

**TOWN OF WINDSOR, CO
TOWN BOARD REGULAR MEETING
Monday, January 11, 2010 - 7:00 P.M.
Town Board Chambers – 301 Walnut Street
Windsor, CO 80550**

AGENDA

A. CALL TO ORDER

1. Roll Call

Mayor Vazquez called the regular meeting of the Windsor Town Board to order on Monday, January 11, 2010 at 7:00 p.m. in the Board Room at Town Hall, 301 Walnut Street, Windsor, CO.

The following Town Board members were present:

Mayor John Vazquez
Mayor Pro-Tem Richard Drake
Robert Bishop-Cotner
Michael Kelly
Matthew O'Neill
Jon Slater
Nancy Weber

Also present:

Town Attorney	Ian McCargar
Town Manager	Kelly Arnold
Director of Finance	Dean Moyer
Director of Engineering	Dennis Wagner
Director of Planning	Joe Plummer
Director of Parks & Recreation	Melissa Chew
Director of Public Works	Terry Walker
Chief of Police	John Michaels
Director of Human Resources	Mary Robins
Assistant to the Town Manager	Dawn Jaeger
Town Clerk	Patti Garcia

2. Pledge of Allegiance

The Pledge of Allegiance was led by Town Board Member Bishop-Cotner.

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 O'Neill requested to remove from the agenda Item C.8., An Ordinance Regulating the Location, Conduct, Licensing and Related Enforcement Measures Associated with Commercial Medical Marijuana Caregivers within the Town of Windsor, Colorado.

**Town Board Member O'Neill motioned to approve the agenda as amended; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:
Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

4. Board Liaison Reports

- Chamber of Commerce; Historic Preservation Commission – *Town Board Member Bishop-Cotner*
Town Board Member Bishop-Cotner reported the Historic Preservation Commission would be meeting on Wednesday.
- Cache La Poudre Trail Board - *Town Board Member Kelly*
No report.
- Water and Sewer Board – *Mayor Pro-Tem Drake*
No report.
- Library Board; Planning Commission; 2010 Census Complete Count; NFR/MPO Alternate – *Town Board Member O’Neill*
Town Board Member O’Neill reported the Library Board had a Special Meeting on January 5th at which another board member was appointed. Mr. O’Neill also noted the Complete Count Committee had completed a public service announcement that would be running on Channel 8 and their next meeting would be held on January 20th. Planning Commission items had been discussed during the work session.
- Tree Board – *Town Board Member Slater*
No report.
- Parks & Recreation Board – *Town Board Member Weber*
Town Board Member Weber commented on two issues from the last Parks and Recreation meeting: the Stonehenge Master Plan which had to be redone and the Special Event License Policy that will be discussed by the Town Board at a future work session.
- North Front Range/MPO; Youth Advisory Board - *Mayor Vazquez*
Mayor Vazquez noted at the last MPO meeting, projects were reviewed for the upcoming year and it was reported that air quality continues to be an item of discussion. Mr. Vazquez also reported the Youth Advisory Board would be meeting Tuesday, January 12.

5. Recognition of Parks & Recreation Advisory Board Members – M. Chew

Mayor Vazquez commended Jerel Nielson for his time serving on the Parks and Recreation Advisory Board and thanked Mr. Nielson for his volunteer work on behalf of the Town.

6. Public Invited to be Heard

Mayor Vazquez opened the meeting for items of concern not included on the agenda; hearing none, Mayor Vazquez moved on to the next agenda item.

B. CONSENT CALENDAR

1. Minutes of the December 14, 2009 Regular Town Board meeting and December 16, 2009 Special Town Board Meeting – P. Garcia
 2. Liquor License Renewal – Hunan Taste Cuisine Inc. dba Asian Pearl Bistro, Hotel/Restaurant License – P. Garcia
 3. Advisory Board Appointments – P. Garcia
Parks and Recreation Advisory Board, Tree Board, Water & Sewer Board
 4. A Resolution Designating a Public Place for the Posting of Notices Concerning Public Meeting – P. Garcia (Resolution No. 2010-01)
 5. A Resolution Authorizing the Conduct of a Mail Ballot Election for the Town of Windsor's Regular Municipal Election Scheduled for April 6, 2010 – P. Garcia (Resolution No. 2010-02)
 6. A Resolution Vacating a Portion of Seventh Street Within the Town of Windsor, Colorado, and Authorizing the Mayor to Execute Such Documents as are Necessary and Proper to Accomplish Such Vacation – I. McCargar (Resolution No. 2010-03)
 7. List of Bills – December, 2009 – D. Moyer
- Town Board Member Weber motioned to approve the Consent Agenda as presented; Mayor Pro-Tem Drake seconded the motion. Roll call on the vote resulted as follows:
Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

C. BOARD ACTION

1. Public Hearing – Rezoning of Ruff Third Annexation south of and adjacent to SH 392 and approximately one-quarter mile east of SH 257 from I-L, Limited Industrial, district to GC, General Commercial, district - Chris Ruff, 392 Ventures, LLC, applicant/Tricia Kroetch, North Star Design, Inc., applicant's representative - J. Plummer
**Town Board Member O'Neill motioned to open the Public Hearing; Town Board Member Kelly seconded the motion. Roll call on the vote resulted as follows:
Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

Director of Planning Plummer reported the property had been annexed several years ago and the applicant has requested to rezone the property from Limited Industrial to General Commercial so the area would be consistent with the Cooperative Planning Area of the Windsor-Severance IGA. Mr. Plummer stated the Planning Commission recommended approval as presented.

Chris Ruff, applicant, addressed the Town Board and welcomed questions regarding the rezoning.

Mayor Vazquez opened the meeting for public comment.

Misty Brewer, Windsor resident, inquired what would be put on the property and if there were any environmental concerns.

Mr. Ruff noted the Falcon Point Subdivision would be located on the property and that something similar to the Windsor Tech Business Center may be on another portion of the property.

Planning Director Plummer noted the requirements for rezoning include environmental studies and there were no concerns with the property in question.

Town Board Member O'Neill motioned to close the Public Hearing; Town Board Member Kelly seconded the motion. Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

2. Ordinance approving Rezoning of Ruff Third Annexation south of and adjacent to SH 392 and approximately one-quarter mile east of SH 257 from I-L, Limited Industrial, district to GC, General Commercial, district, First Reading – Chris Ruff, 392 Ventures, LLC, applicant/Tricia Kroetch, North Star Design, Inc., applicant's representative – First Reading – J. Plummer (Ordinance No. 2010-1364)

Town Board Member Slater motioned to approve Ordinance No. 2010-1364, Ordinance approving Rezoning of Ruff Third Annexation south of and adjacent to SH 392 and approximately one-quarter mile east of SH 257 from I-L, Limited Industrial District to GC, General Commercial District on first reading, Town Board Member O'Neill seconded the motion.

Planning Director Plummer stated there was no additional information to provide.

Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

3. Public Hearing – Request to exceed the maximum building height for a structure in an RMU, Residential Mixed Use, zoning district in accordance with Section 16-10-50© of the Windsor Municipal Code – A portion of Tract O in Greenspire Subdivision – 500 Hillspire Drive – The Church of Jesus Christ of Latter-day Saints, applicant/ Victor Lauer, Keys and Associates, applicant's representative – J. Plummer

Town Board Member O'Neill motioned to open the Public Hearing; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

Planning Director Plummer noted the Town Code states that any structure that exceeds the maximum height limitation of 45' be presented before the Planning Commission for a recommendation and Town Board for approval. The applicant has requested a maximum height of 64' for a steeple on the building.

Vic Lauer, applicant representative, addressed the Town Board and commented on the studies that had been provided to the Board in their packets. The shade and shadow study did not show any adverse affects off of the church property. Mr. Lauer noted the steeple is important to the church as it symbolic of lifting the eyes towards heaven.

Town Attorney McCargar requested the information that was submitted into the Town Board packet on this agenda item be included in the public record for determining direction on the request.

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

Town Board Member O'Neill motioned to close the Public Hearing; Mayor Pro-Tem Drake seconded the motion. Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

4. Resolution Approving a Request to exceed the maximum building height for a structure in an RMU, Residential Mixed Use, zoning district in accordance with Section 16-10-50(c) of the Windsor Municipal Code – A portion of Tract O in Greenspire Subdivision - 500 Hillspire Drive - The Church of Jesus Christ of Latter-day Saints, applicant/ Victor Lauer, Keys and Associates, applicant's representative – J. Plummer (Resolution No. 2010-04)

Town Board Member Slater motioned to approve Resolution No. 2010-04; Town Board Member Weber seconded the motion.

Planning Director Plummer noted the Planning Commission had reviewed the petition and found the applicant satisfied all four criteria as required by any building proposed to be greater than the maximum allowed height. Those criteria include Views, Light and Shadow, Privacy and Neighborhood Scale. The Planning Commission recommended approval of the request on the condition the applicant receive site plan approval and obtain a building permit.

Town Board Member Kelly commented the church had been very helpful during the tornado and believes they will be a good neighbor.

Mayor Vazquez noted the approval of the height variance is a process of the applicant providing the burden of proof. Mr. Lauer stated that Latter-Day Saint churches built in the last 15 years have included, as part of their doctrine and identity as a church, a steeple on the building.

Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

5. Public Hearing – Amendments to portions of Chapter 16 of the Windsor Municipal Code pertaining to residential advertising signs – J. Plummer

Town Board Member Slater motioned to open the Public Hearing; Town Board Member O'Neill seconded the motion. Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

Planning Director Plummer noted the amendment was reviewed during a joint work session with the Planning Commission and at the January 4 Town Board work session. This item was brought to staff's attention through a request by a member of the residential development community. The intent is to assist in directing potential buyers to residential areas where property and housing is available for sale or lease. The permits for the signs would be for a three year period.

The Town Board discussed the length of the permit and how to assure the signs are not in disrepair.

Planning Director Plummer noted that signs that are existing would require a new permit to be in place for the three year period.

Town Board Member Slater recommended staff review how long current signs have been in place as he knows of several that have been up for quite a while.

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

Town Board Member O'Neill motioned to close the Public Hearing; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

6. An Ordinance Amending Article IX of Chapter 16 of the Windsor Municipal Code with Respect to the Issuance of Permits for Temporary Advertising, First Reading – Joe Plummer (Ordinance No. 2010-1365)

Town Board Member Weber motioned to approve Ordinance No. 2010-1365, An Ordinance Amending Article IX of Chapter 16 of the Windsor Municipal Code with Respect to the Issuance of Permits for Temporary Advertising on First Reading; Town Board Member Slater seconded the motion.

Planning Director Plummer noted that the Planning Commission has reviewed the ordinance and recommended approval as presented. Mr. Plummer will add language to the ordinance related to looking for disrepair of the signs and will investigate the length existing signs have been in place prior to second reading.

Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

7. Public Hearing on an Ordinance Regulating the Location, Conduct, Licensing and Related Enforcement Measures Associated with Commercial Medical Marijuana Caregivers within the Town of Windsor, Colorado – I. McCargar

Mayor Vazquez reported that Item 8 had been stricken from the agenda. The Town Board had discussed during the work session to extend the moratorium as the 75-day limit is not enough time to create policy of this magnitude. The Town Board has selected a date in mid-June to allow time for state legislation to provide some direction and also affords more time for constructive dialogue. Mr. Vazquez noted the Town Board appreciates the community's interest in the issue and Item 7 was left on the agenda related to the public hearing portion so that there would be a record of comments that come forward.

Mayor Vazquez noted a possible question on the April ballot to determine the wants and desires of the community. Due to questions regarding constitutionality and case law the Town Board is not comfortable with a request for an out-right ban, but can ask a question of the community regarding additional dispensaries. The Town Board has accepted that

if the question is put to the community, then they are prepared to act on those results accordingly. If a group of citizens want to put the question of a ban to the community; it is their prerogative.

Town Board Member Kelly noted there will be additional opportunities to comment on the topic, including tonight.

Mayor Vazquez requested comments be limited to Windsor residents and business owners.

Town Board Member Slater motioned to open the Public Hearing; Town Board Member Kelly seconded the motion. Roll call on the vote resulted as follows:

Yeas – Drake, Bishop-Cotner, Kelly, O’Neill, Slater, Weber, Vazquez

Nays – None. Motion carried.

Town Attorney McCargar stated that Amendment 20 has led to the opening of a multitude of dispensaries across the state. The Town is working on three approaches related to medicinal marijuana and dispensaries: land use/planning/zoning use, regulatory and enforcement. The moratorium will stay in effect and Mr. McCargar will prepare the question for the Town Board for review at the January 25 meeting.

Mayor Vazquez stated the Town is moving forward with creating policy although no one knows what the outcome of the question will be.

Bill Miller, 1748 Clear Creek Court, Windsor, put forward the request to ban all medicinal marijuana dispensaries. Mr. Miller noted people should call the Greeley city attorney to find out how Greeley has banned medicinal marijuana. Although the moratorium is good, there are two dispensaries operating in Windsor. He would like to examine how to get rid of the two dispensaries.

Misty Brewer, 915 Mesa Court, Windsor, respected Mr. Miller’s view. Ms. Brewer noted the benefits she finds using medicinal marijuana and requested the Town Board to take all the issues into consideration before banning it.

Wilma Kelly, 400 Pelican Cove, Windsor, stated she has found through research that it is easy to get a permit for medicinal marijuana. Her independent research found that 10% of the people with permits actually need medicinal marijuana and the other 90% are recreational users. She noted the various products being made with marijuana including cookies and lollipops. Ms. Kelly recommended tight restrictions for the industry.

Clint Sattler, 1201 Stone Mountain Drive, Windsor, stated he has reviewed the constitution and believes it does not say anything about a dispensary and also believes it is up to the citizens to make that decision. Mr. Sattler also noted the Town Board should look at the City of Greeley and how they banned dispensaries. Mr. Sattler is opposed to any dispensary in Windsor.

Erica Sattler, 1201 Stone Mountain Drive, Windsor noted her family chose to move to Windsor due to the type of community it was. Ms. Sattler believes dispensaries will corrupt the Town. She stated the purpose of the dispensary is to make money, not to take

care of people. Ms. Sattler stated that until regulations are in place, she does not want medicinal marijuana in Windsor.

Dixie Preston, 536 Bally (?) Court, stated she is high school teacher and has overheard students remark how easy it is to get marijuana. Ms. Preston is concerned what the dispensaries will do to the community. She noted that if dispensaries cannot be banned that the placement of them should be looked at. She does not want dispensaries in Windsor and believes the two that are here are enough.

Mayor Vazquez provided background on how a ballot question would be worded and why it would not be a request for an out right ban of medicinal marijuana. The question would be similar to a poll which would help guide the Town Board on future issues regarding medicinal marijuana. It will give the community an opportunity to provide their opinion through the casting of ballots. If the citizens would prefer an out right ban, then they would have to put forward an initiative on a ballot that would create a Special Election at a future date.

Brent Glen, 305 Poudre Bay, stated his concern that a teacher overheard information regarding marijuana in the hall of the school and believes the industry needs to be controlled. Mr. Glen encouraged people to talk to the City of Greeley regarding their ban.

Lara Holt, 929 Presado Way, thanked the Town Board for their work in trying to interpret what is happening. Ms. Holt requested that the emails that she had sent the Town Board regarding medicinal marijuana be entered into the record. She provided hard copies of the correspondence to Town Clerk Garcia. Ms. Holt inquired if the two dispensaries stay open, if they stay in their current location. Mayor Vazquez stated they would stay in their current location. Mr. Vazquez encouraged Ms. Holt to share her comments and research at the state level as well.

Vince Ramirez, [REDACTED], stated he believes there is an easy availability of medicinal marijuana and stated that if dispensaries were allowed it would take away from some of the illegal use.

Gavin McLeod, [REDACTED], thanked the Town Board for addressing the issue of medicinal marijuana. He stated there are 12 liquor stores in town and believes that liquor is worse for a person. He also noted that a person has to be 18 years old to get a permit to acquire medicinal marijuana.

Derrick Cummings, 4630 Royal Vista Circle, co-proprietor of in Harmony Wellness, noted personal experience of having to take medications for pain and the change in his quality of life when he was able to use medicinal marijuana. He believes people need to be educated to address their fears. There are ways for marijuana to be found if people want it, including the schools. Mr. Cummings stated he wanted to be able to balance the comments provided during the evening.

Town Board Member Weber noted the community is operating in fear as they hear about individuals who are able to purchase medicinal marijuana without a permit. She hears the community ask for regulations on the industry.

Mr. Cummings reviewed the actions that have to be taken to be included on the state registry and stated that it is completely legal to purchase medicinal marijuana once you have a doctor's signature, regardless if you have received a card from the state.

Vernon Thomas, 806 Stone Mountain Drive, noted he does not support a complete ban as those who are open have gone through the required steps to operate. He does not agree with closing a business that is already open.

Town Board Member Kelly motioned to close the Public Hearing for the evening but leave it open for further proceedings as the process evolves; Town Board Member O'Neill seconded the motion. Roll call on the vote resulted as follows:

**Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez
Nays – None. Motion carried.**

8. An Ordinance Regulating the Location, Conduct, Licensing and Related Enforcement Measures Associated with Commercial Medical Marijuana Caregivers within the Town of Windsor, Colorado, First Reading – I. McCargar (Ordinance No. 2010-1366)

Ordinance No. 2010-1366 was stricken from agenda.

The Town Board went into recess from 8:40 to 8:45.

9. Financial Report – D. Moyer

Finance Director Moyer reviewed the financial report included in the Town Board packet and noted that December was a strong finish to 2009. Mr. Moyer discussed sales tax collections; comparing 2007 to 2009 and noted the year-to-date collections were 3% ahead of 2007. The year ended up as anticipated and the financial reports will continue in 2010.

Town Manager Arnold noted that two processes in effect for this year include the continuing of the "go, no go" decision on capital projects. The Town Board will continue to be apprised of the status of capital projects. The second process in effect is that he has requested that documentation of personnel being hired, including seasonals, go through him so he is aware of the hiring being done.

D. COMMUNICATIONS

1. Communications from the Town Attorney – Town Attorney McCargar reminded the Town Board of the Executive Session which will follow the Regular Meeting.
2. Communications from Town Staff
3. Communications from the Town Manager – Town Manager Arnold noted the Art and Heritage Center Open House on Friday.
4. Communications from Town Board Members – Town Board Member O'Neill thanked the Finance Director Moyer for his help while purchasing a car as Town of Windsor does not have a vehicle use tax and a letter was sent on Mr. O'Neill's behalf to verify that information.

E. EXECUTIVE SESSION

An executive session pursuant to § 24-6-402 (4) (b), to confer with the Town Attorney for the purpose of receiving legal advice on specific legal questions; building code enforcement issues (I. McCargar)

Town Board Member O'Neill motioned to go into Executive Session pursuant to § 24-6-402 (4) (b), to confer with the Town Attorney for the purpose of receiving legal advice on specific legal questions; building code enforcement issues; Mayor Pro-Tem Drake seconded the motion. Roll call on the vote resulted as follows:

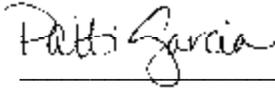
Yeas – Drake, Bishop-Cotner, Kelly, O'Neill, Slater, Weber, Vazquez

Nays – None. Motion carried.

Upon returning to the regular meeting, Mayor Vazquez advised that if any participants in the Executive Session believed the session contained any substantial discussion of any matters not included in the motion to convene the Executive Session, or believed any improper action occurred during the Session in violation of the Open Meetings Law, such concerns should now be stated. Hearing none the regular meeting resumed.

F. ADJOURN

Upon a motion duly made, the meeting was adjourned.



Patti Garcia, Town Clerk