motioned to table item C.6 to October 26, 2015 after the conclusion of the public hearing; Town Board Member Morgan seconded the motion. Roll call on the vote resulted as follows: Yeas –Rose, Morgan, Melendez, Bishop-Cotner, Adams, Baker; Nays- None; Motion passed.**

7. Ordinance No. 2015-1509 - An Ordinance Repealing Article 9.5 of Chapter 16 of the Windsor Municipal Code Concerning Election and Ideological Signs
  - First reading
  - Legislative action
  - Staff presentation: Ian D. McCargar, Town Attorney

**Town Board Member Bishop-Cotner motioned to approve Ordinance No. 2015-1509 - An Ordinance Repealing Article 9.5 of Chapter 16 of the Windsor Municipal Code Concerning Election and Ideological Signs; Town Board Member Adams seconded the motion.**

Town Attorney Ian McCargar stated in light of recent case law out of the United States Supreme Court, we are recommending repeal of the Town's Election Sign Code. The Election Sign Code clarified our regulation of a particular type of signage, the intent of which was to provide guidance to the community. In June of this year, the U.S. Supreme Court issued its decision in *Reed vs. City of Gilbert, Arizona*, in which the Court strongly disapproved of sign regulations based on sign content. Considering that our Election Sign Code is entirely driven by the content of the sign (election messages, ideological messages), we are recommending repeal of this portion of Chapter 16.

Assuming final adoption of the attached Ordinance, we still have the ability to regulate signage in our right-of-way, which is the principle focus of sign code enforcement. This regulatory aspect is content-neutral, and only focuses on the *location* of signs as otherwise provided in the Code.

The Planning Department has requested a budget appropriation for a full review of the land use portions of the Code in 2016. As part of that exercise, we will be looking at the Sign Code, and recommending amendments as needed.

Approve and adopt the attached Ordinance Repealing Article 9.5 of Chapter 16 of the *Windsor Municipal Code* Concerning Election and Ideological Signs

Ms. Melendez inquired if Mr. McCargar could give an example for clarification.

Mr. McCargar stated that under the election sign code, a sign that is intended to persuade the outcome of an election; either a ballot question or candidate election.

Mr. Adams stated he doesn't understand the questions.

Mr. McCargar stated if you vote yes, you are voting to repeal that portion of the municipal code that deals with election signs.

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

#### D. COMMUNICATIONS

1. Communications from the Town Attorney

Mr. McCargar reported the Town of Windsor has settled the issue of immediate possession regarding the emanate domain case. Once an agreed deposit with the Registry of the Court is tendered, the engineering department and its contractor can step onto the property and continue work on the Law West Tributary Project. The amount of compensation that is payable to the property owner from the Town of Windsor for the easement rights is still being debated and that will likely be resolved early next year.

2. Communications from Town Staff

Mr. Ballstadt reported there are some examples of project flow charts within the packets. The planning department has been implementing new development review tracking software and gradually making those improvements with the vast majority of the credit going to Mr. Olhava. Essentially the flowcharts are step by step processes on the different types of applications the Planning Department works with.

Mr. Melendez thanked the planning department for their work on the flow charts and would like hard copies when the documents are finalized.

3. Communications from the Town Manager

Mr. Arnold informed the Town Board the individuals that wanted to participate in the neighborhood meeting were taken to the 2<sup>nd</sup> floor conference room. A brief overview of how the process will take place was given to the individuals.

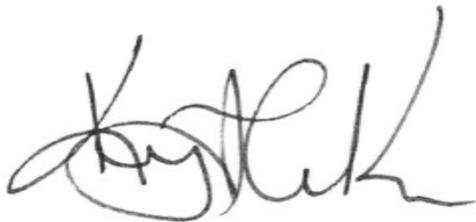
4. Communications from Town Board Members

None.

E. ADJOURN

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

**The meeting was adjourned at 8:04 p.m.**

A handwritten signature in black ink, appearing to read 'Krystal Eucker', written in a cursive style. The signature is positioned above a horizontal line.

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Krystal Eucker, Deputy Town Clerk