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To: His Excellency Ban Ki-moon, Secretary-General of the United Nations
Honorable Dr. Margaret Chan, Director-General of the World Health Organization
U.N. Member States

International Appeal:
Scientists call for Protection from Non-ionizing Electromagnetic Field Exposure

We are scientists engaged in the study of biological and health effects of non-ionizing electromagnetic fields (EMF). Based upon peer-reviewed, published research, we have serious concerns regarding the ubiquitous and increasing exposure to EMF generated by electric and wireless devices. These include–but are not limited to–radiofrequency radiation (RFR) emitting devices, such as cellular and cordless phones and their base stations, Wi-Fi, broadcast antennas, smart meters, and baby monitors as well as electric devices and infra-structures used in the delivery of electricity that generate extremely-low frequency electromagnetic field (ELF EMF).

Scientific basis for our common concerns

Numerous recent scientific publications have shown that EMF affects living organisms at levels well below most international and national guidelines. Effects include increased cancer risk, cellular stress, increase in harmful free radicals, genetic damages, structural and functional changes of the reproductive system, learning and memory deficits, neurological disorders, and negative impacts on general well-being in humans. Damage goes well beyond the human race, as there is growing evidence of harmful effects to both plant and animal life.

These findings justify our appeal to the United Nations (UN) and, all member States in the world, to encourage the World Health Organization (WHO) to exert strong leadership in fostering the development of more protective EMF guidelines, encouraging precautionary measures, and educating the public about health risks, particularly risk to children and fetal development. By not taking action, the WHO is failing to fulfill its role as the preeminent international public health agency.

Inadequate non-ionizing EMF international guidelines

The various agencies setting safety standards have failed to impose sufficient guidelines to protect the general public, particularly children who are more vulnerable to the effects of EMF.

The International Commission on Non-Ionizing Radiation Protection (ICNIRP) established in 1998 the "Guidelines For Limiting Exposure To Time-Varying Electric, Magnetic, and Electromagnetic Fields

(up to 300 GHz)"[1]. These guidelines are accepted by the WHO and numerous countries around the world. The WHO is calling for all nations to adopt the ICNIRP guidelines to encourage international harmonization of standards. In 2009, the ICNIRP released a statement saying that it was reaffirming its 1998 guidelines, as in their opinion, the scientific literature published since that time "has provided no evidence of any adverse effects below the basic restrictions and does not necessitate an immediate revision of its guidance on limiting exposure to high frequency electromagnetic fields[2]. ICNIRP continues to the present day to make these assertions, in spite of growing scientific evidence to the contrary. It is our opinion that, because the ICNIRP guidelines do not cover long-term exposure and low-intensity effects, they are insufficient to protect public health.

The WHO adopted the International Agency for Research on Cancer (IARC) classification of extremely low frequency electromagnetic field (ELF EMF) in 2002[3] and radiofrequency radiation (RFR) in 2011[4]. This classification states that EMF is a *possible human carcinogen (Group 2B).* Despite both IARC findings, the WHO continues to maintain that there is insufficient evidence to justify lowering these quantitative exposure limits.

Since there is controversy about a rationale for setting standards to avoid adverse health effects, we recommend that the United Nations Environmental Programme (UNEP) convene and fund an independent multidisciplinary committee to explore the pros and cons of alternatives to current practices that could substantially lower human exposures to RF and ELF fields. The deliberations of this group should be conducted in a transparent and impartial way. Although it is essential that industry be involved and cooperate in this process, industry should not be allowed to bias its processes or conclusions. This group should provide their analysis to the UN and the WHO to guide precautionary action.

Collectively we also request that:

1. children and pregnant women be protected;
2. guidelines and regulatory standards be strengthened;
3. manufacturers be encouraged to develop safer technology;
4. utilities responsible for the generation, transmission, distribution, and monitoring of electricity maintain adequate power quality and ensure proper electrical wiring to minimize harmful ground current;
5. the public be fully informed about the potential health risks from electromagnetic energy and taught harm reduction strategies;
6. medical professionals be educated about the biological effects of electromagnetic energy and be provided training on treatment of patients with electromagnetic sensitivity;
7. governments fund training and research on electromagnetic fields and health that is independent of industry and mandate industry cooperation with researchers;
8. media disclose experts' financial relationships with industry when citing their opinions regarding health and safety aspects of EMF-emitting technologies; and
9. white-zones (radiation-free areas) be established.

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1 http://www.icnirp.org/cms/upload/publications/ICNIRPemfgdl.pdf

2 http://www.icnirp.org/cms/upload/publications/ICNIRPStatementEMF.pdf

3 http://monographs.iarc.fr/ENG/Monographs/vol80

4 http://monographs.iarc.fr/ENG/Monographs/vol102/

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All inquiries, including those from qualified scientists who request that their name be added to the Appeal, may be made by contacting Elizabeth Kelley, M.A., Director, EMFscientist.org, at info@EMFscientist.org.

Note: the signatories to this appeal have signed as individuals, giving their professional affiliations, but this does not necessarily mean that this represents the views of their employers or the professional organizations they are affiliated with.

Updated July 31, 2015

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April 21, 2015

Virginia Farver
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Dear Mrs. Farver,

I appreciated the opportunity on April 13 to discuss your February 10 Colorado Open Records Act request, specifically related to:

> *Any and all Resolutions, ordinances or other formal records of decision approved or adopted by City Council:*
> *1.) that authorize the removal of analog electric meters from customers' homes and businesses and the replacement of those meters with digital smart meters.*

In the course of our conference call you provided clarification, with Mr. Mark Graham, on the documentation you were requesting. In the end, we both understood that the City of Fort Collins does not have the document you described in your request, and as discussed in our conference call.

Subsequently I have received your letter dated April 14, 2015 in which you requested a better understanding of the City Council process managed for the Advanced Meter Fort Collins (AMFC) project to City Council. Specifically you state:

> *Here is what I have in mind for your letter to me: you description of the whole picture of the process by which the City decided to replace the electric meters including the elements I mentioned and any other elements that you think were important in that process.*

Your letter does not frame an inquiry based on the Colorado Open Records Act and additionally there is no current public record outlining that sequence of events. Nevertheless, the City has endeavored to provide you a description of the events below that should help to describe the approval process for the AMFC project.

The pursuit of the AMFC project began in 2008, and was referenced in the 2008 Fort Collins Climate Action Plan as "SmartGrid, Advanced Metering Infrastructure, Pricing, Conservation" as one of the menu of project options to support Climate Action Plan goals. In 2009, the viability of an Advanced Metering Infrastructure (AMI) project was explored by Utilities staff and, as a result, a Light and Power budget offer was developed for City Council consideration as part of

the 2010 - 2011 Budgeting for Outcomes (BFO) process. Concurrent with the BFO consideration process, the City submitted an application to the Department of Energy (DOE) as part of the American Recovery and Reinvestment Act for the Smart Grid Investment Grant (SGIG).

The City of Fort Collins was notified by DOE that the Fort Collins SGIG proposal was selected for SGIG award negotiations on October 27, 2009, just prior to the completion of the BFO process. Based on the notification from DOE, the AMFC budget offer was withdrawn to modify the budget request. Therefore, at the May 18, 2010 meeting of the Fort Collins City Council, Council approved Resolution 2010-030 authorizing the City Manager to enter into agreements for the SGIG award and Ordinance No. 43, 2010 and Ordinance No. 001 authorizing the following; 1) $18,101,264 for SGIG funding support, 2) $16,000,000 Issuance and Sale of Tax-Exempt Revenue Bonds, and 3) $258,499 for bond issuance costs.

All the documents that were presented to City Council, either as a work session item or regular meeting, as part of the AMFC decision making process are public records that you may review on our website.

If you have additional questions please contact Dennis Sumner at 970-221-6718.

Sincerely,

Jeff Mihelich
Deputy City Manager

/sek

Gerald L. Jorgensen
Anne B. Jorgensen
Todd A. Brownell
Rebecca M. Pepin
Matthew A. Crowther
Robert G. Hancock
Brian J. Laurence
Thomas V. Hoeflinger

Jorgensen a law firm
Brownell & Pepin PC
www.counselcolorado.com

900 South Main Street
Suite 100
Longmont, CO 80501
Tel: 303.678.0560
Fax: 303.678.1164

916 Tenth Street
Greeley, CO 80631
Tel: 970.304.0075
Fax: 970.351.8421

November 27, 2013

Sent Via U.S.

Steve Catanach
City of Fort Collins
700 Wood Street
PO Box 580
Fort Collins, CO 80522

Re: Notice of Termination of Utilities Service

Mr. Catanach:

Please be advised that Mrs. Ruth Ann Shay has retained this firm to represent her in relation to a threat by the City of Fort Collins to terminate power to her home on December 2, 2013. We are in receipt of your November 19, 2013 letter in which this threat is conveyed. Within this letter, you inform Mrs. Shay there is need for an upgrade to electric metering equipment located at her residence with address 2937 Sombrero Lane, Fort Collins, Co 80525. Further, you state the deadline for this upgrade is December 2, 2013. Lastly, you assert that each customer is responsible for preparing the property for restoration in the event power is terminated. You provide no basis for these actions. As well, you fail to cite the authority under which you are taking these actions.

Of specific concern to our client is that she is a cancer survivor and is, therefore, very sensitive to radio frequency electromagnetic waves. As you know, the World Health Organization's International Agency for Research on Cancer recently classified electromagnetic fields produced by such things as cellular phones as a possible cause for cancer. As we understand it, the new devices you wish to install utilize a technology akin to that used in wireless phones to transmit data. If so, such a device may therefore place those in its vicinity at risk of cancer, if such exposure is significant. While there is not definitive proof to illustrate this may occur, there is also no definitive proof to discount this. Based on a Review of Health Effects Related to Smart Meters, provided to the City by Bruce Cooper, MD, MSPH on July 5, 2011, your own expert states more research is needed to reduce the uncertainty about the impacts of long term exposure to radio frequency electromagnetic waves on health; and that this research is on-going.

The threat to turn the power off to the home of an elderly cancer survivor in the middle of winter is a rather extreme measure for the City to take given the nature of the maintenance requested. The extreme nature of this measure is further highlighted by the fact that the meter

currently used by the City of Fort Collins was determined adequate for the last few decades. Finally, in light of our client's cancer history, reluctance on her part to have such a device installed in her residence is far from unwarranted. If the City seeks to continue on this course of action, irreparable injury to our client may certainly result.

Our client requests that we provide you with this demand for information in an attempt to resolve this matter with you, though, prior to seeking a judicial remedy. Perhaps through communication and education, our client may understand why the City is taking this action, and why the City feels the need to threaten such extreme action. Otherwise, it is our hope the parties may come to a resolution that will prove beneficial to each. To facilitate this, we request the City provide us with the following:

1. Reasons why the meter currently located at our client's residence is no longer considered adequate by the City of Fort Collins.

2. Any/all scientific, financial or legal reasons for which the upgrade of electric metering equipment is mandated.

3. Any/all statutory basis upon which the City of Fort Collins is acting.

4. The authority upon which the City of Fort Collins relies when ordering the termination of utilities service to our client.

5. Any/all financial, scientific or engineering material regarding the equipment the City seeks to install and how this equipment differs from that which is currently used at this residence.

6. Any studies relied upon by the City when concluding the Smart Meter devices are, in fact, safe.

Aside from the above, our client requests the City suspend its plans to terminate power to her residence until such time as the parties may meet to discuss alternatives.

Please contact me at your earliest convenience so that we may discuss this matter.

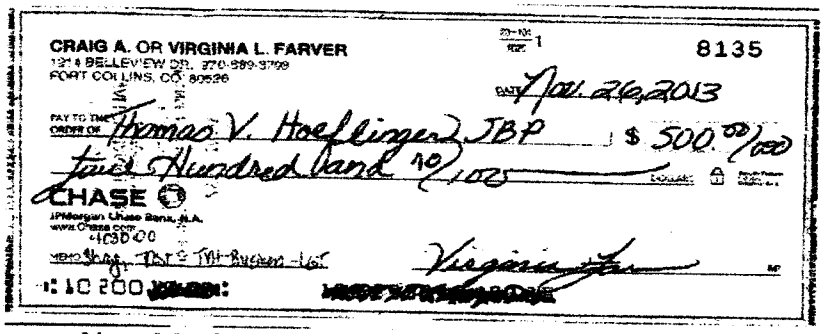
Regards,

Thomas V. Hoeflinger

cc. client

CHASE PREMIER (...5868)

Check Number: 8135	Post Date: 12/06/2013	Amount of Check: $500.00


CRAIG A. OR VIRGINIA L. FARVER
1214 BELLEVIEW DR. 970-889-3799
FORT COLLINS, CO 80526

8135

DATE Nov. 26, 2013

PAY TO THE ORDER OF Thomas V. Hoeflinger JBP $ 500.00/100

Five Hundred and 00/100 DOLLARS

CHASE
JPMorgan Chase Bank, N.A.
www.Chase.com

MEMO Shop Tax & TM Bureau - 165

Virginia Farver

⑆10200 [redacted]

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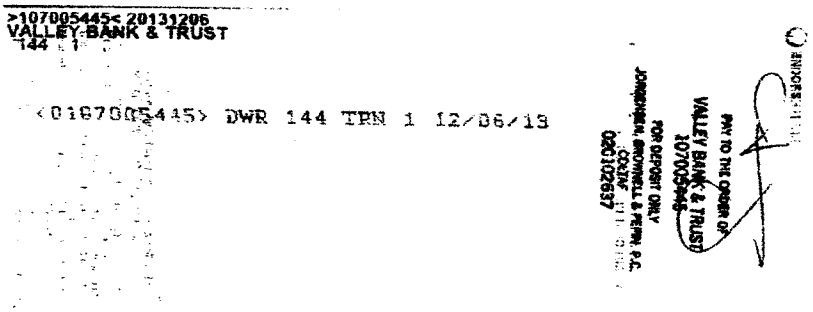
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VALLEY BANK & TRUST
144 1

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PAY TO THE ORDER OF
VALLEY BANK & TRUST
107005445
FOR DEPOSIT ONLY
JORGENSEN, BROWNELL & PERIN, P.C.
COLTAF
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Phone conference between claimant, Mr. Graham, and six representatives of the City of Fort Collins on April 13, 2015. The purpose of that phone conference was to discuss claimant's record request dated February 10, 2015, the City's responses so far, the records provided so far, any other responsive records that might exist, and the City's deliberative and policy making process that led to the approval of the Advanced Meter Fort Collins project. Claimant requested that a representative of the city with decision making authority as to providing certain records in response to a records request would be on that phone conference.

During this phone conference the City made several statements that are relevant to this notice and claim.

During this conference call on April 13, 2015 Deputy City Manager Mr. Jeff Mihelich stated "What you are looking for does not exist," regarding item # 1 of claimant's open records act request dated February 10, 2015.

Claimant's friend Mark Graham from Elk Grove, California has been helping claimant with public records request. After a long string of correspondence with the City Clerk's office in which the City failed to provide records responsive to item 1 of my public records request Mark and claimant requested a conference call with the City of Fort Collins to resolve my public records request in a conversation with somebody from the City who has the authority to make a decision for the city as to what records to send to claimant.

On April 13, 2015 we (Mark and claimant) had a conference call with the City of Fort Collins representatives who were:

Christine Macrina, the Boards and Commission Coordinator in the City Clerk's office

Wanda Nelson, the city clerk

Jeff Mihelich, the Deputy City Manager

Dennis Sumner

Lisa (I did not get her last name)

and one person from the City Attorney's office

We explored the question of the ordinance(s) that I had requested copies of in my public records act request dated February 10, 2015. We discussed the history of the City Council in approving this program, getting a Smart Grid Investment Grant (SGIG) from the U.S. Department of Energy, placing a purchase order with Elster Solutions in Raleigh, North Carolina, and putting in place an option for those residents who do not want a smart meter on their home. The City had sent me records on all of the above except for the Council's decision approving the program.

The City's position, articulated very clearly and several times by Mr. Jeff Mihelich, is that there is no such record responsive to item 1 of my public records request. My request was for:

Any and all Resolutions, ordinances or other formal records of decision approved or adopted by the City Council:

1) that authorize the removal of analog electric meters from customers' homes and businesses and the replacement of those meters with smart meters.

2) that authorize the charging of fees for those customers who request an analog electric meter, or in other words who choose to "opt out" of the smart meter project.

This is the Advanced Meter Fort Collins project

http://www.fcgov.com/utilities/sustainability-leadership/advanced-meter-fort-collins/

(End of excerpt from my February 10, 2015 public records request.)

As was discussed on the conference call that day the City has sent 2 records responsive to item 2 of my request. Those are ordinance 33 from 2012 and ordinance 17 from 2014.

Regarding item #1 the City has not provided any such records. Mr. Mihelich said clearly on the conference call that there was never such a record approved by the City Council. In other words he said that such a record does not exist.

Quotations from Mr. Mihelich on today's conference call were:

"I understand the logic of it but that did not occur." He said this right after Mark said this is what he thinks must have happened. He then described the process whereby what begins as an idea for a new policy on electric meters turns into city policy. That process includes a written proposal (or proposed ordinance) for the city council, a public meeting with public notice, a public agenda, public comments and a discussion and a public vote by the Council.

"What you are looking for, that specific ordinance, does not exist."
(Referring to an ordinance authorizing Fort Collins Utilities to remove the old meters and install new meters.)

Somebody from the City explained that the City Council meets in 2 ways. One is formal Council meetings where there are votes on proposed ordinances. The other is work sessions, where the Council gives guidance to the staff verbally which the staff uses to create proposed ordinances. Those ordinances are approved in the formal council meetings.

The City Council's process for approving budget items, although they did not explain it fully, uses something called a "BFO". We never heard what the acronym stands for but it is some kind of budget proposal. The City told us, "AMI was never approved as a BFO." (AMI is the Advanced Metering Infrastructure program, which includes the smart electric meters.) The O might stand for "offer".

The City said that the budget offer was taken off the table. I believe that was in April, 2010. Originally the budget offer (or BFO) was prepared without the SGIG (Smart Grid Investment Grant) but it was taken off the table and not approved by the City Council. Subsequently the SGIG was awarded and staff prepared resolution 043 from 2010, which the Council approved on May 18, 2010. I may not have all the details of this sequence exactly right but this is what I recall the City saying. The point is that we explored in the conference call the sequence of events that led to the City deciding to replace all of the Fort Collins Utilities customers' electric meters and nowhere in the discussion was there an ordinance or resolution approved by the City Council authorizing this program.

Somebody from the City, probably Mr. Mihelich, said, "The first official action was on the grant based on that non-official guidance." That was referring to the Smart Grid Investment Grant from the U.S. Department of Energy, approved on May 18, 2010 in Ordinance 043. The non-official guidance was a reference to guidance that the Council (allegedly, since we do not have any record of it) provided to the staff during work sessions prior to that date.

"During the work sessions we received enough direction from the City Council to move forward." I do not remember who said this but if it was Mr. Mihelich, who did most of the talking on behalf of the City, remember that he also said during the call that he was not involved in City government back in 2010. Therefore this was a guess, an inference, and not backed up by facts.

Mr. Mihelich said, "Item 1 does not exist; therefore we have satisfied the request."

Mr. Mihelich said, "A lot of decisions are made at the administrative level, so Council doesn't need to approve the AMI program." "They are not required by law to approve the program."

By "they" he was referring to the Fort Collins City Council. By "the program" he was referring to the AMI program.

Somebody from the City, either Mr. Sumner or Mr. Mihelich, said, "The document you are asking for does not exist."

Claimant pointed out that the City of Fort Collins has put all the residents in debt through this program, which cost the City $18 million, and did it without any public input. It is <u>not credible</u> that the City of Fort Collins either approved the AMI program, which cost $18 million, verbally and not in writing. It is not credible that the decision was delegated to the City Manager or another member of the staff. It is not credible that the City Council approved the AMI Program in any way OTHER than in writing.

Mr. Mihelich or Mr. Sumner, probably the former, referred us to the AMI documents on the Fort Collins Utilities website. However nowhere on that site is a record responsive to item 1 of claimant's public records request. Mark also said that the records currently available on the website of FCU could have been placed on that website at any time before or after the Council's approval of the program. They could be revised or amended versions of the records that were available on that website earlier. We have no way of knowing unless it says so on the record.

Mark said that if there were such a record, one of the representatives of the City would have told us that a long time ago. There was no disagreement on that by the City.

During the call Mark asked about records from the Council's work sessions, both the written summaries and videotapes. Wanda Nelson said she would look to see if those are available. Mark also asked about the application that the City submitted for the Smart Grid Investment Grant. He asked whether the City had applied for the Grant. The City said yes. Mark asked if claimant could have a copy of that application and any attachments. Ms. Nelson said yes and asked claimant to send an email with a new public records act request. That is not the subject of this letter but it is the context and background.

Both Mark and claimant said we do not believe that the City of Fort Collins would make a decision to spend $18 million on smart electric meters, authorizing Fort Collins Utilities to remove the safe, reliable and accurate analog meters which were the industry standard for 120 years, and deploy or install a "smart" electric meter on every home and business in the City, without putting such a decision in writing. That would violate the substantive due process and right of every resident of the City of Fort Collins. The City is supposed to make major decisions by an open and transparent process, in writing, at a meeting of the Council that has been properly noticed and with an agenda that has been properly noticed. Not only would skipping this process show a total lack of transparency and deny Fort Collins residents the opportunity to have meaningful input into that decision and be aware of it, but that would also probably be illegal. Claimant has cited the chapter and verse of the Colorado law that requires the City Council to make decisions such as spending $18 million in writing.

There is a record of the financing of the AMI program, which is ordinance 043 from 2010. However there is no record of the City Council's approval of the program itself. At least that is what the City claims. The City has not shown claimant any.

Jeff (or maybe Dennis) said that at any point during the City Council deliberation on resolution 043 from 2010 any member of the council could have asked the questions and begun a discussion on the AMI project, what it was, why the city was doing it, the costs and benefits, etc. and he said that was never done. He also said earlier in the meeting that he was not involved in Fort Collins City government at the time, in May of 2010. I reminded him of that statement right after he said the above and he did not deny it or clarify it.

Mr. Mihelich pointed to the 5th "Whereas" in ordinance 043 from 2010, which reads as follows:

> "Whereas, the Grant provides the City with an opportunity to install an Advanced Metering Infrastructure (AMI) system and accelerate the implementation of the City's long range information technology (IT) needs, and to begin the modernization of its electrical distribution system,"

A copy of Ordinance 043 from 2010 is attached to this letter.

Mr. Mihelich said that that "Whereas" is the City's approval of the AMI project. Frankly claimant found this claim hard to believe. It appeared that Mr. Mihelich made up this argument

on the fly when he was searching and desperate for an answer to claimant's question about the lack of a written resolution authorizing the Project.

Mr. Mihelich's claim is incorrect for several reasons.

As Mark said that would be a stealthy way for the City to approve the AMI project because there are virtually no details. Mr. Mihelich responded that the City of Fort Collins does not operate by stealth and he took exception to Mark's comment. Mark responded that the ordinance by which the Council actually approved this program would contain the details, and that there is a difference between the financing of the program and the program itself. Mark also said that probably the reason there are no details of the AMI program in ordinance 043 is that the details were in a different resolution approved earlier by the City Council. The City had no response to that except to say that such a resolution does not exist.

As stated earlier the approval of a program, policy or project is a distinct and separate action from the appropriation of money to pay for it. The appropriation would not exist without the program, policy or project. As far as the Colorado Sunshine Act of 1972 as amended and the City Charter, notably sections 6 and 7, the 5th "Whereas" in ordinance 043 from 2010 does not meet the requirements of either. It does not protect the substantive due process rights of City residents. The City cannot run an "end around" the Sunshine Act of 1972 and sections 6 and 7 of the City Charter by sneaking a massive project costing $31.4 million that will affect the home of every resident in the City through a single paragraph in an appropriation ordinance. Colorado government doesn't work that way. Nor does Fort Collins government.

Shortly after the April 13, 2015 conference call claimant wrote to the City to ask the City to put its statements about the lack of any City Council written approval for this $18 million AMI project in writing. As of April 13 there were only eight people who know that this is the City's position: the 8 of us who were on the conference call that day. This is a significant public policy program, apparently made with no transparency or public input or due process. The very resolution ordinance authorizing the program, the City claims, does not exist. There could not be a more conclusive statement as to the lack of transparency of the origins of this program.

It appears that the AMFC project or AMI program was NEVER approved by the City Council! In fact when Mark asked that day whether it would be accurate to say that the AMI program was never approved by the City Council, Mr. Mihelich declined to say. He said that he did not want to make such a statement. But that is the plain language meaning of his statement that such a record (item 1 of claimant's open records act request) does not exist.

Virginia correspondence with Fort Collins

and one letter to the 8th District Court.

Case #28756/V. Farver re: Smart Meter

The public records request was dated February 10, 2015. She also sent it to the city leaders.

It looks like the earliest record provided was dated April 6, 2010. Those records included Ordinance 043, 2010, which was about the Smart Grid Investment Grant.

Other correspondence in this discussion was dated as follows, starting with the most recent.

April 3 from Wanda (2 messages about the conference call)

March 27 from Christine

March 26 from Virginia

March 25 from Christine identifying 15 records

March 24 from Virginia "Application for an order directing the custodian of such record to show cause why the custodian should not permit the inspection of such record per C.R.S. 24-72-204(5)."

March 20 Christine called Virginia at 6:00 p.m. to ask exactly what Virginia wanted.

March 19 from Virginia "Notice regarding Colorado Open Records Act request of February 10, 2015"

March 18 from Virginia

March 18 from Wanda

March 17 from Virginia

March 2 from Christine Macrina

February 24 from Virginia

February 24 from Wanda

February 24 from Virginia

February 10 from Wanda

The correspondence is on the following pages.

From: wnelson@fcgov.com
To: vrfarv@hotmail.com; cmacrina@fcgov.com
Subject: RE: Phone Conference
Date: Fri, 3 Apr 2015 18:22:40 +0000

Hello Ms. Farver:

We checked with Mr. Jeff Mihelich's (Deputy City Manager) assistant, and she reported that he is available to participate in the phone conference on the following dates/times:

-Thursday, April 9 at 2:00-2:30

-Monday, April 13 at 2:00 or 3:00

-Wed., April 15 at 8:00-9:00 or 2:30-4:00

Do any of these days/times work for you?

Wanda

Wanda Nelson, City Clerk

From: wnelson@fcgov.com
To: vrfarv@hotmail.com
CC: cmacrina@fcgov.com
Subject: RE: Phone Conference
Date: Fri, 3 Apr 2015 19:00:04 +0000

Hi Ms. Farver:

Thanks for your quick reply! We will schedule the phone conference for Monday, April 13th at 2:00 p.m. What phone # should we call?

Mr. Mihelich does have decision-making authority.

Wishing you a great weekend,

Wanda

Wanda Nelson, City Clerk

From: cmacrina@fcgov.com
To: vrfarv@hotmail.com
CC: KGERTIG@fcgov.com; DSUMNER@fcgov.com; KBADER@fcgov.com; wnelson@fcgov.com; cvidergar@fcgov.com; jmihelich@fcgov.com; DATTEBERRY@fcgov.com; CDAGGETT@fcgov.com
Subject: RE: Case #28756/V. Farver re: Smart Meter
Date: Fri, 27 Mar 2015 17:33:35 +0000

Ms. Farver:

It is not clear from your requests what record(s) you are seeking, or whether the record(s) you describe are under the control of this office. However, the records you are seeking may be ordinances, not resolutions. Ord. No. 84, 2010, for example, authorized the funding of the advanced metering infrastructure project (title below):

ORDINANCE NO. 084, 2010
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR WATER FUND RESERVES FOR THE ADVANCED METERING INFRASTRUCTURE CAPITAL PROJECT AND AUTHORIZING THE TRANSFER OF EXISTING WATER FUND OPERATING APPROPRIATIONS AND THE TRANSFER OF EXISTING WATER METER CAPITAL PROJECT APPROPRIATIONS TO THE WATER ADVANCED METERING INFRASTRUCTURE CAPITAL PROJECT

And Ordinances No.'s 33, 2012 and 17, 2014 provide for the manual meter reading charge (excerpts below).

Ord. No. 33, 2012

Meter reading charge, per month, for those customers who request the option of mechanical electric meter and/or a mechanical water meter instead of the	11.00 per month

standard advanced metering equipment	

Ord. No. 17, 2014

Manual meter reading charge, per month, charged to service addresses where metering equipment without remote communications capability is used, requiring an on-site visit to collect use data for water and/or electric service	11.00 per month

The ordinances are attached for your reference and are considered responsive to your request.

Christine Macrina

Boards and Commission Coordinator

City Clerk's Office

cmacrina@fcgov.com

Fort Collins, CO 80522

(970) 416-2525

From: Virginia Farver [mailto:vrfarv@hotmail.com]
Sent: Thursday, March 26, 2015 10:19 AM
To: Christine Macrina; City Leaders; Kevin Gertig; Dennis Sumner; Wanda Nelson
Subject: RE: Case #28756/V. Farver re: Smart Meter

I already have these documents. They do not answer my questions. WHO or WHAT RESOLUTION states that residential analog meters could be taken off and smart meters installed? WHO or WHAT RESOLUTION states that a FEE could be charged to the residents who opted out of the smart meter program or who wanted to keep their mechanical analog meters?
Virginia

From: cmacrina@fcgov.com
To: vrfarv@hotmail.com
CC: wnelson@fcgov.com; KGERTIG@fcgov.com; DSUMNER@fcgov.com
Subject: Case #28756/V. Farver re: Smart Meter
Date: Wed, 25 Mar 2015 22:50:36 +0000

Dear Virginia,

Staff met on Monday, March 23, 2015 to discuss what documents would be responsive to your request. Attached are the documents that we believe respond and will close you open records request:

1). Summary Agenda from April 6, 2010 Regular Meeting.

2). Agenda Item Summary 14 – "Items Relating to the Authorization of Utility Enterprise to Have and Exercise Certain Powers

3). Ordinance No. 038, 2010

4). Agenda Item Summary 21 – Appropriating Unanticipated Revenue and Electric Revenue Bond Proceeds for the Smart Grid Investment Grant Project in Light and Power Fund and the Bond Issuance Costs.

5). Ordinance No. 043, 2010

6). April 6, 2010, Regular Meeting Minutes

7). April 6, 2010, Voting Results

8). Agenda Summary from April 6, 2010 Electric Utility Enterprise

9). Agenda Item Summary 3 – First Reading of Ordinance No. 001, Authorizing the Issuance and Sale of its Tax-exempt Revenue Bonds

10). Ordinance No. 001

11). Summary Agenda July 12, 2011 Work Session

12). Agenda Item Summary 4 – "Modernizing Electric and Water Infrastructure

13). July 12, 2011 Work Session Minutes

14). Purchase Order 9114836 "Elster Solutions"

15). Purchase Order Requisition dated 08/10/2011

Thank you.

Christine Macrina

Boards and Commission Coordinator

City Clerk's Office

cmacrina@fcgov.com

Fort Collins, CO 80522

(970) 416-2525

1214 Belleview Drive
Fort Collins, CO 80526

March 24, 2015

8th District Court of Colorado
Larimer County Justice Center
201 La Porte Ave
Suite 100
Ft. Collins, CO 80521

> Application for an order directing the custodian of such record to show cause why the custodian should not permit the inspection of such record per C.R.S. 24-72-204(5).

Your Honor,

I respectfully apply for an order directing the custodian of records for the City of Fort Collins ("City") to show cause why the custodian should not permit the inspection of the records I requested in writing on February 10, 2015. A copy of my open records act request is attached to this letter.

Via email the City acknowledged receiving my open records act request on Tuesday, February 10, 2015. A copy of that email is attached to this letter.

In my request I stated:

> If the custodian denies access to any public record, I request a written statement of the grounds for the denial, which statement shall cite the law or regulation under which access is denied and shall be furnished forthwith to the applicant. 24-72-204 (4)

Despite that request the custodian has never disclosed the requested records or made them available for inspection or sent to me a written statement of the grounds for the denial.

The City Clerk has responded to my open records request 3 times but each one was a half hearted and flawed response. The City apparently failed to read my open records request prior to its first response. My request speaks for itself and it is clear and unambiguous. There is no reason the City could not have disclosed the requested records or made them available for inspection by now.

The City sent me information on smart water meters the 1st response to my records request despite the fact that my records request said I was referring to "smart electric meters".

In its 2nd response, after I informed the City that they had mis-read my request, the City sent me the retired City Mayor's document with his signature in 2010 for the smart grid/metering. I

followed up and informed the City that that document was not what I had requested. I stated on Tuesday, February 24, 2015 that they needed to read this very carefully and I wanted WHO authorized these meters to be removed.

The City responded for the 3rd time sending me an email on March 2 and will be sending my required answers sometime the week of March 4, 2015. It is now more than two weeks later and the City has failed to disclose the requested records or make them available for inspection.

For these reasons I respectfully request the order I described earlier.

Thank you.

Sincerely,

Virginia Farver

1214 Belleview Drive
Fort Collins, CO 80526

March 18, 2015

City Clerk's Office
Christine Macrina
Boards and Commission Coordinator
City of Fort Collins
300 LaPorte Ave.,
Fort Collins, CO 80521

Notice regarding Colorado Open Records Act request of February 10, 2015

To the City Clerk,

This is to notify you that at least 3 business days after the date of this letter I intend to apply to the 8th District Court of Colorado for an order per C.R.S. 24-72-204(5) directing you, as the custodian of such record, to show cause why the custodian should not permit the inspection of the public records I requested from you in writing on February 10, 2015.

You acknowledged receipt of my open records act request on the day I made it.

You have sent me information 3 times but each time it was not the information I requested. My request is clear and unambiguous. To date you have failed to send the requested records and failed to send me a written statement of the grounds for the denial, which statement shall cite the law or regulation under which access is denied and shall be furnished forthwith to the applicant. 24-72-204 (4)

There is no doubt that the records I requested are public records as defined in the law. There is no doubt that the City has these records in its possession. Your denial of access to the records has been and is improper.

As you may be aware, the Colorado Open Records Act says that when the court orders the custodian of records to permit inspection of the records it shall award court costs and reasonable attorney fees to the prevailing applicant in an amount to be determined by the court.

It would be far faster, smarter and easier for you to simply allow me to inspect and send me copies of the requested records. Please advise as to your plans as soon as possible.

Thank you.
Sincerely,

Virginia Farver

From: vrfarv@hotmail.com
To: wnelson@fcgov.com; cityleaders@fcgov.com
Subject: RE: Open Records Request
Date: Wed, 18 Mar 2015 14:25:38 -0600

Wanda,

Anything...Resolution or otherwise, which states WHO decided within the City that Analog Meters were going to be replaced with Smart Electrical Meters? WHO decided, including any Resolution that states that they could CHARGE FEES to Citizens for wanting to keep their analog meters or who 'opted out' of the Smart Meter Program. This is an 'opt in' rather than an 'opt out.' They should know exactly what I'm requesting.

Sincerely,
Virginia

From: wnelson@fcgov.com
To: vrfarv@hotmail.com; cmacrina@fcgov.com; CityLeaders@fcgov.com; KGERTIG@fcgov.com; RPierce@fcgov.com; cvidergar@fcgov.com
Subject: RE: Open Records Request
Date: Wed, 18 Mar 2015 19:01:17 +0000

Ms. Farver:

We have clearly missed the ball in terms of responding to your request to your satisfaction. I have spoken with Utilities Executive Director Kevin Gertig and we will be getting together as soon as possible to determine what additional records, if any, respond to your request. If you are aware of any specific documents you are seeking, please send me a list.

Thank you once again for your patience. Please do not hesitate to call if you would like to discuss this further.

Most sincerely,

Wanda Nelson, City Clerk

City of Fort Collins

wnelson@fcgov.com

970.416.2995

From: vrfarv@hotmail.com
To: wnelson@fcgov.com; cmacrina@fcgov.com; cityleaders@fcgov.com
Subject: RE: Open Records Request
Date: Tue, 17 Mar 2015 19:19:19 -0600

I'm still waiting for a response! This will be my 4th attempt. What about TRANSPERANCY!
Virginia
vrfarv@hotmail.com

From: cmacrina@fcgov.com
To: vrfarv@hotmail.com
CC: cvidergar@fcgov.com; wnelson@fcgov.com
Subject: FW: Fort Collins Smart Meters
Date: Mon, 2 Mar 2015 22:36:05 +0000

Ms. Farver,

I wanted to let you know that staff is working on your request. I expect to be able to provide a response that answers the authorization question with documents by Friday.

Thank you.

Christine Macrina

Boards and Commission Coordinator

City Clerk's Office

cmacrina@fcgov.com

Fort Collins, CO 80522

(970) 416-2525

From: Virginia Farver [mailto:vrfarv@hotmail.com]
Sent: Tuesday, February 24, 2015 9:05 PM
To: Wanda Nelson; Christine Macrina; City Leaders
Subject: RE: Fort Collins Smart Meters

Wanda and Christine ,

I think you need to read this once more. I need to know exactly WHO authorized the removal of analog meters from customers' homes and businesses and the replacement of those meters with smart meters.

I need to know WHO authorized the charging of fees for those customers who request an analog electric meter or in other words, who choose to "opt out" of the smart meter project.

I already have the City Code Documents and Ordinances. I need to know exactly WHO authorized these. I need to see the signatures.

Sincerely,
Virginia

From: wnelson@fcgov.com
To: vrfarv@hotmail.com
CC: cmacrina@fcgov.com; DUnger@fcgov.com
Subject: RE: Fort Collins Smart Meters
Date: Tue, 24 Feb 2015 20:38:24 +0000

Hello Virginia:

My apologies if the documents you received from Christine were not responsive to your request. Can you please tell me what additional information you are seeking? Thanks for your patience.

Wanda

Wanda Nelson, City Clerk
City of Fort Collins
wnelson@fcgov.com
970.416.2995

From: Virginia Farver [mailto:vrfarv@hotmail.com]
Sent: Tuesday, February 24, 2015 1:33 PM
To: City Leaders
Subject: Fort Collins Smart Meters

This will be my 3rd attempt to get the answers to these questions. This is for the 'Electric AMI Meters' for the city of Fort Collins.

Sincerely,
Virginia

From: wnelson@fcgov.com
To: vrfarv@hotmail.com
CC: cmacrina@fcgov.com
Subject: RE: Open Records Request
Date: Tue, 10 Feb 2015 22:14:10 +0000

Hi Virginia:

We have received your record request and will begin processing it right away. My colleague Christine Macrina will facilitate this request.

Thank you,

Wanda

Wanda Nelson, City Clerk

City of Fort Collins

wnelson@fcgov.com

970.416.2995

Date: February 10, 2015
To: City of Fort Collins

Public Records Request

I request the following records as provided by Colorado Revised Statutes 24-72-200 through 206.

Any and all Resolutions, ordinances or other formal records of decision approved or adopted by the City Council:

1) that authorize the removal of analog electric meters from customers' homes and businesses and the replacement of those meters with smart meters.

2) that authorize the charging of fees for those customers who request an analog electric meter, or in other words who choose to "opt out" of the smart meter project.

This is the Advanced Meter Fort Collins project

http://www.fcgov.com/utilities/sustainability-leadership/advanced-meter-fort-collins/

Please send these records to me via email.

The City should waive fees according to its Public Records Request policy on its website, section 4(g)(ii), because these records are "agenda materials to be considered by the City Council, boards and commissions" etc.

http://www.fcgov.com/cityclerk/pdf/open-records-request-policy.pdf

If the custodian denies access to any public record, I request a written statement of the grounds for the denial, which statement shall cite the law or regulation under which access is denied and shall be furnished forthwith to the applicant. 24-72-204 (4)

If you do not waive the fees and you believe that the amount of the fees you will charge for this records request exceeds $30 please contact me before incurring fees on my behalf.

Please notify me as soon as possible of the fees you will charge for executing this request.

Thank you.

Sincerely,

Virginia Farver

Utilities
electric • stormwater • wastewater • water
700 Wood St.
PO Box 580
Fort Collins, CO 80522

970.221.6700
970.221.6619 fax 970.224.6003 TDD
utilities@fcgov.com *fcgov.com/utilities*

November 19, 2013

Subject: Notice of Termination of Utilities Service

Dear Utilities Customer:

Fort Collins Utilities has provided multiple communications regarding the need to upgrade its electric and/or water metering equipment at your property, including notification that continued refusal to allow meter upgrades will result in service termination.

You must contact Utilities now at 970.221.6718 to schedule an appointment for immediate installation of upgraded meter equipment to avoid termination of service. If we have not installed upgraded meter equipment by December 2, 2013, electric and/or water utility service will be terminated to your premise.

Utilities will reconnect service at your premises ***only during normal business hours*** (Monday-Friday 8:00am to 5:00pm) once you have allowed access for the purpose of installing upgraded metering equipment. If service is disconnected, call 970.221.6718 to arrange for reconnection. Service restoration may take 24 hours or longer.

The customer is responsible for preparing the property for restoration of electric and/or water service. The City of Fort Collins is not responsible for damage that may result from failure to prepare for restoration of service.

If you choose not to contact Utilities to arrange for installation of upgraded metering equipment, electric and/or water service will be terminated at your premise after December 2, 2013.

City of Fort Collins

Utilities
electric · stormwater · wastewater · water
700 Wood Street
PO Box 580
Fort Collins, CO 80522

970.221.6700
970.221.6619 – fax
970.224.6003 – TDD
utilities@fcgov.com
fcgov.com/utilities

April 23, 2013

Craig and Virginia Farver
1214 Belleview Drive
Fort Collins, CO 80526

Dear Mr. & Mrs. Farver,

We received your letter dated April 12, 2013 notifying Fort Collins Utilities of your complaint and notice of investigation as related to digital electric meters. While we believe that many of your concerns appear to be based on misinformation and misunderstandings about the Advanced Meter Fort Collins project, we respect your right to your opinions and beliefs.

For your reference, attached is a copy of the letter we provided in response to your earlier notification to the City of Fort Collins, dated July 21, 2011. Please note in that letter the conclusions of Dr. Bruce Cooper, Medical Director of the Health District of Northern Larimer County, who evaluated the radio emissions associated with the Advanced Meter Fort Collins project.

In an effort to address some of the recent questions and concerns raised in your April letter, the following is offered:

> The metering devices being used by the City of Fort Collins are consistent with general industry best practices. This program and project is subject to the authority and jurisdiction of the Fort Collins City Council.
>
> The City of Fort Collins does not share your interpretation with respect to the metering reasonably triggering questions and/or concerns regarding surveillance, privacy or endangerment of the public.

Applicable rates and fees for utility services are as approved by the City of Fort Collins City Council. These rates and fees may be found on the City's website at http://www.colocode.com/fcmunihtml.html, Sec 26-712 Utility bill and account charges authorized; proceeduresprocedures. Please understand that the utility metering at your home is owned, operated, and maintained by the City of Fort Collins Utilities. Metering is a part of the City Utilities service delivery system owned, operated, and maintained by the City. As a part of the terms of receiving utility services, customers are required to allow the City to provide metering. It is the utilities' responsibility to select, maintain and operate them as needed. Permitting installation and maintenance of meters is a condition of continued electric and

City of Fort Collins

water service. Based on the concerns expressed in your letters, I understand that you prefer to receive Electric and Water through the use of manually read water and electric metering. That option is available to you at a cost of $11 per month. Please advise if this is not the service option that you prefer.

Sincerely,

Steve Catanach
Utilities Light and Power Manager