

July 16, 2013

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, July 16, 2013, 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: Campana, Cunniff, Horak, Overbeck, Poppaw, Troxell and Weitkunat.

Staff Members Present: Atteberry, Nelson, Roy.

Agenda Review

City Manager Atteberry stated Item No. 14, *Items Relating to the Completion of the 2013 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing Funds from the Federal Community Development Block Grant (CDBG) Program, and the City's Human Services Program (HSP)* has a revised Resolution and noted the item is a public hearing.

City Manager Atteberry stated Item No. 22, *Resolution 2013-058 Approving an Intergovernmental Agreement Between the City of Fort Collins and Fort Collins-Loveland Water District For Participation in a Joint Regional Water Treatment Solutions Study* includes an amended Resolution.

City Attorney Roy read changes to the Ordinance in Item No. 12, *Second Reading of Ordinance No. 095, 2013, Amending Ordinance No. 068, 2013, Authorizing the Conveyance of a Non-exclusive Utility Easement in a Portion of South Shields Street to Public Service Company of Colorado, to Increase the Easement Term from Fifteen to Twenty Years.*

Citizen Participation

Mel Hilgenberg, 172 North College, discussed upcoming city events and urged Council to further review its tax increment financing policies

Bill Mawhinney commended City Clerk Nelson for her professionalism and accused Larimer County officials of corruption.

Audrey Macklin, Project Self Sufficiency, thanked Council and the Human Services Commission for renewing the organization's CDBG grant. She discussed the highlights of the program.

George Meyer presented Council with a handout.

Tom Tonoli, Project Self Sufficiency Boardmember, thanked Council and staff for renewing the organization's CDBG grant.

Joanne Vandewalle, Elderhaus, thanked Council and the CDBG commission for CDBG assistance.

Linda Preston, Base Camp Executive Director, thanked Council and the CDBG Commission for CDBG assistance.

Stacy Lynne, 305 West Magnolia, discussed the City's involvement in her son's custody case.

LeAnn Garfield Massey, Respite Care Executive Director, thanked Council and the CDBG Commission for CDBG assistance.

Steve Bifield discussed rights of individuals with regard to free speech.

Nancy Jackson, Disabled Resource Services Executive Director, thanked the CDBG Commission for its funding recommendation.

Bill Reinky, CARE Housing Executive Director, thanked the CDBG Commission for its funding recommendation.

John Weins, Larimer County resident, discussed individual liberty.

Tom Nichol, Larimer County resident, stated Councilmembers should respect speakers.

Val Macri-Lind, Child Safe Executive Director, thanked the CDBG Commission for its funding recommendation and commended the staff in the Social Sustainability Department.

Eric Sutherland, 3520 Golden Currant, stated Council is under no obligation to loan tax payer funds to the Urban Renewal Authority for obligations the URA may have to Capstone Development Corporation.

Clink Skutchan, Fort Collins Board of Realtors CEO, discussed disbursements for the organization's Protecting Our Housing Future campaign.

Chris Fine, Touchstone Health Partners, thanked the Council and the CDBG Commission for its funding recommendation.

Debbie Carroll discussed abuse of the custody system.

Mary Tuneberg discussed Stacy Lynne's son's custody case.

Citizen Participation Follow-up

Councilmember Poppaw thanked the recipients of CDBG funding who spoke.

CONSENT CALENDAR

6. Second Reading of Ordinance No. 087, 2013, Appropriating Unanticipated Grant Revenue in the General Fund and Authorizing the Transfer of Appropriated Amounts Between Accounts and Projects for the Multi-jurisdictional Northern Colorado Drug Task Force.

This Ordinance, unanimously adopted on First Reading on July 2, 2013, appropriates federal grant monies received from the Office of National Drug Control Policy and the Department of Justice to help fund the investigation of illegal narcotics activities in Larimer County. These grant awards will be used to offset operating expenses for each participating agency. The Northern Colorado Drug Task Force currently includes Fort Collins Police Services, the Loveland Police Department, and Colorado Adult Parole.

In addition, because of the significant decrease in federal funds available for drug enforcement, the drug task force is transferring \$170,888 from its forfeiture reserve account to its 2013 operating budget to cover unfunded expenses. The majority of the forfeiture reserve account is made up of assets seized from people engaged in illegal drug activities.

7. Second Reading of Ordinance No. 088, 2013, Appropriating Unanticipated Revenue in the General Fund to Fund the Costs Associated with the Medical Marijuana Licensing Authority.

This Ordinance, unanimously adopted on First Reading on July 2, 2013, appropriates medical marijuana application and licensing fees to fund the services provided by a contractual Medical Marijuana Licensing Authority.

8. Second Reading of Ordinance No. 089, 2013, Appropriating Prior Year Reserves in the Transportation Services Fund and in the Stormwater Fund for the Restoration of 60 Feet of Frontage along the Poudre River Owned by the City of Fort Collins.

This Ordinance, unanimously adopted on First Reading on July 2, 2013, appropriates \$100,000 split evenly between Stormwater Reserves and Transportation Reserves for 60 feet of frontage restoration between the Block One area of responsibility and the Linden Street bridge. Reimbursement from the City shall be limited to 40% of the total actual costs, not to exceed \$100,000. Reimbursements are to cover the restoration of 60 feet of frontage owned by the City of Fort Collins. Eligible costs for reimbursement include design, a conditional letter of map revision (CLOMR) and construction costs.

9. Items Relating to Natural Area Appropriations.

- A. Second Reading of Ordinance No. 090, 2013, Appropriating Prior Year Reserves and Unanticipated Revenues in the Natural Areas Fund for the Purpose of Providing Natural Areas Programming Not Included in the 2013 Adopted City Budget.
- B. Second Reading of Ordinance No. 091, 2013, Appropriating Prior Year Reserves in the Natural Areas Fund and Authorizing the Transfer of Appropriations to the Capital Project Fund for the Natural Areas Office Building Project and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program.

Ordinance No. 090, 2013, appropriates previously appropriated funds for the purpose of land conservation, construction of public improvements, restoration of wildlife habitat and other

natural area program needs to benefit the citizens of Fort Collins. Natural Areas has received unanticipated revenues in 2013 and has reasons to need these funds in 2013 to fund a number of land conservation efforts. This Ordinance appropriates \$7,310,000: \$5,380,000 from prior year reserves and \$1,930,000 from 2013 unanticipated revenues in the Natural Areas Fund for the purpose of providing Natural Areas Programming not included in the 2013 budget.

Ordinance No. 091, 2013, appropriates \$1,420,000 from prior year reserves in the Natural Areas Fund for transfer to the Capital Project Fund for the purpose of constructing a new Natural Areas Office building. Both Ordinances were unanimously adopted on First Reading on July 2, 2013.

10. Second Reading of Ordinance No. 092, 2013, Making Various Amendments to the Land Use Code.

This Ordinance, unanimously adopted on First Reading on July 2, 2013, makes a variety of changes, additions and clarifications in the 2013 annual update of the Land Use Code.

11. Second Reading of Ordinance No. 093, 2013, Amending Chapter 26 of the City Code to Establish User Fees for Public Use Electric Vehicle Charging Stations.

This Ordinance, unanimously adopted on First Reading on July 2, 2013, establishes user fee rates for public use electric vehicle charging stations operated through the City's public electric vehicle (EV) charging station pilot program. These user fees only apply to the public use charging stations owned and operated by the City of Fort Collins Utility Services. The user fees for use of 240 volt "Level 2" charging stations will be \$1.00 per 1 hour charging session and the fee for use of a 480 volt "Level 3" DC quick charger will be \$3.00 per session. These fees are calculated to recover the direct energy and payment processing costs associated with each charging session. While user fees for general fund services can be established administratively by the City Manager, Council must establish all Utility Services rates and fees by ordinance.

12. Second Reading of Ordinance No. 095, 2013, Amending Ordinance No. 068, 2013, Authorizing the Conveyance of a Non-exclusive Utility Easement in a Portion of South Shields Street to Public Service Company of Colorado, to Increase the Easement Term from Fifteen to Twenty Years.

The purpose of this Ordinance, unanimously adopted on First Reading on July 2, 2013, is to amend Ordinance No. 068, 2013, extending the period from fifteen to twenty years. Ordinance No. 068, 2013, authorizing conveyance of a Non-Exclusive Utility Easement to Xcel, was adopted in May, and follow-up conversations with Xcel (Public Service Company) require this extension.

This easement addresses the location of West Main pipeline at the northwest corner of Harmony Road and Shields Street and provides for the location in the right of way instead of on private property. The City has agreed to pay for any relocation of the approximately 2000 feet of line adjacent to the property that may be necessary in the next twenty years. This is a low-risk option and will be consistent with the location of the pipeline in the

Shields Street right of way. In order to document this agreement between the City and Xcel, staff is recommending a Non-Exclusive Pipeline Easement within the Shields Street right of way.

13. Items Relating to Appropriations for Woodward Related Public Improvements.

- A. First Reading of Ordinance No. 098, 2013, Appropriating Unanticipated Revenue in the Capital Projects Fund and Authorizing the Transfer of Existing Appropriations from the Natural Areas Fund to the Capital Projects Fund for Woodward Related Public Improvements.
- B. First Reading of Ordinance No. 109, 2013, Waiving the Application of the Art in Public Places Requirements in Article XII of Chapter 23 of the City Code to Improvements Constructed Pursuant to the City's Agreement with Woodward, Inc., and the Downtown Development Authority Regarding the Link-N-Green Development.

Council approved the public improvement portion of the Woodward incentive package in April 2013. The City of Fort Collins agreed to provide assistance for Woodward's relocation, construction and expansion. The following are the projects to be funded:

Transmission Line Relocation	\$1,297,080
Right-of-Way Improvements	1,750,000
Open Space Improvements	3,500,000
	\$6,547,000

The projects will be funded through two sources: \$6,047,080 from DDA contributions and \$500,000 from 2013 appropriations existing in the Natural Areas Fund.

Ordinance No. 109, 2013, exempts the right-of-way improvements under the Woodward Agreement from the requirement to contribute 1% to Art in Public Places because the contribution would not be required if the developer were constructing the Improvements and the City's management of the right-of-way improvement project is being provided as part of the Woodward incentive package.

14. Items Relating to the Completion of the 2013 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing Funds from the Federal Community Development Block Grant (CDBG) Program, and the City's Human Services Program (HSP).

- A. Public Hearing and Resolution 2013-062 Approving the Programs and Projects That Will Receive Funds from the Federal Community Development Block Grant Program, and the City's Human Services Program.
- B. Hearing and First Reading of Ordinance No. 099, 2013, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Projects in the Community Development Block Grant Program.

- C. Public Hearing and Resolution 2013-063 Approving the Fiscal Year 2013 Administration and Project Budgets for the Home Investment Partnership Program.
- D. Hearing and First Reading of Ordinance No. 100, 2013, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Projects in the Home Investment Partnership Program.

Resolution 2013-062 will complete the 2013 spring cycle of the Competitive Process for allocating \$1,685,496 in City financial resources to affordable housing projects, public facility activities, public service programs and administration of the program that will receive funding beginning October 1, 2013. Ordinance No. 099, 2013 appropriates the City's FY 2013 CDBG Entitlement Grant from the Department of Housing and Urban Development (HUD).

Resolution 2013-063 establishes the major funding categories within the HOME Program for the FY 2013 program year, which also starts on October 1, 2013. Specific projects for the use of HOME funds will be determined in November as a result of the 2013 fall cycle of the Competitive Process. Ordinance No. 100, 2013 appropriates the City's FY 2013 HOME Participating Jurisdiction Grant from HUD.

- 15. First Reading of Ordinance No. 101, 2013, Calling a Special Municipal Election to Be Held in Conjunction with the November 5, 2013 Larimer County Coordinated Election.

This Ordinance calls a Special Municipal Election to be held in conjunction with the November 5, 2013 Larimer County Coordinated Election, and preserves the opportunity for Council to place initiated or referred issues on the November ballot. If Council decides to place any measures on the ballot it would need to do so no later than at its August 20 meeting. If Council does not take action by ordinance or resolution before the statutory deadline (September 4) to certify ballot language to Larimer County, the election will be cancelled and the provisions of this Ordinance will be of no further force and effect.

This Ordinance does not submit a specific measure to the November 5, 2013 ballot. However, a group of citizens is currently circulating an initiative petition relating to a moratorium on the use of hydraulic fracturing. The deadline to submit the petition to the City Clerk's Office is August 5, 2013. Adoption of this Ordinance is a required step in preserving the option for City Council to submit the initiated ordinance, and/or any other ballot measures that Council may desire, at the November 5, 2013 Coordinated Election.

- 16. Items Relating to the Residential Parking Permit Program.

- A. First Reading of Ordinance No. 102, 2013, Establishing a Residential Parking Permit Zone Program.
- B. First Reading of Ordinance No. 103, 2013, Amending Various Provisions of the Fort Collins Traffic Code.

The purpose of this item is to authorize the City Manager or a designee to implement residential parking permit programs in neighborhoods with parking problems.

City staff will develop administrative procedures for the program by working with neighborhoods and residents. The Traffic Code ordinance is needed to make the program enforceable. This program will be phased in over a two-year period as problem areas are identified and residents request assistance.

17. First Reading of Ordinance No. 104, 2013, Expanding the Boundaries of the Fort Collins Downtown Development Authority and Amending the Plan of Development of the Authority.

This item is a request to expand the boundaries of the Fort Collins Downtown Development Authority (DDA) and amend the Plan of Development of the Authority to include a property in the 100 block of West Laurel Street and adjacent right-of-way on South Mason Street and West Laurel Street. The property includes the current location of Ram Bookstore (northeast corner of West Laurel and South Mason Streets).

18. First Reading of Ordinance No. 094, 2013, Authorizing the Lease of City-Owned Property at 212 Laporte Avenue to Feeding Our Community Ourselves, Inc. for Up to Five Years.

Feeding Our Community Ourselves, Inc. wishes to lease 212 West Laporte Avenue to house a non-profit café with a minimal food processing facility. The total yearly lease payment for the property will be a minimum of \$44,688. The term of the lease shall be for one (1) year, with renewals on a yearly basis for up to four (4) successive one-year terms. With this lease, either party will have the option to terminate at any time upon a one (1) year advance written notice to the other party. The tenant will be responsible for the taxes, all utilities, communication services, trash services and janitorial services.

19. First Reading of Ordinance No. 105, 2013, Vacating a Portion of Lady Moon Drive Right-of-Way as Dedicated on the Ricketts Harmony Minor Subdivision.

The purpose of this item is to vacate a portion of right-of-way along Lady Moon Drive that is no longer necessary or desirable to retain for street purposes.

In 1993, the Ricketts Harmony Minor Subdivision, located southeast of Harmony Road and Lady Moon Drive, platted two lots and dedicated additional right-of-way for Cambridge Avenue (now known as Lady Moon Drive). Cambridge Avenue was realigned and constructed in its current alignment with the approval of Harmony Technology Park Second Filing Development Plans on the west side of Cambridge Avenue, which left the portion to be vacated no longer necessary for street purposes.

The adjacent property owners have been contacted regarding this vacation and have no objections. All public and private utilities have been notified of the proposed vacation and they report no objections, provided the area is retained as a utility easement. With this Ordinance, the entire area proposed to be vacated will be retained as a utility easement.

20. Resolution 2013-064 Adopting the Recommendations of the Cultural Resources Board Regarding Fort Fund Disbursements.

The purpose of this item is to adopt the recommendations from the Cultural Resources Board to disburse Fort Fund grants to community events from the Cultural Development and Programming and Tourism Programming Accounts.

21. Items Relating to the Maintenance of Old Town Plaza.

- A. Resolution 2013-065 Authorizing the City Manager to Execute the 2013 Old Town Plaza Master Agreement with Restrictive Covenants Between the Downtown Development Authority, Progressive Old Town Square, LLC and the City Regarding Maintenance of Old Town Plaza.
- B. Resolution 2013-066 Authorizing the City Manager to Execute an Intergovernmental Agreement Regarding Maintenance of Old Town Plaza Between the Downtown Development Authority and the City.

The purpose of this item is to consider approval of an agreement between the Downtown Development Authority (DDA), Progressive Old Town Square and the City regarding ownership, operation and maintenance of Old Town Plaza and an agreement between the City and the DDA regarding maintenance and repair of the Plaza.

Resolution 2013-065 adopts the 2013 Old Town Plaza Master Agreement with Restrictive Covenants (“Master Agreement”), a three party agreement with the City of Fort Collins, the Downtown Development Authority (and Progressive Old Town Square, LLC (“POTS”). The Agreement redefines the parties’ operation and maintenance obligations for Old Town Plaza, defines POTS’ maintenance payments and how they relate to the purchase of the Kiosk at 13 Old Town Square, acknowledges POTS’ pledge to make a financial contribution towards the renovation of the Plaza, addresses the restrictive covenants set forth during the original construction of the Plaza, and further defines the rules and regulations governing Old Town Plaza.

Resolution 2013-066 adopts the Intergovernmental Agreement Regarding Maintenance of Old Town Plaza (“IGA”) between the DDA and the City. The Master Agreement will supersede all previous agreements that defined roles for maintenance and repair/replacement of Plaza infrastructure, and because POTS is being removed from their previous role except for a continuing payment obligation, the City and DDA require an agreement to define their continuing responsibilities related to the operation and maintenance of the Plaza.

The approval of these two items by Council will complete a chain of approvals that allow the DDA to acquire the Old Town Plaza Kiosk from POTS and begin steps toward the renovation of Old Town Plaza.

22. Resolution 2013-058 Approving an Intergovernmental Agreement Between the City of Fort Collins and Fort Collins-Loveland Water District For Participation in a Joint Regional Water Treatment Solutions Study.

Staff proposes to enter into an intergovernmental agreement to fund a joint study to examine options for regional water treatment solutions between the Tri-Districts and the City of Fort Collins. The Fort Collins-Loveland Water District shall be the lead agency entering into the contract with the consultant. The scope of any cooperative solution is strictly limited to creating a business model of receiving raw water, treating it, and returning a finished potable water product to the member entities at a wholesale rate. Options range from remaining independent, additional intergovernmental agreements, combining facilities, or other options to be determined during the investigation phase of the study. Acquisition and control of water rights or raw water storage is not part of this discussion. The utilities would maintain separate control over their raw water and their distribution systems.

23. Resolution 2013-067 Authorizing the Mayor to Sign Additional Intergovernmental Agreements Regarding Funding of Cache La Poudre Watershed Mitigation in Response to the High Park Fire.

The purpose of the requested Intergovernmental Agreements is to establish a mechanism to pay for contractor services administered jointly with the City of Greeley and to ensure the City of Fort Collins will receive reimbursement to the extent possible from the Federal government through the EWP funds.

Fort Collins submitted to the United States Department of Agriculture, Natural Resources Conservation Service (“NRCS”) an Application for Federal Assistance, seeking NRCS funding for Emergency Watershed Protection (EWP) the City of Fort Collins, City of Greeley, and Larimer County in July 2012. NRCS provided a Notice of Financial Assistance award for initial federal funding through the NRCS Emergency Watershed Protection program in the amount of \$7.2 million in February 2013.

24. Resolution 2013-059 Making a Liaison Appointment to the Planning and Zoning Board.

This Resolution appoints Karen Weitkunat as liaison to the Planning and Zoning Board, replacing Councilmember Gino Campana.

25. Routine Easement.

Easement for construction and maintenance of public utilities from Edwards Real Estate Holdings, LLC, to relocate existing underground electric services at 1201 Juniper.

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

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

6. Second Reading of Ordinance No. 087, 2013, Appropriating Unanticipated Grant Revenue in the General Fund and Authorizing the Transfer of Appropriated Amounts Between Accounts and Projects for the Multi-jurisdictional Northern Colorado Drug Task Force.

7. Second Reading of Ordinance No. 088, 2013, Appropriating Unanticipated Revenue in the General Fund to Fund the Costs Associated with the Medical Marijuana Licensing Authority.
8. Second Reading of Ordinance No. 089, 2013, Appropriating Prior Year Reserves in the Transportation Services Fund and in the Stormwater Fund for the Restoration of 60 Feet of Frontage along the Poudre River Owned by the City of Fort Collins.
9. Items Relating to Natural Area Appropriations.
 - A. Second Reading of Ordinance No. 090, 2013, Appropriating Prior Year Reserves and Unanticipated Revenues in the Natural Areas Fund for the Purpose of Providing Natural Areas Programming Not Included in the 2013 Adopted City Budget.
 - B. Second Reading of Ordinance No. 091, 2013, Appropriating Prior Year Reserves in the Natural Areas Fund and Authorizing the Transfer of Appropriations to the Capital Project Fund for the Natural Areas Office Building Project and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program.
10. Second Reading of Ordinance No. 092, 2013, Making Various Amendments to the Land Use Code.
11. Second Reading of Ordinance No. 093, 2013, Amending Chapter 26 of the City Code to Establish User Fees for Public Use Electric Vehicle Charging Stations.
12. Second Reading of Ordinance No. 095, 2013, Amending Ordinance No. 068, 2013, Authorizing the Conveyance of a Non-exclusive Utility Easement in a Portion of South Shields Street to Public Service Company of Colorado, to Increase the Easement Term from Fifteen to Twenty Years.
31. Items Relating to Urban Agriculture.
 - A. Second Reading of Ordinance No. 096, 2013 Amending the Land Use Code to by the Addition of Provisions Pertaining to Urban Agriculture.
 - B. Second Reading of Ordinance No. 097, 2013 Amending Chapter 4, Article II and III of the City Code Related to the Care and Keeping of Animals.

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

13. Items Relating to Appropriations for Woodward Related Public Improvements.
 - A. First Reading of Ordinance No. 098, 2013, Appropriating Unanticipated Revenue in the Capital Projects Fund and Authorizing the Transfer of Existing Appropriations from the Natural Areas Fund to the Capital Projects Fund for Woodward Related Public Improvements.

- B. First Reading of Ordinance No. 109, 2013, Waiving the Application of the Art in Public Places Requirements in Article XII of Chapter 23 of the City Code to Improvements Constructed Pursuant to the City's Agreement with Woodward, Inc., and the Downtown Development Authority Regarding the Link-N-Green Development.
14. Items Relating to the Completion of the 2013 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing Funds from the Federal Community Development Block Grant (CDBG) Program, and the City's Human Services Program (HSP).
- B. Hearing and First Reading of Ordinance No. 099, 2013, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Projects in the Community Development Block Grant Program.
 - D. Hearing and First Reading of Ordinance No. 100, 2013, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Projects in the Home Investment Partnership Program.
15. First Reading of Ordinance No. 101, 2013, Calling a Special Municipal Election to Be Held in Conjunction with the November 5, 2013 Larimer County Coordinated Election.
16. Items Relating to the Residential Parking Permit Program.
- A. First Reading of Ordinance No. 102, 2013, Establishing a Residential Parking Permit Zone Program.
 - B. First Reading of Ordinance No. 103, 2013, Amending Various Provisions of the Fort Collins Traffic Code.
17. First Reading of Ordinance No. 104, 2013, Expanding the Boundaries of the Fort Collins Downtown Development Authority and Amending the Plan of Development of the Authority.
18. First Reading of Ordinance No. 094, 2013, Authorizing the Lease of City-Owned Property at 212 Laporte Avenue to Feeding Our Community Ourselves, Inc. for Up to Five Years.
19. First Reading of Ordinance No. 105, 2013, Vacating a Portion of Lady Moon Drive Right-of-Way as Dedicated on the Ricketts Harmony Minor Subdivision.
30. First Reading of Ordinance No. 108, 2013, Amending the Land Use Code to Include Additional Regulations for Development in Close Proximity to Oil and Gas Operations.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt and approve all items on the Consent Calendar. Yeas: Weitkunat, Horak, Cunniff, Poppaw, Troxell, Campana and Overbeck. Nays: none.

THE MOTION CARRIED.

Consent Calendar Follow-up

Councilmember Troxell commended Item No. 18, *First Reading of Ordinance No. 094, 2013, Authorizing the Lease of City-Owned Property at 212 Laporte Avenue to Feeding Our Community Ourselves, Inc. for Up to Five Years.*

Staff Reports

Diane Jones, Deputy City Manager, introduced Vanessa Fenley, the new Executive Director of the Homeward 2020 initiative. Ms. Fenley discussed her background and goals for the program.

Eric Pearson, Colorado Government Association of Information Technology, presented Fort Collins with an award for its Community Performance Dashboard project. Dan Coldiron, Chief Information Officer, accepted the award on behalf of staff and commended Council and City Manager Atteberry for their leadership vision.

Councilmember Reports

Councilmember Cunniff reported on the Poudre School District/City/County liaison meeting during which Councilmembers met the new Superintendent.

Councilmember Poppaw reported on a meeting with the County Commissioners and commended City Manager Atteberry on hiring talented staff.

Mayor Weitkunat reported on the Poudre School District/City/County liaison meeting. She noted she was recently elected to the Colorado Municipal League Board of Directors and recently attended its retreat.

Items Relating to Oil and Gas Operations

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

A. *First Reading of Ordinance No. 106, 2013, Establishing a Moratorium on the Acceptance or Processing of Land Use Applications, Permit Applications, and Other Applications Seeking Approval to Conduct Oil and Gas Extraction or Related Operations Within the City of Fort Collins for a Period of Seven (7) Years.*

OR

First Reading Ordinance No. 107, 2013, Establishing a Moratorium on the Acceptance or Processing of Land Use Applications, Permit Applications, and Other Applications Seeking Approval to Conduct Oil and Gas Extraction or Related Operations Within the City of Fort Collins until Midnight, December 31, 2013.

B. *First Reading of Ordinance No. 108, 2013, Amending the Land Use Code to Include Additional Regulations for Development in Close Proximity to Oil and Gas Operations.*

The purpose of this item is two-fold: first, to establish a Moratorium on the acceptance and processing of land use applications related to oil and gas until either December of 2013 or for a period of 7 years and second, to establish requirements for proposed residential developments in close proximity to existing oil and gas operations.

Item #1 - Moratorium: Ordinance No. 145, 2012, established a Moratorium on the acceptance or processing of land use applications, permit applications, and other applications seeking approval to conduct Oil and Gas Extraction or related operations within the city or on City-owned lands. Council has determined that the seven (7) months established by Ordinance No. 145, 2012, as the duration of the moratorium is insufficient for City staff and City Council to determine the extent to which oil and gas uses may be locally regulated and to properly investigate, develop, and, if appropriate, adopt and implement any additional local regulations related to oil and gas uses in the City in order to protect and preserve the public's health, safety and welfare. As the Moratorium established by Ordinance No. 145 expires on July 31, 2013, Council will determine whether to establish a moratorium until December 31, 2013 or for seven (7) years.

Item #2 - Regulations for Residential Developments in close proximity to existing Oil and Gas Operations: On May 21, 2013, Council adopted the Operator Agreement with the only existing oil and gas operator, Prospect Energy, that requires stringent public health and safety measures be taken during both existing and planned operations within the City of Fort Collins. Neither this agreement nor state regulations address how proposed residential development must respond to existing oil and gas operations. The Land Use Code (LUC) currently contains buffer standards for proposed residential developments within fifty feet (50') of existing industrial land uses.

In order to better buffer proposed residential developments from existing oil and gas operations, the proposed LUC amendments establish a tiered approach to requirements for new residential developments in close proximity to oil and gas operations. Disclosure to future residents is required for any proposed oil and gas development within one thousand feet (1,000') of an existing operation. If the development is proposed to be closer than five hundred feet (500') of an existing oil and gas operation, additional screening and protection measures are required. If the subdivision is proposed to be less than three hundred fifty feet (350') from an existing operation, a Modification of Standard would be required.

BACKGROUND / DISCUSSION

Item #1 – Moratorium

Local governments have considered the use of moratoriums to postpone new oil and gas operations within their jurisdictions, citing the need to craft and adopt local land use regulations. Council adopted such a moratorium on December 18, 2012. While much work was completed during the first seven (7) months of the moratorium, Council requested that staff prepare an extension of Ordinance No. 145, 2012. Staff suggests the following two options be considered:

Option #1

Impose a new seven-year moratorium in order to better determine the potential health impacts of various aspects of oil and gas operations and incorporate any findings into local regulations. The

moratorium would apply to Prospect Energy as well as all other operators. City-owned lands outside the city limits would be excluded.

Option #2

Impose a moratorium until December 31, 2013 in order to re-evaluate Land Use Code (LUC) changes, engage the community in the LUC options, and codify any recommendations. City-owned lands outside the City limits would be excluded, and Prospect Energy would be exempt from the moratorium as long as it operates in accordance with the Operator Agreement approved by the Council by resolution on May 21, 2013.

Note: *The current moratorium, established by Ordinance No. 145, 2012, will expire July 31, 2013 at midnight. However, the City Code prohibiting hydraulic fracturing would still be in place so any new drilling activity (except for Prospect Energy) would need to secure an operator agreement with the City due to the likelihood that hydraulic fracturing would be used in the drilling process.*

*As highlighted during the June 25, 2013 Work Session (**Attachment 1**), a great deal of work was completed in developing appropriate regulations to minimize any adverse impacts that oil and gas exploration and extraction may have on the health, safety, and welfare of the City and its citizens including the following:*

- *Staff testimony was given to the Colorado Oil and Gas Conservation Commission (COGCC) rule-making process resulting in greater set-backs from residential areas and water quality monitoring and sampling requirements. While the water quality rules went into effect in May, the setback rules are effective August 1, 2013 and can now be incorporated into Land Use Code amendments.*
- *Local regulations were adopted by Council to prohibit the use hydraulic fracturing in the City limits and the permanent storage of waste products associated with hydraulic fracturing.*
- *Extensive research into best management practices were incorporated into an operator agreement with the only local operator (Prospect Energy) resulting in greater health and safety protections for the residents of Fort Collins.*
- *Staff is addressing citizen concerns by preparing a draft Ordinance for Council consideration scheduled for the July 2, 2013 meeting to enact reciprocal set-backs and buffering requirements for proposed residential developments in close proximity to existing oil and gas operation. The proposed Ordinance also contains disclosure, fencing and screening requirements.*
- *Additional work is needed to incorporate the best management practices, updated COGCC regulations and other research into zoning and land use regulations.*

Attachment 2 *provides a more detailed update of the work requested by Council during the time of the moratorium and the work completed.*

Oil and Gas and Property Values

While the state has proposed to study the health effects of oil and gas development, a few studies have also examined the effects of oil and gas development on property values. Staff is aware of a few studies related to oil and gas development and property values:

- *In one study, negative effects on rural residential property values in Alberta, Canada were found at up to 4 km from the gas development based on presence of sour gas wells and flaring (Boxall et al. 2005, available at <http://www.sciencedirect.com/science/article/pii/S0928765505000084>).*
- *A second, unpublished Canadian study examined the effect of sour gas activity on rural residential properties (between 1 and 40 acres in size) using econometric models and found that as the density of oil and gas wells increased, property values could be negatively impacted by up to 10 percent within 4 km of the development (Molik et al. 2003, available at http://www.ekcbm.org/files/Property_Value_Study_0.pdf).*
- *A working paper prepared by BBC Research and Consulting in La Plata County presents results of a modelling effort to evaluate how property values are impacted by proximity to coalbed methane wells. The study indicated that the overall area studied had a less than 1% decrease in sales price (2001, available at <http://tinyurl.com/n7nh93u>).*
- *Finally, a recent article in KUNC suggested that agricultural property values in Weld County have increased 18 percent from the prior year (<http://tinyurl.com/led535j>).*

***Note:** the Canadian studies and the property values from Weld County were focused on gas development and the La Plata study was focused on coalbed methane. Staff could find no studies that discussed the impacts of oil development on property values, which is what is produced in the Fort Collins Field.*

Item #2 – Regulations for Residential Developments in close proximity to existing Oil and Gas Operation

*Oil and gas production is currently limited to the Fort Collins Field (**Attachment 3**), located in the northeast portion of the city. The Fort Collins Field is regulated by the Colorado Oil and Gas Conservation Commission (COGCC) and the recently adopted Operator Agreement between the City and Prospect Energy. The Fort Collins Field has been in production since about 1924. Initially, the Field existed outside Fort Collins city limits and portions of the Field were annexed into city limits, beginning in 1984 (County Club North Annexation). Prospect Energy has been the owner and operator of the Fort Collins Field since approximately 2009. As the city has developed within the boundaries of its Growth Management Area, residential development has occurred around the field.*

The Land Use Code, the City's adopted set of standards for regulating land development, contains provisions for residential developments adjacent to existing industrial land uses (Section 3.8.26 of the Land Use Code). These standards are designed to minimize impacts of industrial uses on future residents by providing landscaping, fencing, or other screening options to better separate these land uses.

Many citizens have expressed concerns about oil and gas activity in Fort Collins. Some of the concerns expressed reflect a concern about living near oil and gas operations. Currently, the buffer requirements for oil and gas operations are contained within the definition for resource extraction. These standards require screening between the residential development and the operation to separate the land uses. The closer the development is proposed to the industrial use, the more screening is required.

The proposed Land Use Code amendments create separate definitions for resource extraction and oil and gas operations. The proposed buffer standards for oil and gas operations (Buffer Yard D) would include the following requirements:

- If the subdivision is proposed within one thousand feet (500-1,000') of an existing operation:
 - Disclosure shall be provided to future residents of the subdivision. The purpose of the disclosure is to inform future residents of the existing operation, the potential hazards associated with the operation, and contact information for the oil and gas operator.
- If the subdivision is proposed within three hundred fifty to five hundred feet (350-500') of an existing operation:
 - If it does not already exist, fencing must be erected between the development and the operation to restrict public access, and
 - Landscaping, berming, or installation of a wall to aesthetically screen the operation from the future residents shall be provided.
- If the subdivision is proposed to be less than three hundred fifty feet (350') from an existing operation:
 - A Modification of Standard would be required. The applicant would need to demonstrate that the proposed residential development is not detrimental to the public good and that, for example, it is equal to or better than a proposed plan that would comply with the standard (for additional criteria, see Section 2.8.2(H) of the Land Use Code).

A map of the areas in the city that could be affected by these proposed changes is attached to this agenda item summary (see **Attachment 4**).

FINANCIAL / ECONOMIC IMPACTS

Item #1 – Moratorium: The financial and economic impacts of an oil and gas moratorium were outlined in previous Council Agenda Item Summaries, e.g., the AIS from the December 4 and December 18, 2012 meetings.

Item #2 – Regulations for Residential Developments in close proximity to existing Oil and Gas Operation:

Increasing the setbacks between proposed residential developments and existing oil and gas operations further minimizes the potential risks of these two land uses in close proximity. However, the financial impacts of amending the Land Use Code include the potential for reduced developable land on property owners. The disclosure requirements are consistent with other City requirements,

e.g., radon disclosure, and would not have significant financial ramifications. The aesthetic and fencing improvements could add cost to the project's development; however, these improvements may also increase property values for the future residents and therefore make the lots or homes more desirable.

ENVIRONMENTAL IMPACTS

Item #1 – Moratorium: *The financial and economic impacts of an oil and gas moratorium were outlined in previous Council Agenda Item Summaries, e.g., the AIS from the December 4 and December 18, 2012 meetings.*

Item #2 – Regulations for Residential Developments in close proximity to existing Oil and Gas Operation: *Increasing the setbacks between proposed residential developments and existing oil and gas operations reduces the risks for future residents living in close proximity to oil and gas operations. The disclosure requirement ensures future residents are informed of the potential risks association with the oil and gas operation.*

BOARD / COMMISSION RECOMMENDATION

The Planning and Zoning Board unanimously (5-0) recommended approval of the Land Use Code amendments regarding reciprocal setbacks and buffering requirements during its November 1, 2012 meeting (Attachment 5). These amendments were discussed within the broader context of Land Use Code regulations for oil and gas.

PUBLIC OUTREACH

Staff has facilitated public discussion of the proposed amendments within the broader oil and gas issue since 2012. For a specific outline of these outreach efforts, please see the Agenda Item Summary from the December 4, 2012 Regular Meeting.

Three pending residential developments would be affected by the proposed regulations. Staff has discussed the proposed regulations with all three developers. Staff has also contacted the Chamber of Commerce and the Board of Realtors to discuss the proposed changes. A meeting is scheduled with the Chamber's Legislative Affairs Committee on July 19 to discuss the proposed regulations and to provide an overall update on oil and gas issues within the city."

Laurie Kadrich, Community Development and Neighborhood Services Manager, discussed the items before Council. The first item is related to whether the existing moratorium, which would prohibit any kind of new oil and gas permits from coming into the City, should be extended. There are two options under consideration for the extension. Option 1 extends the moratorium for seven years, apply the moratorium to the local operator and have that operator participate in a health study. Option 2 would extend the moratorium until the end of 2013.

Kadrich stated the second item before Council relates to reciprocal setbacks and disclosures. She detailed the purpose of the moratorium and the possibility of Land Use Code amendments and related public involvement, as well as staff's recommendations regarding disclosures and reciprocal setback requirements.

Mayor Weitkunat requested additional details relating to already-adopted regulations. Kadrach replied the first legal action taken by Council established a moratorium which prohibited any oil and gas company from seeking a new permit to drill within the city limits or on City-owned lands. Following that action, Council requested a specific Code amendment related to the prohibition of hydraulic fracturing processes to be used within the city limits. The exception to that Code would allow a specific operator to continue to operate within health and safety regulations under an operator agreement.

Mayor Weitkunat asked if the City Code bans hydraulic fracturing within the City limits. Kadrach replied in the affirmative and stated permanent storage of fracturing waste products is also banned.

Gary Wockner, 516 North Grant, Clean Water Action, requested a ban on drilling and fracking and suggested the seven year moratorium apply not only to applications, but also to drilling and fracking in the city limits and on all City-owned lands.

Janice Lynne, 218 South Washington, supported the seven year moratorium option.

Nancy York, 130 South Whitcomb, supported the seven year moratorium option and opposed current state oversight as being too lenient.

Tom Hoehn, 218 South Washington, supported the seven year moratorium option and the Land Use Code changes.

Kelly Giddens, Citizens for a Healthy Fort Collins, stated she would not support the moratorium as it does not include City-owned lands.

Phil Friedman, 144 North Frey, Fort Collins Sustainability Group, supported the seven year moratorium option and requested that it include all City-owned land.

Elizabeth Hudetz, 1407 Ticonderoga Drive, discussed health and environmental issues and opposed fracking in general.

Dolores Williams, 415 Mason Court, questioned the health of individuals in the future given the fracking industry and supported the extension of the moratorium.

Sean Dougherty, Fort Collins Board of Realtors, discussed the role of realtors in disclosures and stated realtors were never asked to weigh in on the disclosure form. As a resident of Fort Collins, Mr. Dougherty questioned whether or not a continued moratorium would prove negative health effects.

Wes Wilson, Be the Change, questioned previously completed health studies regarding oil wells and fracking.

Jeffrey Martin, Fort Collins Board of Realtors, stated the Board of Realtors does not have any official position on fracking. He discussed his concerns regarding the implementation of the recommended disclosure forms.

Phil Doe, Be the Change, suggested Council examine the impacts of drilling in and near Greeley.

Clint Skutchan, Fort Collins Board of Realtors, discussed the Board's concerns regarding the implementation of the recommended disclosure forms.

Mary Fischer, 307 Dahlia Court, discussed the disclosure issue and quality of life issues in Fort Collins.

Michael Baute, 2825 South Taft Hill, questioned the dichotomy of the City encouraging local organic gardens while potentially allowing fracking.

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

Councilmember Cunniff asked about the possibility of extending the moratorium to City-owned lands and noted staff has suggested having the ability to have a decision regarding placement of wells on those lands would be preferable to a moratorium. Kadrach replied the initial moratorium included City-owned lands; following that moratorium, discussions were held with Natural Areas staff that have completed the Energy by Design process and support its recommendations.

Councilmember Overbeck requested follow-up regarding the Board of Realtors' concerns. Kadrach stated staff will work to address those concerns prior to Second Reading.

Councilmember Troxell asked if there is a time urgency regarding the disclosures. Kadrach replied there is no time urgency; however, the issue was brought up frequently by citizens, and staff would prefer to have the issue worked out prior to any subdivision approvals.

Councilmember Troxell asked about existing developments and those currently in progress. Kadrach replied complaints were heard from existing residents, particularly regarding abandoned wells. Lindsay Ex, Environmental Planner, replied the requirements for abandoned wells are the same as those for active wells. She stated the standards apply to any new residential development within the area of existing oil and gas operations. Developments which are already approved and built are not subject to Land Use Code regulations.

Councilmember Troxell made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 107, 2013, on First Reading, to continue the moratorium until December 31, 2013.

Councilmember Troxell noted this does not include the existing operator, Prospect Energy, and does not preclude nor require health monitoring.

Councilmember Cunniff agreed additional time is needed to further develop the Land Use Code regulations; however, he stated even Option 1, the seven year moratorium option, does not go far enough and should exclude the drilling of new wells.

Mayor Pro Tem Horak stated it would be fair to wait until the completion of the citizen petition drive and suggested any Council action this evening would confuse the issue.

Councilmember Campana noted the existing moratorium expires July 31. Mayor Pro Tem Horak replied there is still a ban on hydraulic fracturing, except in the case of a signed operator agreement.

Mayor Weitkunat requested staff input regarding any other provisions in the extension that did not exist in the previous moratorium. Kadrich replied the reasons for the extension are similar; however it would not apply to City-owned lands.

Mayor Pro Tem Horak requested a description of the difference between the existing Ordinance and this Ordinance. Kadrich replied what is left in place after the expiration of the existing moratorium is a City Code that prohibits the use of hydraulic fracturing without an operator agreement being in place. She noted it would be extremely unlikely for any operator to seek a permit without being able to use the hydraulic fracturing process; the Code is more specific than the moratorium.

Councilmember Campana stated a moratorium provides additional protection and control for the City.

Mayor Pro Tem Horak made a motion to postpone Items A and B indefinitely, depending on the results of the petition drive and potential election.

City Attorney Roy clarified the intent of the motion was that the postponement would be until the Council either learns the petition is insufficient or, if it were sufficient, until after the election occurs. Mayor Pro Tem Horak replied in the affirmative. City Attorney Roy stated whichever event occurs first would trigger the items coming before Council and noted the motion to postpone would postpone not just the existing motion, but also Council's consideration of Part A of this agenda item.

The motion made by Mayor Pro Tem Horak died for lack of a second.

Mayor Pro Tem Horak stated he would not support the motion on the table.

Councilmember Troxell asked why this item is before Council now, given the pre-existing knowledge of the petition process. City Attorney Roy replied the item is on this agenda in order to allow a Second Reading approval to take effect prior to the expiration of the existing moratorium.

Councilmember Troxell requested comments relating to the current petition being circulated.

Councilmember Cunniff replied he hoped the petition passes, should Council not take action, and noted Council could gain some additional control should it pass its own Ordinance that excluded City-owned lands, given the opinions of the Natural Areas staff.

Councilmember Troxell asked if passing the motion on the table would be considered action taken.

Councilmember Cunniff replied it is only First Reading.

Councilmember Campana stated the extension of the moratorium would not derail or influence the petition process and stated the timing is due to the July 31 expiration.

The vote on the motion was as follows: Yeas: Weitkunat, Troxell and Campana. Nays: Horak, Cunniff, Overbeck and Poppaw.

THE MOTION WAS DEFEATED.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 106, 2013, establishing a moratorium on the creation of new oil and gas wells and the acceptance or processing of land use applications, permit applications and other applications seeking approval to conduct oil and gas extraction within the City of Fort Collins for a period of seven years, with modified language in the Ordinance.

Mayor Pro Tem Horak requested detail regarding the modified language. City Attorney Roy stated his understanding is that the changes would expand the scope of the moratorium to include the creation of any new oil and gas wells. Councilmember Cunniff replied in the affirmative.

City Attorney Roy asked if that change actually expands the scope or whether to create any new oil and gas wells, a permit would be required, and if so, it would seem to be prohibited by the existing language.

Kadrich stated even the current Land Use today would require the filing of a permit.

Councilmember Cunniff modified his motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 106, 2013 as written, establishing a moratorium on the creation of new oil and gas wells and the acceptance or processing of land use applications, permit applications and other applications seeking approval to conduct oil and gas extraction within the City of Fort Collins for a period of seven years.

Mayor Pro Tem Horak asked about the consequences of passing this Ordinance and then having a successful petition drive and subsequent election passing the citizen-initiated Ordinance. City Attorney Roy replied any citizen-initiated Ordinance would need to expressly supersede the existing moratorium. A question of interpretation would exist and the item would likely come before Council again regarding resolution of a potential ambiguity. He stated the courts would likely try to harmonize conflicting Ordinances.

Mayor Pro Tem Horak asked if the citizen initiative covers City-owned lands. Ms. Giddens replied it covers lands under the City's jurisdiction.

Mayor Pro Tem Horak made a motion to postpone Ordinance No. 106, 2013, until after the verification of the petition signatures and possible November election.

The motion failed for lack of a second.

Councilmember Troxell stated he agrees in principle with Mayor Pro Tem Horak and stated he would oppose the motion on the table as it puts the City at significant risk.

Mayor Weitkunat stated she would oppose the motion as well due to the provision which eliminates Prospect Energy.

Mayor Pro Tem Horak stated passing this Ordinance would void the City's contract with Prospect Energy, thereby putting the City at risk for losing litigation. He stated Prospect Energy is limited to a very small area in which to operate, and that area is limited to existing well pads only. The undeveloped area near Budweiser is also limited in terms of well development.

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Councilmember Cunniff stated other operators are waiting to see whether the undeveloped acreage produces oil and gas resources and stated he would support the motion.

Councilmember Overbeck stated he would support the motion as he has spoken to the mineral rights owners in the undeveloped acreage area and those owners are hoping Prospect Energy will drill in that area.

Mayor Pro Tem Horak noted the existence of oil and gas in the undeveloped acreage is pure speculation and noted there are only eleven active wells in Larimer County as the resources do not exist.

The vote on the motion was as follows: Yeas: Cunniff, Overbeck and Poppaw. Nays: Weitkunat, Troxell, Campana and Horak.

THE MOTION WAS DEFEATED.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 108, 2013.

Councilmember Troxell stated significant clarification regarding the disclosure issue needs to occur prior to Second Reading. Kadrach replied staff intends to work with those who spoke regarding the issue and develop a more targeted approach to have the disclosure.

Councilmember Troxell asked if the time prior to Second Reading would be enough to include additional public outreach. Ex replied staff had planned to have additional outreach regardless of the outcome of the First Reading vote.

Councilmember Troxell expressed concern the disclosure issue has too vague an implementation plan.

City Attorney Roy asked if Council's intent would be that this Ordinance would apply to abandoned wells and whether or not the intent would be to apply the disclosure requirement to existing development.

Councilmember Troxell expressed concern there is not enough detail in the Ordinance regarding these issues.

Councilmember Campana suggested the disclosure issue could be addressed prior to Second Reading.

Councilmember Cunniff stated this is a small step in the right direction and stated staff should be able to address the disclosure issue prior to Second Reading.

The vote on the motion was as follows: Yeas: Troxell, Cunniff, Overbeck, Poppaw, Campana, Horak and Weitkunat. Nays: none.

THE MOTION CARRIED.

Items Relating to Urban Agriculture, Adopted on Second Reading

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

- A. *Second Reading of Ordinance No. 096, 2013 Amending the Land Use Code to by the Addition of Provisions Pertaining to Urban Agriculture.*
- B. *Second Reading of Ordinance No. 097, 2013 Amending Chapter 4, Article II & III of the City Code Related to the Care and Keeping of Animals.*

The purpose of this item is to better align the Land Use and City Code with City Plan by allowing urban agriculture land uses in all zone districts, expand the districts where farmers markets are allowed, and allow a broader range and number of animals to be raised in the City.

Ordinance No. 096, 2013, amending the Land Use Code, was unanimously adopted on First Reading on July 2, 2013. These changes include (1) the establishment of an urban agriculture licensing system that will allow urban agriculture in all zone districts and (2) allowing farmers markets in more zone districts in the City.

Ordinance No. 097, 2013, amending City Code, was adopted by a 4-3 vote on First Reading on July 2, 2013 (Nays: Campana, Troxell, Weitkumat). The City Code changes include (1) scaling the number of chickens allowed based on lot size, (2) allowing duck hens to be raised, (3) updating the beekeeping Ordinance to reflect current best practices, and (4) allowing two dwarf or pygmy goats per household for milk production.

BACKGROUND / DISCUSSION

During First Reading on July 2, 2013, several questions were raised related to the proposed Code changes. These questions are addressed as follows:

Farm Animals in the Urban Estate and other Zone Districts

During the public testimony portion of the Hearing, several citizens commented about the lack of standards for keeping farm animals in the zone districts in which they are allowed, including the Urban Estate, River Conservation, and the Residential Foothills zone districts. Several Councilmembers directed staff to develop regulations for these zone districts that address the keeping of farm animals. Staff will develop these regulations over the coming months and bring them back to Council after they have been vetted through a public outreach process and a recommendation has been received by the Planning and Zoning Board.

Allowing Altered Males within City Limits

As discussed during First Reading, the proposed Code language for allowing goats allows either does (female goats) or wethers (altered males) to be raised. Councilmembers asked why wethers would be allowed if no slaughtering was to be permitted. Wethers do not create a nuisance in the same way that bucks (unaltered males) do, e.g., the smells and the noise. As goats are herd animals

and a minimum of two animals are required to minimize impacts on surrounding neighbors and for the health of the goats, staff recommends that wethers be allowed to be raised as an additional option for families to meet the required two goats per household.

Minimizing Risks associated with Goats, particularly Q Fever

When considering the potential risks associated with raising goats, Q fever, a disease caused by the bacteria *Coxiella burnetii*, was discussed as the highest risk to the community. Health professionals at the hearing indicated that the greatest risk associated with Q fever exposure occurred during the birthing process. To address this risk, staff is working with CSU professionals to ensure that the training provided prior to issuing a license addresses ways to minimize exposure to Q fever during the birthing process. Staff expects to have this training ready by September 2013, which would allow the first licenses to be issued shortly thereafter.

Councilmembers also questioned if on-site birthing should be prohibited because the greatest risks of exposure are during the birthing process. Staff spoke with the health experts after the hearing and indicated they would not recommend such a policy. This was due to the pregnant doe having to be placed into a separate facility where a resistance to that site's antibodies would not have been developed. This would put the pregnant doe at greater risk for contracting other diseases, which could threaten the health of the kid. Thus, staff recommends addressing Q fever exposure during the proposed educational training instead of restricting where birthing can occur.

The Health Department recommended creating a mechanism whereby citizens can easily identify if goats are being raised nearby. Staff will include the location of any issued license on FCMaps, available at <http://gisweb.fcgov.com/FCMaps/>, where all development related applications and licenses are also maintained.

The Health Department also recommended requiring annual renewal of the goat licenses so the City can maintain an active list of goat owners, should an outbreak occur. The Larimer County Humane Society has committed to annual renewals of the licenses.

Research Study on Q fever in Urban Agriculture

When staff assessed the problem, we determined the problem to be solved was to better understand the prevalence of Q fever in urban animals. One initial solution was to test every goat licensed in the City for the disease. Based on further research and discussion with CSU experts, a single test would indicate whether Q fever antibodies were present in an animal, but only a shedding test, with samples taken at the time of kidding, could provide the most accurate assessment of the active presence of Q fever. We also learned that a single test in isolation would not provide a complete picture of the risks associated with raising goats in an urban environment.

In further discussions with CSU, staff spoke with Drs. Kristy Pabilonia and Ragan Adams regarding the development of a study to assess Q fever in urban goats in a more systematic manner. Dr. Pabilonia conducted an initial literature review and found that published information related to Q fever was based on goat herds or goat farms, and that no studies had been conducted on raising goats in an urban environment. Dr. Pabilonia indicated that limited research funding was available to test licensed goats for Q fever to better develop a risk profile of Q fever occurrence in urban

situations. The study would include the testing for antibodies and during kidding, so that a complete picture of the rates of Q fever in goats could be established.

Should Ordinance No. 097, 2013, be adopted on Second Reading to allow goats to be raised, this research study could be developed and implemented over the next two years and would provide Council with a more thorough and locally-based assessment of the risk of this disease within our community. Staff believes this is the best solution because it provides a systematic and scientifically-based assessment of the risk environment surrounding goats in an urban environment.

Council Follow-up

Ordinance No. 097, 2013, as adopted on First Reading, required a full review of the regulations two years after adoption. Councilmembers also suggested reporting back to Council at six month intervals to report on any neighborhood concerns or issues that had arisen during that timeframe. Staff is committed to providing written updates to Council every six months on the outcome of the regulations, with a full report planned for July 2015. Staff expects that initial findings from the CSU research study will be available by July 2015 and could guide the two-year follow up discussion.”

Lindsay Ex, Environmental Planner, discussed the urban agriculture Ordinances and noted the goal of the project is to identify how the City’s regulations can be supportive of urban agriculture practices when and where they are appropriate. She noted nuisances due to the keeping of farm animals in certain districts where allowed are being addressed by enforcing Chapter 20 of City Code.

Ex discussed the development of a training program for the care and keeping of goats and the plan for CSU staff to design a research study.

Gerry Becker, Fort Collins resident, stated it is likely Fort Collins has already been exposed to Q fever with no harmful results.

Janice Lynne, 218 South Washington, discussed Food Bank data and stated families will use urban agriculture to supplement food needs. She supported allowing backyard dairy goats.

Dr. Adrienne Lebailly, Larimer County Health Department Director, opposed allowing backyard dairy goats due to Q fever concerns.

Tom Hoehn, 218 South Washington, supported the Ordinance including allowing dairy goats.

Kim Meyer-Lee, Larimer County Health Department, noted the proposed CSU study may never occur and questioned whether or not goat owners would be required to participate in a study, whether goats will be tested on an on-going basis, whether the locations of goats will be made public, what would happen should a goat test positive for Q fever, how human risk will be assessed, and how the presence of goats will be disclosed to home buyers.

Pam Duncan, 2436 Hollingbourne Drive, expressed appreciation to the Health Department for its concern and commended staff for their work on the item. She supported the Ordinance allowing the keeping of dairy goats.

Sherri Due, 2424 Sheffield Circle East, stated she gardens and preserves food and supported the Ordinance. She noted other larger municipalities which allow goats have vetted the issue through their health departments.

Pam Stevens, 1201 Emigh, noted individuals can have allergies to other types of animals and insects and supported the Ordinance, including allowing goats.

Councilmember Cunniff asked if regular testing will occur. Ex replied the Ordinance does not design the CSU study; however, regular testing is certainly an option and the study will be developed collaboratively with the Health Department.

Councilmember Cunniff noted there may not be a study if funding does not occur. He asked if regular testing would occur without the existence of such a study. Ex stated she would defer to the experts in the area and would prefer to address the testing issue, should approval for the study not be granted.

Councilmember Troxell commended staff work on addressing First Reading issues. He asked what would occur if an animal tests positive for Q fever. Ex replied batch testing would lead to a certain level of anonymity; however, the Centers for Disease Control require that any positive test be reported. She noted CSU researchers have stated a single positive test should be interpreted very cautiously and have recommended a more systematic study.

Councilmember Troxell requested an update on the issue of slaughtering. Ex replied no slaughtering will be allowed within the city limits for the purpose of meat. Any slaughter will need to be at the recommendation of a veterinarian or the Humane Society, not the owner.

Mayor Weitkunat asked how health concerns have been addressed in the Ordinance. Ex replied the specific changes since First Reading, not all necessarily covered in the Ordinance, include the CSU-initiated comprehensive study looking at Q fever within the City and the requirement that the training course cover animal husbandry and disease prevention and specifically cover the risks of Q fever at the time of birthing. The rabies testing component was part of the original Ordinance.

Mayor Weitkunat asked if there is a regular test available for Q fever. Regan Adams, CSU Extension DVM, replied there is an antibody blood test that shows whether or not an animal has been exposed to the bacteria; however, it does not indicate whether or not the animal is actively infected and shedding the organism. That testing is typically done at the time of birthing with a piece of placenta; however, that test can produce false negatives.

Councilmember Cunniff asked how the rate of false negatives would compare to other common tests. Dr. Adams replied she could not produce accurate statistics. Dr. Lebailly replied a negative shedding test does not rule out that the goat might not be shedding at another time. A positive test means the goat is shedding at that time.

Councilmember Troxell encouraged a research study regardless of the outcome of the vote and stated public policy should not be an experiment in and of itself. He expressed concern regarding the lack of a requirement to notify neighbors. Ex replied all licenses will be mapped and available on-line.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 096, 2013.

Councilmember Cunniff discussed the benefits of the Ordinance and stated he would like to see future discussion of strict homeowner association covenants being overwritten by this Ordinance.

The vote on the motion was as follows: Yeas: Cunniff, Overbeck, Poppaw, Campana, Horak, Weitkunat and Troxell. Nays: none.

THE MOTION CARRIED.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 097, 2013.

Councilmember Cunniff noted there is no proof Q fever would spread in the kind of urban environment.

Councilmember Campana stated he was not comfortable supporting this item on First Reading but, given the additional staff work, will support the item on Second Reading.

Councilmember Troxell stated he would not support the item due to health concerns.

Mayor Weitkunat stated she would not support the item as the health study is not yet completed.

The vote on the motion was as follows: Yeas: Overbeck, Poppaw, Campana, Horak and Cunniff. Nays: Weitkunat and Troxell.

THE MOTION CARRIED.

Resolution 2013-068
Supporting the Establishment of a Friendship City Partnership Between the City of Fort Collins and San Cristobal de las Casas, Chiapas, Mexico, Adopted

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

The municipality of San Cristobal de las Casas, Chiapas, Mexico is highly interested in pursuing a more formal partnership with the City of Fort Collins and has put forth a Friendship City application highlighting the benefits to both communities.

The City of Fort Collins requires a Council resolution of support prior to the communities moving forward with development of goals, project implementation, or visitations.

BACKGROUND / DISCUSSION

Process

*In 2012, Fort Collins established a Friendship City Partnership process (**Attachment 2**) to assist in the response and development of more formalized partnerships with international communities. A Friendship City Partnership is an established partnership between the City of Fort Collins and a foreign city that is mutually beneficial. The first step towards establishing a Friendship City Partnership is completing an Application. The Application helps to identify the proposed goals of the partnership, the supporting activities that would be included, and it highlights the areas of interest and strengths or needs for each party.*

This information is provided to the Fort Collins City Council for its consideration. If City Council determines that the Application outlines a strong fit, a Resolution to formalize the partnership will be considered by City Council.

Once a Resolution is in place, the designated representatives for each of the participating organizations will complete an Agreement outlining specific goals and outcomes.

The criteria for considering a Friendship City Partnership is based on, but not solely limited to, one or more of the following:

Attribute Match: *Does the community have similarities to our size, population, demographics, vision, mission, or goals?*

Goal Match: *Does the community have relevant sustainability, cultural and/or economic goals?*

Connection Match: *Does the community have existing local connections with significant community or business interests such as Colorado State University, Front Range Community College, University of Colorado Health Systems, Poudre School District, a targeted cluster industry, etc.?*

Exchange Match: *Does the community currently participate in an on-going exchange program with an organization in the city such as the Poudre School District, service organization, health care organization, etc.?*

Ethical Match: *Does the community strive to be a stable and ethical government?*

San Cristobal Application

San Cristobal has completed an Application outlining our mutual history and areas of interest, including:

- *Previous exchanges through CSU programs such as the Protected Area Management and Training Courses and a shared graduate program (CSU and El Colegio de la Frontera Sur) in Conservation Leadership.*
- *A mutual interest in the environment, sustainability, and ecology driven by each community's natural resources, geography, and commitment to stewardship.*
- *Opportunities and interest in sharing best practices around watershed management, recreation management, tourism promotion, and academic partnerships.*

FINANCIAL / ECONOMIC IMPACTS

This Resolution has no immediate financial or economic impacts. Should the City move forward, any costs will be mutually agreed upon and approved by the City Manager.

ENVIRONMENTAL IMPACTS

This Resolution has no environmental impacts, although a Partnership could be heavily focused on environmental processes, programs, and practices.”

Diane Jones, Deputy City Manager, introduced the item.

Ginny Sawyer, City Manager’s Office, discussed the history of San Cristobal in Fort Collins and reviewed the idea of a Friendship City contract.

George Wallace, CSU Professor Emeritus, discussed work done by CSU in the San Cristobal area regarding natural resources.

Ryan Finchum, Fort Collins resident, discussed the Master’s exchange program between CSU and San Cristobal.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2013-068.

Councilmember Troxell suggested stronger, more strategic ties could be built with cities around the world. He asked how this relates to the City’s outcome areas. Deputy City Manager Jones replied San Cristobal is interested in many of the same environmental and sustainability issues as Fort Collins.

Councilmember Troxell encouraged the engagement of appropriate private and public partners in these types of relationships.

Councilmember Overbeck commended the item.

Mayor Weitkunat noted this is the first step in developing strategic relationships worldwide.

The vote on the motion was as follows: Yeas: Weitkunat, Troxell, Horak, Poppaw, Overbeck, Cunniff and Campana. Nays: none.

THE MOTION CARRIED.

Other Business

Councilmember Campana and other Councilmembers requested staff examine the possibility of a disposable bag ban.

July 16, 2013

Councilmember Troxell expressed concern regarding single-family attached units with regard to medical marijuana grow operations. City Manager Atteberry stated the issue should be discussed in the scope of regulations in the near term.

Councilmember Cunniff requested additional sources of black mold be discussed within the same topic.

Councilmember Troxell questioned whether glass recycling is the highest and best use of the City's waste stream.

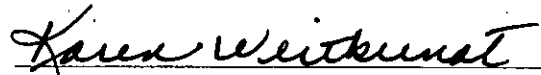
Cancellation of August 6, 2013 Meeting

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to cancel the August 6, 2013 Council meeting in order to allow Councilmembers to attend Neighborhood Night Out events. Yeas: Weitkunat, Horak, Troxell, Campana, Poppaw, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

Adjournment

The meeting adjourned at 9:51 p.m.


Mayor

ATTEST:


City Clerk

