

December 4, 2007

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting - 6:00 p.m.

A regular meeting of the Council of the City of Fort Collins was held on Tuesday, December 4, 2007, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll Call was answered by the following Councilmembers: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy, and Troxell.

Staff Members Present: Atteberry, Krajicek, Roy.

Citizen Participation

David May, 225 South Meldrum, Chamber of Commerce President, stated the Library IGA approved the transfer of millions of dollars of assets from an elected body, the City, to an appointed body, the Library District. He agreed with Council representation in selecting Library District trustees and asked that the annual report from the Library Board be made verbally to Council and not just as a written report. He was concerned the process of creating the IGA was not as open as it should have been.

Cheryl Distaso, 135 South Sunset, requested Council consider adoption of a resolution calling for the withdrawal of U.S. troops from Iraq.

Allen Ginsborg, 5700 Hearthstone, thanked Council and staff for the decision made regarding the Holiday Display Task Force recommendations. He requested Council reconsider placement of a menorah on City property other than just at the Museum display.

Carrie Gills, 8020 Park Hill Drive, stated greater public input should have been allowed before Council considered adoption of the IGA with the Library District. Most of the deliberations were done in executive session and citizen input was minimized.

Bob Carnahan, 4325 Westbrooke Court, thanked the Library Board Trustees for its work and agreed with the provision in the IGA regarding the selection of future trustees. He was concerned about the amount of funds to be managed by an appointed board and asked Council to exercise due diligence when voting to appoint members to the Board.

Joe Kissel, 913 West Oak, urged Council to consider adoption of a resolution calling for the withdrawal of U.S. troops from Iraq.

Eric Sutherland, 631 LaPorte Avenue, stated the practice of purchasing renewable electric energy credits to supply renewable power in lieu of actual renewable energy purchases needs to be reviewed

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as the credits do not meet the requirements in the Electric Supply Policy and there does not seem to be any benefit provided by renewable energy credits.

Karen Rose, 5200 Parkway Circle East, stated questions submitted by a group of citizens living in the Southwest Annexation area to City staff have not yet been answered and requested information that would address the area's concerns.

Citizen Participation Follow-up

Mayor Hutchinson stated the IGA negotiations with the Library District required Council to hold executive sessions since those negotiations involved real estate transactions and those transactions were the only negotiations discussed during the executive session.

Councilmember Troxell stated he had concerns about the Library IGA and requested Item #8 *Second Reading of Ordinance No. 139, 2007, Approving an Intergovernmental Agreement Between the Fort Collins Regional Library District, Larimer County and the City of Fort Collins* be pulled from the Consent Calendar. He encouraged the City Manager to work to find ways to display the menorah on City Property. He requested information on the different phases of the Southwest Annexation.

Councilmember Ohlson asked if direction could be given to staff regarding Item #8 during Consent Calendar Follow-up instead of pulling the Item. He requested staff work with the Library Board to provide yearly or semi-annual reports on the District's finances and reserves and reserves policy.

Councilmember Troxell requested a "State of the Library" presentation, and not just a written report. City Attorney Roy stated the Ordinance approving the IGA does authorize the City Manager, in consultation with the City Attorney, to make amendments or modifications to the final IGA as Manager determines is necessary or appropriate to protect the interests of the City or advance the objectives of the Agreement. It was possible to negotiate these items with the District.

Councilmember Ohlson stated Council did want a formal agreement with the Library District regarding reports made to Council on the District's finances, the reserve policies and some form of face-to-face meeting between the Board and the Council on a regular basis. City Attorney Roy suggested the motion to adopt the Consent Calendar should contain the direction given to staff regarding the IGA with the Library District.

Mayor Hutchinson asked about the status of City services in the Southwest Annexation area. City Manager Atteberry stated the first priority of the City was to provide police services to the area and the revenues collected from the first phase were being used to provide public safety and health for the area. He asked anyone in the area already annexed and who had concerns about the service being received to contact his office.

Agenda Review

City Manager Atteberry requested Item #23 *Resolution 2007-108 Expressing Council's Opposition to the Mining of Uranium in the Vicinity of Nunn, Colorado* be moved ahead of Item #22 *Items Relating to the East Skyway Rezoning* under Discussion Items.

Councilmember Troxell pulled Item #6 *Second Reading of Ordinance No. 137, 2007, Appropriating Unanticipated Revenue in the Natural Areas Fund and the Capital Projects Fund - Soapstone Prairie Public Improvements Capital Project to Be Used for the Design and Construction of Public Improvements at Soapstone Prairie Natural Area* and Item #16 *Resolution 2007-105 Approving the Purchase of Digital Control Units for Residential Air Conditioning Electrical Load Control as an Exemption to the Competitive Process.*

CONSENT CALENDAR

6. Second Reading of Ordinance No. 137, 2007, Appropriating Unanticipated Revenue in the Natural Areas Fund and the Capital Projects Fund - Soapstone Prairie Public Improvements Capital Project to Be Used for the Design and Construction of Public Improvements at Soapstone Prairie Natural Area.

This Ordinance, unanimously adopted on First Reading on November 20, 2007, appropriates revenue in the Natural Areas Fund and the Capital Projects Fund to be used for construction of the access road at Soapstone Prairie Natural Area which was started in October and will be completed by spring 2008. Funds being appropriated for this project will come from designated Natural Areas Program sales tax revenues. The funds budgeted in 2007, 2008 and 2009 are revenues from the Open Space Yes (City) 1/4 cent sales tax and Help Preserve Open Space (County) 1/4 cent sales tax. The unappropriated funds available in 2007 are revenues from the original 1/4 cent Natural Areas sales tax (collected from 1993-1997) and from the Building Community Choices 1/4 cent sales tax revenues designated for the Natural Areas Program (collected from 1998 to 2005).

Funds Budgeted in 2007	\$2,166,000
Unappropriated Funds Available in 2007	\$ 800,000
Funds Budgeted in 2008	\$2,000,000
Funds Budgeted in 2009	<u>\$ 134,000</u>
Total Appropriation	\$5,100,000

7. Second Reading of Ordinance No. 138, 2007, Authorizing the Appropriation of 2008 Fiscal Year Operating and Capital Improvement Funds of the Fort Collins-Loveland Municipal Airport.

This Ordinance unanimously adopted on First Reading on November 20, 2007, appropriates the City's 50% share (\$3,184,735) of the annual appropriation for the fiscal year 2008 Fort Collins-Loveland Municipal Airport (the "Airport") budget. The City of Loveland manages the Airport's budget and finances, but since the City of Fort Collins owns 50% of the Airport, it is necessary for the City to appropriate its 50% portion of the Airport budget.

8. Second Reading of Ordinance No. 139, 2007, Approving an Intergovernmental Agreement Between the Fort Collins Regional Library District, Larimer County and the City of Fort Collins.

The Fort Collins Regional Library District (the District) was approved by the voters in November of 2006 and funded with three mills of property tax. The District Board of Trustees was selected and ratified by the Council and County Commissioners. The District, City and County entered into an Interim Intergovernmental Agreement in July of this year. Under the IGA the City continued to operate the libraries on behalf of the District and at District expense. The Interim IGA set a goal of transferring library operations to the District by January 1, 2008. This Ordinance was unanimously adopted on First Reading on November 20, 2007 and approves the final IGA between the District, Larimer County and the City of Fort Collins.

Changes to the IGA between First and Second Readings include:

1. Provision for Larimer County to take formal action to establish the District.
2. As Council requested, language was added specifying that the selection of new District Trustees would continue to be done by a committee of two Councilmembers and two County Commissioners.
3. Clarifying City library impact fee revenues will be used to complete the Southeast Branch Library project, the facility will be conveyed to the District upon completion and will be used by the District as a library.
4. Clarifying the Branch Library will be constructed according to current plans, with any reduction in value or quality requiring agreement of the City and the District.
5. Ensuring the District has input into the operational agreement between the City and Bayer Properties regarding the Branch Library.

Please note the Library District is in the process of reviewing the proposed changes to the IGA. The District or City staff will confirm the District's agreement with the changes, or highlight any unresolved issues prior to Council action on this item.

There are also two changes to the Ordinance on Second Reading, shown in redline and strikeout. The first change clarifies that the conveyance of Library Park to the District would be with the restriction that it be used for library purposes, including possible expansion of the Main Library. The second change adds a new Council finding that the conveyance of Library Park to the District is in the best interests of the City, even if the District ultimately does not use the Park property for expansion of the Main Library.

9. First Reading of Ordinance No. 140, 2007, Appropriating Prior Year Reserves in the General Fund and Authorizing Transfer Between Funds for Asset Replacement.

This Ordinance provides appropriations from General Fund reserves to the Fleet Fund and Communications Fund to implement the new asset replacement programs for vehicles,

facilities, and Information Technology needs. The funds are recommended to be appropriated from General Fund reserves. These funds were created through prior year budget savings and are intended to be used for Asset Replacement needs. It is recommended that \$2,350,000 be appropriated to the Fleet Fund and \$1,500,000 be appropriated to the Communications Fund.

10. First Reading of Ordinance No. 141, 2007, Appropriating Unanticipated Revenue in the City Sales and Use Tax Fund and Authorizing the Transfer of Appropriated Amounts Between Funds.

This Ordinance increases total City 2007 appropriations by \$2,667,000. Of that amount, this Ordinance increases General Fund 2007 estimated revenues by \$2,000,000. This Ordinance also increases the estimated revenues for the Capital Projects Fund (\$222,333), the Natural Areas Fund (\$222,333), and the Transportation Fund (\$222,334) due to greater than projected collections of the following dedicated sales and use taxes: 0.25 Building on Basics, 0.25 Open Space Yes, and 0.25 City Street Maintenance sales and use tax, respectively. This Ordinance only appropriates the transfer of the additional sales and use taxes from the Sales Tax Fund to the above funds. It does not increase appropriations within those related funds. These additional revenues will increase the reserves in the related funds as of year-end 2007. Appropriations for expenditure from the various fund balance reserves will be presented to City Council during the first quarter of 2008.

11. First Reading of Ordinance No. 142, 2007, Authorizing Leases of City Property at 200 West Mountain Avenue, Suite C, For Up To Five Years As Part of the Fort Collins Technology Incubator Program.

The Fort Collins Technology Incubator (FCTI) nurtures high potential innovation-based companies in their formative stages to increase the probability they will survive and make a sustainable contribution to the economic health of the community. One of the services they offer to accomplish this goal is residence in an incubator facility which gives participants access to shared services, synergy with other startup businesses and below market lease rates. The City currently offers two facilities for this purpose at 200 West Mountain Avenue and 321 Maple Street. The currently defined FCTI residence program is a three-year lease with increasing lease rates each year. Due to the fact that not all companies reach the desired self-sustaining status within this three year window, FCTI would like to add the option of offering up to two additional 12-month extensions at the end of the initial three year period. The program would increase each year by \$1/SF for any companies staying after the initial three year period, making the fourth year \$10/SF and the fifth year \$11/SF.

Staff recommends leasing 200 West Mountain Avenue, Suite C, to the FCTI and its client companies. Benefits to the City include: replacement of primary jobs lost over the past several years, increased economic robustness, especially in the downtown area, retention of the City's highly talented professional workforce, and an enhanced sales tax base.

12. First Reading of Ordinance No. 143, 2007, Approving the Terms of the City's Lease of 612 South College Avenue, Suite 22, Fort Collins, Colorado.

In order for this portion of the property to become tax exempt, state law requires that the Council approve the terms of the lease by Ordinance.

Since December 1992, the City has been leasing approximately 388 square feet of office space located at 612 South College Avenue, Suite 22, for the office of Dr. Dan Dworkin, Police Services psychologist. Both Dr. Dworkin and Police Services desire to continue leasing this office space.

This lease extension shall be effective as of December 1, 2007 and expire November 30, 2008, with two 12-month lease extension options. Lease payments will include base rent and insurance. Base rent shall be \$457 per month. Utilities charges are not included in the base rent and shall be 14.22% of the utilities statements for the property. Rent for the option period will be calculated by the Consumer Price Index.

13. First Reading of Ordinance No. 144, 2007, Authorizing the Lease of City-Owned Property at 212 LaPorte Avenue, Along with Related Parking Rights at 222 LaPorte Avenue, for up to Five Years.

In July 2005, the City purchased the former Abraxis property at 212 LaPorte Avenue to allow for future City development. The property was leased back to Abraxis until March of this year while the new Abraxis facility was built. The City has no immediate use for the property.

Staff recommends that the former Abraxis property, as well as the adjoining parking to the west at 222 LaPorte Avenue, be leased at current market rates, no less than \$5.00 per sq ft annually, for a period of up to five years to offset maintenance expenses and generate revenue.

14. First Reading of Ordinance No. 145, 2007, Amending Section 2-575 of the City Code Relating to Councilmember Compensation.

Article II, Section 3 of the City Charter provides that the compensation of Councilmembers shall be adjusted annually for inflation in accordance with the Denver/Boulder Consumer Price Index. In 2007, Councilmembers were compensated \$630 per month, and the Mayor received \$945 per month.

This Ordinance amends Section 2-575 of the City Code to set the 2008 compensation of Councilmembers at \$650 per month and the compensation of the Mayor at \$970 per month, as required by the City Charter.

15. First Reading of Ordinance No. 150, 2007, Adopting the 2008 Classified Employees Pay Plan.

The 2008 Pay Plan incorporates the new pay philosophy of establishing pay ranges by using the average actual salary data for benchmark positions to set the pay range mid-point. Data from the public and private sectors was used to determine the prevailing market rates for approximately 100 benchmark jobs. This Ordinance sets pay ranges, not specific salaries of individual employees.

16. Resolution 2007-105 Approving the Purchase of Digital Control Units for Residential Air Conditioning Electrical Load Control as an Exemption to the Competitive Process.

In 1982, Utilities Light and Power began offering customers with electric water heaters a way to reduce their contribution to the distribution system electric demand during system peak usage times. Light and Power selected a system from Scientific Atlanta, Inc as the best option for needs at that time and dubbed the program Hot Shot. Today, Fort Collins Utilities has about 2,000 customers who have a Hot Shot Digital Control Unit (DCU) on their electric water heaters. The original Hot Shot load control devices operate on a proprietary communications protocol that assured accurate communications and avoided false operations from other radio frequency signals that could reach the customer premises. The technology developed and sold by Scientific Atlanta has since become the property of Comverge, Inc, and it continues to support the City's existing installed base of water heater DCUs.

As residential air conditioning (AC) market saturation in Northern Colorado grew from less than 10% in the early 1980's to today's number of nearly 70%, according to Platte River Power Authority, summer peak electric demand has steadily increased with residential AC purchases. While population has increased about 60% in the last 10 years, electric peak demand has increased over 100%, largely as a result of air conditioning. In response to this trend, it is evident that controlling summer-season electric loads is necessary to move toward the City's Electric Energy Supply Policy goals.

In 2007, a Utilities team recommended expansion of the water heater program to include air conditioning control. An air conditioning pilot study of 100 DCUs during the summer of 2007 proved the effectiveness of the air conditioning controllers as a method of reducing summer-season peak demands. Staff plans to add 500 units per year for the next two years.

To implement an air conditioning load control program that also incorporates existing installed base of water heater DCUs, it will be necessary to use the Comverge system. The air conditioning control system will operate on the same Comverge control system as the Hot Shot water heater control program. The backbone of the control system is the recently-upgraded LMS (Load Management Software) program, which is a proprietary software program used to control the DCUs. Comverge hardware also controls the transmitters in the electric substations, which send the signal to the DCUs.

*****END CONSENT*****

Ordinances on Second Reading were read by title by City Clerk Krajicek.

6. Second Reading of Ordinance No. 137, 2007, Appropriating Unanticipated Revenue in the Natural Areas Fund and the Capital Projects Fund - Soapstone Prairie Public Improvements Capital Project to Be Used for the Design and Construction of Public Improvements at Soapstone Prairie Natural Area.
7. Second Reading of Ordinance No.138, 2007, Authorizing the Appropriation of 2008 Fiscal Year Operating and Capital Improvement Funds of the Fort Collins-Loveland Municipal Airport.
8. Second Reading of Ordinance No. 139, 2007, Approving an Intergovernmental Agreement Between the Fort Collins Regional Library District, Larimer County and the City of Fort Collins.

Ordinances on First Reading were read by title by City Clerk Krajicek.

9. First Reading of Ordinance No. 140, 2007, Appropriating Prior Year Reserves in the General Fund and Authorizing Transfer Between Funds for Asset Replacement.
10. First Reading of Ordinance No. 141, 2007, Appropriating Unanticipated Revenue in the City Sales and Use Tax Fund and Authorizing the Transfer of Appropriated Amounts Between Funds.
11. First Reading of Ordinance No. 142, 2007, Authorizing Leases of City Property at 200 West Mountain Avenue, Suite C, For Up To Five Years As Part of the Fort Collins Technology Incubator Program.
12. First Reading of Ordinance No. 143, 2007, Approving the Terms of the City's Lease of 612 South College Avenue, Suite 22, Fort Collins, Colorado.
13. First Reading of Ordinance No. 144, 2007, Authorizing the Lease of City-Owned Property at 212 LaPorte Avenue, Along with Related Parking Rights at 222 LaPorte Avenue, for up to Five Years.
14. First Reading of Ordinance No. 145, 2007, Amending Section 2-575 of the City Code Relating to Councilmember Compensation.
15. First Reading of Ordinance No. 150, 2007, Adopting the 2008 Classified Employees Pay Plan.
24. First Reading of Ordinance No. 147, 2007, Amending Section 2-606 of the City Code and Setting the Salary of the Municipal Judge.

25. First Reading of Ordinance No. 148, 2007, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.
26. First Reading of Ordinance No. 149, 2007, Amending Section 2-596 of the City Code and Setting the Salary of the City Manager.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt and approve all items not withdrawn from the Consent Calendar and for staff to work with the Library District to include reporting to Council on the District's finances, the reserve policies and some form of face-to-face meeting between the Board and the Council on a regular basis in the final IGA. Yeas: Councilmembers Brown, Hutchinson, Manvel, Poppaw, Roy and Troxell. Nays: None.

THE MOTION CARRIED.

City Manager Atteberry requested Council consider Item #16 at this time.

Resolution 2007-105
Approving the Purchase of Digital Control Units for
Residential Air Conditioning Electrical Load Control as an
Exemption to the Competitive Process, Adopted

The following is staff's memorandum on this item.

“FINANCIAL IMPACT

Utilities would like to purchase 1,000 digital control units used in an electric load control program for a total purchase price of \$106,250. Comverge, Inc. is offering a \$9.00/unit discount for committing to a purchase of 1,000 units. By agreeing to purchase 1,000 units from Comverge, Utilities is receiving a discount that will save \$9,000 over the cost if staff continued with the normal purchase quantities.

To meet the financial and technical needs of the demand side management program, we must sole-source Comverge as the manufacturer of the DCUs (Digital Control Units) for the “Hot Shot” air conditioning program. There are other load control companies, each with their own proprietary systems, but none of them are compatible with the City's existing system. To implement another system would be exceedingly expensive as it would necessitate the removal of the transmitting and control infrastructure as well as the removal and replacement of the installed base of 2000 DCUs that currently control electric water heaters.

Because the Hot Shot program offers a means to reducing electric demand during times of peak energy use, the program helps reduce coincident peak purchase power costs, the savings of which are passed on to rate payers.

EXECUTIVE SUMMARY

In 1982, Utilities Light and Power began offering customers with electric water heaters a way to reduce their contribution to the distribution system electric demand during system peak usage times. Light and Power selected a system from Scientific Atlanta, Inc as the best option for needs at that time and dubbed the program Hot Shot. Today, Fort Collins Utilities has about 2,000 customers who have a Hot Shot Digital Control Unit (DCU) on their electric water heaters. The original Hot Shot load control devices operate on a proprietary communications protocol that assured accurate communications and avoided false operations from other radio frequency signals that could reach the customer premises. The technology developed and sold by Scientific Atlanta has since become the property of Comverge, Inc, and it continues to support the City's existing installed base of water heater DCUs.

As residential air conditioning (AC) market saturation in Northern Colorado grew from less than 10% in the early 1980's to today's number of nearly 70%, according to Platte River Power Authority, summer peak electric demand has steadily increased with residential AC purchases. While population has increased about 60% in the last 10 years, electric peak demand has increased over 100%, largely as a result of air conditioning. In response to this trend, it is evident that controlling summer-season electric loads is necessary to move toward the City's Electric Energy Supply Policy goals.

In 2007, a Utilities team recommended expansion of the water heater program to include air conditioning control. An air conditioning pilot study of 100 DCUs during the summer of 2007 proved the effectiveness of the air conditioning controllers as a method of reducing summer-season peak demands. Staff plans to add 500 units per year for the next two years.

To implement an air conditioning load control program that also incorporates existing installed base of water heater DCUs, it will be necessary to use the Comverge system. The air conditioning control system will operate on the same Comverge control system as the Hot Shot water heater control program. The backbone of the control system is the recently-upgraded LMS (Load Management Software) program, which is a proprietary software program used to control the DCUs. Comverge hardware also controls the transmitters in the electric substations, which send the signal to the DCUs."

Councilmember Troxell recused himself from this item as he had a PhD student in his program who is an executive officer for the company under consideration in this item and he believed it could be interpreted as a conflict of interest for him.

Councilmember Ohlson stated the process to exempt a purchase from the competitive process was very strict and was used as an exception, not as a common practice. Kraig Bader, Standards Engineering Manager, stated digital control units had been in use by the City since 1982. The company who makes the units is now owned by Comverge and is the only company that has the technology that is functional for the City's use.

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Councilmember Ohlson made a motion, seconded by Councilmember Roy, to adopt Resolution 2007-105. Yeas: Councilmembers Brown, Hutchinson, Manvel, Poppaw, Roy and Troxell. Nays: None.

THE MOTION CARRIED.

Staff Reports

Mark Jackson, Interim Transportation Director introduced Helen Migchelbrink, new City Engineer.

Councilmember Reports

Councilmember Ohlson thanked staff for work done to create the new Northside Aztlan Community Center. It is a high-quality, functional center and the City can be proud of the structure. He requested further information from the Humane Society regarding reports from citizens about vicious dog attacks and the Humane Society's handling of the situations. He asked for a report on the possibility of adding more kinds of plastic recycling to the recycling stream as Loveland has recently expanded its list of recyclable products and Fort Collins should do the same.

Resolution 2007-104

Approving the Programs and Projects That Will Receive Funds from the Federal Community Development Block Grant (CDBG) Program and Home Investment Partnership (HOME) Program Grants, and the City's Affordable Housing Fund, Adopted Alternative version

The following is staff's memorandum on this item.

"FINANCIAL IMPACT

The Community Development Block Grant (CDBG) Program and Home Investment Partnership (HOME) Program provide Federal funds from the Department of Housing and Urban Development (HUD) to the City of Fort Collins which can be allocated to housing and community development related programs and projects, thereby, reducing the demand on the City's General Fund Budget to address such needs. City funds for this item have been appropriated as part of the Affordable Housing Fund in December 2006.

EXECUTIVE SUMMARY

The Resolution will complete the fall cycle of the competitive process for allocating City financial resources to affordable housing programs/projects and community development activities.

BACKGROUND

This Resolution establishes which programs and projects will receive funding with CDBG and HOME funds for the FY 2007 Program year, which started on October 1, 2007, including the use

of Carry-over CDBG Entitlement Grant funds, Carry-over HOME funds, funds from the FY 2007 HOME Grant, funds from the HOME Community Housing Development Organization (CHDO) Set Aside, HOME Program Income, and funds from the City's Affordable Housing Fund. The CDBG Commission presents a list of recommendations as to which programs and projects should receive funding.

The following table summarizes the amount and sources of available funds:

AMOUNT	SOURCE
\$361,920	FY 2006 CDBG Reprogrammed Funds
312937	FY 2007 CDBG Unprogrammed Funds
120187	FY 2006 HOME Reprogrammed Funds
\$172,499	FY 05/FY 06 HOME CHDO Reprogrammed Funds
480792	FY 2007 HOME Grant
96139	FY 2007 HOME CHDO Funds
50000	FY 2007 HOME Program Income
83000	FY 2006 Affordable Housing Fund
133000	FY 2007 Affordable Housing Fund
\$1,810,474	Total Funding Available

Reprogrammed funds are funds returned to the City from projects that were previously allocated funding but the project failed to materialize. Unprogrammed funds are from previous grants that have yet to be allocated to specific projects. HOME Community Housing Development Organization (CHDO) set aside funds represent a portion of the HOME grant that must be earmarked for CHDO agencies.

The CDBG Commission presents recommendations as to which programs and projects should receive funding from the available funding sources presented above. The following tables present the allocations recommended by the Commission to the City Council within each major category:

Affordable Housing

Applicant Project/Program	Funding Request	Commission's Recommendation	Unfunded Balance
HO-1 City of Fort Collins – Home Buyer Assistance	\$250,000	\$250,000	\$0
HO-2 Fort Collins Housing Corporation – First Step Expansion - Administration	\$14,613	\$0	\$14,613

<i>HO-3 Fort Collins Housing Corporation – First Step Expansion</i>	\$192,144	\$0	\$192,144
<i>HO-4 Neighbor-to-Neighbor – Coachlight Driveway Parking Lot Repairs & Improvements</i>	\$244,866	\$244,866	\$0
<i>Total</i>	\$701,623	\$494,866	\$206,757

All funding recommendations in the Affordable Housing category are in the form of a “Due on Sale Loan + 5% Simple Interest Loan.”

Public Facility

Applicant Project/Program	Funding Request	Commission’s Recommendation	Unfunded Balance
<i>PF-1 City of Fort Collins – Crossroads Safehouse: Facility Safety Rehabilitation</i>	\$55,671	\$55,671	\$0

The funding recommendation in the Public Facilities category is in the form of a “Due on Sale Loan + 5% Simple Interest Loan.”

A summary of the Commission's funding recommendations by category is presented in the following table:

Recommended Funding	% of Total	Category
\$494,866	89.9%	<i>Affordable Housing</i>
\$55,671	10.1%	<i>Public Facilities</i>
\$550,537	100.0%	<i>Total Allocated to Programs and Projects</i>

The CDBG Commission has recommended that \$550,537 (30.4%) of the available funding amount of \$1,810,474 be allocated leaving a balance of \$1,259,937 (69.6%) from all of the funding sources to be carried over and made available for allocation in the 2008 spring cycle of the competitive process. The following table summarizes the utilization of funds from all sources.

Recommended Funding	% of Total	Category
\$550,537	30.4%	<i>Allocated to Programs and Projects</i>
\$1,259,937	69.6%	<i>Carry-over to 2008 Spring Cycle</i>
\$1,810,474	100.0%	<i>Total Funds Available</i>

Ken Waido, Chief Planner, stated the Resolution under consideration is the culmination of the fall cycle of the competitive process that allocates the City’s financial resources to affordable housing programs and community development activities. Several sources of money are available through the Community Development Block Grant program and the HOME program, both federal programs, and the City’s affordable housing fund. The total amount available this cycle is \$1.8 million.

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Applications were solicited in July and five applications were received. Four applications were for affordable housing programs and one was for a public facility. The applications totaled less than \$800,000. The review process for screening the applications included the Affordable Housing Board who reviews the written proposals and then submits a list of priorities to the CDBG Commission. The CDBG Commission also reviews the written proposals and conducts personal interviews with each applicant. The Commission then formulates recommendations for the Council who conducts a public hearing and adopts a resolution making the final decision on the allocation of funds. The CDBG Commission is recommending allocating \$550,000 with 90% of that funding going towards affordable housing and 10% to a public facility request. The Commission recommends only 30% of the available funding be allocated at this time and \$1.2 million or 70% of the funds be carried over to the 2008 Spring funding cycle. Applications for the Spring cycle will contain proposals for funding requests that are much greater than the amount of funds available and the carry-over funds will be applied at that time.

Bob Browning, CDBG Commission Chairperson, stated the Commission recommended three of the applications received and did not recommend two of the applications received. The Home Buyer's Assistance Program is a very successful affordable housing program and the Commission recommends full funding for the program. The Neighbor-to-Neighbor Project to help renovate the Coachlight Apartments is Phase Two of a project funded in the last cycle and is a needed project. The Commission recommends full funding of the Project. The public facilities project is a security upgrade to the Crossroads Safehouse and the Commission also recommends full funding for that project. The Commission does not recommend full funding for the two projects proposed by the partnership of the Fort Collins Housing Authority and Larimer County Mental Health. The Commission believes the Project is premature at the current time and recommended Council defer funding on the Project until the Spring cycle. The partnership between the Housing Authority and Larimer County Mental Health is a program that uses housing as an incentive to get people with mental health and substance abuse problems into counseling. The issue is not housing but providing counseling and the Commission is unsure of how effective or what contributions the counseling is making to the City. The Commission feels it needs more information before it can recommend funding the Project to the Council.

Eric Berglund, CDBG Commission Vice-chairperson, stated the Commission views its process as being similar to the BFO process where offers provided by applicants are reviewed for tangible outcomes that can benefit the City and are good uses of taxpayer dollars. The CDBG provided initial funding a few years ago for the pilot program to create the First Step Expansion Program. The Program is entering its second year of funding for the full Program. When the Commission discussed the outcome of the Program with the Housing Authority, the Commission did not receive assurances that the Program provided a tangible result for the City. When the Commission looked at reducing the funding requested, the Housing Authority asked in its application that the funding be "all or nothing." The Program does not have a proven track record and the Commission did not believe expanding the Program was a good use of funds.

Mr Browning stated the Commission questioned the administrative costs requested in the application for the First Step Expansion Program and asked how many staff were needed to administer the Program. The Housing Authority told the Commission no extra staff was needed. The Commission

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believed the funds requested for administrative costs, which are affordable housing funds, would be used to fund salaries of staff already employed by the Housing Authority. Funding administrative costs is not one of the stated reasons for use of affordable housing funds.

Kay Rios, 1501 Patton, CDBG Commission member, supported the decisions of the Commission. If Council disagrees with the Commission's recommendation, a work session should have been held to discuss the differences. The Commission had general consensus that it was not fiscally responsible to spend the funds just because the funds were available.

Cheryl Olson, Chairperson of the Steering Committee for the Mental Health and Substance Abuse Planning Project, stated the Partnership is composed of 30 organizations and 5 consumers who are actively involved in the goal of restructuring how mental health and substance abuse services are administered in Fort Collins and Larimer County and to improve their effectiveness. She asked Council to reconsider the application from the Housing Authority. The application would provide 12 additional housing vouchers for people suffering from co-occurring conditions of mental illness and substance abuse. The Partnership supports the Housing Authority's application as it provides appropriate intervention for those who suffer from severe mental illness that often leads to severe substance abuse. The consequences of failing to provide intervention for the person include that person being unable to live independently and often they become homeless and die at an early age. The community pays a heavy price for failing to provide intervention as these people cycle through services many times with no good outcome. The Program, Integrated Dual Disorders Treatment (IDDT), has strong evidence that it is effective in interrupting the cycle. The Partnership has made the commitment to bring IDDT to the community. Housing assistance is one of the elements of the Program and the application from the Housing Authority is to provide housing vouchers. She requested Council adopt the alternate version of the Resolution and provide funding for Housing Authority application.

Councilmember Poppaw asked for clarification on the allocation of funding for the administrative dollars in the application. Julie Brewen, Executive Director of the Housing Authority, stated the Housing Authority was asked to separate the application into two pieces, the HOME money for rental assistance and the administrative portion to be provided by other funds. When the Commission asked if the Housing Authority would be hiring new staff to administer this Program, the answer was that no new staff would be hired but existing staff would administer the program. A portion of one full-time employee would be dedicated to this Program and that person would be paid with the funds applied for in the application. The duties of that staff person would be handled by a new person to be hired.

Councilmember Poppaw asked how many years had the Program been in place. Brewen stated the Program was at the end of its third year. It started as a two-year pilot program with money from the Colorado Division of Housing. Each family involved received two years of transitional housing assistance and 76% of those people secured permanent housing by the end of the two years. Another allocation was received for two more years for each family enrolled in the Program and is now at the end of the first half. Success is defined as finding permanent housing solutions and the goal was to move people from homelessness into secure housing. 76% of the people enrolled did achieve that goal, two were terminated for noncompliance and some dropped out of the program.

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Councilmember Poppaw noted the letter received from the Housing Authority states the Program meets the priority needs identified by Council in the City's Consolidated Plan. Brewen stated the City's Consolidated Housing Plan does include tenant-based rental assistance as a priority need and uses the HOME fund for this assistance. Tenant-based rental assistance differs from other rental subsidies programs because it is given to individual households rather than to a particular unit. It offers a way to meet fluctuating demands for housing and can be tailored to meet the distinctive housing needs of the community. The 12 vouchers that would be provided by the requested funding would be targeted more narrowly to those who have co-occurring conditions of mental illness and substance abuse with more intensive case management. The Housing Authority is providing the housing portion of the treatment for the Partnership.

Councilmember Ohlson asked if the request from the Housing Authority for the funds not approved by the CDBG Commission was for both the Program and the administrative costs for the Program. He also asked if the funds were for actual physical structures or would these funds be ongoing monies that would commit the CDBG funds on an ongoing basis. Waido stated the request was for both parts to be approved. Providing the funds does not commit the CDBG to ongoing funds and if the Program was to be extended, another application must be submitted and would compete with other applications in the another funding cycle.

Councilmember Ohlson asked for an explanation of the \$192,144 requested. Waido stated the funds would be used for 12 vouchers to provide tenant-based rental assistance to help the families of individuals in the Program.

Councilmember Manvel asked for information about the City's past involvement with rental assistance. Waido stated the City has been involved in rental assistance programs and this Program was funded in the past. Another form of tenant-based rental assistance is in the Public Service category where an agency such as Neighbor-to-Neighbor has been granted money in the past to help families on an emergency basis when financial hardship has arisen for a month or two so the family does not lose its home. This Program is an ongoing, year-long program for individuals and is considered a housing program, not a public service.

Councilmember Manvel noted the CDBG materials stated the Program is not a housing program, but it is a welfare program and that was not an accurate statement. Mr. Browning stated the crux of the Program is not a housing program but it is a counseling program.

Councilmember Manvel stated the Program was a broad-based program that involves many elements, including housing. The funding requested is for housing. Mr. Browning stated housing is used as an incentive to get people into the counseling program. The Commission wanted to see tangible results from the Program before more funds were provided. Mr. Berglund stated the CDBG Commission did not recommend funding for the fall cycle because the Commission felt the application was premature. The Housing Authority had an unsuccessful application in at the same time to the federal government for a grant. The Commission felt that extra time was needed for a more comprehensive funding request that could be submitted in the spring cycle and the Commission could then be provided with more information and make a more informed decision.

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Councilmember Roy asked if any information or the success rates from other similar programs around the country had been considered. Mr. Browning stated the Commission was not aware of any other programs of a similar nature. The Commission was not suggesting this Program should not be supported, but it wanted more information before more funds were given.

Mayor Hutchinson asked what the cost would be of funding this program before more information is available. Mr. Browning stated the Commission felt the application was premature and the Commission wanted more information before it committed to a program that would require funding over a long period of time. Mr. Berglund stated the Commission was concerned the Program was only in its first year of a two-year funding cycle for the existing program and expanding the Program now when the Partnership was in the process of restructuring and seeking federal grants that were not yet in place was not a prudent use of funds. The Commission weighs applications heavily with regard to leveraged funds. The Program was not up and fully running yet and did not have all the information concerning desired outcomes and what other grants or funds would be available to the Program. The Commission did not feel it would be detrimental to the Program to have the application resubmitted for the spring cycle.

Councilmember Ohlson asked if funds were available for this Program. City Manager Atteberry stated funding could be provided either through use of reserves or to wait until year-end figures are known and it can be determined if funding can be provided from the General Fund.

Councilmember Manvel stated the funds requested are not for physical buildings or for loans which are repaid and the funds can be used again, but the funds are for rent which does not offer any return to the City. The funds would be used for a very needy population. It could cost the City more if this population is homeless than if help is provided for them. Mr. Berglund stated the Commission asked the applicant how many people in the program were not being served. The response was that over 80% were already in existing Housing Authority properties and the voucher program would be used with private landlords to take in this population who has a high turnover rate. A larger population has been identified but are not yet in the Program.

Councilmember Manvel asked why vouchers were needed if most people in the Program were already in Housing Authority properties. Brewen stated the 12 new vouchers would be used for people that are now homeless and not in any type of subsidized housing. The Program as a whole, with the dozens of community partners, does have huge amounts of leveraging dollars and that information was not part of the application because the application was concerned only with the housing piece. Each participant pays a minimum rent or 30% of their income, so the voucher is not for the total amount of rent.

Councilmember Ohlson asked if the specifics of funding for the Program could be resolved at a later date with direction given at this time. City Manager Atteberry stated research was needed to find a funding source for this Program as any extra General Fund dollars available at year-end would be needed to cover the gap created by Larimer County's decision to reduce the City's share of the Road and Bridge Levy revenue.

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Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt the alternative version of Resolution 2007-104 that fully funds all the applications presented to the CDBG Commissions.

Councilmember Manvel stated the City does provide rental assistance and the Program does serve the most needy population. He believed the Program provided a vital service to the community and deserved the funding.

Councilmember Ohlson stated many families were touched by mental health issues or substance abuse and the Program deserved the support of the Council.

Councilmember Poppaw thanked the CDBG Commission for its hard work and careful examination of all applications. The Program is greatly needed in the community and she supported the Resolution.

Councilmember Troxell stated the 2008-2009 budget left basic city services unfunded and funding this Program was not a good use of reserves or City funds.

Councilmember Roy stated the Program provided a way to make a significant difference in the lives of the most needy in the community and he supported the Resolution.

Councilmember Ohlson noted the CDBG funds cannot be used for police, fire or other city services and must be used for very specific categories. Waido clarified the administrative funds for the Program would come from the City's Affordable Housing Fund and the Program's tenant-based rental assistance funds will be provided by the HOME program.

Mayor Hutchinson stated while there are many areas to use funds to help improve people's lives, great care must be given in committing those resources. The CDBG Commission has requested a delay of support for the Program until more information can be provided and that is good management of funds. He supported the recommendation of the CDBG Commission.

The vote on the motion was as follows: Manvel, Ohlson, Poppaw and Roy. Nays: Brown, Hutchinson and Troxell.

THE MOTION CARRIED.

Resolution 2007-106

Accepting the I-25/SH 392 Interchange Improvement Plan; Approving an Agreement Among the Town of Windsor, the City of Fort Collins, and Metro Acquisitions, LLC; and Approving an Intergovernmental Agreement Among the Colorado Department of Transportation, Town of Windsor, and City of Fort Collins, Postponed Indefinitely

The following is staff's memorandum on this item.

“FINANCIAL IMPACT

Acceptance of Resolution 2007-106 would result in a cost sharing agreement between the City (25%), the Town of Windsor (25%) and Metro Acquisitions, LLC (50%) for contracting, consultant work, including request for separate action with Colorado Department of Transportation (“CDOT”) and Federal Highway Works Administration and if adopted, proceeding with the 1601 Interchange approval process and review by CDOT, with a total estimated cost for services of \$153,561.

The estimated share for the City of Fort Collins for this work is \$38,391 (25%), unless the development does not proceed, in which event the City and Windsor must reimburse the developer for its costs thereby increasing the City’s share to \$76,782.

EXECUTIVE SUMMARY

The I-25/SH 392 Interchange Improvement Plan (Plan) represents a joint plan between the City of Fort Collins and the Town of Windsor as directed by the Intergovernmental Agreement established in 2006. Rather than pursue a more traditional planning process including establishing a vision, goals and policy directives, this Plan provides a clear framework and direction to follow quickly by implementation. As a result, the Plan reflects a unique process with a focus on strategic implementation actions and identification of critical next steps to achieve the primary goal to fund and reconstruct the interchange. The key elements of the Plan include interchange design, west frontage road alignment, natural area buffers and funding scenarios. All will require additional discussions, refinement and coordination prior to finalization, as part of on-going implementation efforts.

BACKGROUND

The interchange at the junction of Interstate 25 and Colorado State Highway 392 serves as a gateway to both Fort Collins and Windsor. The interchange has failed to function at an acceptance level of service “C”, particularly during the morning and evening peak hours. This being the case, numerous meetings and discussions involving the elected officials and staffs of Fort Collins, Windsor, Larimer County, the Stakeholder Group, North Front Range Metropolitan Planning Organization (MPO), and the Colorado Department of Transportation (CDOT), have occurred over the past several years in an attempt to address traffic congestion at this interchange.

The importance of this interchange as a gateway into both jurisdictions is significant, as well as from a functional standpoint in providing mobility and access to existing and future development in the area. Although the Colorado Department of Transportation (CDOT) has identified this area as a high priority project, there is no Federal or State funding available now or in the foreseeable future. The existing interchange problem cannot be fixed by implementing smaller interim improvements such as frontage road realignment and ramp widening. The bridge overpass along with the supporting interchange infrastructure needs to be replaced to meet the transportation needs for the next 20 years. The estimated cost to replace the interchange is approximately \$21 to \$25 million.

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In March 2006, Fort Collins and Windsor entered into an intergovernmental agreement (IGA) for the purpose of addressing urban services, infrastructure, and land uses at this interchange (see Attachment #3). One of the key components and directives of the IGA was for the two municipalities to work cooperatively to develop a comprehensive plan to fund the reconstruction of this interchange.

As such, Fort Collins and Windsor appropriated \$50,000 each for a total budgeted amount of \$100,000 to begin the process of developing the comprehensive interchange plan. This amount was later supplemented by an appropriation from the MPO of \$26,000, for a grand total of \$126,000 to be used towards the development of the plan.

In August 2006, Fort Collins and Windsor entered into a contract with the EDAW Consulting Firm to develop the comprehensive development plan. Additionally, EDAW partnered with the DMJM-Harris Engineering, BBC Consulting, and PBS & J Engineering firms to assist them with the development of the plan. A technical advisory committee (TAC) comprised of staff representatives from Fort Collins, Windsor, Larimer County, CDOT, and the MPO was formed to work with the consultants and oversee the development of the plan.

The purpose of the Plan is to develop action strategies to implement improvements to the interchange, with particular emphasis on developing alternative funding mechanisms to allow the project to go directly into final design.

Key Elements of Plan:

Land Use

The Corridor Activity Center (CAC) [See Figure 3, Page 4 of the Plan] is the focus of this study identifying existing and future commercial, employment and residential land uses on both sides of the interchange. The quality of development, views and open lands within the CAC is important for establishing this area as a primary gateway into Windsor and Fort Collins. Three fundamental drivers of the land use plan for the area are the Bus Rapid Transit (BRT) station in the immediate area of the interchange, the open space amenities at Fossil Creek Reservoir, and a series of transportation improvements (including relocation of the frontage road). Development would complement these three elements, creating new employment areas, neighborhoods, commercial areas, and a system of connected open space areas. The CAC contains 402 acres of commercial (252 on east and 150 on west), 114 acres of employment, and 369 acres of mixed-use residential on the east side [See Figure 5, Page 15 of the Plan].

Transportation

The preferred transportation layout follows the tight diamond interchange configuration from the North I-25 Draft Environmental Impact Statement (DEIS). [See Figure 24, page 44 of the Plan]. This design will improve both local and regional mobility by alleviating traffic congestion and decreasing overall travel times. Based on the North Front Range MPO's Regional Traffic Model and CDOT's Environmental Overview Study (EOS) for the State Highway 392 corridor, the

recommended cross section for the highway and interchange bridge is 4-travel lanes, in addition to the necessary turn lanes at intersections, pedestrian and bicycle lanes and sidewalks. The current City of Fort Collins Master Street Plan (MSP) shows a 6-lane facility between US-287 and I-25 which was based on earlier analysis. Later in 2008 and once the 1601 Study process is complete, staff will consider supporting a recommendation to amend the MSP to make it consistent with this most recent determination, after first reviewing additional analysis from the 1601 Study process.

The frontage road alignment located on the east side is consistent with the DEIS. On the west side of the interchange, three alternatives are identified in the Plan. The City of Fort Collins Master Street Plan currently shows a general alignment, which closely matches the DEIS location. The Plan identifies two alternatives to the DEIS to initially assess increasing the separation between the interchange ramp and frontage road intersections, and not bisect vacant land designated for future commercial development. A final west frontage road alignment will be determined in conjunction with the proposed future development in the area.

Local bus service from the planned new transit hub at College Ave. and Harmony Rd. would act as a feeder system to the proposed Bus Rapid Transit (BRT) station or Park-and-Ride facility within the CAC. The DEIS proposes that the BRT parking area be located on either the east or west side of I-25. Ideally, a station located in the center of I-25 could be accessed from Park-and-Ride facilities on both sides of I-25 via a pedestrian bridge. If a BRT station is not constructed, the DEIS assumes that Park-and-Ride facilities would still be constructed along with the new pedestrian bridge over I-25. Additional transportation options for the local streets adjacent to the interchange could include a dedicated on-street bike lane for cyclists, a detached sidewalk for pedestrians and a trail for other users.

The City of Fort Collins Transportation Board at its October 17th meeting recommended to City Council that ten percent (10%) of the overall interchange improvement project cost be earmarked for transit. A majority (5-4) felt it important to ensure that funding was in place in this project to increase transit amenities and service to and from the activity center and possibly between Windsor and Fort Collins.

Natural Resources

As part of the partnership between the City and Town of Windsor to reconstruct the interchange, the City has a unique challenge on the west side in balancing the need to support future development that will help contribute to funding interchange improvements, and preserving important natural resources including migratory roosting habitat, shoreline and wetland habitat. The Plan includes an inventory of existing natural resources and assesses corresponding setback buffers based on type of habitat.

The Plan seeks to maintain the integrity of the environment around Fossil Creek Reservoir through adherence to specific buffers that protect sensitive species and habitat. If needed, wetland mitigation measures, both on site and off site, will take place to enhance key resources. The Plan's protection measures are set by the United States Fish and Wildlife Service, the Colorado Division of Wildlife, the City of Fort Collins, and Larimer County. The buffer zones identified in the Plan

include a ¼ mile buffer from critical roosting habitat, between a 100 – 300 foot buffer from shoreline habitat, and for wetlands a 50 - 100 foot buffer. [See Figure 29 and 30 on Page 49 and 50 of the Plan].

The widening of SH 392 west of the interchange will result in wetland loss as the street cross section is expanded from a 2-lane to a 4-lane facility. The timing of this improvement will be separate from the interchange reconstruction project and either addressed as part of future development or part of CDOT's future SH 392 highway improvement schedule.

The identified buffer areas form the basis for future development activities adjacent to the natural areas. As the area develops, the City will review development proposals according to Section 3.4.1 of the Land Use Code. As part of the review process, an ecological characterization study (ECS) will be prepared. Final buffers will be established based upon the findings in the ECS. The resulting buffers will then be delineated prior to commencement of any construction activities and enforced by City inspectors during construction. Any disturbance within a buffer zone will be restored according to Section 3.4.1(E) (2) – Development Activities within the Buffer Zone.

Funding

Funding emerged early on in the Plan's process as its primary challenge. The funding scenarios match benefits with costs and ensure a reliable funding stream to repay anticipated bonds over a twenty year timeframe. The estimated total cost of reconstruction of the interchange bridge, ramps, frontage roads and landscaping is approximately \$21 million to \$25 million. To identify the most feasible strategy, three funding scenarios were identified.

Funding Scenario 1 focuses on the private sector and includes a special assessment and property tax for CAC landowners implemented over 20 years; an impact fee imposed on the "travel shed"; and, a Public Improvement Fee (PIF). No municipal or other governmental support is assumed for this scenario.

Funding Scenario 2 is based on partnerships and includes financial support from CDOT (\$2.0 million), the NFRMPO (\$1.2 million – future allocation) and, the municipalities of Windsor (\$1 million) and Fort Collins (\$1 million); a lower special assessment than Scenario 1 on CAC landowners (undeveloped land only) that sunsets in 10 years; a PIF; and a property tax on CAC landowners.

Funding Scenario 3 focuses on spreading the burden to a larger area and includes all municipal funding (Windsor and Fort Collins) from Scenario 2 and an expanded property tax district with a mill levy. There is also a small special assessment on all undeveloped CAC land that sunsets in 10 years and a PIF.

In the future, additional public funding (beyond existing assumptions) may become available through sources such as CDOT, NFRMPO and a future Regional Transportation Authority. While the Plan does not have a specific funding recommendation, it is assumed that one or a combination

of these funding scenarios will be used to further negotiate a final funding package to support the cost of the interchange improvements as implementation continues.

Implementation

Staff has identified several implementation actions after Plan acceptance. One of the first steps is to develop new agreements to continue the partnership among the jurisdictions that have a direct interest in the interchange. This would include other governmental entities such as CDOT, as well as local developers.

The options to receive approval for interchange improvements are: (1) wait for the current North I-25 EIS process being conducted by CDOT to be completed, which may happen by the end of 2009 at the earliest or be pushed back farther; or (2) approach and pursue a parallel process by submitting to CDOT a Justification for Separate Action. Given the potential development timelines, staff believes that the second of these options may be more advantageous; if approved, this would allow the submittal of a CDOT 1601 Policy Directive.

The second option listed above is supported by Town and City staff, based on a request by Metro Acquisitions, LLC "Lauth" (developer with options on properties on both the east and west sides of the Interchange). The Town, City, and developer are requesting a justification for separate action from CDOT and the Federal Highway Administration (FHWA) in December. Under the first agreement that is being presented for Council's consideration, the cost for this request would be shared among the Town (25%), City (25%) and the developer (50%). If Windsor and Fort Collins agree to move forward with this approach, the three parties could then proceed with an accelerated 1601 process and share a similar cost sharing arrangement.

The request a justification for separate action from CDOT and the Federal Highway Administration represents the first step in initiating an accelerated 1601 process. The 1601 process is the Colorado Department of Transportation's policy to evaluate new interchanges or major improvements to existing interchanges along interstates and major highways. The 1601 process would initiate a feasibility study for the I-25/SH 392 Interchange and could include the following analysis:

- Identify operation and capacity analysis for existing conditions and year 2030*
- Identify all reasonable and feasible interchange access alternatives*
- Screen all of the alternatives (identify pros and cons)*
- Review environmental conditions in area*
- Work toward a single best alternative*
- Develop a funding plan*

A preferred alternative will be identified based on this analysis. Additional environmental analysis may be necessary which will most likely include an Environmental Assessment (EA). Both the 1601 and the EA will utilize the data currently being collected as part of the EIS and SH 392 EOS, and contained in the Improvement Plan. The 1601 process would be completed and approved prior to final design of the interchange improvements. It is anticipated that the Justification for Separate Action and CDOT 1601 process will take approximately one year. Again, if the Justification for a

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Separate Action is denied, the alternative would be to wait for the North I-25 EIS to be completed in 2009.

An EOS is a planning study which evaluates potential transportation solutions by employing a context-sensitive solutions approach, and then considers potential environmental effects in the development and selection of alternatives. Although it is not a National Environmental Policy Act (NEPA) study, the SH 392 EOS does address many of the same elements, and is intended to recommend a solution which is anticipated to be the starting point for future NEPA studies. The study does not clear a project for construction. If, at a later date, a federally funded construction project is pursued, a NEPA-compliant study would be required.

The Federal Highway Administration, Federal Transit Administration and the Colorado Department of Transportation have commissioned an Environmental Impact Statement (EIS) to determine the effect that adding various transportation improvements along I-25 will have on the lives of residents and commuters in the area.

This study will build on the findings of the previously completed North Front Range Transportation Alternatives Feasibility Study, which was a Major Investment Study completed in 2000. This EIS is the next step in planning for transportation improvements along the I-25 corridor.

The North I-25 EIS, currently underway in the region, is a federal requirement set forth in the National Environmental Policy Act (NEPA). The EIS is a more in-depth study to determine the purpose and need of future transportation improvements in the same area; identify alternatives to be developed; and document the anticipated impacts of those alternatives. The North I-25 EIS is the next step in identifying alternatives for transportation issues.

The Environmental Assessment (EA) is a federally mandated study that identifies the environmental, economic, historical and social impacts of a proposed project. It results in one of two documents: an Environmental Impact Statement, which describes the project's probable impacts, or a Finding of No Significant Impact (FONSI).

Additional actions needed over the next two years include development of interchange preliminary design, completion of the North I-25 EIS and other environmental compliance actions by CDOT, and establishment of a special district within the Corridor Activity Center.

The Town of Windsor is currently in discussions with Lauth (Metro Acquisitions, LLC), a national developer for a large commercial project on the northeast quadrant of the Interchange, and with the City for property on the west side. Because discussions are very preliminary, details of these future projects are not available at this time.

Public Process

Throughout each facet of the development of the Plan, the process has included public involvement and input from the key stakeholders including residents, property owners and businesses in the area. The Plan has also been guided by a Technical Advisory Committee (TAC), comprised of 29

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members, including representatives from the City of Fort Collins, Town of Windsor, Larimer County, Colorado Department of Transportation (CDOT), Northern Front Range Metropolitan Planning Organization (NFRMPO), and consultants. Throughout the planning process, in addressing environmental issues, the TAC included City environmental planners and representatives from the consultant team. In addition to the stakeholders meetings, the consulting team and representatives of the TAC also facilitated two public open houses to receive additional information, comments and feedback from the public on the proposed Plan. Two municipal websites provided the community with up-to-date information.

By adoption of this Resolution, the City will be accepting the I-25/SH 392 Interchange Improvement Plan and approving two agreements. The first is an agreement among the Town of Windsor, the City of Fort Collins and Metro Acquisitions, LLC, to jointly file a Justification for Separate Action with CDOT and FHWA. Upon its approval of that agreement, the City and Town will jointly apply to CDOT, NFR-MPO, and FHWA for approval of the Interchange Improvements in accordance with the 1601 Process. The agreement would also provide that the Town, the City, and Metro Acquisitions, LLC would share the project's initial consulting costs as well as the subsequent costs generated by the 1601 Process. The second agreement is an intergovernmental agreement among CDOT, the Town of Windsor, and the City of Fort Collins under which the Town and the City would reimburse CDOT for the costs CDOT incurs in reviewing the conceptual designs, studies, and other documents filed by the Town and the City as part of the Justification for Separate Action and 1601 Process."

Pete Wray, Senior City Planner, stated the proposed Plan was a partnership between the Town of Windsor and the City and is a plan for the SH392/I-25 interchange. The proposed Resolution contains three parts. Acceptance of the Plan is the first part of the Resolution and is a step to acknowledge the planning process and the elements of the Plan. Two other agreements are also associated with the Resolution. The first agreement is between the Town of Windsor and the City and the developer to initiate and fund the next step in implementation in working with CDOT and the Federal Highway Administration to proceed with the 1601 Study. Another agreement is between Windsor and the City and CDOT to support and fund CDOT's oversight and review of the 1601 process. An IGA formalized early in 2006 set the stage for the planning process and established a focused study area in and around the interchange. It jointly created a comprehensive development plan for the interchange. The Plan has a focus of implementation and examining strategic actions that could be followed to the ultimate goal of funding and reconstructing the interchange. The planning process identified key stakeholders in the area, property owners and business owners and representatives of potential development in the area. Two public open houses have been held and the Plan has been reviewed by various boards and commissions and other agencies and other public outreach. The process was divided into three areas. One looked at existing conditions, another examined developing the actual interchange improvement plan and phase three looked at specific implementation actions. Plan participation included a technical advisory committee of City, Windsor and County staff and representatives from CDOT. Funding strategies were examined to develop fair and equitable ways to fund the necessary changes. The existing land uses and natural resources in the area, the condition of the interchange and the supporting highway and street infrastructure were examined by Plan participants. CDOT has been preparing an environmental impact statement (EIS) for the northern Colorado I-25 corridor for several years and staff has

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participated in that process. This Plan process has been coordinated with CDOT's EIS process. The Plan includes CDOT's alternative of a tight diamond design for the interchange, similar to the Harmony/I-25 interchange, with potential for future bus rapid transit and the potential for a bus station. CDOT's final EIS should be completed in 2009.

Land uses for the Windsor side of the interchange include a combination of future residential and general commercial uses. The northeast quadrant of the interchange is zoned for future Employment uses, and the southeast quadrant has both commercial and residential uses currently. The west side of the interchange has a mixed-use commercial land use designation with some existing commercial development on the northwest quadrant. There is also residential use and the Fossil Creek Reservoir and Swede Lake extension.

Dana Leavitt, Environmental Planner, stated Swede Lake is the southeast arm of the Fossil Creek Reservoir and contains bald eagle nesting sites, prairie dog colonies and wetlands. Buffer zones are proposed in the Plan to protect this area. Staff has worked with the Colorado Division of Wildlife, County environmental planners and private consultants to identify the buffer areas. The proposed buffer zones would be minimum standards and future development plans could include larger buffer zones.

Wray stated the transportation improvements associated with the Plan include replacing the bridge, ramps and a portion of the frontage roads. The layout would follow a tight-diamond configuration. The overall estimated cost for improving the interchange ranges from \$21 million to \$25 million. Another proposed improvement is realignment of the frontage road on the west side. The frontage road on the east side is already established with existing development. CDOT has proposed an alternative frontage road on the west as part of its EIS that matches closely with the City's Master Street Plan. Realignment of the frontage road could help alleviate traffic stacking problems at the interchange and increase the potential for development in the northwest and southwest quadrants.

Future transit projects have also been identified as part of the Plan, including a bus rapid transit station and a Park-N-Ride facility. Regional trails around the Fossil Creek Reservoir and pedestrian and bike facilities are proposed, including a pedestrian bridge over I-25 to connect with the bus rapid transit station.

Chuck Seest, Finance Director, stated the costs for the Project are estimated at \$22 million. Different scenarios have been developed to pay the costs. One scenario places the entire cost on the existing property owners within the area and would utilize a public improvement fee (PIF), along with a special assessment on commercial and residential properties and does not use direct municipal or governmental entity contributions. The cost is borne by the PIF and landowners. Another scenario examined other areas of funding that might be available from MPO, CDOT, the Town of Windsor and Fort Collins. It was estimated that \$5 million could come from those sources with the remainder of funds coming from a PIF. The third scenario identified other stakeholders that would benefit from improving the interchange and would impose a property tax on commercial and residential within a given corridor that utilizes the interchange.

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Wray stated the proposed Resolution includes a new intergovernmental agreement between the Town of Windsor, the City and the developer to initiate and fund the 1601 process, an agreement with CDOT to fund and support the overview and administration of the 1601 process. An improvement district will be formed and examination of preliminary and final engineering reports will occur in the next two years with the goal to reconstruct the interchange late 2009. In order to proceed with this schedule, a separate action must be requested from CDOT to complete a 1601 Study as it will not have completed its EIS process before 2009. The 1601 Study includes an environmental assessment and would be completed in 2008. He noted Section C of the agreement between the City, Windsor and the developer contains a cost-sharing agreement for the 1601 Study and reimbursement in the event the developer did not move forward with his project. Staff is continuing to discuss that reimbursement with the affected parties and agreement has not yet been reached.

(**Secretary's note: The Council took a brief recess at this point in the meeting.)

Carolyn White, attorney representing Lauth Property Group, affiliated with Metro Acquisition, LLC, the third party in the cost-sharing agreement, stated Lauth Property Group supported the Resolution as a way to move forward with improvements to the area.

Tim Johnson, 1337 Stonehenge Drive, stated Fossil Creek Natural Area is recognized as an important birding area nationally by the Audubon Society so the realignment of the frontage road should locate the road as close to I-25 as possible and as far from this Natural Area as possible to protect the Area. He urged Council to reject the financing strategies proposed in the Resolution as the financing is too dependent on the PIF for the funding stream.

Gary Wockner, 516 North Grant, stated the proposed Plan was not the best way to improve the interchange. Dealing with the issues of improving intersections and development along I-25 needs to be handled in a comprehensive manner, not just one intersection at a time. The I-25 Corridor Plan and *City Plan* are being written over with little thought or public discussion with the Plan. The financing strategies are not fiscally responsible public policy. He requested Council put the Plan on hold and review the entire I-25 Corridor Plan before proceeding with this Project.

David May, 225 South Meldrum, Chamber of Commerce President, stated the worst two interchanges in Northern Colorado were the Crossroads/I-25 interchange and the SH392/I-25 interchange. The interchange is a primary point of access to Fort Collins and I-25. Action is needed now to help regional transportation issues.

Councilmember Manvel asked what Council was endorsing by accepting the Plan. Wray stated accepting the Plan would lay the foundation for future discussions on zoning recommendations, amendments to the Master Street Plan, and changes to the City Structure Plan. The key elements identified in the Plan that are important to provide the framework for ongoing implementation are identified as alternatives. Accepting the Plan acknowledges the elements of the Plan, the process and agrees to move forward with the partnership. City Manager Atteberry stated accepting the Plan does not bind the City to anything in the Plan but acknowledges the work already done and moves the work forward. He noted there had been public input during the process of developing the Plan with numerous community meetings held as well as the stakeholders involved in each step. Wray

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stated work on the Plan has been ongoing for over a year. Key stakeholders such as property owners and business owners in the immediate vicinity of the interchange were identified and encouraged to be actively involved in the process. Two public open house meetings were held and all information was available on the City's website, three newsletters were distributed and advertising was done. A joint work session was held between the Council and the Windsor Town Board. He stated the issue was before Council now as the timing was important to the Town of Windsor who is one of the partners in the agreement.

Councilmember Manvel stated the Plan had many unanswered questions and contained contradictory statements and he preferred using different terminology from "acceptance" of the Plan. City Attorney Roy noted the Resolution states "acceptance of the Plan will set the stage for the Plan's implementation" but that statement could be reworded, if Council chose. Acceptance of the Plan does not commit the City to implement any or all of the Plan. The Plan establishes the backdrop for the action of authorizing the two agreements and initiating the 1601 process. Proceeding with the Resolution indicates Council approval of separating out the environmental review and other kinds of review of this proposed project from others that are currently being studied by CDOT so as to accelerate the planning and possible design and possible future construction. It does not go beyond the cost-sharing and cooperative effort with CDOT to separate this project from other parts of the I-25 corridor that CDOT is now studying.

Councilmember Manvel asked what additional input steps are needed before moving ahead with the 1601 process. Wray stated the Resolution before Council acknowledges the partnership and funding for the 1601 Study. Further Council review would be needed for finalization of funding, frontage road placement, response to future development that would go through the City's annexation and zoning process.

Councilmember Manvel asked what the 1601 Study would be based on, since the Plan was not in its final stages and Council was only acknowledging the Plan and not approving all details in the Plan. Wray stated the 1601 Study focuses on the improvements to the interchange, including the bridge, ramps, and the frontage roads that CDOT has shown in its EIS. Mark Jackson, Transportation Director, stated the 1601 Study will identify the funding strategy the parties that are petitioning for the 1601 Study want to use to fund the interchange improvements. The 1601 Study is considered a "mini" environmental clearance and is a way for communities, developers or agencies to have a review of all existing conditions, forecast conditions, design issues, environmental issues, mitigation required for those issues, and alignments done for a concentrated area rather than on a large scale study area as is done for an EIS, which can take 3-5 years to complete. It is a focused, intense, small-scale area analysis that shows what must be done to move forward and make improvements to a particular area.

Councilmember Manvel asked if the Study was also a development study. Joe Frank, Advance Planning Director, stated the 1601 Study is based on the Comprehensive Plans of the two cities and is not a vision plan. The Study is not for land-use planning. Jackson stated it is a way to petition CDOT to request an analysis of a particular interchange and prove how the improvements will be done and what mitigation will occur to lessen impacts. It is not creating a vision or a land-use plan.

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Mayor Hutchinson asked when land-use decisions will occur such as the size of buffers or decision regarding funding occur. Jackson stated staff would create a clear line of communication with Council and Boards and Commissions as the Project moves forward. Accepting the Plan is moving the Plan forward but it is not letting control go of key decisions. One decision point would occur when with analysis of environmental issues, and staff would bring the analysis to Council. City Manager Atteberry stated staff would bring decisions regarding frontage roads, funding mechanisms and other issues to Council. He assured Council that it would be involved in decisions made through the 1601 Study process.

Councilmember Ohlson asked how many of the public meetings were held in Fort Collins. Wray stated two public open houses were held on location at the interchange in July and August.

Councilmember Ohlson noted Windsor's area in the Corridor Activity Center surrounding the interchange was four to five times the size of Fort Collins' area and he asked why the cost would be split equally. Wray stated equal amounts were agreed upon to support the planning process over the past year. It was also agreed in the potential funding strategy that included funding from the Town of Windsor and Fort Collins that the costs would be shared equally. The final funding strategy will take many discussions through the next two years and the equal sharing of costs could change.

Councilmember Ohlson asked who would be responsible for payments on bonds if the public improvement fees (PIF), an additional tax on the retail sales in the area, are not collected in the amounts needed. Mike Freeman, Interim Finance Director, stated that is one of many details to be answered at a later date. The Plan lists different scenarios for financing and it is unknown how the financing will be handled until more details about specific projects are finalized. Beginning the 1601 Study will give the partners the ability to begin exploring additional and higher levels of financial participation at the federal and state level. The financing plan will be very complicated and will unfold over several years. Generally speaking, in Colorado, most bond counsel does not believe public improvement fees are adequate to support third party debt so deciding who issues the debt and how it would be repaid is a matter to be resolved in the future.

Councilmember Ohlson asked Windsor and Fort Collins would completely reimburse the developer if the Project does not move forward. He believed the developer should assume the risk. Frank stated staff was asking for direction regarding that condition of the agreement.

Carolyn White, attorney representing Lauth Property Group, stated the costs contained in the agreement are a very small portion of the overall costs associated with the Project. This agreement is concerns only the engineering costs associated with creating and submitting a separate action to CDOT and conducting the 1601 Study. It does not include other engineering the developer has already done, the earnest money already paid for land and legal and consulting fees the developer has already invested to get to this point. The developer is asking for the reimbursement clause in the event the developer could not complete the project. The developer believes the market is available to complete this project and is willing to go forward. The interchange is needed by the Town of Windsor and Fort Collins already and planning documents show it is at a failing level of service. If there is no project, the developer does not need the interchange, but Windsor and Fort Collins do. If the developer were not able to complete the project, it would lose all the other investment but Fort

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Collins and Windsor could proceed with the improvement of the interchange. The Town Board of Windsor has already approved the agreement with this condition in it.

Councilmember Ohlson questioned why Fort Collins would fund improvement of an interchange that would enable another community to have a massive retail outlet that would draw sales tax dollars from Fort Collins. He did not believe a different funding scenario from the ones presented would be brought forward. Freeman stated it is not accurate to say the three scenarios listed in the Plan would be the only scenarios available to fund the Project. Financing a Project of this magnitude is very complex. Staff made a conscious decision to list likely scenarios, but a different scenario could be adopted. When the intersection is at full development, it is estimated that one-third of the sales tax revenue generated will come from the Fort Collins side of the interchange. Frank stated it was never part of the Project for staff to comment on Windsor's Comprehensive Plan or its long-term vision. Windsor staff did not comment on Fort Collins' Comprehensive Plan or long-term vision. This Project was started because the two cities have a common interest in a major transportation infrastructure entryway into Fort Collins. 25% of the traffic at the interchange has destinations in Fort Collins. Both communities have a land-use plan and vision for the area and the Project is about building infrastructure to support that vision.

City Attorney Roy stated to alleviate concerns that the City might be committed to one of the funding scenarios currently listed in the Plan, Section 1 in the Resolution could be amended to indicate the identification and obtaining of funding commitments may or may not be limited to the alternatives identified in the Plan and Council will be revisiting those options in the process of formulating a final recommendation.

Councilmember Roy asked for clarification of a comment made by Ms. White that stated "time is of the essence. If this is going to be a long, lengthy study process, why bother taking it away from CDOT." Ms. White stated if nothing is done and the resolution is not approved, as a practical matter, this intersection will continue to be studied as part of the CDOT EIS process. The Study is projected to be completed in 2009 or 2010. When the EIS is completed, funding sources will not yet be identified and there is no plan in the foreseeable future to fund the improvements for this interchange. Time frames for development move much faster than that and, based on the market, there is a real opportunity to bring retail to this intersection now but that opportunity will disappear if the developer must wait until the conclusion of the CDOT process to even begin the discussion of funding.

Councilmember Poppaw asked when a broader conversation would occur about prioritization and funding mechanisms for all five major gateways into Fort Collins. City Manager Atteberry stated it is possible to discuss the I-25 Corridor Plan while concurrently participating in a 1601 Study for this interchange. He suggested having a work session in January to discuss the I-25 gateways.

Councilmember Roy asked for clarification of the words "implement" and "pledge" in the Intergovernmental Agreement Regarding Highway 392 Interchange, Section 3 that stated "the IGA serves to implement the cooperation pledged by the City and Town in the existing IGA." City Attorney Roy stated the language states an existing IGA is in place whereby the Town and City agreed to cooperate to develop a way to fund improvements to the interchange and this agreement

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further the cooperation. Implement does not mean any specific action. The paragraph does not contain any binding commitment. It is continuing the cooperative effort set forth in the original IGA and the City agrees to do the things that are cited in more detail.

Councilmember Roy asked if the phrase "in the shortest possible time" listed in paragraph A of Section 3 which states "parties agree to undertake in good faith all reasonable means to obtain the necessary authorization and funding for, and construction of, the interchange improvements in the shortest possible time" was binding. City Attorney Roy stated the phrase had to be read in conjunction with "necessary authorization" and the backdrop for this is the City Charter which regulates what can and cannot be done. In any time frame, money cannot be spent that has not been appropriated or it cannot be spent if funds are not available to satisfy the request. The point is to recognize this is a time-sensitive undertaking. If Council does not believe it is a time-sensitive matter, then it needs to change the agreement or reject it. This agreement does not force Council to do anything it does not want to do in the future if it decides to cease participation in the Project.

Councilmember Roy noted the 1601 Study rules state only a governmental or quasi-governmental entity may apply for this process and he asked why the IGA lists the developer as "coordinating with the Town, City, CDOT and federal highway and will engage additional consultants, as necessary to prepare the justification for separate action." Jackson stated the justification for separate action was not the 1601 process but is the entry into the process. Permission must be requested to enter into the 1601 process. A governmental or quasi-governmental entity must submit the petition for a 1601 Study.

Councilmember Roy asked for information on the analysis done to determine the buffer zones. Leavitt stated a private property owner whose property adjoins Swede Lake requested an analysis of his property as to what habitat value and what buffers would be needed to preserve the habitat in 2005. During the process to develop the proposed IGA, the report was made available to staff. Staff did not retain a consultant to do a new study of the natural area, but used existing information to develop the proposed IGA.

Councilmember Ohlson asked if revenue sharing had been discussed with the Town of Windsor. Frank stated the partnership that is proposed is a revenue sharing arrangement as sales tax, PIF and property tax and other financing mechanisms will be shared to build the interchange. The partner that has the greater amount of commercial property will pay a greater portion of the costs.

Councilmember Ohlson asked for information on buffer zones and what protection will be provided for the riparian habitat in the Windsor area of the Project. Leavitt stated Windsor does have buffer zones but they are not as extensive as what Fort Collins requires. Habitat on both sides of I-25 was identified but they have not yet been mapped or evaluated as to whether they are critical areas of habitat.

Councilmember Roy asked who now owns the interchange and who would own it after the improvements were completed. Jackson stated CDOT owns the interchange now and would retain ownership after the improvements were completed.

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Councilmember Troxell made a motion, seconded by Councilmember Brown, to adopt Resolution 2007-106.

Councilmember Manvel requested a change to the language in Section 1 of the Resolution as he felt the language was too strongly worded.

Councilmember Ohlson stated he did not approve of the agreement in its current state as it was not put in context of the rest of the I-25 Corridor Plan. Developing the land along the interstate just to pay for improvements to the interchanges did not match his view of entryways to Fort Collins. Land use planning, habitat protection, view sheds, open space, community separators and revenue sharing are issues that need to be resolved regionally with agreement reached in all areas before retail is allowed to move in. He wanted an open view along the interstate, not continual retail along the highway. He did not support use of a PIF to fund interchange improvement.

Councilmember Roy stated the interchange improvements should be funded by federal and state dollars. He did not believe allowing or encouraging retail development at the five interstate interchanges that lead into Fort Collins was in line with land use strategies that have been developed through the years. He did not support the resolution.

Councilmember Poppaw stated she did not believe this Plan fit into the goals and visions the City has set. She would not support the Resolution and wanted a discussion about the entire I-25 Corridor.

Councilmember Manvel offered a friendly amendment to the motion, to amend the IGA, page 3, paragraph A and replace the phrase "shortest possible time" with "a reasonable period of time."

Councilmember Troxell, maker of the motion, did not accept the friendly amendment.

Councilmember Manvel made a motion, seconded by Councilmember Ohlson, to amend the IGA, page 3, paragraph A and replace the phrase "shortest possible time" with "a reasonable period of time."

Councilmember Manvel stated he would not support the Resolution unless the wording in the IGA was changed. The change in wording would reflect the idea that Council is not committed to any specific detail in the Plan, but does want to move the process forward. City Manager Atteberry stated the change in wording would allow staff to work on the expedited 1601 process and does not impede the process.

The vote on the motion to amend was as follows: Yea: Manvel, Hutchinson, Brown. Nays: Ohlson, Poppaw, Roy and Troxell.

THE MOTION TO AMEND FAILED.

Councilmember Troxell stated this agreement is a critical next step and there are many points in the future to resolve the issues some Councilmembers have. Acceptance of the Plan would provide a

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better functioning road system that is in dire need of improvement and it would demonstrate that Fort Collins is a regional partner in resolving transportation issues.

Councilmember Brown stated funding interchange improvements will be a tremendous hurdle to overcome as CDOT has been very clear in stating it has no funds to provide for improvements. Federal dollars are also difficult to find. This Plan is a way to improve an intersection that is failing and is a good first step.

Councilmember Ohlson stated the entryways to Fort Collins need careful planning to ensure view sheds are preserved, architectural standards are upheld and to retain an open feel yet generates economic health. He believed postponing this Resolution to a later date would enable Council to review the plans for all entryways into Fort Collins and make comprehensive decisions.

Councilmember Manvel made a motion, seconded by Councilmember Ohlson, to postpone Resolution 2007-106 indefinitely.

Councilmember Ohlson stated he wanted to consider this issue at another time after staff has had more time to do further work and Council has had opportunity to do a comprehensive review of all I-25 gateways into Fort Collins. City Manager Atteberry stated the issue would return to Council as soon as was reasonably possible after the January 22 work session.

Mayor Hutchinson stated approval of the IGA would only state that Fort Collins wanted to continue to cooperate with the Town of Windsor but postponing the item would allow it to be reconsidered at another time with the potential to be passed at that time.

The vote on the motion was as follows: Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw and Roy. Nays: Troxell.

THE MOTION CARRIED.

(**Secretary's note: The Council took a brief recess at this point in the meeting.)

Resolution 2007-108
Expressing Council's Opposition to the Mining of Uranium
in the Vicinity of Nunn, Colorado, Adopted as Amended.

The following is staff's memorandum on this item.

“EXECUTIVE SUMMARY

Members of the City Council asked that a resolution be prepared to express the Council's opposition to uranium mining in Northern Colorado.

BACKGROUND

A Canadian company, PowerTech Uranium Corporation, is considering a uranium mining operation across nearly 6000 acres of land in the vicinity of Nunn, Colorado, about 11 miles northeast of Fort Collins, known as the Centennial Project. PowerTech proposes to extract the uranium in situ, meaning that uranium will be dissolved out of porous sands located deep underground and brought to the surface for processing. In addition, PowerTech has not ruled out extracting some uranium using open-pit mining techniques. PowerTech has indicated that it will start applying for necessary permits beginning in mid-2008.

The Centennial Project would be the first in-situ uranium mining operation in Colorado. In-situ uranium mining is a newer method of mining uranium and environmental impacts and threats to public health are unknown.

In-situ leaching mining technology holds inherent risks, including possible contamination of groundwater and degradation of natural groundwater conditions through the groundwater restoration process utilized after completion of the leaching operations. Because the mining operations, and the potential damage, occur below the surface, we may not know until too late what problems are caused by in-situ uranium mining.

The North Front Range is growing rapidly in population and employment. The Centennial Project would be located near Fort Collins and in an area with a growing population. The North Front Range generally, and the proposed Centennial Project site in particular, are not suitable for uranium mining, because the level of risk to the health and safety of area residents cannot be determined with any degree of certainty. In addition, uranium mining at the proposed Centennial Project site would have a detrimental effect on the image and economic well-being of the City. The project should not be allowed because it cannot be proven it will not have adverse effects on the health, environmental, or economic interests of the people of Fort Collins and Northern Colorado.

In-situ uranium mining in Colorado would be subject to the regulatory requirements listed below. All county, state, and federal agencies that may review the project should be made aware of the City's opposition, and should act to deny all permit applications for the project.

<i>Regulatory requirement</i>	<i>Agency</i>
<i>Notice of Intent to Conduct Prospecting Activities</i>	<i>Colorado Department of Natural Resources, Division of Reclamation and Mining Safety (DRMS)</i>
<i>Reclamation permit for mining activity</i>	<i>(DRMS)</i>
<i>Underground injection control permit</i>	<i>U.S. Environmental Protection Agency</i>
<i>Radioactive Materials License</i>	<i>Colorado Department of Health and Environment, Radiation Management Unit</i>
<i>Use by Special Review Permit</i>	<i>Weld County Planning Commission and Weld County Board of County Commissioners</i>

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The regulatory process takes roughly one to two years. Assuming that PowerTech begins the regulatory process in mid 2008 as expected, then the process may be complete between mid-2009 and mid-2010. It is not possible to provide a more precise time line because the agencies involved determine the permit schedule based on a variety of factors, some of which we currently do not know.

With the exception of the Notice of Intent to Conduct Prospecting Activities, each permit process provides an opportunity for the public to make comments to the regulatory agency prior to its decision whether or not to grant a permit. These public comment opportunities are summarized in the attached figure."

Mayor Hutchinson noted this item was before Council at Council's request. It is not a staff-initiated item. City Manager Atteberry stated Council could direct staff to do more in-depth scientific research and appropriate funds to do the research.

Brian Woodruff, Environmental Planner, stated staff has done limited research on the issue of uranium mining in the vicinity of Nunn, Colorado. The process to receive a permit for in-situ mining includes four different regulatory permits, each of which allow public comment. There are risks to public health from uranium mining, primarily through contamination of drinking water, risks to the environment from the spread of radionucleides and heavy metals and threats to the economic well-being of the City and region.

The following citizens spoke in opposition to the proposed uranium mining in Nunn, Colorado and supported the Resolution before Council:

Elizabeth Hudetz, 1407 Ticonderoga Drive
Jackie Adolph, 155 West Harvard
Previn Hudetz, 1407 Ticonderoga Drive
Loretta Bailey, 3808 Jackson Court, Wellington
Reed Woodford, 416 North Meldrum
Louis Sharpe, 816 West Myrtle Street
Jim Woodward, Wellington resident
Dian Sparling, 324 Jackson Avenue
Cheryl Distaso, 135 South Sunset
Carol Hossan, 504 Edwards
Bette Cantor, 2112 Whitewood Drive
John Brubaker, 3407 Rolling Green Drive
Paul Smith, Fort Collins resident
Daniela Butrick, 2401 Blevins
Howard M. Williams, 52337 Weld County Road, Carr
John Dickson, 1704 West Brookhaven Circle
Tim Johnson, 1337 Stonehenge
Nora Dickson, 1704 West Brookhaven Circle
Gary Wockner, 516 North Grant
Marge Dugan, 4225 Westshore Way

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Victoria Gardner, 3342 Liverpool Street
Karen Miller, Fort Collins resident
Jay Davis, Nunn, Colorado
Chester McQueary, 613 Princeton Road
Mary McCauley, Larimer County resident
Shane Miller, 4325 Mill Creek

The following citizens spoke in opposition to the Resolution before Council:

Carmia Fiechtner, 919 West Mountain Avenue
James Bonner, Vice-President of Exploration, Powertech (USA), Inc.
Mike Beshore, Senior Environmental Coordinator, Powertech (USA), Inc.

Councilmember Troxell asked for a description of Powertech's proposed project, how much acreage was involved and if Powertech owned the land or had options on it. Woodruff stated Powertech is proposing to mine uranium on two separate sections where the northern section would use in-situ leaching and the southern section where uranium deposits are closer to the surface, could use open-pit mining or a modified leaching process. He did not have information as to the land area the mining would cover or ownership of land. The permit process for the mining has not yet begun so many details are not yet available.

Councilmember Troxell asked why this issue was before Council at this time instead of at a later date when more information would be available.

Mayor Hutchinson noted three or more Councilmembers had requested this issue be put on the Agenda. He asked at what points in the permit process would cities in the region would be asked to give input on environmental studies. Woodruff stated once the regulatory process begins, there are four different permit processes that have public comment periods as part of their processes. Cities could make comments during any of those periods.

Councilmember Poppaw stated she had requested this item be placed before Council because it is important for all concerned to speak against this proposal and its potential implications of harming the health, environment and economic health of the region.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2007-108 as revised.

Councilmember Troxell asked if confidence could be placed in the four permit processes to produce a result that is acceptable and why there was no staff recommendation for this item. Woodruff stated staff has not studied the permit processes in depth and could not offer any recommendation. City Manager Atteberry stated it will take resources and staff time to provide more scientific-based information and give a recommendation and Council needs to give staff direction if it wants more information. This Resolution was drafted at Councilmember Poppaw's request and based on information available.

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Councilmember Manvel made an amendment to the earlier motion, seconded by Councilmember Roy, to strike the fifth Whereas clause in the Resolution.

Councilmember Manvel stated materials from Powertech indicate there have been in-situ mining operations in Colorado previously. The fifth Whereas clause incorrectly states this would be the first in-situ mining operation in Colorado.

The vote on the amendment to the motion was as follows: Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: None.

THE AMENDMENT CARRIED.

Councilmember Manvel stated this was an atypical situation as staff has not spent much time gathering data and research to develop a recommendation. He did not want to expend City resources for further research on this issue. He did not want a uranium mine located close to a major population. The benefit from a uranium mine would be short-term, but the cost to the region would be long-term.

Councilmember Troxell stated this was a complex issue and making this decision with little data or information was difficult.

Councilmember Ohlson asked what the next step would be if the Resolution is adopted. City Manager Atteberry stated the Resolution would be sent to the regulatory agencies to notify them of Council's opposition to the mining operation.

The vote on the motion was as follows: Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw and Roy. Nays: none. Abstain: Troxell.

City Attorney Roy noted an abstention vote counts as an affirmative vote.

THE MOTION CARRIED.

Items Relating to the East Skyway Rezoning, Postponed to December 18, 2007

City Manager Atteberry requested postponement of consideration of Item #22, *Items Relating to the East Skyway Rezoning* to the meeting of December 18.

Councilmember Manvel made a motion, seconded by Councilmember Roy, to postpone consideration of Item #22, *Items Relating to the East Skyway Rezoning* to the meeting of December 18.

Brian Schumm, 5807 Bellina Court, stated his concerns about the process of rezoning this property and requested delaying a decision on the rezoning until Council considers the South College Corridor Plan.

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Councilmember Brown made a motion, seconded by Councilmember Troxell to suspend the rules and continue the meeting. Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: None.

THE MOTION CARRIED.

City Attorney Roy stated rezonings are quasi-judicial and are governed by the criteria in the Land Use Code. Any rezoning is to be done according to the criteria in the Code and Council needs to be cautious in reviewing any other information that might distract Council or invite a decision based on other considerations.

The vote on the motion to postpone consideration of Item #22 to December 18, 2007, was as follows: Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: None.

THE MOTION CARRIED.

**Ordinance No. 147, 2007,
Amending Section 2-606 of the City Code and Setting the
Salary of the Municipal Judge, Adopted on First Reading**

The following is staff's memorandum on this item.

“EXECUTIVE SUMMARY

This Ordinance establishes the 2008 salary of the Municipal Judge.

Article VII, Section 1 of the Charter provides that the Municipal Judge is to be appointed for a term of two years. Kathleen M. Lane was first appointed to serve as the City's Municipal Judge effective July 1, 1989. Resolution 2006-127 reappointed Judge Lane for another two-year term ending on December 31, 2008.

BACKGROUND

City Council is committed to compensating employees in a manner which is fair, competitive and understandable. The goal as an employer is to attract and retain quality employees and to recognize and reward quality performance. In order to accomplish this goal the City Council and the Municipal Judge meet once a year to discuss last year's performance and set goals for the coming year.

In 2007, the total compensation paid to the Municipal Judge included the following:

SALARY AND BENEFITS	ANNUAL	NON-MONETARY BENEFITS
<i>Salary</i>	\$ 82,581	<i>Vacation (26 days per year)</i>
<i>Medical Insurance</i>	8,628	<i>Holidays (11 days per year)</i>
<i>Dental Insurance</i>	540	
<i>Life Insurance</i>	289	
<i>Long Term Disability</i>	653	
<i>ICMA (457)</i>	2,477	
<i>ICMA (401)</i>	8,258	
Total Monetary Compensation	\$ 103,426	

The process established for evaluating the performance of the City Manager, City Attorney, and Municipal Judge, adopted by the Council via Resolution 2000-123 on October 17, 2000, amended by the adoption of Resolution 2001-018 on February 6, 2001, and further amended by the adoption of Resolution 2006-124 on December 5, 2006, provides that any change in compensation for the City Manager, City Attorney and Municipal Judge will be adopted by the Council by ordinance in sufficient time for the change in compensation to take effect as of the first full pay period of the ensuing year."

Councilmember Ohlson made a motion, seconded by Councilmember Manvel, to Adopt Ordinance No. 147, 2007 on First Reading, setting the base salary of the Municipal Judge at \$86,958 and the corresponding total compensation package.

Mayor Hutchinson noted the move of Municipal Court went smoothly and Council thanked Judge Lane for doing an excellent job.

Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: None.

THE MOTION CARRIED.

**Ordinance No. 148, 2007,
Amending Section 2-581 of the City Code and Setting
the Salary of the City Attorney, Adopted on First Reading**

The following is staff's memorandum on this item.

"EXECUTIVE SUMMARY

City Council met in Executive Session on November 13 and November 27, 2007 to conduct the performance review of City Attorney Steve Roy. Ordinance No. 148, 2007, establishes the 2008 salary of the City Attorney.

BACKGROUND

City Council is committed to compensating employees in a manner which is fair, competitive and understandable. The goal as an employer is to attract and retain quality employees and to recognize and reward quality performance.

In order to accomplish this goal the City Council and the City Attorney meet once a year to discuss last year's performance and set goals for the coming year.

In 2007, the total compensation paid to the City Attorney included the following:

SALARY AND BENEFITS	ANNUAL	NON-MONETARY BENEFITS
<i>Salary</i>	<i>\$ 144,750</i>	<i>Vacation (35 days per year) Holidays (11 days per year)</i>
<i>Medical Insurance</i>	<i>8,628</i>	
<i>Dental Insurance</i>	<i>540</i>	
<i>Life Insurance</i>	<i>418</i>	
<i>Long Term Disability</i>	<i>1,144</i>	
<i>ICMA (457)</i>	<i>4,343</i>	
<i>ICMA (401)</i>	<i>14,475</i>	
Total Monetary Compensation	\$ 174,297	

The Sixth Addendum to the City Attorney's employment agreement, approved by the Council in December 2006, set the City Attorney's 2007 salary at \$144,750, and provided for an increase (based on satisfactory performance during 2007) to no less than \$152,500 effective as of the first pay period in January 2008.

The process established for evaluating the performance of the City Manager, City Attorney, and Municipal Judge, adopted by the Council via Resolution 2000-123 on October 17, 2000, amended by the adoption of Resolution 2001-018 on February 6, 2001, and further amended by the adoption of Resolution 2006-124 on December 5, 2006, provides that any change in compensation for the City Manager, City Attorney and Municipal Judge will be adopted by the Council by ordinance in sufficient time for the change in compensation to take effect as of the first full pay period of the ensuing year.

Councilmember Poppaw made a motion, seconded by Councilmember Roy to adopt Ordinance No. 148, 2007 on First Reading, setting the base salary of the City Attorney at \$152,500 and the corresponding total compensation package.

Mayor Hutchinson stated the City Attorney works for Council and serves Council with excellence. Council thanked the City Attorney for his hard work and excellent advice.

Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: None.

THE MOTION CARRIED.

**Ordinance No. 149, 2007,
Amending Section 2-596 of the City Code and
Setting the Salary of the City Manager, Adopted on First Reading**

The following is staff's memorandum on this item.

“EXECUTIVE SUMMARY

City Council met in Executive Session on November 13 and November 27, 2007 to conduct the performance appraisal of City Manager Darin Atteberry. Ordinance No. 149, 2007, establishes the salary of the City Manager.

BACKGROUND

City Council is committed to compensating employees in a manner which is fair, competitive and understandable. The goal as an employer is to attract and retain quality employees and to recognize and reward quality performance.

In order to accomplish this goal the City Council and the City Manager meet once a year to discuss last year's performance and set goals for the coming year.

In 2007, the total compensation paid to the City Manager included the following:

<i>SALARY AND BENEFITS</i>	<i>ANNUAL</i>	<i>NON-MONETARY BENEFITS</i>
<i>Salary</i>	<i>\$ 163,404</i>	<i>Vacation (30 days per year) Holidays (11 days per year)</i>
<i>Medical Insurance</i>	<i>8,628</i>	
<i>Dental Insurance</i>	<i>540</i>	
<i>Life Insurance</i>	<i>472</i>	
<i>Long Term Disability</i>	<i>1,291</i>	
<i>ICMA (457)</i>	<i>4,902</i>	
<i>ICMA (401)</i>	<i>16,340</i>	
<i>Car Allowance</i>	<i>9,000</i>	
<i>Total Monetary Compensation</i>	<i>\$ 204,578</i>	

The process established for evaluating the performance of the City Manager, City Attorney, and Municipal Judge, adopted by the Council via Resolution 2000-123 on October 17, 2000, amended by the adoption of Resolution 2001-018 on February 6, 2001, and further amended by the adoption of Resolution 2006-124 on December 5, 2006, provides that any change in compensation for the City Manager, City Attorney and Municipal Judge will be adopted by the Council by ordinance in

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sufficient time for the change in compensation to take effect as of the first full pay period of the ensuing year.”

Mayor Hutchinson stated Council unanimously believes the City Manager’s performance has been outstanding in all respects. Council policy is to establish market pay ranges for all city employees using a market-average actual salary data with the goal of fairness to employees and fairness to tax payers. An independent consultant has provided Council with salary data for city managers in 13 cities nationwide that are similar to Fort Collins and the conclusion is the City Manager’s salary is 20% below the average salary of a city manager in similar cities. Council is considering raising the City Manager’s salary 20% over three years to reach the market average. He noted the City Manager’s salary is paid 40% from the General Fund, 40% is paid by Light and Power, and 20% by Water Utility.

Councilmember Roy made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 149, 2007 on First Reading, setting the base salary of the City Manager at \$176,455 and the corresponding total compensation package.

Council thanked City Manager Attebery for his excellent performance and management of the City through difficult times.

The vote on the motion was as follows: Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: None.

THE MOTION CARRIED.

**Ordinance No. 137, 2007,
Appropriating Unanticipated Revenue in the Natural Areas Fund
and the Capital Projects Fund - Soapstone Prairie Public Improvements
Capital Project to Be Used for the Design and Construction of
Public Improvements at Soapstone Prairie Natural Area, Adopted on Second Reading**

The following is staff’s memorandum on this item.

“EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on November 20, 2007, appropriates revenue in the Natural Areas Fund and the Capital Projects Fund to be used for construction of the access road at Soapstone Prairie Natural Area which was started in October and will be completed by spring 2008. Funds being appropriated for this project will come from designated Natural Areas Program sales tax revenues. The funds budgeted in 2007, 2008 and 2009 are revenues from the Open Space Yes (City) 1/4 cent sales tax and Help Preserve Open Space (County) 1/4 cent sales tax. The unappropriated funds available in 2007 are revenues from the original 1/4 cent Natural Areas sales tax (collected from 1993-1997) and from the Building Community Choices 1/4 cent sales tax revenues designated for the Natural Areas Program (collected from 1998 to 2005).

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<i>Funds Budgeted in 2007</i>	\$2,166,000
<i>Unappropriated Funds Available in 2007</i>	\$ 800,000
<i>Funds Budgeted in 2008</i>	\$2,000,000
<i>Funds Budgeted in 2009</i>	<u>\$ 134,000</u>
<i>Total Appropriation</i>	<i>\$5,100,000</i>

Councilmember Troxell asked the source of the \$800,000 in unappropriated funds available in 2007. Chuck Seest, Finance Director, stated the \$800,000 represent savings the Natural Areas Fund had set aside for certain capital projects that were not longer needed and were now available for this specific project.

Councilmember Ohlson made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 137, 2007 on Second Reading. Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: None.

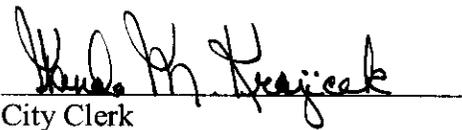
THE MOTION CARRIED.

Adjournment

The meeting adjourned at 12:10 a.m.


Mayor

ATTEST:


City Clerk