

## **SUBJECT**

Second Reading of Ordinance No. 078, 2012, Amending Article XII of Chapter 23 of the City Code relating to Art in Public Places.

## **EXECUTIVE SUMMARY**

This Ordinance was adopted on First Reading on August 21, 2012 by a vote of 4-2 (Nays: Ohlson, Poppaw). At that time, Council provided direction to staff and the Art in Public Places (APP) Board to reexamine the modification included in the Ordinance that caps the total annual contribution to APP from each Utility Fund (Water, Waste Water, Stormwater, and Light & Power) at \$100,000. A revised Ordinance is being presented for Second Reading that includes a revised cap option for Council consideration and approval.

## **BACKGROUND / DISCUSSION**

On First Reading of this Ordinance, Council provided direction to staff and the Art in Public Places (APP) Board to reexamine the modification to the APP program that caps the total annual contribution to APP from each Utility Fund (Water, Waste Water, Stormwater, and Light & Power) at \$100,000. APP, Utility staff and the APP Board reviewed different options for the cap and are presenting for Council consideration on Second Reading a revised method of calculating the Utility cap.

### **APP UTILITY CAP REVISION FOR SECOND READING**

Art in Public Places continues as a 1% program, meaning City capital projects with a budget over \$250,000 designate 1% of their project budget for art. The revised Ordinance for Second Reading includes the following APP cap for Utility projects:

The APP Utility contribution cap would be set as .5% of each Utility's annual budgeted Operating Revenue.

- Operating Revenue is made up of the payments received from the rate payer.
- Each Utility's revenue from the rate payer varies in accordance with the size of that Utility; therefore the cap would vary and be right-sized for each Utility fund.
- This option specifically limits the maximum impact to the rate payer to no more than .5% of the Operating Revenue per Utility.
- Using a percentage allows the cap amount to potentially change over time, if Operating Revenue increases or decreases, but never impact the rate payer more than .5%.
- The cap limits contributions from the largest Utility projects. For example, the Mulberry Water Reclamation Project was budgeted at \$25,650,000 in 2009. The uncapped APP contribution was \$265,500. A cap calculated at .5% of Wastewater Operating Revenue would have been \$90,803 (.5% of \$18,160,570 Operating Revenue in 2009). Therefore the Wastewater APP contribution would have been capped at \$90,803, a reduction of \$165,967. Other large projects that would have been or will be capped under this scenario are the Spring Creek and Fossil Creek Basins; Canal Importation; Drake Water Reclamation Project; Halligan improvements; or service center improvements.

The Average Cap at .5% of Operating Revenue, based on 2008-2012 actuals, would be:

Light & Power: \$461,813\*  
Water: \$130,425  
Wastewater: \$90,491  
Stormwater: \$68,348

\*Because the Light & Power Operating Revenue is the highest of the four Utility Funds, averaging over \$90 million

annually, the .5% cap is also the highest cap. A lower percentage cap on Light & Power could be considered. At .25%, the average cap on Light & Power would be \$230,906. Although still above the average Light & Power APP contribution amount of approximately \$73,836, the .25% cap would further limit potential Light & Power contributions to APP.

In 2012, the total Utility Budget is \$180,401,672 with Operating Revenues of \$164,341,682. Art in Public Places actual contributions were \$100,266 or .019% of the total Utility Budget. Below are two tables showing the Utility Rate Payer Typical Customer Bill for 2012 and 2013. The tables illustrate the relationship between APP and the rate payer bill, based on actual and projected APP budgets and show the maximum impact to the rate payer if the .5% or .25% of Operating Revenues caps is reached.

	<b>2012 Rates</b>	<b>2012 APP Actual</b>	<b>APP Maximum</b>	<b>APP Cap</b>
	<b>Typical Cost/Month</b>	<b>per Rate Payer</b>	<b>.5% of bill</b>	<b>.25% of bill</b>
Electric	\$ 59.68	\$ 0.01	\$ 0.30	\$ 0.15
Water	\$ 33.66	\$ 0.06	\$ 0.17	\$ 0.08
Wastewater	\$ 30.26	\$ 0.04	\$ 0.15	\$ 0.08
Stormwater	\$ 14.26	\$ 0.01	\$ 0.07	\$ 0.04
Monthly Total	\$ 137.85	\$ 0.12	\$ 0.69	\$ 0.34
Annual Total	\$ 1,654.23	\$ 1.41	\$ 8.27	\$ 4.14

- (1) Electric total of 8075 kWh over 12 months (2010 monthly average use)
- (2) Water total of 98213 gallons over 12 months (2010 monthly average use)
- (3) Wastewater 4600 Gallons Winter Quarter Water Use
- (4) 8600 sq ft lot with light run off

	<b>2013 Est. Rates</b>	<b>2013 APP Actual</b>	<b>APP Maximum</b>	<b>APP Maximum</b>
	<b>Typical Cost/Month</b>	<b>per Rate Payer</b>	<b>.5% of bill</b>	<b>.25% of bill</b>
Electric	\$ 62.26	\$ 0.01	\$ 0.31	\$ 0.16
Water	\$ 35.01	\$ 0.07	\$ 0.18	\$ 0.09
Wastewater	\$ 30.26	\$ 0.05	\$ 0.15	\$ 0.08
Stormwater	\$ 14.26	\$ 0.02	\$ 0.07	\$ 0.04
Monthly Total	\$ 141.79	\$0.15	\$ 0.71	\$0.35
Annual Total	\$ 1,701.48	\$1.79	\$ 8.51	\$4.25

Average Increases for 2013: Electric 4.33%; Water 4.%; Wastewater 0%; Stormwater 0%

The revised Ordinance on Second Reading includes the .5% of Operating Revenue cap option. The following two tables detail the past five years and next five years of Utility total budgets, Operating Revenue, actual or projected APP contributions from capital projects, and both the .5% and .25% cap options with impacts to APP for comparison.

<b>APP Utility Cap as .5% or .25% of Operating Revenue 2008-2012</b>						
	<b>2008</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>Total</b>
<b>Light &amp; Power</b>						
Total Budget	100,843,892	95,792,694	107,246,097	106,977,193	112,752,791	523,612,667
Operating Revenue	83,752,596	86,957,098	91,213,692	95,892,159	103,997,211	461,812,756
Actual contribution to APP	138,815	49,256	142,835	16,950	21,326	369,182
APP as % of Total Budget	.138%	.051%	.133%	.016%	.019%	0.071%
APP as % of Op Rev	.166%	.057%	.157%	.018%	.021%	0.080%
Cap at .5% of Op Rev	418,763	434,785	456,068	479,461	519,986	N/A
Reduction to APP w Cap	0	0	0	0	0	0
Cap at .25% of Op Rev	209,381	217,393	228,034	239,730	259,993	N/A
Reduction to APP w Cap	0	0	0	0	0	0
<b>Wastewater</b>						
Total Budget	31,681,336	50,588,597	23,115,680	22,431,628	21,235,473	149,052,714
Operating Revenue	16,305,707	18,160,570	17,622,768	18,713,219	19,688,506	90,490,770
Actual contribution to APP	89,000	256,500	28,750	38,050	24,450	437,750
APP as % of Total Budget	0.281%	0.507%	0.124%	0.170%	0.120%	0.294%
App as % of Op Rev	0.546%	1.412%	0.163%	0.203%	0.129%	0.484%
Cap at .5% of Op Rev	81,529	90,803	88,114	93,566	98,443	N/A
Reduction to APP w Cap	7,471	165,697	0	0	0	173,169
Cap at .25% of Op Rev	40,764	45,401	44,057	46,783	49,221	N/A
Reduction to APP w Cap	48,236	211,099	0	0	0	259,334
<b>Water</b>						
Total Budget	30,618,969	40,031,414	32,851,744	30,370,924	32,063,681	165,936,732
Operating Revenue	26,789,947	25,430,648	26,448,689	25,008,022	26,748,036	130,425,342
Actual contribution to APP	35,850	123,550	72,400	40,600	47,000	319,400
APP as % of Total Budget	0.117%	0.309%	0.220%	0.134%	0.147%	0.192%
APP as % of Op Rev	0.134%	0.486%	0.274%	0.162%	0.176%	0.245%
Cap at .5% of Op Rev	133,950	127,153	132,243	125,040	133,740	N/A
Reduction to APP w Cap	0	0	0	0	0	0
Cap at .25% of Op Rev	66,975	63,577	66,122	62,520	66,870	N/A
Reduction to APP w Cap	0	59,973	6,278	0	0	66,252
<b>Stormwater</b>						
Total Budget	17,470,888	16,644,536	15,723,422	14,229,352	14,349,727	78,417,925
Operating Revenue	13,328,099	13,588,955	13,724,845	13,798,078	13,907,929	68,347,906
Actual contribution to APP	73,650	66,650	37,100	32,100	7,400	216,900
APP as % of Total Budget	0.422%	0.400%	0.236%	0.226%	0.052%	0.277%
APP as % of Op Rev	0.553%	0.490%	0.270%	0.233%	0.053%	0.317%
Cap at .5% of Op Rev	66,640	67,945	68,624	68,990	69,540	N/A
Reduction to APP w Cap	7,010	0	0	0	0	7,010
Cap at .25% of Op Rev	33,320	33,972	34,312	34,495	34,770	N/A
Reduction to APP w Cap	40,330	32,678	2,788	0	0	75,795

<b>APP Utility Cap as .5% or .25% of Operating Revenue 2013-2017</b>						
	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>Total</b>
<b>Light &amp; Power</b>						
Total Budget	119,604,695	124,868,020	123,447,384	126,631,643	135,807,745	630,359,487
Operating Revenue	109,235,769	113,794,095	117,217,900	122,872,600	127,804,700	590,925,064
Projected contribution to APP	13,075	13,337	12,642	12,894	86,402	138,350
APP as % of Total Budget	0.011%	0.011%	0.010%	0.010%	0.064%	0.022%
APP as % of Op Rev	0.012%	0.012%	0.011%	0.010%	0.068%	0.023%
Cap at .5% of Op Rev	546,179	568,970	586,090	614,363	639,024	N/A
Reduction to APP w Cap	0	0	0	0	0	0
Cap at .25% of Op Rev	273,089	284,485	293,045	307,182	319,512	N/A
Reduction to APP w Cap	0	0	0	0	0	0
<b>Wastewater</b>						
	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	
Total Budget	22,471,641	21,190,275	22,078,143	22,350,465	20,529,664	108,620,188
Operating Revenue	19,450,506	19,524,904	20,110,651	20,713,971	21,335,391	101,135,423
Projected contribution to APP	33,563	39,864	50,000	50,000	30,000	203,427
APP as % of Total Budget	0.149%	0.188%	0.226%	0.224%	0.146%	0.187%
App as % of Op Rev	0.173%	0.204%	0.249%	0.241%	0.141%	0.201%
Cap at .5% of Op Rev	97,253	97,625	100,553	103,570	106,677	N/A
Reduction to APP w Cap	0	0	0	0	0	0
Cap at .25% of Op Rev	48,626	48,812	50,277	51,785	53,338	N/A
Reduction to APP w Cap	0	0	0	0	0	0
<b>Water</b>						
	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	
Total Budget	32,836,906	34,588,260	32,025,578	32,524,130	32,476,435	164,451,309
Operating Revenue	26,553,614	27,569,551	28,692,805	29,840,397	30,737,475	143,393,842
Projected contribution to APP	50,037	74,789	50,000	50,000	50,000	274,826
APP as % of Total Budget	0.152%	0.216%	0.156%	0.154%	0.154%	0.167%
APP as % of Op Rev	0.188%	0.271%	0.174%	0.168%	0.163%	0.192%
Cap at .5% of Op Rev	132,768	137,848	143,464	149,202	153,687	N/A
Reduction to APP w Cap	0	0	0	0	0	0
Cap at .25% of Op Rev	66,384	68,924	71,732	74,601	76,844	N/A
Reduction to APP w Cap	0	5,865	0	0	0	5,865
<b>Stormwater</b>						
	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	
Total Budget	13,857,411	14,046,997	12,343,383	13,553,945	12,971,959	66,773,695
Operating Revenue	13,853,000	13,974,000	14,043,870	14,114,089	14,184,659	70,169,618
Projected contribution to APP	23,129	25,040	26,857	27,394	27,942	130,361
APP as % of Total Budget	0.167%	0.178%	0.218%	0.202%	0.215%	0.195%
APP as % of Op Rev	0.167%	0.179%	0.191%	0.194%	0.197%	0.186%
Cap at .5% of Op Rev	69,265	69,870	70,219	70,570	70,923	N/A
Reduction to APP w Cap	0	0	0	0	0	0
Cap at .25% of Op Rev	34,633	34,935	35,110	35,285	35,085	N/A
Reduction to APP w Cap	0	0	0	0	0	0

**UPDATES TO “ACCOUNTS ESTABLISHED” FOR SECOND READING**

APP worked with Finance to address the non-lapsing status of APP projects to improve accountability and transparency. This change was primarily addressed through an administrative policy change; however, in making the changes as requested, Finance is recommending some updates to the APP Code to accurately reflect the accounting process, update terminology, and make section titles clearer and more easily understood.

The updates recommended for consideration on Second Reading are as follows:

- 23-302 Definitions: remove the “APP reserve account” definition and add the new defined term “cost center” to accurately describe the fund for APP. Also remove the wording “reserve account” throughout the Ordinance.
- 23-303 Accounts Established: retitle this section to “Accounting Methods” and revise language in the Code to explain where the money is going, use current terminology, and reflect the administrative change of budgets for works of art as non-lapsing. Administration and maintenance budgets will remain as lapsing. Utility funds will still be held separately, but the wording is updated.
- Change the headings for Sections 23-304, 23-305, 23-306 to more accurately reflect the three program levels of APP.

**FINANCIAL / ECONOMIC IMPACTS**

Implementing a cap on APP contributions from each Utility Fund (Water, Waste Water, Stormwater, Light and Power) as a calculation of .5% of the budgeted Operating Revenues in each fund will reduce the contributions from Utility Capital Projects to APP. If the .5% of Operating Revenue cap were in place from 2008-2012, \$180,179 would not have been contributed to the APP program from Utility capital projects, a reduction of 13%.

Compared to the \$100,000 cap proposed on First Reading, had it been in place for the same time period, \$261,700 would not have been contributed to APP from Utility capital projects.

Looking ahead (2013-2017) at the projected Utility capital projects, if the .5% of Operating Revenue cap is in place, APP Utility budgets will fall well below the projected cap amount, unless new projects are added.

**STAFF RECOMMENDATION**

Staff recommends adoption of the Ordinance on Second Reading.

**BOARD / COMMISSION RECOMMENDATION**

The APP Board reviewed the revised Cap option at its September 19, 2012 meeting. The APP Board supports the .5% of Operating Revenue Cap as presented in the revised Ordinance. The APP Board’s recommendation is attached.

**ATTACHMENTS**

1. Copy of First Reading Agenda Item Summary - August 21, 2012 (w/o attachments)
2. APP Board Memo Recommendation
3. APP Board Draft Minutes, September 19, 2012
4. Powerpoint presentation

**DATE:** August 21, 2012  
**STAFF:** Ellen Martin

**AGENDA ITEM SUMMARY**  
 FORT COLLINS CITY COUNCIL

**18**

**SUBJECT**

First Reading of Ordinance No. 078, 2012, Amending Article XII of Chapter 23 of the City Code relating to Art in Public Places.

**EXECUTIVE SUMMARY**

At the January 24, 2012 Council Work Session, Council reviewed the Art in Public Places (APP) program and requested that staff develop several modifications to address Council concerns with the program. Staff has identified proposed changes, additions and clarifications to the program to address Council concerns that require revisions to Article XII of Chapter 23 of the City Code relating to Art in Public Places.

**BACKGROUND / DISCUSSION**

Section 23-303 of the City Code, added in 1995, established the Art in Public Places Reserve Account, and designated it for use in acquiring or leasing works of art, maintenance, repair or display of works of art, and administrative expenses related to the Art in Public Places Program, in accordance with the Art in Public Places Guidelines adopted by Ordinance No. 020, 1995. The Council permanently adopted the Art in Public Places Program, and reenacted City Code Chapter 23, Article IX, with certain modifications in 1998.

At the January 24, 2012 Council Work Session, Council reviewed the Art in Public Places (APP) program and requested staff develop modifications to the program to address Council concerns.

The following changes, additions, and clarifications are proposed to Article XII of Chapter 23 of the City Code relating to Art in Public Places:

1. Modify the definition of a "construction project" in the City Code to reduce ambiguity and exempt non-traditional capital projects from the APP program. The proposed change would exclude vehicles, and equipment not affixed to public property, excluding projects like advanced metering and bus acquisitions.
2. Amend the City Code to remove the requirement to fully fund the 1% contribution from non-restricted funding sources when there are project funding sources that cannot be used for art. For example, under the current Code, if 50% of a capital project is funded by a Federal grant that cannot legally be used for art, 1% of the total project cost would be contributed to APP from the unrestricted 50% funding source. With the proposed modification, the APP contribution would be 1% of the unrestricted project funds.
3. Reduce the level of Utility contributions to APP by amending the City Code to cap the total annual contribution to APP from each Utility Fund (Water, Waste Water, Stormwater, and Light & Power) at \$100,000. Utility contributions represent approximately 75% of the APP program revenue (estimated over the five year period of 2006 – 2010). The proposed \$100,000 annual cap equates to a 24% reduction in Utility APP funding and an estimated 18% reduction to the total program for the same time period. By implementing this modification, APP will have less funding for projects. Examples of projects that would likely not be funded include the Linden/Willow pocket park with a water feature and the Fort Collins Museum of Discovery Utility based exhibits now in development.

Staff explored several other options for limiting the level of Utility contributions to APP through various cap options, eliminating underground projects from contributing, or requiring integration of art into functional project elements. Staff recommends the Utility Cap as the most straightforward way of addressing changes to Utility contributions to APP. This option provides a clear and discernable contribution amount and avoids the inherent difficulty of determining the amount of the contribution under the other options.

4. Fix a long-standing issue with the City Code by clarifying that monies credited to APP Utility reserve accounts may be expended on maintenance, repair or display of art, and expenses of administering utility-funded APP

projects.

APP staff is also working with Finance to address the non-lapsing status of APP projects to improve accountability and transparency. This will be addressed through a proposed administrative policy change, and is not included in the Ordinance.

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### **FINANCIAL / ECONOMIC IMPACTS**

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Implementing the \$100,000 annual contribution cap for each Utility Fund (Water, Waste Water, Stormwater, Light and Power) reduces APP funding, particularly for projects that are not located on the project site. The \$100,000 cap equates to a 24% reduction in Utility APP funding and an estimated 18% reduction to the total program. Projects like the Linden/Willow pocket park with a water feature that is now in development may not be possible in the future with reduced funding. Other Utility APP projects may be delayed or reduced in scope, such as the Water Weir Wall (Water Restoration Project) and the Pickle Plant site.

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### **STAFF RECOMMENDATION**

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Staff recommends adoption of the Ordinance on First Reading.

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### **BOARD / COMMISSION RECOMMENDATION**

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The APP Board reviewed the proposed changes as submitted by staff. The APP Board does not recommend the capping of Utility contributions. The APP Board's recommendation is attached.

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### **ATTACHMENTS**

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1. Work Session Summary, January 24, 2012
2. APP Board Memo Recommendation
3. APP Board Minutes, July 18, 2012
4. Cultural Resources Board memo, August 15, 2012



ATTACHMENT 2

**Cultural Services**  
**Art in Public Places**  
Lincoln Center  
417 W. Magnolia St  
Fort Collins, CO 80521

**970.416-2789**  
970.221-6373 – fax  
[www.fcgov.com/artspublic](http://www.fcgov.com/artspublic)

To: Mayor and Councilmembers

From: Art in Public Places Board

Date: September 26, 2012

RE: Amending Article XII of Chapter 23 of the City Code relating to Art in Public Places  
Second reading

Dear Fort Collins Mayor and City Council Members,

The Art in Public Places (APP) Board and Staff have worked, as directed by Council at the August 21<sup>st</sup> Council meeting, to find a nuanced yet effective process for capping Utility fund contributions to the APP program. With considerable input from the Utility Finance staff we, the APP Board, support the recommendation to cap the APP contribution of each Utility at 0.5 percent of each Utility's annual budgeted operating revenue. While the APP Board would prefer no-cap, we feel the 0.5 percent cap is a reasonable compromise.

We also feel it is important to remind the Council that considerable effort went into the development and inception of the APP Program to help create a world-class creative community in Fort Collins. We are concerned that short term fiscal issues will hobble the APP program directly and the goals of the community in general.

With the change in the APP accounting process and the Utility fund caps the APP Board feels we have met the goals laid out by City Council as well as staying true to the goals of the community as expressed in the last citizen's survey and by the latest vote to keep Fort Collins great.

Thank you,

The 2012 Fort Collins Art in Public Places Board  
York, Dwight Hall, Shelby Sommer, Jane Nevrivy, Liliane Francuz, Liz Good, and Jill Kreutzer

CC: Ellen Martin, Jill Stillwell, Marty Heffernan



ART IN PUBLIC PLACES MINUTES Wednesday, September 19, 2012 Lincoln Center Columbine Room	
Council Liaison: Lisa Poppaw	Staff Liaison: Ellen Martin
Chairperson: York	Vice Chair: Dwight Hall

MEMBERS PRESENT: Liz Good, Jane Nevriy, York, Liliane Francuz, Jill Kreutzer

MEMBERS ABSENT: Dwight Hall, Shelby Sommer

STAFF PRESENT: Ellen Martin, Anne Bossert, Jill Stilwell,

CRB LIAISON: Carol Ann Hixon, absent

- I. Call to order: 3:33 p.m. by Mr. York
- II. Consideration of the current agenda
- III. Review of Minutes from August and Special September meetings  
Discussion was had regarding a clarification in the August minutes.

Ms. Nevriy moved to accept the minutes with the discussed changes.  
Ms. Francuz seconded the motion.  
Unanimously approved

IV. Citizen Participation

Ms. Stilwell introduced the intern who is helping with a research project.

V. APP Work Session Follow-up

The Board discussed questions from City Council from the August 21 meeting. Ms. Stilwell joined the discussion to give the board an overview of considered options of a more logical and nuanced cap on future APP Utility contributions. After meeting with Utility finance staff, APP staff is working on information to give Council regarding a .5% cap on the annual operating revenue, which is revenue from the rate payer. This would allow the cap to fluctuate between each year and specific utility funds. Ms. Stilwell discussed how this would affect the APP contributions in the past and future years. The board discussed this proposed change and the other changes listed in the Agenda Item Summary. The board suggested inviting Utility Finance staff to the City Council meeting to help answer Utility budget questions.

The board discussed sending a memo to Council in support of the APP Program and the suggested APP Utility contribution cap at 0.5% of each Utility's annual budgeted operating revenue as defined in the Agenda Item Summary. The board discussed the importance of this memo because they have changed their position.

Ms. Kreutzer moved to express support of the 0.5% cap as discussed for the City Council meeting on Oct. 2 by having Mr. York write a letter of support as Chair, with Mr. Hall as Vice Chair corroborating, authorizing them to write and submit on the board's behalf.

Ms. Good seconded the motion.  
Unanimously approved

**Second Reading of  
Amendments to  
Article XII of Chapter 23  
of the City Code  
Relating to Art in Public Places**

**City Council Meeting  
October 2, 2012**

1



**First Reading of Ordinance No. 078, 2012**

Council approved the following modifications:

- Redefine "construction project" in the City Code to reduce ambiguity and exempt non-traditional capital projects, like advanced metering
- Remove the requirement to fully fund the 1% APP contribution from non-restricted funding when other project funding sources cannot be used for art
- Although approved, Council directed staff and the APP Board to reexamine the proposed flat \$100,000 cap on Utility APP projects, and find a more nuanced approach between First and Second Reading.
- Other minor fixes

2



## Changes for Second Reading

Cap Utility contributions to APP at .5% of each Utility's annual budgeted Operating revenue.

- Operating Revenue is made up of the payments received from the rate payer
- Each Utility's revenue from the rate payer varies in accordance with the size of that Utility; therefore the cap would vary and be right-sized for each Utility fund
- Specifically limits the maximum impact to the rate payer
- Cap amount can change over time, as Operating Revenue changes (but never more than .5%)
- Limits contributions from the largest Utility Projects

3



## Approximate Cap Amounts

Average Cap at .5% of Operating Revenue, based on 2008-2012 actuals:

Light & Power:	\$461,813*
Water:	\$130,425
Wastewater:	\$90,491
Stormwater:	\$68,348

\* A cap at .25% of Operating Revenue for Light & Power would average \$230,906

4



## Impact of the New Cap

- Limit impact to Utility Rate Payer Standard Customer Bill to \$0.71 maximum a month (2013). 2013 actual APP is anticipated at \$0.15 per month.
- If new cap had been in place 2008-2012, \$180,179 would not have been contributed to APP from Utility capital projects (or a reduction of 13%).
- In 2013-2017, projected Utility Capital projects show the APP Utility budgets will fall well below the projected cap amounts unless new projects are added.

5



## Changes to “Accounts Established” for Second Reading

Finance is recommending updates to accurately reflect the accounting process and current financial terminology:

- 23-302 Remove “reserve account” and add “cost center”
- 23-303 Revise “Accounts Established” to “Accounting Methods”; update terminology, reflect financial process and change budgets for works of art as non-lapsing
- 23-304, 305, 206 Change section headings

6



ORDINANCE NO. 078, 2012  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING ARTICLE XII OF CHAPTER 23 OF THE CITY CODE  
RELATING TO ART IN PUBLIC PLACES

WHEREAS, on April 25, 1995, the City Council adopted Ordinance No. 020, 1995, establishing the Art in Public Places (APP) Program, adopting the Art in Public Places Guidelines, and setting goals and requirements for the acquisition, maintenance and exhibition of public art by the City; and

WHEREAS, On April 7, 1998, the City Council adopted Ordinance No. 047, 1998, which reenacted the APP Provisions of the City Code with certain modifications; and

WHEREAS, at the January 24, 2012 Council Work Session, the City Council reviewed the APP Program and asked staff to develop some modifications to the Program to address City Council concerns related to the types of City projects that are required to contribute to the Program; and

WHEREAS, City staff is proposing several amendments to the APP provisions in Article XII of Chapter 23 of the City Code; and

WHEREAS, the proposed amendments would exempt certain types of construction projects from the APP requirements, and would reduce the level of Utility contributions to the Program; and

WHEREAS, ~~an additional recommended changes would clarify the uses for which Utility APP funds may be spent~~ **update the description of how APP funds are accounted for, and would revise the titles of several City Code sections to make them clearer and more accurate;** and

WHEREAS, the Council desires to amend Article XII of Chapter 23 of the City Code as provided herein.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

**Section 1. That the definition "*APP reserve account*" contained in Section 23-302 of the Code of the City of Fort Collins is hereby deleted in its entirety as follows:**

~~***APP reserve account shall mean the art in public places reserve accounts established by this Article.***~~

~~Section 2.~~ **Section 2. That the definition of "*Construction project*" contained in Section 23-302 of the Code of the City of Fort Collins is hereby amended to read as follows:**

***Construction project shall mean the construction, rehabilitation, renovation, remodeling, or improvement of any building, structure, street, sidewalk, park, utility or other public improvement by or for the City, including all associated landscaping,***

parking, design, engineering, equipment or furnishings for such improvement, and all other costs, but excluding the cost of real property acquisition, vehicles, equipment not affixed to public property, and any improvements made by any special improvement district.

**Section 3.** That Section 23-302 of the Code of the City of Fort Collins is hereby amended by the addition of a new definition of "*Cost center*" which reads in its entirety as follows:

*Cost center* shall mean a group of related accounts in the general ledger system maintained by the Finance Department.

~~Section 2. That Section 23-303(b) of the Code of the City of Fort Collins is hereby amended to read as follows:~~

~~**Sec. 23-303. Accounts established.**~~

~~...~~

~~(b) There are hereby established separate reserve accounts within the light and power fund, the sewer fund, the water fund and the storm drainage fund to be known as the APP reserve account for each such fund. Said reserve accounts shall be credited with such funds as the City Council may determine and with all funds from § 23-304 that are paid by the utility for which said fund was established. The amount paid into each such reserve account shall be capped at one hundred thousand dollars (\$100,000) per year. Monies credited to such reserve accounts shall be expended only for the acquisition or lease of works of art that provide a betterment to such utility or that are otherwise determined by the City Council to be for a specific utility purpose that is beneficial to the rate payers of such utility; or for the maintenance, repair or display of such works of art; or to defray the expenses of administering utility-funded APP projects. Any limitations in other provisions of this Code on the purposes for which monies in the light and power fund, the sewer fund, the water fund or the storm drainage fund may be used shall not prohibit the use of monies in the APP reserve account for such fund from being expended for the acquisition or lease of works of art or for the maintenance, repair or display of works of art.~~

**Section 4.** That Section 23-303 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-303. Accounts established****Accounting methods.**

(a) There is hereby established a reserve account within the cultural services and facilities fund to be known as the APP reserve account. Said reserve account shall be credited with such funds as the City Council may determine; with all funds from § 23-304, except funds from the light and power, water and wastewater or stormwater utilities; and with all funds received by the City for art in public places; whether contributed, earned, secured through grants or otherwise obtained. Monies

credited to such account shall be expended only for the acquisition or lease of works of art, the maintenance, repair or display of works of art, and the expenses of administration of this Article. **Cost centers shall be established by the Finance Department in the appropriate funds to account for program contributions and spending. Monies remaining at the end of each year shall be accounted for in the appropriate fund balance accounts. Revenue and expenses for the acquisition or lease of works of art will be kept in separate cost centers from those that pertain to program administration, maintenance, repairs, and display costs.**

(b) ~~There are hereby established separate reserve accounts within the light and power fund, the sewer fund, the water fund and the storm drainage fund to be known as the APP reserve account for each such fund. Said reserve accounts shall be credited with such funds as the City Council may determine and with all funds from § 23-304 that are paid by the utility for which said fund was established. Monies credited to such reserve accounts shall be expended only for the acquisition or lease of works of art that provide a betterment to such utility or that are otherwise determined by the City Council to be for a specific utility purpose that is beneficial to the rate payers of such utility, and for the maintenance, repair or display of such works of art. Any limitations in other provisions of this Code on the purposes for which monies in the light and power fund, the sewer fund, the water fund or the storm drainage fund may be used shall not prohibit the use of monies in the APP reserve account for such fund from being expended for the acquisition or lease of works of art or for the maintenance, repair or display of works of art.~~ **Budgets for the acquisition or lease of works of art will be non-lapsing. Budgets for the maintenance, repair, display and administration of the APP program will lapse at the end of each year.**

(c) **Contributions to APP for each Utility will be kept and spent in such Utility's own fund, with the exception of maintenance, administration, repair and display costs. Each Utility fund will pay its share of maintenance, administration, repair and display costs annually to the APP program cost center in the Cultural Services and Facilities Fund.**

Section 35. That Section 23-304 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-304. ~~Funds for works of art~~ **Construction projects greater than \$250,000.****

(a) ~~Subject to the cap on funding for each utility reserve account as provided in §23-303(b), a~~ **All requests submitted to the City Council for appropriations for construction projects estimated to cost over two hundred and fifty thousand dollars (\$250,000.) shall include an amount equal to one (1) percent of the estimated cost of such project for works of art. This requirement shall also apply to appropriations partially funding a project that will have a total estimated cost of over two hundred and fifty thousand dollars (\$250,000.) even if such individual appropriations are**

equal to or less than said amount. When the City Council approves the appropriations for any such project, one (1) percent of the appropriated amount shall be deposited into the appropriate ~~reserve account~~**cost center**. If any construction project is partially funded from any source which precludes a work of art as an object of expenditure of such funds, the appropriation for works of art shall be equal to one (1) percent of the portion of the estimated project cost that will be funded from project funding sources that are not so restricted. Money collected in the APP ~~reserve account~~**cost centers** shall be expended by the City for projects as prescribed by the APP Guidelines.

(b) The amount of annual contributions to the APP program from each Utility fund shall be limited to one-half (.5) percent of the budgeted operating revenue in such Utility fund for that year.

Section 6. That the title of Section 23-305 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-305. ~~Project design~~Construction projects between \$50,000 and \$250,000.**

Section 7. That the title of Section 23-306 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-306. ~~Incorporating art in purchases~~Construction projects under \$50,000 and purchases.**

Section 8. That Section 23-308 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-308. Acquisition of works of art.**

The APP Board shall make recommendations to the City Council concerning the use of ~~reserve account~~ funds in excess of ten thousand dollars (\$10,000.) for the acquisition, installation and maintenance of works of art. The construction project from which the ~~reserve account~~ funds were generated should generally be the site where the funds will be used. However, funds may be expended at other sites when the APP Board determines such expenditure is appropriate based on the considerations set forth in the guidelines. The APP Board may appoint a selection committee to make recommendations to the APP Board concerning the selection of artists, works of art and the placement of works of art. The selection committee may include artists, architects, City representatives and members of the public.

Section 9. That Section 23-309 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-309. Acquisition of donated artwork.**



All works of art with a value of three hundred dollars (\$300.) or more donated to the City to be placed in a public area may be accepted only with approval of the APP Board, and all such works with a value of ten thousand dollars (\$10,000.) or more may be accepted only with approval of the City Council, upon review of such proposed donation and the recommendation of the APP Board. The City shall accept ownership and responsibility for maintenance only of works of art that meet the objectives of the APP Program, and the criteria for works of art and site selection set forth in the APP Guidelines. Funds for the installation and maintenance of donated works of art will ~~come from~~ **be funded by** the APP ~~reserve account~~ **program**. Those works of art donated to the Fort Collins Museum for its collection purposes shall be exempt from this process.

Introduced, considered favorably on first reading, and ordered published this 21st day of August, A.D. 2012, and to be presented for final passage on the 2nd day of October, A.D. 2012.

\_\_\_\_\_  
Mayor Pro Tem

ATTEST:

\_\_\_\_\_  
City Clerk

Passed and adopted on final reading on the 2nd day of October, A.D. 2012.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk