

DATE: May 4, 2010
STAFF: Wanda Krajicek

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

6

SUBJECT:

Consideration and Approval of the Minutes of the April 6, 2010, Regular Meeting.

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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, April 6, 2010, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll Call was answered by the following Councilmembers: Hutchinson, Kottwitz, Manvel, Ohlson, Poppaw, Roy, and Troxell.

Staff Members Present: Atteberry, Krajicek, Roy.

Citizen Participation

Eric Sutherland, 3520 Golden Currant, expressed concern regarding the amount of time the Platte River Power Authority contracts have taken. He discussed Tax Increment Financing (TIF) and expressed concern regarding using TIF funds for the RMI2 building.

Carrie Gillis, 2213 Timber Creek Drive, encouraged Council to consider reducing spending when developing the upcoming budget and Plan Fort Collins.

Kevin Cross, 300 Peterson, Fort Collins Sustainability Group, encouraged Council to consider tiered electric rates which would not require a Smart Grid.

Phil Friedman, 201 South Grant Avenue, thanked Councilmembers for their service and discussed feed-in tariffs.

Cheryl Distaso, 135 South Sunset, Center for Justice, Peace and Environment, asked that more focus groups be held for Plan Fort Collins.

Stacy Lynne, 216 Park Street, discussed Clarion Associates and its relation to ICLEI and Plan Fort Collins.

Dee Amick, 221 Park Street, expressed concern regarding demolition of existing homes.

Citizen Participation Follow-up

Mayor Hutchinson stated the major contracts with Platte River Power Authority are 40-year contracts and need to be carefully adjusted to meet all parties' needs. The RMI2 building will be a catalyst for business and entrepreneurial success.

Councilmember Ohlson noted Fort Collins' version of the PRPA contracts, previously approved by Council, should have been presented. As it was not, the item had to be postponed.

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City Manager Atteberry offered to discuss the City's expenditure reductions with Ms. Gillis, noting \$24 million has been reduced from operating budgets and nearly 100 layoffs have occurred. Tiered electric rates and time of use rates will be considered by Council in late summer as part of the Climate Action Plan.

Councilmember Ohlson expressed support for the City's membership in ICLEI.

Agenda Review

City Manager Atteberry stated Item No. 21, *First Reading of Ordinance No. 043, 2010, Appropriating Unanticipated Revenue and Electric Revenue Bond Proceeds for the Smart Grid Investment Grant Project in the Light and Power Fund and for Bond Issuance Costs*, will be postponed until the April 20, 2010 meeting and withdrew Item No. 22, *Items Relating to the Platte River Power Authority Contracts*. The Electric Utility Enterprise meeting was also postponed.

CONSENT CALENDAR

6. Consideration and Approval of the Minutes of the March 2 and March 16, 2010 Regular Meetings and the March 9, 2010 Adjourned Meeting.

7. Second Reading of Ordinance No. 027, 2010, Appropriating Prior Year Reserves.

Ordinance No. 027, 2010, was unanimously adopted on First Reading on March 16, 2010. The Ordinance appropriates prior year's reserves for expenditures authorized in 2009 by Council but which could not be completed by the end of 2009.

8. Second Reading of Ordinance No. 028, 2010, Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Providing Natural Areas Programming Not Included in the 2010 Adopted City Budget.

This Ordinance, unanimously adopted on First Reading on March 16, 2010, appropriates prior year reserves in the Natural Areas Fund for the purpose of land conservation, construction of public improvements, restoration of wildlife habitat and other natural areas program needs to benefit the citizens of Fort Collins.

9. Second Reading of Ordinance No. 029, 2010, Amending Sections 7.5-24 and 7.5-25 of the City Code Regarding the Refunding of Capital Improvement Expansion Fees for Abandoned Development Projects.

There is no Code section that speaks to the refunding of collected Capital Improvement Expansion Fees (CIEFs) to an owner/developer who has requested a refund due to the abandonment of the project. The Code only provides that CIEFs may be refunded if they are not appropriated within seven years or expended within ten years from the date collected. This Ordinance, unanimously adopted on First Reading on March 16, 2010, establishes that

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CIEFs can be refunded to the owner of the property for which the fees were paid, in the event of project and permit abandonment.

10. Second Reading of Ordinance No. 032, 2010, Authorizing an Option to Lease, and a Subsequent Lease of, City-Owned Property at Collindale Golf Course to Clear Wireless, LLC for the Installation of a Wireless Service Tower and Related Equipment, and the Grant of Associated Easements.

Clear Wireless, LLC has requested to lease 625 square feet of City-owned property on South Lemay Avenue at the Collindale Golf Course to install a 50-foot tower and related equipment to enhance wireless service in the area. Additionally, Clear Wireless is requesting utility and access easements that are necessary for the operation and maintenance of its tower and equipment. This Ordinance, unanimously adopted on First Reading on March 16, 2010, authorizes the lease and associated easements.

There is a growing desire and need for improved wireless internet services in Fort Collins. For customers to receive optimal wireless service, wireless towers and antennas need to be placed about a mile apart and must be in sight range. The installation and operation of this tower will provide wireless services to many businesses and residences that currently do not have access to this service and it will improve the wireless service for customers in this area.

11. First Reading of Ordinance No. 035, 2010 Appropriating Unanticipated Grant Revenue and Appropriating Additional Unanticipated Revenues in the Light and Power Fund for the Northern Colorado ENERGY STAR New Homes Program and Authorizing the Transfer of Matching Funds Previously Appropriated in the Light and Power Operating Budget.

This Ordinance appropriates grant funds received from the State of Colorado's Governor's Energy Office. The grant totals \$50,000 for the continuing development and implementation of the ENERGY STAR New Homes Program in the Northern Colorado region. The grant requires a \$15,000 match from the Utilities and a \$41,000 match from other regional program partners. The Ordinance also transfers the Utilities \$15,000 match from existing Light and Power operating appropriations. In addition, the Ordinance appropriates a total of \$41,000 pledged by the program partners in 2010 and a net of \$44,381 previously received from the program partners in 2009.

12. First Reading of Ordinance No. 036, 2010, Amending Section 26-283 of the City Code to Authorize the Utilities General Manager to Establish Temporary Arrangements for Use of City Wastewater System Capacity.

This change to Chapter 26 of the City Code provides authorization for temporary wastewater service arrangements. Generally, Utilities customers establish parameters for wastewater discharge flows and pay associated plant investment fees prior to service delivery. In some instances, usually with an expansion of service, parameters for wastewater service cannot

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be determined until the expansion is complete. This Code change provides general guidelines for this specific type of service agreement.

13. First Reading of Ordinance No. 037, 2010, Amending Section 10-80 of the City Code to Prohibit Certain Residential and Mixed-use Construction on Properties Removed from the Poudre River Floodplain Through the LOMR-fill Process.

The Federal Emergency Management Agency has a process to remove property from the floodplain by the placement of fill called the Letter of Map Revision Based on Fill (LOMR-Fill). The current Poudre River regulations do not allow new residential or mixed-use structures or additions in the Poudre River flood fringe. This prohibition was adopted due to the life-safety risk of allowing people to sleep in the floodplain. However, if a LOMR-Fill is granted, these regulations do not apply, causing an inconsistency. The proposed ordinance removes that inconsistency and will not allow a new residential or mixed use development on a LOMR-Fill.

NOTE: This Ordinance is not related to the proposed State of Colorado Floodplain Regulations.

14. Items Relating to the Authorization of Utility Enterprises to Have and Exercise Certain Powers.

- A. First Reading of Ordinance No. 038, 2010, Amending Section 26-392 of the City Code Regarding the City's Electric Utility Enterprise.
- B. First Reading of Ordinance No. 039, 2010, Amending Section 26-209 of the City Code Regarding the City's Wastewater Utility Enterprise.

These Ordinances clarify the powers of the Enterprises. The revisions are consistent with the authorizations given in the City Code for the Water and Stormwater Utility Enterprises.

15. First Reading of Ordinance No. 040, 2010, Amending Section 2-582 of the City Code Pertaining to the Creation and Elimination of Deputy and Assistant City Attorney Positions.

This Ordinance would amend Section 2-568(a) of the City Code to authorize the City Attorney to create and fill Deputy and Assistant Attorney positions as he or she deems necessary to meet the legal services needs of the City and to fulfill the City Attorney's duties and responsibilities under the City Charter, as long as sufficient funds have been appropriated and made available by the City Council to defray the costs associated with such positions.

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

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

7. Second Reading of Ordinance No. 027, 2010, Appropriating Prior Year Reserves.

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8. Second Reading of Ordinance No. 028, 2010, Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Providing Natural Areas Programming Not Included in the 2010 Adopted City Budget.
9. Second Reading of Ordinance No. 029, 2010, Amending Sections 7.5-24 and 7.5-25 of the City Code Regarding the Refunding of Capital Improvement Expansion Fees for Abandoned Development Projects.
10. Second Reading of Ordinance No. 032, 2010, Authorizing an Option to Lease, and a Subsequent Lease of, City-Owned Property at Collindale Golf Course to Clear Wireless, LLC for the Installation of a Wireless Service Tower and Related Equipment, and the Grant of Associated Easements.
19. Second Reading of Ordinance No. 034, 2010, Adopting a Development Agreement Extending the Term of Vested Property Rights for Rigden Farms, LLC and Rigden Development, LLC for Phases II and III of Rigden Farm Filing Six Final Plan for Ten Years.
23. Items Relating to a Review of the City's Stormwater Management Program.
 - A. Second Reading of Ordinance No. 030, 2010 Amending Section 26-492 of the Code Declaring the Purpose of the Stormwater Utility.
 - B. Second Reading of Ordinance No. 031, 2010 Adopting Landscape Design Standards and Guidelines as an Addendum to the City's Storm Drainage Design Criteria and Construction Standards.

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

11. First Reading of Ordinance No. 035, 2010 Appropriating Unanticipated Grant Revenue and Appropriating Additional Unanticipated Revenues in the Light and Power Fund for the Northern Colorado ENERGY STAR New Homes Program and Authorizing the Transfer of Matching Funds Previously Appropriated in the Light and Power Operating Budget.
12. First Reading of Ordinance No. 036, 2010, Amending Section 26-283 of the City Code to Authorize the Utilities General Manager to Establish Temporary Arrangements for Use of City Wastewater System Capacity.
13. First Reading of Ordinance No. 037, 2010, Amending Section 10-80 of the City Code to Prohibit Certain Residential and Mixed-use Construction on Properties Removed from the Poudre River Floodplain Through the LOMR-fill Process.
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- B. First Reading of Ordinance No. 039, 2010, Amending Section 26-209 of the City Code Regarding the City's Wastewater Utility Enterprise.
- 15. First Reading of Ordinance No. 040, 2010, Amending Section 2-582 of the City Code Pertaining to the Creation and Elimination of Deputy and Assistant City Attorney Positions.
- 20. Items Relating to Occupancy Limits
 - A. First Reading of Ordinance No. 041, 2010, Amending Sections of the Land Use Code Relating to Occupancy Limits.
 - B. First Reading of Ordinance No. 042, 2010, Amending Section 5-265 of the City Code Relating to Occupancy Disclosure Statements.

Stacy Lynne, 216 Park Street, withdrew Item No. 8, *Second Reading of Ordinance No. 028, 2010, Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Providing Natural Areas Programming Not Included in the 2010 Adopted City Budget*, from the Consent Calendar.

Councilmember Manvel made a motion, seconded by Councilmember Troxell, to adopt and approve all items not withdrawn from the Consent Calendar. Yeas: Hutchinson, Kottwitz, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Consent Calendar Follow-up

Councilmember Ohlson discussed recent credibility issues relating to the Energy Star program and asked for assurance that it is worthy of approval by the City. Patty Bigner, Utilities Customer Relations Manager, stated the City has been an Energy Star partner since 2003 and noted the findings from the Government Accountability Office are disturbing. A press release has been distributed in response to the findings and the City will continue to monitor the program. The Energy Star appliance program is a self-certifying and qualifying program. Ordinance No. 035, 2010 will appropriate funds for Energy Star new homes. The Environmental Protection Agency and Department of Energy are implementing standards to aid in maintaining the credibility of the program.

Councilmember Reports

Councilmember Manvel stated he attended the Regional Air Quality Council meeting at which the primary topic was transit and reduction of vehicle miles. He also attended a Metropolitan Planning Organization meeting regarding bus service between Greeley and Loveland.

Councilmember Poppaw stated she attended the SAINT volunteer appreciation event and acknowledged the volunteers for their work.

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Councilmember Troxell stated he is on the advisory committee for the ad-hoc waste stream analysis group which had its initial meeting.

Councilmember Ohlson expressed appreciation to Jeff Groves, who is retiring from the Police Department after 37 years.

**Ordinance No. 034, 2010,
Adopting a Development Agreement Extending the Term of Vested Property
Rights for Rigden Farms, LLC and Rigden Development, LLC for Phases II
and III of Rigden Farm Filing Six Final Plan for Ten Years, Adopted on Second Reading**

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

This Ordinance, adopted on March 16, 2010, by a vote of 5-1 (Nays: Ohlson) adopts a Development Agreement Extending the Term of Vested Rights for Rigden Farm Filing Six, and is part of a larger settlement of a dispute between the Rigden Farm developers and the City.”

Councilmember Roy made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 034, 2010, on Second Reading. Yeas: Hutchinson, Kottwitz, Manvel, Poppaw, Roy and Troxell. Nays: Ohlson.

THE MOTION CARRIED.

Items Relating to Occupancy Limits, Adopted on First Reading

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

- A. *First Reading of Ordinance No. 041, 2010, Amending Sections of the Land Use Code Relating to Occupancy Limits.*
- B. *First Reading of Ordinance No. 042, 2010, Amending Section 5-265 of the City Code Relating to Occupancy Disclosure Statements.*

In 2005, City Council adopted significant changes to the Municipal Code and the Land Use Code for the purpose of establishing new occupancy regulations that are understandable, fair, and enforceable. This was accomplished in part by redefining the make-up of the types of groups or individuals that can live together in a dwelling unit and by establishing ways in which the number of persons allowed to live together can be increased.

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It has recently come to City staff's attention that the current regulations do not meet Council's original intent for limiting the occupancy of dwelling units. The proposed Land Use Code changes address this problem by refining the definition of Dependent, by adding a "host family" category as another acceptable way to increase the number of occupants allowed in a dwelling unit, and by changing the definition of Family and amending the definition of Occupancy.

In addition, the disclosure statement requirement related to occupancy limits has been revised to ensure that the statement is truthful, is provided by the property owner or manager to the tenants at the time of lease signing, and is readily available when requested by the City.

BACKGROUND/DISCUSSION

At the October 27, 2009 Council Work Session regarding the Occupancy Ordinance Two-Year Review and Policy Discussion, Council directed staff to bring the following three items back to them for further consideration (See Attachment 1):

1. *Redefine the Occupancy Limit – Further define and clarify changes to the occupancy limit in order to:
 - a. *Clarify the definition to meet Council's original intent.*
 - b. *Provide an option to allow a permit to be issued for "host families" to temporarily house one or more additional persons as long as certain criteria are met.**
2. *Zoning Option 1 – Further explore adding Extra Occupancy Rental Houses (EORH) as a permitted use in the Neighborhood Conservation Medium-density (NCM) zone.*
3. *Rental Registration and Rental Licensing – Staff will provide Council with research and background information regarding rental registration and rental licensing.*

This agenda item focuses on Item #1 above. Item #2 is scheduled to be discussed at the Council work session on April 27, 2010, and Item #3 was prepared and provided to Council in December 2009.

The original intent of the 2005 occupancy ordinance was to allow for both a family and a group that is the functional equivalent of a family to have only one additional person living with them. It was not intended to allow for such groups to have two additional people.

The current regulation states that the maximum occupancy allowed per dwelling unit is:

- (1) *one (1) family as defined in Section 5.1.2 and not more than one (1) additional person; or*
- (2) *two (2) adults and their dependents, if any, and not more than one (1) additional person.*

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Family is defined as an individual living alone or any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking and eating facilities.

After close examination of the current regulation, including the definition of "dependent," it appears that the second part of the regulation would allow a family to house two additional people instead of just one. For example, one spouse could be considered as a dependent of the other spouse, meaning a husband and wife in this scenario would only count as one of the two adults allowed. They could then have one other adult and dependents, if any, plus one additional person.

This interpretation of the regulation is not consistent with the original intent of the ordinance, which was to allow both a family and a group that is the functional equivalent of a family to have only one additional person.

At the October 27, 2009 City Council work session, Council directed staff to process an amendment to the current occupancy regulation that would be consistent with the original intent (see Attachment 1). Council also expressed interest in an exception to allow for a second additional person in situations where the increased occupancy would not likely cause neighborhood problems, such as a family wanting to provide temporary housing to missionaries, exchange students, etc.

Ordinance No. 041, 2010, Amending Sections of the Land Use Code Relating to Occupancy Limits.

These Council objectives can be accomplished by:

- 1. Amending the Land Use Code language, specifically the definition of Dependent in Section 3.8.16(D)(2)*
- 2. Adding a new Section (3) to Section 3.8.16(E)*
- 3. Amending the definition of Family in Section 5.1.2*
- 4. Amending the definition of Occupancy or Occupy in Section 3.8.16(D)(3).*

Part I

Amend Section 3.8.16(D)(2), definition of Dependent:

Current definition: *Dependent shall mean a person related to an adult occupying a dwelling unit by blood, marriage, adoption, guardianship or other duly authorized custodial relationship who receives financial support from said adult and who resides with said adult in the dwelling unit at least three (3) calendar months in a calendar year.*

Proposed definition: *Dependent shall mean the natural child of an adult occupying a dwelling unit, or a person related to the adult by reason of adoption, guardianship or other duly authorized*

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custodial relationship, who receives financial support from the adult and who resides with the adult in the dwelling unit at least three (3) calendar months in a calendar year.

Part II

Add a new Section (3) to Section 3.8.16(E) to increase the occupancy limit for host families. With respect to single-family, owner-occupied dwellings, the number of persons allowed under Section 3.8.16(A)(1) may be increased to allow one additional person by the issuance of a "host family permit" provided that the following conditions are met:

- (a) Adequate off-street parking is available to accommodate the additional occupant;*
- (b) There have been no violations of Chapters 17 or 20 of the Code of the City or Section 3.8.16 of the Land Use Code at the premises for which the permit is sought within the twelve (12) months immediately preceding the date of the application for the permit; and*
- (c) At least two (2) months have elapsed since the issuance of any previous host family permit for the same premises.*

Permits issued shall be valid for ten (10) months from the date of issuance; provided, however, that in the event that the Municipal Judge or Municipal Court Referee determine, during the term of any such permit, that a violation of Chapters 17 or 20 of the Code of the City or Section 3.8.16 of the Land Use Code has occurred at the premises for which the permit was issued, the permit may be revoked.

A fee of \$25 will be charged by the City for the host family permit in order to cover the costs of processing the application, which shall be payable at the time of application.

Part III

Amend the definition of family in Section 5.1.2 of the Land Use Code to remove "an individual living alone". Family shall mean any number of persons who are all related by blood, marriage, adoption, guardianship or other duly authorized custodial relationship, and who live together as a single housekeeping unit and share common living, sleeping, cooking, and eating facilities.

Part IV

Amend the definition of "occupancy or occupy" in section 3.8.16(D)(3) to state specifically that thirty (30) overnight visits constitutes occupancy and is not just one factor to be considered in determining occupancy, and to change the thirty (30) overnight visits from being "within a calendar year" to "within a twelve month period". The proposed definition would read as follows:

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Occupancy or occupy shall mean the use of a dwelling unit or any portion thereof for living and sleeping purposes by a person acting in any of the following capacities:

- (1) as an owner of the unit;*
- (2) as a tenant under an express or implied lease or sublease of the unit or of any portion thereof; or*
- (3) as a guest or invitee of the owner, property manager, lessee or sublessee of the unit, if such guest or invitee stays overnight at the unit for a total of thirty (30) or more days within any twelve-month period of time.*

Note: This definition change will be brought to the Planning and Zoning Board at its April 15, 2010 meeting.

Ordinance No. 042, 2010, Amending Section 5-265 of the City Code Relating to Occupancy Disclosure Statements.

To address concerns expressed about the accuracy and accessibility of the required "disclosure statements", staff recommends amending Section 5.265(c) to require that the property owner or manager's signature on the disclosure statement be notarized, and that a copy of the disclosure statement be made available at the premises. Since this change would be new to property owners and managers, staff suggests a two month period for public education prior to implementation. This public education process will consist of a letter to all landlords and property management companies that the City is currently aware of. The letter will explain the policy change, the rationale for the change, when it will take effect, and, that from that date forward, all disclosure statements must be notarized and available at the premises.

Additionally, the proposed amendments will state that will be a violation for a property owner/manager to rent to anyone who has not signed a disclosure statement, and, it will be a violation for any tenant to occupy a dwelling unit if they have not signed a disclosure statement."

Beth Sowder, Neighborhood Services Manager, discussed proposed Land Use Code amendments that would clarify the occupancy limit regulations. An amendment to City Code regarding disclosure statements will require the landlord's signature to be notarized and a copy of the disclosure statement be kept on the property. The Planning and Zoning Board recommended approval of the Land Use Code changes.

Dolores Williams, 415 Mason Court, stated she is a landlord and asked why occupancy is not attached to the number of bedrooms in a home. She expressed concern regarding the notary requirement and added costs to landlords and tenants.

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Carrie Gillis, 2213 Timber Creek Drive, expressed concern that the notary requirement was not discussed in stakeholder meetings and encouraged more thorough community outreach.

Eric Kronwall, 1613 Barnwood Drive, expressed support for the occupancy limits and increased accountability.

Michelle Jacobson, Fort Collins Board of Realtors, noted 99% of the landlords and occupants are complying with the occupancy limits. She discussed the resources created and used by the City and asked that the Ordinance require tenant signatures to be validated as well as landlord signatures.

Lloyd Walker, 1756 Concord Drive, member of the Occupancy Ordinance stakeholder committee, expressed support for the host family adjustment and the requirement that disclosure statements be kept on the property.

Charles Clarke, 1401 Lindenwood Drive, expressed concern that the notary requirement is burdensome to landlords.

Stacy Lynne, 216 Park Street, thanked Dr. Rick Price for his contributions to Plan Fort Collins. She expressed concern that the occupancy regulations are too strict in certain cases and asked what the penalties will be for failure to comply with the regulations.

Clint Skutchan, Executive Vice President Fort Collins Board of Realtors, noted the notary requirement for landlords was not fully vetted. He asked that electronic signature verification be considered and encouraged requiring tenant signatures to be validated as well.

Doug Brobst, 1625 Independence Road, member of the Occupancy Ordinance stakeholder committee, expressed support for the notary requirement and encouraged Council support for rental licensing.

Councilmember Troxell asked about violations and citations regarding the regulations in the last six months. Dale Wood, Compliance Inspector, replied minimal citations for improper disclosure statements and occupancy violations have been issued. Approximately two-thirds of investigations are unfounded; however, that is not related to improper disclosure statements. At least two-thirds of the disclosure statements are incorrect, corrupt, or not completed.

Councilmember Troxell asked what a notarized signature implies. City Attorney Roy replied it assures the identity of the person signing and date of the signature.

Councilmember Troxell asked about the staff position on electronic signatures. Sowder replied information is still being gathered, but the option seems to have many benefits.

Councilmember Troxell asked about ASCSU's involvement in stakeholder meetings. Sowder replied they are represented on the stakeholder committee and opted out of taking a position on this particular item.

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Councilmember Troxell asked how off-street parking would be ensured. Steve Dush, Current Planning Director, replied an application with a site plan will be reviewed to ensure adequate off-street parking.

Councilmember Troxell asked about the month-to-month exemption regarding disclosure forms. Sowder replied a new disclosure form does not need to be executed if the parties have all remained the same. City Attorney Roy replied that issue will be discussed between First and Second Reading.

Councilmember Troxell asked about exemptions for hardships. Sowder replied these regulations do not make exemptions for hardships.

Councilmember Kottwitz asked about citywide off-street parking regulations. Dush replied there is a sliding scale based on multi-family or single-family units.

Councilmember Kottwitz asked if host families would be allowed to host an entire family. City Attorney Roy replied only one additional person would be allowed beyond the one person already allowed in addition to the nuclear family.

Councilmember Kottwitz asked if economic hardship could be a circumstance for a host family to apply for a permit. City Attorney Roy replied in the affirmative and noted the reasons for application are not specifically required.

City Attorney Roy noted there is a revised version of Ordinance No. 042, 2010 which eliminates a grace period for compliance with the disclosure statement regulations.

Councilmember Manvel asked if identity and date are both problems with respect to the disclosure forms. Wood replied the date is generally the issue and should coincide with the lease execution.

Councilmember Manvel asked about consequences for residents not having the disclosure form. Wood replied the form is currently sought from landlords and citations are given for those forms not being produced. The new regulations would require a copy of the disclosure form to be kept at the property.

Councilmember Manvel suggested the forms could be date stamped at the City Clerk's Office rather than requiring a notary. Sowder replied notaries are available at City offices.

City Attorney Roy stated the regulations are designed to encourage signing the disclosure statement, as well as make it a violation to rent to someone that has not signed or to not sign as an occupant. A notary or electronic signature requirement would ensure the disclosure form was signed on the date of lease execution.

Councilmember Roy noted there is no rental licensing requirement in the City. He asked about the fine schedule for not having disclosure forms. Wood replied the first offense is \$100 and the second

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offense within a specific timeframe is \$300. City Attorney Roy replied the maximum fine allowed is \$1000 for each day of occurrence.

Councilmember Roy asked about the penalties for not following the Occupancy Ordinance. City Attorney Roy replied the fines are the same, with the maximum being \$1000 per day.

Councilmember Roy asked who had brought to staff's attention the fact that the current regulations do not meet Council's original intent for limiting the occupancy of dwelling units. Sowder replied the Latter Day Saints Church brought that information to staff's attention.

Councilmember Ohlson asked about the use of the word "unfounded" in terms of violations and noted that may not mean baseless, but rather difficult to prove. Wood replied the term means, following the investigation, there never was a violation.

Councilmember Ohlson expressed concern that the term is not sufficient and many of the complaints found to be "unfounded" certainly have merit. He suggested the term be "unproven" or "dismissed." City Attorney Roy noted the term "unfounded" is not in the Code so the change would be in reference to terminology when discussing the issue. Wood stated there is a disparity between the actual number of violations and the violations that are reported.

Councilmember Roy made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 041, 2010, on First Reading.

Councilmember Kottwitz asked about the definition of a "natural child." City Attorney Roy replied it is a child by birth and not adoption. It is the first in a series of phrases which include adoption and other ways an individual can become responsible for a child.

Mayor Hutchinson asked about the time limit regarding host families. Dush replied the Latter Day Saints Church would prefer to not have a time limit as it causes issue in placement of missionaries with families.

Councilmember Roy noted many of the infractions relating to occupancy may not be visible or audible but fining violators has made a difference and neighborhoods have improved. He stated occupancy cannot be based on number of bedrooms as 4-bedroom homes were not designed for four vehicles and other impacts four adults would have on a home and neighborhood.

Councilmember Troxell expressed concern regarding the Three-Unrelated Ordinance and stated Council is trying to correct a flawed system rather than fine-tune an Ordinance. He stated the host family issue should address hardship circumstances.

Councilmember Kottwitz expressed concern that the regulations do not show enough foresight and do not address current family situations.

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Councilmember Manvel stated the Ordinance has been improved and these changes do fine-tune a working Ordinance.

Mayor Hutchinson noted these issues were driven by Fort Collins citizens, not Council. He expressed support for the motion.

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

THE MOTION CARRIED.

Councilmember Roy made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 042, 2010 as amended, on First Reading.

Councilmember Ohlson asked that a version of the Ordinance be prepared that involves shared responsibility of the tenants and property manager or owner. City Attorney Roy asked for clarification on shared responsibility. Councilmember Ohlson stated he would like input from the Board of Realtors.

Councilmember Ohlson asked that the Ordinance be worded to ensure the disclosure statement would be immediately available upon request at the premise. City Attorney Roy read the pertinent sections and Councilmember Ohlson agreed they were sufficient.

Councilmember Kottwitz asked if the First Reading of the Ordinance could be postponed two weeks to allow for further clarification. City Attorney Roy noted the signed disclosure forms are already required. This Ordinance would allow for a way to effectively deal with those who fail to provide the forms until the time of investigation. Postponing the First Reading will not relieve anyone of the obligation to have the disclosure statement signed.

Councilmember Ohlson stated he was not in favor of postponing the item.

City Manager Atteberry stated Second Reading could be scheduled for four weeks from now rather than two.

City Attorney Roy stated the maker and seconder of the motion would need to agree that Second Reading would be May 4, 2010 which would allow staff time to meet with the Board of Realtors and consider additional or optional ways to verify the signatures and dates on the disclosure statements. Councilmembers Roy and Manvel agreed.

Councilmember Troxell stated he would not support the motion given the lack of practicality regarding the disclosure statement.

Councilmember Kottwitz expressed concern that the regulations are not enforceable.

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Councilmember Ohlson expressed support for the regulations and stated these new Ordinances will make them more enforceable.

Mayor Hutchinson stated this Ordinance is about enforcement and creating a fair atmosphere for rental managers.

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

THE MOTION CARRIED.

**Items Relating to a Review of the City's
Stormwater Management Program, Adopted on Second Reading**

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

- A. *Second Reading of Ordinance No. 030, 2010 Amending Section 26-492 of the Code Declaring the Purpose of the Stormwater Utility.*
- B. *Second Reading of Ordinance No. 031, 2010 Adopting Landscape Design Standards and Guidelines as an Addendum to the City's Storm Drainage Design Criteria and Construction Standards.*

These Ordinances, unanimously adopted on First Reading on March 16, 2010, adopt a revised stormwater purpose statement and new landscape design standards and guidelines for stormwater and detention facilities. The revised purpose statement was expanded to include a balanced approach to the triple bottom line components of economic, environmental, and social aspects of stormwater management. The landscape design standards and guidelines were developed to provide direction to improve stormwater quality and aesthetics of stormwater facilities.

Ordinance No, 030, 2010, updating the purpose statement in the City Code, has been revised between First Reading and Second Reading in order to make the new Code language conform more closely to the Council's direction at the December 8, 2009, Work Session.”

Jon Haukaas, Utilities Water Engineering Field Services Manager, discussed the purpose of the Stormwater Utility and the new landscaping design standards and guidelines for storm drainage facilities.

Councilmember Ohlson asked about including the terms “restore” and “enhance,” in reference to habitat, as well as the existing term “preserve.” Haukaas replied staff is amenable to including those phrases but noted the document was not meant to be all encompassing. Those terms are used in other parts of the document.

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Councilmember Ohlson asked about the tracking system for ensuring future staff and Councilmembers maintain desired priorities. City Manager Atteberry replied major plans and policies are created and tracked to report back to Council and a more formal management system will be examined for sometime in 2010.

Councilmember Roy made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 030, 2010, on Second Reading. Yeas: Hutchinson, Kottwitz, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Roy made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 031, 2010, on Second Reading. Yeas: Hutchinson, Kottwitz, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Ordinance No. 028, 2010, Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Providing Natural Areas Programming Not Included in the 2010 Adopted City Budget, Adopted on Second Reading

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on March 16, 2010, appropriates prior year reserves in the Natural Areas Fund for the purpose of land conservation, construction of public improvements, restoration of wildlife habitat and other natural areas program needs to benefit the citizens of Fort Collins.”

Eric Sutherland, 3520 Golden Currant, discussed failing trails in the City which were not constructed to standards allowing year-round use and the amount of traffic they sustain.

Councilmember Ohlson asked about the status of the failing trail. John Stokes, Natural Resources Director, replied the Maxwell Trail is in the foothills where erosion is a large problem. Work is scheduled for this summer.

Councilmember Ohlson asked if some of these trails will always have maintenance issues. Stokes replied soft-surface trails will always have some problems but the specific trail mentioned does need particular work.

Councilmember Ohlson asked if neighbors could be notified of future trail maintenance. Stokes replied trail signage could be an effective and inexpensive means of notification.

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Councilmember Roy made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 028, 2010, on Second Reading.

Councilmember Roy thanked John Stokes and Mark Sears for their work on the item and for being present at the Council meeting.

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

THE MOTION CARRIED.

Adjournment

The meeting adjourned at 9:30 p.m.

Mayor

ATTEST:

City Clerk