



**TOWN BOARD REGULAR MEETING**  
**August 23, 2010 - 7:00 P.M.**  
**Town Board Chambers – 301 Walnut Street**  
**Windsor, CO 80550**

---

**MINUTES**

**A. CALL TO ORDER**

1. Mayor Pro-Tem O'Neill called the regular meeting of the Windsor Town Board to order on Monday, August 23, 2010 at 7:00 p.m. in the Town Board Chambers.

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

Absent:

Also present:

Town Attorney	Ian McCargar
Town Manager	Kelly Arnold
Director of Engineering	Dennis Wagner
Director of Planning	Joe Plummer
Director of Parks & Recreation	Melissa Chew
Director of Public Works	Terry Walker
Director of Human Resources	Mary Robins
Chief of Police	John Michaels
Town Clerk	Patti Garcia
Chief Planner	Scott Ballstadt
Associate Planner	Elizabeth Fields

2. Pledge of Allegiance  
Town Board Member Slater 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 Slater motioned to approve the Agenda as presented; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:**  
**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**  
**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 reported the Library Board would be meeting on August 31 and that the Planning Commission did not have a meeting last week and the MPO will be meeting September 2. Mr. O'Neill participated in the billboard sub-committee met last week and the MPO rawhide power plant tour last Wednesday.
  - 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 would be meeting tomorrow night and that the Windsor Housing Authority is working on a presentation to the Town Board to be scheduled for a special work session.
  - Town Board Member Thompson – Parks & Recreation Board  
Town Board Member Thompson noted that the Parks & Recreation Board would be meeting two weeks from tomorrow.
  - Mayor Vazquez – North Front Range/MPO; Student Advisory Leadership Team (SALT)  
Nicole Fisher, representing SALT, provided an update and noted the dance held last Friday at the island at Water Valley had been a success. The next scheduled meeting of SALT is scheduled for September 22.
5. Proclamation - 14<sup>th</sup> Annual Yellow Ribbon Youth Suicide Awareness and Prevention Week  
Mayor Pro-Tem O'Neill read the proclamation.  
Linda Emery, Chairman, Yellow Ribbon Greeley Chapter addressed the Town Board and noted the warning signs of suicide.
6. Public Invited to be Heard  
Mayor Pro-Tem O'Neill opened the meeting for items of concern not on the agenda; hearing none, the Mayor Pro-Tem moved on to the next agenda item.

## **B. CONSENT CALENDAR**

1. Minutes of the August 9, 2010 Regular Town Board Meeting – P. Garcia
2. Liquor License Renewal – Mini Mart Inc dba Loaf 'N Jug #848, 3.2 Percent Beer Retail License  
**Town Board Member Slater motioned to approve the Consent Calendar as presented; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:**  
**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

## **C. BOARD ACTION**

1. An Ordinance amending Chapter 16 of the Windsor Municipal Code to Create Consistent Public Hearing and Neighborhood Meeting Notification Requirements – Second Reading – S. Ballstadt (Ordinance No. 2010-1382 )  
(*Super-majority vote required for adoption on second reading*)

**Town Board Member Bishop-Cotner motioned to approve Ordinance No. 2010-1382, An Ordinance amending Chapter 16 of the Windsor Municipal Code to Create Consistent Public Hearing and Neighborhood Meeting Notification Requirements on second reading; Town Board Member Melendez seconded the motion.**

Chief Planner Ballstadt reported on the ordinance and noted modify the public hearing lead time from 15 days to 10 days and provide flexibility for applicants and the development community. It was also noted the ordinance would consolidate the notification requirements into one section of the code.

Mayor Pro-Tem O'Neill opened the meeting to public comment to which there was none.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

2. An Ordinance Amending Chapter 16 of the Windsor Municipal Code to Adopt Requirements Pertaining to the Regulation, Maintenance and Removal of Charitable Drop-Off Locations and Donation Receptacles – Second Reading – E. Fields (Ordinance No. 2010-1383)

*(Super-majority vote required for adoption on second reading)*

**Town Board Member Bishop-Cotner motioned to approve Ordinance No. 2010-1383, An Ordinance Amending Chapter 16 of the Windsor Municipal Code to Adopt Requirements Pertaining to the Regulation, Maintenance and Removal of Charitable Drop-Off Locations and Donation Receptacles on second reading; Town Board Member Slater seconded the motion.**

Associate Planner Fields reported on the ordinance and noted it had been approved at first reading on August 9 and that there had not been any changes to the ordinance since that time.

Mayor Pro-Tem O'Neill opened the meeting to public comment to which there was none.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

3. An Ordinance Imposing a Moratorium on the Acceptance and Processing of Applications for the Issuance of Licenses Pursuant to Town of Windsor Ordinance No. 2010-1377, Providing for Enforcement of Non-Licensing Provisions, and Finding that Cause Exists for the Passage of an Emergency Ordinance Pursuant to Section 4.11 of the Windsor Home Rule Charter – I. McCargar (Ordinance No. 2010-1384)

**Town Board Member Bishop-Cotner motioned to approve Ordinance no. 2010-1384, An Ordinance Imposing a Moratorium on the Acceptance and Processing of Applications for the Issuance of Licenses Pursuant to Town of Windsor Ordinance No. 2010-1377, Providing for Enforcement of Non-Licensing Provisions, and Finding that Cause Exists for the Passage of an Emergency Ordinance Pursuant to Section 4.11 of the Windsor Home Rule Charter, Town Board Member Slater seconded the motion.**

Town Attorney McCargar stated the moratorium was necessary to avoid a potential legal conflict between the licensing provisions of Ordinance No. 2010-1377 and the citizen initiated ordinance that will be placed on the November ballot which could

potentially ban the dispensaries. The ordinance will suspend the licensing to allow locally approved businesses to continue operation. Depending on the outcome of the November election, staff will either proceed with implementing the licensing process or move forward with the ban.

Mayor Pro-Tem O'Neill opened the meeting to public comment to which there was none.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**

**Nays – None. Motion carried.**

4. Public Hearing – Amendments to Chapter 16 of the Windsor Municipal Code regarding sign code amendments to allow larger signage for large scale commercial and industrial tenants - E. Fields  
**Town Board Member Bishop-Cotner motioned to open the Public Hearing; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:**  
**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

Associate Planner Fields reported the amendments had been discussed at a Town Board work session on May 24, 2010. The amendments were needed as large scale tenants found difficulty in adhering to the Town's sign code. The code change had been brought forward to the development community to which there were not any comments received regarding the amendments. There had been no significant changes to the ordinance since the May 24 work session.

Mayor Pro-Tem O'Neill opened the meeting to public comment to which there was none.

**Town Board Member Slater motioned to close the Public Hearing; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**

**Nays – None. Motion carried.**

5. An Ordinance Amending Chapter 16 of the Windsor Municipal Code to Allow Larger Signage for Large Scale Commercial and Industrial Tenants - First Reading - E. Fields (Ordinance No. 2010-1385)  
**Town Board Member Slater motioned to approve Ordinance No. 2010-1385, An Ordinance Amending Chapter 16 of the Windsor Municipal Code to Allow Larger Signage for Large Scale Commercial and Industrial Tenants on first reading; Town Board Member Bishop-Cotner seconded the motion.**

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**

**Nays – None. Motion carried.**

6. Public Hearing – Amendments to Chapter 16 of the Windsor Municipal Code regarding sign code amendments to subdivision-wide real estate promotional signage - E. Fields  
**Town Board Member Bishop-Cotner motioned to open the Public Hearing; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:**  
**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

Associate Planner Fields reported the amendments were discussed at the May 24 Town Board work session. After public outreach, one email was received and staff is working with the planning commission to address those comments.

Mayor Pro-Tem O'Neill opened the meeting to public comment to which there was none.

Town Board Member Thompson inquired as to the email received to which Ms. Fields noted the comments were not related to the ordinance but were related to other promotional signage that was not included in the ordinance

**Town Board Member Slater motioned to close the Public Hearing; Town Board Member Bishop-Cotner seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**

**Nays – None. Motion carried.**

7. An Ordinance Amending Chapter 16 of the Windsor Municipal Code Regarding Sign Code Amendments to Subdivision-Wide Real Estate Promotional Signage – First Reading – E. Fields (Ordinance No. 2010-1386)

**Town Board Member Slater motioned to approve Ordinance No. 2010-1386, An Ordinance Amending Chapter 16 of the Windsor Municipal Code Regarding Sign Code Amendments to Subdivision-Wide Real Estate Promotional Signage on first reading; Town Board Member Melendez seconded the motion.**

**Associated Planner Fields noted the Planning Commission voted to recommend approval of the ordinance at their August 5 meeting. Staff concurs with the recommendation.**

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**

**Nays – None. Motion carried.**

8. A Resolution Submitting a Proposed Ordinance for the Consideration by the Registered Electors of the Town of Windsor; Directing the Town Clerk to Assure the Inclusion of the Proposed Ordinance, Submission Clause and Ballot Title in the Official Ballot for the November 2, 2010 General Election; Fixing the Ballot Title and Submission Clause with Respect to an Excise Tax of Three (3) Percent on the Lodging Tax Paid for Specified Lodging Services Provided within the Town of Windsor; Establishing an Advisory Board for the Purpose of Making Recommendations for the Disposition of Revenue Derived Therefrom – I. McCargar (Resolution No. 2010-39)  
**Town Board Member Slater motioned to approve Resolution No. 2010-39; Town Board Member Bishop-Cotner seconded the motion.**

Town Attorney McCargar reported on the resolution and noted it was the Town Charter based way to refer an ordinance to the voters. The question is regarding a new excise tax on lodging services with a specific determination of funds. Mr. McCargar advised that approving the resolution is not taking a position on the tax, it is simply referring the question to the voters.

Town Manager Arnold noted the meetings that had taken place over the past few months which brought the resolution before the Town Board. Items of discussion during the meetings included the regional status of Windsor and the fact that most of the surrounding municipalities already

have implemented a similar tax. Mr. Arnold stated this was the last meeting to approve the resolution so the question could be included on the November ballot.

Mayor Pro-Tem O'Neill inquired if the Chamber of Commerce had been able to contact the bed & breakfast establishment in Windsor to advise them of the upcoming ballot question.

Martin Lind, representing the Windsor Chamber of Commerce, addressed the Town Board and reported they had made contact with the bed & breakfast and noted they were not supportive of the tax.

Tom Schmittling, Porter House Bed & Breakfast, stated he had no idea of the tax until he read about it in the newspaper and was frustrated that he hadn't been informed earlier. He had spoken to the managers of the Super 8 and the AmericInn who had been approached by the Chamber many months ago regarding the issue. Mr. Schmittling noted he felt that the money should be coming from chamber memberships and not from a tax on lodging. He has had to lay off staff and pick up those duties due to the poor economy and does not want to have to charge more for rooms due to tax implications.

Min Song, Super 8, also stated her concern with the difficult economic climate and does not want to have to implement an additional tax for guests. She stated people come to Windsor because it is cheaper and does not feel the timing is right for a new tax.

Martin Lind noted the Chamber is a volunteer organization. The communication that had gone out has been the source of the tax and use of the tax would be an advocate to bring people into Windsor. The Chamber wants to be able to compete with the surrounding communities and to be able to bring tourism to Windsor. The tax would be used to help enhance the local hospitality industry.

Town Board Member Melendez and Town Attorney McCargar clarified on how the funds would be collected and disbursed by the Town of Windsor. The Chamber Advisory Board would make recommendations on how to spend the funds, but the Town Board would be making the decisions.

Town Board Member Melendez stated she works in the industry and that this is an opportunity for growth.

It was noted by Town Attorney McCargar that the resolution was just placing the item on the ballot for people to vote on.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**

**Nays – None. Motion carried.**

9. A Resolution approving an Agreement by and between the State of Colorado, for the Use and Benefit of the Colorado Department of Transportation, and the Town of Windsor, Colorado and Authorizing the Expenditure by the Town of Matching Funds as Set Forth in that Agreement for Replacement of a Bridge on 15th Street at the Greeley No. 2 Canal – D. Wagner (Resolution No. 2010-40)

**Town Board Member Slater motioned to approve Resolution No. 2010-40; Town Board Member Bishop-Cotner seconded the motion.**

Director of Engineering Wagner reported on the resolution and noted it was to approve an Intergovernmental Agreement between the State of Colorado and the Town of Windsor to replace the bridge on 15<sup>th</sup> Street across the Greeley No. 2 canal. The estimated cost for the replacement is \$430,000.

Town Manager Arnold commented that federal funds had been applied for a year ago and that \$210,000 had been awarded. The Town would pay the balance of \$220,000 which was included in the 2010 budget. Mr. Arnold noted a second bridge project that has been put forward for the next round of federal monies which is located on Weld County Road 21, north of SH392 and also on the Greeley No. 2 canal.

Mayor Pro-Tem O'Neill inquired if the bridge would stay a two-lane bridge as it is currently. Mr. Wagner replied the bridge was being completely replaced and would continue to be a two-lane bridge with sidewalks on both sides. Mr. O'Neill noted on 15<sup>th</sup> Street that there are four lanes of traffic south of the bridge and there will eventually be four lanes going north. Mr. Wagner stated that 15<sup>th</sup> Street is designed to go to two lanes in that area and expand with a turn lane.

Town Manager Arnold noted the bridge repair was scheduled to be done as part of development agreement with the property north and adjacent to the bridge. There was a "trigger" in the development agreement that once a certain number of multi-family residential in the neighborhood that the bridge would be replaced and repaired. Since that was taking longer than anticipated and to alleviate Public Works from having to continually make repairs, it was determined to move forward with replacing the bridge as noted in the resolution. When the "trigger" does occur, the Town will seek some reimbursement from the developer for the bridge replacement.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O'Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

10. A Resolution of Support for the Town's Efforts at Seeking a Grant from the Colorado Department of Local Affairs Energy for the Purpose of Building a Concrete Water Storage Tank – T. Walker (Resolution No. 2010-41)  
**Town Board Member Bishop-Cotner motioned to approve Resolution No. 2010-41; Town Board Member Slater seconded the motion.**

Director of Public Works Walker reported on the resolution which identified the prospective building of a three million gallon water storage tank which will help meet the future peak demands of water use in Windsor along with providing treated water for fire fighting through increased fire pressure. The design/build cost for the water treatment plant is included in the 2011 budget. A grant has been applied for to build the facility.

Town Manager Arnold reviewed the grant process and status of available funds noting it had been reported that funds for the grant program applied for would be delayed for another year. When the program becomes re-established, the grant will be in the cue. The balance of the project will be budgeted in the event the funds do become available. Mr. Arnold stated if the grant program does not come back online next year the Town Board would need to discuss fully funding the project.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

11. A Resolution Adopting and Approving Guidelines and Recommendations for Public Art in Windsor – M. Chew (Resolution No. 2010-42)

**Town Board Member Melendez motioned to approve Resolution No. 2010-42; Town Board Member Bishop-Cotner seconded the motion.**

Director of Parks and Recreation Chew noted the document had been looked at in June and a draft of the resolution was reviewed in August. Ms. Chew stated there had not been any changes to what had been previously presented. The Public Art Plan does not address any funding at this time, but the Town Board could address that in the future.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

12. Community Recreation Center Fee Reimbursement Request Adjustment – M. Chew

Director of Parks and Recreation Chew reported on the additional request through Bethel Christian Church for the Wadsworth Family Benefit. Due to additional components added for the event, the total reimbursement requested is \$832; this is including the original \$480 that had already been approved.

**Town Board Member Slater motioned to approve the reimbursement request not to exceed \$832; Town Board Member Bishop-Cotner seconded the motion.**

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Slater, Thompson**  
**Nays – None. Motion carried.**

13. A Resolution Approving the Second Amendment to the Great Western Fourth Filing Subdivision Development Agreement and Authorizing the Mayor to Execute the Same – I. McCargar (Resolution No. 2010-43)

**Town Board Bishop-Cotner motioned to approve Resolution No. 2010-43; Town Board Member Melendez seconded the motion.**

Town Attorney McCargar presented the resolution noting the amendment to the development agreement was before the Town Board for official action. Pursuant to the presentation the previous meeting by Broe, Mr. McCargar was directed to come up with a win/win situation for the Town and Broe. Mr. McCargar provided the criteria that needed to be established:

- The road improvements for Great Western Drive needed to be completed by a date certain and in a reasonable amount of time; and reasonable to him was up to 15 months, similar to the prior amendment;
- The entire amendment was dependent upon the National Guard Readiness Center closing by a date certain; and
- That there would be severe and definite consequences if the road was not completed by the designated date.

Town Board Member Carrigan asked if the National Guard would not come if there was not consensus on the agreement to which Mr. McCargar stated he had not heard that but there were other available locations in Windsor for the Guard to locate to.

John Lyda, representing Broe Acquisitions, addressed the Town Board regarding agreement and stated the amendment is tough with significant remedies. Mr. Lyda reported they would like to accept the agreement and move forward. Mr. Lyda was in possession of a letter from Front Range Energy (FRE) stating they did not have any objections to the amendment.

Mayor Pro-Tem O'Neill asked what was considered prompt related to maintenance in response to town and industrial user request (Item 6 of the amendment). Mr. Lyda stated that once a problem was identified it would be addressed.

Town Board Member Thompson wanted to know the comfort level of having the National Guard close by January 1, 2011. Mr. Lyda stated he was very optimistic.

Town Board Member Carrigan inquired if the deal with the National Guard isn't closed by January 1, 2011 and the agreement is nullified what the consequences were. Mr. McCargar stated we would fall back to the original agreement, which would be in default.

Mayor Pro-Tem O'Neill opened the meeting for public comment.

Richard Drake, Windsor resident, stated he was on the Town Board when the original agreement had been signed. Mr. Drake was concerned regarding reports that the initial meeting between the Town and Great Western had been adversarial. Mr. Drake asked about the south part of the property and whether it was FRE's property or part of Broe's. Town Attorney McCargar stated it was to the south edge of FRE. Mr. Drake stated he appreciates the tax revenue that comes in from the industrial part in Windsor.

Larry Burkhardt, Upstate Colorado, addressed the Town Board and congratulated them on securing the commitment of the National Guard in Windsor which will bring 120 part time and five fulltime jobs to the site.

Town Board Member Bishop-Cotner stated that the improvements need to be completed on time because his patience is dwindling. He is in favor of the amendment but noted it would be dishonorable to come back for an additional extension.

Mayor Vazquez had relayed by email concerns regarding the road related to FRE to which Town Manager Arnold read the letter from FRE that noted they did not object to the amendment.

Town Board Member Slater stated he was part of the meeting when the 15-month extension was provided and is convinced that they will be back again.

Town Board Member Thompson thanked both parties for getting together and working on an agreement.

Town Board Member Melendez stated the amendment appeared to be a fair compromise but does not want to see the same issue in a year's time.

Mayor Pro-Tem O'Neill stated in he must think in the best interest of the town and noted if it comes back again there will not be another amendment.

**Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, O'Neill, Melendez, Thompson**

**Nayes – Carrigan, Slater. Motion carried.**

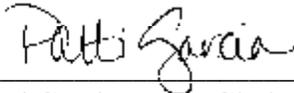
**D. COMMUNICATIONS**

1. Communications from the Town Attorney  
Town Attorney McCargar stated that Mr. Pino is making payments related to his municipal court fines. Mr. McCargar is also in negotiations with the school and library districts for the book mobile to use the fuel station at the Town.
3. Communications from Town Staff  
None.
4. Communications from the Town Manager  
Town Manager Arnold reminded the Town Board of the Town employee picnic on Friday and discussed the upcoming Harvest Festival booth and parade.
5. Communications from Town Board Members  
Town Board Member Thompson noted an email he had received regarding engine brakes on 257. The Town Board discussed the issue which is also relative to CR13. Town staff will have “no jake brake” signs installed. Town Board Member Carrigan said there are the same issues on Crossroads Parkway.

**E. ADJOURN**

**Town Board Member Bishop-Cotner motioned to adjourn the meeting; Town Board Member Slater seconded the motion. Roll call on the vote resulted as follows:**

**Yeas – Bishop-Cotner, Carrigan, O’Neill, Melendez, Slater, Thompson  
Nayes – None. Motion carried.**



---

Patti Garcia, Town Clerk