

November 12, 2008

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Special Meeting - 6:00 p.m.

A special meeting of the Council of the City of Fort Collins was held on Wednesday, November 12, 2008, 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: Hutchinson, Manvel, Ohlson, Poppaw, Roy, and Troxell.

(Councilmember Brown was excused from Council meetings from October 28, 2008 through April 7, 2009, per Resolution 2008-104.)

Staff Members Present: Atteberry, Krajicek, Roy.

Citizen Participation

Bruce Lockhart, 2500 East Harmony Road, stated the proposed Climate Plan has goals that unrealistic and not achievable. He did not support adoption of the Plan.

Katy Friedenfall, Director of Community Affairs, ASCSU, stated Colorado State University students would like to have the 3-unrelated ordinance reviewed before May, 2009 and requested that Council consider amending the ordinance so it is more friendly to students.

Citizen Participation Follow-up

Councilmember Manvel noted the review of the 3-unrelated ordinance is scheduled to include two academic years, which would include data gathered through May 2009.

Councilmember Troxell stated the City is currently collecting data on the 3-unrelated ordinance and he requested the review be done before May 2009.

City Manager Atteberry stated Neighborhood Services will create a work plan that will show what the review of the 3-unrelated ordinance will entail. The input from students will be included in any survey done as part of the review.

Resolution 2008-106

**Authorizing a Grant Agreement with the U.S. Department of Energy
and Project Agreements with Colorado State University, Larimer County,
the Governor's Energy Office, and Other Entities, to Receive Grant Funds
for Development and Demonstration of a Coordinated and
Integrated System of Mixed Distributed Electric Resources, Adopted**

The following is staff's memorandum on this item.

“FINANCIAL IMPACT

The total budget for the project is \$11.2 million. This Resolution authorizes the City Manager to execute the agreement with the Department of Energy and enter into subcontract agreements with the project partners that outline, per the grant submittal, how matching funds are contributed and DOE funds are distributed among the partners (a more detailed summary of the matching funds is included as Exhibit A to the Resolution).

Total project budget:	\$11,188,349
Total matching funds:	\$ 4,864,969
Funds requested from DOE:	\$ 6,323,380

EXECUTIVE SUMMARY

This project will modernize and transform a portion of the electrical distribution system in the City by developing and demonstrating a coordinated and integrated system of mixed distributed electric resources, including renewable generation (solar), rotary- and inverter-based generation, and demand response methods, that will reduce peak loads on multiple distribution feeders in the downtown area by up to 30% and deliver improved efficiency and reliability.

BACKGROUND

The applicant for the overall project is the City of Fort Collins. The project will address the research, development, and demonstration of a coordinated and integrated system of 3.5 MW of mixed distributed resources in Fort Collins to achieve a 20-30% peak load reduction on multiple distribution feeders. Fort Collins is well positioned to execute this contract due to the unique combination of world-class research facilities at Colorado State University, participation of global industry leaders and local entrepreneurs able to commercialize the technology, the City of Fort Collins focus on and investments in clean energy as a key pillar of future growth, the presence of a city-owned utility and extensive community support.

The methods used in this project involve the monitoring, aggregation, distribution system integration, dispatch, and verification of distributed generation, renewable energy, and demand response resources (Distributed Energy Resources or DER) for reducing peak loading from 20 to 30% on 2 feeders within Fort Collins Utilities' electric distribution network. Over 3.5 megawatts (MW) of DER from approximately 5 participant locations will be aggregated with a mix of distributed generation sources, including renewable generation, rotary- and inverter-based generation. The demand response capabilities will be aggregated from a mix of heating, cooling, and ventilation loads; process loads; and thermal storage. Intentional Islanding will be demonstrated at one or more locations on one of the feeders.

The benefits of this smart-grid technology include enhancing the security and reliability of the energy infrastructure, facilitating recovery from disruptions; saving costs; new distribution system configurations; management-friendly operations; and environmental rewards from using renewable energy with demand response solutions. The Project will be used to develop and demonstrate key

November 12, 2008

technologies expected to have strong commercial application, including three interacting technology platforms to manage the DER mix and demonstrate peak load reduction, advanced mixed-fuel technology, low-cost grid parallel switchgear, and simulation and robust controller design of DER based solutions. The major impact of the project will be modernizing the local electric grid by using the dynamic real-time state of the grid with the explicit benefit of providing a more efficient and updated grid capable of incorporating more renewable sources.

The City of Fort Collins and the City-owned Fort Collins Utility will provide leadership for this project, with a strong focus on growing and retaining clean energy companies, support for a wide variety of clean energy initiatives, including the establishment of a Zero Energy District within the city ("FortZED"), and increasing the penetration of local renewable energy sources. Other project participants include Larimer County, CSU, InteGrid Lab, the Community Foundation of Northern Colorado; and the Governor's Energy Office. Private sector participation spans local companies and worldwide technology leaders. Manufacturers include; Advanced Energy (innovative power and control technologies); Woodward (largest provider of energy control and optimization solutions); Spirae, (renewable energy and distributed power controls and solutions); and Eaton, (global leader in electrical systems and components). These companies are critical to commercialize the technologies developed under this grant. Consultants and end users include The Brendle Group (engineering consulting in energy efficiency) and New Belgium Brewing Company (a leading craft brewery).

Mike Freeman, Fort Collins Chief Financial Officer, is project director and principal investigators include Patty Bigner, Fort Collins Utilities; Dr. Peter Young, Colorado State Univ.; Dr. Sunil Cherian, Spirae; Geoff Hemsley, Woodward; Babette Cornell, Larimer County; Robert Yanniello, Eaton; Eric Seymour, Advanced Energy; Judy Dorsey, The Brendle Group; and Jim Spencer, New Belgium.

Councilmember Troxell withdrew from discussion of this item due to a conflict of interest.

Mike Freeman, Chief Financial Officer, stated the resolution authorizes the City Manager to sign the contract with the Department of Energy and allows negotiations with the partners in this Project.

Bruce Lockhart, 2500 East Harmony, asked what would be the cost-effectiveness of the Project compared to the cost of \$11 million.

Councilmember Roy asked how the Project will affect the Climate Action Plan and what are some of the benefits of the Project. Freeman stated the Project must track carbon dioxide reduction, which will affect the Climate Action Plan. Different technologies will be used for this Project to help electric utilities determine how to reduce peak load. The goal is to reduce peak load in the summer by 20-30% by using new technologies and energy efficiencies. At this time, this is the largest stated zero-energy district in the world and the goal is to generate 45 MW of total power from alternative sources. City Manager Atteberry stated this Project aligns with Council's priorities in sustainability, economic development and seeking alternative funding sources.

November 12, 2008

Councilmember Ohlson asked if this Project will create new jobs. Freeman stated the economic impact of the Project has not been projected and was not a parameter requested in the grant from the Department of Energy. New technologies will likely be patented as a result of this effort and that will fuel growth within the participating companies which, in turn, will create more jobs.

Councilmember Roy made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2008-106.

Councilmember Roy stated Fort Collins is a leader in developing new technologies for energy production and this Project will move the City forward in the new energy economy.

Councilmember Ohlson stated this Project will benefit both the public and private sectors.

Mayor Hutchinson stated peak load reduction is an important goal and the economic benefit will be substantial.

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

THE MOTION CARRIED.

Resolution 2008-107
Declaring the Intent of the City of Fort Collins, Colorado to Issue
Economic Development Revenue Bonds to Provide Financing for a
Manufacturing Facility for Ambiance Incorporated, D/B/A Fort Collins
Brewery; Prescribing Certain Terms and Conditions of Such Bonds; and Containing
Other Provisions Relating to the Proposed Issuance of Such Bonds, Adopted

The following is staff's memorandum on this item.

“EXECUTIVE SUMMARY

*This Resolution declares the City's intent to authorize the issuance of an amount not to exceed \$5,000,000 of economic development revenue bonds for the Fort Collins Brewery project (a small manufacturing company) from the annual statewide allocation the City receives. This is not the receipt of dollars, but the intent to exercise the right to issue tax exempt bonds for purposes prescribed in the Internal Revenue Code by the federal government. Economic development revenue bonds are one type of bond that can be issued for private activity purposes. **This action does not authorize a bond issue.***

The urgency of this inducement resolution relates to expenses related to a land purchase on September 29, 2008. Fort Collins Brewery desires the ability to reimburse itself out of the tax exempt bond proceeds for expenditures that accrue before the issuance of the bonds. The Internal Revenue Code will permit such reimbursement provided that the public issuer (City of Fort Collins) adopts an inducement resolution and the expenditure accrued no earlier than 60 days prior to the

November 12, 2008

date such resolution was adopted. In order to meet this requirement, the resolution needs approval prior to November 28, 2008.

*The request for Council to authorize the actual bond issue will occur later this year. If the actual bond issue does move forward, it will not occur until 2009, with the source of the funds being the City's allocation for 2009. In fiscal year 2009, the City of Fort Collins is estimated to receive a private activity bond allocation of \$5,600,000. **If these bonds are authorized, they will not be an obligation of the City of Fort Collins.***

Fort Collins Brewery relocation and expansion on a site within the city limits will result in additional property taxes for the City as well as use tax on construction materials and equipment purchases.

BACKGROUND

The Project

Under the federal and state laws governing the use of tax-exempt private activity bonds, the City may issue the bonds, but may not use its own revenues to support the project. The project will generate the revenue required to repay the bonds. In the event the project does not generate sufficient revenue, the bondholders may request payment from the letter of credit provider or the insurer of the transaction. The total amount of private activity bonds to be issued will not exceed \$5,000,000. The project proponent, Fort Collins Brewery, may use its resources to pay for the bonds or issue additional taxable bonds to finance the project. Out West Properties, LLC, a Colorado Limited Liability Corporation, is an affiliated holding company that purchased the property and will construct the new facility

The proceeds of the bonds, together with the proceeds of certain taxable bonds to be issued by the City concurrently with the Bonds, will be loaned to Out West Properties, LLC (the "Borrower") to finance the acquisition of a manufacturing facility for the production of beer (the "Project"). The Project consists of a purchase of a parcel of land located in the northwest corner of Lincoln Street and Lemay Avenue. Construction of an approximately 30,000 square foot building is to be located there, as well as the purchase of certain equipment. The project will be owned by the Borrower and operated and managed by Fort Collins Brewery, an entity under common ownership with the Borrower.

In Fall 2008, Fort Collins Brewery approached the City with the concept for this project. An inquiry was made by Fort Collins Brewery as to the availability of private activity bonds for small manufacturing. Fort Collins Brewery has been operated by the current ownership group since 2003. Today, it distributes its product along the Front Range and in various states in the Midwest and as far east as Pennsylvania. The facility that Out West Properties, LLC will be constructing with the bond proceeds is being designed to achieve minimal impact on the environment.

The City's Prior Usage of Private Activity Bonds

The most recent direct usage of the City's annual allocation of private activity bonds occurred earlier this year for Custom Blending, Inc., a multi-functional manufacturer of spices, spice blends and liquid flavorings for wholesale operations and retail grocery stores. Their project was for a new facility in the City's Harmony Technology Park.

City staff is consulting Fort Collins Housing Authority and other advocates for affordable housing to determine whether they can utilize the private activity bonds. Staff will update Council later this month or when the request for authorization of the bonds comes before the Council later in the year.

In the event an affordable housing project does come forward even after the bonds for Fort Collins Brewery have been authorized, the City will recommend a project to the Colorado Housing and Financing Authority (CHFA). CHFA has sent notices out this fall that funds are available at the statewide level for housing projects.

The City's Role in Issuance of Private Activity Bonds

Under the federal tax laws and the Colorado Revised Statutes, the City's role in this transaction, should it move forward, is to be the Issuer of the Bonds.

THE BONDS SHALL BE SPECIAL, LIMITED OBLIGATIONS OF THE CITY. THE CITY WILL NOT BE OBLIGATED TO PAY THE BONDS OR THE INTEREST THEREON, EXCEPT FROM THE ASSETS OR REVENUES PLEDGED THEREFOR. IN NO EVENT SHALL THE STATE, THE CITY (OTHER THAN THE FROM THE BORROWER'S ASSETS PLEDGED THEREFORE) OR ANY POLITICAL SUBDIVISION THEREOF BE LIABLE FOR THE BONDS, AND THE BONDS SHALL NOT CONSTITUTE A DEBT OF THE STATE, THE CITY OR ANY SUCH POLITICAL SUBDIVISION THEREOF.

In the event a bond is authorized, the proceeds of the Bonds will be loaned to Out West Properties, LLC. according to the terms of a future loan agreement to provide the financing of the project.

SUMMARY OF ACTION: Inducement Resolution

The primary reason for adopting an inducement resolution is also found in federal tax law. If a municipal borrower or private activity bond beneficiary (e.g., Out West Properties, LLC) desires the ability to reimburse itself out of the tax exempt bond proceeds for expenditures that accrue before the issuance of the bonds, the Internal Revenue Code will permit such reimbursement provided that the public issuer adopts an inducement resolution and the expenditure accrued no earlier than 60 days prior to the date such resolution was adopted. Accordingly, inducement resolutions are often adopted very early in the bond process to maximize the project costs to which the tax exempt proceeds can be applied. However, as is made clear in the resolution, adoption does not create an obligation on the part of the City to authorize the bonds."

November 12, 2008

Chuck Seest, Finance Director, stated Fort Collins Brewery has expansion plans and has already purchased land for the expansion. The Brewery has asked the City to consider issuing private activity bonds for small manufacturing. Staff has determined the company is a credit-worthy applicant. This inducement resolution is needed to allow the Brewery to capture the real estate expense as part of the bond proceeds and meet IRS requirements. The issuance of bonds will come before Council in December.

Mayor Hutchinson stated the City can facilitate economic development by issuing private activity bonds and asked if there was a maximum amount of this type of bonds that can be issued in one year. Seest stated the State receives a certain amount of funding for private activity bonds from a federal allocation. The State allots a certain amount of those funds to municipalities, based on population. The City received \$5.6 million last year and used most of those funds for the Custom Blending bond issue. If another project is not identified to use the funds, the funding is relinquished to the State and returns to the statewide pool.

Councilmember Troxell asked about the selection process for businesses that qualify for private activity bonds. Freeman stated the City has typically used its allocation of private activity bonds for affordable housing projects and the Housing Authority has stated it does not need the City's allocation of funds in 2009. The projects emerge at different times of the year and, once it is determined they meet the criteria and qualify as manufacturing and fit within the targeted industry groups and need help financially to enable the project to move forward. No prioritization scheme is used at this time.

Councilmember Roy made a motion, seconded by Councilmember Troxell, to adopt Resolution 2008-107. Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

**Items Pertaining to the Annexation and Zoning of the Eagle View
Natural Area, Adopted on First Reading**

The following is staff's memorandum on this item.

“EXECUTIVE SUMMARY

- A. *First Reading of Ordinance No. 138, 2008, Annexing Property Known as the Eagle View Natural Area First Annexation to the City of Fort Collins, Colorado.*
- B. *First Reading of Ordinance No. 139, 2008 Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Eagle View Natural Area First Annexation to the City of Fort Collins, Colorado.*
- C. *First Reading of Ordinance No. 140, 2008, Annexing Property Known as the Eagle View Natural Area Second Annexation to the City of Fort Collins, Colorado.*

- D. *First Reading of Ordinance No. 141, 2008, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Eagle View Natural Area Second Annexation to the City of Fort Collins, Colorado.*

The above items will accomplish the annexation and zoning of approximately 86 acres of land solely owned by the City known as the Eagle View Natural Area and place the area into the POL – Public Open Lands Zone District. The annexations are in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan, the Larimer County and City of Fort Collins Intergovernmental Agreement, the City of Fort Collins Land Use Code, and the Fossil Creek Reservoir Area Plan.

BACKGROUND

Applicant and Property Owner: City of Fort Collins

The City of Fort Collins acquired the property known as the Eagle View Natural Area, containing a total of approximately 86 acres, in October 2002. City staff is recommending that the City Council annex the property into the City limits. Due to the size of the property and the limited amount of contiguity to the existing City limits, the property is being annexed via two annexations, the Eagle View Natural Area First Annexation (containing 66.9 acres) and the Eagle View Natural Area Second Annexation (containing 19.1 acres). The first phase consists of 66.9 acres and the second consists of 19.1 acres. The Eagle View Natural Area is located south of Kechter Road, one-quarter mile west of I-25, and north of the Fossil Creek Reservoir. As indicated, the property is preserved as a City-owned natural area and, thus, the proposed zoning for the annexations is the POL – Public Open Lands District, consistent with the property's designation on the City Structure Plan. The existing land uses and zoning of surrounding properties are as follows:

N: County - FA-1 Farming, undeveloped

E: County - C, Commercial, boat sales; and FA-1 Farming, undeveloped

S: Fossil Creek Reservoir

W: City - LMN, Low Density Mixed Use Neighborhood, residential development; and County -FA-1 Farming, undeveloped

Compliance with Existing Policies and State Law

The natural area property is located totally within the Fort Collins Growth Management Area (GMA). According to policies and agreements between the City and Larimer County contained in the Intergovernmental Agreement for the Fort Collins Growth Management Area, the City will agree to consider annexation of property in the GMA when the property is eligible for annexation according to State law. The Eagle View Natural Area First Annexation parcel gains its required 1/6 contiguity to existing City limits from a common boundary with the McClelland's Creek PD & PLD Second Filing Annexation (September 2007) to the west of the parcel. The Eagle View Natural Area Second Annexation parcel gains its required 1/6 contiguity to existing City limits from a common boundary with the Eagle View Natural Area First Annexation to the north of the parcel. The two parcels are being annexed concurrently which is permitted by the State of Colorado Revised

Statutes as they relate to annexations. Because the parcels are solely owned by the City, they may be annexed without notice and hearing.

Proposed Zoning

The proposed zoning for the Eagle View Natural Area is the POL – Public Open Lands, which is consistent with the City Structure Plan and with recommendations from the adopted Fossil Creek Reservoir Area Plan, an element of the City's Comprehensive Plan. The POL District is for large publicly owned parks and open lands which have community-wide emphasis or other characteristics which warrant inclusion under this separate designation rather than inclusion in an adjoining neighborhood or other zoning district designations.

Findings

In evaluating the proposal for the annexation and zoning of the Eagle View Natural Area, staff makes the following findings of fact:

- 1. The annexation of the natural area is consistent with the policies and agreements between Larimer County and the City of Fort Collins contained in the Intergovernmental Agreement.*
- 2. The natural area meets the eligibility requirements included in State law to qualify for a voluntary annexation to the City of Fort Collins of land solely owned by the City.*
- 3. The requested Zone District, POL – Public Open Lands, is in conformance with the City's Comprehensive Plan and City Structure Plan.*

Planning and Zoning Board Recommendation

The Planning and Zoning Board reviewed the requested annexation and zoning of the Eagle View Natural Area at its regular monthly meeting of October 16, 2008. Staff informed the Board that three adjacent property owners had called to express opposition to the annexation, but that none of the owners indicated they were going to attend the meeting. The property owners indicated to staff they would like the City's open space area to remain in the County. The Board then voted 6-0 (1 member absent) to recommend to the City Council approval of the Eagle View Natural Area annexations and requested POL, Public Open Lands, zoning."

Ken Waido, Chief Planner, stated the annexation is 86 acres in size and entirely owned by the City as a natural area. The annexation is proposed in two parts to meet contiguity requirements in State law. County road rights-of-way have not been included in this annexation, so Kechter Road, Strauss Cabin Road and the county road between the two parcels are not part of the annexation.

Shawna Swift-Ferrara, owner of property next to Eagle View, stated she represented other property owners around Eagle View. The property owners did not receive a notice of the annexation and did not support the annexation of the property into the City. She expressed concerns that the annexation

November 12, 2008

will create an "island" of City property surrounded by property located in the County and asked how the annexation will affect nearby homes, located in the County.

Councilmember Manvel asked what affect the annexation will have on neighboring homes. Waido stated the annexation should not affect neighboring properties. A letter was sent to neighboring property owners notifying them of the annexation. Under an intergovernmental agreement with Larimer County, when any contiguous property to the City begins development, the County will require that property to annex into the City prior to development so it can be processed according to the City's zoning and development regulations. Existing property owners, not developing their property, should not be affected by the annexation and will remain in the county.

City Manager Atteberry noted the City owns several natural areas that should have been annexed into the City some time ago and the intent is to annex those properties into the City as soon as possible.

Councilmember Roy made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 138, 2008 on First Reading. The vote on the motion was as follows: Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Roy, to adopt Ordinance No. 139, 2008 on First Reading. The vote on the motion was as follows: Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Roy made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 140, 2008 on First Reading. The vote on the motion was as follows: Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 141, 2008 on First Reading. The vote on the motion was as follows: Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Items Relating to the City's Ownership, Administrative Control, and Maintenance of Certain Portions of Harmony Road, Adopted on First Reading

The following is staff's memorandum on this item.

“FINANCIAL IMPACT

Any additional costs of operating and maintaining Harmony Road will be covered in existing Streets and Traffic Operations budgets.

EXECUTIVE SUMMARY

- A. Resolution 2008-108 Authorizing the Mayor to Enter into a Modification and Ratification Intergovernmental Agreement with the Colorado Department of Transportation.*
- B. First Reading of Ordinance No. 142, 2008, Amending Ordinance No. 067, 2005, to Clarify the Portion of Harmony Road that is Owned, Controlled and Maintained by the City.*

In 2005, the City and the Colorado Department of Transportation (CDOT) executed a series of documents, including an intergovernmental agreement (the “IGA”), that transferred ownership, administrative control, and maintenance of Harmony Road to Fort Collins. The City and CDOT staff are recommending an amendment to the IGA to clarify the jurisdictional limits of the two entities. In addition, the City has agreed with CDOT to assume operation and maintenance responsibility for the traffic signal at the intersection of Harmony Road and the Harmony Transit Center. This is easier and more efficient for Fort Collins than for CDOT, and can be assumed under existing budgets.

BACKGROUND

The City and CDOT entered into an intergovernmental agreement on July 15, 2005, regarding the transfer of ownership, administrative control, and maintenance of State Highway 68/Harmony Road from CDOT to the City. Fort Collins agreed to assume ownership, control, and maintenance of East Harmony Road and in return, CDOT agreed to pay Fort Collins the sum of \$13,700,000 in accordance with the 2005 Agreement. This amount represented the estimated O&M costs for 20 years (2005 dollars). The text of the agreement, as well as an earlier resolution of the State Transportation Commission, made reference to mile marker 4.468 as the point at which the City's ownership responsibilities of Harmony Road would end and CDOT's would begin. The original intent of the agreement was for Fort Collins' jurisdiction to extend to a point east of the Harmony Transit Center. However, mile marker 4.468 actually extends to the eastern edge of the Harmony/I-25 interchange.

The City and CDOT have worked together to develop a mutually agreed-upon terminus near the west access ramp of I-25. In addition, CDOT has requested that the City assume responsibility for the operation and maintenance of the traffic signal at the intersection of Harmony Road and the Harmony Transit Center. This poses no problem for the City's Traffic Operations group; it is actually easier and more efficient to incorporate the signal into the Fort Collins system. Costs associated with operation and maintenance of Harmony Road and the traffic signal will be absorbed into existing Streets and Traffic Operations budgets.

November 12, 2008

The proposed Resolution would authorize the execution of a new agreement with CDOT to reflect the change in maintenance responsibilities and clarify the point at which the City's jurisdiction ends and CDOT's begins. The Ordinance would amend Ordinance No. 067, 2005, to reflect these same changes."

Mark Jackson, Transportation Group Director, stated the City and the Colorado Department of Transportation entered into an intergovernmental agreement in 2005 to transfer ownership of Harmony Road, west of US 287 to I-25. This fall, CDOT notified the City that an error in the agreement incorrectly identified the mile marker for the eastern boundary of the agreement. The proposed modification to the IGA identifies a point on the west I-25 interchange ramps as the eastern boundary. The City will also assume ownership, operation and maintenance of the traffic signal located at the Transit Center on Harmony Road, which provides greater efficiency for signal use.

Councilmember Roy made a motion, seconded by Councilmember Manvel, to adopt Resolution 2008-108. The vote on the motion was as follows: Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Ohlson, to adopt Ordinance No. 142, 2008 on First Reading. The vote on the motion was as follows: Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Resolution 2008-100

Adopting the 2008 Update to the Three Mile Plan for the City of Fort Collins, Adopted

The following is staff's memorandum on this item.

"EXECUTIVE SUMMARY

The Three-Mile Plan is a policy document that is required to ensure that the City complies with the regulations of the Colorado Revised Statutes. This is the 2008 update to the Three-Mile Plan for the City.

BACKGROUND

The current Three-Mile Plan has been in use since it was last amended by Council on November 21, 2007. According to law, the plan should be updated and revised annually. This update is presented for Council review.

The Three-Mile Plan describes each of the items listed in Section 31-12-105 of the Colorado Revised Statutes, dealing with annexation. The four categories specified in the statute are as follows:

Transportation-related items:

- *Streets*
- *Subways*
- *Bridges*
- *Parkways*
- *Aviation Fields*
- *Other Public Ways*
- *Terminals for Transportation*

Parks, Natural Areas and Open Lands-related items:

- *Waterways*
- *Waterfronts*
- *Playgrounds*
- *Squares*
- *Parks*
- *Grounds*
- *Open Spaces*

Utilities and related items:

- *Public Utilities*
- *Terminals for Water, Light, Sanitation, and Power Provided by the Municipality*

Proposed Land Uses:

- *Inside Growth Management Area (GMA)*
- *Outside Growth Management Area (GMA)*

The Three-Mile Plan lists the plans, policies, maps, and other documents adopted by the City Council that generally describe the proposed location, character and extent of the specific topographic features, infrastructure, and facilities listed above. In addition, there are some plans and policies that have been adopted not by the City, but by Larimer County, CSU or adjoining municipalities, as these are also located within the boundaries of the Three-Mile Plan for the City of Fort Collins, Colorado.”

Steve Olt, Interim Current Planning Director, stated in order to annex property, Colorado law requires any municipality to have a plan in place for the area within three miles in any direction from any point of its municipal boundary. The plan should be updated and revised annually by a municipality. The purpose of the plan, prior to the completion of any annexation within the three mile area, is to describe the proposed location character and extent of transportation network, waterways, parks and open space, aviation fields, public utilities to be provided and proposed land uses for the area.

November 12, 2008

City Attorney Roy noted a letter had been received from the Mayor of the Town of Timnath that expressed Timnath's objection to the adoption of the Three-Mile Plan. The letter stated Timnath's concerns that the Plan could set the stage for the City of Fort Collins to attempt to annex east of I-25, within the Town of Timnath's growth management area.

City Attorney Roy stated the City would be remiss if it failed to update its Plan, as required by the State's annexation law. This is routinely done each year because the annexation law prohibits the City from annexing anywhere outside of its limits unless it has in place an annually updated Plan, showing, within a 3-mile radius, the character, location and extent of certain kinds of facilities. The intent of adopting this Plan is not to set the stage for any particular annexation anywhere, but it is a statutory requirement that the City must comply with in order to do any annexations at all.

Mayor Hutchinson asked if the Council was required to update the Plan before November 21, 2008 as that is one year from the previous update. City Attorney Roy answered in the affirmative, if the City wishes to pursue any annexations within the three-mile area.

Councilmember Ohlson asked what was changed in the Plan from last year. City Attorney Roy stated the only change to the text was a paragraph added to the introduction to clarify that the City will not annex all land within three miles outside of its limits because some of those areas are in other municipalities and to clarify that not all the plans referenced in the Three-Mile Plan apply to all areas within the three-mile limit.

Councilmember Troxell asked for an explanation of the waterways map included in the Plan. Olt explained the southwest corner has City limits outside the growth management area because those areas are City-owned natural areas that have been annexed outside the growth management area.

Councilmember Troxell asked if Christman Field was still an operational airport, as listed on the Airport Map. City Manager Atteberry stated Colorado State University owns the airfield but it is not currently in use.

Councilmember Poppaw made a motion, seconded by Councilmember Roy, to adopt Resolution 2008-100. The vote on the motion was as follows: Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Resolution 2008-109
Accepting an Amended Petition, Finding Substantial Compliance, and
Initiating Annexation Proceedings for the Portions of the Gateway Annexation
Not Claimed by the Town of Timnath, Adopted

The following is staff's memorandum on this item.

“EXECUTIVE SUMMARY

The proposed Resolution makes findings that the voluntary petition for annexation for the Gateway Annexation, containing a total of approximately 256.3 acres, substantially complies with the Municipal Annexation Act, accepts the petition, and determines that a hearing should be established regarding the annexation of the portions of the Gateway Annexation not claimed by the Town of Timnath, and directs that notices be given of the hearing. The hearing will be held at the time of second reading of the annexation and zoning ordinances scheduled for December 16, 2008. Not less than thirty days prior notice is required by State law. The annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan (City Plan), the Larimer County and City of Fort Collins Intergovernmental Agreements, the City of Fort Collins Land Use Code, and the Harmony Corridor Plan.

BACKGROUND

Applicant and Property Owner: Fort Collins Capital Leasing Corporation

In 1995, the City acquired the property known as the Arapaho Bend Natural Area (the “Natural Area”) containing a total of approximately 277.5 acres, and annexed the property into the City limits as part of the Arapaho Bend First and Second Annexations in 1999. On October 14, 2008, the City transferred ownership of approximately 195.3 acres of the Natural Area to the Fort Collins Capital Leasing Corporation (“FCCLC”), as permitted under Section 23-111 of the City Code. The Council then received from FCCLC an application to disconnect from the City the portions of the Natural Area owned by the FCCLC, as permitted under a newly established section of the City’s Land Use Code (Section 2.12.6). Council then adopted Emergency Ordinance No. 130, 2008, which authorized the disconnection of those portions of the Natural Area, as well as portions of Harmony Road, Strauss Cabin Road, and Kechter Road.

Later that same day, a petition was filed by FCCLC to re-annex the Natural Area, together with Harmony Road; Strauss Cabin Road between Harmony and Kechter Roads; Kechter Road between Strauss Cabin Road and Interstate-25; and Interstate-25 from Kechter Road to Harmony Road. On October 29, 2008, FCCLC filed an Amended Petition with the City Clerk making certain changes to the property to be annexed. The total size of the annexation, as now proposed, is approximately 256.3 acres. Portions of I-25 are still contained in the area, including the highway right-of way from about three-quarters (3/4) of a mile north of Harmony Road to about one (1) mile south of Harmony Road. However, Kechter and Strauss Cabin Roads are no longer included in the annexation.

There is a portion of the Gateway Annexation (Harmony Road from Strauss Cabin Road to the east side of I-25) which overlaps a proposed annexation to the Town of Timnath known as the Riverwalk Annexation Number 1. The Colorado Annexation Act requires that, upon application of the City, the District Court must hold an election of the landowners in the area claimed by both the City and Timnath in order to determine which municipality can annex that area. The Act also authorizes the City to proceed, by the adoption of this resolution, with the annexation of that portion of its annexation that is not also claimed by Timnath. The resolution must contain the legal description

November 12, 2008

of that portion of the annexation, which areas are shown on Exhibit "B" attached to the resolution. Due to the size of the property and the limited amount of contiguity to the existing city limits, the property is being annexed via three annexations.

The existing land uses and zoning of surrounding properties are as follows:

- N: County - FA-1 Farming, undeveloped; and Strauss Cabin Park*
- E: Town of Timnath RC, Regional Commercial, Zoning, Wal Mart Supercenter (under construction); and City-owned open space east of I-25*
- S: County - FA-1 Farming, undeveloped; and County C Commercial for small parcels both north (owned by the State of Colorado) and south of Harmony Road (convenience store/gas station and a landscaping business)*
- W: County -FA-1 Farming, including about 160 acres of land owned by Larimer County; the Meadow Heights Subdivision (23 lots); and City POL, Public Open Lands, District (Arapaho Bend Natural Area)*

The Gateway First Annexation parcel gains its required 1/6 contiguity to existing City limits from common boundaries with the Arapaho Bend First and Second Annexations (January 1999). The Gateway Second Annexation parcel gains its required 1/6 contiguity to existing City limits from a common boundary with the Arapaho Bend Second Annexation to the west of the parcel. The Gateway Third Annexation parcel gains its required 1/6 contiguity to existing City limits from a common boundary with the Gateway Second Annexation to the north of the parcel. The last two parcels are being annexed in a series which is permitted by the Colorado Annexation Act.

Planning and Zoning Board Recommendation:

The Planning and Zoning Board will conduct a public hearing on the annexation and zoning requests at their regular monthly meeting on November 20, 2008, and will make its recommendations at that time. The Board's recommendations will be forwarded to the City Council in time for public hearing and second readings of the annexation and zoning ordinances which are scheduled for December 16, 2008."

Ken Waido, Chief Planner, stated this annexation brings in property that is not currently being considered for annexation by the Town of Timnath. The Gateway annexation is 256 acres and includes portions of the Arapaho Bend Natural Area and portions of I-25. The annexation is divided into three separate annexations to provide contiguity.

City Attorney Roy stated the resolution has three exhibits attached, containing legal descriptions. Exhibits A and B have legal descriptions that essentially describe the same property. Exhibit A was attached to the petition filed by the Fort Collins Capital Leasing Corporation and describes a certain part of the property on the Interstate as going to the east right-of-way line, then in a southerly direction. Exhibit B is a revised description that describes the metes and bounds of the east right-of-way line. He gave the City Clerk an affidavit from the City Surveyor that described the differences between Exhibits A and B.

November 12, 2008

Mayor Hutchinson asked if the difference between the Exhibits was that one gave a more accurate description of the area. City Attorney Roy stated the Exhibits describe the total area that the City is seeking to annex through the Gateway annexation. By law, since a portion overlaps Timnath's Riverwalk annexation, the City cannot proceed with the annexation of the overlap portion, the area claimed by both. Exhibit C of the Gateway annexation describes everything but the overlap portion and is the area that is the subject of the annexation. The annexation of the disputed portion will not be resolved until after an annexation election has been held by the court. The City has applied to the court for the holding of that election within the time period required by annexation law.

Councilmember Roy made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2008-109. The vote on the motion was as follows: Yeas: Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

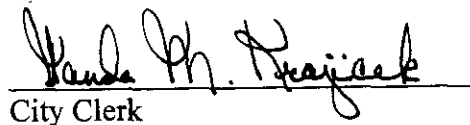
Adjournment

The meeting adjourned at 7:15 p.m.



Mayor

ATTEST:



City Clerk