



TOWN BOARD REGULAR MEETING

January 28, 2019 - 7:00 PM

Town Board Chambers, 301 Walnut Street, Windsor, CO 80550

MINUTES

A. CALL TO ORDER

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

1. Roll call

Mayor Kristie Melendez
Mayor Pro Tem Ken Bennett
Myles Baker - Absent
Barry Wilson
Paul Rennemeyer
Tom Jones
David Sislowski

Also Present:

Shane Hale, Town Manager
Ian McCargar, Town Attorney
Kim Emil, Assistant Town Attorney
Eric Lucas, Director of Parks, Recreation and Culture
Dennis Wagner, Director of Engineering
Scott Ballstadt, Director of Planning
Rick Klimek, Chief of Police
Dean Moyer, Director of Finance
Jessica Humphries, Administrative Services Director
Paul Hornbeck, Senior Planner
Krystal Eucker, Town Clerk

2. Pledge of Allegiance

Town Board Member Wilson led 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 Rennemeyer moved to approved the agenda as presented, Town Board Member Wilson seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

4. Board Liaison Reports

- Town Board Member Baker - Tree Board, Historic Preservation Commission
Town Board Member Baker - Absent
- Town Board Member Wilson - Parks, Recreation and Culture Advisory Board; Poudre River Trail Corridor

Town Board Member Wilson reported the Poudre River Trail Authority has not met since the last Town Board meeting but there are some exciting things happening in 2019. There will be linkage from Jacoby Farms around to Kyger Reservoir. There will also be

discussion in 2019 to extend the Trail from River Bluff to Fort Collins and Timnath.

Mr. Wilson reported the recycling center is in the process of being moving to the public works facility which will result in a gap in service. The Forestry Department is removing the Christmas lights in the downtown area and reported there was positive feedback on how good the downtown area looked this year during the holidays.

- Mayor Pro Tem Bennett - Water and Sewer Board

Mayor Pro Tem Bennett reported the Water and Sewer Board met and discussed a lot of information regarding water rates and future water needs for the Town. Discussion took place on how Windsor can secure water and how to treat the water.

- Town Board Member Rennemeyer - Chamber of Commerce

Town Board Member Rennemeyer had no update.

- Town Board Member Jones - Windsor Housing Authority; Great Western Trail Authority

Town Board Member Jones reported the Windsor Housing Authority met and they will be looking for an architect for the new Golden Meadows senior housing development. The option of construction being modular as opposed to being stick built was reviewed and there is not much difference in pricing. The units are put together out of state and shipped in but there is the possibility that if that option was chosen, they could be available for rent 6-8 months ahead of the stick built option. Governors Farms is still a consideration but there has not been any new communication with the owners.

Dr. Jones reported the Great Western Trail Authority will be meeting with the Weld County Commissioners regarding construction of the Trail crossing six different county roads. Another item that will be discussed is asking Weld County to fund some maintenance of the Trail.

- Town Board Member Sislowksi - Clearview Library Board; Planning Commission

Town Board Member Sislowksi reported the Library Board will be meeting later this week. The library did have a citizen input meeting last Thursday.

- Mayor Melendez - Downtown Development Authority; North Front Range/MPO

Mayor Melendez reported the DDA met and completed reviews of the the way-finding and pedestrian crossing improvement project. The main street reporting is complete and the DDA is helping advance the back lot development along with the future move of The American Legion to the 4th Street location.

Ms. Melendez reported she will be attending the Regional TAC meeting that is being held in Platteville. Senator Gardner held a special meeting for the purpose of meeting the new CDOT Director, Shoshana Lew.

5. Public Invited to be Heard

Mayor Melendez opened the meeting up for public comment.

Kimberly Chambers, Director of SplashNoCo addressed the Board and read a prepared statement related to the LGBTQIA that was distributed to the Board.

Tammy Sanders, 21 Locust Street, Windsor, CO addressed the Board and commented on the Drag Queen Story Hour event and stated there were inappropriate items on the story teller's website. Ms. Sanders requested that if these types of events are being held in Windsor to

make sure it is in a positive light. Ms. Sanders would like to make sure individuals have been investigated prior to events.

Ann Kling, Library Director, Clearview Library District, informed the Board that the Library will be completing a strategic plan and welcomed the Town Board to participate in the process. The RFP will be release in the next few weeks.

B. CONSENT CALENDAR

1. Minutes of the January 7, 2019 Special Meeting and Minutes of the January 14, 2019 Regular Meeting - K. Eucker

Town Board Member Rennemeyer moved to approve the consent calendar as presented, Mayor Pro Tem Bennett seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

C. BOARD ACTION

1. Resolution No. 2019-05 - A Resolution Approving an Agreement for Economic Inducements and Development Incentives (Bobcat of the Rockies)

Per Ms. Young, Bobcat of the Rockies expressed there was a need to expand their business. Bobcat of the Rockies has considered several communities including Windsor. During our visit Mr. Vickers discussed his interest in a property located just to the north of their existing facility in the Southgate Business Park. This area will allow for more space and ability to keep their business in Windsor.

Bobcat of the Rockies' current facility is 17,000 square feet. This building will be available for sale or lease which will allow for another company to move into the business park.

In compliance with our incentive guidelines Mr. Vickers submitted a letter of request for incentives on November 5, 2018. Bobcat of the Rockies would like to relocate and expand his company with a proposed opening date of Fall/Winter 2019.

Windsor currently receives \$140,000 in sales tax revenue each year from Bobcat of the Rockies. This is Windsor's 60% share of the Southgate IGA with Greeley. The incentive amount being requested would be paid back in 10.5 months.

Below is a project review:

Bobcat of the Rockies New Development Project

Total Initial Project Investment (land, building)	\$4,350,000
Building Size	24,000 sq. ft.
Existing equipment retained	\$1,825,000
<u>New Equipment/FF&E</u>	<u>\$1,825,000</u>
Total expansion project cost	\$8,000,000

10 year net fiscal economic impact	\$345,591.00
Average employee Salary	\$60,000.00
Retained jobs	28
New jobs	7

Dr. Jones inquired if the raw water fee is included in the waiver of plant investment fees.
Per Ms. Young; yes.

Dr. Jones inquired if the Town will be reimbursed from the Economic Development Fund for the waiver of plant investment fees.

Per Ms. Young; yes

Mr. Sislowski inquired if the irrigated landscape will be on a non-potable system.
Ms. Miller stated there is no non-potable system they can tap into.

Mayor Pro Tem Bennett moved to approve Resolution No. 2019-05, Town Board Member Jones seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

2. Ordinance No 2019-1582 - An Ordinance Fixing the Compensation of the Municipal Court Judge and Municipal Court Clerk for the Town of Windsor in Compliance with Sections 13-10-107 and 13-10-109, C.R.S. and Section 2-4-90 of the Windsor Municipal Code

Per Ms. Emil, the statutes governing qualified municipal courts of record require that the compensation of the Municipal Judge and Office of the Municipal Court Clerk be set by ordinance. This requirement has also been incorporated into the Town's Municipal Code. The Town Board previously approved the 2019 Annual Budget, where the compensation for the Municipal Judge and Municipal Court Clerk's Office was fixed. Provisions also were made to provide for compensation for the Deputy Municipal Judge. An Ordinance approving those appropriations is required in order to comply with the requirements of state law and the Municipal Code.

This is presented for the second reading of the attached Ordinance Fixing the Compensation of the Municipal Court Judge, Deputy Municipal Judge and Municipal Court Clerk, incorporates the appropriations for these offices from the 2019 Annual Budget, thus satisfying the requirements of law. There have been no changes between first and second reading.

Staff recommends approval of Ordinance No. 2019-1582 on second reading.

Town Board Member Rennemeyer moved to approve Ordinance No. 2019-1582, Mayor Pro Tem Bennett seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

3. Public Hearing - Conditional Use Grant (CUG) for a Temporary Recycled Asphalt Parking Lot in the Central Business (CB) Zone District - Lot 23, Burlington Subdivision

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

Per Ms. Berry, the applicant, the Windsor Downtown Development Authority (DDA), is requesting a Conditional Use Grant (CUG) to allow the installation of a recycled asphalt surface on Ash Street between 5th and 6th streets. The proposed parking lot would replace the current temporary parking lot on the property to the east at 107 5th Street. The parking lot at 107 5th Street was granted a CUG for the use including the recycled asphalt surface.

The lot is currently occupied by two structures, both of which are planned to be demolished in the near-term. Once the structures are removed, the DDA proposes the installation of re-used asphalt material on the gravel surface of the lot. Storm water would be channeled to the east inlet that will drain to the northeast and fill the retention pond. The lot will be used temporarily by citizens and visitors for parking, until a developer initiates a larger-scale project on the lot. The highest use will be during summer events at Boardwalk Park and the Farmer's Market.

A conditional use grant is required in this situation as the proposed use, recycled-asphalt parking lot, is not a use allowed by right in any zoning district. Section 16-10-30(3) of the Municipal Code states, "All parking lots which are designed to be used for employee parking, visitor parking, customer parking and tenant parking ... shall be paved with asphalt or concrete." Section 16-7-10 of the Municipal Code states that the intent of a conditional use grant is to

allow “consideration of uses which are unique in nature or character, although not specifically included as uses by right in any specific zoning districts.”

While the code does not allow permanent parking lots to be surfaced with recycled asphalt, this temporary condition reflects what has been allowed at the 5th Street lot, temporarily addresses the need for parking in the downtown, and will be an improvement of the subject site after demolition of the structures.

Standards and Requirements for Conditional Use Grants

Section 16-7-50 of the Municipal Code outlines the factors to be evaluated prior to the granting of a conditional use.

- 1. The character and the quality of the area in which the use will be located.** The subject property is an under-developed property north of Ash Street between 5th and 6th Streets. The property currently has two vacant structures, both to be demolished in order to construct the temporary parking lot. The DDA acquired the property and anticipates that the lots will eventually be developed for retail/residential use in the future. The DDA also owns the property addressed as 107 5th Street which is the current location of a temporary parking lot in the downtown. The proposed temporary parking lot would replace the current temporary parking lot located immediately east of the subject site.
- 2. The physical appearance of the use, including suitability of architectural and landscaping treatment.** The subject property currently has two structures, both to be demolished. The proposed temporary parking lot would resemble the appearance of the current temporary parking lot located immediately east of the subject property.
- 3. Appropriate location of the building or buildings on the lot.** The current buildings are to be demolished. No structures are proposed on the lot while being used as a temporary parking lot.
- 4. Adequate provision of parking, loading and circulation facilities.** The proposed temporary recycled asphalt will replace the current temporary recycled asphalt lot located to the east of the subject site. The layout of the lot will be reviewed to ensure proper access, circulation and parking facilities.
- 5. Potential effect of the use upon off-site vehicular and pedestrian traffic circulation, with particular reference to potential traffic congestion.** The property will be used for overflow parking for special events held in Boardwalk Park as well as the downtown. Fencing is recommended along the north side of the property to keep users from crossing the railroad tracks in non-approved locations and to keep pedestrians and vehicles out of the railroad right-of-way. Fencing is also recommended along Ash Street to better designate access points to the lot.
- 6. Potential effect of the use on storm drainage in the area.** The application materials indicate that storm drainage will be channeled to the east to the inlet that will drain to the detention pond to the northeast. The parking lot will need to be graded to drain to adjacent street(s) and to provide positive drainage off of the lot. The applicant will work with the Town's Engineering and Public Works Departments to ensure that drainage is adequately addressed.
- 7. Adequacy of planting screens where necessary.** No planting screens are proposed with this temporary proposal. The parking lot use is not intended to exceed five years as the DDA anticipates the lot to be redeveloped with a larger scale project on the site in the near future.
- 8. Provision of operational controls where necessary to avoid hazardous conditions or eliminate potential air or water pollutants or other noxious influences.** It is anticipated that the temporary parking will not produce any hazardous conditions or pollutants.

9. **The general compatibility of the proposed use with the area in which it is to be located.** The area is located north of Ash Street between 5th and 6th Streets. The property will be used to replace the current temporary parking lot located immediately east between 4th and 5th Streets. The current lot also does not meet the requirements of Section 16-10-30(3). The proposed temporary recycled asphalt will be an improvement over the condition of the site once the buildings are removed and will provide temporary parking for Town-hosted events in Boardwalk Park and the downtown.

Notifications were completed in accordance with the Municipal Code.

The Planning Commission reviewed the Conditional Use Grant request at its January 16, 2019 meeting. One staff recommended condition of approval was removed at the Planning Commission meeting. The original condition stated “fencing, to be approved by the Planning Department, will be installed along Ash Street for the length of the property to designate access points to the parking area.” The condition was added to ensure safe vehicular maneuvering to and from the site. The Planning Commission removed the condition after a request from the Applicant. The Applicant preferred to have leeway in what is used for the designation of access to the lot from Ash Street and asked that it be reviewed at the time of site plan review instead of being a condition of approval. Staff supports the modification and acknowledges that there may be other means to clarify the access from Ash Street that may be just as effective as fencing.

Staff requests the following be entered into the record:

- Application and supplemental
- Staff memorandum and supporting documents
- Testimony from the public hearing
- Recommendation

Mr. Bennett inquired if the fencing is a requirement of the railroad.

Ms. Berry stated that was a recommendation of staff. There was originally two fencing comments; one was related to keeping individuals off the railroad right-of-way and the second was to help distinguish where the access points would be off of Ash Street. The Planning Commission discussed with the applicant other options for designating access point which can be reviewed during the site plan process. The fencing along the railroad right-of-way was retained.

Dr. Jones inquired as to the total number of parking spaces.

Ms. Berry stated she did not believe the exact amount had been determined as there are three potential designs.

Mr. Ashby informed the Board that the CUG would provide the DDA time to be able to determine the future trajectory of development in the area. It could be determined then if a permanent investment at this location should be completed.

Mr. Sislowski inquired as to what is not in accordance with the zoning

Ms. Berry stated the Municipal Code requires parking lots be paved with asphalt or concrete. In this case, the DDA is proposing the recycled asphalt.

Mr. Rennemeyer inquired if the DDA had any issues with the fencing requirement.

Mr. Ashby stated the DDA has just received the fencing requirement from staff and it seems like a reasonable idea although due to the temporary nature of the lot, it may be a better solution to review that requirement at year five.

Town Board Member Rennemeyer moved to moved to close the public hearing, Town Board Member Jones seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

4. Conditional Use Grant (CUG) to allow a Temporary Recycled Asphalt Parking Lot in the

Central Business (CB) Zone District – Lot 23, Burlington Subdivision – Matt Ashby, Director, Windsor Downtown Development Authority, Applicant

Mr. Bennett commented that he is not certain the fencing is needed as there is no fencing at the current parking lot; Dr Jones, Mr. Wilson and Mr. Sislowski concurred.

Town Board Member Rennemeyer moved to approve the conditional use grant without the fencing requirement, Mayor Pro Tem Bennett seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

5. Public Hearing- Rezoning Petition- A Portion of Windsor Manor 7th Filing Lot 3—Windsor Manor Condo Association, President; Scott Goering

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

Per Ms. Tremblatt, the applicant is requesting to rezone an approximately 1,614 square foot portion of Windsor Manor 7th Filing. The subject property is located generally east of 13th Street, north of Ash Street, and south of Honeysuckle Court. .

The request is to rezone approximately 1,614 square feet from Multifamily Residential (MF-1) to General Commercial (GC) with a Planned Unit Development (PUD) overlay consistent with the remaining portion of Windsor Manor Subdivision 7th Filing Lot 3. This rezoning request is being considered concurrently with a minor subdivision request known as Windsor Manor Subdivision 7th Filing, to ensure that the property boundaries coincide with the zoning boundaries. The proposed zoning is consistent with the existing zoning of PUD (with underlying General Commercial) and the Town's Land Use Map.

The purpose of this concurrent proposal is to allow a 1,614 square foot portion of what was previously part of the Windsor Manor Condo Association to become part of the adjacent General Commercial PUD shopping center to ensure that this area is better utilized and maintained by the commercial center known as Windsor Manor Centre (1230 Ash Street).

The application is in conformance with the Comprehensive Plan.

At the January 16, 2018 Planning Commission meeting, a recommendation of approval was forwarded to the Town Board.

Staff requests the following be entered into the record:

- Application and supplemental material
- Staff memorandum and supporting documents
- All testimony presented at the public hearing
- Recommendation

Town Board Member Rennemeyer moved to close the public hearing, Town Board Member Wilson seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

6. Ordinance No. 2019-1584 - A Petition to Rezone a Portion of Windsor Manor 7th Filing

Ms. Tremblatt had nothing further to add.

Mayor Pro Tem Bennett moved to approve Ordinance No. 2019-1584, Town Board Member Rennemeyer seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

7. Resolution No. 2019-08 - A Resolution Initiating Annexation Proceedings for the Overland Annexation to the Town of Windsor, Colorado – Zada Ann Steidl/ Eric J. Steidl, Overland 368, LLC owner/ applicant/ Julia Malisos, WHA, Inc. applicant's representative

Per Mr. Hornbeck, the applicants have submitted a petition to annex approximately 173 acres to the Town of Windsor as Residential Mixed Use (RMU) zoned property. The property is located northwest of Lake Osterhout and is identified on the Comprehensive Plan Land Use map as single family residential.

In accordance with the *Windsor Municipal Code* and the Municipal Annexation Act of 1965, this resolution is required in order to initiate annexation proceedings. Additional Town Board meetings setting public hearing dates and conducting public hearings will be required as a part of the annexation. A neighborhood meeting will also be required, which will include notification to property owners within 300 feet.

Should this resolution to initiate annexation proceedings be approved the applications for a Master Plan and Planned Unit Development (PUD) overlay rezoning, submitted with the annexation, will be reviewed concurrently with the annexation.

Staff recommends approval of Resolution No. 2019-08.

Dr. Jones inquired if there are any plans for commercial

Mr. Hornbeck stated the master plan that was submitted does show some commercial along Highway 257.

Mr. Bennett inquired if the intent will be residential mixed use.

Per Mr. Hornbeck; yes and they have also submitted a PUD rezoning which would be an overlay on top of the RMU designation.

Mr. Bennett confirmed that this resolution is just the initiation of the annexation process and not a zoning determination.

Per Mr. Hornbeck; correct

Mr. Sislowski inquired as to what the Board is voting on, just to proceed with the annexation.

Mr. McCargar stated under the annexation act, before the Town can do any further work on the application for annexation to bring this property into Windsor from unincorporated Weld County, Windsor needs to initiate. Resolution No. 2019-08 will acknowledge the receipt of the petition and authorizes staff to move forward. The question of water service, zoning or PUD overlays will come at a later stage.

Ms. Melendez confirmed that this is a very preliminary step in the process.

Per Mr. McCargar; that is correct.

Town Board Member Sislowski moved to approve Resolution No. 2019-08, Town Board Member Jones seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

8. Resolution No. 2019-09 - A Resolution Establishing Rates For Town Of Windsor Water Service Customers. And Authorizing The Implementation Of Such Rates

Per Ms. Humphries, at the January 7, 2019 special meeting we had Stantec Consulting to help us adjust our monthly water rates. They developed modeling software to calculate how to pay for operations and the Northern Integrated Supply Project. We presented a number of different variable combinations.

In December 2018 we passed a rate increase of 3.29% to reflect the cost of water from our suppliers. On January 7, 2019 the Town Board decided to increase rates a total of 9.5% to fund operations and maintenance of our current system plus the acquisition and development of the Northern Integrated Supply Project.

Amy Saunders, 21 Locust Street, Windsor, CO addressed the Board and commented that this

is a big increase to the end users.

Ms. Melendez commented that the Board has taken a long time to come to this decision. The Board has been looking at options since 2010 and are very empathetic to the community any time rates are increased.

Ms. Humphries commented that there data was collected on other municipalities around the area and Windsor falls in the middle of the scale.

Mr. Bennett commented that the Board does not want to raise rates but water resources are an issue and this Board is trying to be proactive in securing water for the future.

Mr. Sislowski commented that everyone on the Board had a hard time with this decision.

Town Board Member Rennemeyer moved to approve Resolution No. 2019-09, Mayor Pro Tem Bennett seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

9. Resolution No. 2019-10 - A Resolution Approving an Amended Agreement Between the Town of Windsor and Colorado National Sports Park

Mr. McCargar informed the Board that Resolution No. 2019-10 amends an agreement that was done last September with Colorado National Sports Park (CNSP). Under the terms of that agreement, the Town of Windsor conveyed 100 acres of property to CNSP, subject to a very restrictive deed that was approved by the Town Board and accepted by CNSP. It was then discovered that a typographical error of substance was that the legal description was incorrect which was corrected. As CNSP representatives worked their way through the process, they discovered that the restrictions in the deed were too tight and that they were not able to carry forward their plans for economic development with those terms built into the transaction. CNSP approached the Town of Windsor with an amended agreement that has been approved by CNSP as to form.

The parcel is broken into two distinct parcels. Under the terms of the new agreement, the parcel has been split into two bundles. The unrestricted parcel is the upper portion which is where the Town has three existing ball fields and had plans to install some other multi-use fields. Those plans are carried forward in the agreement with CNSP improving the three existing ball fields to the design that was approved in the master plan for Diamond Valley Park. There are two more multi-use fields that are proposed; the first being completed by March of 2020 and an additional field by March of 2022. The idea is that CNSP in these Phase 1 improvements will do the work that the Town intended on completed on the existing fields as well as constructing more fields. Under the agreement, the Town will forever have the use of the Phase 1 improvements which include the three existing ball fields and the first multi-use field. Windsor would be second in line behind CNSP for use of the multi-use field that is scheduled to be completed by March of 2022.

The unrestricted parcel will only have one set of restrictions. The parcel is restricted only to the uses that are listed in the amended agreement which are:

- Adventure parks
- Entertainment facilities/Theaters
- Event Centers
- Facilities directly associated with sports programming taking place within the Diamond Valley Property (i.e., restrooms, kiosks, storage etc.)
- Food service (fast food, drive through, fast casual, sit down etc.)
- Fuel sales and Convenience Centers
- General Commercial zoning district uses by right, except identified as Non-Permitted below
- Health Club Hospitality/Hotel/Motel/lodging/student housing
- Indoor or outdoor recreation
- Medical Center/clinic/Hospital
- Retail not identified as non-permitted below
- Sports fields

- Sports-related office
- Stadiums
- Support services for other permitted uses

The unrestricted parcel will only be restricted to the permitted and non-permitted uses and that those restrictions will not appear on the deed to the property or the deed itself. The agreement also requires that the property now be held by CNSP must first be given back to the Town of Windsor so it can be split into two parcel and then it can be conveyed to CNSP. The next agenda item is to accept CNSP's deed back to the Town of Windsor which would be held until official action has been take on the two deeds of conveyance back to CNSP. The deeds would then be recorded in the correct sequence.

There is also language retained from the old agreement that gives the Town of Windsor the right to buy back portions of the unrestricted parcel that is developed for outdoor recreation could be purchased by the Town of Windsor under the right of refusal after 20 years. This property must be used for youth sports for a period of 20 years although the Town has the ability that if for any reason CNSP cannot make sports programming work, Windsor would be notified and would have the right to buy back what every portions of the unrestricted parcel.

The issue under the agreement tonight says that Windsor will have the property appraisal and Windsor will pay fair market value for both the land and the improvements if any on that property that Windsor would buy back. The reason that Windsor would pay for both land and improvements is that Windsor will be reaping the benefits of the improvements and will have also received benefits from the land through the continued use of Phase 1 improvements. The idea is that Windsor would pay fair market value for land and improvements for any portion that CNSP cannot make work for outdoor sports activities.

The last part of the agreement is the ability to release the parcels from the restrictions that are built into the deed and built into the permitted uses. If CNSP comes to Windsor with a request to relax the restriction on the use of either parcels, the Town of Windsor can entertain that. The Town Board must take official action to approve that but that would have the effect of releasing the forfeiture and reversionary rights that are built into the agreement and built into the deeds. In any particular case that the Town Board fees that is a reasonable thing to do, the Town Board can take official action to make that happen.

After the packet material was distributed, there were small changes made to the agreement; a typographically error, CNSP asked the Town to reinforce some scheduling language from another section of the agreement into the portion that speaks to the second multi-use field and the address was corrected for mailing of notices.

Mr. Bennett inquired as to Phase 1 and those improvements being completed as per the Diamond Valley Master Plan.

Mr. McCargar stated the agreement does allow Windsor to agree otherwise but in the absence of an agreement otherwise, strict adherence to the Diamond Valley Master Plan is required.

Mr. Hale stated the three ball fields are also being used for adult softball and so it is not really improvements in the master plan but the length of the fields to make sure the fields can accommodate adult programming. Discussions have taken place with Mr. Chasteen that if they are able to provide another adult complex that meets Windsor's needs, the fields at Diamond Valley could be shortened.

Mr. Bennett stated he has concerns with the multipurpose fields as there was a reason the Town had identified 360,000 square feet for multi-use fields and now the fields are proposed at 180,000 square feet which the Town has first right to but the second multi-use field the Town is second to CNSP for use.

Mr. Lucas stated Mr. Bennett's comment is also a concern of staff in terms of what the future looks like. The initial 185,000 square foot multi-use field is a benefit to Windsor in the short term in dealing with the shortage of fields today. Windsor is hopeful that CNSP will be successful in building everything that they have presented although if CNSP is overly successful, Windsor may not have access to those fields because they would be

busy. If that would happen, Windsor could be seeking more field space somewhere else or trying to find space on the field that they have first right on.

Mr. Bennett inquired if future community parks would be appropriate for what was planned for Diamond Valley.

Mr. Lucas stated one them will be which is the Tacincala site which is north of the public works facility.

Mr. Bennett inquired that if CNSP is not successful by 2020, then Windsor will get it back.

Mr. McCargar stated the northern portion or the restricted portion comes back to Windsor in it's entirety if the Phase 1 improvements are not completed by the deadline set forth in the agreement. The ball field improvements and the first multi-use field must be done by March 1, 2020 or CNSP forfeits the northern portion back to the Town of Windsor although if they complete the first field but not the second, additional field by March 1, 2022 CNSP will loose the property and it will go back to the Town of Windsor. The unrestricted portion is only subject to the permitted uses and non-permitted uses so long as they uses take place on the lower portion fit the permitted uses and don't offend the not-permitted uses.

Ms. Melendez inquired if the applicant is in agreement with the permitted and non-permitted uses.

Mr. Chasteen is in agreement with the uses.

Mr. Sislowski inquired as to what the time frame under the old recreation plan was to built the two multi-use fields.

Mr. Lucas stated they would have been built in 2018.

Mr. Sislowski inquired as to the size of the initial field that the Town of Windsor was intending on building.

Mr. Lucas stated the Town initially planned to construct one large 600' X 600' field for multi-use. The concern is the second field and if CNSP is successful, Windsor many not have much use of that field.

Mr. Chasteen addressed the Board and informed them that the first multi-use field is two full sized regulation soccer, lacrosse and football fields. The second multi-use field will be of the same size.

Ms. Melendez commented that if the Town would have moved forward with the original plan, the Town would have had a multi-use sports complex but the Town would not have a sales tax generating entity.

Mr. Chasteen commented that the business model for the CNSP is sports tournaments and not recreation. The tournaments are usually summer based when kids can travel. Mr. Chasteen believes that soccer, lacrosse and football will be affected for 14 weeks in the heart of the summer although the other times of the year, there may be events on the weekends. Mr. Chasteen plans to cooperatively work with Windsor's recreation department on scheduling of fields.

Dr. Jones inquired as to the Town recreation fees not being collected by CNSP.

Mr. McCargar stated the idea was that the Town wanted to make certain that Windsor's recreational programming would not incur any costs for it's ongoing use of the Phase 1 improvements. Beginning with calendar year 2020, CNSP will take over maintenance, utilities, security and things of that nature and the Town will pay CNSP a fixed rate every year. Once that fixed rate is paid to CNSP, no further fees or costs will be incurred like parking or admission fees for the Town's recreational programming.

Town Board Member Rennemeyer moved to approve Resolution No. 2019-10, Town Board Member Wilson seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

10. Resolution No. 2019-11 - A Resolution Accepting a Special Warranty Deed from Colorado National Sports Park, LLC

Mr. McCargar informed the Board that this Resolution is the second of the three items. Now that the amended agreement is approved, the amended agreement requires CNSP to transfer back to the Town what the Town gave to CNSP last September so the parcel can be split.

Town Board Member Sislowski moved to approve Resolution No. 2019-11, Mayor Pro Tem Bennett seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

11. Ordinance No. 2019-1585 - An Ordinance Approving the Conveyance of Town-owned Real Property to Colorado National Sports Park, LLC

Per Mr. McCargar, Ordinance No. 2019-1585 approves the conveyance of the Diamond Valley Property to CNSP in two distinct parcels. Each parcel is described in a map and legal description to be incorporated into each deeds. At the time of this writing, the maps and legal descriptions are being prepared by CNSP's surveyor.

Mr. McCargar informed the Board that this is the final item related to CNSP which are warranty deeds for the restricted parcel and the unrestricted parcel.

Town Board Member Rennemeyer moved to approve Ordinance No. 2019-1585, Town Board Member Sislowski seconded the motion. Roll Call on the vote resulted as follows; Yeas - Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

12. Community Development Report

Mr. Ballstadt provided an overview of the Community Development Report that was included in packet material.

D. COMMUNICATIONS

1. Communications from Town Attorney

None.

2. Communications from Town Staff

Ms. Miller informed the Board that the 2019 Economic Forecast is coming up on Wednesday at Embassy Suites.

Mr. Ballstadt informed the Board that Mr. Brown with the Great Western Industrial Park attended tonight's meeting for the CUG although he did not speak during the public hearing. Mr. Brown informed Mr. Ballstadt that the railroad does have concerns with pedestrians going to Boardwalk Park across the tracks at various locations.

3. Communications from Town Manager

None.

4. Communications from Town Board

None

E. ADJOURN

Town Board Member Rennemeyer moved to adjourn, Town Board Member Wilson seconded the motion. Roll Call on the vote resulted as follows; Yeas - Baker, Bennett, Jones, Melendez, Rennemeyer, Sislowski, Wilson; Motion Passed.

The meeting was adjourned at 9:12 p.m.

A handwritten signature in black ink, appearing to read 'Krystal Eucker', written in a cursive style.

Krystal Eucker, Town Clerk