



TOWN BOARD REGULAR MEETING
July 12, 2010 - 7:00 P.M.
Town Board Chambers – 301 Walnut Street
Windsor, CO 80550

AGENDA

A. CALL TO ORDER

1. Mayor Vazquez called the regular meeting of the Windsor Town Board to order on Monday, July 12, 2010 at 7:00 p.m. in the Town Board Chambers.

The following Town Board members were present: Mayor John Vazquez
Mayor Pro-Tem Matthew O'Neill
Jon Slater
Don Thompson
Excused: Robert Bishop-Cotner
Mike Carrigan
Kristie Melendez

Also present: Town Attorney Ian McCargar
Town Manager Kelly Arnold
Civil Engineer Doug Roth
Director of Planning Joe Plummer
Director of Parks & Recreation Melissa Chew
Chief of Police John Michaels
Town Clerk Patti Garcia
Excused: Director of Public Works Terry Walker
Director of Engineering Dennis Wagner

2. Pledge of Allegiance
Town Board Member Thompson 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
Mayor Pro-Tem O'Neill motioned to amend the agenda by removing Item C.3. - An Ordinance Amending Chapter Sixteen of the Windsor Municipal Code for the Purpose of Assuring Aesthetic and Functional Standards for the Establishment, Maintenance and Appearance of Charitable Donation Receptacles and Charitable Donation Sites within the Town of Windsor, Colorado; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:
Yeas – O'Neill, Slater, Thompson, Vazquez
Nays – None. Motion carried.

Town Board Member Slater motioned to approve the agenda as amended; Mayor Pro-Tem O'Neill seconded the motion. Roll call on the vote resulted as follows:
Yeas – O'Neill, Slater, Thompson, Vazquez
Nays – None. Motion carried.
4. Board Liaison Reports

- Town Board Member Bishop-Cotner – Historic Preservation Commission; Planning Commission Alternate
No report.
- Town Board Member Carrigan – Water & Sewer Board
No report.
- Mayor Pro-Tem O’Neill – Library Board; Planning Commission; North Front Range/MPO Alternate
Mayor Pro-Tem O’Neill provided an update on the branding process being done by the library and reported on the Planning Commission work session at which SafeBuilt fees were discussed. Mr. O’Neill also noted that at the MPO meeting that John Nelson was introduced as the CDOT Director for Region 4 and that a press release went out providing 22 locations in Weld and Larimer County for emissions testing.
- Town Board Member Melendez – Chamber of Commerce; Cache La Poudre Trail Board
No report.
- Town Board Member Slater – Tree Board; Windsor Housing Authority
Town Board Member Slater reported the Tree board meeting will be held next Tuesday and the Windsor Housing Authority meeting will be held next Thursday.
- Town Board Member Thompson – Parks & Recreation Board
Town Board Member Thompson reported that elections for Chair and Vice Chair had been held at the last Parks and Recreation Board meeting; Lori Zuccolin was elected Chair and Phil Boatright was elected Vice Chair. Mr. Thompson also noted that members from the Heritage Preservation Organization were present at their meeting and provided an overview of their assessment of the Town’s museum and collections with a final report being issued later in the year.
- Mayor Vazquez – North Front Range/MPO; Student Advisory Leadership Team
Mayor Vazquez reported the Student Advisory Leadership Team would be coordinating the Beach Party during Spirit Week.

5. Public Invited to be Heard

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

B. CONSENT CALENDAR

1. Minutes of the June 14, 2010 Regular Town Board Meeting – P. Garcia
2. Minutes of the June 28, 2010 Regular Town Board Meeting – P. Garcia
3. Liquor License Renewal – Mountain View Pizza dba Pizza Hut – P. Garcia
4. Liquor License Renewal – Okole Maluna LLC dba Okole Maluna Hawaiian Grill – P. Garcia
5. Liquor License Renewal – King Soopers – P. Garcia
6. Liquor License Renewal – 7-Eleven, Inc. dba 7-Eleven Store #39082 – P. Garcia
7. List of Bills – D. Moyer

**Town Board Member Slater motioned to approve the Consent Calendar as presented; Mayor Pro-Tem O’Neill seconded the motion. Roll call on the vote resulted as follows:
Yeas – O’Neill, Slater, Thompson, Vazquez**

Nayes – None. Motion carried.

C. BOARD ACTION

1. Public Hearing - Regulations amending the Windsor Municipal Code pertaining to commercial activities associated with the use, possession, distribution, and cultivation of medical marijuana and related products within the Town of Windsor, Colorado – I. McCargar
Mayor Pro-Tem O'Neill motioned to open the Public Hearing; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:
Yeas – O'Neill, Slater, Thompson, Vazquez
Nayes – None. Motion carried.

Town Attorney McCargar provided an overview of the regulations and the public process. Mr. McCargar stated the purpose of the public hearing was to discuss and take public comment on the two provisions in the ordinance that affect the Town's zoning code. One is related to designating zoning districts in which certain uses by right had been amended all having to do with medical marijuana facilities; the other is the sign code. Mr. McCargar reviewed the ordinance and noted the licensing requirements which provide for transparency of the application and the process. Once a medical marijuana retail center license is approved, they may request a license for a cultivation facility location through the Town Manager.

Planning Director Plummer provided a diagram of the 1,000 foot buffer related to the allowed zoning. Additionally, 500 foot and 750 foot buffers were shown which are of note to the industrial zones as they are the only zones where cultivation facilities can be located. None of the buffers are being looked at related to the retail locations.

Town Manager Arnold stated that DVD's of the meeting would be provided to the board members who were absent to allow for them to view the full public hearing and the comments provided.

Francine Henderson, inquired as to the taxation of medical marijuana delivery vans, grow operation locations and inspections, transfer of a retail license

Mr. McCargar noted that if there is a business activity they must have a sales tax license although HB 1284 has put tight restrictions on the deliveries. If they are delivering in Windsor, they would have to apply for a sales tax license.

The Chief of Police has the right, under state law, to do inspections of grow operations.

Licensed retail facilities may locate their grow operations outside of Windsor if it is permitted.

Regarding the transfer of a license it would require the applicant to meet all the requirements of a new license. The license held by Mr. Hatton would have to be transferred to another location due to downtown zoning regulations.

Ms. Henderson noted at the time of the April election and the ballot question that was voted on, the public was not aware of grow operations. Mayor Vazquez commented that the community has the option to lead an initiative related to medical marijuana. Ms. Henderson also inquired

about accounting for the marijuana in a business and being sold to which Mr. McCargar noted the quarterly reporting requirements by the Town.

Tina Valenti, 30 Royal Vista Circle, Unit 12, stated her support of the change to the 500 foot buffer. Ms. Valenti requested the Town Board to look at Section 6-3-90 and consider striking the second portion regarding the straight line measurement. Ms. Valenti also stated she had signed petitions stating the citizens of Windsor were not, in their opinion, not of increased risk or harm from the presence of a well maintained cannabis facility.

Mayor Vazquez stated concerns regarding odor if the buffer was smaller and that the Charter Academy is located in the middle of the light industrial zoning district.

The Town Board discussed filtering of odor and concerns regarding hazardous electrical issues and waste water. Town Attorney McCargar stated that the Town has in place building and electric codes to address those types of concerns.

Greg Hatton, 520½ Main Street, thanked the Town Board for the work they put into the regulations and agreed that odor is an issue when growing; particularly when trimming. Carbon filters take care of that problem. Mr. Hatton also requested the Town Board consider dropping the buffer to the 500 feet and to strike the direct line of measurement from the regulations.

Derrick Cummings, 4630 Royal Vista Circle, Unit 12, thanked the Town Board for their work on the subject. Mr. Cummings stated that current industry standards regulate the air quality and that the issue is related to home grow operations. He also noted the means of measurement is the most restrictive and “as the crow flies” is not reasonable.

Mayor Pro-Tem O’Neill inquired as to the buffer change at Sec. 6-3-80(9) from 1,000 feet to 500 feet. Town Attorney McCargar stated there had been enough head nods from the Town Board that he felt it should be included and discussed. Additionally, the distance standards were adopted without any experience and the industry has found that there are very few locations for grow operations under the 1,000 foot buffer. Mr. McCargar also addressed Mr. O’Neill’s question regarding the amount of grow inventory allowed stating they can have 70% on hand inventory.

Jeff McNair, 1225 Founder Drive, addressed the Town Board and noted he has seen cannabis work as a medicine and stated his support of the medical marijuana industry in Windsor.

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

Yeas – O’Neill, Slater, Thompson, Vazquez

Nays – None. Motion carried.

2. An Ordinance for the Purpose of Regulating Commercial Activity Associated with the Use, Possession, Distribution and Cultivation of Medical Marijuana and Related Products within the Town of Windsor, Colorado – First Reading – I. McCargar (Ordinance No. 2010-1377)
Town Board Member Slater motioned to approve Ordinance No. 2010-1377, An Ordinance for the Purpose of Regulating Commercial Activity Associated with the Use, Possession, Distribution and Cultivation of Medical Marijuana and Related Products within the Town of Windsor, Colorado on First Reading; Mayor Pro-Tem O’Neill seconded the motion.

Town Attorney McCargar commented the ordinance was before the Town Board for first reading.

Director of Planning Plummer noted that on July 1, 2010 the Planning Commission recommended approval of caregiver and familial caregiver status in the residential zones; voted to recommend cultivation facilities only be allowed in the limited and heavy industrial zoning districts; and recommended to allow medical marijuana centers in the general commercial districts and limited and heavy industrial zoning districts.

Mayor Vazquez commented on the method of measurement and requested Town Attorney McCargar to contact the absent members to get feedback prior to second reading of the ordinance.

Town Board Member Slater stated his support of the way the measurement portion was written.

Mayor Pro-Tem O'Neill inquired if the distance buffer could be changed between first and second reading to which Mr. McCargar stated that the distance could be changed prior to second reading. Mr. O'Neill provided his support of the way the ordinance read as presented.

Town Board Member Thompson asked if there was additional work session time at which to discuss the ordinance. Mr. McCargar stated the moratorium would expire the end of August but get time scheduled if that was requested by the Board. Mayor Vazquez commented that he felt any amendment could be made during an open meeting.

Roll call on the vote resulted as follows:

Yeas – O'Neill, Slater, Thompson, Vazquez

Nays – None. Motion carried.

3. An Ordinance Amending Chapter Sixteen of the Windsor Municipal Code for the Purpose of Assuring Aesthetic and Functional Standards for the Establishment, Maintenance and Appearance of Charitable Donation Receptacles and Charitable Donation Sites within the Town of Windsor, Colorado – First Reading – I. McCargar (Ordinance No. 2010-1378)

Removed from the agenda.

4. Resolution vacating the emergency access portion of the thirty-foot utility, drainage and emergency access easement on Tracts B and C of the Grasslands Subdivision in the Town of Windsor, Colorado – J. Plummer (Resolution No. 2010-31)

Mayor Pro-Tem O'Neill motioned to approve Resolution No. 2010-31; Town Board Member Slater seconded the motion.

Director of Planning Plummer reported on the resolution noting it is a request by Joseph Schrader, applicant, to vacate the easement and noted that Mike Davis, Windsor/Severance Fire District, has reviewed and does not have any issues with the request. Mr. Plummer noted that staff recommended approval and that Mr. Schrader was present to address the Board if requested.

Roll call on the vote resulted as follows:

Yeas – O'Neill, Slater, Thompson, Vazquez

Nays – None. Motion carried.

Director of Planning Plummer inquired if future vacation resolutions could be placed on the Consent Calendar to which the Town Board agreed.

5. Financial Report – D. Moyer

Director of Finance Moyer gave an overview of the Financial Report and noted that June had been a good month noting sales tax collections were up compared to June 2009. Construction Use Tax was up also with \$378,000 collected through June 2010 compared to \$289,275 through June 2009. 20 certificates had been issued through the Windsor Bucks program with five redeemed so far.

Town Board Member Thompson asked about the number of building permits that had been issued and how that had been projected. Director of Planning Plummer will send to the Town Board the trend analysis report that is prepared on a monthly basis regarding building permits.

6. Presentation and Overview of the July 22, 2010 Grand Opening Ceremony – K. Arnold

Town Manager Arnold provided an overview of the events scheduled for July 22 which will be a culmination of accomplishments since the tornado in May, 2008.

Director of Parks & Recreation Chew also commented on the event and requested Town Board Members act as ambassadors during the event.

D. COMMUNICATIONS

1. Communications from the Town Attorney

Town Attorney McCargar stated he is receiving information regarding Proposition 101 and Amendment 60 and 61 for a broad variety of sources and will be assembly the data for the Town Board to review.

2. Communications from Town Staff

- Police – Police Chief Michaels noted that National Night Out has been advertisted and is looking for additional block captains for the event being held the first weekend in August.
- Engineering – Civil Engineer Roth reported on several street projects in Town.
- Parks & Recreation – Director of Parks & Recreation Chew reported the new tennis courts had opened last Saturday and that Covenant park was being dedicated on Thursday. Additionally, the water carnival was going to be held at the pool during upcoming weekend.

3. Communications from the Town Manager

Town Manager Arnold noted the two community meetings being held Thursday at 4 p.m. and 7 p.m. regarding the economic development assessment.

4. Communications from Town Board Members

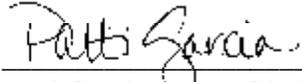
Mayor Vazquez inquired that due to revenues doing better than projected if there would be opportunity to do an overlay on 392. Town Manager Arnold stated he believes there may be some opportunities to match that with other sources and it will be a topic of upcoming discussions.

E. ADJOURN

Mayor Pro-Tem O'Neill motioned to adjourn the meeting; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:

Yeas – O'Neill, Slater, Thompson, Vazquez

Nays – None. Motion carried.



Patti Garcia, Town Clerk