

Wade Troxell, Mayor
Gerry Horak, District 6, Mayor Pro Tem
Bob Overbeck, District 1
Ray Martinez, District 2
Gino Campana, District 3
Kristin Stephens, District 4
Ross Cunniff, District 5

City Council Chambers
City Hall West
300 LaPorte Avenue
Fort Collins, Colorado

Cablecast on City Cable Channel 14
and Channel 881 on the Comcast cable system

Carrie Daggett
City Attorney

Darin Atteberry
City Manager

Wanda Winkelmann
City Clerk

The City of Fort Collins will make reasonable accommodations for access to City services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance.

Special Meeting April 26, 2016 6:00 p.m.

- **PLEDGE OF ALLEGIANCE**
- **CALL TO ORDER**
- **ROLL CALL**
- **CITIZEN PARTICIPATION**

Individuals may comment regarding items scheduled on the Consent Calendar and items not specifically scheduled on the agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process** and not to the Council.

- Those who wish to speak are asked to sign in at the table in the lobby (for recordkeeping purposes).
- All speakers will be asked by the presiding officer to identify themselves by raising their hand, and then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting).
- The presiding officer will determine and announce the length of time allowed for each speaker.
- Each speaker will be asked to state his or her name and general address for the record, and to keep comments brief. Any written comments or materials intended for the Council should be provided to the City Clerk.
- A timer will beep once and the timer light will turn yellow to indicate that 30 seconds of speaking time remain, and will beep again and turn red when a speaker's time to speak has ended.

[**For questions about the development review process or the status of any particular development, citizens should consult the Development Review Center page on the City's website at fcgov.com/developmentreview, or contact the Development Review Center at 221-6750.]

● CITIZEN PARTICIPATION FOLLOW-UP

Discussion Items

The method of debate for discussion items is as follows:

- Mayor introduces the item number, and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests citizen comment on the item (three minute limit for each citizen)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. **Please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

1. [Resolution 2016-038 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the March 7, 2016, Building Review Board Decision on Remand Regarding the Coy-Hoffman Silos, 1041 Woodward Way.](#)

The purpose of this item is to make Findings of Fact and Conclusions of law regarding the appeal of the Building Review Board (BRB) March 7, 2016, decision upon remand to uphold the Chief Building Official's declaration that the two historic farm silos located at 1041 Woodward Way are "dangerous structures" and not structures that pose an "imminent danger" (also referred to as "imminent threat"). The appeal was heard by City Council on April 19, 2016.

- **OTHER BUSINESS**

A. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

- **ADJOURNMENT**

AGENDA ITEM SUMMARY

April 26, 2016

City Council

STAFF

Mike Gebo, Chief Building Official
Laurie Kadrich, Director of PDT

SUBJECT

Resolution 2016-038 Making Findings of Fact and Conclusions of Law Regarding the Appeal of the March 7, 2016, Building Review Board Decision on Remand Regarding the Coy-Hoffman Silos, 1041 Woodward Way.

EXECUTIVE SUMMARY

The purpose of this item is to make Findings of Fact and Conclusions of law regarding the appeal of the Building Review Board (BRB) March 7, 2016, decision upon remand to uphold the Chief Building Official's declaration that the two historic farm silos located at 1041 Woodward Way are "dangerous structures" and not structures that pose an "imminent danger" (also referred to as "imminent threat"). The appeal was heard by City Council on April 19, 2016.

STAFF RECOMMENDATION

Staff recommends adoption of the Resolution

BACKGROUND / DISCUSSION

On September 18, 2015, the Chief Building Official determined that the two historic silos on Woodward, Inc., property at 1041 Woodward Way were "dangerous structures," but not an "imminent danger."

On September 28, 2015, Woodward filed an appeal of the building official's determination to the BRB, stating that the silos should have been declared an "imminent danger."

On October 29, 2015, the BRB heard Woodward's appeal. The BRB upheld the building official's determination that the silos were "dangerous," but not an "imminent danger."

On November 12, 2015, Woodward appealed the BRB's decision to Council on the grounds that the BRB failed to properly interpret and apply relevant provisions of the City Code.

On January 19, 2016, City Council heard the appeal. Based on the evidence in the record and presented at the Council Hearing, and pursuant to City Code Section 2-55(f)(2), Council remanded the matter to the BRB for rehearing. On remand, the BRB was directed to receive and consider evidence and analysis regarding the effects of natural conditions and events of a one in ten-year probability on one or both of the silos to consider whether one or both silos pose an imminent threat or danger as that term is defined in the International Property Maintenance Code. This direction was set forth in City Council Resolution 2016-009.

On March 7, 2016, the BRB heard Woodward's appeal. The BRB received and considered evidence and analysis that indicated that wind would be the natural condition that would have the greatest impact upon the silos. The BRB upon remand rendered a decision to uphold the determination of the Chief Building Official that the silos are "dangerous" and not an "imminent danger."

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On March 21, 2016, Woodward appealed the BRB's March 7, 2016, decision to uphold the Chief Building Officials determination asserting that the BRB failed to properly interpret and apply the City Code.

On April 19, 2016, City Council heard the appeal of the March 7, 2016, BRB decision. City Council overturned the Building Review Board's decision by a 5-2 vote (Nays: Cunniff, Overbeck) and determined that the silos were an imminent danger.

Additional background can be found in the AIS for the April 19, 2016, appeal attached hereto. (**Attachment 1**)

ATTACHMENTS

1. Appeal Agenda Item Summary, April 19, 2016 (w/o attachments) (PDF)

AGENDA ITEM SUMMARY

City Council

April 19, 2016

STAFF

Mike Gebo, Chief Building Official
Laurie Kadrich, Director of PDT

SUBJECT

Consideration of an Appeal of the Building Review Board's March 7, 2016, Decision Regarding the Coy-Hoffman Silos, 1041 Woodward Way.

EXECUTIVE SUMMARY

Woodward, Inc. (Woodward) is appealing the Building Review Board's (BRB) decision, on remand from a January 19, 2016 appeal, to uphold the Chief Building Official's determination that two historic farm silos, located at 1041 Woodward Way, are "dangerous structures" and not structures that pose an "imminent danger."

BACKGROUND / DISCUSSION

Woodward's new facility and office complex on 1041 Woodward Way, corner of South Lemay Avenue and East Lincoln Avenue, was the original site of the Coy-Hoffman farmstead, a state designated historical site. A barn, milkhouse, and two silos are what remain of the farmstead. The two silos are showing signs of concrete decay around their bases. The cast in place silo has a slight list to the east and is out of plumb. The stave system silo is oblong at the upper third.

Woodward appealed to Council, the Building Review Board's (BRB) first decision of October 29, 2015, to uphold the Building Official's declaration that the silos are "dangerous" but not an "imminent danger" as defined in the adopted 2006 *International Property Maintenance Code (IPMC)* which states:

"Imminent Danger, a condition which could cause serious or life-threatening injury or death at any time."

On January 19, 2016, Council heard Woodward's appeal and remanded the issue back to the BRB in Resolution 2016-009 Section 3 which states:

Section 3. That based on the evidence in the record and presented at the Council Hearing, and pursuant to City Code Section 2-55(f)(2), the matter shall be remanded to the BRB to receive and consider evidence and analysis regarding the effects of natural conditions and events of a one in ten-year probability on one or both of the silos to consider whether one or both poses an imminent threat or danger as that term is defined in the International Property Maintenance Code."

On March 7, 2016, the BRB reheard the case as directed by Council.

Engineer's reports

Both Woodward's engineer, JVA, represented by Mr. Steve Carpenter, and the City's engineer, Exponent, represented by Mr. Paul Bennett, evaluated the effects of natural conditions upon the silos, including wind, snow, hail, rain, seismic or vibrations. Both engineers concluded that of the natural events reviewed, wind

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would have the greatest impact on the silos and evaluated the silos using a one in ten-year wind event, calculated to be winds of 85-90 mph. Both engineers agree that the stave silo is of more concern than the cast-in-place silo.

The JVA report, updated on March 1, 2016, from Mr. Carpenter, concludes that based on analysis and calculations, both silos could fail under loading associated with an 85-90 mph wind event. The Exponent First Supplemental Report from Mr. Bennett, performed calculations and included in its evaluation the silo's performance in recent wind events as recorded by Colorado State University. Mr. Bennett indicated that the last time winds were recorded on the order of 85 mph was 1999, when a gust of 83 mph was recorded. Mr. Bennett concluded that the silos that resisted 80+ mph winds in 1999 are likely to resist the wind effects of 85-90 mph in their current condition.

Dangerous vs Imminent

Council directed that the definition of *imminent*, as provided for in the adopted IPMC, shall be used in determining the silo's correct classification. The building official has classified the silos as *dangerous* structures.

Building code language can be confusing when taken out of context or when not evaluated against other terms used in that Code. To better understand the code intent of imminent, other terms of the IPMC are presented;

- **108.1.1 Substandard structures.** *A substandard structure is one that may pose a risk to the life, health, property or safety of the occupants thereof or the public, even though it does not constitute a dangerous structure as defined in Section 108.1.5, either because the structure lacks the equipment necessary to protect or warn occupants in the event of fire, or because it contains substandard or missing equipment, systems or fixtures, or is damaged, decayed, dilapidated, or structurally unsound.*

Under the IPMC, substandard is considered the lowest level hazard of a structure and references that the structure does not constitute a dangerous structure.

- **108.1.5 Dangerous structure or premises.** *A structure or premises is dangerous if any part, element or component thereof is no longer within its serviceability limit or strength limit state as defined in this code or, when considered in totality, the structure or premises pose an imminent threat to the health and safety of the public or the occupants of the structure or premises.*

Dangerous, as written in Section 108.1.5 of the IPMC, identifies a higher level of hazard from "substandard" and the text would appear to place an even higher degree of hazard when describing imminent threat.

- **Chapter 2 Definitions; Imminent Danger.** *A condition which could cause serious or life-threatening injury or death at any time.*

When interpreted in context to other terms in the IPMC, imminent danger takes on an immediacy not stated or indicated in either the substandard or dangerous references. It is understood that any dangerous structure which is no longer within its serviceability limit or strength limit state could have a condition which could cause a serious or life-threatening injury or death, the key to imminent is the perceived immediacy of the hazard as stated as at any time.

Conclusion

The Building Official has determined that the Woodward silos are dangerous structures; however an imminent danger has not been established. Woodward has argued that the silos could cause serious or life-threatening injury or death when wind forces of 85-90 mph are applied. The BRB, on remand, has ruled to uphold the

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building official's declaration that the silos are dangerous and not imminent.

Woodward has been ordered to provide to the City a "plan of protection" and to stabilize and repair the silos so as to abate the hazard and remove the dangerous classification.

ATTACHMENTS

1. City Clerk's Public Hearing Notice (PDF)
2. Notice of Appeal, March 21, 2016 (PDF)
3. Materials Provided to the Building Review Board (PDF)
4. Staff presentation to Building Review Board (PDF)
5. Applicant presentation to Building Review Board (PDF)
6. Paul Bennett, Exponent, presentation to Building Review Board (PDF)
7. Exhibits presented at Building Review Board Hearing (PDF)
8. Verbatim transcript (PDF)
9. Staff presentation to Council(PDF)

COPY

RESOLUTION 2016-038
OF THE COUNCIL OF THE CITY OF FORT COLLINS
MAKING FINDINGS OF FACT AND CONCLUSIONS OF LAW REGARDING THE
APPEAL OF THE MARCH 7, 2016, BUILDING REVIEW BOARD DECISION ON
REMAND REGARDING THE COY-HOFFMAN SILOS, 1041 WOODWARD WAY

WHEREAS, Woodward, Inc., (“Woodward”) is the owner of two silos (the “Silos”) located on its property within municipal limits at 1041 Woodward Way; and

WHEREAS, on September 18, 2015, the City of Fort Collins Chief Building Official (the “CBO”) issued his determination that the Silos were dangerous but not imminently dangerous; and

WHEREAS, Woodward appealed the September 18, 2015, CBO determination to the City of Fort Collins Building Review Board (the “BRB”); and

WHEREAS, on October 29, 2015, the BRB heard the appeal and adopted a motion upholding the CBO’s September 18, 2015, determination; and

WHEREAS, Woodward appealed the October 29, 2015, BRB decision to the City Council; and

WHEREAS, on January 19, 2016, the City Council heard the appeal and remanded the matter for further BRB consideration with direction as stated in Council Resolution 2016-009; and

WHEREAS, on March 7, 2016, the BRB heard the appeal on remand and adopted a motion upholding the CBO’s September 18, 2015, determination; and

WHEREAS, Woodward appealed the March 7, 2016, BRB decision to the City Council by filing its Notice of Appeal on March 21, 2016; and

WHEREAS, the Notice of Appeal claimed that the BRB failed to properly interpret and apply the City Code in making its decision at the March 7, 2016, remand hearing; and

WHEREAS, on April 19, 2016, the City Council, after notice given in accordance with Chapter 2, Article II, Division 3, of the City Code, considered the Appeal, reviewed the record on appeal and the applicable City Code provisions, and heard presentations from the representatives for Woodward and the parties-in-interest opposed to the Appeal (the “Council Hearing”); and

WHEREAS, the evidence for City Council consideration at the Council Hearing consisted of the evidence presented at the Council Hearing plus the evidence contained in the records of the October 29, 2015, and March 7, 2016, BRB hearings, and the January 19, 2016, Council hearing; and

WHEREAS, after discussion, the City Council found and concluded based on the evidence in the record and presented at the Council Hearing that:

1. The BRB failed to properly interpret and apply the City Council direction on remand regarding the consideration of the effect of natural conditions and events of a one-in-ten year probability on the Silos; and
2. The BRB failed to properly interpret and apply the term “imminent danger” as such term is defined in IPMC Section 202, adopted pursuant to City Code Section 5-46, and City Code Section 5-47(12); and
3. The evidence established that the Silos are an “imminent danger” as such term is defined in the City Code; and
4. The Silos pose an imminent threat to life, health, and property; and
5. The BRB decision to uphold the September 18, 2015, CBO determination is overturned.

WHEREAS, City Code Section 2-55(g) provides that no later than the date of its next regular meeting after the hearing of an appeal, City Council shall adopt, by resolution, findings of fact in support of its decision on the Appeal.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that, pursuant to Section 2-55(g) of the City Code, the City Council hereby makes and adopts the following findings of fact and conclusions:

Section 1. That the grounds for appeal as stated in the Notice of Appeal conform to the requirements of Section 2-48 of the City Code.

Section 2. That based on the evidence in the record and presented at the Council Hearing, the recitals set forth above are adopted as findings of fact.

Section 3. That the BRB failed to properly interpret and apply the City Code at the March 7, 2016, remand hearing.

Section 4. That the BRB decision to uphold the September 18, 2015, CBO determination is overturned.

Section 5. That the Silos are an “imminent danger” as such term is defined in the City Code and pose an imminent threat to life, health, and property

Section 6. That the CBO is directed to forthwith issue an order to Woodward to demolish or repair the Silos on the basis that the Silos are an imminent threat to life, health, and property.

Section 7. That adoption of this Resolution shall constitute the final action of the City Council in accordance with City Code Section 2-55(g).

Passed and adopted at a special meeting of the Council of the City of Fort Collins this 26th day of April, A.D. 2016.

Mayor

ATTEST:

City Clerk