Woodland Park City Council
Council Chambers – City Hall
November 7, 2019, 7:00 PM

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6:00 PM Executive Session Pursuant to C.R.S. Section 24-6-402(4)(b) for a conference with the City Attorney for purposes of receiving legal advice on specific legal questions in regards to: water tap issuances.

At 6:04 PM Mayor Levy opened the Public Meeting and a motion was made to move into Executive Session. Motion Sawyer/Case. Motion carried 5-0. Councilmember LaBarre recused herself from the Executive Session.

The following Councilmembers were present at the Executive Session were Levy, Carr, Case, Saunier and Sawyer. The following staff were also present Kip Wiley, Suzanne Leclercq, Darrin Tangeman and Jason Meyers.

City Attorney Meyer advised the Council that the recorder be turned off. The recorder was turned off at 6:04 PM.

Executive Session concluded at 6:28 PM.

6:30 PM Executive Session Pursuant to C.R.S. Section 24-6-402(4)(f) for Personnel matters with the Municipal Judge.

At 6:31 PM a motion was made to go into Executive Session. Case/Carr. 6-0.

Present at the Executive Session were Mayor Levy, Mayor Pro-tem Carr, Councilmember Case, Councilmember LaBarre, Councilmember Saunier and Councilmember Sawyer. City Manager Tangeman, City Clerk Leclercq, Municipal Judge Elizabeth McClintock, Court Clerk Karla Collins and City Attorney Meyers were also in attendance.

The executive session concluded at 6:55 PM.

1. **ROLL CALL**
   A. The following members of Council present were: Mayor Levy, Mayor Pro-Tem Carr, Kellie Case, Hilary LaBarre, Paul Saunier and Noel Sawyer.
2. **PLEDGE OF ALLEGIANCE**

The following Staff Members were also in attendance for this meeting:

City Manager Darrin Tangeman
Assistant City Manager/City Clerk Suzanne Leclercq
City Attorney Jason Meyers
Public Works Director Kip Wiley
Community Engagement Manager Karen Casey
Planning Director Sally Riley
Deputy Public Works Director Ben Schmitt
Chief of Police Miles DeYoung

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS:

A. Oath of Office and welcome to new City Council Member.

Mayor Levy welcomed Darwin Naccarato as the newly appointed Councilmember and City Clerk Leclercq administered the Oath of Office. Naccarato took his place on the dais.

B. American Legion Proclamation.

Dan Williams American Legion Post 1980 spoke of the history of the American Legion and Mayor Levy read a proclamation into the record declaring this day as American Legion Day.

C. Shop Small Proclamation.

Stephanie Alfieri shared the upcoming events and the success of last year's Shop Small Saturday. Mayor Levy read the Shop Small Proclamation into the record.

D. Keep Woodland Park Beautiful Annual Presentation.

Pat Hyslop reviewed all that the KWPB Committee has been working on.

E. Nonprofit Cooperative Fundraiser.

Gayle Gross shared a presentation with the Council regarding the Nonprofit Cooperative Fundraiser.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA:

A. Mayor Pro-tem Carr made a motion that Item 10 C be tabled to the November 21, 2019 Council Meeting. Seconded by LaBarre. Motion carried with a vote of 4-3. Case, Levy and Sawyer voting no.

5. CONSENT CALENDAR:

A. Approve minutes of October 17, 2019 Council Meeting.
B. September 2019 Statement of Expenditures

City Clerk Leclercq read the consent agenda into the record.

MOTION: To approve Consent Calendar. Case/Carr. 6-0. Motion carried. Councilmember Naccarato abstained from the vote as he was not an official Councilmember at that meeting.

6. **PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA:**

   A. Casey Coronado asked questions regarding the old Sturman Property that had been purchased by Womack Ministries.

7. **UNFINISHED BUSINESS:**

   A. Approve Resolution 850, a resolution concerning an agreement between Village at Tamarac LLC (M3XP2) and the City of Woodland Park with respect to the necessary improvement to State Highway 67 at Tamarac Parkway.

At this time Councilmember LaBarre recused herself. Mayor Pro-tem Carr asked if he needed to recuse himself as a result of papers that were served to the Council regarding the Village of Tamarac. City attorney Meyers stated that was not necessary.

At 8:07 PM Mayor Pro-tem Carr left the meeting.

Planning Director Riley reviewed the Staff Report Regarding Resolution No. 850.

The attached Resolution details the chronology and justification why the City is partially responsible for funding and competing SH 67 improvements. During the past few months, the Applicant, Staff and CDOT have been researching, evaluating and discussing the need to widen SH 67 by adding a bi-directional center turn lane serving both Research Drive and Tamarac Parkway. The following was discovered:

1. The City was a Permittee for the 1995 CDOT Access Permit at Tamarac Parkway.
2. The 1995 Access Permit required the City to make improvements to SH 67 when warranted.
3. The 1999 Traffic Study for the Police Operations Center and US Post Office triggered warrants for highway improvements.
4. Over several years, the City collected Transportation Capital Fees in the amount of $68,255 from the developers of the US Post Office, Colorado Springs Christian School, Rampart Surveys, Woodland Fitness Center, and estimated fee for the Police Operations Center in hopes of using these impact fees to match state or federal grant funding for SH67 improvements. In that time, grant funding has become more limited and more competitive to obtain. At this time, there is no grant funding available and it is not likely that there will be grant funding available for several years.
5. Currently, the developers of Village at Tamarac, while required by the City of Woodland Park Municipal Code to pay Transportation Capital Fee in the current amount of $26,818, they have agreed to pay an additional $66,182 for a total of $93,000 toward improvements to SH 67.
6. It is estimated that the bi-directional turn lane, drainage and design for CDOT approval will cost approximately $750,000. In addition to the developer's contribution, local funds will be made available in the 410 Streets Fund by postponing and reprioritizing the City's future transportation projects identified in the Capital Improvement Plan (CIP).

As a result of the 1995 Access Permit obligations, CDOT requirements and negotiations with the developer, the Staff has re-written "Condition #2" of the "Village at Tamarac Site Plan Review and Certified Letter of Approval with Conditions" (the Administrative Order) as follows:

#2. Applicant shall remit Transportation Capital Fee in the current amount $26,818 and the Developer agrees to pay an additional $66,182 for a total of $93,000 toward the improvement to SH 67 with the following stipulations:

a) *The City will contract with LSC Transportation Consultants to revise the October 4, 2018 Traffic Impact Study to include Research Drive intersection and make the necessary improvements to SH 67 in 2020.*
b) *Any further development by M3XP2 (Village at Tamarac, LLC) or any subsidiary of M3XP2 that develops property within the Tamarac Tech Park will only be required to pay Transportation Capital Fees as typically imposed by the City of Woodland Park on developments throughout the community. Parties understand that the improvements contemplated within this agreement will bring the Tamarac developments, including the Village at Tamarac, LLC, into compliance with CDOT requirements. If further/future development(s)*

independently triggers additional requirements from CDOT, than those requirements will be borne by the Developer at that time as is typically imposed by the City of Woodland Park.

c) *M3XP2 (Village at Tamarac, LLC) contribution is earmarked for the construction of intersection improvements at SH 67 and Tamarac Parkway. In the event that improvements are not constructed or physically under construction (not in design or permitting) in the five years following the effective date of the agreement between the City and M3XP2, the City will refund M3XP2 or assigns $66,182, which is the difference between the fee paid by M3XP2 and/or The Village at Tamarac, LLC ($93,000) and the current (2019) transportation capital fees for the project ($26,818 based on 53 units @ $506/unit).*

d) *M3XP2 will withdraw its Appeal (APL19-003) submitted on August 5, 2019 as the contentions of the Appeal have been hereby resolved with this updated condition and accompanying stipulations.*

Riley reported that staff's recommendation was to move to approve Resolution #850, 2019 given the increase in use of SH67, acknowledging it is in the best interest of the City of Woodland Pak to complete the necessary improvements to SH67 per the 1995 Access Permittee, thereby enhancing the safety motoring public.

At this time Mayor Levy opened up the Public Comment. The following individuals spoke regarding the project:

Kim Urban
Elizabeth Miller
Maria Francis Sinell
Joe Fury
Elijah Murphy
Ryan Baade

After Council discussion the following motion was made:

MOTION: Approve Resolution 850, a resolution concerning an agreement between Village at Tamarac LLC (M3XP2) and the City of Woodland Park with respect to the necessary improvement to State Highway 67 at Tamarac Parkway. Case/Sawyer. 5-0. Motion carried.

8. ORDINANCES ON INITIAL POSTING:

A. Consider first reading of Ordinance 1355, Series 2019 regarding amendments to Municipal Code Sections 18.06.432 Setback and 18.13.040 C UR Side Setback and schedule a public hearing for November 21, 2019.

B. Consider first reading on Ordinance No. 1356, Series 2019 regarding amendments to Municipal Code Chapters 18.51 Board of Adjustment and 18.60 Variances and schedule a public hearing for November 21, 2019.

Planning Director Riley reviewed the two ordinances on initial posting.

Motion: Approve first reading of Ordinance 1355, Series 2019 regarding amendments to Municipal Code Sections 18.06.432 Setback and 18.13.040 C UR Side Setback and schedule a public hearing for November 21, 2019. Case/Sawyer. 6-0. Motion carried.

Motion: Approve first reading of Ordinance 1356, Series 2019 regarding amendments to Municipal Code Chapters 18.51 Board of Adjustment and 18.60 Variances and schedule a public hearing for November 21, 2019. Sawyer/Case. 6-0. Motion carried.

9. PUBLIC HEARINGS:

A. Consider an Appeal (APL19-003) by the Village at Tamarac, LLC Managing Member Pete LaBarre from the administrative decision regarding Condition #2 of the Site Plan Review (SPR19-001) Certified Approval Letter dated July 23, 2019 for 53 detached single family units on Lot 5, Tamarac Tech Park Filing No. 5 (Tamarac Parkway) in the Multi-Family Residential Suburban (MFS) zone.

Representative for the applicant Mark Wever asked that this item be withdrawn.

B. Approve Ordinance 1357, Series 2019, an Ordinance amending the Woodland Park Municipal Code by amending section 9.30 possession of marijuana and/or drug paraphernalia.

City Attorney reviewed this Ordinance with the Council. Mayor Levy opened up the Public Comment and there was none.

MOTION: Approve Ordinance 1357, Series 2019 an Ordinance amending the Woodland Park Municipal Code by amending section 9.30 possession of marijuana and/or drug paraphernalia. Levy/Saunier. 6-0. Motion carried.

C. Approve Ordinance 1358, Series 2019, an Ordinance amending the Woodland Park Municipal Code by amending section 9.58 stealing.

MOTION: Approve Ordinance 1358, Series 2019, an Ordinance amending the Woodland Park Municipal Code by amending section 9.58 stealing. Naccarato/Sawyer. 6-0.

10. NEW BUSINESS
(Public comment may be heard)

A. Consider Resolution 847 transferring 100 Single Family Residential water taps to the Multi-family allotment.

At this time Councilmember LaBarre recused herself. Kim and Jim Urban asked a few questions regarding this Resolution. Director Wiley explained the process and why this was being done.

MOTION: Consider Resolution 847 transferring 100 Single Family Residential water taps to the Multi-family allotment. Case/Sawyer. 5-0. Motion carried.

B. Consider Resolution 848 allocating 53 Multi-family water taps for the proposed Village at Tamarac Development on Lot 5 on Tamarac Tech Park Filing 5.

Director Wiley presented the Staff Report for Resolution 848. Sharing the following background and Conditions of Approval. Wiley shared that the Developer of Lot 5 at Tamarac Tech Park Filling #5 has requested to reserve 53 water taps for a 53 multifamily dwelling unit project. The 6.68 acre site is planned to include 53 Single Family Residential dwelling units and associated improvements. Lot 5 of the Tamarac Tech Park filling was rezoned in 2014 to accommodate 53 multifamily units. Lots 6 to 8 is also included in the rezone to add another 248 units. The increase in units was supported as the city had the water to support and additional 400 units. The 400 units were supported by the need for high priority housing. The 53 multi-family taps for this project come out of the multi-family bank; however the taps are purchased at a single family rate. Staff considers this project similar to a townhouse/condominium (single family residential) project when assessing the tap fees for each unit.

CONDITIONS OF APPROVAL:

Pursuant to Section 13.27.050 D water taps for multifamily projects are allocated by City Council on a project-by-project basis. The Developer is requesting the approval of 53 water tap allocations for the multifamily project. The applicants pay $200 per multi-family tap allocation at the time of City Council approval. If not used within the two-year window, the applicant may obtain one two-year administrative extension of the multifamily water tap allocations by requesting an extension and paying another $200 dwelling unit tap allocation fee. Such requests shall be made in writing and delivered with payment to the City Manager or his designee prior to the initial expiration of the City Council approved tap allocation. The administrative extension shall be granted unless the subject project is out of compliance with applicable City Code provisions.

Resolution #380 was adopted on August 7, 1997 to establish criteria with which to evaluate multifamily water tap allocations. Listed below are the twelve criteria and the staff's response as to whether the Village at Tamarac project meets or dos not meet the criterion.

Multifamily criteria for tap allocation	**YES**	**NO**
1. Are taps currently available as provided by the tap management plan?	X	
2. Can the community economically provide for the water and waste water treatment capacity?	X	
3. The project design furnishes efficient access for police, fire and emergency services.	X	
4. The project adequately addresses and mitigates on and off site transportation and circulation impacts.		X
5. The proposal is compatible with surrounding land uses and mitigates potential negative impacts on adjoining uses.	X	
6. The proposal addresses affordable housing needs.	X	
7. The proposal includes service and facilities for the senior community and the handicapped.	X (seniors)	X (handicapped)
8. The project provides for the protection and preservation of natural resources.		X
9. The project does not detrimentally impact significant cultural or historic features.	X	
10. A. The project design is aesthetically inviting, pedestrian friendly.	X	
10. B. The project design is consistent with local mountain character and small town environment	X	
11. The project design conforms to the Parks, Trails and Open Space Master Plan by providing access and linkage to existing and planning recreational facilities trail and sidewalk systems, schools, neighborhoods and commercial areas.	X	

At this time Mayor Levy opened the public comment.

The following individuals spoke in regards to this Resolution:

Joe Fury
Elijah Murphy
Scott Landert
Kim Urban

Mayor Levy closed the Public Comment and the following motion was made:

MOTION: To approve Resolution 848 allocating 53 Multi-family water taps for the proposed Village at Tamarac Development on Lot 5 on Tamarac Tech Filing 5. Case/Naccarato 4-1 Motion carried. Saunier voting no.

C. Approve Resolution No. 849 certifying the mill levy for the 2020 Budget year. **Tabled until November 21, 2019**.

11. **NEW BUSINESS:**
    A. None.

12. **REPORTS:**
    (Public comment not necessary)
    A. Mayor's Report.
        i. Mayor Levy read the events for the next two weeks.
    B. Council Reports. Discussion was had that Darwin Naccarato would serve on the Historical Preservation Committee and Kellie Case was assigned to the Parks Recreation Advisory Board.
    C. City Attorney's Report.
    D. City Manager's Report. City Manager Tangeman shared farewells with City Engineer Schmitt who is moving to Idaho.

13. **ADDED ITEM AGENDA:**
    A. None.

14. **EXECUTIVE SESSION:**
    A. Pursuant to C.R.S. Section 24-6-402(4)(b) for conference with the City Attorney for purposes of receiving legal advice on specific legal questions in regards to: Pending Cass Action Litigation Cases.

At 10:32 PM a motion was made to go into Executive Session. Case/Noel. 6-0.

The Executive Session was called to order at 10:46 PM. At 10:47 PM the City Attorney advised Council that the recorder could be shut off.

Present at the Executive Session were Mayor Levy, Councilmember Case, Councilmember LaBarre, Councilmember Saunier, Councilmember Sawyer and Councilmember Naccarato. City Manager Tangeman and City Attorney Meyers were also present.

The executive session concluded at 11:00 PM.

15. **COMMENTS ON WRITTEN CORRESPONDENCE:**
    A. None.

16. **ADJOURNMENT:** The meeting adjourned at 8:02 PM.

Suzanne Leclercq

Suzanne Leclercq, City Clerk

APPROVED THIS 21st DAY OF November, 2019

Neil Levy, Mayor