



BOARD OF DIRECTORS MEETING
Wednesday – September 21, 2022 | 7:00AM
301 Walnut Street, 1st Floor Conference Room, Windsor, CO 80550
(NOTE: Meetings held IN PERSON only)

Agenda

A. **Call to Order** **7:00AM**

B. Roll Call

C. **Consent Agenda**

1. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board
2. Approval of Minutes from the Board of Director's Regular Meeting – August 17, 2022
3. Report of Bills – August 2022

Sample motion: "I move that we approve the consent agenda as presented."

D. Public & Partner Agencies Invited to be Heard (3 Minutes Per Person)

1. School District Presentation

E. **Action Items**

1. Chamber Presentation and Sponsorship Request for the Remainder of 2022
 - Presenter: Michelle Vance, Chamber Director

Sample motion: "I move that we approve sponsorship funding not to exceed [insert amount] for the 2022 [insert event] as part of our ongoing event partnership with the Chamber of Commerce."

2. Town of Windsor Art Commission Presentation and Partnership Funding Request – 408 Main Street Mural
 - Presenter: Laura Browarny, Town of Windsor Cultural Supervisor

Sample motion: "I move that we conditionally approve funding not to exceed [insert amount] to partner with the Windsor Art Commission on a mural to be painted on the west elevation of 408 Main Street as presented and discussed, pending final inspection and acceptance by DDA and Town staff."

3. Website Redevelopment Discussion and Next Steps Direction from the Board
 - Staff: Josh Olhava
4. Review and Action on a Revised Wayfinding Sign Construction Drawing Scope and Fee from Mead & Hunt
 - Staff: Josh Olhava

Sample motion: "I move that we approve the revised Wayfinding Scope as presented; authorize the expenditure of up to \$12,000 for the performance of such services by consultant Mead & Hunt; authorize DDA staff and legal counsel to approve the form of the agreement for such services; and authorize the board chair to execute such agreement."

5. Consideration of an Exclusive Negotiating Agreement and Non-Binding Letter of Intent Between and Among the Town of Windsor, Colorado; the Windsor, Colorado Downtown Development Authority; and Tribe, LLC.

- Staff: Josh Olhava and Josh Liley

Sample motion: *"I move that we approve the Exclusive Negotiating Agreement and Non-Binding Letter of Intent between and among the Town of Windsor, the Windsor, Colorado, Downtown Development Authority and Tribe, LLC, as presented, and authorize the board chair to execute the agreement."*

F. DDA Executive Session

1. An executive session regarding the backlot redevelopment project for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, pursuant to Colorado Revised Statutes § 24-6-402 (4)(e)(I)

Sample motion: *"I move that we enter into an executive session regarding the backlot redevelopment project for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, pursuant to Colorado Revised Statutes § 24-6-402 (4)(e)(I)."*

G. Executive Director's Report

H. Communications & News

1. Survey will be sent out for Board feedback regarding priority areas and tasks for 2013 to help guide the staff workplan and budget
 - Staff: Josh Olhava

I. Adjourn

BOARD OF DIRECTORS MEETING
Wednesday – August 17, 2022 | 7:00AM
301 Walnut Street, 1st Floor Conference Room, Windsor, CO 80550
(NOTE: Meeting to be held IN PERSON only)

Minutes

Present: Dan Stauss; Brent Phinney; Dean Koehler; Heidi Washburn; Andy Higa; Grant Nisly; Paul Rennemeyer
Staff: Josh Olhava, Matt Ashby (via phone), Josh Liley and Lily Sider
Absent: none

- A. **Call to Order** **7:00AM**
B. Roll Call

Chairman Stauss called the meeting to order at 7:00AM

- C. **Consent Agenda**
1. Review of Agenda by the Board and Addition of Items of New Business to the Agenda for Consideration by the Board
 2. Approval of Minutes from the Board of Director's Regular Meeting – July 20, 2022

There was no discussion by the Board on the Consent Agenda items.

BP motioned; HW 2nd; the Board Unanimously approved as presented

- D. Public & Partner Agencies Invited to be Heard *(3 Minutes Per Person)*

No public present

- E. **Action Items**

Chairman Stauss recused himself from the discussion and vote on Action Items No. 1 and 2, as the applicant on both items. Vice-Chair Phinney presided over Action Items No. 1 and 2.

1. **Façade Improvement Mini Grant Application** – 426 and 428 Main Street
 - Applicant: Dan Stauss
 - *Staff recommend conditional approval as detailed in the sample motion.*

Sample motion: "I move that we conditionally approve funding not to exceed \$1,000.00 for a Façade Improvement Mini Grant for a new decorative tenant sign at 426 and 428 Main Street, pending installation of the sign and final inspection by DDA staff."

- The applicant, DS, presented his request for the min grant to be used for a hand-carved sign for Memory Lane Antiques at 426 and 428 Main Street. The sign is designed to withstand environmental conditions for our area and is being fabricated on the east coast.
- DS – noted he received Town approval of his sign permit, as highlighted in staff's report.
- JO - provided additional analysis to the Board regarding the requested amount of \$1,000 being considered as the sign covers two separate buildings with the same business. The mini grant covers up to \$500 per building, per request.
- Board members did not have any concerns with the request and noted the sign will look good when installed.

DK motioned to approve as presented; GN 2nd; Motion passed 6-0

2. Façade Improvement Grant Application – 529 Main Street

- Applicant: Dan Stauss, Golden Delaney, LLC
- *Staff recommend conditional approval as detailed in the sample motion.*

Sample motion: *“I move that we conditionally approve funding not to exceed \$3,283.00 for a Façade Improvement Grant for the front, rear and side elevation façade enhancements to 529 Main Street, pending final inspection by DDA staff, with any substantial deviations from such plans requiring the review and approval of the DDA Board, and authorize the board vice-chair to execute documents in connection therewith.”*

- The applicant, DS, presented his request and why the request came in while the work was being completed due to contractor availability. He noted the grant request applies to the work completed on the façade of the building including stucco repairs, painting and stone repairs on the outdoor planter that wraps the front of the building.
- JO – summarized the staff memorandum and request confirming the details provided by the applicant
- GN – asked for the applicant to provide additional information on the specific work tasks completed.
- Applicant, DS, provided additional information noting the stucco has been damaged for a few years and the fascia was damaged in past hailstorms.

The applicant, DS, recused himself from the deliberation and action to allow the Board to discuss their comments and concerns openly.

- BP – expressed concern with the request and being in the spirit of the program guidelines and requirements since some of the work was recently completed leading up to the DDA meeting. The Board should closely consider how we incorporate the planter that is attached to the building and make it clear that if approved in part is due to it being affixed to the building as a building feature.
- Board members discussed concerns about the work that was completed before the request came to the DDA, particularly that grants cannot be issued for completed work, per the Façade Improvement Program (FIP) Policy. The Board determined that any work still underway would be eligible for grant funds but work already completed was not.
- Board members also discussed concerns regarding eligible building sides. The Board determined that only three of the four sides would be allowed to qualify as facing a “public right-of-way”, according to the FIP Policy guidelines. These would be the north, south and west elevations.
- Board members asked staff for clarification on what funds remained in the FIP budget line item.
- JO – noted that the remaining FIP budget for 2022 is at \$1,398 based on already approved FIP grants, including the FIP mini-grant program.
- Staff and legal counsel provided additional information to the Board regarding the work that goes into preparing agreements and easements associated with the FIP and that the Board may want to take those efforts into account when reviewing and considering such a small amount of funding under the regular FIP guidelines versus the FIP mini-grant program.
- Board briefly discussed changing the application to a mini grant but decided against it in this case. The Board asked staff to review the guidelines and provide recommendations for updates in the future.
- Board members asked staff to work with the applicant to submit an invoice that separates the requested project from the applicant’s personal residence work (as they were combined on the invoice provided with the application). The Board asked staff to review the eligible improvements for the three eligible facades, as determined by the Board, and provide an update at the next meeting as part of the Executive Director Report.

- After discussions with staff and legal counsel, the Board entertained a revised motion.

DK motioned to conditionally approve funding not to exceed the remaining budget allocation for the 2022 Façade Improvement Program of \$1,398 for a Façade Improvement Grant for the front (north), rear (south) and west side elevation façade enhancements to 529 Main Street, excluding work that has already been completed prior to grant approval, pending final review by DDA staff of the revised invoice requested by the Board, final inspection by DDA staff, and authorize the board vice-chair to execute documents in connection therewith in accordance with the FIP policies; HW 2nd; Motion passed 6-0

DS rejoined the meeting and BP turned the meeting back over to DS as DDA Chairman

3. Budget Allocation – Increasing the Maximum Amount Payable Under the Ayers Contract from \$150,000 to \$168,698.43, using the \$18,698.43 in Main Street Open for Business Administrative Grant Funds Received by the DDA.

Sample motion: "I move that we increase the maximum amount payable under the Master Agreement for Professional Services with Ayres Associates from \$150,000 to \$168,698.43, allocating to such purpose the \$18,698.43 received from the Main Street Open for Business Administrative Grant Fund."

- JO - provided an overview of the request and noted that this was discussed by the Board at prior meetings and highlighted by staff in the Executive Director's Report.
- PR – asked for clarification on the amount and where the approximate \$18,000 comes from.
- JO – explained the Main Street Open for Business grant award and that the approximate \$18,000 is specifically allocated to administrative costs to implement and report on the grant to the State. When the DDA directed staff to pursue the grant, it was known that a certain percentage would be used to offset the additional work and time needed to implement and report on the grant. This additional work was in excess of the Ayres contract amount of \$150,000 for 2022. Staff worked to keep costs within the grant scope to avoid any impact to the contract amount.
- There was not further discussion by the Board

PR motioned to approve as presented with the additional note that this is for calendar year 2022; BP 2nd; Motion passed Unanimously

4. Consideration of a Social Media Management Agreement with MCT Marketing, for an initial three (3) month term, up to the amount of \$10,500, and authorizing the board chair (or the executive director) to approve changes to the agreement and execute the agreement.

Sample motion: "I move that we approve the agreement with MCT Marketing for social media services up to the amount of \$10,500; authorize the board chair (or the executive director), in consultation with DDA legal counsel, to approve changes to the agreement that do not substantially alter the DDA's rights or obligations thereunder; and authorize the board chair (or the executive director) to execute the agreement."

Board Member Grant Nisly (GN) left the meeting at the beginning of Action Item No. 4.

- DS – discussed the intent of the request is to manage the DDAs Facebook and Instagram pages through the remainder of this year.
- MA – this serves as a stop gap through the end of the year to provide a high level of weekly involvement based on current needs due to the downtown redevelopment efforts and

clarification to the public. Staff will work on an RFP for 2023 that will include scope and costs reflective of the DDA's needs in 2023.

- PR – wants to ensure this is a coordinated effort with Town messaging and that MCT will work with staff and the board.
- HW – provided an overview of current administrator rights and the work that has been done to clean that up.
- Board members discussed what the standard messaging should be on all accounts and the process to confirm content and responses to posts. Staff will need to stay involved answering technical questions and providing detailed background.
- MA – provided an overview of current stats from the DDA's Instagram posts since having MCT onboard.
- PR – we will want to reassess the need and level of MCT work efforts beyond this contract as the downtown redevelopment project evolves.

PR motioned to approve as presented with the board chair being authorized to execute the agreement; BP 2nd; Motion passed 6-0 (GN absent)

5. Consideration of an On-Call Marketing Agreement with SideCar PR for marketing services on an as-needed basis and authorizing the board chair (or the executive director) to approve and execute the agreement.

Sample motion: "I move that we approve the expenditure of up to \$10,000 for marketing services to be provided by SideCar PR on an as-needed basis through December 31, 2022; authorize the board chair (or the executive director), in consultation with DDA legal counsel, to approve the form of the agreement for such services; and authorize the board chair (or the executive director) to execute the agreement."

- MA – provided an overview of this request and that it is helpful to have someone onboard when the need arises for printed materials or other documents for public events and meetings.
- DS – highlighted a goal to use local groups when possible.
- Board members agreed with DS in using local marketing techniques and groups to help stay under the suggested expenditure.

BP motioned to approve as presented; HW 2nd; Motion passed 6-0 (GN absent)

F. **Executive Director's Report**

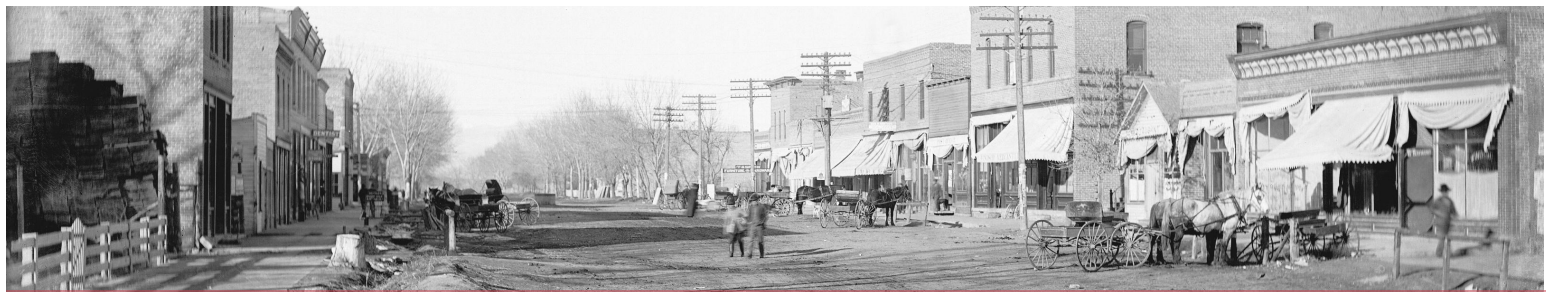
- JO – highlighted the report and was available for questions.

G. **Communications & News**

PR – provided an update on current Town efforts and their Strategic Plan efforts. He noted the Town will close on two lots for additional downtown parking in the coming weeks.

H. **Adjourn**

Chairman Stauss ended the meeting at 8:36AM



DDA REPORT

Volume 10, Issue 7
July, 2022



WINDSOR DDA REVENUE

Summary Through July 31, 2022	Collections	Budget	% of Budget
PROPERTY TAX	\$49,569	\$46,126	107.46%
AUTO TAX	\$1,663	\$2,000	83.17%
INCREMENTAL PROPERTY TAX	\$90,524	\$98,798	91.63%
GRANTS	\$395,167	\$2,400	16465.3%
INTEREST INCOME	\$4	\$0	N/A
TRANSFER FROM TOW GENERAL FUND	\$234,436	\$401,890	58.33%
Total	\$771,363	\$551,214	139.94%

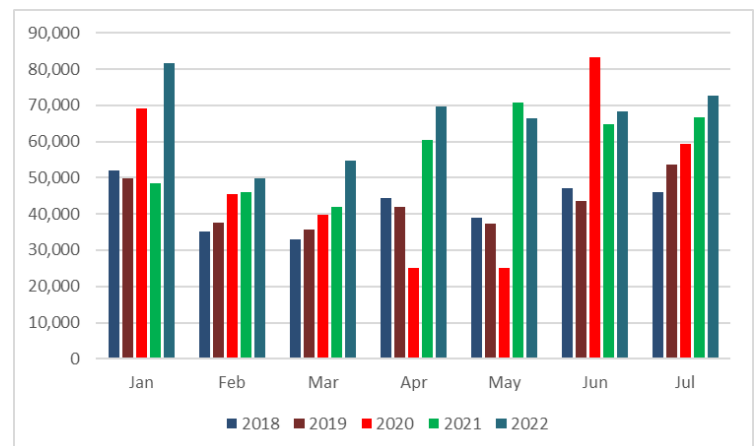
POINTS OF INTEREST

- Sales Tax collections through July were \$463,079, which is \$63,921 or 16.0% greater than collected through July 2021.
- Revenue for the year equals 139.9% of the 2022 budget.

WINDSOR DDA EXPENDITURES

Summary through July 31, 2022	Expenditures	Budget	% of Budget
Operations			
Office Supplies	\$1,800	\$3,600	50.00%
Public Relations/Advertising	\$7,410	\$20,000	37.05%
Board Development	\$565	\$2,500	22.60%
Dues/Fees/Subscriptions	\$5,902	\$6,500	90.80%
Special Equipment	\$0	\$20,000	0.00%
Street Repair/Maintenance	\$5,213	\$10,000	52.13%
Travel/Mileage	\$0	\$500	0.00%
Liability Insurance	\$4,950	\$6,500	76.15%
Legal Services	\$0	\$35,000	0.00%
Contract Services	\$428,018	\$150,000	285.35%
Utilities	\$1,280	\$3,500	36.57%
Postage	\$166	\$500	33.20%
Study Review/Consultant	\$15,567	\$85,000	18.31%
County Treasurer Fees	\$2,151	\$1,000	215.05%
Façade Program	\$0	\$100,000	0.00%
Outside Agency Funding	\$0	\$100,000	0.00%
Administrative Transfer	\$2,500	\$5,000	50.00%
Operations Total	\$475,521	\$549,600	86.52%
Capital			
Site Improvements	\$0	\$0	0.00%
Grand Total	\$475,521	\$549,600	86.52%

MONTHLY SALES TAX COMPARISON





DOWNTOWN DEVELOPMENT AUTHORITY

DDA MISSION STATEMENT

The DDA's mission is to create a prosperous, vibrant, energetic, and clean town center, by marketing downtown opportunities, retaining and expanding current business opportunities, preserving downtown charm, and enhancing physical appearance and amenities through partnerships with the community and stakeholders.

Windsor Downtown Development

P.O. Box 381
Windsor, CO 80550
Email: info@windsordda.com
Windsordda.com



PLAN OF DEVELOPMENT PROJECTS

The projects, facilities, programs and functions to be established and provided in the district will benefit and promote the health, safety, prosperity, security and general welfare of all occupants and owners thereof and will prevent deterioration of property values, will prevent the growth of blighted areas, and will be of special benefit to all property within the district.

- A. The promotion of, participation in, and assistance to private and public developments consistent with the priorities of the DDA by all means permitted by federal, state and local laws and regulations, including but not limited to, land assemblage, and/or acquiring, constructing, reconstruction, rehabilitating, equipping, selling and leasing space.
- B. Public facilities and improvements as necessary to complement private developments.

DDA BOARD

Dan Stauss, Chairperson — dan@windsordda.com	Term: July 2022
Heidi Washburn — heidi@sfheidi.com	Term: July 2022
Dean Koehler — dean@windsordda.com	Term: July 2025
Brent Phinney — brentphinney@hotmail.com	Term: July 2025
Andy Higa — okolemaluna1@yahoo.com	Term: June 2024
Grant Nisly — grantnisly@mac.com	Term: June 2024
Paul Rennemeyer, TOW Board Liaison — prennemeyer@windsorgov.com	
Matt Ashby, Executive Director — director@windsordda.com	
Josh Olhava, Program and Project Manager — info@windsordda.com	

DDA Report of Bills

August 2022



301 Walnut Street
Windsor, Colorado 80550
Phone: (970) 674-2400
windsorgov.com

Check No.	Vendor/Employee	Transaction Description	Date	Amount
Fund: 19 DOWNTOWN DEVELOPMENT AUTHOR				
Department: 486 DOWNTOWN DEVELOPMENT AU				
104967	XCEL ENERGY	UTILITIES	08/05/2022	44.80
105018	SMART MARKETING LLC	SOCIAL MEDIA PUBLISHING APR - JUNE	08/05/2022	2,145.00
105019	AYRES ASSOCIATES INC	CONFERENCE TRAVEL, MANAGEMENT SVCS.,	08/05/2022	44,210.70
105051	DITESCO LLC	DOWNTOWN ALLEYWAY IMPROVEMENTS	08/05/2022	1,366.53
105053	JOSHUA C LILEY	DDA GENERAL COUNSEL SERVICES (MARCH 2022)	08/05/2022	5,019.00
105065	BUTLER SNOW LLP	DDA FCPA COMPLIANCE THROUGH JUNE 30, 2022	08/05/2022	937.50
105076	TRIBE DEVELOPMENT COMPANY	SHARE OF REDERING COSTS - SOPHER SPARN RENDERINGS	08/05/2022	13,374.66
Total for Fund:19 DOWNTOWN DEVELOPMENT			\$	67,098.19



September 12, 2022

Mr. Josh Olhava, AICP, PCCP
Town of Windsor
Downtown Development Authority
301 Walnut St
Windsor, CO 80550

Re: Downtown Windsor Wayfinding Signing Design Plans

Dear Mr. Olhava,

Mead & Hunt is please to submit this scope of work to develop a set of revised construction drawings to support the Downtown Wayfinding program based on a revised sign graphic design, sign type and CDOT comments. Our scope is based on the following estimates of new signs by type:

- Vehicular Pillar Directional Signage - 12
- Downtown Kiosks - 6
- Bike Trail Signs - Custom Pole (up to 6) will be installed by Town and provide standard details

Our proposed scope includes

- 1) Update base plans to show roadway features including clear zones
- 2) Incorporate new sign graphic design and color palette provided by the DDA
- 3) Finalize sign locations including field visit
- 4) Finalize sign messages
- 5) Revise fabrication details including materials, color, font size and graphic design standards
- 6) Prepare a detailed sign layout plan illustrating each sign location
- 7) Prepare revised sign installation schedule including supports and mounting, main plates and subplates, geolocation, direction and sign image
- 8) Develop renderings of sign locations with proposed signs
- 9) Compile sign construction plan package including specifications and quantities

Deliverables

- Sign layout plan showing existing and proposed wayfinding signs within the Phase I Downtown area
- Sign schedule/ index of quantities for each sign type
- Sign fabrication details
- Construction cost estimate including total number of signs by type and unit cost
- Virtual review meeting with DDA (2) and CDOT (1)

We look forward to working with you on this important effort. The derivation of our cost for this task is attached herewith for your review and approval.

Sincerely,
MEAD & HUNT, INC.

A handwritten signature in black ink, appearing to read "Paul Silberman", with a stylized flourish at the end.

Paul Silberman, P.E., PTOE
Department Manager, Transportation Planning

Mead & Hunt
Downtown Windsor Wayfinding Signage Revised Construction Drawings
Fee Estimate
9/12/2022

Subtask	Man-Hours			
	Project Manager	Project Engineer	Designer	Subtotal
Update base plans to show roadway features including clear zones	0	2	4	6
Incorporate new sign graphic design and color palette provided by the DDA	0	2	4	6
Finalize sign locations including field visit	1	4	4	9
Finalize sign messages	1	2	4	7
Revise fabrication details including materials, color, font size and graphic design standards	1	2	6	9
Prepare a detailed sign layout plan illustrating each sign location	1	2	4	7
Prepare revised sign installation schedule including supports and mounting, main plates and subplates, geolocation, direction and sign image	1	4	2	7
Develop renderings of sign locations with proposed signs	0	2	8	10
Compile sign construction plan package including specifications and quantities	1	4	8	13
Update Construction Cost Estimate	1	2	2	5
Virtual Review Meeting	6	6	0	12
Total Hours	13	32	46	91
Loaded Rate	\$ 175.00	\$ 135.00	\$ 110.00	
Subtotal Labor Cost	\$ 2,275.00	\$ 4,320.00	\$ 5,060.00	\$ 11,655.00

GRAND TOTAL

\$ 11,655.00

**EXCLUSIVE NEGOTIATION AGREEMENT
AND
NON-BINDING LETTER OF INTENT**

THIS EXCLUSIVE NEGOTIATION AGREEMENT AND NON-BINDING LETTER OF INTENT (“Agreement”) is dated _____, 2022, and is between and among THE TOWN OF WINDSOR, a Colorado home rule municipal corporation (“Town”), the WINDSOR, COLORADO, DOWNTOWN DEVELOPMENT AUTHORITY, a body corporate and politic (“DDA”), and TRIBE, LLC, a Colorado limited liability company (“Tribe”).

A. RECITALS

- (1) The Town is the owner of certain real property located and described as “Town Property” in the attached **Exhibit A**, incorporated herein by this reference as if set forth fully.
- (2) The DDA is the owner of certain real property located and described as “DDA Property” in **Exhibit A**.
- (3) The Town and the DDA are joint owners of certain real property located and described as the “4th Street Property” in **Exhibit A**.
- (4) Tribe is in the business of real estate development, and has expressed interest in establishing an overall development plan which might include all or portions of the Town Property, the DDA Property and the 4th Street Property (collectively, “Backlots”), as well as other property yet-to-be-acquired by one or more of the parties.
- (5) Tribe and the DDA have entered into that certain Cost Sharing Agreement dated July 20, 2022 (“Cost Sharing Agreement”), the purpose of which is to facilitate the development of schematic design drawings and specifications; and
- (6) The parties agree that the development of schematic design drawings and specifications will assist the parties in arriving at terms suitable for incorporation into a binding redevelopment agreement for the Backlots; and
- (7) The parties desire to express their intention to continue discussions directed at arriving at a complete redevelopment plan for the Backlots, and to assure one another that these discussions will be confined exclusively to the parties who are identified herein.
- (8) The intentions of the parties as set forth herein regarding establishment of a complete redevelopment plan for the Backlots shall not be legally-enforceable unless and until each of the parties takes all necessary steps to enter into a future binding contract containing specific expectations for redevelopment of the Backlots. Through Section B of this Agreement, the parties desire to lay out their intentions for groundwork, negotiations and ultimately, establishment of binding terms by future separate instrument. Section B of

this Agreement is specifically non-binding and not intended to give rise to legally-enforceable obligations, remedies, damages and further relief.

- (9) Although the parties intend for Section B of this Agreement to be non-binding, the parties acknowledge that in order to effectuate the purpose of Section B, the parties have made covenants, representations and promises in Section C of this Agreement which the parties intend to be enforceable. The parties specifically agree that all terms and conditions contained in Section C of this Agreement shall be binding in nature.

B. NON-BINDING LETTER OF INTENT

- (1) **Proposal Not Binding.** The parties acknowledge that any conceptual materials provided to date to the Town and DDA by Tribe are conceptual only, and not binding undertakings by Tribe. The parties acknowledge that the efforts anticipated under this Agreement will produce a mutually-acceptable redevelopment plan (“Redevelopment Plan”) which, when approved by all parties, will serve as the agreed plan for redevelopment of the Backlots. Any prior proposals provided to the Town and DDA by Tribe are merely informative of what the parties intend will be refined into one or more project elements. However, the parties acknowledge that the Redevelopment Plan may differ substantially from prior proposals.
- (2) **Schematic Design Concepts.** The parties anticipate that the schematic design and specifications contemplated under the Cost Sharing Agreement will contain the following development components:
- (a) Multifamily rental units;
 - (b) Retail/services/food & beverage;
 - (c) Highly-programmed public spaces;
 - (d) Parking solutions, parking structure options in order for the Project to be self-parked;
and
 - (e) A preliminary financial analysis including an estimate of total development cost, projected public improvements and anticipated need for public participation.
- (3) **Incorporation of Town Property and Additional Terms.** The parties understand that the Town intends to make the Town Property available for incorporation into the Redevelopment Plan, as part of an integrated whole, in order to facilitate the Redevelopment Plan. The Town’s contribution to the Redevelopment Plan may include the conveyance of the Town Property, waiver of governmental fees, and other monetary assistance (“Town Contribution”). The terms and conditions of the Town Contribution will be refined in conjunction with establishment of the final Redevelopment Plan.

- (4) **Incorporation of DDA Property.** The parties understand that the DDA intends to make the DDA Property available for incorporation into the Redevelopment Plan, as part of an integrated whole, in order to facilitate the Redevelopment Plan. The DDA's contribution to the Redevelopment Plan may include the conveyance of the DDA Property and other monetary assistance ("DDA Contribution"). The terms and conditions of the DDA Contribution will be refined in conjunction with establishment of the final Redevelopment Plan.
- (5) **Incorporation of 4th Street Property.** The parties understand that the Town and DDA intend to make the 4th Street Property available for incorporation into the Redevelopment Plan, as part of an integrated whole, in order to facilitate the Redevelopment Plan. The terms and conditions of the incorporation of the 4th Street Property will be refined in conjunction with establishment of the final Redevelopment Plan.

C. BINDING TERMS AND CONDITIONS OF AGREEMENT

- (1) **Schematic Design by Tribe.** For a period beginning on the date first appearing above, and expiring on December 31, 2022 ("Tribe Due Diligence Period"), Tribe will retain design professionals to develop schematic design drawings and specifications in accordance with the Cost Sharing Agreement based upon previous Tribe due diligence. As schematic design content is developed, Tribe will evaluate data, revise assumptions and modeling, and prepare one or more updates to the Town and DDA on schematic design elements and Redevelopment Plan components. The Town, DDA and Tribe will together refine the design concepts to arrive at discussion points for potential incorporation into a binding redevelopment agreement (the "Redevelopment Plan Agreement").
- (2) **Negotiation Period.** The Parties agree that through and including January 25, 2023, they will negotiate exclusively and in good faith with one another in an effort to establish the final Redevelopment Plan and a binding Redevelopment Plan Agreement for its implementation. The Negotiation Period may be extended only by written amendment of this Agreement authorized and executed by the Parties, and approved by the governing boards of both the Town and the DDA.
- (3) **Tribe Covenants, Representations.** Tribe makes the following representations:
- (a) Tribe reaffirms its interest in exploring redevelopment opportunities in the Backlots.
 - (b) Tribe understands and acknowledges that the Backlots are subject to various legal limitations, including adopted planning documents, the Town's zoning code, downtown corridor requirements and restrictions of record. The Parties will jointly seek reasonable modifications to any such requirements that may be required by the terms of the Redevelopment Plan Agreement, as agreed upon by the Parties.

- (c) Tribe acknowledges that a citizen-initiated petition for a municipal ordinance is in process pursuant to Title 31, Article 11 of the Colorado Revised Statutes, the outcome of which may prevent or otherwise affect development of the DDA Property. Tribe understands and acknowledges that the Backlots, or portions thereof, may later become subject to additional citizen-initiated measures, including initiated legislation and referenda, which may prevent or otherwise affect the ability to develop such properties.
- (d) Tribe hereby certifies to the best of its actual knowledge that it possesses the legal capacity and the ability to seek adequate financing to develop the Backlots as generally contemplated herein. Subject to normal financing contingencies, market conditions, the availability of loan terms reasonably acceptable to Tribe and its affiliates, and lender's due diligence, Tribe knows of no reason that will preclude it from obtaining adequate financing in accordance with the final Redevelopment Plan to be negotiated by the Parties.
- (e) Prior to execution of a binding Redevelopment Plan Agreement to implement the final Redevelopment Plan, Tribe will disclose to the Town and DDA its principals, officers, stockholders, partners, joint venturers, members, guarantors, and other persons interested in the Project who will be involved in ownership of any special purpose entity or entities that will develop, own and operate the Backlots and improvements located thereon. The ownership composition of these entities has not been finalized.
- (f) As part of Tribe's obligations under this Agreement, Tribe shall reasonably cooperate with the Town and DDA, and their advisors, consultants and staffs to arrive at the establishment of the final Redevelopment Plan within the time parameters set forth above.
- (g) Tribe shall submit to the Town and DDA periodic reports as reasonably requested by the Town and DDA regarding the progress of schematic design and other activities that might reasonably affect the establishment of the final Redevelopment Plan. Reports provided by Tribe during scheduled staff meetings shall satisfy this requirement.
- (h) Subject to the reimbursement terms of the Cost Sharing Agreement, Tribe shall at its own expense provide the professional services necessary to arrive at the final Redevelopment Plan in a form reasonably satisfactory to the Town and DDA.
- (i) To the extent reasonably necessary to finalize the Redevelopment Plan, Tribe shall provide tenant commitment(s) reasonably acceptable to Tribe for future users of structures proposed in the Redevelopment Plan. Tribe agrees to provide comparable market data to the Town and DDA.

- (j) To the extent reasonably necessary and relevant to finalize the Redevelopment Plan, Tribe shall provide market studies that demonstrate retail and housing demand in Northern Colorado.
- (k) Subject the reimbursement terms in the Cost Sharing Agreement, Tribe shall complete or cause to be completed schematic design drawings and specifications as referenced therein.
- (l) Tribe designates Ashley Stiles, or designated alternate, to serve as its authorized representative with respect to its performance under this Agreement.
- (m) For purposes of this Article as applicable, Tribe's Actual Knowledge or any variation thereof means the actual knowledge, without investigation or inquiry, of Ashley Stiles.

(4) Town Covenants, Representations. The Town makes the following representations:

- (a) To the extent reasonably necessary to assist Tribe in establishment of the Redevelopment Plan, the Town shall provide any current and future Backlot site data available to or in the possession of the Town, including maps and surveys, utility and parcel maps, and title work on those portions of the Town Property to be incorporated into the Project.
- (b) To the extent reasonably necessary to assist Tribe in establishment of the Redevelopment Plan, the Town shall provide Tribe with access to and assistance of the Town's development review team.
- (c) Should the Town acquire additional property contiguous to the Backlots, the Town will consider making such property available for development under the Redevelopment Plan.
- (d) The Town designates Shane Hale as its authorized representative with respect to its performance under this Agreement.
- (e) The Town has the necessary power and authority to enter into this Agreement, to otherwise perform its obligations hereunder without the consent of any other person or entity and the individual signing this Agreement on behalf of Town has been duly authorized to do so.
- (f) The Town is the sole legal and equitable owner of record and in fact of good and marketable fee simple title to the Town Property and its joint interest in the 4th Street Property.
- (g) To the Town's actual knowledge, there is not pending or threatened, any litigation, proceeding or investigation relating to the Town Property or the 4th Street Property, or

Town's title thereto, or that would affect Town's ability to perform its obligations under this Agreement, or that would affect its ability to execute the Redevelopment Plan Agreement.

- (h) The Town has not entered into any other agreement or made any other representations or commitments, whether verbal or in writing, to any other prospective developer, concerning the development of the Backlots.
- (i) In the event negotiations do not result in a Redevelopment Plan Agreement, all studies, reports, concept plans, construction drawings, engineering plans, proposed site plans, *pro-formas*, budgeting materials, and other documents created or prepared by Tribe, its agents and affiliates related to Backlots redevelopment ("Tribe Work Product"), shall remain the work product of Tribe. The Town will not itself use the Tribe Work Product, or in partnership with the DDA or a third-party developer in connection with any further proposed development of the Backlots. The foregoing notwithstanding, the Town, the DDA or any subsequent third-party developer may utilize similar concepts for the proposed development of the Backlots as proposed by Tribe, provided that such concepts are the result of independent work product of parties other than Tribe and do not depend upon the Tribe Work Product.

(5) DDA Covenants, Representations. The DDA makes the following representations:

- (a) To the extent reasonably necessary to assist Tribe in the establishment of the Redevelopment Plan, the DDA shall provide any current and future Backlot site data available to or in the possession of the DDA, including maps and surveys, utility and parcel maps, and title work on those portions of the DDA Property to be incorporated into the Redevelopment Plan.
- (b) To the extent reasonably necessary to assist Tribe in the establishment of the Redevelopment Plan, the DDA shall provide Tribe with access to and assistance of the DDA's Backlots development team.
- (c) Should the DDA acquire additional property contiguous to the Backlots, the DDA will consider making such property available for development under the Redevelopment Plan.
- (d) The DDA designates Matt Ashby as its authorized representative with respect to its performance under this Agreement.
- (e) The DDA has the necessary power and authority to enter into this Agreement, to otherwise perform its obligations hereunder without the consent of any other person or entity and the individual signing this Agreement on behalf of the DDA has been duly authorized to do so.

- (f) The DDA is the sole legal and equitable owner of record and in fact of good and marketable fee simple title to the surface of the DDA Property and its joint interest in the 4th Street Property.
 - (g) To the DDA's actual knowledge, there is not pending or threatened, any litigation, proceeding or investigation relating to surface rights of the DDA Property and the DDA's joint interest in the 4th Street Property, or DDA's title thereto, or that would affect DDA's ability to perform its obligations under this Agreement, or that would affect its ability to execute the Redevelopment Plan Agreement. Notwithstanding the representations contained in this sub-section, the DDA acknowledges that a citizen-initiated petition for a municipal ordinance is in process pursuant to Title 31, Article 11 of the Colorado Revised Statutes, the outcome of which may prevent or otherwise affect development of the DDA Property.
 - (h) The DDA has not entered into any other agreement or made any other representations or commitments, whether verbal or in writing, to any other prospective developer, concerning the development of the Backlots.
 - (i) In the event negotiations do not result in a Redevelopment Plan Agreement, all studies, reports, concept plans, construction drawings, engineering plans, proposed site plans, *pro-formas*, budgeting materials, and other documents created or prepared by Tribe, its agents and affiliates related to the Project ("Tribe Work Product"), shall remain the work product of Tribe. The DDA will not use the Tribe Work Product in connection with any further proposed development of the Backlots by the DDA itself or in partnership with the Town or a third-party developer. The foregoing notwithstanding, the DDA, the Town or any subsequent third-party developer may have similar concepts for the proposed development of the Backlots as proposed by Tribe, provided that such concepts are the result of independent work product of parties other than Tribe and do not depend upon the Tribe Work Product.
- (6) **Mutual Duties, Commitments.** The Town, DDA and Tribe each commit to developing the following additional concepts in conjunction with establishment of the final Redevelopment Plan:
- (a) Summary term sheets describing the terms and conditions of the Redevelopment Plan sufficient to identify the anticipated undertakings of each party necessary to facilitate the Redevelopment Plan.
 - (b) One or more counsel-approved draft Redevelopment Plan Agreement(s) for review and consideration of the respective parties' decision-making bodies (*i.e.*, Town Board, DDA Board of Directors, Tribe principals).
 - (c) Subject to further revision as the Redevelopment Plan evolves, a project budget and development finance *pro-forma* sufficient to inform the parties of financial arrangements necessary to carry out the Redevelopment Plan.

(7) Tribe Access to Backlot property.

- (a) To the extent necessary to complete schematic design drawings and specifications, Tribe and its employees, agents or contractors may enter upon the Backlots for the purpose of inspections or conducting necessary tests, investigations, studies, audits, surveys and reviews and sampling from the Backlots.
- (b) Within a reasonable time after such entry onto the Backlots, Tribe shall restore the property to substantially the same condition it was in prior to such entry.
- (c) Tribe shall indemnify and hold harmless the Town and DDA, their respective governing boards, employees, agents, consultants, insurance provider and attorneys for any loss, damage or claims of any loss or damage, including reasonable attorney and other legal fees, resulting from or arising out of any such entry, tests, samples and surveys. Tribe shall not permit any lien claims to burden the Backlots.

(8) Indemnification. Tribe shall indemnify and hold harmless the Town and DDA, their respective officials, officers, employees, agents, and insurance provider for and against any loss, damage, or claims of any loss or damage, including reasonable attorney and other legal fees, resulting from or arising out of any action, representation, commitment or activity of Tribe in connection with the establishment of the final Redevelopment Plan.

(9) No Assignment. This Agreement may not be assigned, in whole or in part, by any party without the prior written consent of all other Parties. The Town and DDA recognize that Tribe may form one or more separate, special purpose entities to develop, own and operate property and improvements within the Backlots redevelopment, and that assignments may be required in connection with such activities. The terms applicable to any such assignments shall be addressed in the final Redevelopment Plan Agreement.

(10) Town and DDA Not Liable for Tribe Undertakings. Except as set forth in the Cost Sharing Agreement, the Town and DDA shall not be liable for any fees or costs, including real estate commissions or brokerage fees, or costs of studies, reports, or other documents that may arise out of Tribe's performance of this Agreement.

(11) Town and DDA Not a Partner. Notwithstanding any language in this Agreement or any other representation or warranty to the contrary, the Town and DDA shall not be deemed to be a partner or joint venturer of Tribe or any operator or manager of the Project, nor shall the Town or DDA be responsible for any debt of Tribe, nor any proceeds from the Project.

(12) Defaults, Remedies. Upon a default by any party following notice and an opportunity to cure the default within twenty (20) days of such notice, the following remedies shall apply:

- (a) If Tribe fails to substantially observe or perform any binding covenant, obligation or agreement required under this Agreement, the Town and DDA shall have the right to cancel and rescind this Agreement and seek remedies available to them at law or in equity. Notwithstanding anything to the contrary contained herein, the Town and DDA shall be responsible for bearing all of their respective costs and expenses, direct or indirect, in connection with this Agreement.
- (b) If the Town or DDA fail to substantially observe or perform any covenant, obligation or agreement required under this Agreement, Tribe shall be entitled to cancel and rescind this Agreement and except as provided below, Tribe shall not be entitled to any other legal or administrative remedy, action or proceeding including, without limitation, the right to seek damages, specific performance, or to seek any other right or remedy at law or in equity. Notwithstanding the foregoing, in the event of a breach by the Town of the covenants, representations and warranties set forth in Section C 4 (f) through (h) inclusive, or a breach by the DDA of the covenants, representations and warranties set forth in Section C 5(f) through (h) inclusive, Tribe may seek remedies available to them at law or in equity including but not limited to monetary damages. Tribe shall be responsible for bearing all of its costs and expenses, direct or indirect, in connection with this Agreement.

- (13) **No Other Rights or Remedies.** Notwithstanding any language in the Agreement or any other agreement, document or communication to the contrary, the terms of Backlots redevelopment shall not be deemed accepted by the parties until the final Redevelopment Plan and related Redevelopment Plan Agreement are executed by all parties. The rights and remedies of the parties are specifically limited to those set forth in this Agreement and the Cost Sharing Agreement and, except as provided herein, no rights to specific enforcement or in the nature of equitable conversion will be deemed to have been created with respect to the Project, the Property or otherwise. Further, no Town Board or DDA Board member, employee, agent, consultant, underwriter, insurance provider, or attorney of the Town or DDA shall be personally liable to Tribe under this Agreement or in the event of any default or breach by the Town or DDA under this Agreement. No member, manager, employee, agent, consultant, underwriter, insurance provider, or attorney of Tribe, or any of its affiliates, shall be personally liable to the Town or DDA under this Agreement or in the event of any default or breach by Tribe under this Agreement
- (14) **Notices.** A notice or demand under this Agreement by any party to any other(s) shall be in writing and sufficiently given if delivered in person or via overnight courier service with guaranteed next-day delivery or by certified mail, return receipt requested, postage prepaid, addressed as follows:

To the Town:

Town Manager, Town of Windsor
301 Walnut Street

Copy to:

Town Attorney, Town of Windsor
301 Walnut Street

Windsor, CO 80550

Windsor, CO 80550

Town Clerk, Town of Windsor
301 Walnut Street
Windsor, CO 80550

To the DDA:

With copy to:

Executive Director
Windsor Downtown Development Authority
301 Walnut Street
Windsor, CO 80550

Liley Law, LLC
Joshua Liley, Esq.
2627 Redwing Road, Ste. 342
Fort Collins, CO 80526

To Tribe:

With copy to:

Ashley Stiles, CEO
6549 Spanish Bay Drive
Windsor, CO 80550

Massey, Mitchell & Kelly, PLLC
Mason Mitchell, Esq.
125 S. Howes, Suite 1100
Fort Collins, CO 80521

(15) **Confidentiality, Public Meetings, Public Records.** Tribe recognizes that the Town and the DDA are public entities, subject to the Colorado Open Meetings Act (“COMA”) and the Colorado Open Records Act (“CORA”). To the extent that Tribe conspicuously identifies a communication or document as *CONFIDENTIAL*, the Town and the DDA will take the following steps in response to any such communication or document(s):

- (a) If available in good faith under any legal theory, the Town Board and DDA Board of Directors will only review such communication or document(s) in a confidential setting, such as an executive session as permitted by law.
- (b) If available in good faith under any legal theory, the Town and DDA will deny inspection of such communication or document(s) as trade secrets or confidential under § 24-72-204 (3) (a) (IV), C.R.S.
- (c) The Town will in good faith defend any suit brought under CORA or COMA in support of its denial.
- (d) The DDA will in good faith defend any suit brought under CORA or COMA in support of its denial.

Tribe will indemnify and reimburse the Town and the DDA for all legal and staff expenses in defense of confidentiality under this Section, and will indemnify the Town and the DDA for any judgment awarded in conjunction with its defense, including

attorney fees and penalties. Notwithstanding the foregoing, Tribe shall have the right to consent to disclosure and request that the Town and the DDA disclose confidential communications and documents at any time to settle any suit brought under CORA or COMA.

Neither the Town nor DDA make any promises or guarantees that communications and documents marked as confidential will, in fact, be shielded from public review following court proceedings under COMA or CORA.

- (16) **Applicable Law and Venue.** The laws of the State of Colorado shall govern the interpretation and enforcement of this Agreement and exclusive venue shall be in the Weld County District Court.

WHEREAS, the parties have executed this Agreement on the date first appearing above.

TOWN OF WINDSOR

ATTEST:

Paul Rennemeyer, Mayor

Karen Frawley, Town Clerk

WINDSOR, COLORADO, DOWNTOWN
DEVELOPMENT AUTHORITY

ATTEST:

Dan Stauss, Chair

Dean Koehler, Secretary

TRIBE, LLC

Ashley Stiles, CEO

Executive Director Report

Date: September 21, 2022
To: Downtown Development Authority Board of Directors
From: Matt Ashby, DDA Executive Director
Josh Olhava, DDA Program and Project Manager
Re: August – September Report

Primary Meeting Summary

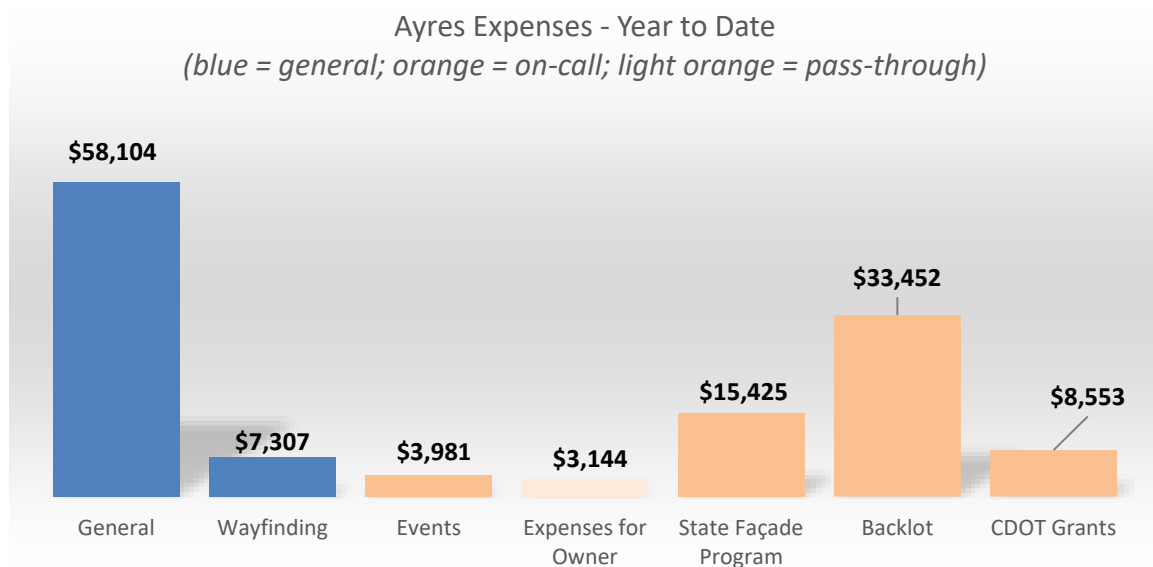
The following key meetings and events occurred since August 17th:

- August Board of Directors Meeting – 08.17
- Matt/Shane Weekly Meetings – as needed
- DDA Weekly Call – as needed
- Downtown Redevelopment Coordination (Tribe) – as needed
- Events:
 - Cancun Ribbon Cutting – 09.02

Important Upcoming Event Reminders

- Boudoir by Bri – 09.23 at 5pm
- Betta Gumbo – 09.30 at 2pm

Ayres Billing Breakdown Year to Date (As of 09/10/22)

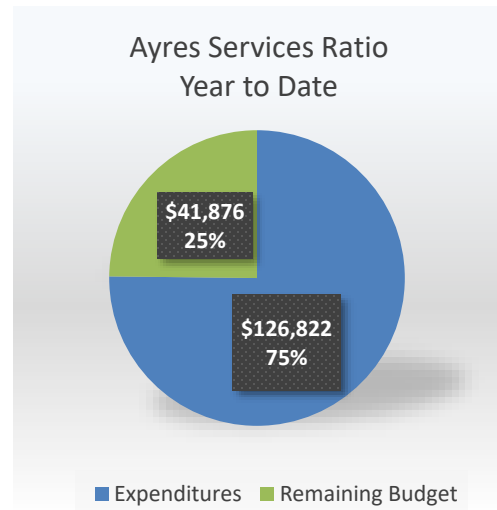


Total Expenditures: \$126,822

- Total excludes Expenses for Owner as those are expenses paid by Ayres and allocated to other DDA funds
- 75% of the budget spent with 69% of the year completed
- Removing the one-time CDOT grant pursuit results in 70% of the budget spent

Highlights:

- CDOT Grant expense was a one-time expense requested by the Board
- Total includes the State Façade Grant – administrative allocation and shift in Ayres’ contract for 2022, based on the August 2022 Board meeting
- Backlot efforts remain extensive for the year
 - 22% of the original base cap of \$150,000; through August this accounted for approximately 40%+/- of average weekly staff hours
 - Ongoing PR efforts and answering questions online
 - Ongoing coordination with Tribe and the Town



Anticipated Workload and Initiatives (September-October)

Thru Lot:

- Completed final warranty walks and approximately nine (9) plants will be replaced
- Operation Manual for the File - TBD
- Work with Town staff to move additional trash cans to the site
- CDOT is working to reimburse approx. \$12,000 for concrete seat walls as part of the 2021 grant funds
- Review additional site amenities for families (games, music, etc.)
- Order a few more tables and chairs for the space prior to the holidays

Downtown Redevelopment Project:

- Ongoing outreach and meetings
- PR efforts w/ Tribe, marketing consultant and the Town
- Coordination w/ Tribe and the Town on next steps

Wayfinding:

- Finalize scope and agreement with consultant to finalize construction drawings
- Work w/ CDOT on downtown speed study findings and impacts to overall sign design
- Work w/ DOLA Main Street to develop scope of work and RFP for kiosk design details
- Finalize interpretive history board content – working with Town and Ehrlich family

Façade Improvement Program:

- Finalize Agreements and Easements with DDA Attorney and owners that were awarded funds
- Approved Project Status:
 - 417 Main – Complete
 - 426 Main – Nearly complete
 - 428 Main – Nearly complete
 - 426-428 Main – mini grant for sign (no agreement or easement required) – work pending sign fabrication and delivery
 - 429 Main – Complete
 - 514 Main – Under construction (old façade removed, structure visible – tied to interior work)
 - 419 Main – mini grant for sign (no agreement or easement required) – work pending final design and permitting
 - 529 Main – Nearly complete
 - \$5,626 were determined to be eligible expenses following the August Board meeting and review of the invoice by staff (\$1,406 = 25% of eligible expenses)
 - Board approved up to \$1,398 (remaining façade funds for 2022)
- Project Interest:
 - 411 Main – new owners interested in upgrading portions of façade in 2023
 - Emergency stabilization and rain cap work completed.

State Façade Grant:

- Snapshot videos and highlights

Parking Strategies:

- Continue work w/ Town staff on implementing shared parking program
- Continue coordination w/ owners on shared parking program
- Continue work w/ Town staff on intersection improvements
- Continue coordination w/ the Town on new property acquisitions and strategy for activating additional parking supply throughout the downtown district

Marketing / Events:

- Attend downtown specific Open Houses or business events
- DDA website overhaul and redesign efforts – next steps following Board’s decision during the meeting
- Social media posts and updates – ongoing and coordination w/ marketing consultant
- Finalize an RFP for marketing/social media support in 2023
- Coordinate w/ Chamber on events

Grants:

- CDOT Revitalizing Main Street Grants
 - Review Opportunity 2 grant for possible safety improvement projects within the downtown area

Streetscape Furniture/Downtown Art:

- Warming Huts
 - Work w/ Atmosphere Creative to install decals (Proudly Donated by ...)
 - Finalize logistics w/ the school to pick-up huts
 - Coordinate w/ interested businesses on remaining huts
- Continue to monitor business activity and needs for existing sidewalk furniture
 - Identify locations for stored benches downtown, work w/ business owners
 - Coordinate w/ Town staff on installation of benches
 - Staff to continue discussions of permanent outdoor seating areas with owners on 4th and 5th Streets
- Evaluate options for family friendly activities and outdoor additions to the new pedestrian plaza, bring ideas to Board for review
- Order additional tables and chairs for the Thru Lot space
- Continue coordination with Town staff and Art Commission on additional art downtown

Main Street Requirements:

- Quarterly Reports are processed by staff

General - Administrative:

- Schedule Board Budget Worksession
- Coordinate Board Budget presentation to Windsor Town Board

Prior Board Meeting - Action Checklist Review

New Items –

- Evaluate eligible costs on 529 Main based on Board action in August – JO **Complete**

Carryover –

- Warming Huts – next steps – JO **In Progress/Waiting on School**