

November 18, 2014

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● ROLL CALL

PRESENT: Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT: Poppaw

Staff present: Atteberry, Daggett, Nelson

● AGENDA REVIEW: CITY MANAGER

City Manager Atteberry stated the agenda has been revised to include Council's consideration of a motion to adjourn to Tuesday, November 25 in order to consider an Ethics Review Board opinion. Additionally, he recommended postponement of Item No. 21, *Second Reading of Ordinance No. 146, 2014, Revising Chapter 26 of the City Code Regarding Payments in Lieu of Taxes and Franchise Fees, and Specifying that the Operation and Maintenance of the Street Lighting System is an In Kind Payment by the Light & Power Fund in Lieu of Taxes and Franchise Fees*, to the December 16th meeting.

● CITIZEN PARTICIPATION

Stacy Lynne, 305 West Magnolia, discussed the Occupy Fort Collins movement and the conviction of Benjamin Gilmore for arson.

Cheryl Distaso, Fort Collins Community Action Network, thanked Council for adopting the Emergency Ordinance for a cold weather overflow shelter but expressed concern it is not enough. Additionally, she encouraged funding for lockers for homeless residents.

Glenn Laskie, 2803 Sunstone Court, requested the removal of a vegetable garden from a park in the English Ranch neighborhood.

Jean Yule, 1109 Williams Street, commended the Old Town tree lights and requested Council make a statement in opposition to the CSU's proposed on-campus stadium.

Doug Brobst, 1625 Independence Road, stated mitigation of stadium issues and an IGA with CSU will do nothing to alter what will happen to the quality of life enjoyed by Fort Collins citizens. He stated a main campus stadium does not fit the values of Fort Collins.

Tom McDonald, Fort Collins resident, requested conversion to LED street lights and supported advanced infrastructure for higher speed internet.

Jack Daniels, 172 North College, thanked Council for making Fort Collins a beautiful place to live.

Thomas Edwards, Fort Collins resident, wished Council a Happy Thanksgiving.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Cunniff noted Utilities staff has concluded that prices for LED lighting are still falling rapidly and he would support moving forward with such a program upon completion of policy discussions.

Councilmember Campana stated City Plan contains a key policy to promote urban community gardens but admitted the communication between the City and the English Ranch neighborhood regarding their garden should have been better handled. He encouraged an additional neighborhood meeting to discuss the issue.

Jeff Mihelich, Deputy City Manager, discussed the public input process the City has gone through since the first complaints about the English Ranch garden were made in May. He discussed the results of a citizen survey regarding this garden, which recommended making some modifications to the garden but to leaving it in place. Additional public outreach will be completed for future neighborhood gardens. City Manager Atteberry stated he would appreciate Council direction should it wish to provide an alternate solution or additional public outreach.

Mayor Pro Tem Horak noted Council will be discussing the main campus stadium issue and its potential impacts on December 2. He discussed the importance of providing meaningful feedback to Dr. Frank and the Board of Governors.

Mayor Weitkunat agreed with Mayor Pro Tem Horak and stated she will not take a stand one way or the other regarding the stadium without complete information regarding impacts. Council will protect citizens regardless of the outcome.

● **CONSENT CALENDAR**

Councilmember Overbeck withdrew Item No. 15, *Resolution 2014-105 Amending the Board and Commission Manual Concerning Periodic Reviews*, from the Consent Calendar.

Councilmember Cunniff withdrew Item No. 3A, *Second Reading of Ordinance No. 154, 2014, Amending Chapter 26 of the City Code to Revise Electric Rates, Fees and Charges*, from the Consent Calendar.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt and approve all items not withdrawn from the Consent Calendar.

RESULT:	CONSENT CALENDAR ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Poppaw

1. **Consideration and Approval of the Minutes of the October 21, 2014 Regular Council meeting and the October 14 and October 28, 2014 Adjourned Council Meetings. (Adopted)**

The purpose of this item is to approve the minutes of the October 21, 2014 Regular Council meeting and the October 14 and October 28, 2014 Adjourned Council meetings.

2. **Second Reading of Ordinance No. 138, 2014, Authorizing the Appropriation of Fiscal Year 2015 Operating and Capital Improvement Funds for the Fort Collins-Loveland Municipal Airport. (Adopted)**

The 2015 annual operating budget for the Airport totals \$844,530, and will be funded from Airport operating revenues, contributions from the Cities of Fort Collins and Loveland (\$177,500 from each City), and interest earnings. This Ordinance, unanimously adopted on First Reading on October 21, 2014, authorizes the City of Loveland to appropriate the City of Fort Collins contribution, which is a 50% share of the 2015 Airport budget and totals \$422,265.

This Ordinance also appropriates the City's 50% share of capital funds, totaling \$442,500 for the Airport from federal and state grants; contributions from Fort Collins and Loveland; and the Airport General Fund. Most of the 2014 Airport capital funds, totaling \$885,000, will be used to complete major Airport improvements including the second phase of the construction of a snow removal equipment storage facility, and the rehabilitation of roadways.

3. **Items Relating to Utility Rates, Fees and Charges for 2015. (Adopted)**

- B. Second Reading of Ordinance No. 155, 2014, Amending Chapter 26 of the City Code to Revise Electric Development Fees and Charges.
- C. Second Reading of Ordinance No. 156, 2014, Amending Chapter 26 of the City Code to Revise Wastewater Rates, Fees, and Charges.

The purpose of this item is to consider two Ordinances adjusting electric rates and fees and one Ordinance adjusting wastewater service rates for 2015. The City Manager's Recommended 2015 City Budget includes small rate increases in the electric and wastewater utilities. The 1.9% electric rate increase is necessary due to increased operation and maintenance costs associated with the generation and transmission of the energy. The 3.0% wastewater rate increase is necessary to meet long-term capital improvement needs due to anticipated regulatory changes and aging infrastructure. Electric development fee changes are proposed due to changes in material costs. Water and wastewater plant investment fees were updated for 2014 and will not be updated again until 2016. These Ordinances were unanimously adopted on First Reading on October 21, 2014.

4. **Second Reading of Ordinance No. 157, 2014, Appropriating Unanticipated Grant Revenue in the General Fund for the Environmental Services Radon Program and Authorizing the Transfer of Matching Funds Previously Appropriated in the Environmental Services Operating Budget. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2014, appropriates \$4,973 awarded to the City by the Colorado Department of Public Health and Environment, transfer a matching amount of \$4,973 from the 2014 General Fund and, combine these funds in the Environmental Services Radon Program account. The Radon Program carries out radon risk-reduction activities as identified in the current City budget.

5. **Second Reading of Ordinance No. 158, 2014, Appropriating Unanticipated Revenue and Prior Year Reserves in the General Fund to Reimburse Woodward, Inc. for Development Fees. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2014, appropriate \$88,344 of current year General Fund Revenue and prior year General Fund Reserves for a rebate to Woodward of development fees as approved by City Council on April 2, 2013 (Ordinance No. 055, 2013). Ordinance No. 055, 2013 approved an agreement between the City, Downtown Development Authority (DDA), and Woodward, Inc. The agreement provides Business Investment Assistance for the relocation of Woodward's headquarters as well as an expansion of its manufacturing and office facilities to a new location at the corner of Lincoln Avenue and Lemay Avenue. The project will retain

or create between 1,400 and 1,700 primary jobs in the City. The City's assistance includes a rebate of Use Tax, Development Fees, and Capital Improvement Fees.

6. **Second Reading of Ordinance No. 159, 2014, Amending Section 2-568 of the City Code to add to the Ethical Rules of Conduct a Prohibition on Special Treatment and to Establish a Reporting Requirement for Councilmember Contacts with City Staff. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2014, promotes transparency and awareness in connection with Councilmember contacts with the administrative service of the City and to establish clear standards related to special treatment in the interpretation, administration or enforcement of the Code, City regulations, policies or programs, or provision of City services by any City officer or employee.

7. **Second Reading of Ordinance No. 160, 2014, Designating the Avery Duplex Cottage, 134-136 North Sherwood Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2014, designates the Avery Duplex, 134-136 North Sherwood, as a Fort Collins landmark. The owners of the property, Kevin and Suzanne Murray and Carl and Karen McWilliams, are initiating this request.

8. **Second Reading of Ordinance No. 161, 2014, Designating the Garcia Property, 321 North Whitcomb Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2014, designates the Garcia Property, 321 North Whitcomb as Fort Collins landmark. The owner of the property, Kate A. Polk, is initiating this request.

9. **Second Reading of Ordinance No. 162, 2014, Designating the 508 Remington Street Property, 508 Remington Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 4, 2014, designates the 508 Remington Street Property, 508 Remington, as a Fort Collins landmark. The owner of the property, James L. MacDowell III, is initiating this request.

10. **First Reading of Ordinance No. 165, 2014, Appropriating Unanticipated Revenue for the Senior Center Expansion Project and Transferring Appropriations to the Cultural Services and Facilities Fund for Art in Public Places Program. (Adopted)**

The purpose of this item is to appropriate an additional \$10,000 to the Senior Center Expansion Project. These additional funds were raised by the Senior Center Expansion Committee and will be used toward the cost of constructing a 22-foot x 46-foot storage garage at the far west end of the new parking lot. This storage shed will replace the four temporary units currently at the site and be used to store equipment and supplies used at the Senior Center.

The total price to construct this shed is \$30,500, Parks is contributing \$14,000 toward their portion of the shed and the balance is being picked up by the project capital funds.

11. **First Reading of Ordinance No. 166, 2014 Amending Section 20-92 of the Code of the City of Fort Collins Pertaining to Inoperable Motor Vehicles. (Adopted)**

The purpose of this item is to amend the inoperable motor vehicle ordinance to improve its enforceability in light of the general purpose for the provision, which is to prohibit the storage of inoperable vehicles within ordinary public view.

12. **First Reading of Ordinance No. 168, 2014, Designating the William and Violet Jackson/Robert Bailey Property, 1306 West Mountain Avenue, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins. (Adopted)**

The owner of this property, Robert Bailey, is initiating this request for Fort Collins Landmark designation of the William and Violet Jackson/Robert Bailey Property at 1306 West Mountain Avenue.

13. **Resolution 2014-103 Extending by One Year the Work-Completion Deadline Established in Resolution 2014-005 Regarding Cooperation and a Partnership with Larimer County on the Use of Tax Increment Financing. (Adopted)**

The purpose of this item is to extend City staff's work-completion deadline in Resolution 2014-005 from December 15, 2014, to December 15, 2015. Resolution 2013-045 was originally adopted by City Council on May 7, 2013. Section 4 of that Resolution directs staff to work with Larimer County and other northern Colorado municipalities and affected property tax levying entities to develop an appropriate fiscal impact analysis model for evaluating financial impacts associated with the formation of tax increment financing districts and the use of tax increment financing. Resolution 2014-005 extended the work-completion deadline set in Resolution 2013-045 from December 15, 2013, to December 15, 2014.

A team made up of representatives from various municipalities and tax levying entities within the County has developed a Purpose & Goals document, issued an RFP and selected EPS as the consultant to assist the team in developing a "fiscal impact analysis model". The current timeline anticipates completion summer/fall of 2015. As such, an extension to December 15, 2015 is requested for the work-completion deadline established in Resolution 2014-005.

14. **Resolution 2014-104 Adopting the 2015 Legislative Policy Agenda. (Adopted)**

The purpose of this item is to adopt the City Council's 2015 Legislative Policy Agenda. Each year the Legislative Review Committee (LRC) develops a legislative agenda to assist in the analysis of pending legislation. The Legislative Policy Agenda is used as a guide by Council and staff to determine positions on legislation pending at the state and federal levels and as a general reference for state legislators and congressional delegation. This year, the Legislative Policy Agenda scope is expanded to allow consideration of county, state and federal regulatory matters by the LRC.

- **END CONSENT**

- **CONSENT CALENDAR FOLLOW-UP**

Councilmember Cunniff stated he would like to take a harder look at how the Fort Collins-Loveland Airport is financed and how it operates.

Mayor Weitkunat stated the Airport has developed an economic strategic plan focusing on building revenues. She stated the Plan will help to bring in private dollars to utilize the land surrounding the Airport.

Mayor Pro Tem Horak noted the state will have less dollars to distribute to small airports throughout the state.

- **COUNCILMEMBER REPORTS**

Councilmember Cunniff reported on the Finance Committee meeting regarding the on-bill

financing interest rate, PILOTs and street lighting, the sales tax rebate program, and the new financial operating policy.

Mayor Pro Tem Horak reported on the Poudre Fire Authority Board meeting regarding a request for proposal for ambulance service.

Councilmember Campana reported on men's cancer awareness month and the upcoming National League of Cities meeting. He stated the City will be receiving awards for its participation in the national Let's Move campaign.

Councilmember Troxell reported on the University Communities Council and the National League of Cities meetings regarding those communities.

Mayor Weitkunat reported on her participation in a panel regarding climate resiliency and planning for water issues at the National League of Cities meeting.

● **CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS**

3. **Items Relating to Utility Rates, Fees and Charges for 2015. (Ordinance No. 154, 2014, Adopted on Second Reading)**

- A. *Second Reading of Ordinance No. 154, 2014, Amending Chapter 26 of the City Code to Revise Electric Rates, Fees and Charges.*
- B. *Second Reading of Ordinance No. 155, 2014, Amending Chapter 26 of the City Code to Revise Electric Development Fees and Charges.(Adopted on Consent)*
- C. *Second Reading of Ordinance No. 156, 2014, Amending Chapter 26 of the City Code to Revise Wastewater Rates, Fees, and Charges.(Adopted on Consent)*

The purpose of this item is to consider two Ordinances adjusting electric rates and fees and one Ordinance adjusting wastewater service rates for 2015. The City Manager's Recommended 2015 City Budget includes small rate increases in the electric and wastewater utilities. The 1.9% electric rate increase is necessary due to increased operation and maintenance costs associated with the generation and transmission of the energy. The 3.0% wastewater rate increase is necessary to meet long-term capital improvement needs due to anticipated regulatory changes and aging infrastructure. Electric development fee changes are proposed due to changes in material costs. Water and wastewater plant investment fees were updated for 2014 and will not be updated again until 2016. These Ordinances were unanimously adopted on First Reading on October 21, 2014.

Councilmember Cunniff expressed concern regarding the 13% increase of the fixed charge.

Eric Sutherland, 3520 Golden Currant, opposed the City's Smart Meter program and stated the increased fixed charge is evidence the meters are not cost-saving measures.

Councilmember Cunniff asked if there was a discussion regarding prorating the fixed cost increase into the overall fees to encourage conservation, or potentially decreasing the fixed cost in order to allow those who conserve more to see a stronger price signal. Lance Smith, Utilities Strategic Financial Planning Manager, replied the fixed charge represents the cost directly associated with metering; however, it is not the total cost associated with metering. Part of the rate assumption is that reserves will be drawn down by \$2 million in 2015 in order to partially subsidize what the fixed rate increase should have been.

Councilmember Cunniff asked if the reserves will be refilled. Smith replied there is currently an excess in the reserve fund which is why it is being drawn down.

Councilmember Cunniff expressed concern there has not been discussion regarding how the fixed rate plays into the conservation signal or tiered rates.

Councilmember Troxell stated one thing that has held the City back from moving toward time-of-use rates was the introduction of tiered rates. He encouraged additional discussion regarding moving toward time-of-use rates.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 154, 2014, on Second Reading.

RESULT:	ORDINANCE NO. 154, 2014 ADOPTED ON SECOND READING [5 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkumat, Overbeck, Campana, Troxell, Horak
NAYS:	Cunniff
ABSENT:	Poppaw

15. **Resolution 2014-105 Amending the Board and Commission Manual Concerning Periodic Reviews. (Adopted)**

The purpose of this item is to amend the Board and Commission Manual by adopting a new Periodic Review Schedule.

Councilmember Overbeck stated this item needs additional public process prior to moving forward. City Clerk Nelson replied the intent of the Resolution is to amend the review schedule so it aligns the boards and commissions with the City's key outcome areas.

Councilmember Cunniff requested assurance that nothing other than the chart that aligns the boards and commissions with the City's key outcome areas and the review schedule is changing. City Clerk Nelson replied in the affirmative.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Resolution 2014-105.

Mayor Pro Tem Horak stated this item will provide some logic to the Boards and Commissions annual reviews.

RESULT:	RESOLUTION 2014-105 ADOPTED [UNANIMOUS]
MOVER:	Wade Troxell, District 4
SECONDER:	Gerry Horak, District 6
AYES:	Weitkumat, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Poppaw

● **DISCUSSION ITEMS**

16. Items Relating to the Completion of the 2014 Fall Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing Funds from the Federal HOME Investment Partnership Program (HOME) and the City's Affordable Housing Fund (AHF). (Adopted)

- A. *Public Hearing and Resolution 2014-101 Approving the Programs and Projects that Will Receive Funds from the Home Investment Partnership Program and the City's Affordable Housing Fund.*
- B. *Public Hearing and First Reading of Ordinance No. 167, 2014, Appropriating Unanticipated Revenue in the Home Investment Partnership Program Fund.*

The purpose of this item is to approve the funding of the 2014 Fall Cycle of the Competitive Process. Resolution 2014-101 will complete the 2014 Fall Cycle of the Competitive Process for allocating \$816,741 in City financial resources to affordable housing projects and the administration of the HOME program that began October 1, 2014. Ordinance No. 167, 2014 appropriates HOME Program Income received between April 1, 2014 and September 30, 2014 for affordable housing and planning/administration uses.

Mayor Weitkunat noted this discussion will also serve as a public hearing.

Sharon Thomas, CDBG HOME Program Administrator, discussed the recommendations made by the Commission for the 2014 fall competitive process cycle.

Tatiana Martin, Fort Collins resident, supported the CDBG recommendations.

Mayor Weitkunat commended the work done by the CDBG Commission.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2014-101.

Mayor Pro Tem Horak commended the work done by the CDBG Commission.

RESULT:	RESOLUTION 2014-101 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Poppaw

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 167, 2014, on First Reading.

RESULT:	ORDINANCE NO. 167, 2014 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Poppaw

Mayor Weitkunat closed the public hearing.

17. **Second Reading of Ordinance No. 153, 2014, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for the Fiscal Year 2015; Adopting the Budget for the Fiscal Years Beginning January 1, 2015, and Ending December 31, 2016; and Fixing the Mill Levy for Fiscal year 2015. (Adopted as Amended on Second Reading)**

The purpose of this item is to present the Annual Appropriation Ordinance for Second Reading. This Ordinance sets the City Budget for the two-year period (2015-16) which becomes the City's financial plan for the next two fiscal years. This Ordinance sets the amount of \$552,814,455 to be appropriated for fiscal year 2015. This Ordinance also sets the 2015 City mill levy at 9.797 mills, unchanged since 1991.

Councilmember Campana recused himself due to a conflict of interest.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to suspend the rules in order to allow for consideration of Ordinance No. 153, 2014, in consideration of a motion to amend the Ordinance to remove an individual item from the Ordinance prior to citizen comment on that item. Yeas: Weitkunat, Overbeck, Troxell, Cunniff and Horak. Nays: none.

Mayor Weitkunat stated the reason for suspending the rules is to amend the Ordinance by removing the line item appropriating neighborhood parkland funds for the Side Hill neighborhood park as a Councilmember has a direct connection to this item and has therefore conflicted out of the discussion of that item.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell to adopt Ordinance No. 153, 2014, with the amendment to remove the line item appropriating parkland funds for the Sidehill Neighborhood Park from Section 2.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to postpone consideration of adoption of Ordinance No. 153, 2014, as amended on Second Reading until after citizen comments have been heard for this item. Yeas: Cunniff, Horak, Weitkunat, Overbeck and Troxell. Nays: none.

THE MOTION CARRIED.

City Manager Atteberry recommended Council adopt this financial plan on Second Reading and commended staff work on the budget.

Mike Beckstead, Chief Financial Officer, discussed changes recommended on October 21, which included the inclusion of an offer associated with traffic calming, the elimination of an offer associated with an assistant manager at Spring Creek Gardens, and an offer related to the Pro Cycling Challenge.

Cheryl Distaso, Fort Collins Community Action Network, commended staff for responding to her questions regarding the budget. She commended the item providing funding for transit to Foothills Gateway as a good first step and discussed the way homelessness is being addressed in the budget.

Monte Barry, Fort Collins resident, requested funding to aid in bringing the Pro Cycling Challenge to Fort Collins.

Michael Connell, Larimer Small Business Development Center, thanked Council for funding the SBDC.

Mayor Pro Tem Horak requested additional information regarding the \$50,000 item for the Pro Cycling Challenge. City Manager Atteberry replied those dollars represent direct costs incurred by the City as a result of the race, primarily involving police services, traffic control, and signage costs.

Councilmember Campana supported the funding for the race.

Mayor Weitkunat emphasized the importance of regional partnerships in attracting the Pro Cycling Challenge.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to amend the Ordinance by adding the enhancement offer of \$150,000 per year to increase Dial-a-Ride service to allow connectivity to Foothills Gateway.

Mayor Pro Tem Horak and Councilmember Campana supported the transit funding and encouraged staff to examine additional possibilities regarding east-west transit.

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

THE MOTION CARRIED.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to add the \$50,000 enhancement offer for the Pro Cycling Challenge, recognizing the additional \$50,000 contribution by the Convention and Visitor's Bureau.

Councilmember Cunniff stated he would not support the motion given concerns that the City is not recovering enough money from the hosting of large festivals and events.

Mayor Pro Tem Horak asked what the City spends on similar costs for New West Fest. Lieutenant Jim Byrne, Police Services, replied Police Services recoups nearly all of the cost of additional police services from event promoters.

Mayor Pro Tem Horak supported the expenditure of funds for the Pro Cycling Challenge as a positive event for the City and region.

Mayor Weitkunat commended the volunteers and community participation during the previous Pro Cycling Challenge.

Councilmember Overbeck stated Old Town businesses lost business due to the race. He requested assurance the budget will not increase. City Manager Atteberry and Beckstead stated the budget will not be increased.

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

THE MOTION CARRIED.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to place all of the funds for the Police training facility and driving track into reserves to be appropriated at a later date.

Mayor Pro Tem Horak expressed concern regarding the recommendation to move forward with this item at this time. City Manager Atteberry acknowledged uncertainties remain; however, he stated some dollars may need to be spent soon and noted the correct message needs to be sent to the City of Loveland regarding this appropriation.

Chief Hutto stated conversations with a private partner have not provided enough certainty to this point.

City Manager Atteberry stated he is skeptical that a private partner will ultimately prove to be found.

Mayor Weitkunat asked what the difference would be between putting these funds into reserves and making it a budget item. Beckstead replied the timing of the expenditure is the primary difference.

Mayor Pro Tem Horak argued the placement of the money in reserves would be more flexible than a specific budget offer.

City Manager Atteberry stated he does not have any significant concerns with the recommendation to place the money in reserves.

Councilmember Troxell expressed concern the placement of the money in reserves could potentially send the wrong message to the City of Loveland. City Manager Atteberry replied he does not believe this would erode the partnership, assuming a commitment is made in the next 60 to 90 days.

Deputy Police Chief Don Vagge noted Loveland is the other capital partner; however, this project is regional in nature and many law enforcement agencies in Northern Colorado are counting on this project moving forward.

Councilmember Cunniff asked how the other organizations will be funding the project. Vagge replied the current business model is for them to cover operations and maintenance through their user fees.

Mayor Pro Tem Horak requested assurance there are commitments from other users.

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

THE MOTION CARRIED.

Councilmember Campana made a motion, seconded by Councilmember Troxell, to amend the Ordinance by adding enhancement offer 44.4 for one full-time crew chief employee at the Gardens on Spring Creek.

Councilmember Campana stated this is a byproduct of the huge success of the Gardens.

Councilmember Cunniff stated he would not support the motion pending additional dialogue regarding the future of the Gardens.

Councilmember Troxell supported the change from an assistant director to crew chief position.

Mayor Weitkunat supported the motion noting the Gardens' success with public-private partnerships.

City Manager Atteberry discussed the Gardens' fundraising efforts, its vision, and its differences from the Discovery Museum.

Michelle Provaznik, Gardens on Spring Creek Director, stated the Gardens are a public-private partnership which emerged because of the work of a group of private citizens. A non-profit board, called the Friends of the Gardens on Spring Creek, has always worked in tandem with the organization as its fundraising arm.

Councilmember Cunniff asked about the vision for the entertainment component of the Gardens, particularly the Great Lawn proposal. Provaznik replied the Great Lawn is a turf area with a stage surrounded by gardens. She noted the original vision from 2000 has not changed; however, an increase in capacity is being requested.

Councilmember Cunniff asked if Council directed the larger capacity. Provaznik replied it was more of a business need. There is no classified position from which to pull a crew chief position and the gardens are primarily staffed by hourly employees and volunteers.

Councilmember Campana asked if there are any metrics which could compare the efficiency of the Gardens with other botanic gardens. Provaznik replied she could acquire that information.

Mayor Weitkunat asked if a 3/4 time position could fulfill the need.

Mayor Pro Tem Horak stated neither the original justification nor the additional justification for the position have been particularly compelling.

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

THE MOTION FAILED.

Councilmember Cunniff requested information regarding the Keep Fort Collins Great (KFCG) funding. Beckstead replied the KFCG Transportation offer was unfunded to begin with and the Parks and Recreation offer is included in the Parks and Recreation overall ongoing \$6.5 million offer.

Councilmember Cunniff stated the KFCG "other" category was intended not to cover anything with a specific category in KFCG, nor was it intended to backfill General Fund or other activities. Beckstead replied neither of those has occurred.

Councilmember Cunniff requested a complete roll-up by outcome area for all of the dedicated funds, sorted by the sub-fund, as part of the overall budget process in the future. Additionally, he stated Council's input on the budget process has been abbreviated and requested changes to Council engagement in the future. City Manager Atteberry expressed disappointment regarding

Councilmember Cunniff's comments, stating his opinion of an engaged process and encouraging Council suggestions as to how to avoid that in the future.

Mayor Weitkunat stated the budget process is incredibly open and stated she has never seen such an engaged Council as she has this cycle. Additionally, she stated the direction of Council work plans is reflected in the budget.

Councilmember Troxell echoed Mayor Weitkunat's comments regarding Council involvement stating this has been the best budget process with which he has been involved.

Councilmember Campana also commended the process and Council interaction with staff.

Councilmember Overbeck thanked staff and Council for work on the budget and stated he will have suggestions in the future.

Mayor Pro Tem Horak and Mayor Weitkunat commended staff work on the budget process.

RESULT:	ORDINANCE NO. 153, 2014 ADOPTED AS AMENDED ON SECOND READING [5 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Overbeck, Campana, Troxell, Horak
NAYS:	Cunniff
ABSENT:	Poppaw

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

18. **Resolution 2014-106 Authorizing the City Manager to Submit a Train Horn Noise Waiver Petition to the Federal Railroad Administration. (Adopted)**

The purpose of this item is to seek City Council permission to submit a request to the Federal Railroad Administration (FRA) for a waiver to the federal train horn noise rule for downtown Fort Collins. The waiver would include several proposed City actions in order to have trains stop blowing horns, except in emergency situations, when traveling from Laurel Street to College Avenue along Mason Street. If Council approves, a waiver will be drafted pursuant to FRA regulations and provided to the FRA Rail Safety Board for action.

Joe Olson, Traffic Operations Engineer, stated this item allows the City Manager to submit a train horn waiver in order to allow a quiet zone for the BNSF railroad track on Mason Street between College/Cherry and Laurel. He provided information regarding the safety improvements that have already occurred along Mason and discussed the federal train horn rule and the ways in which quiet zones can be declared. Olson discussed the crossings in question and the waiver request which would involve closing two crossings to vehicular traffic. Additionally, Olson discussed the public outreach process which primarily showed public support for the closures in order to silence or reduce train horn noise.

Walt Downing, Attorney representing BNSF, commended the working relationship between BNSF and City staff. He expressed concerns regarding the lack of a formal diagnostic with respect to the Federal Railroad Administration requirement of waiver applications being joint applications between the railroad and the public road authority. He also expressed concern that the waiver is a waiver of a measure of safety.

Astrid, 620 South Summit View, discussed the decrease in property values within a distance of railroad tracks. She encouraged any means of decreasing the horn noise assuming safety is met.

Cathy Norris, BNSF Railroad Government Affairs, reiterated Mr. Downing's comments and requested additional specificity from Council regarding what this Resolution would authorize.

Monte Barry, Fort Collins resident, discussed the noise of the train horn and supported any necessary vehicular crossing closures.

Mayor Weitkunat requested staff input regarding the necessity of a joint application. Olson replied the federal rule states one party may file a waiver application if there is not joint agreement. He stated City staff would look forward to the opportunity to discuss a potential quiet zone with BNSF representatives in order to file a joint application.

Mayor Weitkunat asked if this is a step in a process. Olson replied this would allow the City to request a waiver from the Federal Railroad Administration. City Manager Atteberry noted this waiver request is the result of a recent visit to the Federal Railroad Administration headquarters.

Mayor Pro Tem Horak noted the Chamber of Commerce has stated it was not contacted for outreach; however, Council's AIS states it was contacted. Olson replied the Chamber was contacted for outreach and any additional input would be welcomed.

Mayor Pro Tem Horak requested staff input regarding concerns about the effect on major arterials of closing the two intersections to vehicular traffic. Olson replied staff does not anticipate any major traffic impact from those potential closures.

Mayor Pro Tem Horak requested information regarding the cost of additional signalization and the proposed closures. Olson replied the Maple traffic signal would cost about \$100,000 and the closures would cost around \$100,000 to \$150,000 for each.

Councilmember Troxell asked if the waiver submission would be for what absolutely must be completed or if there is a possibility of design changes in the future. Olson replied the general concept of what was presented would be the best opportunity for success with the waiver.

Councilmember Troxell asked if Mason corridor was safe prior to the 2012 improvements. Olson replied it was quite safe with very few crashes.

Councilmember Troxell acknowledged safety is paramount but questioned the aesthetics and suggested a more comprehensive package that deals with the intersections in a way that reduces train noise, increases safety, and recognizes innovative approaches. Olson replied staff has decided the waiver is the best option at this time given the current rule; however, should that rule open up, those ideas will be further discussed.

Councilmember Overbeck asked about the possibility of a way side horn. Olson replied that type of horn is mounted at the crossing and is more directional; however, installation of those horns does not fix the City's issue as there is still a gate requirement.

Councilmember Overbeck requested additional information regarding that possibility.

Councilmember Campana asked Mr. Downing if he has seen some alternative designs that would

accomplish the City's goals and would also be supported by BNSF. Mr. Downing discussed the physical constraints of Fort Collins' situation and certain other types of safety measures, including raising ballards.

Councilmember Cunniff asked how long the waiver request may take. Olson replied the Federal Railroad Administration has a nine month window to evaluate the application once submitted.

Councilmember Cunniff asked how long an intersection reconfiguration public outreach process would take. Olson replied a great deal of outreach has already been completed and stated design would occur after an approval of the waiver.

Councilmember Cunniff suggested using the nine month window to complete additional outreach.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2014-106.

Mayor Pro Tem Horak agreed public outreach should continue and commended staff work on the issue. Additionally, he stated BNSF representation would have been helpful earlier in the process.

Mayor Weitkunat stated this process seems logical in that it will aid citizens without compromising safety:

Councilmember Campana encouraged dialogue to continue between BNSF and staff.

RESULT:	RESOLUTION 2014-106 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Poppaw

19. Second Reading of Ordinance No. 163, 2014, Amending the Land Use Code to Address Parking Issues Related to the Transit-Oriented Development (TOD) Overlay Zone. (Adopted as Amended on Second Reading)

This Ordinance, adopted on First Reading on November 4, 2014, by a vote of 4-3 (Nays: Cunniff, Overbeck, Poppaw) amends the Land Use Code to revise residential and commercial off-street parking requirements as recommended by the Transit Oriented Development (TOD) Parking Study, also adopted on November 4.

Laurie Kadrich, Director of Community Development and Neighborhood Services, discussed a possible inadvertent error made in the motion on First Reading, recommending the change from 50% to 60% not apply to the parking minimum.

Carl Wangsvick, 1509 Westview Avenue, opposed the transit overlay district.

Mayor Pro Tem Horak made a motion, seconded by Mayor Weitkunat, to adopt Ordinance No. 163, 2014 as amended, on Second Reading.

Mayor Pro Tem Horak asked what the requirements of a new district would be in comparison to

the district that was built. Kadrich replied the questions raised by Mr. Wangsvick are addressed related to the multi-family parking within the TOD, relative to the idea that, within this district, fewer people would be using cars. She noted this proposal ensures a minimum parking requirement and alternative compliance that must be documented or go along with the project.

RESULT:	ORDINANCE NO. 163 ADOPTED AS AMENDED ON SECOND READING [4 TO 2]
MOVER:	Gerry Horak, District 6
SECONDER:	Karen Weitkunat, Mayor
AYES:	Weitkunat, Campana, Troxell, Horak
NAYS:	Overbeck, Cunniff
ABSENT:	Poppaw

20. **First Reading of Ordinance No. 136, 2014, Amending Chapter 26 of the City Code Regarding Calculation and Collection of Development Fees Imposed for the Construction of New or Modified Electric Service Connections. (Option A or B) (Adopted on First Reading)**

The purpose of this item is to revise (Option A) or clarify (Option B) the City Code provisions relating to Electric Development Fees, in particular, Electric Capacity Fee Charges. The Ordinances clarify that the fees due are based on the rates effective on the date of final payment, but Council is presented with two options on how the fees are to be collected.

- **Option A:** *Option A is a timing change from current Code requirements. This option requires that 100% of the Electric Capacity Fee (ECF) be payable prior to the Utility initiating construction of the electric distribution system. Rates in effect at the time of payment would apply. Currently, only 50% of the fee is payable prior to construction with the remainder due prior to the electric system being energized. Option A also addresses how invoices issued prior to the adoption of this ordinance would be addressed.*
- **Option B:** *Option B does not change the timing of current Code requirements. It requires at least 50% of the Electric Capacity Fee (ECF) to be paid as a deposit prior to the Utility initiating construction of the electric distribution system. The remaining ECF (final payment) would be due prior to the system being energized. Rates in effect at the time of final payment would apply to the entire development. Because Option B is not a change from current practice or intent of the current code, it would apply to all invoices issued before or after the adoption.*

No changes to the Electric Development Fee amounts are proposed as part of this ordinance. The ordinance changes the verbiage only. 2015 Electric Development Fee rate amounts are being adjusted in Ordinance No. 155, 2014 which was approved on first reading on October 21, 2014 and is scheduled for second reading on November 18, 2014.

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

Kevin Gertig, Utilities Executive Director, stated staff has completed the Council-directed examination of timing and customer outreach.

Lance Smith, Strategic Finance Manager, stated this item addresses the electric capacity fee aspect of electric development fees. He discussed the two options available for Council consideration: Option A would involve 100% of the fee to be paid up front and Option B would revise the Code to provide some clarifying language around what charges are being applied. Smith noted staff and the Energy Board recommend Option A. He detailed the customer outreach efforts.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Option A of Ordinance No. 136, 2014, on First Reading.

Councilmember Troxell asked about the time lapse between when a request and payment are made and the equipment is energized. Janet McTague, Utilities Project Engineering Supervisor, replied the time is guided by the electric construction policies, practices and procedures and is largely dependent upon the developer. The Utilities lead time is generally a week to two weeks. She noted the system has to be energized prior to Xcel laying gas lines.

Mayor Weitkunat asked if a project has ever been delayed or abandoned between the first 50% payment and the energizing of the system. McTague replied situations have occurred wherein the first 50% has been paid and the developer then has faltered on financing, after which the first 50% has been refunded or credited to the project.

Councilmember Cunniff thanked staff for bringing this item forward and supported Option A.

RESULT:	ORDINANCE NO. 136, 2014, OPTION A, ADOPTED ON FIRST READING [3 TO 2]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Overbeck, Cunniff, Horak
NAYS:	Weitkunat, Troxell
ABSENT:	Poppaw
RECUSED:	Campana

21. **Second Reading of Ordinance No. 146, 2014, Revising Chapter 26 of the City Code Regarding Payments in Lieu of Taxes and Franchise Fees, and Specifying that the Operation and Maintenance of the Street Lighting System is an In Kind Payment by the Light & Power Fund in Lieu of Taxes and Franchise Fees. (Postponed to Date Certain)**

Staff is requesting postponement of Second Reading of this Ordinance to December 16, 2014 to permit time for staff to meet with the Council Finance Committee on November 17 to discuss the financial implications of modifying City Code as passed on First Reading of this Ordinance as compared to other alternatives.

This Ordinance, adopted on First Reading on October 28, 2014 by a vote of 4-2 (Nays: Cunniff, Overbeck), codifies the longstanding City policy and practice whereby the Light & Power Fund has been responsible for providing municipal street lighting as an in-kind payment to the General Fund as part of the Electric Utility's payment in lieu of taxes and franchise fees. The Ordinance also revises the language related to the Water and Wastewater Funds' required 6% payment to the General Fund to clarify that this is a payment in lieu of taxes and franchise fees (as opposed to just a payment in lieu of taxes). This change is consistent with Article V, Section 23 of the City Charter and with the wording used in City Code to reference the same fee paid by the Light & Power Fund.

City Manager recommended postponement of this item to December 16.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to postpone consideration of the Second Reading of Ordinance No. 146, 2014, to December 16, 2014.

RESULT:	SECOND READING OF ORDINANCE NO. 146, 2014 POSTPONED TO DECEMBER 16, 2014 [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Poppaw

● **OTHER BUSINESS**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn to 6:00 PM on Tuesday, November 25, 2014, to consider such matters as may come before the Council.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
ABSENT:	Poppaw

● **ADJOURNMENT**

The meeting adjourned at 10:24 PM.

Karen Weitkunat

Mayor

ATTEST:

Wanda Nelson

City Clerk

