



TOWN BOARD REGULAR MEETING
January 11, 2016 - 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.

MINUTES

A. CALL TO ORDER

Mayor Vazquez called the regular meeting to order at 7:03 p.m.

- | | | | |
|--------------|---------------|------------------|--|
| 1. Roll Call | Mayor | | John Vazquez
Christian Morgan
Kristie Melendez
Robert Bishop-Cotner
Ivan Adams |
| | Mayor Pro Tem | Absent
Absent | Myles Baker
Jeremy Rose |

Also Present:

Town Manager	Kelly Arnold
Town Attorney	Ian McCargar
Town Clerk/Assistant to Town Manager	Patti Garcia
Communications/Assistant to Town Manager	Kelly Unger
Chief of Police	John Michaels
Director of Engineering	Dennis Wagner
Associate Planner	Paul Hornbeck
Chief Planner	Carlin Barkeen
Director of Planning	Scott Ballstadt
Assistant Town Attorney/Town Prosecutor	Kim Emil
Deputy Town Clerk	Krystal Eucker

2. Pledge of Allegiance

Mr. Vazquez asked the Boy Scouts in the audience to lead 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 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 –Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

4. Board Liaison Reports

- Mayor Pro Tem Baker – Water & Sewer Board; North Front Range/MPO alternate
Mayor Pro Tem Baker – Absent
- Town Board Member Morgan – Parks, Recreation & Culture; Great Western Trail Authority
Town Board Member Morgan reported the Parks, Recreation & Culture Board was not able to meet in January due to a lack of a quorum. Mr. Morgan encouraged individuals interested in serving on an advisory board to apply for the positions.

Mr. Morgan reported the Great Western Trail Authority met in December and recapped the 2015 year. There was not much discussion on official business. The meeting in January was geared more towards the business meeting discussing the budget, elected presiding officers and reviewing the bylaws. The Great Western Trail Authority was not awarded the 16 in 16 Governor's Award.

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

Town Board Member Melendez had no report for the DDA.

Ms. Melendez reported the Chamber of Commerce met on January 6, 2016 and seated five new board members. The board retreat is scheduled for February 18, 2016 at which time the election of officers will take place.

- Town Board Member Rose – Clearview Library Board
- Town Board Member Rose - Absent
- Town Board Member Bishop-Cotner – Historic Preservation Commission; Planning Commission

Town Board Member Bishop-Cotner reported the Historic Preservation Commission meeting was cancelled.

Mr. Bishop-Cotner reported the Planning Commission had contention towards the home occupation ordinance amendment and voted unanimously to turn it down.

- Town Board Member Adams – Tree Board; Poudre River Trail Corridor Board
- Town Board Member Adams reported the Tree Board did not meet.
- Mr. Adams report the Poudre River Trail Board met and discussion pertained to land acquisition along the trail and the disposition of the Go NoCO grant. The trail does need some work done due to flooding so the board asked for \$30,000 to complete the work and it was approved. The Trail-A-Thon has been scheduled for May.- Mayor Vazquez – Windsor Housing Authority; North Front Range/MPO

Mayor Vazquez was not able to attend the meeting.

5. Invited to be Heard

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

B. CONSENT CALENDAR

1. Minutes of the December 14, 2015 Regular Town Board Meeting – K. Eucker
2. Resolution No. 2016-01 – A Resolution Designating a Public Place for the Posting of Notices Concerning Public Meetings – P. Garcia
3. Resolution No. 2016-02 - Resolution Approving and Accepting a Deed of Dedication for Public Use as a Perpetual Right of Way for Street, Transportation and Utility Purposes Concerning the Northeast Corner of 7th Street and Eastman Park Drive, in the Town of Windsor, Colorado – I.
4. List of Bills December 2015 – D. Moyer

Mr. Morgan asked for clarification of item number 3.

Mr. McCargar stated Item 3.B is approving and accepting a Deed of Dedication from a property owner that gives temporary easement for construction of the round-a-bout scheduled for instillation at 7th and Eastman Park Drive and also a permeant easement to

occupy that space perpetually for the round- a-bout. It is voluntary transaction with the land owner and the resolution is the formal action to accept the deed.

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

C. BOARD ACTION

1. Ordinance No. 2015-1515 – An Ordinance Repealing, Amending and Readopting Article VII, Section 11-7-10 of the Windsor Municipal Code with respect to the Snow and Ice Removal Lien Process

Super-majority vote required for adoption on second reading

- Second Reading
- Legislative action
- Staff presentation: Kimberly Emil, Assistant Town Attorney

Town Board Member Melendez motioned to approve Ordinance No. 2015-1515 – An Ordinance Repealing, Amending and Readopting Article VII, Section 11-7-10 of the Windsor Municipal Code with respect to the Snow and Ice Removal Lien Process; Town Board Member Adams seconded the motion.

Assistant Town Attorney Kimberly Emil stated on December 14, 2015 the Town Board approved on first reading an amendment to the Windsor Municipal Code, known generally as the Snow and Ice Removal Code which will correct a clerical error. There have been no changes since first reading.

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

2. Ordinance No. 2016-1516 – 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 McCargar, Town Attorney

Town Board Member Melendez motioned to approve Ordinance 2016-1516 – 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; Town Board Member Morgan seconded the motion.

Town Attorney Ian McCargar stated the statutes governing qualified municipal courts of record require that the compensation of the Municipal Judge and Office of the Municipal Court Clerk be set by ordinance. This requirement has also been incorporated into the Town's Municipal Code. The Town Board has previously approved the 2016 Annual Budget, within which compensation

for the Municipal Judge and Municipal Court Clerk's Office has been fixed. However, in order to comply with the requirements of state law and the Code, an Ordinance approving those appropriations is required.

The Ordinance Fixing the Compensation of the Municipal Court Judge and Municipal Court Clerk incorporates the appropriations for these offices from the 2016 Annual Budget, thus satisfying the requirements of law.

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

3. Public Hearing – Ordinance No. 2016-1517 - Repealing, Amending and Readopting Article XV, Chapter 17 of the Windsor Municipal Code regarding Road Impact Fees
 - Staff presentation: Scott Ballstadt, Director of Planning

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

Director of Planning Scott Ballstadt stated road impact fees are typically collected upon the issuance of a building permit that will result in increased traffic-generating development. However, the code also requires payment of road impact fees based on increased traffic generation and the historic use of the property whether or not the new use involves changes to the building or property which has been referred to as the look back provision. The look back provision has been met with some consternation from the business community.

The proposed ordinance amendment does not affect the road impact fees collected on new buildings or if a building is expanded to add square footage which could in turn increase traffic. The ordinance proposes to eliminate the look back provision so that when a building is built, the road impact fees will be collected at that time, but as uses change over time, the Town will not collect additional fees. Not only has the look back provision been a disincentive to reinvest in existing buildings, it has become an administrative problem to track uses as they change. The look back provision constitutes a very small portion of the overall road impact fees that are collected.

The proposed ordinance will also change the rate of interest paid on refunds to the prime rate.

The proposed ordinance is in conformance with the Comprehensive Plan, the Vision 2025 document and the Strategic Plan.

Staff recommends approval of the ordinance.

Ms. Melendez inquired about clarification on a current business owner that is underutilizing space, sells the business and a new owner comes in with increased occupancy, the new owner will be exempt from road impact fees at that point. At what point would the increased traffic be addressed if that should become a problem.

Mr. Ballstadt stated that is correct; if the footprint is not expanding or adding additional square footage there would be no additional road impact fee.

Mr. Morgan inquired if that process would also give refunds on business that decreases intensity.

Mr. Ballstadt stated refunds would not be issued. If a building sits vacant for a period of time, a road impact fee would be assessed.

Mr. Morgan inquired if there is an appeal process that a business owner can go through regarding the road impact fee assessment.

Mr. Ballstadt stated a business can order an independent impact fee analysis.

Mr. Vazquez requested all documentation and information presented be entered into the record.

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 –Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

4. Ordinance No. 2016-1517 - Repealing, Amending and Readopting Article XV, Chapter 17 of the Windsor Municipal Code regarding Road Impact Fees
 - First Reading
 - Legislative action
 - Staff Presentation: Scott Ballstadt, Director of Planning

Town Board Member Melendez motioned to approve Ordinance No. 2016-1517 - Repealing, Amending and Readopting Article XV, Chapter 17 of the Windsor Municipal Code regarding Road Impact Fees; Town Board Member Morgan seconded the motion.

Mr. Ballstadt stated a question that was asked in a previous work session was what the total amount of road impact fees that were collected in 2015 and how that relates to the look back provision. Through November of 2015, \$940,000 was collected in road impact fees and of that \$14,595 was look back fees that were waived.

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

5. Public Hearing – Ordinance No. 2016-1518 - Repealing, Amending and Readopting Section 16-10-20 of the Windsor Municipal Code and Adopting Section 16-7-85 of the Windsor Municipal Code regarding Home Occupations involving tutoring or instruction
 - Staff presentation: Paul Hornbeck, Senior Planner

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 –Morgan, Melendez, Bishop-Cotner, Adams, Vazquez; Nays- None; Motion passed.

Senior Planner Paul Hornbeck stated the Municipal Code currently allows residents to operate home-based businesses under the Home Occupations provisions of Sec. 16-10-20. When a home occupation involves tutoring or instruction, the Code currently limits the number of students to no more than two at any one time. Two residents have requested that the Town consider increasing the number of students allowed from two to eight to accommodate the type of curriculum they use in teaching music lessons.

The proposed code amendment would keep the current regulations in place for home occupations with two or fewer students while requiring a Conditional Use Grant approval by the Town Board for home occupations with more than two students at any one time. The code amendment also includes a number of additional criteria that home occupations would be subject to if there are more than two students. The additional requirements were developed based on feedback from the Planning Commission and Town Board at work sessions.

Any conditional use grant for instruction or tutoring of more than two (2) students shall:

- Be limited to tutoring or instruction of children under the age of eighteen (18) years;
- Not exceed eight (8) students present at the dwelling unit at any one (1) time;
- Have available one (1) on-site parking space for every two (2) students present at the dwelling at any one (1) time;
- Be limited to hours of operation between 7:00 a.m. and 8:00 p.m.;
- Be limited to no more than fifteen (15) hours per week of instruction;
- Comply with all State of Colorado child care licensing requirements, including requirements for licensing exemption status; and
- Be subject to inspection in order to ensure that all applicable building and fire codes are met.

Planning Commission recommended denial of the ordinance with two main concerns; the first is having commercial businesses in residential neighborhoods and the second was giving an unfair advantage to home based businesses compared to businesses in commercial locations.

Mr. Morgan inquired about the age limit on the conditions as most seniors in high school are age 18.

Mr. Hornbeck stated the age limit could be modified.

Mr. McCargar stated this is a legislative act so changes can be accommodated if needed. If there are many changes, it may be requested to continue formal action to make certain the code is compliant.

Mr. Adams requested to express his opinion on the current issue. This amendment has come before the Town Board a couple times during the last year. The code currently allows up to two students and the Town Board requested staff to make reasonable changes to the code which they did and that includes the conditional use grant provision. The two principles in this matter attended the previous meetings and were in agreement with the conditions of the conditional use grant as presented. The Planning Commission considered the matter and according to the ordinance presented states the Planning Commission recommended adoption of the ordinance. However at their January 6, 2016 meeting, the Planning Commission was concerned about having commercial businesses in residential neighborhoods and about giving an unfair advantage to home based businesses compared to businesses in commercial locations. The

Planning Commission therefore forwarded a recommendation of denial of the proposed code amendment to the Town Board. Mr. Adams stated there are already existing businesses in residential neighborhood such as hair salons and independent consultant businesses. Mr. Adams also brought up the point of a family having three or four students being home schooled. Mr. Adams stated he fully supports the amendment to the ordinance.

Mr. Bishop-Cotner stated the recommendation was denied at the Planning Commission.

Mr. Vazquez stated this issue was discussed at a work session and the applicant came before the Town Board with a request which led to the discussion of modifying the ordinance to begin with and bringing some clarification. The proposal from staff is that we will modify the policy to include the conditional use grant process and that process will include seven conditions. The Planning Commission does not agree with the conditional use grant.

Mr. Bishop-Cotner stated the issue with the Planning Commission is that fundamentally the tutoring should stay no more than two students; the issue is tutoring and nothing else.

Mr. Vazquez inquired if the discussion is narrowed to just tutoring, how is that fair to home tutoring when independent consultants could have multiple individuals in the home at one time for a sales opportunity.

Mr. Bishop-Cotner stated the ordinance is specifically talking about tutoring.

Mr. Adams inquired if the Planning Commission discussed the difference between home schooling and tutoring.

Mr. Bishop-Cotner stated home schooling is a different topic and issue because it is being done in the home by the parents.

Mr. Hornbeck stated the concern from the Planning Commission was unfair competition with music based teaching or tutoring. There are commercially licensed businesses in commercial zones that teach and tutor music lessons so the Planning Commission's concern was the competition to those businesses.

Mr. Bishop-Cotner stated the commercially licensed businesses in commercial zones are paying overhead, electricity, heating and other expenses.

Mr. Vasquez inquired about any individuals that came out and were opposed to the ordinance amendment.

Mr. Bishop-Cotner stated there had been as the reason the issue was brought forward is due to an individual in that neighborhood who is opposed to the amount of traffic and the parking situation in that neighborhood.

Mr. Vazquez stated this ordinance would then provide due process for a home owner to use their personal property as they best see fit for their best interest. If there is a concerned resident they will be heard as part of the conditional use grant process. By denying the amendment, that homeowner is then denied due process.

Mr. Bishop-Cotner stated the homeowner can go open up the business in a commercial zone.

Mr. Adams inquired if the Planning Commission meeting on January 6, 2016 was before the ordinance was written and presented for the Town Board's consideration.

Mr. Hornbeck stated the ordinance before the Town Board was the same ordinance that was presented to the Planning Commission.

Mr. Adams stated in the ordinance it states the Planning Commission did approve the ordinance as presented.

Mr. Hornbeck stated there were work sessions on the topic and that the first Planning Commission work session they may have expressed some support for the amendment.

Mr. Adams recited the whereas clause that was included in the ordinance presented to the Town Board regarding the Planning Commission forwarding a recommendation of approval to the Town Board.

Mr. McCargar stated the ordinance that was included in the packet was prepared before the Planning Commission meeting. That recital is incorrect as it assumed the Planning Commission would be recommending approval.

Mr. Morgan inquired if the CUG was granted could it be revoked and would it be reviewed year by year.

Mr. Hornbeck stated the conditions can be set as needed and if there are complaints, those can be brought before the Town Board.

Mr. Vazquez stated he likes the process that has been created as it is not an automatic approval or denial.

Mr. Hornbeck stated there is no applicant as there are two people that are advocating for the amendment. Since this is a legislative matter there is no applicant per se.

Robin Flores, 4630 Free Hold Drive, Windsor, CO and Kim Seyboldt, 1014 Brisas Court, Windsor, CO addressed the Town Board.

Ms. Melendez inquired if the conditions listed in the conditional use grant are acceptable to Ms. Flores and Ms. Seyboldt.

Ms. Seyboldt stated out of the seven conditions listed the only one not being done at this time is the inspection on the homes. Ms. Flores stated they are in need of clarification on what type of inspection was needed and how that needed to be done. Also, the letter of exemption is still needed.

Mr. Bishop-Cotner inquired if they have four parking spaces available on site.

Ms. Seyboldt stated she has about 10 spaces.

Ms. Melendez inquired if the music model they use is intended to be a home business.

Ms. Seyboldt stated the curriculum is designed for home teaching for purposes of research that was done to prepare the curriculum as to the comfort level of children and repetitions that best cement those concepts.

Ms. Flores stated they are required to purchase licensing through Let's Play Music and are required to charge more if they hold sessions in commercial establishments. In turn, that would put them out of business as there are teachers in Fort Collins are that are able to teach in their homes for a lower price.

Ms. Melendez inquired if the program only allows them to teach students up to age 18.

Ms. Flores stated the program is designed to go to age eight.

Ms. Seyboldt stated once children reach age eight, they are then referred to other music programs and lessons.

Mr. Bishop-Cotner inquired as to the possibility to be able to teach this curriculum in a commercial setting and raising the prices.

Ms. Flores stated if an individual is not able to teach in their home they can do so in a commercial establishment but will charge more.

Mr. Bishop-Cotner inquired about the overhead of the current businesses.

Ms. Seyboldt inquired if the Planning Commission spoke with the other music businesses in town to see if they had any concerns with the amendment.

Mr. Bishop-Cotner asked Ms. Seyboldt and Ms. Flores what their overhead is.

Ms. Flores stated they have to pay for equipment such as keyboards, licensing fees, a fee to the company to use their curriculum each year. There are other expenses to run this business beside heat and electricity.

Mr. Morgan commented to the Ms. Flores and Ms. Seybolt that they are not required to answer the question regarding individual's overhead.

Mr. Bishop- Cotner stated the Planning Commission's concern is that in the commercial business they have all the expenses and if the business is done in the home those expenses are lessened.

Ms. Flores stated there is a piano and guitar studio on Main Street and they have several teachers in one location so in order for Ms. Flores and Ms. Seyboldt to be comparable to them, they would need to open up a studio with three to four teachers and work out hours that are convenient for families and currently the hours for teaching are very part time; one to two days a week for a couple hours. The comparison may not be exactly the same as the overhead is not the same either.

Mr. Bishop-Cotner stated that their response answers the questions regarding overhead and was a good explanation.

Mr. Vazquez stated it is not the job of the Town Board to fix problems that they do not know exist. The Town Board is unaware of the feelings of the music businesses along Main Street and they could be in favor of this program and embrace it as a feeder program. The conditional use

grant process will give due process and the ability to allow individuals in favor or against the use to be heard.

Many individuals from the public appeared in support of the business Let's Play Music. Parents, grandparents, child and graduates of the program spoke of the benefits of the affordable home based music program formatted for group teachings. Some of the comments included:

- This program lets children be creative.
- The program is filling a gap that the arts program in public schools is lacking.
- The program is a feeder program to teach children before moving into commercial music lessons.
- The programs helps introverted children open up in a group setting.

A former student of the program that has graduated stated the program was very helpful for her as she learn a lot before starting orchestra and understands music theory. Younger children sometimes get nervous when they first go to school but the home environment puts children at ease.

Mr. Bishop-Cotner inquired as to when she left the program.

The former student left the program at about eight years old because she finished the program and moved on to other music programs.

Mr. Bishop-Cotner inquired as to what finishing the program actually means.

The former student stated it is a three year program

Ms. Seyboldt stated they are then referred to private piano teachers, or they move onto orchestra or other similar classes.

Mr. Vazquez inquired as to children not having an opportunity to start music lessons at a young age if this program did not exist.

Ms. Seyboldt stated that is correct. Most private piano teachers require that children are able to know and read their letters and have a certain finger strength which comes more at age seven or eight. Ms. Seyboldt stated in those three years, they touch on high school music theory with the seven and eight year olds.

Mr. Bishop-Cotner stated one of the misconceptions has been that it was a program from age four to age 18. The program was designed intentionally for younger students to feed into other programs. Essentially the argument regarding overheard is mute as this program is not similar to traditional music lessons.

Mr. Morgan reminded colleagues that this ordinance is not business specific as it is not written for them so consideration needs to be for what is written. Although the Let's Play Music program normally ends at age eight, the ordinance is written up to age 18 and there may be other opportunities for individuals.

Mr. Bishop-Cotner stated he agreed with the mayor regarding the idea of due process.

Some additional comments of support include:

- The program is intended to be a three year program but it provides some pre-school classes as well.
- The ordinance amendment supports neighborliness and safety.
- The program not only brings children together but it also brings parents together.
- The home base business feels safer in a neighborhood than parking in a parking lot.
- The program thrives best in group participation classes.

Direct neighbors of the Flores residence stepped forward and stated they would be the ones who would have direct impact from the music program but they are in support of the music program Ms. Flores is teaching. The neighbors inquired as to what would happen if another neighbor got upset and came up with a reason to challenge the conditional use grant or try to get them to discontinue their teaching based on a personal matter.

Mr. Vazquez stated as long as there is a conditional use grant that is approved and the individuals are in compliance they should be fine to continue.

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

6. Ordinance No. 2016-1518 - Repealing, Amending and Readopting Section 16-10-20 of the Windsor Municipal Code and Adopting Section 16-7-85 of the Windsor Municipal Code regarding Home Occupations involving tutoring or instruction
 - First Reading
 - Legislative action
 - Staff Presentation: Paul Hornbeck, Senior Planner

Town Board Member Adams motioned to approve Ordinance No. 2016-1518 - Repealing, Amending and Readopting Section 16-10-20 of the Windsor Municipal Code and Adopting Section 16-7-85 of the Windsor Municipal Code regarding Home Occupations involving tutoring or instruction; Town Board Member Morgan seconded the motion.

Mr. Hornbeck had nothing further to add.

Mr. McCargar will change the recital within the ordinance to reflect the Planning Commission's actual position on the ordinance as well as changing the age in the conditional use grant conditions to no greater than the age of 18.

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

7. Site Plan Presentation – Valley Center Subdivision, Lot F – Agrifab – Alan Highstreet, Agrifab Colorado, LLC applicant/ Josh Erramouspe, Olsson Associates, applicant's representative
 - Staff presentation: Paul Hornbeck, Senior Planner

Senior Planner Paul Hornbeck stated the applicant is proposing to construct a new building in the Limited Industrial (I-L) zoning district in the Valley Center Subdivision; 9231 Eastman Park Drive. A building was previously located on the site but was destroyed by the tornado in 2008. Some infrastructure remains in place from that building which the applicant intends to utilize.

Site characteristics include:

- 1.67 Acre Property.
- 6,000 square foot metal building;
- Outdoor storage;
- Off-street parking; and
- Landscaped area of 16% of the property

The current presentation is intended for the Town Board's information. Should the Town Board have any comments or concerns pertaining to this project, please refer such comments to staff during the presentation so that they may be addressed during staff's review of the project. The site plan will be reviewed and approved administratively by staff.

The application is in conformance with the Comprehensive Plan as well as the Vision 2025 document.

Ms. Melendez inquired as to the nature of the business.

Mr. Erramouspe stated it is a construction company that specializes in agricultural construction and acts as a general contractor working from the ground up front dirt work into the development stage.

Mr. Vazquez inquired if the materials will be stored within the building.

Mr. Erramouspe stated most of the materials will be directly shipped to the project site. The building will general be used for a home base for tools, equipment and small supplies that should not be stored outside.

Mr. Vazquez inquired if there are any conditions that seem unusual.

Mr. Hornbeck stated there are no unusual conditions.

8. Resolution No. 2016-03 – A Resolution Authorizing the Town Manager to Waive a Portion of Windsor Use Tax for the Benefit of the Windsor Housing Authority's Windsor Meadows Project, Phase II

- Legislative action
- Staff presentation: Kelly Arnold, Town Manager

Town Board Member Melendez motioned to approve Resolution No. 2016-03; Town Board Member Morgan seconded the motion.

Town Manager Kelly Arnold stated John Moore, President of the Windsor Housing Authority is in the audience as well as Sam Betters representing the management and the operations of the Windsor Housing Authority. Last month Mr. Betters notified the Town of Windsor of a new interpretation by the State of Colorado regarding what is exempt for housing authorities on

construction and development projects. Previous interpretation has been that all taxes were exempt for such developments statewide. Recently a new individual with the Department of Revenue reinterpreted the exemption and came to the conclusion that housing authorities are not exempt for purposes of taxes, use taxes particularly for construction of a low to moderate income facility. As a result, a use tax exemption cannot be ascertained and approximately \$98,000 is now due to the Town of Windsor to continue with Phase II.

Staff recommends waiving 3% of the 3.95% Windsor Use Tax. The .95% collected is the portion that is dedicated to the financing and operation of the original Community Recreation Center (.20%) and the expansion of the Community Recreation Center (.75%). The amount due to the Town would be \$23,750 if the Resolution is approved.

Mr. Vazquez stated through 2015 the bond debt has surpassed collections of the community center tax, it is necessary to impose the .95 to the housing authority so could waiving the whole amount be considered.

Ms. Melendez stated the .20% is from the original CRC tax and the .75% is the new piece that was added for the expansion.

Ms. Melendez inquired if there is an appeal process with the Department of Revenue.

Mr. Betters stated currently there is a bill that will be introduced by Representative KC Becker that would amend the current language that is in the state statute that is 29.4-227. It will be a clarification of language and that is how this situation has been brought up is an interpretation from a different individual. Ms. Becker's bill will attempt to clarify what the intent was of the original bill. To address Ms. Melendez's question, there is not an appeal process but there is a legislative process to amend the language.

Ms. Melendez inquired how that would affect the Windsor Housing Authority and are they able to retroactively refund taxes collected.

Mr. Betters stated that is a provision of the bill.

Mr. Moore stated the Windsor Housing Authority is small in comparison to other housing authorities that are affected by this. A housing authority in Boulder is looking at a \$1 million hit on this interpretation.

Mr. Betters stated the \$1 million gap is all the taxes that are do for both the stated and the City of Boulder.

Mr. Melendez inquired if the use taxes are waived, the Town of Windsor is still liable to make this payment to the Department of Revenue.

Mr. Arnold stated it will be that or they will have to come back and make a request for the fees.

Mr. Betters stated as he understands as a home rule town, this specific piece of 3.95% is the Town of Windsor's option to waive or collect and also believes no money will be owed to the state.

Ms. Melendez inquired as to how much the Windsor Housing Authority owes the Department of Revenue.

Mr. Betters stated about \$145,000.

Mr. McCargar stated the measures that were approved to build the recreation center and to expand the recreation center pledged that fractional amount of both sales tax and use tax. We have pledged those two fractional amounts to build the recreation center and expand the recreation center. Given that, waiving the tax becomes an issue because the Town of Windsor has actually included in documents for the benefit of the bond holders set that aside and made that a priority for those fractional amounts of sales tax and use tax. If the state issues a certification of exemption for use tax it applies both to the state and the municipality. The use tax that is being discussed is the Town's use tax on this project.

Mr. Adams inquired how TABOR would come into play in this issue.

Mr. McCargar stated the tax increase was approved by the voters for a particular purpose and legislatively it may not be a good idea to reach into that in this particular case and determine that tax increase will not be collected. Mr. McCargar is more concerned about the representations to the bond holders that the .95% is sacred for those two layers of bonds.

Mr. Vazquez inquired if the \$23,000 will have a major impact to the Windsor Housing Authority.

Mr. Betters stated it would not and the entire Windsor Housing Authority Board voted in support of the Windsor Community Recreation Center Expansion. The \$23,000 will be taken out of contingency funds as it is early in the project.

Mr. Vazquez inquired if the bill that was mentioned earlier advances through the next session and ultimately approved, then there will be a provision for the Windsor Housing Authority to come back to the Town of Windsor and ask for a refund of the \$23,000.

Mr. Betters stated that option would be available.

Mr. Vazquez inquired if the legislation does advance and there is an allowance for a refund, how will that affect the Town's obligations and commitment to the bond holders.

Mr. McCargar stated the .95% payment would be required. If the state legislature then comes in and reaffirms the earlier interpretation and says these transactions are exempt, then the .95% that the Town required the housing authority to pay would also be returned assuming the legislation is retroactive.

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

9. Resolution No. 2016-04 – A Resolution Approving and Authorizing the Execution of an Intergovernmental Agreement with the Larimer County Board of County Commissioners for Ongoing Maintenance of Crossroads Boulevard in the Vicinity of County Line Road
 - Legislative action
 - Staff presentation: Dennis Wagner, Director of Engineering

Town Board Member Morgan motioned to approve Resolution No. 2016-04; Town Board Member Melendez seconded the motion.

Director of Engineering Dennis Wagner stated items nine and ten on the agenda this evening are in regard to the traffic light being installed on County Line Road/County Road 13 and Crossroads Boulevard. Early in 2015, Windsor contracted with the consulting team of Interwest Consulting Group and ELB Engineering to study traffic at that location. The team determined that a traffic signal is warranted at that intersection and design of the signal followed shortly thereafter. The design is completed and is out for bid with the bid opening February 4, 2016. Because the intersection is on County Line Road, authority over the roads approaching the intersection are split between Windsor, Weld County and Larimer County. Within the intersection itself, the west half of the intersection is in unincorporated Larimer County and the east half is in Windsor.

The engineer's estimate of cost for the signal system is \$276,000. By way of the Intergovernmental Agreement (IGA), Larimer County Board of Commissioners have approved financial contribution toward constructing the signal equal to one-third of the cost, not to exceed \$100,000.

In exchange for that contribution, Larimer County is proposing an IGA in which Windsor will assume future maintenance of the 1-mile section of Crossroads Boulevard between LCR 3 and County Line Road. That section of road was widened and paved in 2000 by the owner of the Windsor development adjacent to the north side of the road and Larimer County just last year resurfaced the road.

Mr. Vazquez inquired about the small strip of Crossroads Boulevard that is in Larimer County's jurisdiction. It is one thing to maintain it but another to own it. Since Loveland's jurisdiction goes from County Road 3 to I-25, would the Town want that right of way.

Mr. Wagner stated the property owners on the south side of the road are in unincorporated Larimer County. Their property ownership actually goes to the section line which is the center of the road. A few years after the improvements Windsor pursued annexation of the right of way so it would be the Town's and the property owners were not interested. It stayed in unincorporated Larimer County.

Mr. Vazquez inquired if there was a patent easement or right of way on that section of land as it seems back in the 1870's they did that when the county lines and sections were mapped out.

Mr. Wagner stated there is but their property still goes to the section line.

Mr. Arnold stated the section in Larimer County's jurisdiction has recently been overlaid.

If the Town Board agrees to this resolution, it will be requested that the mayor send a letter to Weld County making a similar offer for that section that is in Weld County's jurisdiction.

Ms. Melendez inquired as to how the property turned out the way it is on Crossroads with the small portion in Weld County's jurisdiction.

Mr. Arnold stated the Weld County portion has been a bit of concern.

Mr. Ballstadt stated there is a recorded exemption of about 10 acres on Crossroads that is excluded from annexation.

Mr. Vazquez inquired if the annexation is approved, would the section of road be with it.

Mr. Ballstadt stated it would not as the frontage is owned by a separate property owner.

Mr. Vazquez commented that he was contacted by an adjacent landowner and they were very appreciative that they were contacted as to aesthetics regarding the colored poles.

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

10. Resolution No. 2016-05 – A Resolution Approving and Authorizing the Execution of an Intergovernmental Agreement with the Larimer County Board of County Commissioners for Financing of Traffic Control Improvements to the Intersection of Crossroads Boulevard and County Line Road

- Legislative action
- Staff presentation: Dennis Wagner, Director of Engineering

Town Board Member Adams motioned to approve Resolution No. 2016-05; Town Board Member Morgan seconded the motion.

Mr. Wagner had nothing further.

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

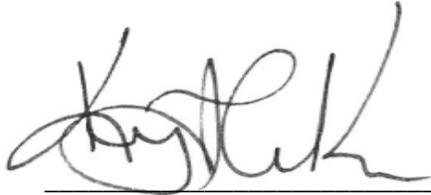
D. COMMUNICATIONS

1. Communications from the Town Attorney
None
2. Communications from Town Staff
None
3. Communications from the Town Manager
Mr. Arnold stated he and Ms. Melendez attended Building a Better Colorado. The efforts of the organization are to look at several issues from how initiatives are able to come forth to amend the state constitution to funding state government. The event was in Loveland and attended by about 50 individuals with most being over the age of 60. The organization has made presentations state wide. This group is considering laying out some initiatives for November.
3. Communications from Town Board Members
None

E. ADJOURN

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

The meeting was adjourned at 9:21 pm.

A handwritten signature in black ink, appearing to read 'Krystal Eucker', written over a horizontal line.

Krystal Eucker, Deputy Town Clerk