

October 23, 2012

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting - 6:00 p.m.

An adjourned meeting of the Council of the City of Fort Collins was held on Tuesday, October 23, 2012, 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: Manvel, Ohlson, Poppaw, and Weitkunat.

(Secretary's note: Councilmember Kottwitz arrived at 6:28 p.m.)

Councilmembers Absent: Horak, Troxell

Staff Members Present: Atteberry, Nelson, Harris, Roy.

Items Relating to the I-25/SH 392 Interchange Project, Adopted on First Reading

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

- A. *First Reading of Ordinance No. 117, 2012, Establishing a Special Fee to Be Paid by the Owners of Property Within Close Proximity to the Reconstructed Interchange at the Intersection of Interstate 25 and State Highway 392.*
- B. *First Reading of Ordinance No. 118, 2012, Approving the First Amended Intergovernmental Agreement Pertaining to the Development of the Interstate 25/State Highway 392 Interchange.*

On December 21, 2010, the City Council approved an Intergovernmental Agreement with the Town of Windsor (the "IGA") pertaining to the development of the I-25 interchange at the intersection of State Highway 392 (the "Interchange"). The IGA states that, by March 31, 2011, the City and Windsor will take certain actions to implement the fee requirements identified in the IGA. City Council has adopted several resolutions extending this deadline, the most recent extension being to October 16, 2012.

Ordinance No. 117, 2012, will establish the specifics of a special fee to be paid by the Property Owners near the interchange. The fee includes two parts and is summarized as follows:

- *The first part of the fee is in proportion to the anticipated appreciation in property value as a result of the interchange improvements. This amount has been determined from an appraisal report prepared by a licensed MAI appraiser (the "Foster Study").*

- *The second part of the fee is based on the relative impacts that the development or redevelopment of the properties will have on the Interchange, as measured by the estimated number of additional vehicular trips that will be generated by the developed use of the properties.*

Based on negotiation with the Property Owners, the City and Town have created a second option for Property Owners. Property Owners signing an agreement with the City would be permitted to defer payment of the entire amount of the fee until their properties are developed or redeveloped, the amount of their fee would be capped at the amount estimated in the agreement, and no interest would accrue on their fee for a period of two years from the date of execution of the agreement.

Ordinance No. 118, 2012, adopts the modified IGA first approved by City Council on December 21, 2010, now revised to be consistent with the implementation of the fees as described above.

Similar ordinances will be presented for consideration to the Windsor Town Board on October 22, 2012.

This item was continued by the City Council to this date for First Reading. The version of the fee ordinance being presented to the Council now has an additional provision (Section 1. - Special Fee, subparagraph (c)(1)(a)) stating that the fee amounts shown in the spreadsheet in Section 1. - Special Fee, subparagraph (c)(1)(a) may be adjusted by the City Manager, either in the event of a successful appeal of a property owner or to reflect new information about the amount of developable square footage contained in a particular CAC property

BACKGROUND / DISCUSSION

City Council and the Windsor Town Board held five joint work sessions to discuss the I-25 and State Highway 392 Interchange Improvements, System Level Study (1601 Process), and design. The System Level Study for this interchange was approved by the CDOT Transportation Commission on January 21, 2009. This approval, along with a signed IGA, has allowed the Project to move into the final design phase. The accelerated design process for this Project was completed in January 2010. The accelerated design process made this Project "shovel ready," thereby enhancing the possibility of obtaining funding for construction.

The design followed the intent of the guiding principles adopted by the City Council and the Town Board in August 2008, specifically the community character guiding principle that states: "The I-25/392 Interchange is an important 'gateway' feature for both Fort Collins and Windsor. It is viewed as Fort Collins' southern gateway and the main gateway into the Town of Windsor. The design of the Interchange, sensitivity to view sheds and associated land development, shall enhance the gateway concept."

The total construction and right of way cost for the Project was estimated at \$27.5 million. On May 20, 2010, the Colorado Transportation Commission authorized the allocation of \$20 million for the construction of the Interchange. CDOT had previously identified \$2.5 million of state FASTER funds to be used for right of way acquisition. The funding gap of \$5 million has been met by the local communities.

On December 21, 2010, City Council adopted Resolution 2010-077 authorizing the Mayor to execute the IGA. The primary purposes of the IGA are to set forth the respective financial contributions of the City of Fort Collins and Windsor related to the reconstruction of the Interchange, to provide for orderly land use and development within the area immediately surrounding the Interchange, to ensure that the property owners most directly benefitted by the Interchange improvements proportionally share in the cost of the improvements, and to provide for a revenue sharing formula between the City of Fort Collins and Windsor.

The IGA establishes a Corridor Activity Center ("CAC") around the Interchange, within which certain land uses have been agreed upon by the parties and a fee will be imposed to reimburse the City of Fort Collins and Windsor for their financial contributions to the construction of the Interchange and to help fund the construction and maintenance of improvements and services within the CAC.

Staffs of the Town of Windsor and the City have continued to engage the public and the affected property owners regarding the implementation of the provisions of the IGA; and the documents accomplishing the final implementation of the provisions of the IGA are now complete.

Under the IGA, the City and the Town have agreed to impose a fee upon the owners of properties located within the Corridor Activity Center ("CAC"), because such properties are located in close proximity to the Interchange and will especially benefit from the reconstruction of the Interchange, and because the development or redevelopment of those properties will add more traffic to the Interchange. In recognition of the fact that the Windsor and Fort Collins communities as a whole will also benefit from the construction of the Improvements, the City and the Town concluded that the amount of the fee to be assessed against said properties should be limited to approximately 50% of the total amount expended by the City and the Town for the Improvements. In order to fairly apportion the amount to be recovered from the Property Owners, the City and the Town commissioned a study by a licensed MAI appraiser to determine the amount of appreciation in value that will be experienced by the Benefitted Properties. The study (the "Foster Study") was completed and submitted to the City and the Town and is attached to the amended IGA. The Foster Study indicates that the appreciation in value the Benefitted Properties will experience as a result of the reconstruction of the Interchange will be more than sufficient to support the imposition of a fee in the total amount of 50% of the local share of the cost of the Improvements.

The City and Town staff recommend that the fee be apportioned not only according to the anticipated appreciation in value that the Benefitted Properties will experience as a result of the construction of the Interchange, but also according to the relative impacts that the development or redevelopment of such properties will have on the Interchange, as measured by the estimated number of additional vehicular trips that will be generated by the developed use of the properties. Staff further recommends that, upon adoption of this Ordinance, the Property Owners should immediately begin paying that portion of the fee that reflects the appreciation in value of their properties since the amount of that appreciation can be immediately determined on the basis of the Foster Study, and that the balance of each Property Owner's fee should be deferred until the development or redevelopment of the Benefitted Properties, since the nature of the developed use of each such property, and the resulting increase in vehicular trips, will not be known until that point in time.

In response to concerns expressed by some of the Property Owners about the authority of the City and the Town to impose the fee, staff of the City and the Town have negotiated an agreement that would give Property Owners who sign the agreement the ability to defer payment of the entire amount of the fee until their properties are developed or redeveloped. Under the agreement, the amount of the fee would also be capped at the amount estimated in the agreement, and no interest would accrue on the fee for a period of two years from the date of execution of the agreement. In exchange, the agreement would also contain a waiver of any claims against the City and the Town related to the fee. Some but not all of the Property Owners have expressed a willingness to enter into such an agreement. Therefore, staff recommends that the City Council proceed with the imposition of the fee and extend the period of time within which the Property Owners may elect to enter into the proposed agreement with the City and the Town upon the terms and conditions described above.

Both the Ordinance and the Property Owner agreements contain a provision whereby the City will cease collecting the fee once the City and the Town have received \$2.6 million in fee revenues, plus interest at the rate of 3.05% per annum from the effective date of the Ordinance.

Ordinance No. 118, 2012, adopts the First Amended Intergovernmental Agreement that revises the IGA to be consistent with the above fees and agreements.

Similar ordinances will be presented for consideration to the Windsor Town Board on October 22, 2012.

FINANCIAL / ECONOMIC IMPACTS

Project Cost

<i>Design & Right of Way</i>	
<i>State Funding</i>	<i>\$ 2.35 million</i>
<i>Federal Funding</i>	<i>\$ 1.68 million</i>
<i>Construction</i>	
<i>Federal Funding</i>	<i>\$18.34 million</i>
<i>Fort Collins</i>	<i>\$ 2.30 million</i>
<i>Windsor</i>	<i>\$ 2.30 million</i>
<i>Enhancements</i>	<i><u>\$ 0.50 million</u></i>
<i>Total Project Cost</i>	<i>\$26.97 million</i>

The approval of the First Amended IGA and the proposed assessment ordinance will allow the City to recover 50% of the amounts the City has appropriated for the construction of the I-25 Interchange and local improvements in the Interchange area.

ENVIRONMENTAL IMPACTS

In 2008 the Fort Collins City Council and the Windsor Town Board adopted Joint Principles by resolution; the environmental sustainability language below was part of those Principles.

Environmental Sustainability/Resource Protection: *Ensure that interchange improvements occur in such a way that it minimizes environmental impacts to the*

greatest extent possible and protects the physical and natural environment in and around the interchange including but not limited to the Fossil Creek Reservoir Area.

Subsequently, the City of Fort Collins and Town of Windsor have jointly agreed that the Project will mitigate wetland impacts at a 3:1 ratio, this meaning that the estimated 0.4 acres of impacts from the Project will be mitigated with the creation of 1.2 acres of new wetlands.

BOARD / COMMISSION RECOMMENDATION

Staff of both municipalities held several stakeholder meetings, most recently on April 21, 2011, August 10, 2011, and October 27, 2011, as well as numerous individual meeting with stakeholder representatives.

PUBLIC OUTREACH

Staff of both municipalities held several stakeholder meetings, most recently on April 21, 2011, August 10, 2011, and October 27, 2011, as well as numerous individual meeting with stakeholder representatives. "

Rick Richter, Interim City Engineer, discussed the funding and design of the project. The total project cost is just under \$27 million, \$5.1 million of which was paid for by the Town of Windsor and the City of Fort Collins. Fifty percent of that is to be recovered through the fees to be discussed this evening. Ordinance No. 118, 2012 would adopt the amended intergovernmental agreement which would provide for a community contribution from the Town and the City, eliminate a public improvement fee, and establish the final corridor activity center (CAC) boundaries. Ordinance No. 117, 2012 would establish a special fee to be paid by the property owners within the CAC. The fee has two components: a proximity component and a trip generation component. Richter stated both similar Ordinances were unanimously adopted on First Reading by the Windsor Town Board.

Steve Pfister, 2706 Balmoral, property owner in the CAC in Windsor, stated residential property should not be assessed this fee. He requested a friendly amendment that residences should not be assessed the fee. Should residential properties be rezoned and developed as commercial, the fees would then apply.

Richter discussed the residential-zoned property and stated the assessment was calculated at approximately \$75 per house and those fees were included as part of the assessment. If the size of the CAC is reduced and the same fee amount is desired to be collected, the fee would increase for the other properties.

Councilmember Manvel noted the higher-functioning intersection would benefit all area property owners. Richter stated the residential property values will increase as a result of the interchange construction. The increase in property values for the entire CAC area is estimated to be approximately \$18 million.

Councilmember Manvel requested an estimate of property owner participation. Richter replied there are six properties on the Fort Collins side of the interchange. Four of the six are interested in participating in the agreement. It is estimated that fifty to sixty percent of property owners will participate.

Mayor Pro Tem Ohlson asked if new property owners in the future will have to pay in fees if the \$2.6 million has already been collected. City Attorney Roy replied that is the correct interpretation as the fee needs to be cost related and the amount recovered cannot exceed the cost incurred. The total contribution of the Town and City is \$5.1 million; however, half of that has been recognized to provide a communitywide benefit.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 117, 2012, on First Reading.

Councilmember Manvel stated the assessment amount is appropriate given the benefits to area property owners.

Mayor Weitkunat stated this project has been a long time in coming and noted the new interchange is a major improvement for both municipalities.

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

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 118, 2012, on First Reading. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson and Poppaw. Nays: none.

THE MOTION CARRIED.

Resolution 2012-097
Ratifying the Appointment of Maddy Wawro to
the Poudre River Public Library District Board of Trustees, Adopted

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

On February 20, 2012, the Library Trustee Selection Committee, comprised of Mayor Karen Weitkunat and Councilmember Lisa Poppaw and Larimer County Commissioners Lew Gaiter and Steve Johnson, unanimously recommends the appointment of Kipp Lyons for a four-year term. On September 26, 2012, Mr. Lyons resubmitted a letter of resignation, effective October 15, 2012.

BACKGROUND / DISCUSSION

In November 2006, voters approved the formation of the Fort Collins Regional Library District. This name was changed to the Poudre River Public Library District in February 2009. The City Council and County Commissioners formed a Library District Trustee Selection Committee, comprised of two Councilmembers and two Commissioners. The Committee interviewed numerous candidates for the Board of Trustees and recommended seven candidates to the full Council and to the Commissioners for ratification. The candidates were ratified unanimously by both the Council and the Commissioners.

The intergovernmental agreement between the City, County and District sets out the process for appointing Trustees. It provides that a committee, comprised of two members of Council and two Commissioners, will recommend a candidate for appointment who must be ratified by a two-thirds majority of both the full Council and the Commissioners.

The Committee, comprised of Mayor Karen Weitkunat and Councilmember Lisa Poppaw and Commissioners Lew Gaiter and Steve Johnson, met on February 20, 2012. The Committee, in part, unanimously recommended to the Council and the Commissioners that Kipp Lyons be appointed for a four-year term, as provided in the Board's bylaws. At that same meeting, the Committee determined that, should another vacancy occur, applicant Maddy Wawro would be the Committee's next recommended appointee. That selection has been reconfirmed with the Committee, and this Resolution ratifies the appointment of Maddy Wawro for a term to expire in March 2016."

Councilmember Poppaw made a motion, seconded by Councilmember Manvel, to adopt Resolution 2012-097.

Councilmember Manvel expressed appreciation for the Library Board and thanked Ms. Wawro for her upcoming service.

Councilmember Poppaw thanked the Library Board for its service.

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

THE MOTION CARRIED.

Resolution 2012-098
Authorizing the Execution of an Intergovernmental Agreement Between
the City and the Poudre River Public Library District
Regarding the Donation to the District of Library Project Funds, Adopted

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

The City and the Poudre River Library District entered into an Intergovernmental Agreement (IGA) on December 18, 2007, in which the City agreed to use City Library Impact Fee revenue to complete construction, tenant finish, furnishings and purchase of materials for a Southeast Branch Library. The Facility project budget included “General Fund Productivity Savings” funds, which were appropriated to the Facility project, but not spent. A balance of \$329,839 remains.

BACKGROUND / DISCUSSION

The City of Fort Collins built Council Tree Library as a capital improvement project with the intention of turning over the building and library operations to the Poudre River Library District. Construction funds were derived from impact fees, donations, and from the City of Fort Collins General Fund through two appropriations. The funds in question were appropriated from the

General Fund, but not spent. The District has asked the City to give the District the remaining funds to spend on specific improvement projects in Library Park.

The Council Finance Committee discussed this item at its 16 meeting and agreed that the proposed improvements would provide a public benefit by creating additional public amenities in Library Park and improving access to the Park and the Main Library. They expressed support for donating the funds for the improvements.

The Intergovernmental Agreement specifies that the District may use up to the full amount of the funds for the following projects:

- (a) Improvements to Peterson Street accessibility and Library entry plaza. This project includes redesign and repaving of the library entry plaza and the addition of pavement adjacent to the curb, making access to the park and library more convenient for the public. This project is estimated to cost \$60,000.*
- (b) Widen and upgrade the diagonal walkway (Bench Allée) that runs diagonally from the northwest corner to the southeast corner of Library Park. This project would also include the placement of benches and planters along the edge and stringing decorative lights in the trees along the path. This project is estimated to cost \$121,837.*
- (c) Construction of an amphitheater on the northwest side of Library Park for community-scale activities. This project is estimated to cost \$148,002.*

The City will transfer to the District the amount requested for each project at the time the District awards a construction contract for the project. The amount of money the District requests for each project may be more or less than the estimated cost for the project; however, the total funds provided for the three projects will not exceed \$329,839. Upon completion, all improvements will be the property of the Library District. The District will grant the City a public access easement over any sidewalk areas that are improved using the City funds, including new sidewalks along Peterson Street and the Bench Allée, that are not already in a public right-of-way.

The City currently leases Library Park from the District in exchange for maintaining Library Park in substantially the condition it was in as of the date of the lease. The District is required to fund the increased costs of maintenance for any upgrades, additions or improvements the District wishes to make to Library Park. As long as the Park Lease remains in effect, the City will, at the end of each calendar year, invoice the District for the additional costs of maintenance required by the Approved Projects, and the District will reimburse the City for such costs within sixty (60) days of the date of such invoice.

FINANCIAL / ECONOMIC IMPACTS

General Fund monies that were previously appropriated for a Southeast Branch library will be donated to the Poudre River Library District. If the funds have not been spent in accordance with this Agreement by December 31, 2013, they will revert to the City and the City will have no further obligation to fund the Approved Projects."

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Wendy Williams, Assistant City Manager, stated formerly appropriated funds, which have not yet been used, are being requested by the Library District, to provide additional accessibility and park improvements for the main library. She detailed the plans for the improvements.

Shelly Kalkowski, 6575 Rookery Road, Poudre River Public Library District Trustee, supported the continuing partnership between the City and the District regarding the park. She discussed the park's history.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2012-098.

Councilmember Poppaw expressed appreciation for the work that went into this agreement.

Councilmember Manvel supported the project and its design and suggested the diagonal walk be a bicycle-free zone.

Mayor Weitkumat supported the project and the way in which it connects the Library to the community.

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

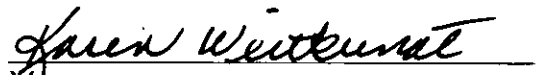
THE MOTION CARRIED.

Adjournment

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Manvel, to adjourn to October 30, 2012, so that the Council may consider any additional business that may come before the Council. Yeas: Weitkumat, Manvel, Kottwitz, Ohlson and Poppaw. Nays: none.

THE MOTION CARRIED.

The meeting adjourned at 6:45 p.m.



Mayor

ATTEST:



City Clerk

