



TOWN BOARD REGULAR MEETING

December 14, 2020 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550 ZOOM:
<https://windsorgov.zoom.us/j/96143876581> OR join by telephone at (888)
788-0099 or (877) 853-5247 - Webinar ID:961 4387 6581

MINUTES

A. CALL TO ORDER

Mayor Rennemeyer called the meeting to order at 7:05 p.m.

1. Roll call

Mayor Paul Rennemeyer
Mayor Pro Tem Ken Bennett
Scott Charpentier
Barry Wilson
Julie Cline
Victor Tallon
David Sislowski

Also Present:

Shane Hale, Town Manager
Ian McCargar, Town Attorney
Jessica Humphries, Admin Services Director
Omar Herrera, Engineering Manager
Kim Emil, Assistant Town Attorney
Dean Moyer, Finance Director
Eric Lucas, Public Services Director
Rick Klimek, Police Chief
Scott Ballstadt, Director of Planning
Paul Hornbeck, Senior Planner
Carlin Malone, Chief Planner
Paul Schwindler, Deputy Director of Public Works
John Thornhill, Community Development Director
Stacy Miller, Economic Development Director
McKenzie Payne, Visual Media Coordinator
Karen Frawley, Town Clerk

2. Pledge of Allegiance

Mayor Rennemeyer asked that all rise for the pledge of allegiance.

3. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration

Town Board Member Tallon moved to approve the agenda as presented, Town Board Member Sislowski seconded the motion.

Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

4. Outside Agency Report

- Larimer County Community Report - Tom Donnelly, Larimer County Commissioner

Larimer County Commissioner John Kefalas presented the 2019-20 Community Report, which is an annual report to highlight the varying services the County provides as well as the achievements of the County.

Board Liaison Reports

- Town Board Member Charpentier - Chamber of Commerce, Clearview Library Board

Town Board Member Charpentier reported that the Clearview Library Board has not met since the last update.

Town Board Member Charpentier reported that the Chamber continues to hold open houses and ribbon cuttings. There are currently two-hundred twenty-five businesses that are members of the Chamber. The Chamber did add an additional five board members which brings the total number of board members to twelve.

- Town Board Member Wilson - Planning Commission, Larimer County Behavioral Health Policy Council

Town Board Member Wilson reported that there is no new update on the Planning Commission since the last Board meeting.

Town Board Member Wilson reported that Larimer County Behavioral Health Policy Council distributed around \$2.4 million this year in grant money. The group is putting together a dashboard that will be available by the end of the first quarter that will manage different statistics and show how the community is doing with managing behavioral health. After showing some preliminary numbers, there was an increase which is believed to be driven from Covid. The groundbreaking for the new facility will take place on December 16th.

- Mayor Pro Tem Bennett – Water and Sewer Board, 34, and I-25 Coalition's

Mayor Pro Tem Bennett reported that the Water and Sewer Board will meet on Wednesday morning.

Mayor Pro Tem Bennett reported that the 34 Coalition met on December 3rd right before the MPO meeting. CDOT is updating their

five year crash data on the 34 Corridor which will be used to prioritize upcoming projects. It was brought up that updating it every five years is not sufficient enough and CDOT is wanting to start updating that every two years because of the sense of growth in Northern Colorado. The intersection at Weld County Road 17 and 34 has a lot of crashes and is a safety issue. CDOT is looking at a number of options for improving that intersection and is hoping to get a twenty-percent design by the end of 2021, however, there is no money available for that project so CDOT might look at some sort of interim improvements to that intersection. CDOT is moving toward a final design at the intersections of 35th Avenue and 47th Avenue and Hwy 34 in Greeley and will be holding public open houses. The question was brought up as to why these intersections are moving forward ahead of the intersection at 85th and Hwy 34 when it has a higher priority. When looking at crash data, 35th Avenue and 47th Avenue ranked much higher than the inconvenience people have at the other. The City of Greeley issued a sales tax and are putting up half of the cost for the design. Due to priority flexibility, when local governments can put up some money, projects can move higher on the list. The MPO has a number of new members, so the 34 Coalition is going to be requesting time for the MPO to review the entire 34 Corridor and the issues and plans that are out there.

- Town Board Member Cline – Tree Board, Poudre River Trail Corridor Authority, Historic Preservation Commission

Town Board Member Cline reported that the Historic Preservation Commission will not meet until next year.

Town Board Member Cline reported that the Tree Board discussed the theme for next year's Arbor Day.

Town Board Member Cline reported that the Poudre River Trail Corridor Authority had a presentation from Greeley from the Get Outdoors Greeley and presented a five year strategic plan for their trail access and allowing for people to access a trail within ten minutes from their homes. The Authority participated on the Colorado gives day last week and initial numbers show they received at least \$5,000 from the donations. the Authority also has someone who wants to donate to the trail a golf cart but due to a golf cart being too large for the trail will ask for something else like a pedicab. The Authority is looking at ways to memorialize people who have served on the authority.

- Town Board Member Tallon - Parks, Recreation and Culture Advisory Board, Great Western Trail Authority

Town Board Member Tallon reported that neither board will meet this month and will have an update at a future meeting.

- Town Board Member Sislowski - Windsor Housing Authority, Windsor Severance Fire District

Town Board Member Sislowski reported that the Windsor Housing Authority will meet tomorrow night and will provide an update at the next Board Meeting.

Town Board Member Sislowski reported that the Fire District met on December 10th where they approved the November financials and are still a little behind on revenues due from oil companies that are currently in bankruptcy. They have been able to keep their expenses below budget other than some staffing costs largely due to the holiday as well as the wildfire. The Fire District also held a public hearing on their 2021 budget after some discussion, it was approved. There was a discussion on the design of station 4 and financing for the new station. The next meeting on December 17th will have more detail on financing for the new station. Chief Kazian announced he had been selected to serve as President of the North Front Range Fire Consortium.

- Mayor Rennemeyer - Downtown Development Authority, North Front Range MPO

Mayor Rennemeyer reported that there is no update on the Downtown Development Authority at this time.

Mayor Rennemeyer reported that the North Front Range MPO held its meeting on December 3rd. There was an executive session to discuss the contract for Suzette Mallette the Executive Director of the North Front Range MPO where it was decided to renew the contract for another year, however Suzanne is retiring in April and will have to select a new director which the process will begin after the first of the year. The positions for the board for the MPO were selected and Severance's Mayor has been selected and voted in as the new chair for a one-year term.

6. Public Invited to be Heard

Mayor Rennemeyer opened the meeting up for public comment, to which there was none.

B. CONSENT CALENDAR

1. Minutes of the November 9, 2020 Regular Board Meeting - K. Frawley
2. Minutes of the November 16, 2020 Special Board Meeting - K. Frawley
3. Minutes of the November 23, 2020 Regular Board Meeting - K. Frawley

4. Resolution No. 2020-94 - A Resolution Reappointing Kimberly A. Emil As Windsor Town Prosecutor Pursuant To The Town Of Windsor Home Rule Charter - I. McCargar, Town Attorney

The Home Rule Charter specifically provides for Town Board appointment of the Town Prosecutor. Kimberly Emil has served this function with distinction since her initial appointment in 2004. Ms. Emil was last appointed Town Prosecutor on December 9, 2019, for a one-year period. Her re-appointment will assure that she may continue to serve the Town as its legal representative in the Municipal Court.

5. Resolution No 2020-95 - A Resolution Approving and Adopting an Amendment to an Intergovernmental Agreement between the Town of Windsor and the Colorado Department of Transportation with respect to funding for improvements to the intersection of State Highway 257 and Eastman Park Drive - O. Herrera, Engineering Manager

In the later part of 2018, staff negotiated an intergovernmental agreement (IGA) with the Colorado Department of Transportation (CDOT) for the construction of public improvements at the intersection of State Highway 257 (SH 257) and Eastman Park Drive. The original 2018 IGA allowed for a reimbursement up to \$1,000,000 of federal-aided funds to the Town of Windsor to assist in completing the project. The Town hired a consultant to begin design work in 2019. Due to the complex nature of navigating the requirements that come with a federally aided project, the design work continued into 2020.

In 2020, CDOT informed staff that they planned on resurfacing SH 257 in the coming years near the vicinity of the SH 257 and Eastman Park Drive intersection improvements. In an effort to consolidate resources, CDOT approached Town staff about the idea of incorporating a portion of CDOT's SH 257 resurfacing project into the Town's intersection project. The Town originally planned on repaving the intersection with asphalt. However, CDOT preferred to resurface the intersection with concrete paving.

This discovery led to Amendment #1 of the IGA, which accounts for \$1,270,842 of additional State Funds. These additional State funds will help pay for the conversion of materials going from asphalt to concrete paving, the Town's redesign efforts and signal upgrades at the intersection.

6. Report of Bills November 2020

Mayor Rennemeyer asked about one of the items in the report of bills was for a payment to Chase Bank for interest due on a commercial loan for over a million dollars and asked for an explanation of what it was. Mr. Moyer stated that a few years ago, the Town refinanced the outstanding balance on the remaining bonds for the Rec Center and instead of issuing individual bonds, took out a loan and twice a year must make a

payment on the loan. It was not only for interest but also paying on principal.

Town Board Member Tallon moved to approve the consent calendar as presented, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

C. BOARD ACTION

1. Resolution No. 2020-98 - A Resolution Re-Appointing The Presiding Judge And Associate Judge For The Town Of Windsor, And Confirming The Term Of Office For Each

Windsor Municipal Code (WMC) Section 2-4-10 sets the term of office for the Municipal Court Judge and any Associate Judges. The term is two (2) calendar years, which appointments shall be made by resolution of the Town Board. Teresa Ablao and Michelle Kline have been serving as our Municipal Judges for the past two (2) years. Charter Section 9.2.B requires a two-thirds majority vote for appointment of judicial officers. This appointment will take effect on January 1, 2021.

Judge Ablao and Judge Kline will be present to introduce themselves and answer any questions during consideration of this item.

Per Mr. McCargar, the code allows for two-year terms which is why this resolution seeking their reappointment is before the Board.

Teresa Ablao introduced herself to the board and provided her background as well as changes to the Municipal Court schedule moving from three nights a month to one day a month. Town Board Member Sislowski asked if there would still be some evening hours available for those would not be able to attend a day court. Ms. Ablao stated that at this point, there is not the option but would consider adding a time if needed or requested. Ms. Ablao also stated that depending on how long the pandemic continues, staff is looking at implementing virtual court.

Michelle Kline introduced herself to the board and provided her background.

Mayor Rennemeyer expressed the boards gratitude and stated that he was on the Town Board as well as Mayor Pro Tem Bennett when the appointment was made and has been a pleasure having them serve the Town. Mayor Rennemeyer stated that he is in favor of re-appointing the Judges for another two-year term.

Town Board Member Sislowski moved to approve Resolution No. 2020-98, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

2. Public Hearing Regarding Ordinance No. 2020-1620 Creating the Windsor Land Use Code, By Repealing, Amending, Creating, Adopting And Re-Adopting Chapters 14, 15, 16 And 17 Of The Windsor Municipal Code

Introduction

The Land Use Code (Code), currently Chapters 15-17 of the Municipal Code, regulates land use and development and includes regulations on zoning, subdivision, annexation, impact fees, signs, etc. Following completion of the Town's Comprehensive Plan in 2016, the Town hired a consultant to update the Code in order to better implement the Comprehensive Plan and to more appropriately reflect contemporary development practices through greater flexibility in land development. In 2018 it was determined the direction of the consultant was not consistent with the Town's vision and that staff would work to complete the update.

No substantive changes have been made from the most recent draft shared with Town Board at the work session on October 8, 2020, except for one recommendation from Planning Commission that will be discussed in detail later. In order to integrate amendments into the existing code and to reorganize existing code into a more logical order, the ordinance repeals and replaces chapters 15-17, however much of the content of those chapters is being retained and simply being renumbered. The table of contents provided in exhibit A illustrates which sections are new code language and which sections are simply being renumbered. Note that updates to some of retained sections are planned in the near future, such as the sign code.

Stakeholder Outreach

Staff has solicited and received input from members of the development community and worked to incorporate their input as well as input from Planning Commission and Town Board throughout numerous drafts of these Code amendments. Specific stakeholder outreach is summarized below:

- The Comprehensive Plan is the guiding document for these updates and featured extensive community outreach.
- The Town's consultant conducted interviews with stakeholders early in the process to receive feedback on needed code amendments.
- Early drafts of the code were sent to a group of developers/consultants that work most frequently in Windsor. Drafts were accompanied by memos outlining proposed changes. Later drafts of the code were sent to the full list of all developers/consultants that have worked in Windsor, again with summary memos.

- All developers/consultants were invited to a webinar presentation of proposed updates and Q&A held July 30, 2020.
- Input has been received by four consultants. Two consultants in particular have provided extensive input and numerous working meetings have been held with them to work through ideas, suggestions, concerns, etc. Input can be summarized as generally supportive of changes and numerous positive changes have resulted from their input. One area where two consultants wanted us to go further is in allowing smaller residential lot sizes than what is proposed. Minimum single-family lot size in the current code is 6,000 square feet. As covered later, lot sizes of 2,500 square feet – 4,000 square feet are proposed in certain zone districts. Based on feedback from Planning Commission and Town Board, staff did not sense a desire for smaller minimum lot sizes than what is proposed.
- A Work Session was held with Planning Commission on May 20, 2020 to get their input. Town Board specifically asked for input on changes proposed to procedures and review bodies. The Commission was supportive of what's proposed.

Comprehensive Plan Implementation

One of the primary goals of updates to the Code is to better implement the Comprehensive Plan. The table below summarizes how different goals and objectives of the Comprehensive

Chapter 14 - Administration & Procedures

Chapter 14 of the Municipal Code is currently unused and is proposed to house Administration and Procedures of the Land Use Code. Criteria on administration and procedures are currently located throughout the Code and consolidating into one location should aid in ease of use. Proposed updates are focused on adding clarity, ensuring due process, and streamlining processes where appropriate. Exhibit D provides a comparison of current and proposed review bodies, neighborhood meeting requirements, public hearing requirements, etc.

Public Hearing Requirements

Public hearings are required for certain land use applications for the purpose of providing due process and receiving public comment and testimony. To inform interested members of the community, public hearings before Planning Commission, Town Board, and Board of Adjustment/Appeals all require public notification in the form of newspaper ads, sign(s) posted on the property, and for most projects,

a mailed notice to property owners within a certain radius. Updates to public hearing requirements are summarized below:

- Add public hearings and associated notification to Master Plans to better engage the community early in the process;
- Add public hearings and associated notification to Preliminary Subdivision Plats to engage interested residents earlier in the process;
- Add requirement for public notification for variances to property owners within 150' to ensure their input is received (no mailed notification currently required);
- Add requirement for public notification for right-of-way and easement vacations to abutting properties (no notification currently required); and
- Increase radius of mailed notification to 500' for all projects other than the two listed above.

Review Body

Commercial and industrial site plans are currently reviewed administratively by staff. The draft code makes the review of multi-family site plans administrative. This change will allow for greater consistency between project types and help streamline the review process. Additionally, having site plans reviewed administratively avoids meetings where neighbors are seeking the denial of a project that is a use-by-right. The public, Planning Commission, and Town Board would still be involved, just at an earlier point in the lifecycle of a project, with annexation, master planning, and zoning all requiring public hearings.

Review criteria

The draft code provides review criteria specific to each type of land use application, something the current code does not include except for a limited number of application types such as a Conditional Use Grant. These criteria should help provide clarity to applicants, staff, Planning Commission and Town Board.

Substantial Change

A new section has been added that would prohibit the resubmittal of a previously denied project for a period of one year unless there is a substantial change to the project or circumstances surrounding the project. A public hearing would be held by Town Board to determine if there has been substantial change.

Lapse of Approval

Proposed changes regarding lapses of approvals are intended to ensure projects are not left partially completed (e.g. missing documents) or that site specific approvals are acted upon within one year (similar to current

site plan commencement deadlines). For example, if a subdivision plat has been approved but is not recorded in a timely manner, this may cause unnecessary delays for surrounding developments that rely on connecting roads, easements, etc. The draft code allows the decision maker on a project to approve extensions if good cause is shown.

Chapter 15 – Development standards

Chapter 15 consists mostly of existing standards that are being reorganized for make them easier to find and use. The one substantive change is the introduction of vehicular access standards that dictate how a building or site is accessed (parking lot, alley, front driveway, etc.), including more innovative solutions seen in newer development across the Front Range, such as the auto court in Section 15-5-10(a).

Chapter 16 - Zoning

The modifications proposed to zone districts are largely focused on creating more options and flexibility in development. The draft code creates a menu of options, rather than a single standard for all situations.

- Creates RMU-2 Zone – allows for smaller lot sizes when additional open space and enhanced design features such as detached sidewalks, recessed garages, etc., are provided. Note earlier drafts required a minimum amount of commercial development and a minimum diversity of housing types (e.g. single-family, townhomes, apartments, etc.). Those requirements were removed after further consideration and stakeholder input; however, the commercial requirement has been reinstated based on Planning Commission’s recommendation
- Overhauls SF-2 Zone – similar to RMU-2, but at a lower intensity and no commercial allowed
- Combines Low Density (E-1) and High Density (E-2) Estate Residential zone districts into a single Estate Residential (ER) zone district (septic still prohibited)
- Combines Multifamily (MF-1) and High Density Multifamily (MF-2) into a single Multifamily (MF) zone district.
- New Agriculture Holding zone district – allows agricultural use to continue on annexed properties until development occurs
- Residential rear setbacks – increased from 5’ to 10’ to allow greater buffer between neighboring homes and/or new home additions

- Increased maximum building height from 35' to 40' in residential districts to allow for unique features, custom homes, etc. that are often limited by 35' height.
- Exceptions to height and setback standards more clearly defined (e.g. patios, chimneys, etc.)
- Planned Unit Development – Updated standards for PUD zoning overlays to provide clear criteria for review.
- Removed automobile sales/service from Central Business zone district to be consistent with the vision for downtown as a more pedestrian and retail-oriented environment (note: there are no longer automobile uses in CB with the recent re- use of Dutch Bros coffee (previously auto sales) and the relocation of Pike's Auto outside of the CB zone district)

Chapter 17 – Subdivision

The focus of updates to the Subdivision chapter are largely focused on the themes of open space, parks, and trails and connectivity of roads and pedestrian routes.

Connectivity

The Comprehensive Plan encourages a more connected network of both roads and pedestrian routes; however, the current code does not contain standards to implement this vision. The proposed standards address this by implementing maximum block lengths, limiting of dead-end or cul-de-sac streets, and requiring greater connectivity to adjacent properties.

Exceptions to the above standards can be approved on the basis of unique physical conditions such as topography, existing buildings or development, conflicts with existing streets, to avoid inefficient street layout or inefficient use of land, or when necessary for unique land uses.

Open Space

Open space conservation is a theme throughout the Comprehensive Plan, but the current code does not generally require open space with development. The draft code addresses this by requiring 15-20% open space be set aside with most residential subdivisions. These open spaces would be owned and maintained by an HOA or metro district and would include greenbelts with trails.

Pocket Parks

Pocket parks are small parks, typically around ½ acre in size, that are proposed in the draft code as a way to ensure homes in new developments are located within walking distance of recreational amenities. Pocket parks would be owned and maintained by an HOA

or metro district. In 2018 the Town decided to shift away from neighborhood parks (3-6 acres in size) with a focus on buildout of community parks (30 acres in size). With the shift away from neighborhood parks, small developer-built pocket parks are a way to continue to provide park access in close proximity to residents and encourage walkability within new neighborhoods. The changes to Chapter 16 of the Municipal Code that allow higher intensity development with smaller lot sizes will result in smaller front and rear yards. Pocket parks can ensure these more intense developments still provide usable green space within close proximity for residents to enjoy.

Neighborhood Trails

Town Trails are trails built in accordance with the Town's Trails Master Plan/ Transportation Master Plan and are maintained by the Town. There is currently no code requirement that new development provide connectivity to these Town Trails nor is there any requirement that trail connectivity be provided to parks, schools, or shopping areas. This update proposes requiring a new type of trails, called Neighborhood Trails, which would help ensure trail connections are provided to those locations within neighborhoods.

Neighborhood Trails were added in response to Town Board input and community desire for greater connectivity and has been refined from earlier code drafts. The refined language ensures corridors to/from parks, schools, and shopping areas are provided or preserved, and especially so in the case of connections to parks and schools in adjacent neighborhoods when the subject neighborhood does not have those facilities.

Public Improvement Security

The code currently requires a project applicant to provide security equal to 25% of the cost of all public improvements needed to serve a development (roads, utilities, etc.). The intent of this requirement is to ensure that necessary infrastructure is completed, installed in accordance with Town standards, and not left incomplete such that the Town would have to complete work if an applicant walks away due to financial difficulties or other circumstances. The 25% security is problematic because it does not provide enough of a financial guarantee should the Town have to complete a project. The draft code proposes to increase the security amount to 100% to ensure any incomplete work does not become a burden on the Town's finances.

Board Member Cline moved to open the public hearing, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

Per Mr. Hornbeck, this item was previously shared with the Board at the October 8th Work Session and since that time, there has been one substantial change. At the November 18th Planning Commission meeting, the commission recommended adoption of the ordinance subject to staff updating section 16-1-80(e) to require commercial development be a component in the RMU-2 zone district. Staff has made the update accordingly to require a minimum of five acres of commercial development for RMU-2 developments under two-hundred acres in size and ten acres of commercial development for RMU-2 developments over two-hundred acres in size. The Planning Commission believed the commercial development should be a tradeoff for smaller lot sizes to serve residents and surrounding areas. This would be in addition to other enhances standards in the RMU-2 districts, such as additional open space and park requirements, detached sidewalks, and architectural standards. There is a provision for the decision maker (Town Board) to waive the commercial requirement if they believe commercial development will not be viable within ten years due to three factors.

Town Board Member Sislowski for clarification on people requesting variances would be taken care of through the Board of Adjustment process although it has been stated that a waiver to the commercial requirement would be approved by the Town Board. Mr. Hornbeck stated that there are certain instances that have been built into the code that provides a lower bar compared to a variance. With a variance, you have to show a hardship unique to the property and would be very difficult for people to meet a lot of the standards. Subdivision standards would go to Planning Commission which is in line with current practices. Town Board Sislowski stated that he would assume that there would be an appeal process short of going to the Town Board and wonders why this one is set to go to the Town Board. Mr. Hornbeck stated that it is set up to go to the decision maker on the overall project and in this particular example, it would likely come with a master plan where they are laying out their land uses which would be approved by Town Board.

Town Board Member Wilson stated that this is something that the board has seen several times that has evolved to this particular state. There was some discussion in the past on this code that had to do with industrial operations in residential zones. Town Board Member Wilson stated that he plans to support the changes in front of the Board with this ordinance.

Mr. Hornbeck stated that this is the biggest chunk of the code that Planning is taking on, but there will be some other more manageable pieces that staff is going to work on updating in the coming year.

Town Board Member Sislowski moved to close the public hearing, Mayor Pro Tem Bennett seconded the motion. Roll call

on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

3. Ordinance No. 2020-1620 Creating the Windsor Land Use Code, By Repealing, Amending, Creating, Adopting And Re-Adopting Chapters 14, 15, 16 And 17 Of The Windsor Municipal Code

Please refer to the previous agenda item for discussion and recommendation.

Per Mr. Hornbeck, nothing further to add.

Mayor Pro Tem Bennett stated that the criticism he has is it would still be permitted to allow oil and gas surface operations and the comp plans talks about community character. During the work session, the Board heard about the transportation master plan and the consultants stated that Windsor is a really unique and desirable community and should not sell Windsor short, it all comes back to what does the Board want the neighborhoods to look like. Mayor Pro Tem Bennett is planning on voting for the update because there are so many good things within it and there are a lot of benefits.

Town Board Member Cline stated echoed Mayor Pro Tem's comments and stated that she will be supporting the ordinance but does not believe smaller lots will be a good addition.

Town Board Member Wilson stated that he plans to vote in favor of this item.

Town Board Member Sislowski stated that he supports approval of the ordinance.

Town Board Member Sislowski moved to approve Ordinance No. 2020-1620, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

4. Resolution No. 2020-96--A Resolution Establishing Rates for Town of Windsor Water Service Customers, And Authorizing the Implementation of Such Rates

Annually, staff evaluates the water rate structure during the budgeting process. For the last three years, Stantec Consulting has worked with staff to develop a rate model to evaluate all the variables required to provide a secure and resilient water supply to residents and businesses.

At the November 23, 2020 Town Board Work Session, staff and Stantec presented a recommendation to increase rates a total of 8% to fund operations and maintenance of the current system, as well as fund the capital improvements required to continue securing our water supply for the future. The attached resolution and rate chart reflects the increase.

Using our established rate model, the monthly water rate will increase 8% effective February 1, 2021 and will be reflected on the March 1, 2021 utility bills.

Per Ms. Humphries, the effective date of February is the first true month of 2021 usage. Staff is recommending approval of the resolution.

Mayor Rennemeyer asked for staff to provide an explanation on the rate increases passed to the Town from the water service providers. Mr. Thornhill stated that the Town currently has three water providers that treat water for the Town of Windsor and have passed on their water rate increases to the Town.

Mayor Pro Tem Bennett moved to approve Resolution No. 2020-96, Board Member Cline seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

5. Resolution No. 2020-97 - A Resolution Establishing Rates for Town of Windsor Sanitary Sewer Service Customers, and Authorizing the Implementation of Such Rates

This year Stantec Consulting was chosen to assist in updating rates/fees and create a cost of service model for the sewer fund. Through their work with staff they have begun to create a rate model for the sewer fund. The intent of the model is to provide Town staff and the Town Board with long range financial planning tools to ensure growth pays for growth; services are appropriately funded long term; mandates are addressed; and infrastructure is updated and maintained in a timely manner.

In their presentation at the November 23rd Work Session, Stantec and staff provided a recommendation to increase the Flat Rate/Base Fee for the sewer system by 10% for 2021. The same presentation and recommendation were given to the Water Sewer Board on November 18th. Unanimously, the Water Sewer Board approved recommending the rate increase to Town Board. The resolution and attached table before the board tonight reflects the recommended rate increase.

Per Ms. Humphries, this resolution is the first phase of the entire study and staff will be coming back with a completed cost of service model in 2021. Staff recommends approval of this resolution.

Mayor Rennemeyer asked for an expansion on the reason for the sewer rate increase. Mr. Moyer replied that the Town has not increased the monthly base rate on sewer charge for quite some time. At this time, we are at a point where we have so many customers that we need to think about expanding the plant or building a new one and part of the reason for the increase in rates is to help fund the

expansion of the current sewer treatment plant. Mr. Moyer stated that while ten percent seems like a large jump, it is basically \$2.00 per month per customer. Mr. Lucas stated that we are reaching the eighty-percent capacity where the State requires a new design and staff will be returning to the Board in early 2021 to further discuss.

Mr. Hale stated that part of the reason of looking at the fund is the expansion of the plant, but another part is compiling with upcoming regulations where the technology does not currently exist.

Mayor Pro Tem Bennett stated that the Water and Sewer Board discussed Regulation 31 and it being one of the reasons for increasing fees so the Town can meet the regulatory requirements.

Town Board Member Sislowski stated that this was a tough decision for all of the Board due to the economic times, but one that did have to be made. The Board did see comparable rates from surrounding communities and Windsor was very well placed in terms of having low charges and fees. Town Board Member Sislowski stated that the Board was careful to see that growth was paying for growth and that the cost related to Windsor as it does get larger complies with the new rules and regulations it must meet.

Town Board Member Sislowski moved to approve Resolution No. 2020-97, Town Board Member Wilson seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier, Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

6. Delayed Collection of Building Permit Review Fees

The Town typically collects all of the building permit review fees prior to doing any review on the plans. This is to ensure that SAFEbuilt and WSFR are compensated for completing the review whether or not a project goes forward. Due to some issues that Future Legends has had with its USDA backed loan that has been held up due to the Law Ditch, they have requested that we accept a down payment of 20% to start the review for the stadium, with the remainder due upon issuance of the permit. I have corresponded with Kris Kazian, who understands the significance of the project and is comfortable accepting the 20% down payment as well.

Per Mr. Hale, the plan review fee from SAFEbuilt is \$42,548.19, the Fire Department plan review fee is \$100,300, and the Town's administrative fee is \$16,364.69, for a total of \$159,212.88. Twenty percent calculates to a \$31,842.58 down payment. Of that amount, \$8,509.64 would cover 20% of the SAFEbuilt fees, and \$34,038.55 would remain due to SAFEbuilt if there was never a payment from Future Legends that the Town would need to cover.

Town Board Member Sislowski stated that from his understanding, Future Legends would pay a down payment and if they cease

construction or go away, the Town would reimburse SAFEbuilt for what would have been their full fee but not the Fire Department? Mr. Hale responded that was correct and that the Fire District has indicated they are comfortable with the initial investment. Town Board Member Sislowski asked for clarification on what the Town would be at risk for, to which Mr. Hale responded around \$12,000.

Board Member Cline moved to authorize staff to start the review of the stadium at Future Legends Sports Park after receiving a twenty-percent down payment, with the remaining eighty-percent of the review fees due at permit issuance., Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

D. COMMUNICATIONS

1. Communications from Town Attorney

Per Mr. McCargar, would like to wish the Town Board, Staff, and Windsor community happy holidays for 2020 and is looking forward to next year.

2. Communications from Town Staff

Per Chief Klimek, reminder of the upcoming virtual Police Department awards presentation on Wednesday, December 16th at 2:00 p.m.

a. NoCo Nosh - Meal Delivery Service

With colder months here and the threat of severe business disruption due to COVID-19, we know one of the Town's goal is to assist the restaurant industry. One current method being adopted by surrounding communities is to subsidize third-party delivery fees based on the availability of CVRF dollars or the Economic Development Incentive Fund. Additionally, the Town could form a collaborative relationship with a selected vender to develop a method(s) to benefit the restaurant community in Windsor with greater access and affordability to food delivery services during the ongoing pandemic. Current delivery service providers are charging exorbitant fees which are hurting our current restaurant industry.

A company called NoCo Nosh has agreed to serve the Windsor area with a specific contract to limit income and fees charged. Many communities are subsidizing this cost as an assistance or incentive program for our restaurant industry. Staff is still trying to determine the expected cost for the program per month. The subsidy program could run through 2021, until the pandemic ends, or until a specific budget is reached. The contract allows either party to terminate the contract with a 14 day notice.

Key components:

- Town retains NoCo Nosh to provide restaurant delivery service for customers with Windsor addresses.
- Contract Term is through the end of 2021, with a right for the Town to terminate at any time without cause on 14 days' written notice.
- NoCo Nosh provides its platform to Windsor dining establishments (including coffee shops and food trucks), so the establishments can sign up for the service. NoCo Nosh will provide the establishments with information about the Town-NoCo Nosh arrangement.

Dollars & Cents:

- NoCo Nosh won't charge the establishments any commissions. Instead, the Town will pay commissions to NoCo Nosh as follows:
 - 15% of gross receipts for all orders placed through the Platform with Participating Establishments for delivery; and
 - 12.5% of gross receipts for all orders placed through the Platform with Participating Establishments for take-out.
- NoCo Nosh won't charge Windsor residents a processing fee. Instead, the Town will pay one dollar and forty-nine cents (\$1.49) for each order placed by a Windsor resident through the Platform with Participating Establishments, whether delivery or take-out.
 - Windsor residents placing orders through the Platform with Participating Establishments will pay \$1.99 for the first mile from restaurant to the delivery destination and then an additional charge of \$0.50 per extra mile traveled after the first mile, pro-rated. The Town will pay a flat fee of \$0.50 for each order placed for delivery by a Windsor resident through the Platform with Participating Establishments.
- NoCo Nosh won't charge the establishments any sign-up fees.
- Delivery personnel retain 100% of tips.
- If the Town and NoCo Nosh agree to a promotional campaign, each party funds 50% of the discount/coupon/promotional rate.

Per Ms. Miller, staff has looked at various options such as placing a cap on delivery fees, however there is a lot of issues when enforcing and has not been as successful in other communities. The estimated cost for this program would be

around \$50,000.00 which would probably last around six months, and could come out of the Economic Development Incentive Fund.

Mr. Hale stated that the Town had a request from a local restaurant to consider limiting or capping fees for delivery and as staff looked into the option found some challenges with it. It is hard to enforce, you can limit delivery fees but not marketing fees. Staff believes this would give restaurants another outlet without huge fees and it would be a subsidy that the Town could provide that would be able to go to all restaurants. Mr. Hale stated that he believes the only big challenge is that CARES act runs out in two weeks so this would be something that is going to impact the general fund. Mr. Hale stated with this being the last Board meeting of the year and the financial impact, he wanted to get the Boards thoughts or concerns before he executed a contract.

Town Board Member Wilson stated that this is something that he could get behind due to the Town having the sales tax revenue and being able to maintain service levels during the pandemic, as well as the building community having record months of buildings being constructed and is supportive of this option in an effort to support struggling business and would be money well spent.

Mayor Rennemeyer asked for confirmation on the fifteen-percent service fee that restaurants have to pay to other vendors would wipe out the profits that the restaurants would have and this would allow the Town to help the restaurants help themselves. Ms. Miller responded that was correct and actually the percentages are much higher than fifteen-percent with the other carriers, more like forty to sixty-percent including an increase of the food itself. This contract would allow a new provider to come into the community with a cap of fifteen-percent that the Town would reimburse. Mayor Rennemeyer stated that assuming that the Board gives the nod to the Town Manager to execute the contract, NoCo Nosh then would come in and meet with the different business owners to set up a contract with them, would that be the next step and how soon would it be able to be rolled out? Ms. Miller responded that NoCo Nosh is prepped and ready to go now so as quickly as the Town is ready to move, they would be able to get started. The restaurant industry would need to secure contracts the them as well as needing to educate the public and would like to utilize the communications department as well as Chamber of Commerce to start marketing the app.

Town Board Member Cline asked staff what the feedback has been from restaurants for using NoCo Nosh? Ms. Miller stated that she has not personally spoke with any Fort Collins restaurants who are currently under contract with NoCo Nosh. Fort Collins is currently the only entity who is utilizing NoCo Nosh, however this is a request from the restaurant industry for the Town to do some sort of assistance. This is something the restaurant industry is embracing and is excited about and are thankful for the Town's assistance. Mr. Hale added that staff had a meeting with quite a bit of local restaurants and presented this as an option and there were no concerns.

Mayor Rennemeyer stated that he would like staff to bring an update to the Board within ninety days to see where we are at with the success of this program and what has been spent.

Town Board Member Sislowksi stated that he has issues with the Town selecting one vendor over others without issuing an RFP and going through the bidding process. The Town would be using taxpayer dollars no matter the fund to subsidize delivery cost for a third party delivery service. Town Board Member Sislowksi stated that he is having trouble and is not prepared to support the program.

Mayor Rennemeyer asked staff what other services are available like this in Northern Colorado that are independent of the big ones seen? Ms. Miller stated that the problem is that no one else has come forward with this offer. NoCo Nosh is the only one currently willing to do a subsidizes at fifteen-percent and everyone else is not willing to lower their cost or fees. So if you want to go out and do an RFP, Fort Collins has already gone through that process and this is the only entity that stepped forward to provide this service. Staff is trying to get speed to market and provide this in an effort to help our save our restaurant industry. The Town could look at subsidizing other vendors, but would be paying forty to sixty-percent of fees compared to fifteen-percent of ticket fees.

Town Board Charpentier asked for clarification on how the logistics work on subsidizing the fees, would restaurants bill the Town and provide copies of receipts? Ms. Miller stated that the NoCo Nosh company would provide the Town with reports of orders made within the app and staff would recommend bi-monthly reimbursements to NoCo Nosh. Town Board Member Charpentier stated that fifteen-percent of all gross sales adds up and questioned if waiving the sales tax would be a better option? Ms. Miller responded that the Town Board approved deferring sales tax at the beginning of the year, and not many businesses were

interested in taking advantage of that option. This option seems to be the option that most businesses have been in support of and requesting. Town Board Member Charpentier stated that waiving sales tax and deferring sales tax is a big difference.

Mayor Pro Tem Bennett asked if another delivery service came to the Town with a similar proposal, would the Town say yes? For the restaurants, if they are paying forty to sixty-percent for delivery fees, wouldn't it be more economical for that business to hire a delivery person of their own? Ms. Miller responded that there is a larger liability component of using other people's vehicles, paying insurance and trying to find the workforce staff to be willing to deliver. Mr. Hale responded that if we had another delivery service who offered the same proposal, the Town would accept it. Mayor Pro Tem Bennett stated that he doesn't like the idea of subsidizing the delivery business but also knows that we are in such a unique situation and very concerned about the local businesses and is supportive of this but would like a review within ninety days.

Town Board Member Wilson stated that he shares some of the other Board Members and that he is not a big fan of subsidizing, however given the circumstances is still supportive.

Mayor Rennemeyer reminded the Board that everything the Town has done so far to support businesses has been CARES Act reimbursed and Windsor tax payers have subsidize very little to help businesses survive and believes this is an important step for the Town during this very critical time that residents will be happy about.

Town Board Member Cline stated that she is supportive but would like an update at the end of January.

Town Board Member Tallon stated that he has the same reservations as Town Board Member Sislowski but believes the Town needs to do something to help but would also like a monthly update.

Ms. Miller stated that she believes there are ways to market without spending more.

Mayor Rennemeyer stated that staff has the support to move forward with this. Mr. Hale stated that he would provide an update in the weekly update as well as provide numbers as to if this is a benefit to the industry.

b. Finance Report October 2020

Per Mr. Moyer, through October, financials are better than originally thought and Windsor did not take as much of a hit as other communities. Windsor is up about nine and a half percent in retail sales tax over October 2019.

3. Communications from Town Manager

Per Mr. Hale, Mr. Thornhill and himself will be attending the two-day NOCO Water Strat Op process next week. Monday, staff will be interviewing three general contractors for the Town Hall remodel project. Mr. Hale thanked the Board for their leadership over the year and wished everyone happy holidays.

a. Monthly Envisio Report

4. Communications from Town Board

E. ADJOURN

Board Member Cline moved to adjourn, Mayor Pro Tem Bennett seconded the motion. Roll call on the vote resulted as follows; Yeas - Bennett, Charpentier , Cline, Rennemeyer, Sislowski, Tallon, Wilson; Motion Passed.

Upon a motion duly made, the meeting was adjourned at 9:51 p.m.



Karen Frawley, Town Clerk