

Woodland Park Downtown Development Authority Board of Directors
Regular Meeting
Tuesday, March 3, 2020 – 7:30 AM
City Hall – Council Chambers
220 W. South Avenue, Woodland Park CO

MINUTES

1. **Call to Order and Roll Call** - Merry Jo Larsen, Chair, called the meeting to order at 7:33am

In Attendance: Merry Jo Larsen (Chair), Elijah Murphy (Vice Chair), Al Born (Secretary), Tanner Coy (Treasurer), Ellen Carrick, Jerry Good, Nick Pinell, Noel Sawyer, Jan Wilson
Kory T. Katsimpalis (Assistant to the Board)

Others Present: Darrin Tangeman, Sally Riley, Bob Volpe, Stephanie Alfieri, Kellie Case, Deb Miller, Arden Weatherford, Pat Hill, Curt Grina, Brooke Smith, Tyler Lambert, and additional members of the public.

2. **Pledge of Allegiance** - Elijah Murphy, Vice Chair, led the Pledge of Allegiance.
3. **Additions, Deletions or Corrections to Agenda**

MOTION – To approve the agenda as presented. Born/Wilson. Passed 9-0

4. **Discussion regarding Taxes/Fees**

- a. **Vendor Fee**

-Merry Jo Larsen begins the discussion, which continues from the previous DDA Regular Meeting. Larsen reiterates that the DDA has no authority over the various taxes assessed within Woodland Park, but can work to develop a recommendation on behalf of the local business community represented by the District.

-Al Born states that at the Direction of the Board, he would request that the DDA develop a resolution to bring this topic to City Council for their further study, and potential implementation of changes.

-Tanner Coy concurs with Born's desire to draft a resolution that states the DDA positions and offers potential recommendations.

-Merry Jo Larsen asks if the Board feels they are able to develop the resolution during this meeting, or if additional Special Meeting(s) might be needed.

-Tanner Coy states that City Council, through the adoption of the DDA Foundation Plan, has directed this body to try and improve the health, welfare, and prosperity of the District. There are at least a few items, for instance the sales tax vendor fee, and business license fee, that directly affect the health and prosperity of the District, to some degree. These items are also in direct control of the City government. Therefore, it seems logical that these items be addressed. Coy proposes that the DDA position is that it would be of benefit to the DDA to reinstate the sales tax vendor fee, and eliminate the business license fee.

-Born brings forward a request, with the approval of the Board, that he and Coy work together for some “wordsmithing” of the proposed resolution. Their draft would then be presented back to the Board for final approval during our next meeting.

-Larsen agrees with Born’s request, and adds that we need to take into consideration both the City’s best interests and those of our business constituents, and that once we have a draft resolution, we can give it logical examination and discussion prior to approval.

-Ellen Carrick adds that of course our City government is looking out for our emergent welfare as well, it’s just that the money is going on to their pot and they take care, supposedly, of us, rather than the vendors keeping that money.

-Noel Sawyer questions, regarding the Business License Fee, how an additional fifty dollars a year would actually help a business. Sawyer adds that if a business’s success or failure is determined by fifty dollars, they ought not be in business.

-Jan Wilson asks what the fifty-dollar business license fee is used for.

-Sawyer responds that the fee is used to cover administrative costs associated with putting together the license, checking it with the State, and other administrative/process fees. Sawyer also adds that vendor fees were originally created in 1996, as a means of acknowledging the administrative burden placed on businesses that were collecting, reporting, and remitting sales tax on behalf of the State. At that time, before modern tax software and internet, most business had to complete these tasks by hand. The vendor fee ultimately went down to 0% in 1998.

-Wilson asks additionally if it is possible to go to the City and ask for a complete list of businesses operating in Woodland Park, based on business license information?

-Darrin Tangeman provides some additional information regarding tax and license items, per the request of the DDA made at the last Regular Meeting. Regarding Business License Fees, Tangeman provides some comparisons to State business license fee costs. Tangeman also clarifies that Woodland Park is a home-rule municipality, and thus determines its own fee amounts. Woodland Park does not collect license fees from non-profits. The State charges a sixty-six-dollar fee, fifty of which is a deposit (this deposit is applied towards the first remittance of sales tax to the State). Currently there is a Discussion within the state to simplify the various remittance processes across the State, which would work to put various taxing districts and overlays within the same remittance system.

Currently the City of Woodland Park is responsible for approximately one-third of the total sales tax assessed on individual businesses, and approximately one-fifth of the property taxes. Compared to the approximately 100 taxing authorities throughout the state, Woodland Park is a bit higher. The average cost for Business License fees for home-rule municipalities is \$35.36. What most cities have done, outside of the flat fee, is instituted a graduated fee scale based on number of employees. This may be a possible policy recommendation to City Council. There is also a possible recommendation to keep the rate flat, and reduce incrementally over 2-3 years with a goal of a \$35 fee.

Continuing the discussion to the Vendor Fee, Tangeman suggests that over time, POS systems and other technologies have eased the administrative burden that once was a part of sales tax collection, reporting and remittance; due to the diminished administrative burden, many sales tax vendor fees have gone away over the last decade or two. Vendor fees operate as a “credit” against the total taxes owed by a business each year. However, as multiple taxing districts have been created, that burden may be creeping back. A study performed in 2006 showed that the actual administrative burden regarding tax preparation was .82% impact, rather than the 3.3% previously offered by the credit. The big issue now is that the State is currently undergoing an analysis to see how each taxing entity can be integrated into a single remittance platform.

-Jan Wilson questions why the method of collection and remittance should affect the amount of credit offered. Ultimately each business is responsible in the same way for collecting and remitting sales tax.

-Tangeman again reiterates the point that the City is only 1/3 of a business’s sales tax and 1/5 of property tax. Therefore, it may be beneficial to get all the taxing authorities together for a work session, to see what can be accomplished collectively. While revenues continue to increase, their rate of increase is beginning to slow.

-Tanner Coy asks Tangeman for more information regarding the studies that were cited. Tangeman provides that the study was performed by Price Waterhouse in 2006, noting that it is probably time for a more up-to-date study. The Bell Policy Center of Colorado also has studies and data that address the issue.

-Coy comments that the common remittance system is already somewhat implemented between the various entities affecting Woodland Park, with one exception—the City of Woodland Park, which still maintains its own separate system. Additionally, the cost to a business for collecting and remitting sales tax, is not only in the administrative effort but is also now generated by credit card processing and merchant fees. For example, if a vendor processes a transaction that includes \$1,000 in tax, the consumer is charged the full \$1,000 but what is deposited into the vendor’s account is perhaps \$970, due to a 3% credit card processing fee. While other taxing entities recognize this as an administrative cost, the City does not recognize this cost in the form of a sales tax vendor fee. Coy argues that this credit card processing fee is really the largest cost within the sales tax processing cost/system.

The DDA is not charged with the responsibility of making sure that the City or School District has enough money; the responsibility of the DDA is to ensure the health and prosperity of the District and the businesses within. Additional benefits from that singular goal would thus include additional benefit to those taxing entities in the form of increased revenues being generated by a thriving business community locally.

-Tangeman states that, with all due respect, the DDA is a component of the City government. Therefore, having a holistic discussion with the other taxing entities would be beneficial, as the DDA and other similar groups act as “advisors” to City Council.

-Coy asks why, given the ongoing discussion and acknowledgement of credit card fees over the past decade, has the City still not reinstated the sales tax vendor fee, especially when all other taxing entities have done so?

-Tangeman responds that it is primarily due to lobbying at the State level.

-Coy responds that despite this constant lobby effort, other entities such as County and ambulance district have still come to the conclusion that vendor fees ought to be reinstated/modified to acknowledge current market conditions and credit card fees.

-Elijah Murphy explains that the \$50 business fee is one of multiple business fees that “stack” with other license fees and taxes to create a total cost that is burdensome to individual businesses. This cost burden becomes especially difficult to overcome in light of the State law that states that vendors may not add a surcharge to the cost of goods to cover credit card processing fees etc.

-Coy reiterates the difficulty created by not being able to add a surcharge, while in essence the City government is doing so by not offering the sales tax vendor fee. The City itself retains a fee when it collects and remits tax on behalf of the School District, for instance.

-Kellie Case offers comment, stating that most of the fees being discussed during this discussion are not items that are controlled by City Council. Instead, those items ought to be taken up at the State level.

-Merry Jo Larsen requests that during the development of the draft resolution, Al Born and Tanner Coy have at least one or two sit-down meetings with Darrin and other members of city staff/Council to discuss these issues in further detail. Perhaps some of these positions/recommendations could even be taken to the State level.

-Darrin Tangeman reiterates the importance of having a holistic discussion amongst the various taxing entities to clearly assess impacts of any proposed changes. For instance, vendor sales tax fees may reduce school district funds by \$70k/yr. The City does offer certain benefits to businesses outside of sales tax vendor fees, such as plowing of private parking lots and parking lot tax exemptions, etc. These items are discretionary on the City’s part, and may not be able to be offered if revenues drop too rapidly or precipitously.

-Tanner Coy agrees with Tangeman that essential services need to be a part of the conversation. When the sales tax vendor fee was eliminated in 1996, the Council voted at the time on an ordinance that restricted the use of those funds; they are not general fund revenues, and are not to be used for essential services. They are solely to be used for projects within downtown, though that has not been the case as of late.

-Tangeman responds that the funds are general fund, but are “earmarked” within the general fund. Tangeman feels that this ought to have been eliminated when the lodging tax was enacted, as it is no longer a fair distribution of those revenues. Many of the downtown revenues have been devoted to the city “street scape” projects.

-Al Born states his opinion that the DDA would be a “witness” to this process, as the DDA has no authority regarding the actual implementation of taxation.

-Curt Grina offers comment, referencing his past experience and familiarity with the “Principals of Good Governance”. Grina characterizes the current discussion as one of “what

can the businesses afford versus what is right". Is it right for the taxing authority to require you to spend your money, and take it out of your family, and not reimburse you for it? That is what is called an "unfunded mandate", and while it may be "un-American", we do it all the time. Regarding Noel Sawyer's statement that businesses ought to be able to afford the \$50 business license fee, Grina states that the government does not have the right to decide how much a business, as a "defenseless minority" can afford.

- b. Business License Fee**
- c. Lodging Tax**

5. Development Proposals for Woodland Station

a. Update from Negotiating Committee:

- i. N.E.S. Inc. Preliminary Concept Drawing**
- ii. Developer's Proposed Phasing**

-Tanner Coy provides recent updates on behalf of the Negotiating Committee. Coy presents drawings from N.E.S. on behalf of the Williams/Christian development group. Coy clarifies that the plan being presented is not "the DDA's Plan", but that Coy is merely presenting on behalf of the developers.

-Merry Jo Larsen – while waiting for Coy to distribute materials—shares that the DDA has received an additional donation of rail and ties from the Cog Station. Carl Anderson has offered to pick them up and bring to Woodland Park. The additional materials can be used for signs, additional track sections, etc. as needed.

-Coy describes the major elements of the preliminary draft drawing, and states that this preliminary concept drawing is being presented in part so that the public is not "in the dark" regarding the currently proposed development for Woodland Station.

-Phase 1 would include a 40' tower structure on the North-East corner of Woodland Station, which would include ground-level retail, entertainment space, and second-floor lodging spaces intended for short-term rental. Phase 2 would be comprised of an outdoor entertainment area, which would follow Phase 1 by approximately 18 months. Phase 3 would include an indoor entertainments space, along with additional lodging units. Phase 3 might also include an event center area, retail/mixed-use space, and an outdoor amphitheater and outdoor mixed-use space.

-Coy states that the developers are optimistic for a ground-breaking this Fall (2020). Developers are proposing rotating the Cog car by 90 degrees; architectural styles being proposed are rustic and maintain the Mountain-West theme, and are within our current style guidelines.

-Developers have asked that any public space that remains within the development become "enhanced", with activities beyond just landscaping. Some examples include outdoor chess/checkers boards, firepits with seating, trampolines, gathering spaces, etc.

-Coy states that updated drawings with requested updates/changes are anticipated to be provided by N.E.S. any day now. Specific businesses for inclusion have not been proposed yet, only intended types of uses within the variously proposed structures and spaces.

-Merry Jo Larsen asks for clarification regarding the type of lodging being proposed. Coy clarifies that all lodging proposed is intended to be short-term.

-Jerry Good asks that the Negotiating Committee relay back to the developer our thanks from the Board, as we appreciate being able to see some preliminary drawings and further our discussion/review.

-Ellen Carrick asks for clarification regarding the drawing, questioning whether paths indicated on the plan are pedestrian walkways or traffic roads. Coy clarifies that the paths in question are pedestrian walkways. Carrick asks if infrastructure and utility elements have been addressed or discussed yet.

-Coy indicates that infrastructure has been addressed preliminarily, though more specific details regarding building capacities, traffic patterns, usage volumes, etc. will need to be developed further. As we enter into an agreement for disposition and development, we will be able to better define actual costs and requirements.

-Sally Riley asks if the developer has their team assembled, including architect, engineer(s) and financial?

-Coy responds that he has not heard anything regarding engineers at this time.

-Riley offers that the developers' goal of a Fall 2020 groundbreaking is very ambitious, given the normal steps and timeframe needed between then and now. The City Planning Dept. has not yet met with the developers' team, so as soon as that can happen it would be beneficial.

-Merry Jo Larsen also reiterates that the Board would like to meet face-to-face with the developers, and asks if they have any time to come out for a visit soon?

-Coy responds that he is unaware if the developers are planning any sort of visit, though Coy has continued to encourage them to visit sooner than later.

-Coy relays that the developers have asked the Board to provide a preliminary approval/green-light in regards to the planned 40' height of the "frame head" tower structure on the North-East corner of the lot.

-Al Born states his preliminary question regarding the availability of parking, as well as the necessary access for delivery/service to building three. If the access road would continue as drawn, it seems that it would necessitate a ramp, which may further hinder accessibility. So, there are still some logistics and planning that the engineers will need to work with Sally Riley on.

-Larsen states that this seems to represent the development direction that Board has always desired. Larsen relays a specific concern regarding the proposed 40' tower structure and its potential impacts of the view of Pikes Peak when looking

south. Perhaps the tower structure would be better placed within the interior of the development, nearer the event center.

-Al Born observes that a large portion of the land included in the proposed development would remain public access. Born questions whether responsibility for the maintenance of these areas will fall to the City of Woodland Park, if so, would that be fair.

-Merry Jo Larsen responds that maintenance is “to be determined”, and that the drawings being discussed today are merely preliminary concept plans.

-Al Born states that he is not ready to vote on the matter at this time.

-Tanner Coy acknowledges that the comments being made by the Board are very helpful and will be communicated back to the developers. Coy also clarifies that the amount of public access space may be less than what it appears on the drawings and would be contained along the designated walkways described by the concept drawing.

-Al Born raises a concern over parking availability and the potential impacts of the American with Disabilities Act that may affect the proposed development.

-Ellen Carrick asks if the Negotiating Committee has received any information regarding the developers’ capability to finance the project.

-Tanner Coy responds that nothing specific has been submitted.

-Jerry Good encourages adopting an approach that creates a good working relationship, with an understanding that while there are a lot of details to iron out, the DDA is willing to work in collaboration with the developers to iron them out. Good asks the Negotiating Committee to reassure the development group that they will receive a positive response from the DDA within the working environment.

-Noel Sawyer suggest that the Negotiating Committee bring City Planning Dept. staff to the next meeting with the development team, to begin ironing out the big picture.

-Merry Jo Larsen responds that we aren’t quite to that point yet, and that there are some additional changes that have been discussed that are not reflected in the plans currently being reviewed.

-Tanner Coy summarizes the conversation, stating that there were some mixed comments about the plans, including some ideas and concerns, and at this point we are recommending that the developers come out to Woodland Park as soon as possible to meet with Planning and the DDA Board; ask that the developers bring financial documents for review; and physically walk the Woodland Station property to ensure we are on the same page and begin to make some progress.

-Merry Jo Larsen concurs with Coy’s summarization and agrees with the next steps as proposed. Larsen also states that the current concept drawings are exactly what we have been looking for, and they have the DDA’s preliminary blessing.

-Coy clarifies that the developers are not seeking a full formal approval of the drawing in its entirety. Their immediate need is to know whether the proposed 40' tower at the north-east corner is objectionable. If the developers need to steer into a different direction, they need to know that quickly. Because it is included in Phase 1, the developers need to know very soon what will be included to attempt to meet a groundbreaking in 2020. The developers do have an "option B" developed, but it is not yet ready for public reveal.

-Ellen Carrick asks if the 40' tower being proposed would need to seek an exception from City Planning due to height.

-Sally Riley clarifies that the property in question is within an overlay district that has special zoning that allows for a developer or landowner to propose a height.

-Merry Jo Larsen mentions her concern over the proposed 40' height. Larsen also offers her support for the concept of short-term lodging being included in the plans and would encourage even more if possible.

-Larsen presents a letter signed by various business adjacent to Bergstrom Alley, who are formally requesting that Bergstrom Alley be included in planned development, with a goal of creating an additional 18-20 parking spaces as well as improving fire access through the alley.

-Elijah Murphy proposes performing a "balloon on a string" test to determine the approximate height and location of the proposed 40' tower. This will help to assess the potential impact on the view of Pikes Peak.

-Noel Sawyer asks if it would be possible, when the developers come out for a visit, to have the DDA Board meet with them at Woodland Station to walk the grounds.

-Tanner Coy responds in the affirmative, adding that the meeting would need to be noticed as a public meeting per usual.

-Sawyer suggests that the proposed meeting at Woodland Station be scheduled during our normal meeting time, dependent on weather.

b. Members and Structure of the Negotiating Committee

c. Board Discussion of Development Proposals – TO BE DISCUSSED IN EXECUTIVE SESSION

6. Discussion Regarding Grants

-Merry Jo Larsen asks if the discussion can be tabled to the next meeting, citing limited remaining time.

MOTION – to table the Discussion Regarding Grants to the next Regular Meeting of the DDA.
Sawyer/Carrick. Passed 9-0

7. General Discussion

-Elijah Murphy relays his participation in a meeting of the County Commissioners that examined the "C-PACE" program. This is a program that the County must vote in, which allows for improvements monies for properties via assessment. Murphy will be speaking with Larry Lucas to get additional information, in part to determine if Home Rule municipalities can vote it in themselves if the County

decides not to. Murphy gives the example of installing charging stations at the Ute Inn as a potential C-PACE project. The project is not taxpayer funded but is instead funded by local and community banks. Once work is completed, there is an assessment on the property which gets paid back through property taxes. Most projects are centered on energy savings and sustainability and include a full energy audit.

-Merry Jo Larsen asks that Murphy keep abreast of the C-PACE program, as it could potentially be a source of additional funding for proposed development on Woodland Station.

-Elijah Murphy opines on the “cost of doing business”, remarking that all cost of business must be recouped in order to continue operating a business. At the end of the day, we thank our elected officials for going forward and helping us and ask them to consider what the cumulative effect of various Federal, State, and Local tax and fees is on businesses in Woodland Park.

-Merry Jo Larsen indicates that we now have the Cog Car books available for purchase as a means of fundraising for upkeep of the car. The books were assembled by Duane Carter’s daughter and will be sold for \$35 each. Books can be purchased from the Cowhand, and checks are to be made out to the Mountain Arts Alliance, which is acting as the non-profit entity to allow for tax credits.

-Larsen also offers response to earlier feedback regarding the cog car move, wherein a citizen stated that they would have offered to pay for the move in order to get their name on it. Larsen clarifies that the naming rights to the car were never “put out to bid”, and that Duane Carter’s offer to finance the move was a gift that came to the DDA without solicitation. Because of the generosity of the offer, Larsen had the idea to offer naming of the car to Mr. Carter as a show of thanks for his assistance. There has also been a nice brass plaque proposed that will honor Duane and Myrna Carter and the moving of the car to Woodland Station.

-Jan Wilson relays her participation in a recent Placemaking Partners meeting, stating that the meeting was a success due in part to the number of attendees that were there and their level of interest and engagement.

-Jerry Good states that he is slightly optimistic that this year looks better for business, and also reflects that the Moose is Loose event was well-attended this year and was a positive for local business.

-Tanner Coy also mentions the success of Moose is Loose, which celebrated its twentieth year. A few prizes and shopping sprees are still available and will be given out soon. Moose Bucks can be redeemed at Tweeds for cash when/if collected. Coy also thanks the sponsors of the Moose is Loose event, including UC Health, Keller Williams Client’s Choice Realty, Vectra Bank, Skyridge Lending, and Century Casinos.

-Coy also describes that there is a local resident making some false claims about the DDA, including some members and businesses by name. Coy asks if there is any desire to include DDA counsel regarding what is being claimed, stating he has not taken any action at this point.

-Merry Jo Larsen states that the claims being made are indeed of concern. However, considering the source, attempting to combat the allegations or take legal action would ultimately be futile.

-Jerry Good states that the individual in question has called the DDA Board “Child Molesters”, and urged for a boycott of Board members’ businesses, as well as engaging in numerous instances of slander.

8. Audience Participation on Items Not on the Agenda

-Deb Miller provides details on an upcoming "Lunch and Learn" session, which will center on the topic of "Business Generation Model Canvas". The session will be offered at 11:30am this Thursday, at the UPCC. Additionally, the Chamber has developed a "Blue Book" relating to the eleven proposed charter amendments for Woodland Park. The Blue Book can be found online or at the Chamber. Lastly, the Chamber has a Candidates Forum planned for Tuesday, March 11 at 5:30pm at Council Chambers, as well as the Chamber Annual Awards Dinner, which is scheduled for March 20.

9. Adjourn to Executive Session: *for the purpose of determining positions relative to matters involving development projects within the City of Woodland Park Downtown Development Authority District, regarding:*

a. Determining positions relative to matters that may be subject to negotiations; developing strategy for negotiations; and instructing negotiators under C.R.S. 24-6-402 (4)(e).

MOTION – To adjourn to Executive Session. Coy/Wilson. Passed 9 – 0

The following people were present at the Executive Session: Merry Jo Larsen (Chair), Elijah Murphy (Vice Chair), Al Born (Secretary), Tanner Coy (Treasurer), Ellen Carrick, Jerry Good, Nick Pinell, Noel Sawyer, Jan Wilson, Kory T. Katsimpalis (Assistant to the Board)

Ellen Carrick departs Executive Session at 9:35am

10. Reconvene Regular Meeting

Following the Executive Session, Larsen reconvened the regular meeting at 9:58am. The following people were present following the Executive Session: Merry Jo Larsen, Elijah Murphy, Al Born, Tanner Coy, Jerry Good, Nick Pinell, Noel Sawyer, Jan Wilson, Kory T. Katsimpalis (Assistant to the Board)

11. Adjourn

MOTION: to adjourn the Regular Meeting. Coy/Sawyer. Passed 8 – 0

Meeting adjourned at 10:00am

Recorded by Kory T. Katsimpalis, Assistant to the Board

APPROVED THIS 21 DAY OF April, 2020



Al Born, Secretary