

TOWN COUNCIL
MEETING
PACKET

February 4, 2019



Town Council

Agenda
Monday, February 4, 2019
Town Hall, Council Chambers
450 So. Parish Avenue
7:00 PM



MISSION STATEMENT-*"The mission of the government of the Town of Johnstown is to provide leadership based upon trust and integrity, commitment directed toward responsive service delivery, and vision for enhancing the quality of life in our community."*

*Members of the audience are invited to speak at the Council meeting. Public Comment (item No. 5) is reserved for citizen comments on items **not** contained on the printed agenda. Citizen comments are limited to three (3) minutes per speaker. When several people wish to speak on the same position on a given item, they are requested to select a spokesperson to state that position. If you wish to speak at the Town Council meeting, please fill out a sign-up sheet and present it to the Town Clerk.*

1) CALL TO ORDER

A) Pledge of Allegiance

2) ROLL CALL

3) AGENDA APPROVAL

4) RECOGNITIONS AND PROCLAMATIONS

A. Mr. John Camper, Director of the Colorado Bureau of Investigations, President of the Colorado Association of Chiefs of Police will be presenting Chief Phillips and the Johnstown Police Department their Award of Accreditation from the Colorado Association of Chiefs of Police.

5) PUBLIC COMMENT (three-minute limit per speaker)

*The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any Council member wishes to have an item discussed or if there is public comment on those ordinances marked with an *asterisk. The Council member may then move to have the subject item removed from the Consent Agenda for discussion separately.*

6) CONSENT AGENDA

A) Town Council Meeting Minutes – January 23, 2019

B) Second Amendment to Agreement between the Town of Johnstown and Waste Management of Colorado, Inc.

C) First Amendment to Intergovernmental Agreement between the Town of Johnstown and Weld County Reorganized School District RE5-J Concerning Annexations and School Site Dedication or Payments in Lieu for School Site Purposes

7) TOWN MANAGER REPORT

8) TOWN ATTORNEY REPORT

9) OLD BUSINESS

10) NEW BUSINESS

A) Public Hearing – New Hotel & Restaurant License – Urban Egg a Daytime Eatery

B) Memorandum of Understanding between the Town of Johnstown and J-25 Land Holdings, LLC

11) EXECUTIVE SESSION

A) For a conference with the Town Attorney for the purposes of receiving legal advice from the Town attorney pursuant to C.R.S. 24-6-402(4)(b) regarding a potential settlement with Thompson Crossing Metropolitan District No. 1

B) Consideration of Settlement Agreement between the Town of Johnstown and Thompson Crossing Metropolitan District No. 1

12) COUNCIL REPORTS AND COMMENTS

13) MAYOR'S COMMENTS

14) ADJOURN



NOTICE OF ACCOMODATION

If you need special assistance to participate in the meeting, please contact the Town Clerk at (970) 587-4664. Notification at least 72 hours prior to the meeting will enable the Town to make reasonable arrangements to ensure accessibility to the meeting.

AGENDA ITEM 6A-C

CONSENT

AGENDA

- **Council Minutes – January 23, 2019**
- **Second Amendment to Agreement between the Town of Johnstown and Waste Management of Colorado, LLC**
- **First Amendment to IGA between the Town of Johnstown and Weld County Reorganized School District RE5-J Concerning Annexations and School Site Dedication or Payments in Lieu of School Site Purposes**

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: February 4, 2019

ITEM NUMBER: 6A-C

SUBJECT: Consent Agenda

ACTION PROPOSED: Approve Consent Agenda

PRESENTED BY: Town Clerk

AGENDA ITEM DESCRIPTION: The following items are included on the Consent Agenda, which may be approved by a single motion approving the Consent Agenda:

- A) Town Council Meeting Minutes – January 23, 2019
- B) * Second Amendment to Agreement between the Town of Johnstown and Waste Management of Colorado, Inc.
- C **First Amendment to Intergovernmental Agreement between the Town of Johnstown and Weld County Reorganized School District RE5-J Concerning Annexations and School Site Dedication or Payments in Lieu for School Site Purposes

*On August 15, 2011, the Town and Waste Management of Colorado, Inc. entered into an agreement for trash services (“Agreement”). The Agreement provides that if there is a cost increase arising from governmental action, Waste Management may seek an increase in its rates. On August 17, 2018, Waste Management notified the Town of new costs arising from changes in the recycling industry due to actions taken by China and, on December 20, 2018, made a presentation to Town Council. Based on the change, Waste Management seeks to increase its bi-weekly curbside recycling collection fee from \$7.85 per month to \$10.15 per month, to be adjusted based on the consumer price index on September 1 of each year during the term of the Agreement. The Second Amendment to the Agreement reflects the price increase.

** On January 23, 2019 a public hearing was conducted for comments related to the adjustment of the cash in lieu fees for the School District and part of our IGA with the District. Based on the public hearing and discussion during this time with the School District representative, the cash in lieu fees have been modified to the following in the table shown below.

Unit Type	Current Cash in Lieu Fee	Proposed Cash in Lieu Fee	Modified Cash in Lieu Fee
Single Family Detached	\$750.00	\$924.00	\$924.00
Single Family Attached (Per Unit)	\$750.00	\$353.00	\$353.00
Multifamily (Per Unit)	\$750.00	\$613.00	\$613.00
Mobile Home	\$750.00	\$1530.00	\$924.00

The proposed amendment to the Intergovernmental Agreement (IGA) is attached and incorporates the change in the methodology based on Exhibits A and B. It also includes as requested by the District, an update to the address of correspondence between the two parties

LEGAL ADVICE: The entire Consent Agenda may be approved by a motion of the Town Council approving the Consent Agenda, which automatically approves each and every item listed on the Consent Agenda. If a Council member wishes to have a specific discussion on an individual item included with the Consent Agenda, they may move to remove the item from the Consent Agenda for discussion.

FINANCIAL ADVICE: N/A

RECOMMENDED ACTION: Approve Consent Agenda

SUGGESTED MOTION:

For Approval: I move to approve the Consent Agenda.

For Denial:

**COUNCIL
MINUTES**

The Town Council of the Town of Johnstown met on Wednesday, January 23, 2019 at 7:00 p.m. in the Council Chambers at 450 S. Parish Avenue, Johnstown.

Mayor Lebsack led the Pledge of Allegiance.

Roll Call

Those present were: Councilmembers Lemasters, Mellon and Young

Those absent were: Councilmembers Molinar Jr. and Tallent

Also present: Matt LeCerf, Interim Town Manager, Avi Rocklin, Town Attorney, Chief Brian Phillips, and Diana Seele, Town Clerk/Treasurer

Agenda Approval

Councilmember Mellon made a motion seconded by Councilmember Young to approve the Agenda. Motion carried with a unanimous vote.

Public Comment

Mr. Jim Young representing the Front Range Fire Authority, requested Council work with the fire district to update the agreement between the parties.

Consent Agenda

Councilmember Mellon made a motion seconded by Councilmember Lemasters to approve the Consent Agenda with the following items:

- January 7, 2019 Town Council Meeting Minutes
- December Financial Statements
- Payment of Bills
- Water and Sewer Service Agreement for Blue Mountain 2534, LLC
- First Amendment to Water and Sewer Service Agreement – Johnstown Plaza LLC

Motion carried with a unanimous vote.

Old Business

A. Continued Public Hearing – Weld County School District RE5J Cash in Lieu Fees –
The public hearing was continued from January 7, 2019, due to a representative from the School District not present and questions/concerns Council had on some of the fees.

Mayor Lebsack opened the Public Hearing at 7:13 p.m. Ms. Becky Samborski from Weld County School District RE5J was present to answer questions from Council. She also stated the proposed Cash in Lieu Fee for mobile homes would be lowered to \$924.00 the same amount as single family detached homes. Having no further comments the public hearing closed at 7:20 p.m.

Councilmember Mellon made a motion seconded by Councilmember Lemasters to approve the amendment to the methodology and make the Cash In Lieu Fee for mobile homes the same as single family detached. Motion carried with a unanimous vote.

New Business

A. Appointment of Councilmember - Councilmember Lemasters made a motion seconded by Councilmember Mellon to appoint Damien Berg to a term ending April 2020. Motion carried with a unanimous vote.

B. Award Bid for Water Treatment Plant Piping Project – The project is the removal and replacement of existing filter pipe in the lower section of the Town Water Treatment Plant in the pipe galley. The project was advertised with a bid opening on January 22, 2019. Councilmember Mellon made a motion seconded by Councilmember Lemasters to approve the contract and award the Johnstown Piping Project to Stanek Constructors in the amount of \$326,000, subject to review of the completed contract by the Town Attorney and Town Manager and also authorize the contract to be signed by the Town Manager. Motion carried with a unanimous vote.

C. Economic Incentives – Thompson River Pediatrics & Urgent Care – Thompson River Pediatric & Urgent Care operate a successful health care business that is unaffiliated with other hospitals and are looking to expand their business from their existing 1,200 square foot facility. They want to build a new 10,000 square foot building. With additional space the new facility would create new employment. Recommendation is an incentive of a 50% reduction in the building permit fee and 25% for the impact fee. This recommendation is based upon the new primary job creation and construction of a new facility that provides value to our commercial area. Councilmember Mellon made a motion seconded by Councilmember Young to approve the incentive as presented for Thompson River Pediatric and Urgent Care with the incentive expiring in 2 years 1/23/2021. Motion carried with a unanimous vote.

Executive Session

Councilmember Mellon made a motion seconded by Councilmember Young to Recess into Executive Session for a conference with the Town Attorney for the purposes of receiving legal advice on specific legal questions under C.R.S., Section 24-6-402(4)(b) relating to the Thompson Crossing Metro District No. 1. Motion carried with a unanimous vote. The Council recessed into Executive Session at 7:42 p.m. and returned at 8:38 p.m.

There being no further business to come before Council the meeting adjourned at 8:50 p.m.

Mayor

Town Clerk

AMENDMENT

**(Waste Management of Colorado,
LLC)**

**SECOND AMENDMENT TO AGREEMENT
BETWEEN THE TOWN OF JOHNSTOWN AND
WASTE MANAGEMENT OF COLORADO, INC.**

THIS SECOND AMENDMENT TO AGREEMENT is entered into this ___ day of January, 2019, by and between the Town of Johnstown, Colorado (“Town”) and Waste Management of Colorado, Inc. (“Waste Management”) (collectively, the “Parties”).

WHEREAS, on or about August 15, 2011, the Town and Waste Management entered into an agreement for the collection, removal and transportation of ashes, trash and other waste materials within the Town (“Agreement”); and

WHEREAS, the Agreement was for a five year term, commencing on September 1, 2011 and terminating on August 31, 2016; and

WHEREAS, on about November 7, 2016, the Parties executed an amendment, extending the term to August 31, 2021, and modifying the trash service rates, as set forth on Exhibit A attached thereto, but otherwise agreeing to be bound by and reaffirming the terms of the Agreement (“First Amendment”); and

WHEREAS, Paragraph 14 of the Agreement provides that, in the event of increased costs arising from governmental action or new regulations, Waste Management may seek an increase in its rates during the term of the Agreement to offset the new expenditures; and

WHEREAS, on August 17, 2018, Waste Management notified the Town of new costs arising from changes in the recycling industry due to actions taken by China and, on December 20, 2018, Waste Management made a presentation to Town Council related thereto; and

WHEREAS, based on the changes, Waste Management seeks to increase its bi-weekly curbside recycling collection fee from \$7.85 per month to \$10.15 per month; and

WHEREAS, the Town agrees to adjust the recycling rates to accommodate Waste Management’s request.

NOW, THEREFORE, in consideration of the mutual covenants and stipulations hereinafter set forth, it is agreed as follows:

1. Recitals. The Recitals are incorporated as if fully set forth herein.
2. Recycling Fees. Commencing on September 1, 2018, the monthly fee for bi-weekly curbside recycling collection shall be \$10.15 per month, and shall be adjusted based on the consumer price index on September 1 of each year during the remaining term of the Agreement.

AMENDMENT

(School District RE5-J, Cash in Lieu)

FIRST AMENDMENT TO INTERGOVERNMENTAL AGREEMENT BETWEEN
TOWN OF JOHNSTOWN AND WELD COUNTY REORGANIZED SCHOOL DISTRICT RE-5J
CONCERNING ANNEXATIONS AND SCHOOL SITE DEDICATION
OR PAYMENTS IN LIEU FOR SCHOOL SITE PURPOSES

This First Amendment to Intergovernmental Agreement Concerning Annexations and School Site Dedication or Payments in Lieu for School Site Purposes (“First Amendment”) between the Town of Johnstown, a Colorado home rule municipality (“Town”), and the Weld County Reorganized School District RE-5J, a political subdivision of the State of Colorado (“School District”) (collectively, the “Parties”), is executed this ____ day of February, 2019.

RECITALS

WHEREAS, on or about January 1, 1999, the Parties entered into an Intergovernmental Agreement Concerning Annexations and School Site Dedication or Payments in Lieu for School Site Purposes (“Agreement”); and

WHEREAS, pursuant to the Agreement, the Town agreed, except in limited circumstances, to collect cash payments from certain developers in lieu of requiring such developers to dedicate land for school sites; and

WHEREAS, the amount of the cash in lieu payments was based on agreed-upon School Planning Standards and School District Methodology, as the terms are defined in Agreement and set forth on Exhibits A and B attached thereto; and

WHEREAS, the Agreement provides that the cash in lieu payments should be reviewed periodically and adjusted when appropriate; and

WHEREAS, the Agreement further provides that, before revising cash in lieu payments based on a change in the School Planning Standards or School District Methodology, the Town shall hold a public hearing; and

WHEREAS, the School District is requesting that the Town agree to an increase in the amount of the cash in lieu payments to accommodate the increased market values and costs associated with development of school sites; and

WHEREAS, the School District’s request reflects a change in the School Planning Standards and School District Methodology by differentiating between, and seeking different cash in lieu payments for, single-family detached, single-family attached, multifamily and mobile homes; and

WHEREAS, the Town held a public hearing related to the School District’s request on January 7, 2019 and, based on a continuance, on January 23, 2019; and

WHEREAS, after review of the Agreement and the evidence presented at the public hearing, the Town desires to enter into this First Amendment and approve the School District’s request to increase the cash-lieu payments; and

WHEREAS, the Town finds that this First Amendment is in the best interests of the citizens of the Town of Johnstown.

AGREEMENT

NOW, THEREFORE, in consideration of the mutual covenants and stipulations hereinafter set forth, it is agreed as follows:

1. Recitals. The Recitals are incorporated herein and shall be deemed to be terms of this First Amendment as if fully set forth herein.

2. Terms. Unless otherwise defined or set forth herein, the terms of this First Amendment shall have the meaning set forth in the Agreement.

3. School Planning Standards and School District Methodology. The School Planning Standards, attached hereto and incorporated herein by reference as Exhibit A, and School District Methodology, attached hereto and incorporated herein by reference as Exhibit B, are hereby adopted. Exhibit A and Exhibit B shall replace and supersede the exhibits attached to the Agreement.

4. Notice. Paragraph 10(c) of the Agreement provides the location and manner in which notice shall be provided to each party. Notice to the School District as set forth therein shall hereinafter be provided to:

Weld County School District RE-5J
110 South Centennial Drive, Suite A
Milliken, CO 80543

5. Headings. The paragraph headings are for the convenience and reference of the Parties and are not intended to define or limit the scope or intent of this First Amendment.

6. Remaining Terms of Agreement. Except as expressly modified herein, the remaining provisions of the Agreement shall remain in full force and effect.

DONE AND DATED this ____ day of February, 2019.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Diana Seele, Town Clerk

By: _____
Gary Lebsack, Mayor

WELD COUNTY REORGANIZED SCHOOL
DISTRICT RE-5J

ATTEST:

By: _____
_____, Secretary

By: _____
_____, Board of Education President

EXHIBITS

EXHIBIT A

WELD COUNTY SCHOOL DISTRICT RE-5J Johnstown/Milliken, Colorado



School District Planning Standards

i. Student Yields	Single Family	Single Family	<u>Multifamily</u>	<u>Mobile Homes</u>
	<u>Detached</u>	<u>Attached</u>		
Elementary School	0.301	0.106	0.187	0.469
Middle School	0.148	0.053	0.091	0.224
High School	0.170	0.071	0.123	0.306
ii. School Facility Enrollment Capacities				
Elementary School		640		
Middle School		930		
High School		975		
iii. School Site Acreage Requirements				
Elementary School		10		
Middle School		23		
High School		40		
iv. Developed Land Value per Acre				
		\$60,130		

Revised 10/17/2018 based on information provided by Strategic Resources West



EXHIBIT B

WELD COUNTY SCHOOL DISTRICT RE-5J
Johnstown/Milliken, Colorado

School District Methodology

Based on the School District Planning Standards, contained in Exhibit A, calculation of land dedication or in-lieu payments uses the following procedures:

	<u>Student Yield</u>	<u>Acres per Student Capacity</u>	<u>Acres Required per Housing Unit</u>	<u>Per Acre Value</u>	<u>Cash in Lieu Amount Per Unit</u>
Single Family Detached					
Elementary	0.301	0.05	0.0047	\$ 60,130	\$ 283
Middle	0.148	0.02	0.0037	\$ 60,130	221
High School	0.170	0.02	0.0070	\$ 60,130	420
Total	0.619		0.0154		\$ 924
Single Family Attached					
Elementary	0.106	0.02	0.0017	\$ 60,130	\$ 100
Middle	0.053	0.01	0.0013	\$ 60,130	79
High School	0.071	0.01	0.0029	\$ 60,130	174
Total	0.230		0.0059		\$ 353
Multi Family					
Elementary	0.187	0.03	0.0029	\$ 60,130	\$ 175
Middle	0.091	0.01	0.0022	\$ 60,130	135
High School	0.123	0.01	0.0051	\$ 60,130	303
Total	0.401		0.0102		\$ 613
Mobile Home (Assessed at the Single Family Detached Rate)					
Elementary	0.301	0.05	0.0047	\$ 60,130	\$ 283
Middle	0.148	0.02	0.0037	\$ 60,130	221
High School	0.170	0.02	0.0070	\$ 60,130	420
Total	0.619		0.0154		\$ 924

AGENDA ITEM 7

**TOWN MANAGER
REPORT**



TOWN OF JOHNSTOWN

MEMORANDUM

TO: Honorable Mayor and Town Council Members

FROM: Matt LeCerf, Interim Town Manager

DATE: February 4, 2019

CC: Town Staff
Local Media

SUBJECT: Departmental Report

Upcoming Town Council Work Sessions – If there are topics that the Council would like staff to schedule for discussion, please let me know. The following topics are recommended for Council discussion (all meetings will be held in the Town Council Chambers unless otherwise indicated):

- 02/04/2019 – Regular Town Council Meeting
 - 02/11/2019 – Work Session – None Planned
 - 02/20/2019 – Regular Town Council Meeting (Due to Holiday on 18th)
 - 02/25/2019 – Work Session – None Planned
-

Police Department

Training:

- January 21 – 25 2019 Officer Blackburn and Officer Garcia attended a five-day, 40 hour course that meets POST instructor certification requirements for Triang the Trainer in Loveland, topics covered included:
 - Trainer Liability
 - Adult Learning Concepts
 - Presentation Skills
 - Performance Objective Development
 - Process for Building Training
 - Methodologies to Increase Training Effectiveness
 - Appropriate Use of Visual Aids
 - Preparation of Professional Lesson Plan

Community Policing, Outreach & Miscellaneous Items:

- January 14, 2019 Lieutenant Ryan Oglesby and Commander Aaron Sanchez met with the Milliken Police Department, Front Range Fire Rescue and Weld RE5J Superintendent Leslie Arnold to discuss Active Assailant Planning
 - All departments agreed to meet and share policies and procedures of what their roles will be in an active shooter
 - Agreed to meet again and do a table-top exercise
 - Agreed to do an active shooter scenario later in the year

The Community That Cares

- January 24, 2019 Commander Aaron Sanchez sat on the Firestone Police Department's promotional board
 - Two (2) current sergeants were testing for the rank of Lieutenant

Administration & Planning

- *Planning & Development Director* – An offer of employment has been made to the prospective candidate for the Planning & Development Director position. We hope to have a result from this offer by February 4, with a start date not later than March 1, 2019.
- *Presentation to Staff* – The Town Manager will be presenting to the staff in the organization an overview of the accomplishments in 2018 and what are the goals and objectives are for the 2019 calendar year. This communication provides a broad overview of the status of the Town and keeps everyone understanding where we are going. Attendance at 1 of 4 sessions is required of all employees in the organization.
- *Capital Improvement Plan* – Staff is working through a 10-Year Capital Improvement Plan which will be presented to the Council for consideration in March. Generally, the focus of this document are items larger than \$5,000 in cost and are depreciable assets. This is one of the key elements that will help us in our long-term financial planning and also provide clear understanding of the needs in and for the community.

Public Works Department

Streets, Storm water & Parks

- *Community Cleanup Day* - Cleanup Days is set for April 27th.
- *Crews sanded and plowed snow twice in the last couple weeks, Clean up of the Downtown area after the snow event was completed.*
- *Signage and Safety* – New pedestrian cross walk signs were installed in Pioneer Ridge. Also, multiple street name signs around Town were replaced.
- *Johnstown Plaza* – Based on concerns from property owners in the area, signs have been ordered for the roundabout on Thompson Pkwy and the intersection of Ronald Regan Blvd. and Thompson Parkway. Delivery is expected in 7 - 14 days. Existing sign were undersized and some were not the proper type. Based on weather and other conditions, we plan to have the new signage in place not later than the end of February to increase safety and improve awareness.
- *Senior Center Facility* – Staff assisted the Senior Center with moving of furniture to prepare for installation of new carpet at the facility.

Water & Wastewater

- *Cemetery* – There is a one Saturday funeral service on February 2, 2019. Two more are planned for the following week.
- *Sanitary Survey* – Staff continues to work on repairs and documentation on the sanitary survey conducted by the Colorado Department of Public Health and Environment (CDPHE). While we are making regular submittals on completed items, we will make our next formal report to the State by April 5.
- *Water Project* – Related to the water project approved by Council at the January 23rd meeting, work is close to beginning. The contractor is getting the Town all the insurance documentation and performance bond required to start the project and are getting measurements to order pipe for plant improvements project
- *Training* – Maurice Pribble and Ron Barnett completed water/wastewater operator training.
- *Hydrant Repairs* – Repairs to 2 damaged fire hydrants have been completed. One at Ronald Reagan Blvd and the Frontage Road and the other located at Thompson Parkway just west of Larimer Pkwy. Both are being time and equipment logged for possible restitution through the courts.

- *Fan Press Operations* – While the fan press is operational, we are competing with cold temperatures which causes freezing issues of the unit. Staff is looking into options to generate more heat to prevent freeze in the system from occurring.
- *Cross Connection survey letters*. Approximately 235 surveys were mailed out to all businesses throughout Town. This survey requests information related to the type of business the facility currently has and what possible cross connection hazards may be present in each business. It is important that each cross connection be identified and evaluated as to the type of protection required to protect the drinking water supply. A cross connection is a point in a potable water system that is connected to a non-potable source. Pollutants or contaminants can enter the safe drinking water system through uncontrolled cross connections when backflow occurs. Once we have received the surveys back we will follow up with recommendations for required backflow devices to be installed. If the business already has a device they will be notified of proper testing procedures of the device in accordance with Colorado Cross Connection requirements. Currently Town staff is working on a new ordinance that will be brought to Town Council for approval on Cross Connection so that we can protect our water supply from potential hazards.

AGENDA ITEM 10A

PUBLIC HEARING

**(New Hotel & Restaurant License
Urban Egg a Daytime Eatery)**

*NEW LIQUOR LICENSE PUBLIC HEARING PROCEDURE –

1. Open public hearing.
2. Receive information from staff.
3. Receive information from applicant.
4. Receive information from “parties in interest.” Parties in interest may also cross-examine the applicant.

(Parties in interest include adult residents of the designated neighborhood, the owner or manager of any business located within the designated neighborhood and the representative of any school within 500 feet of the proposed license. The representative of any organized neighborhood group within the designated neighborhood may present evidence, but may not cross-examine witnesses.)

5. Discretionary: Receive information from “others.” *(Only if the testimony would aid Council in considering the application.)*
6. Additional questions from Council, if any.
6. Close the public hearing. *(No more questions from Council.)*
7. Discussion and deliberation among Council.
8. Make a decision and/or motion from Council.

SUGGESTED MOTIONS

For Approval: I move to approve the Application for a Hotel & Restaurant License for Urban Egg a Daytime Eatery

For Denial: I move to deny approval of the Application for a Hotel & Restaurant License for Urban Egg a Daytime Eatery

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: February 4, 2019

ITEM NUMBER: 10A

SUBJECT: *Public Hearing – Urban Egg a Daytime Eatery – New Hotel and Restaurant License

ACTION PROPOSED: Consider Issuance of a New Hotel and Restaurant License

PRESENTED BY: Town Attorney, Town Clerk

AGENDA ITEM DESCRIPTION: This item is a public hearing to receive comments regarding the proposed new Hotel and Restaurant License for Rocky Mountain Restaurant Group, Inc. DBA Urban Egg a Daytime Eatery, located at 4861 Thompson Parkway Building B, Johnstown, CO. When approving or denying an application, the Council acts as the local licensing authority and must consider if the reasonable requirements of the defined neighborhood are not presently being met by existing establishments, the desires of the adult inhabitants, and the number, type and availability of other similar liquor establishments located in or near the petitioned neighborhood as well as the moral character of the applicants.

LEGAL ADVICE: The Town Attorney has reviewed the documents submitted and will be available at the meeting to answer questions.

FINANCIAL ADVICE: The applicant has paid all applicable fees for both the State and the Town.

RECOMMENDED ACTION: Consider issuance of a new Hotel and Restaurant License for Urban Egg a Daytime Eatery.

SUGGESTED MOTION:

For Approval: I move to approve the issuance of a Hotel and Restaurant License for Urban Egg a Daytime Eatery.

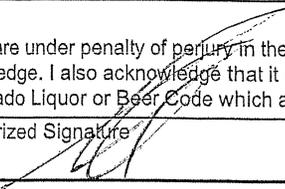
For Denial: I move to deny the issuance of a new Hotel and Restaurant License for Urban Egg a Daytime Eatery.

Reviewed:

Town Manager

LIQUOR APPLICATION

Name URBAN EGG A DAYTIME EATERY		Type of License HOTEL & RESTAURANT		Account Number	
7. Is the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers under the age of twenty-one years?				Yes	No
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
8. Has the applicant (including any of the partners if a partnership; members or managers if a limited liability company; or officers, stockholders or directors if a corporation) or managers ever (in Colorado or any other state):					
(a) Been denied an alcohol beverage license?				<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Had an alcohol beverage license suspended or revoked?				<input checked="" type="checkbox"/>	<input type="checkbox"/>
(c) Had interest in another entity that had an alcohol beverage license suspended or revoked?				<input checked="" type="checkbox"/>	<input type="checkbox"/>
If you answered yes to 8a, b or c, explain in detail on a separate sheet. SEE ATTACHED					
9. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes", explain in detail.					
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
10. Are the premises to be licensed within 500 feet, of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary?					
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
or					
Waiver by local ordinance?				<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other: _____					
11. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 1500 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of greater than (>) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.					
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
N/A					
12. Is your Liquor Licensed Drugstore (LLDS) or Retail Liquor Store (RLS) within 3000 feet of another retail liquor license for off-premises sales in a jurisdiction with a population of less than (<) 10,000? NOTE: The distance shall be determined by a radius measurement that begins at the principal doorway of the LLDS/RLS premises for which the application is being made and ends at the principal doorway of the Licensed LLDS/RLS.					
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
N/A					
13a. For additional Retail Liquor Store only. Was your Retail Liquor Store License issued on or before January 1, 2016?					
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
13b. Are you a Colorado resident?					
				<input checked="" type="checkbox"/>	<input type="checkbox"/>
14. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a Limited Liability Company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any <u>current</u> financial interest in said business including any loans to or from a licensee. SEE ATTACHED					
				<input checked="" type="checkbox"/>	<input type="checkbox"/>
15. Does the applicant, as listed on line 2 of this application, have legal possession of the premises by ownership, lease or other arrangement?					
<input type="checkbox"/> Ownership <input checked="" type="checkbox"/> Lease <input type="checkbox"/> Other (Explain in Detail) EXCLUDED LEASE				<input type="checkbox"/>	<input type="checkbox"/>
a. If leased, list name of landlord and tenant, and date of expiration, exactly as they appear on the lease:					
Landlord JOHNSTOWN PLAZA, LLC		Tenant Rocky Mountain Restaurant Group, INC		Expires 07/10/2028	
b. Is a percentage of alcohol sales included as compensation to the landlord? If yes, complete question 16.					
				<input type="checkbox"/>	<input checked="" type="checkbox"/>
c. Attach a diagram that designates the area to be licensed in black bold outline (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11".					
16. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies) will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business? Attach a separate sheet if necessary. N/A					
Last Name N/A		First Name		Date of Birth	
Last Name N/A		First Name		Date of Birth	
				FEIN or SSN	
				Interest/Percentage	
Attach copies of all notes and security instruments and any written agreement or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.					
17. Optional Premises or Hotel and Restaurant Licenses with Optional Premises:					
Has a local ordinance or resolution authorizing optional premises been adopted?				<input type="checkbox"/>	<input checked="" type="checkbox"/>
Number of additional Optional Premise areas requested. (See license fee chart)				0	
18. Liquor Licensed Drugstore (LLDS) applicants, answer the following:					
(a) Is there a pharmacy, licensed by the Colorado Board of Pharmacy, located within the applicant's LLDS premise? N/A				<input type="checkbox"/>	<input checked="" type="checkbox"/>
If "yes" a copy of license must be attached.					
19. Club Liquor License applicants answer the following: Attach a copy of applicable documentation N/A					
(a) Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain?				<input type="checkbox"/>	<input checked="" type="checkbox"/>
(b) Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain?				<input type="checkbox"/>	<input checked="" type="checkbox"/>
(c) How long has the club been incorporated?				N/A	
(d) Has applicant occupied an establishment for three years (three years required) that was operated solely for the reasons stated above?				<input type="checkbox"/>	<input checked="" type="checkbox"/>
20. Brew-Pub, Distillery Pub or Vintner's Restaurant applicants answer the following:					
(a) Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached)				<input checked="" type="checkbox"/>	<input type="checkbox"/>

Name URBAN EGG A DAYTIME EATERY		Type of License HOTEL & RESTAURANT	Account Number	
21. Campus Liquor Complex applicants answer the following:				
(a) Is the applicant an institution of higher education?				Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
(b) Is the applicant a person who contracts with the institution of higher education to provide food services? If "yes" please provide a copy of the contract with the institution of higher education to provide food services.				Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
22. For all on-premises applicants.				
a. Hotel and Restaurant, Lodging and Entertainment, Tavern License and Campus Liquor Complex, the Registered Manager must also submit an Individual History Record - DR 8404-I and fingerprint submitted to approved State Vendor through the Vendor's website. See application checklist, Section IV, for details.				
b. For all Liquor Licensed Drugstores (LLDS) the Permitted Manager must also submit a Manager Permit Application - DR 8000 and fingerprints.				
Last Name of Manager PRICE		First Name of Manager RANDALL		
23. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number.				Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>
SEE ATTACHED				
24. Related Facility - Campus Liquor Complex applicants answer the following:				
a. Is the related facility located within the boundaries of the Campus Liquor Complex? If yes, please provide a map of the geographical location within the Campus Liquor Complex. If no, this license type is not available for issues outside the geographical location of the Campus Liquor Complex.				Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
b. Designated Manager for Related Facility- Campus Liquor Complex				
Last Name of Manager		First Name of Manager		
25. Tax Distraint Information. Does the applicant or any other person listed on this application including its partners, officers, directors, stockholders, members (LLC) or managing members (LLC) and any other persons with a 10% or greater financial interest in the applicant currently have an outstanding tax distraint issued to them by the Colorado Department of Revenue? If yes, provide an explanation and include copies of any payment agreements.				
				Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>
26. If applicant is a corporation, partnership, association or limited liability company, applicant must list all Officers, Directors, General Partners, and Managing Members . In addition, applicant must list any stockholders, partners, or members with ownership of 10% or more in the applicant . All persons listed below must also attach form DR 8404-I (Individual History Record), and make an appointment with an approved State Vendor through their website. See application checklist, Section IV, for details.				
Name	Home Address, City & State	DOB	Position	%Owned
RANDALL B PRICE	7965 SANBACH TRAIL COLORADO SPRINGS, CO 80919		PRESIDENT	100
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
Name	Home Address, City & State	DOB	Position	%Owned
** If applicant is owned 100% by a parent company, please list the designated principal officer on above. ** Corporations - the President, Vice-President, Secretary and Treasurer must be accounted for above (Include ownership percentage if applicable) ** If total ownership percentage disclosed here does not total 100%, applicant must check this box: <input checked="" type="checkbox"/> Applicant affirms that no individual other than these disclosed herein owns 10% or more of the applicant and does not have financial interest in a prohibited liquor license pursuant to Article 3 or 5, C.R.S.				
Name		Type of License	Account Number	
Oath Of Applicant				
I declare under penalty of perjury in the second degree that this application and all attachments are true, correct, and complete to the best of my knowledge. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.				
Authorized Signature 		Printed Name and Title RANDALL B PRICE, PRESIDENT		Date 12/18/18
Report and Approval of Local Licensing Authority (City/County)				
Date application filed with local authority		Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application)		

Colorado Liquor Retail License Application Additional Information

Question 8 b and c

License 40-92261-0006 (Salsa Brava Fresh Mexican Grill Highlands Ranch) was issued a 15 day suspension for sale to a minor on August 30, 2014. Served 3 day suspension and received 12 days in abeyance for 18 months.

Server that served the minor was immediately terminated and entire staff went through additional alcohol training. Rocky Mountain Restaurant Group implemented our own operations with persons under the age of 21 attempting to purchase alcohol to ensure that all operations in the company understand the importance and legal obligation of our employees to strictly adhere to this law. We have not received any additional violations at this location.

License 40-92261-0009 (Urban Egg a daytime eatery Fort Collins) was issued a 15 day suspension for sale to a minor on July 27, 2018. Paid a fine for the first 3 days and received 12 days in abeyance for 18 months.

Server that served the minor was immediately terminated and entire staff went through additional alcohol training. Rocky Mountain Restaurant Group implemented our own operations with persons under the age of 21 attempting to purchase alcohol to ensure that all operations in the company understand the importance and legal obligation of our employees to strictly adhere to this law. We have not received any additional violations at this location.

These are the only infractions we have ever received in 17 years of operations.

Question 14

Listed below are the names, address, license number and operating manager for currently held operating restaurant locations in the state of Colorado under Rocky Mountain Restaurant Group. Applicant is President of Rocky Mountain Restaurant Group.

Rocky Mountain
Restaurant Group
CO Sales

Tax License 4092261 All licenses are Hotel & Restaurant Licenses

Licensed Location Name	Address	License Number	Op Manager
Salsa Brava Rockrimmon	802 Village Center Dr, Colorado Springs, CO 80919	40-92261-0001	Megan Pontillo
Sonterra Grill	28 S Tejon, Colorado Springs, CO 80903	40-92261-0002	David York
Salsa Brava Briargate	9420 Briar Village Pt, #D, Colorado Springs, CO 80920	40-92261-0004	Samir Laaraj
Salsa Brava Highlands Ranch	52 W Springer Dr, Highlands Ranch, CO 80129	40-92261-0006	Samantha Hawkins
Urban Egg University Village	5262 N Nevada Ave, Ste 100, Colorado Springs, CO 80918	40-92261-0007	Sandra Hartmann

Urban Egg Belleview
Salsa Brava/Urban Egg
Urban Egg FoCo

6991 E Belleview Avenue, Denver, CO 80237
5925 Dublin Blvd, Colorado Springs, CO 80923
230 S College Avenue, Fort Collins, CO 80524

40-92261-0011
40-92261-0010
40-92261-0009

Brennan Price
Matt Sharb
Mark Agnew

Question 23

Rocky Mountain
Restaurant Group
CO Sales

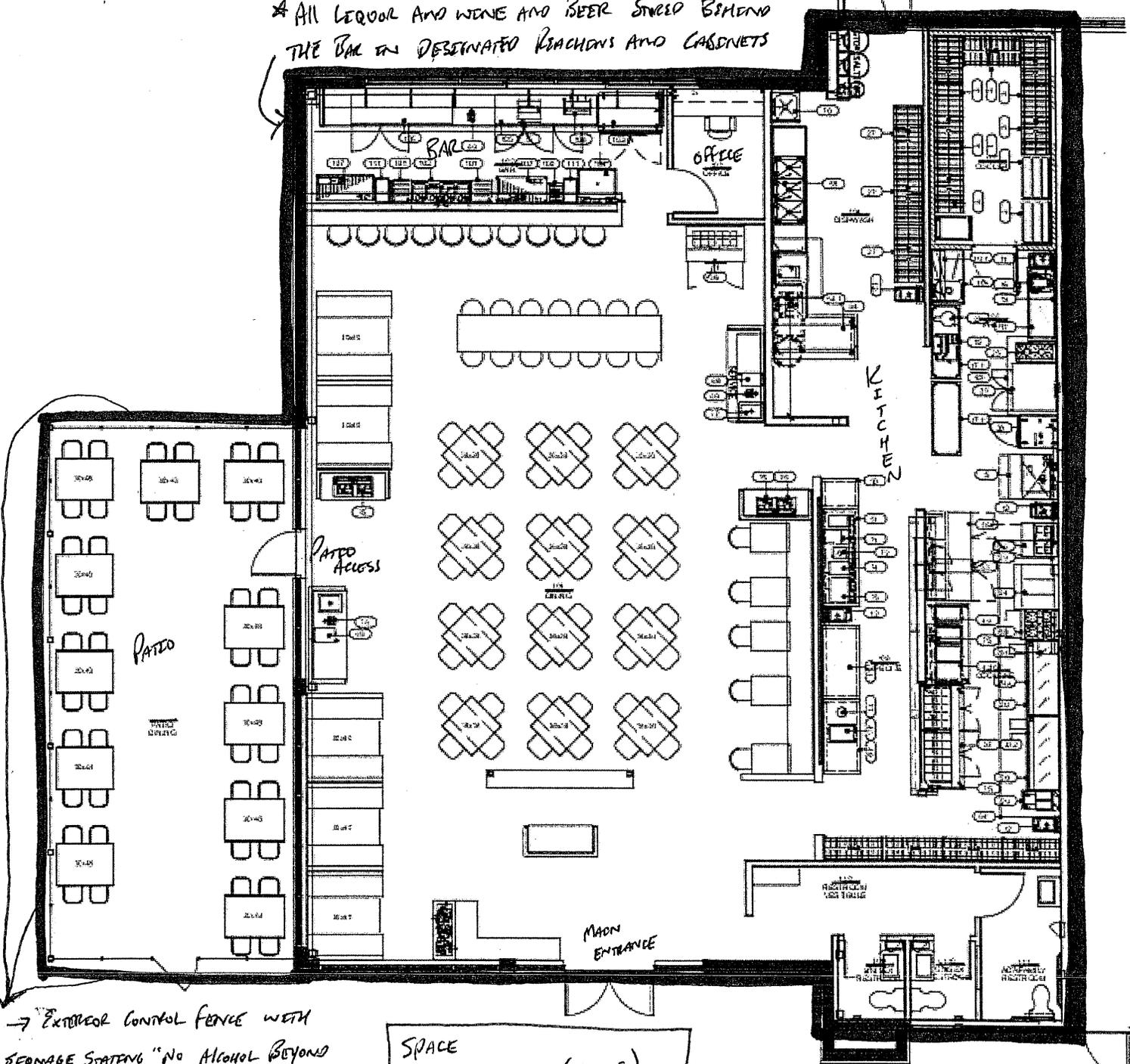
Tax License 4092261

All licenses are Hotel & Restaurant Licenses

Licensed Location Name	Address	License Number	Op Manager
Salsa Brava Rockrimmon	802 Village Center Dr, Colorado Springs, CO 80919	40-92261-0001	Megan Pontillo
Sonterra Grill	28 S Tejon, Colorado Springs, CO 80903	40-92261-0002	David York
Salsa Brava Briargate	9420 Briar Village Pt, #D, Colorado Springs, CO 80920	40-92261-0004	Samir Laaraj
Salsa Brava Highlands Ranch	52 W Springer Dr, Highlands Ranch, CO 80129	40-92261-0006	Samantha Hawkins
Urban Egg University Village	5262 N Nevada Ave, Ste 100, Colorado Springs, CO 80918	40-92261-0007	Sandra Hartmann
Urban Egg Belleview	6991 E Belleview Avenue, Denver, CO 80237	40-92261-0011	Brennan Price
Salsa Brava/Urban Egg	5925 Dublin Blvd, Colorado Springs, CO 80923	40-92261-0010	Matt Sharb
Urban Egg FoCo	230 S College Avenue, Fort Collins, CO 80524	40-92261-0009	Mark Agnew

MAP OF LICENSED PREMISES

* ALL LIQUOR AND WINE AND BEER STOCK BEHIND THE BAR IN DESIGNATED REACHONS AND CABINETS



→ EXTERIOR CONTROL FENCE WITH SIGNAGE STATING "NO ALCOHOL BEYOND THIS POINT." MANAGED BY MOD AND TIPS TRAINED STAFF MEMBERS

SPACE
APPROX 60' DEEP (N TO S)
50' WIDE (E TO W)

URBAN EGG A DAY TEME EATERY
4861 THOMPSON PARKWAY
JOHNSTOWN, CO



A1 FURNITURE & EQUIPMENT PLAN

LIQUOR LICENSE SURVEY

January 20, 2019

RESULTS OF THE LIQUOR LICENSE SURVEY REGARDING: **Urban Egg A Daytime Eatery**
 4861 Thompson Parkway, Building B
 Johnstown, CO 80534

Applicant: Rocky Mountain Restaurant Group, Inc.
 Purpose: Application for a Hotel and Restaurant License

ISSUE: A petition was circulated to determine if the needs of the neighborhood and desires of the inhabitants were or were not being presently met by existing similar alcoholic beverage outlets. Those in favor of Urban Egg A Daytime Eatery being granted a Hotel and Restaurant License License indicated by checking the "Favor – YES" column of the signature sheet and those opposed checked the "Oppose - NO" column. The results were as follows:

Favor "YES"		Oppose "NO"		<u>TOTAL SIGNATURES</u>
98%	89	2%	2	91

SURVEY STATISTICS

	Favor "YES"		Oppose "NO"		TOTAL
Business Survey Results	96%	26	4%	1	27
Residential Survey Results	98%	63	2%	1	64

Percentages in this report have been rounded to the nearest whole number.

	BUSINESS	RESIDENTIAL	TOTAL
No Response	3	235	238
Declined to Participate	5	33	38
Not Qualified to Sign	9	2	11
Disqualified	0	0	0
"No" Signatures	1	1	2
"Yes" Signatures	26	63	89
TOTAL CONTACTS & ATTEMPTS	44	334	378

SURVEY STATISTICS Urban Egg A Daytime Eatery

>Number of Businesses and Residents Contacted: 378 Attempts – 238 No Response = 140
 >Business Survey Participation Rate: 27 Signatures/ 32 Qualified Contacts = 84%
 >Residential Survey Participation Rate: 64 Signatures/ 97 Qualified Contacts = 66%
 >Percentage of Residents Home During Survey: 99 Contacts/ 334 Attempts = 30%

REASONS FOR OPPOSITION SIGNATURES		REASONS FOR DECLINING TO PARTICIPATE	
No Reason	<u>2</u>	Not Interested	22
Total	2	Against Company Policy	5
		<u>Don't Sign Any Petitions / Surveys</u>	<u>11</u>
		Total	38
<u>CONTACTS NOT QUALIFIED TO SIGN</u>			
		Owner / Manager Unavailable	9
		<u>Non-Resident</u>	<u>2</u>
		Total	11

PETITION METHODOLOGY

- Survey Date and Times:

Residential:	Sunday	January 13, 2019	10:00 am – 5:00 pm
Business & Residential:	Tuesday	January 15, 2019	10:00 am – 2:30 pm
Residential:	Friday	January 18, 2019	2:00 pm - 4:30 pm

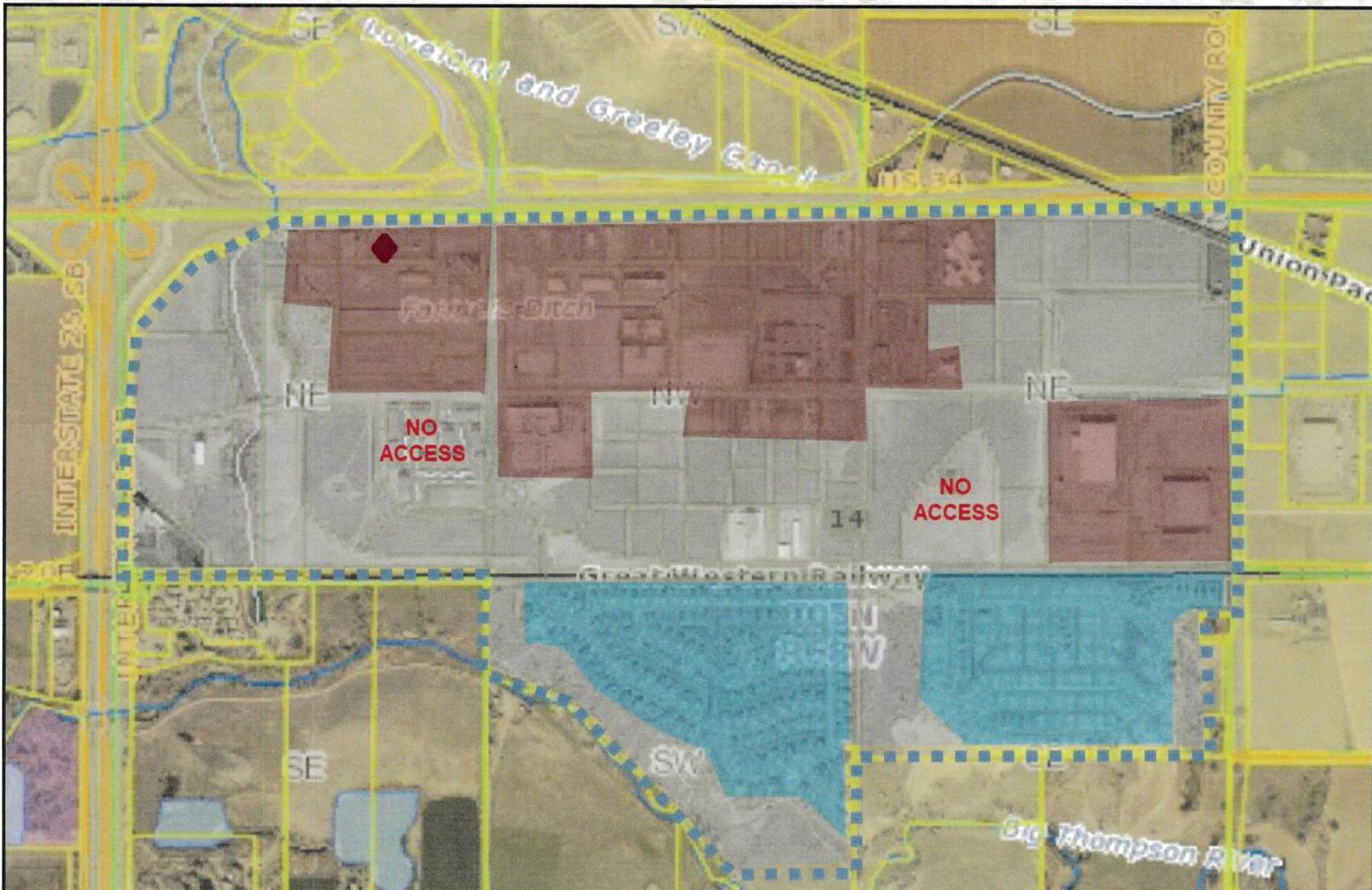
- Survey Areas: Circulator started in areas closest to the proposed licensed site and obtained signatures throughout the boundary area. Please see attached map.
- Circulators of the Survey: There was one circulator for this survey. Prior to the start of the survey, the circulator was briefed on the type of liquor license application, the areas to be surveyed and reminded to remain unbiased in his approach to residents and business people. The circulator had with him a face sheet with the applicant business name, location and hearing information, instructions, and the petition/survey issue along with signature sheets and a map of the proposed location. The circulator used tally sheets to record all contacts, attempts and reasons for opposition signatures and refusals. Upon conclusion of the survey, the circulator signed notarized affidavits of circulation. The original survey packets were pre-filled with the Johnstown City Clerk’s Office.

Report prepared and respectfully submitted by,



Eva L. Garretson
Liquor Licensing Professionals, LLC

MAP OF AREA PETITIONED



◆ URBAN EGG - Neighborhood

4861 Thompson Parkway, Building B
Johnstown, CO 80534

APPLICATION FOR A HOTEL &
RESTAURANT LIQUOR LICENSE

 BUSINESS
AREAS
COVERED
IN SURVEY

 RESIDENTIAL
AREAS
COVERED
IN SURVEY

SURVEY DATES: JANUARY 13, 15, & 18, 2019

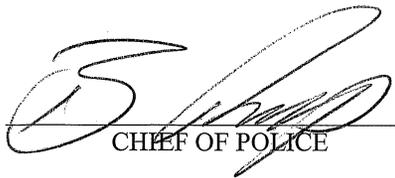


POLICE REPORT

TOWN OF JOHNSTOWN POLICE DEPARTMENT

Information 3.2% Beer or Liquor Application

- Name and address of Applicant} Rocky Mountain Restaurant Group, Inc.
52 W. Springer Drive
Highlands Ranch, CO 80129
1. Trade Name and Address} Urban Egg a Daytime Eatery
4861 Thompson Parkway Building B
Johnstown, CO 80534
2. Date of Application: 12/21/2018
3. Type of Application: Hotel & Restaurant License
4. Documents Accompanying Application
- A. Local and State License Fees} Submitted with application
 - B. Evidence of Correct Zoning} PUD
 - C. Building Plans and or Sketch of Interior} Submitted
 - D. Distance from School as per State} N/A
 - E. Deed or Lease or Assignment of Lease or Ownership} Lease
5. Evidence of Public Notice
- A. Posting of Premises} Posted January 24, 2019
 - B. Legal Publication } Johnstown Breeze January 24, 2019
6. Investigation: Police Department Case#}
- A. Applicant has made application for a new Hotel & Restaurant License.
 - B. Background Investigation: Applicant has been fingerprinted and background check completed
8. Findings of fact:
- A. The required fees were submitted.
 - B. It is my recommendation the Hotel & Restaurant License be approved.



CHIEF OF POLICE



DATE

AGENDA ITEM 10B

MEMORANDUM OF UNDERSTANDING

(J-25 Land Holdings, LLC)

TOWN COUNCIL AGENDA COMMUNICATION

AGENDA DATE: February 4, 2019

ITEM NUMBER: 10B

SUBJECT: Memorandum of Understanding (MOU) Between Town of Johnstown and J-25 Land Holdings, LLC

ACTION PROPOSED: Approve the MOU as presented

ATTACHMENTS: 1. Memorandum of Understanding

PRESENTED BY: Matt LeCerf, Interim Town Manager

AGENDA ITEM DESCRIPTION:

Enclosed for your review and consideration is a Memorandum of Understanding between the Town of Johnstown and J-25 Land Holdings, LLC. The MOU is an agreement for work that is to be performed by the Colorado Department of Transportation (CDOT) as part of the I-25 improvements in the area of the I-25 and Highway 402 Interchange. J-25 is the entity that is requesting these improvements be made by CDOT. Unfortunately, CDOT is not able to enter into an agreement directly with J-25 associated with these improvements and the Town is acting as a conduit between the two entities to authorize and provide the funding for the improvements to be performed. The funding for the improvement will be provided directly by J-25 to the Town and these improvements are based on the Exhibit A which is attached with an estimated cost of \$454,648.96. Prior to the Town notifying CDOT to move forward with the change order, we are still waiting on the certified funds to be delivered to the Town. We initially believed that the funds would have been provided at this time, but to date we have not received them and to expedite the project, the agreement was signed by the Mayor because there would be no direct cost for the Town. Until the funds are received, the Town will not authorize the change order, but we do want to be prepared to move this forward when received.

This agreement while not explicitly Town funds, will require a budget amendment simply because they need to be recognized as a revenue within our funds and will also have a corresponding expenditure for the revenue.

LEGAL ADVICE:

The MOU was reviewed by the Town Attorney

FINANCIAL ADVICE:

A budget amendment will be necessary, but \$0.00 of Town funds will be used for this project improvement.

RECOMMENDED ACTION:

SUGGESTED MOTIONS:

For Approval:

I move to approve the MOU between the Town of Johnstown and J-25 Land Holdings, LLC as presented.

For Denial:

I move that we deny the MOU between the Town of Johnstown and J-25 Land Holdings, LLC as presented.

Reviewed and Approved for Presentation:

Town Manager

**MEMORANDUM OF
UNDERSTANDING**

MEMORANDUM OF UNDERSTANDING

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this 24th day of January, 2019, by and between THE TOWN OF JOHNSTOWN, a Colorado municipal corporation, ("Town"), and J-25 LAND HOLDINGS, LLC, a Delaware limited liability company ("Developer") (collectively, "the Parties").

RECITALS:

WHEREAS, the Town entered into a Contract with the State of Colorado for the use and benefit of the Colorado Department of Transportation ("CDOT") for Project SH 402-SH 14 (21506) ("Project"), Routing Number 17-HA4-XC-00077, agreeing to provide funds for improvements to North Interstate I-25, and then entered into an Amendment to the Contract, Routing Number 17-HA4-XC-00077-M0002, agreeing to provide funds for intersection improvements at Interstate I-25 and U.S. Highway 34 and Interstate I-25 and State Highway 402 ("402 Interchange"), in the form attached thereto as Exhibit A-1, Scope of Work (collectively, "CDOT Contract"); and

WHEREAS, the Developer owns property that abuts the 402 Interchange and seeks to modify the agreed-upon improvements to the 402 Interchange in the form and to the extent set forth on Exhibit 1 attached hereto and incorporated herein by reference; and

WHEREAS, CDOT has entered into an agreement with a contractor to construct the Project and has agreed to retain its contractor to construct the improvements identified on Exhibit 1 on the condition that the Town enter into a change order with CDOT, agreeing to modify the scope of work set forth in the CDOT Contract and pay for the Developer's requested improvements in the amount of \$454,648.96; and

WHEREAS, the Town agrees to execute a change order on the condition that the Developer deposit funds with the Town in the amount of \$454,648.96 to pay for the requested improvements; and

WHEREAS, the Developer agrees to deposit the funds with the Town to pay for the improvements set forth on Exhibit 1; and

WHEREAS, to effectuate the foregoing, the Parties desires to enter into this Memorandum of Understanding.

NOW, THEREFORE, in consideration of the mutual promises hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereto agree as follows:

1. **Recitals.** The Recitals are incorporated into this MOU as if fully set forth herein.

2. **Deposit of Funds with the Town.** Prior to the Town entering into a change order to the CDOT Contract for construction of the improvements identified on Exhibit 1, the Developer agrees to provide certified funds to the Town in the amount of \$454,648.96 ("Funds"). The Town agrees to use the Funds to pay for the improvements identified on Exhibit 1. If CDOT requests additional costs or expenses associated with the improvements identified on Exhibit 1, the Developer agrees to promptly provide certified funds to the Town to pay for those additional costs or expenses.

3. **Change Order.** Upon receipt of the Funds and a change order provided by CDOT to the Town to construct the improvements identified on Exhibit 1, the Town agrees to execute the change order. Except for that sole change order, the Town does not agree to execute subsequent change orders related to the improvements identified on Exhibit 1 or to additional 402 Interchange improvements requested by the Developer, absent the prior written approval of the Developer and payment for the improvements by the Developer.

4. **Law and Venue.** The validity, interpretation, performance, and enforcement of this MOU shall be governed by the laws of the State of Colorado, and venue shall be in Weld County, Colorado, for any litigation.

5. **Dispute Resolution.** In the event of any dispute arising under this MOU, the Parties shall submit the matter to mediation prior to commencing legal action. The cost of the mediation shall be split equally between the Parties.

6. **Severability.** If any portion of this MOU shall be or becomes illegal, invalid or unenforceable in whole or in part for any reason, such provision shall be ineffective only to the extent of such illegality, invalidity or unenforceability, without invalidating the remainder of such provision or the remaining provisions of this MOU. If any court of competent jurisdiction should deem any covenant herein to be invalid, illegal or unenforceable because its scope is considered excessive, such covenant shall be modified so that the scope of the covenant is reduced only to the minimum extent necessary to render the modified covenant valid, legal and enforceable.

7. **No Presumption.** Each Party acknowledges that it has obtained, or has had the opportunity to obtain, the advice of legal counsel of its own choosing in connection with the negotiation and execution of this MOU and with respect to all matters set forth herein. Each Party acknowledges that it has carefully read and reviewed the terms of this MOU. Each Party acknowledges that the entry into and execution of this MOU is its own free and voluntary act and deed, without compulsion. The Parties agree that this MOU reflects the joint drafting efforts of all Parties and in the event of any dispute, disagreement or controversy arising from this MOU, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.

8. **Amendment.** This MOU may not be amended or modified except by a subsequent written instrument signed by the Parties.

North I-25 Express Lanes, Johnstown to Fort Collins
Colorado Department of Transportation

EXHIBIT 1
COST ANALYSIS FOR REQUEST FOR CHANGE ORDER

Name of Change: RCO 024 Rev 4 I-25 Modifications to Segment 1 East Frontage Road Profile South of SH 402
Change Order Type

Number: RCO 024 Rev 4

Bid Item Description	UM	Unit Price	Original Qty	Revised Qty	Qty Change	Net Price Change	Comments
Design / General Conditions							
Design	LS	\$ 85,000.00	-	1	1	\$ 85,000.00	See detailed scope for inclusions
ROW Acquisition (RCP 035, LTWD)	LS	\$ 45,000.00	-	1	1	\$ -	
Survey	LS	\$ 2,350.00	-	1	1	\$ 2,350.00	
Earthwork							
Clear & Grub (Stockpile & WL Easement)	AC	\$ 1,500.00	0	6	6	\$ 9,000.00	
Cut to Fill Onsite	CY	\$ 10.00	1946	0	-1946	\$ (19,460.00)	
BORROW EMBANKMENT	CY	\$ 11.00	2,594	-	-2594	\$ (28,534.00)	
Cut to Stockpile / Stockpile to Onsite (JV needed dirt)	CY	\$ 11.55	-	28050	4540	\$ 52,437.00	Revised design is all cut to export
Cut to Stockpile / Stockpile to Onsite	CY	\$ 7.00	-	28050	23510	\$ 164,570.00	Revised design is all cut to export
Storm Drainage							
Storm Sewer - 48" RCP	LF	\$ 206.00	93	800	180	\$ 37,080.00	Drainage Crossing Pipe
48" FES	EA	\$ 4,095.00	-	2	2	\$ 8,190.00	Drainage Crossing Pipe
RIP RAP	CY	\$ 105.00	-	30	30	\$ 3,150.00	Inlet/Outlet of Drainage Crossing

Erosion Control / Stabilization							
BMP's (Silt Fence/Berms/EC Logs)	LF	\$ 5.25	-	2500	500	\$ 2,625.00	Additional BMPs for outlet
Soil Condition/Seed/Mulch (Final Stabilization)	AC	\$ 3,628.00	-	10	8	\$ 29,024.00	Includes stockpile location

Subtotal \$ 345,432.00

OH/Profit (15%) \$ 51,814.80

Total \$ 397,246.80

CDOT CE Rate (5%)	\$ 19,862.34
Subtotal	\$ 417,109.14
CDOT Indirect Rate (9%)	\$ 37,539.82
Total	\$ 454,648.96

AGENDA ITEM 11

EXECUTIVE SESSION

WORK SESSION

Infrastructure Request



TOWN OF JOHNSTOWN

MEMORANDUM

INFORMATION ONLY

TO: Honorable Mayor and Board of Trustees

FROM: Matt LeCerf, Interim Town Manager

DATE: December 17, 2018

SUBJECT: Infrastructure Request

As the Council may recall, during the December 17, 2018 Meeting, we briefly discussed opportunities where developers have made inquiring about infrastructure costs; specifically if the Town would partner on these infrastructure costs or take a leadership and financial role. During that meeting, the Council requested that Staff schedule a work session to provide a very brief 100,000 foot view of this endeavor and what our current situation looks like and what the future also might look like related to meeting both water and wastewater needs for future development.

The benefits of taking a proactive approach allows us to build for the future and ensure long-term sustainable and managed growth in the community. It also can reduce the threat of stalled growth due to collection capacity issues – notwithstanding the aspects of capacity limits at the respective treatment plants; as well as the constraints that may exist for water distribution supply. In contrast, moving in this direction also places some or all of the financial burden in the short-term on the Town until costs are fully recovered.

I do not believe that this topic can be handled and fully vetted in a single discussion topic with the Council, but I believe it is important to evaluate our position from time to time on development. With the Council's desire to have some understanding of this issue, this topic is ripe for review. Included with this memo are two maps which will be utilized for outlining some of our conditions as it relates to the wastewater topic.

The purpose of this work session tonight is the following:

- To provide the Council with a broad overview of what our current condition is related to our wastewater collection system.
- To provide the Council with a broad overview of what some of the potentials and opportunities are to invest in our wastewater infrastructure for long-term, sustainable growth.
- To provide Council with information related to what a tentative phased approach would encompass if the Council desires to move in a direction that places the Town in a leadership role for infrastructure development.

The Community That Cares

- For Staff to receive feedback and direction from the Council as it relates to on our current condition and future or desired outcomes including what role the Town may have in this project.

As provided in the December 17, 2018 memo, there are other critical pieces of information you will need to consider in order make the best decision for our community as we move forward including, but not limited to the bullet list below. While this information will not be provided this evening, they are aspects that if we move forward, we will want to address and/or be cognizant of them.

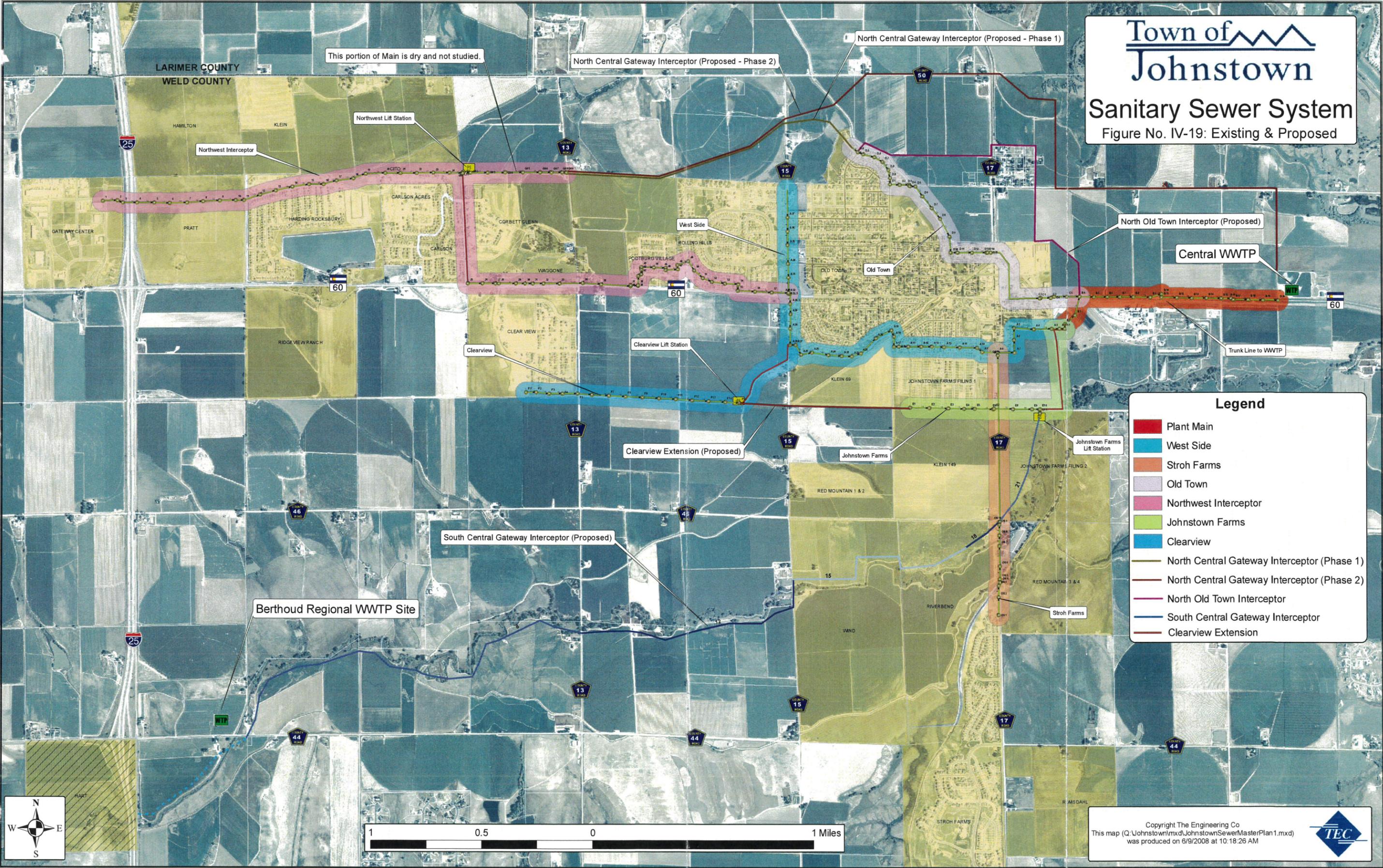
Items to consider include, but are not limited to:

- Pros and Cons of a partnership or Town taking a lead role
- What the estimated costs of such an investment based on the developments currently moving through our review process?
- Can an impact or assessment fee be applied to help recover costs of the investment?
- How does this follow our long-term goals and objectives for managed growth?
- What if changes in the economy impact the project and cost recovery aspects that may be included?
- Is there a threshold or policy the Council would like establish that determines the criteria needed to be met for us to consider participation?

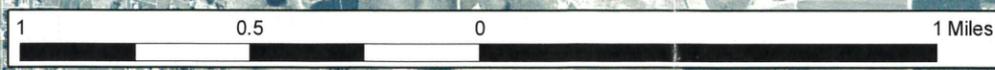
Town of Johnstown

Sanitary Sewer System

Figure No. IV-19: Existing & Proposed



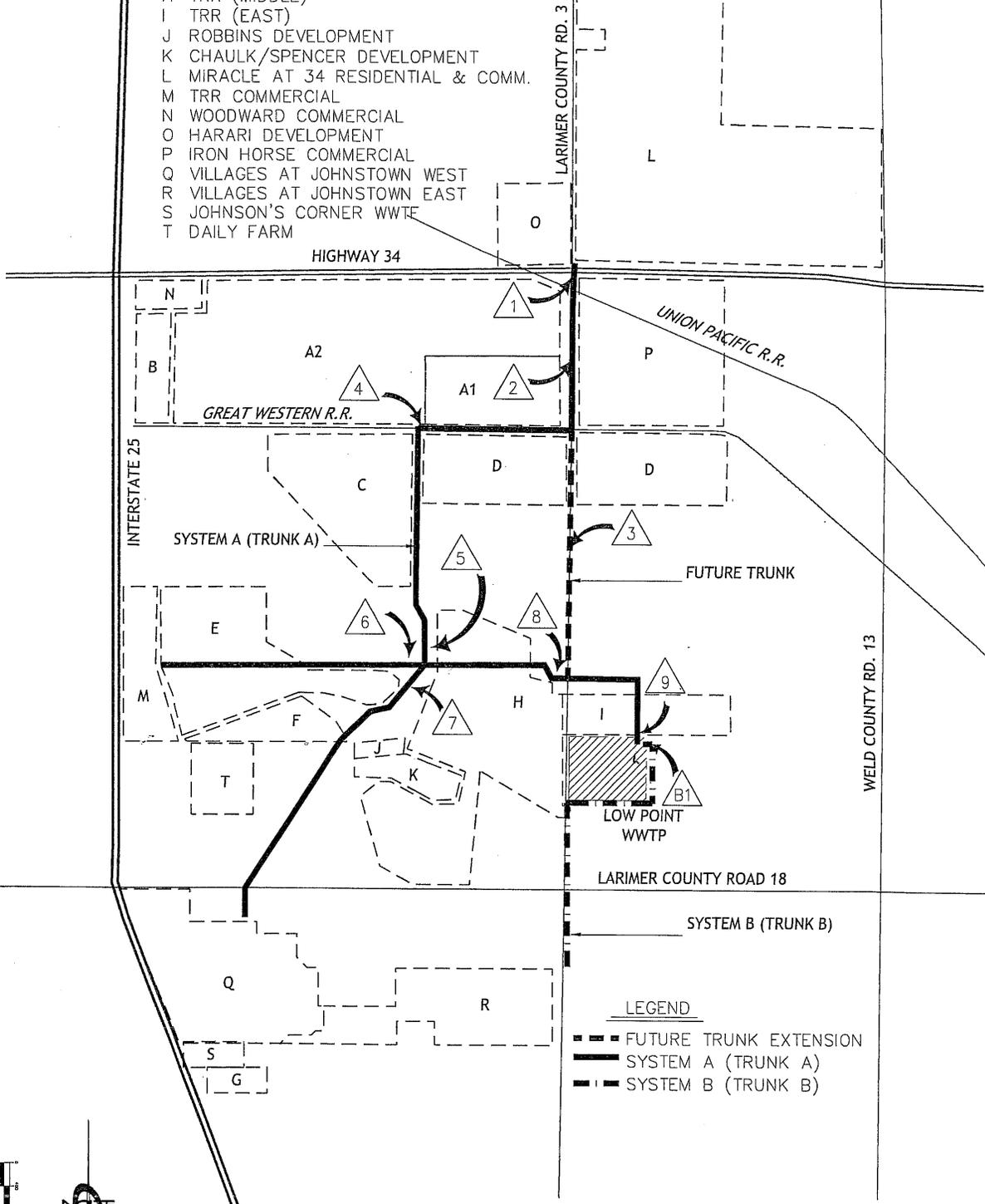
- Legend**
- █ Plant Main
 - █ West Side
 - █ Stroh Farms
 - █ Old Town
 - █ Northwest Interceptor
 - █ Johnstown Farms
 - █ Clearview
 - █ North Central Gateway Interceptor (Phase 1)
 - █ North Central Gateway Interceptor (Phase 2)
 - █ North Old Town Interceptor
 - █ South Central Gateway Interceptor
 - █ Clearview Extension



Copyright The Engineering Co
 This map (Q:\Johnstown\mxd\JohnstownSewerMasterPlan1.mxd)
 was produced on 6/9/2008 at 10:18:26 AM

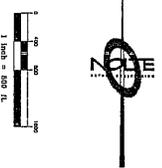


- A1 2534 COMMERCIAL - SOUTH EAST CORNER
- A2 2534 COMMERCIAL
- B ARNDT COMMERCIAL
- C THOMPSON CROSSING SUBDIVISION
- D MAXFIELD DEVELOPMENT
- E TRR WEST (NORTH SECTION)
- F TRR WEST (SOUTH SECTION)
- G JOHNSON'S CORNER MISC.
- H TRR (MIDDLE)
- I TRR (EAST)
- J ROBBINS DEVELOPMENT
- K CHAULK/SPENCER DEVELOPMENT
- L MIRACLE AT 34 RESIDENTIAL & COMM.
- M TRR COMMERCIAL
- N WOODWARD COMMERCIAL
- O HARARI DEVELOPMENT
- P IRON HORSE COMMERCIAL
- Q VILLAGES AT JOHNSTOWN WEST
- R VILLAGES AT JOHNSTOWN EAST
- S JOHNSON'S CORNER WWTF
- T DAILY FARM



LEGEND

- FUTURE TRUNK EXTENSION
- SYSTEM A (TRUNK A)
- SYSTEM B (TRUNK B)



NOLTE
 BEYOND ENGINEERING
 1901 SHARP POINT DRIVE, SUITE A, FORT COLLINS, CO. 80526
 970.221.2400 TEL. 970.221.1215 FAX WWW.NOLTE.COM

TOWN OF JOHNSTOWN, CO
 PROPOSED AND CURRENT DEVELOPMENT
 SANITARY SEWER LAYOUT

NO.	BY	DATE	REVISIONS

The engineer preparing these plans will not be responsible for, or liable for, unanticipated changes in or use of these plans. All changes to the plans must be in writing and must be approved by the preparer of these plans.