

**DATE:** August 16, 2011  
**STAFF:** Wanda Krajicek

**AGENDA ITEM SUMMARY**  
FORT COLLINS CITY COUNCIL

**6**

**SUBJECT**

Consideration and Approval of the Minutes of the July 5 and July 19, 2011, Regular Meetings and the July 26, 2011 Adjourned Meeting.

**July 5, 2011**

**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 5, 2011, 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: Horak, Kottwitz, Manvel, Ohlson, Poppaw, Troxell and Weikunat.

Staff Members Present: Atteberry, Krajicek, Roy.

**Agenda Review**

City Manager Atteberry stated the funding source for Item No. 11, *Second Reading of Ordinance No. 075, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Second Loan to the Fort Collins Urban Renewal Authority for the North College Marketplace Project*, has been changed from the General Fund Reserve to the Water Fund since First Reading. Council has received a revised version of Item No. 28, *Resolution 2011-057 Establishing a Process for Enhancing Communication Between the City Council and the Council-Appointed Platte River Power Authority Board Member*.

**Citizen Participation**

Cheryl Distaso, Center for Justice, Peace, and Environment, discussed Character Fort Collins and its relationship with the City. She urged Council to waive attorney-client privilege with regard to the report written by the attorney hired to investigate the relationship.

Andrea Agnew, Stonecrest Drive, discussed the exoneration of Tim Masters and showed a video regarding the issue.

Eric Sutherland, 3520 Golden Currant, discussed the Tim Masters case and opposed Police Services' handling of the issue.

Ken Correia, 327 Brinn Court, requested an emergency vote regarding interim licenses for medical marijuana infused product businesses.

Stacy Lynne, 216 Park Street, discussed constitutionalism.

Ellen Thompson, Fort Collins resident, continued Ms. Lynne's statement regarding constitutionalism.

Amish Patel, 1303 Sunflower, supported mobile vendors in the City and encouraged Council to begin regulating and supporting the food truck culture.

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Josh Kerson, 2814 West Vine Drive, supported the use of electric bicycles on the City's multi-use trails.

Bob Overbeck, Fort Collins resident, discussed the Smart Meter program and asked for additional data regarding the benefits of Smart Meters.

Sarah Burnett, 714 Gilgalad Way, expressed concern regarding the Development Review appeal process.

Terri Williams, 2018 Niagra Court, opposed the Smart Meter program.

Virginia Farver, 1214 Bellview Drive, opposed the Smart Meter program.

Bruce Lockhart, 2500 East Harmony Road, opposed various City expenditures.

Rosemary VanGorder, 3508 Shore Road, expressed concern regarding the criminal justice system and the School Resource Officer program.

Mel Hilgenburg, 172 North College, thanked the City for the Fourth of July celebration and discussed the location of the Greeley/Bellvue pipeline. He requested safety signage on multi-use trails.

### **Citizen Participation Follow-up**

Councilmember Horak rebutted Mr. Lockhart's comments regarding votes.

Councilmember Kottwitz asked for more information regarding food trucks and suggested changing the 4 inch width language on the electric bicycle regulations. She asked for information regarding medical marijuana infused products. City Attorney Roy replied there is no prohibition against medical marijuana centers dispensing edibles; however, the ability to manufacture edibles in Fort Collins has been affected by state law. He stated staff would determine the State's position and report back to Council as soon as possible.

Councilmember Poppaw asked about the Poudre Valley Health Systems contribution for the Fourth of July celebration. City Manager Atteberry replied PVHS has been sponsoring the event for the past several years and the amount was between \$25,000 and \$40,000.

Councilmember Troxell asked for further information regarding mobile food vendors.

Mayor Pro Tem Ohlson rebutted Mr. Lockhart's comments as being inaccurate.

Mayor Weitkunat noted a work session regarding the Smart Meter program will occur following the URA meeting this evening. She asked for a response regarding the development review appeal process. City Attorney Roy replied the City Code does not speak to the role of the staff report; staff typically provides an analysis of the allegations in the notice of appeal. All parties-in-interest are

given the opportunity to respond to the staff report at the appeal hearing. Council has the prerogative to change staff's role to simply being available for questions rather than provide a staff report.

### **CONSENT CALENDAR**

6. Consideration and Approval of the Minutes of the June 7, 2011, Regular Meeting.
7. Second Reading of Ordinance No. 065, 2011, Appropriating Prior Year Reserves and Unanticipated Revenue in the General Fund for Cultural Development and Programming Activities and the Fort Collins Convention and Visitors Bureau.

This Ordinance, unanimously adopted on First Reading on June 7, 2011, appropriates unanticipated Cultural Development and Programming ("CDP") revenue and prior year reserves for the CDP accounts and prior year reserves for the Convention and Visitors Bureau. Lodging tax revenues in 2010 were \$22,252 short of revenue projections; however, there are Lodging tax reserves from unspent appropriations in the amount of \$113,066 available to be appropriated in the General Fund. In addition, \$2,800 of unanticipated CDP revenue was received in 2011 which will be appropriated into the Cultural Development and Programming accounts.

8. Second Reading of Ordinance No. 067, 2011, Authorizing the Conveyance to Larimer County of a Permanent Non-Exclusive Storm Drainage Easement on City Wastewater Utility Property Including a Portion of Prospect Ponds Natural Area.

Larimer County has a current construction project at the Larimer County Detention Center Campus, located on Midpoint Drive. This project includes an Alternative Sentencing Division building, an addition to the existing Sheriff's Administration building, and an addition to the existing Community Corrections Facility. In addition, there will be parking lot modifications and site improvements. With these changes, the project will include an on-site detention pond. This Ordinance, unanimously adopted on First Reading on June 7, 2011, will grant a permanent utility easement for a 30-inch underground stormwater pipe to convey the detained runoff to Skunk Pond, which is part of Prospect Ponds Natural Area.

9. Items Relating to Approval and Appropriation of Two Real Property Land Donations to the Natural Areas Program.
  - A. Second Reading of Ordinance No. 068, 2011, Authorizing the Acceptance of a Donation of 1.75 Acres From Larimer County and Appropriating Unanticipated Revenue in the Natural Areas Fund.
  - B. Second Reading of Ordinance No. 069, 2011, Authorizing the Acceptance of a Donation of Three Acres from Mike Sollenberger and Appropriating Unanticipated Revenue in the Natural Areas Fund.

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Ordinance No. 068, 2011, authorizes the donation of a 1.75 acre parcel along the Poudre River from Larimer County to the City Natural Areas Program. The property is located adjacent to the north end of Arapaho Bend Natural Area.

Ordinance No. 069, 2011 authorizes the donation of a three acre parcel located adjacent to Running Deer Natural Area, south of East Prospect Road, from Mike Sollenberger to the City Natural Areas Program. Both Ordinances were unanimously adopted on First Reading on June 7, 2011.

10. Second Reading of Ordinance No. 074, 2011, Appropriating Funds From the City's General Fund Reserves for Transfer to the Fort Collins Urban Renewal Authority for the Purpose of Providing a Loan for the Kaufman and Robinson, Inc. Project at 1330 Blue Spruce.

This Ordinance, unanimously adopted on First Reading on June 7, 2011, authorizes a loan from the City to the Urban Renewal Authority (URA) to reimburse Kaufman and Robinson, Inc for the public improvements associated with building a new location at 1330 Blue Spruce Drive. Offsetting these costs allowed the retention and expansion of a locally owned business to be economically feasible. The total cost of this Project was \$192,891. The requested loan amount from the City of Fort Collins General Fund Reserves to the URA will be \$192,891. The URA will utilize the City's Interfund Borrowing program that was formally added to the City's investment policies in 2008. This program enables the City to use a portion of its investment portfolio to assist City Departments and related entities (e.g., the URA) to access funds at a competitive interest rate while still providing a market based yield to the City investment portfolio.

11. Second Reading of Ordinance No. 075, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Second Loan to the Fort Collins Urban Renewal Authority for the North College Marketplace Project.

This Ordinance, unanimously adopted on First Reading on June 7, 2011, authorizes a loan in the amount of \$3 million from the City to the Urban Renewal Authority (URA) to fulfill the remaining reimbursement obligation for the North College Marketplace granted by the URA Board in September 2008. The first appropriation for \$5 million was received in April 2009 for Off Site Street Infrastructure, Wetlands Mitigation, and Demolition/Site Preparation. The requested loan amount from the City of Fort Collins' Water Fund Reserves to the URA will be \$3 million and reimbursed to the project for the On-Site public improvements. Staff originally intended to request the funds from the City's General Fund reserves however, after discussions with the Finance department, Utilities and the Attorney's office, the request changed to the Utilities Water Fund reserves to ensure the URA was not overburdening the General Fund reserves.

Utilities anticipates that significant capital project needs in the future and ongoing systemic adjustment of Water Utility revenues and operating costs may necessitate water rate increases in the future. The proposed loan of Water Fund reserves is not expected to create additional need for rate increases or to cause the reserves to fall below required levels,

assuming that staff-projected rate increases are implemented. The Ordinance provides that it is the Council's intent that in the event that unexpected capital projects needs or timing results in an increased need for reserves in the Water Fund, the Council would provide replacement funds in order to repay the loan to the Water Fund to meet that need. It is anticipated that the URA will issue bonds within the next few years, and in that event, the loan from the Water Fund would be repaid at that time.

12. First Reading of Ordinance No. 076, 2011, Appropriating Unanticipated Revenue in the General Fund for the Purchase, Training and Ongoing Maintenance of the E911 and Emergency Dispatch Systems at Fort Collins Police Services Dispatch Center.

Larimer Emergency Telephone Authority provides funds to the Fort Collins Police Services to be used for equipment and training to process E911 calls. This Ordinance appropriates those funds.

13. First Reading of Ordinance No. 077, 2011, Appropriating Unanticipated Revenue in the Light and Power, Water and Wastewater Funds for Capital Projects to Relocate Utility Facilities in the Mason Corridor Bus Rapid Transit Project and Transferring Existing Light and Power Appropriations into the Light and Power Utility Relocation Capital Project.

This Ordinance appropriates capital project funding for the Utilities to relocate existing electric, water and wastewater facilities to accommodate the Mason Corridor Bus Rapid Transit (BRT) Project. Light and Power will also supply power to the bus stations along the corridor. The Utilities are being viewed by the MAX/BRT Project as independent contractors and will be reimbursed by the MAX/BRT Project funds for the relocation expenses upon completion. The MAX/BRT Project will also pay for the cost of electric power supply to the bus stations. The Ordinance provides new capital appropriations in the Light Power Fund (\$620,000), Water Fund (\$625,000) and Wastewater Fund (\$1,150,000) for the relocation work. Following completion of the construction, the Utilities will invoice the MAX/BRT Project based on actual costs and will receive the unanticipated revenue being appropriated by the Ordinance.

In addition to electric duct bank relocation, Light and Power will use this opportunity to upgrade the capacity of the duct bank. These system upgrade costs have been budgeted in Light and Power's existing 2011 lapsing appropriation. The Ordinance transfers \$400,000 of the existing Light and Power lapsing budget into the new BRT electric relocation/upgrade capital project. The costs of the upgrade will not be reimbursed by the MAX/BRT Corridor Project.

14. Items Relating to the Hughes Stadium Disc Golf Course.

A. Resolution 2011-053 Authorizing the City Manager to Enter Into a Grant Agreement with Great Outdoors Colorado for Funds for a Disc Golf Course at Hughes Stadium.

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- B. First Reading of Ordinance No. 078, 2011 Appropriating Unanticipated Grant and Other Revenue in the Conservation Trust Fund for the Hughes Stadium Disc Golf Course.

Great Outdoors Colorado has awarded the City an \$85,000 grant for the completion of the Hughes Stadium Disc Golf Course. The project involves the development of an 18-hole disc golf course at Hughes Stadium in conjunction with Colorado State University. The course is primarily located in the stormwater detention basin directly west of Overland Trail Road. The course will include new trees and shrubs, a new access road off County Road No. 42C, and the course tee areas and baskets.

15. Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities.

- A. First Reading of Ordinance No. 079, 2011, Making Certain Amendments to Chapter 26 of the City Code Pertaining to the Provision of Net Metering Service and Certain Definitions Related Thereto.
- B. First Reading of Ordinance No. 080, 2011, Amending Various Provisions of the City Code and the Land Use Code Pertaining to the Definition of General Manager.
- C. First Reading of Ordinance No. 081, 2011, Making Certain Amendments to Interconnection Standards for Generating Facilities Connected to the Fort Collins Distribution System

The Fort Collins Utilities Light and Power Department is proposing minor revisions to the definitions section of Article I and to the Electric Article of Chapter 26 of the City Code and the Land Use Code. These revisions include updating the definition of General Manager, clarification regarding the provision of net metering service and clarification regarding authority to execute interconnection or parallel generation agreements on behalf of the City. Light and Power is also recommending adding clarifying language to the City's indemnification and insurance requirements contained in the City's Interconnection Standards. These standards govern operational and other requirements for interconnection generating facilities to the City's electric distribution system.

16. First Reading of Ordinance No. 082, 2011, Calling a Special Municipal Election to Be Held in Conjunction with the November 1, 2011 Larimer County Coordinated Election.

This Ordinance calls a Special Municipal Election to be held in conjunction with the November 1, 2011 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 16 meeting. If Council does not take action by ordinance or resolution before the statutory deadline (September 2) 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.

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This Ordinance does not submit a specific measure to the November 1, 2011 ballot. However, a group of citizens is currently circulating an initiative petition proposing a prohibition on the establishment, operation or licensing of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused product manufacturing within the city of Fort Collins. The deadline to submit the petition to the City Clerk's Office is July 19, 2011. 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 1, 2011 Coordinated Election.

17. Items Relating to the Access Road at Soapstone Prairie Natural Area.

- A. First Reading of Ordinance No. 083, 2011, Authorizing the Transfer to Larimer County of Public Right-of-Way Easements Acquired by the City for the Reconstruction of Rawhide Flats Road.
- B. First Reading of Ordinance, No. 084, 2011, Authorizing the Conveyance of Access Easements to Three Private Land Owners within the Soapstone Prairie Natural Area.

To complete the process of improving Rawhide Flats Road, the City has requested that Larimer County vacate sections of road right-of-way that were abandoned in 2008 when the road was realigned and reconstructed by the City to provide access to Soapstone Prairie Natural Area. The County conditioned its approval of the road improvements on the City's follow up to request this vacation in order to stop the unnecessary public use of the old abandoned road areas and to allow the land to revert to the surrounding landowner(s). Once the sections of right-of-way are vacated, the ownership will revert to the adjacent landowners. In connection with the vacation of the unneeded sections of right-of-way, the City is proposing to transfer to the County six new right-of-way easements that the City acquired to build the realigned portions of the improved road. This transfer will establish that the easements are held by Larimer County as public road easements for Rawhide Flats Road along with the other segments of the Road, and that the right-of-way being vacated is no longer needed.

The City has also asked the County to vacate any remaining public road rights-of-way within Soapstone Prairie Natural Area. This action will establish that Rawhide Flats Road north of the Natural Area boundary line is a private road owned by the City for the sole purpose of providing access to Soapstone Prairie Natural Area. There are currently three property owners with in-holding properties within Soapstone Prairie Natural Area. When this section of Rawhide Flats Road is vacated, these owners will lose their legal access to their properties. In order to continue to provide these owners legal access to their property, the City will need to grant each owner an access easement from the boundary of the Natural Area to their property line. The access easements will follow the same alignment as the existing road on the Soapstone Prairie Natural Area.

18. First Reading of Ordinance No. 085, 2011, Authorizing the Conveyance to Capstone Development Corporation of Three Easements on Stormwater Utility Property at Creekside Park.

Capstone Development Corporation (“Capstone”) is planning a mixed use development. This Project area is 10.4 acres and is located near Stuart Street and College Avenue. It fronts College Avenue around the Discount Tire property and continues to the west to the railroad. The project area is also at the rear of the Dairy Queen property. This mixed use development is for student housing and retail space. It will have two buildings, 221 dwelling units and 8,000 square feet of new retail space. The retail space will be the first floor of the building fronting on South College Avenue.

For this development, Capstone has requested that the City grant Capstone a drainage easement for construction of a new flood control channel, a drainage easement for sheet flows from the adjoining property, and a temporary construction easement to construct a pedestrian trail and an underground stormwater pipe on City-owned property known as Creekside Park.

19. First Reading of Ordinance No. 086, 2011, Authorizing the Conveyance to Solitaire Homes, LLC of a Public Trail Easement on City Property.

Solitaire Homes, LLC (the “Developer”) is planning a 27 acre (approximately) development north and west of Laporte Avenue and Taft Hill Road, opposite the Poudre School District offices. To facilitate a planned trail within the development, the Developer requests a 438 square foot public trail easement from the City across City property managed by the Water Utility. The City property is approximately 1,750 square foot. in size and is the site of a Water Utility valve vault.

20. Resolution 2011-054 Naming Three Alleys Within the Block Bounded by South College Avenue, West Laurel Street, South Mason Street and West Olive Street.

The Downtown Development Authority (DDA) is preparing a capital improvement project to enhance three alleys in the block bounded by South College, West Laurel, South Mason and West Olive. In conjunction with this project, the City of Fort Collins is preparing to name these three alleys. The three proposed names are “John Coltrane Alley,” “Ella Fitzgerald Alley” and “Billie Holiday Alley.” The selection of these three names is based on a public outreach process that resulted in a winning theme of eclectic music and art. If approved, the alley naming will simplify way-finding for pedestrians, bicyclists, drivers, delivery personnel and emergency responders.

21. Resolution 2011-055 Authorizing the Mayor to Execute an Amendment to the Intergovernmental Agreement with the Fort Collins Urban Renewal Authority.

At the June 7, 2011 meeting, Council requested the Urban Renewal Authority (URA) Board modify the Intergovernmental Agreement (IGA) between the City and the URA to formalize

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the requirement that, when the City advances funds to the URA in support of the URA's activities, a loan agreement and promissory note accompany the advance of funds.

22. Resolution 2011-056 Making an Appointment to the Citizen Review Board.

A vacancy currently exists on the Citizen Review Board due to the resignation of Evan Singleton. Councilmembers Gerry Horak and Ben Manvel and City Manager Darin Atteberry reviewed the applications on file. The interview team is recommending Robert Springer to fill the vacancy with a term to begin immediately and set to expire on December 31, 2013.

**\*\*\*END CONSENT\*\*\***

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

7. Second Reading of Ordinance No. 065, 2011, Appropriating Prior Year Reserves and Unanticipated Revenue in the General Fund for Cultural Development and Programming Activities and the Fort Collins Convention and Visitors Bureau.
8. Second Reading of Ordinance No. 067, 2011, Authorizing the Conveyance to Larimer County of a Permanent Non-Exclusive Storm Drainage Easement on City Wastewater Utility Property Including a Portion of Prospect Ponds Natural Area.
9. Items Relating to Approval and Appropriation of Two Real Property Land Donations to the Natural Areas Program.
  - A. Second Reading of Ordinance No. 068, 2011, Authorizing the Acceptance of a Donation of 1.75 Acres From Larimer County and Appropriating Unanticipated Revenue in the Natural Areas Fund.
  - B. Second Reading of Ordinance No. 069, 2011, Authorizing the Acceptance of a Donation of Three Acres from Mike Sollenberger and Appropriating Unanticipated Revenue in the Natural Areas Fund.
10. Second Reading of Ordinance No. 074, 2011, Appropriating Funds From the City's General Fund Reserves for Transfer to the Fort Collins Urban Renewal Authority for the Purpose of Providing a Loan for the Kaufman and Robinson, Inc. Project at 1330 Blue Spruce.
11. Second Reading of Ordinance No. 075, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Second Loan to the Fort Collins Urban Renewal Authority for the North College Marketplace Project.
26. Second Reading of Ordinance No. 071, 2011, Approving the Waiver of City Fees for the CARE Housing Affordable Housing Project in the Provincetowne Subdivision.

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

12. First Reading of Ordinance No. 076, 2011, Appropriating Unanticipated Revenue in the General Fund for the Purchase, Training and Ongoing Maintenance of the E911 and Emergency Dispatch Systems at Fort Collins Police Services Dispatch Center.
13. First Reading of Ordinance No. 077, 2011, Appropriating Unanticipated Revenue in the Light and Power, Water and Wastewater Funds for Capital Projects to Relocate Utility Facilities in the Mason Corridor Bus Rapid Transit Project and Transferring Existing Light and Power Appropriations into the Light and Power Utility Relocation Capital Project.
14. First Reading of Ordinance No. 078, 2011 Appropriating Unanticipated Grant and Other Revenue in the Conservation Trust Fund for the Hughes Stadium Disc Golf Course.
15. Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities.
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  - B. First Reading of Ordinance No. 080, 2011, Amending Various Provisions of the City Code and the Land Use Code Pertaining to the Definition of General Manager.
  - C. First Reading of Ordinance No. 081, 2011, Making Certain Amendments to Interconnection Standards for Generating Facilities Connected to the Fort Collins Distribution System
16. First Reading of Ordinance No. 082, 2011, Calling a Special Municipal Election to Be Held in Conjunction with the November 1, 2011 Larimer County Coordinated Election.
17. Items Relating to the Access Road at Soapstone Prairie Natural Area.
  - A. First Reading of Ordinance No. 083, 2011, Authorizing the Transfer to Larimer County of Public Right-of-Way Easements Acquired by the City for the Reconstruction of Rawhide Flats Road.
  - B. First Reading of Ordinance, No. 084, 2011, Authorizing the Conveyance of Access Easements to Three Private Land Owners within the Soapstone Prairie Natural Area.
18. First Reading of Ordinance No. 085, 2011, Authorizing the Conveyance to Capstone Development Corporation of Three Easements on Stormwater Utility Property at Creekside Park.
19. First Reading of Ordinance No. 086, 2011, Authorizing the Conveyance to Solitaire Homes, LLC of a Public Trail Easement on City Property.

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27. Items Relating to the Fort Collins Museum/Discovery Science Center Project.
- A. First Reading of Ordinance No. 087, 2011, Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for the Fort Collins Museum/Discovery Science Center Project.
  - B. First Reading of Ordinance No. 088, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Loan to FCDM, Inc. for the Fort Collins Museum/Discovery Science Center Project.
  - C. First Reading of Ordinance No. 089, 2011 Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Loan to FCDM, Inc. for the Exhibits of the Fort Collins Museum/Discovery Science Center Project and Appropriating Unanticipated Revenue in the Capital Projects Fund.

Councilmember Troxell withdrew Item No. 20, *Resolution 2011-054 Naming Three Alleys Within the Block Bounded by South College Avenue, West Laurel Street, South Mason Street and West Olive Street.*

Eric Sutherland, 3520 Golden Currant, withdrew Item Nos. 15 and 21, *Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities, and Resolution 2011-055 Authorizing the Mayor to Execute an Amendment to the Intergovernmental Agreement with the Fort Collins Urban Renewal Authority.*

Bruce Lockhart, 2500 East Harmony Road, withdrew Item Nos. 10, 11, and 13, *Second Reading of Ordinance No. 074, 2011, Appropriating Funds From the City's General Fund Reserves for Transfer to the Fort Collins Urban Renewal Authority for the Purpose of Providing a Loan for the Kaufman and Robinson, Inc. Project at 1330 Blue Spruce, Second Reading of Ordinance No. 075, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Second Loan to the Fort Collins Urban Renewal Authority for the North College Marketplace Project, and First Reading of Ordinance No. 077, 2011, Appropriating Unanticipated Revenue in the Light and Power, Water and Wastewater Funds for Capital Projects to Relocate Utility Facilities in the Mason Corridor Bus Rapid Transit Project and Transferring Existing Light and Power Appropriations into the Light and Power Utility Relocation Capital Project.*

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

THE MOTION CARRIED.

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### **Staff Reports**

City Manager Atteberry stated Forbes.com has ranked Fort Collins as the fifth best city for business and careers. Fort Collins was also ranked as the second best bicycling city in *The Atlantic*.

### **Councilmember Reports**

Councilmember Troxell stated he attended the Colorado Municipal League (CML) annual conference with Councilmembers Poppaw and Horak and Mayor Weitkunat. He congratulated Mayor Weitkunat on her election to the CML Executive Board.

Mayor Weitkunat stated CML is the statewide umbrella for municipalities' shared advocacy and provides tremendous networking opportunities.

Mayor Pro Tem Ohlson discussed the Finance Committee action to move forward expansion and retention packages for Avago and Solix.

### **Ordinance No. 071, 2011, Approving the Waiver of City Fees for the CARE Housing Affordable Housing Project in the Provincetowne Subdivision, Adopted on Second Reading**

The following is staff's memorandum for this item.

#### ***“EXECUTIVE SUMMARY***

*Under Colorado statute and City of Fort Collins ordinances and resolutions dating back to 1988, the projects of housing authorities are exempt from taxes and fees. For many years, the City has waived building permit and development review fees and some capital expansion fees for projects of the Fort Collins Housing Authority (FCHA), as required by the ordinance. For the most part, these have been relatively small projects. FCHA is currently partnering with the non-profit CARE Housing in a large, multi-family affordable housing project in the Provincetowne subdivision, which is under construction. Fee waivers for this project total \$557,378 (outlined in detail in “Financial Impacts” below).*

*This Ordinance was adopted on First Reading on June 7, 2011, by a vote of 6-1 (nays: Ohlson). Based upon Council's comments and questions during First Reading of this ordinance, staff has added more context, chronology, and explanation regarding affordable housing finance and the request for fee waivers for the Provincetowne, Filing III development.*

*While the City has long been committed to affordable housing, and the need for financial support is clearly demonstrated in the increase in the number of applications for local and federal funds, the fiscal impact of this and future fee waivers for projects in which the FCHA is a partner rather than sole owner warrants some thoughtful evaluation of the waiver situation, and possibly some changes to the City Code. Additionally, considering the current and projected fiscal impact on the City for fee waivers for large projects, clarification for the definition of “ownership” as it pertains*

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to the Housing Authority and its development partners will be part of the review. This policy issue will be addressed at an upcoming work session. Pending that policy discussion, the City Manager is recommending that Council consider waiving the fees due for the CARE Housing project.

## **BACKGROUND / DISCUSSION**

CARE Housing (a non-profit) bought a portion of the Provincetowne project site, located at Autumn Ridge Road and Trilby, from KB Homes to fulfill the affordable housing requirement for the entire residential project. This is an 85-unit, \$14.9 million townhome rental housing project intended to serve families earning 30%-50% of the Area Median Income (AMI). [Current Fort Collins/Loveland AMI for a family of four is \$76,700. An annual income of \$23,000 = 30% AMI, and \$38,350 is 50% AMI].

Funding for the project is a combination of grants, Low Income Housing Tax Credits, owner equity, and conventional financing.

<b>Provincetowne Funding Sources</b>	<b>Amount</b>
<i>Low Income Housing Tax Credit Equity</i>	<i>\$8,724,906</i>
<i>Tax Credit Assistance Program (American Reinvestment and Recovery Act)</i>	<i>\$1,609,480</i>
<i>HUD Entitlement Funds – CDBG/HOME</i>	<i>\$1,455,011</i>
<i>City of Fort Collins – Affordable Housing Fund</i>	<i>\$100,000</i>
<i>Colorado Division of Housing</i>	<i>\$500,000</i>
<i>Federal Home Loan Bank of Topeka</i>	<i>\$350,000</i>
<i>Permanent Loan Financing</i>	<i>\$2,060,000</i>
<i>Deferred Developer Fee</i>	<i>\$155,855</i>
<i>Development Total</i>	<i>\$14,955,252</i>

The financing of affordable housing is complex, especially in today's economic climate. A fifteen year federal tax credit for private investors is a critical component of the financial package, and the private investor (J.P. Morgan Chase, in this case) must be a 99% owner. The Housing Authority is technically only a .001% participant in this project, but is further involved because it guarantees up to \$1.4 million of unanticipated costs. Both the tax credit and the fee waiver are critical components of the Provincetowne project, and elimination of either could jeopardize the project.

Historically, the City has waived its fees for other, smaller projects in which the FCHA was a minority partner. However, the magnitude of the fees associated with this project has prompted extensive conversations about the ownership issue and the financial impact that the waiver of fees for the project would have on the City. These conversations began during the building permit application process for Provincetowne. Early on, the assumption was that there should be no distinction between a project that is wholly owned or developed by FCHA, and one in which FCHA has only a fractional participation. However, the magnitude of this proposed fee waiver prompted a re-examination of the City's legal obligation to waive fees for this kind of project. As the legal requirements of state and local law on this subject were further explored, it became apparent that there are two ways to interpret the law on fee waivers for housing authority projects. The difference of opinion as to the proper interpretation of the law led to a new series of negotiations with all of

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*the parties, including consideration of deferral of the fees for some period of time. But because a compromise could not be reached in the negotiations, the decision was made to seek policy direction from City Council. The series of events was essentially as follows.*

***Project Timeline***

<i>November 2006</i>	<i>CARE Housing purchased the land</i>
<i>January 2007</i>	<i>CARE submitted first tax credit application, which was not strong to receive a tax credit award</i>
<i>April 2008</i>	<i>CARE began discussions with FCHA about partnership</i>
<i>July 2008</i>	<i>FCHA Board of Commissioners approved formal participation intent by resolution</i>
<i>August 2008</i>	<i>CARE Housing application for CDBG funds submitted. Fee waivers discussed during pre-application meeting</i>
<i>September 2008</i>	<i>CARE Housing and FCHA present application for funding to CDBG Commission. Financing package assumed City waiver of fees</i>
<i>January 2009</i>	<i>CARE submitted second tax credit application which included the strength of FCHA as a partner and did include fee waivers</i>
<i>April 2009</i>	<i>CARE submitted third tax credit application with additional committed grants and FCHA participation</i>
<i>June 2009</i>	<i>Low Income Housing Tax Credit (LIHTC) Reservation awarded by Colorado Housing and Finance Authority (CHFA)</i>
<i>November 2010</i>	<i>First building permits requested from the City of Fort Collins. Discussions begin about the proper documentation to show FCHA's ownership interest and the applicability of the FCHA fee waivers Construction begins.</i>
<i>January 2011</i>	<i>FCHA learns of City concerns about the fee waivers. Building permits note deferral of fees pending resolution.</i>
<i>February 2011</i>	<i>FCHA corresponds with the City about FCHA ownership, Ordinance No. 065, 1999 and Colorado Revised Statutes and continues to believe, based upon the City's response, that fee waivers would extend to Provincetown partnership.</i>

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*PDT management and City Manager's office notified about situation. Interdepartmental staff team (including City Attorney's and City Manager's office) undertakes research and development of options.*

*March-May 2011 Negotiations continue, involving City, FCHA, CARE Housing, and legal representatives*

*A significant component of the financing picture for this project is the expectation by FCHA partners and their lenders that the fee exemption which the Fort Collins Housing Authority is eligible for under state law and the City Code passes to the other funding partners. This includes a waiver of taxes and development review and capital expansion fees as provided in Sec. 7.5-17(1) of the Fort Collins Municipal Code. The degree of the FCHA's ownership of the project has been the subject of considerable discussion, but because of the statutory and municipal code provisions, as well as historic precedent, FCHA and CARE assumed that the waivers would apply in this project.*

*The City has routinely waived fees for FCHA projects in the past. Most of those waivers dealt with small building permit projects, but the waivers also applied to the construction of the Via Lopez project in 1998 and 1999. The FCHA was developer of the low-income homeownership project, which included 22 single family detached homes sold to first-time homebuyers. These fee waivers totaled approximately \$107,476. In addition, two acquisition-rehabilitation projects were recently completed by FCHA utilizing LIHTC financing: Village on Elizabeth in 2008, and Village on Stanford in 2010. Both projects received total fee waivers of approximately \$4,000. In both cases, FCHA's subsidiaries are a .01% partner and the equity investors have 99.9% interest in the partnership for the tax credit period of 15 years. At the end of that period, FCHA will be 100% owner. In 1995 and 1996, a 24-unit development on Impala Circle and a 44-unit development at 1403 West Swallow, of which the FCHA was a minimal owner, were built with total estimated fee waivers of \$164,808.*

*Several local projects, either partially or wholly composed of affordable units, have sought support from the FCHA. Not all such requests have been approved by the FCHA Board. The FCHA considers a number of criteria in reviewing such requests: financial feasibility, benefit to low-income households, access to support services and other criteria, before agreeing to participate.*

*The funding of affordable housing projects requires strategic packaging of a variety of borrowed resources, application for local and federal funds, and, in most cases, the IRS Low Income Housing Tax Credit program. The LIHTC program requires that equity investors have a 99.9% ownership. It is really the only tool for affordable housing development for the community's lowest income families. Without it, market rents would be necessary to make the financing work and likely would no longer be considered as an affordable housing project.*

### ***Affordable Housing Projects and Fees***

*Development and building permit fees for affordable housing projects are currently handled in two ways:*

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1. *If the Housing Authority is involved, all fees and taxes, except for utility fees, are waived as described above, pursuant to both State law and City Code.*
2. *For affordable housing projects that do not involve the Housing Authority, the following occurs:*
  - a. *By City Code, development review fees are waived according to the percentage of the project that meets the criteria for and has been designated as affordable. If a project receives a 100% affordable housing designation, 100% of the development review fees are waived; if 10% of the housing units are designated affordable, 10% of the fees are waived.*
  - b. *By state and federal statutes, sales tax fees are waived for any tax-exempt entities.*
  - c. *By City Code, plan check, building permit and certain utility fees are collected at the time of building permit issuance.*
  - d. *By City Code, all other fees are delayed until Certificate of Occupancy issuance, or December 1st of the year the building permit was issued, whichever first occurs.*

*Development review fees cover services rendered. If the fees are waived, and the services are still provided, then the General Fund presumably backfills the gap of expenses incurred. Likewise, Capital Expansion Fees (parkland, fire, street oversizing, police, etc.) cover capital costs associated with new development. If the fees are waived and the capital improvements still provided, then other City, PFA and School District funds presumably backfill the gap. Utility connection fees are not waived.*

*Over \$1.5 million of City administered competitive funds, including CDBG and HOME, have already been expended on the Provincetowne project, including payment of water tap fees, electric capacity fees, PFA fees, and building permit fees. Building permits have been issued for all eleven buildings and construction is underway, with the first units expected to be occupied by the end of June 2011.*

*Because of concerns about significant financial and policy impacts on the City, management staff and the City Attorney's Office have explored several facets of this issue. Staff also worked with the FCHA and CARE Housing on some proposed alternatives to a full waiver of fees for projects involving FCHA partnership. Alternatives discussed include deferring those fees rather than waiving them or limiting the waiver to situations where the FCHA is the majority owner of the project. As noted above, each of these alternatives proved to be unacceptable to one or more of the parties involved. As a result, the City Manager is recommending that the Council waive the fees for the CARE Housing project and then address possible changes in the policy of continuing to waive fees for these kinds of projects at a later time.*

*The most significant issue for Council consideration is the determination of eligibility for fee waivers under current law. If Council determines that the Provincetowne project is not eligible for*

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*a fee waiver because of the minority ownership position of the FCHA, and requires payment of the fees, that decision could create a potential default situation. One possible remedy would be that FCHA would step in, thereby creating full ownership, in a sense, and triggering a complex set of legal and financial actions. A more likely scenario would be that FCHA and/or CARE would assemble the funds to pay the fees.*

*To date, the project is on budget and ahead of schedule. The risk related to low income housing tax credit (LIHTC) leasing requirements remains but is minimal. The only real risk at this point would be the additional cost of over \$500,000 in fees not waived. CARE Housing has the ability to refinance a property it currently owns and could take out \$509,896 in equity. CARE had planned to refinance a property and take out this equity in order to make planned capital improvements which would be deferred indefinitely if this money needs to go into Provincetowne.*

*Attachment 4 is a memo from Julie Brewen, FCHA Director, that gives FCHA's perspective on the proposed fee waiver, as well as an explanation of how the FCHA determines, on a case-by-case basis, whether to enter into these kinds of partnerships.*

#### ***Other Pending Affordable Housing Projects***

*The Legacy Senior Residences is expected to be under construction this fall, but this project will not be requesting a waiver of fees. The cost of the fees has been built into the financing. Other projects are in the early planning stages, but construction is not anticipated until at least 2013.*

#### ***Other Communities***

*Fort Collins is not the only community faced with this situation. Staff research shows that despite the state law, the waiver of fees is not consistently applied. Some cities waive fees as a matter of policy, and some waive on a case by case basis. Some do not waive fees. A summary of the research is included as Attachment 5.*

#### ***Future Policy and Legal Issues***

*Several questions will be presented to Council at an upcoming work session, and may ultimately result in changes to the City's policies and ordinances regarding fee waivers.*

- *Does (or should) the waiver of fees for the Housing Authority properly extend to majority partners, or should it be limited to projects wholly owned, developed and operated by the Fort Collins Housing Authority, or projects with some specified ownership interest?*
- *Under what conditions should the City waive fees?*
- *If fees are waived, how are the financial impacts addressed?*

**FINANCIAL / ECONOMIC IMPACTS**

*For the Provincetowne project (eleven multifamily buildings; a total of 85 low income rental units), the potential financial impact of a fee waiver to City funds is \$557,378.*

*Approximately \$4,762 of the fee revenue lost is Utility development review fees. Building permit and plan check fees total \$42,720. The remaining \$509,896 is comprised of Capital Expansion fees (Fire, Police, General Government, Parkland, Street Oversizing, and School fees). These figures reflect recent changes in the capital expansion and utility development review fees. Some fees were collected at the inception of this project because of the unresolved issues, and approximately \$17,177 will need to be refunded if the fees are waived.*

*The following is a breakdown of the \$509,896 Capital Expansion Fees for the Provincetowne/CARE housing townhome buildings.*

<i>Fire:</i>	<i>\$ 13,523</i>
<i>Police:</i>	<i>\$ 9,233</i>
<i>General Government:</i>	<i>\$ 16,920</i>
<i>Larimer County Roads:</i>	<i>\$ 15,725</i>
<i>Community Parkland:</i>	<i>\$118,830</i>
<i>Neighborhood Parkland:</i>	<i>\$106,590</i>
<i>City Street Oversizing:</i>	<i>\$148,665</i>
<i>School:</i>	<i>\$ 80,410</i>
<b><i>TOTAL CAPITAL EXPANSION FEES WAIVED:\$509,896”</i></b>	

Karen Cumbo, Director of Planning, Development, and Transportation Services, discussed the Housing Authority ownership of the project and its exemption from taxes and fees. She discussed the fees eligible to be waived. The Affordable Housing Board unanimously supported a motion to recommend the fee waivers, which are also supported by staff.

Jim Martell, attorney representing the Housing Authority, discussed the possible ramifications of the fees not being waived.

Eric Sutherland, 3520 Golden Currant, questioned the reduction in payment in lieu of land fees for Poudre School District.

Bruce Lockhart, 2500 East Harmony, questioned the Housing Authority ownership percentage.

Mel Hilgenburg, 172 North College, thanked the Housing Authority for providing housing in Fort Collins and urged Council to postpone a decision on the item.

Dawn Davis, CARE Housing Board President, stated residents have begun moving into the project. She thanked Council and the City their assistance with the project.

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Councilmember Kottwitz asked about the logistics of waiving fees for other entities, such as Poudre School District and Larimer County. Cumbo replied those capital expansion fees would not be collected; however, the City is not required to backfill for other entities.

Councilmember Kottwitz asked about the impact of postponing a vote. Cumbo replied the primary impact would be on CARE Housing and its relationship with its investor. Certificates of occupancy are not generally issued unless fees are paid; temporary certificates of occupancy have been issued already in this case.

Mayor Weitkunat asked Mr. Martell to address the 0.01% Housing Authority ownership of the project. Mr. Martell presented an ownership structure chart. The investor receives the direct tax credit only if its ownership is nearly 100%. In this case, CARE Housing has a very small percentage of ownership as the General Partner and the Fort Collins Housing Authority has a small percentage of ownership as the Administrative General Partner. The investor receives a tax credit for 15 years and CARE Housing will receive \$5 million in equity at the end of the 15 year period.

Councilmember Troxell made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 071, 2011, on Second Reading.

Mayor Pro Tem Ohlson agreed the outcome of this item is an important one for the community but stated he would not support the item given the 0.01% Housing Authority ownership and the fact that Council is voting on the fee waiver after individuals are moving in to the project.

Councilmembers Horak and Poppaw expressed support for the project.

Mayor Weitkunat stated this project highlights some flaws in the affordable housing process.

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

THE MOTION CARRIED.

**Items Relating to the Fort Collins Museum/Discovery Science Center Project,  
Ordinance Nos. 087 and 088, 2011, Adopted on First Reading,  
Ordinance No. 089, 2011, Defeated on First Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

- A. *First Reading of Ordinance No. 087, 2011, Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for the Fort Collins Museum/Discovery Science Center Project.*

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- B. *First Reading of Ordinance No. 088, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Loan to FCDM, Inc. for the Fort Collins Museum/Discovery Science Center Project.*
- C. *First Reading of Ordinance No. 089, 2011 Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Loan to FCDM, Inc. for the Exhibits of the Fort Collins Museum/Discovery Science Center Project and Appropriating Unanticipated Revenue in the Capital Projects Fund.*

*\$3,875,000 in funding for the new Fort Collins Museum/Discovery Science Center is needed now to complete the building. Completion is scheduled for November 2011.*

*The Downtown Development Authority (DDA) has committed \$3 million for the building, but the funds are not currently available. The DDA is exploring funding options but will not have the funding in 2011. Adoption of Ordinance No. 087, 2011, will appropriate \$3 million from General Fund reserves for the museum project to complete the building. The DDA plans to reimburse the City for the \$3 million through financing provided by the City or from other funds secured by the DDA.*

*The Non-Profit Corporation (NPC) has committed \$4,761,916 to the museum building, with \$875,000 of that amount in the form of pledges to be paid between 2012 and 2014. The NPC is working to obtain a private loan for the \$875,000 but the financing will be costly and difficult to obtain. Adoption of Ordinance No. 088, 2011, will appropriate \$875,000 from reserves in the Water Fund to complete the building. These funds will be transferred to the Capital Project Fund account for the museum in the form of a loan to the NPC. The anticipated loan terms include an interest rate of 3.5% and a maturity date of December 31, 2014. The loan will be evidenced by a loan and security agreement and corresponding promissory note.*

*The NPC has raised \$3.617 million for museum exhibits, with \$1.2 million in the form of pledges to be paid in future years (2011-2017). The new museum will open with a nice, but somewhat limited exhibit experience without a bridge loan for the \$1.2 million in exhibit pledges. Some exhibits will be postponed, and other exhibits will be more static, without the depth of knowledge or interactive technology that will be possible once the future year pledge money becomes available. Adoption of Ordinance No. 089, 2011, will appropriate \$1.2 million from Water Fund reserves for museum exhibits. These funds will be transferred to the Capital Project Fund account for the museum in the form of a loan to the NPC. The anticipated loan terms include an interest rate of 3.75% and a maturity date of December 31, 2017. The loan will be evidenced by a loan and security agreement and corresponding promissory note.*

## **BACKGROUND / DISCUSSION**

### **PROJECT FUNDING**

*Through Council's support, the Fort Collins Museum and the Discovery Science Center (DSC) joined together to create an exceptional new museum experience and facility. In 2005, Council*

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included the new museum in the Building on Basics (BOB) capital program, which received strong voter support. BOB provided approximately \$6.183 million for the project and required DSC to provide at least \$3.6 million in matching funds. BOB also provides \$200,000 annually for seven years for operation and maintenance of the new facility. The DSC (which, along with the Museum Advisor Board, has transitioned into the Museum Non-Profit Corporation (NPC)) has raised approximately \$8.879 million to date, far exceeding its original \$3.6 million commitment.

In addition to BOB funding, approximately \$6.529 million has been provided from other public sources as follows:

• City Natural Resources:	\$1,000,000
(building \$265,113 / exhibits \$734,887)	
• Art in Public Places (Utility Project):	\$ 435,000
• City land donation:	\$1,730,000
• Department of Local Affairs:	\$ 200,000
• Colorado Department of Public Health and Environment:	\$ 75,000
• Downtown Development Authority:	\$3,000,000
• Estate Gift to the Fort Collins Museum	<u>\$ 89,000</u>
Other Public Funding	\$6,529,000
Building on Basics	\$6,183,000
NPC	\$8,879,000

Together, public and private contributions to the project total: \$21,591,000.

Based on these funding commitments, the City sought and secured Council's approval to appropriate \$15,109,666 for the exhibit master plan, and design and construction of the new museum, as follows:

\$6,183,750 from BOB  
\$3,275,000 (\$3 million DDA; \$200,000 DOLA; \$75,000 grant, Ordinance No.130, 2009)  
\$4,561,916 from the NPC (Ordinance No. 117, 2010)  
\$ 89,000 from Estate Gift (Ordinance No. 101, 2009)  
\$1,000,000 from City Natural Areas Program

#### *Allocation of Appropriated Funds*

\$13,218,105 Building  
\$ 1,891,561 Exhibit Master Plan and Natural Areas Exhibits

#### **BUILDING FUNDS**

On January 27, 2010, after completion of the Request for Proposal process, the City entered into a design/build contract with Oz Architecture and Hensel Phelps for \$11,400,000. On December 28, 2010, Change Order #1 was issued for \$577,347 which increased the building square footage from 39,905 to 46,928. Additionally, Change Order #2 was issued May 4, 2011, for \$159,824 for various

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*additional items incorporated into the contract. This brought the contract total to \$12,137,171. Remaining appropriated building funds were used for soft costs (fees, environmental tests/services, project management etc.).*

*Building construction began in earnest on August 16, 2010 after completion of the development review process and resolution of a land title issue with railroad right-of-way that required a re-design of a storm water quality pond. Completion of the building is expected in November 2011.*

*As of June 30, 2011, the City has paid \$8,754,611 to the contractor for work performed. Additional payments of \$3,382,560 are anticipated to complete the building as follows:*

<i>July 31</i>	<i>\$786,000</i>
<i>August 31</i>	<i>\$672,560</i>
<i>September 30</i>	<i>\$603,500</i>
<i>October 31</i>	<i>\$493,500</i>
<i>November 30</i>	<i>\$440,000</i>
<i>December 31</i>	<i>\$387,000</i>

*All available funding for the building has been expended. Consequently, the design/build contract is short by \$3,382,560.*

***DDA FUNDING:***

*The \$3 million anticipated funding from the DDA is not currently available. The history of the DDA commitment of the funding is as follows:*

- April 2004: DDA Board approves \$1 million for the museum project.*
- May 2009: DDA Board approves an additional \$2 million for the project, with construction anticipated to begin in 2010.*
- June 2010: DDA and City Finance begin negotiations of terms with Great Western Bank for a 2010 bond issuance and determine capacity is not available to fund the museum commitment in the 2010 bond series.*
- July 2010: DDA inquires of City project staff as to when the \$3 million is required, indicating DDA had to limit the bond principal amount in 2010 and needs to include the museum commitment in its 2012 bond issuance, and suggests working together on some temporary solutions. Staff responds that DDA funds are needed in 2011, but does not take action to identify solutions.*
- March 2011: DDA is notified by City that project has a funding deficit and needs DDA funds. DDA begins investigating options to fund the \$3 million commitment but confirms that funds will not be available in 2011.*

**NPC BUILDING FUNDS**

*The NPC has committed \$4,761,916 to the building, with \$875,000 of that amount in the form of pledges that will be paid over the next few years. The \$875,000 is needed in 2011 to complete the building. The NPC has been working to secure a bridge loan from private lenders for the \$875,000, but the tight credit market has made this very challenging and expensive. Annual interest payments in excess of \$50,000 are expected. The NPC is committed to bridging the \$875,000 in 2011 so the building can be completed. However, if the City provides the funding it would save the project considerable expense and assure timely completion (contingent on resolving the DDA funding problem). The outstanding building pledges are from very reliable organizations, as follows:*

- The Griffin Foundation: \$400,000 (\$100,000 annually 2011-2014)*
- Woodward: \$250,000 in 2012*
- The Gates Family Foundation: \$250,000 in 2013*
- The Boettcher Foundation: \$ 75,000 in 2013*

*Staff has investigated options for reducing the building expense. Unfortunately, the building project is too far along to afford any significant savings. Staff has already made \$300,000 worth of reductions to keep the project within the original budget. Additional reductions would require portions of the building to be unfinished.*

**APPROPRIATION FOR BUILDING**

*Adoption of Ordinance No. 087, 2011, appropriates \$3,000,000 from General Fund reserves for the museum project to complete the building. The DDA will reimburse the \$3 million by obtaining private financing, or through financing provided by the City, as approved by Council.*

*Adoption of Ordinance No. 088, 2011 appropriates \$875,000 from Water Fund reserves to be loaned to the NPC for the museum project to complete the building.*

**CONTRACT IMPLICATIONS**

*If the City fails to make a payment, the City may be in default under the contract.*

**NPC EXHIBIT FUNDS**

*\$2.975 million for exhibits has been raised by the NPC. These funds have been restricted by the donors for exhibits and cannot be used for the building. \$1.2 million in exhibit donations will be paid in future years as follows:*

- The Bohemian Foundation: \$250,000 in late 2011*
- The Schatz Foundation: \$250,000 in 2012*
- Woodward: \$200,000 in 2014*
- Anonymous Donor: \$500,000 (\$100,000 annually 2013-2017)*

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*The new museum will open with a nice, but somewhat limited exhibit experience absent a bridge loan for the future year exhibit pledges. For example, the early childhood area would not be in place; the live animal exhibit would include only the City's modest current collection; the bike exhibit would have to wait; and the Flood Theater exhibit would be postponed. Additionally, many exhibits will be more static, without the depth of information or interactive technology that will be possible once the future pledge funds become available. In contrast, three areas (Natural Areas, Science Experience, and Music and Sound) will be fully executed on opening day because they are funded by donations specifically designated for these exhibits.*

### **APPROPRIATION FOR EXHIBITS**

*Adoption of Ordinance No. 089, 2011, appropriates \$1.2 million from Water Fund reserves to be loaned to the NPC for Museum exhibits and appropriates the same amount in the Capital Projects Fund.*

### **THE DIGITAL DOME**

*The Digital Dome Theater is the capstone element of the Museum of Discovery. It provides a 360 degree immersive experience for the exploration of astronomy, music, earth and climate science, art, cultural history, presentations, and events. A \$2 million campaign is underway to fund the dome and \$500,000 has been raised with \$350,000 in the form of future year pledges. The NPC is working to secure a private bridge loan for the \$350,000 so the infrastructure for the dome can be completed by the on-site building contractor. Completing this work in the future would be much more (\$125,000 to \$200,000) expensive.*

*No Council action is being requested regarding the Digital Dome.*

### **FINANCIAL / ECONOMIC IMPACTS**

*Adoption of Ordinance No. 087, 2011 appropriates \$3,000,000 in the General Fund to cover construction of the Museum building. The DDA's pledge has already been appropriated in the Capital Projects Fund, however the project is underway and they are unable to make payment at this time.*

*To fund its pledge, the DDA plans to seek external financing. In that scenario the amount of available reserves in the General Fund at the end of 2012 are forecasted to exceed the policy minimum by \$7,500,000. If however the DDA instead asks the City for a loan, and the loan is granted, available reserves above the policy minimum will be \$4,500,000.*

*Adoption of Ordinance No. 088, 2011 authorizes \$875,000 in the Water Fund to be loaned to the NPC. The NPC building commitments have already been appropriated in the project, however the project is underway and they are unable to make payment at this time. The NPC has building pledges equal to their commitment but the pledges will come in installments through 2014. The Water Fund currently has reserves that exceed their policy minimums allowing them to make this*

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*loan. The proposed terms are 3.5% annual interest and \$875,000 in principal to be paid according to the loan agreement.*

*Adoption of Ordinance No. 089, 2011 authorizes \$1,200,000 in the Water Fund to be loaned to the NPC, and appropriates the same amount in the Capital Projects Fund for exhibits in the Museum. The NPC has received exhibit pledges of \$1,200,000 but the pledges will come in installments through 2017. The Water Fund currently has reserves that exceed their policy minimums allowing them to make this loan. The proposed terms are 3.75% annual interest and \$1,200,000 in principal to be paid according to the loan agreement.*

*Utilities anticipates that significant capital project needs in the future and ongoing systemic adjustment of Water Utility revenues and operating costs may necessitate water rate increases in the future. The proposed loan of Water Fund reserves is not expected to create additional need for rate increases or to cause the reserves to fall below required levels, assuming that staff-projected rate increases are implemented. The Ordinance provides that it is the Council's intent that in the event that unexpected capital projects needs or timing results in an increased need for reserves in the Water Fund, the Council would provide replacement funds in order to repay the loan to the Water Fund to meet that need."*

City Manager Atteberry stated staff could have provided additional communication regarding this project which has differed from most other City projects as it has a significant private sector element. The communication issue has been caused by timing and various sources of money.

Mike Freeman, Chief Financial Officer, discussed the financial history of the Fort Collins Museum and Discovery Science Center projects. Cash flow issues have resulted from the inability of the Downtown Development Authority to make its contribution at this time and the gradual inflow of funds for exhibits and partial building construction. The Museum Nonprofit Corporation (NPC), formerly the Discovery Science Center, committed \$4.56 million of its funding for the museum building; \$875,000 of that is in pledges to be paid between 2012 and 2014. Ordinance No. 088, 2011, is an appropriation from the Water Fund which is anticipated to cover the \$875,000. Ordinance No. 087, 2011, is a \$3 million appropriation from General Fund Reserves. Should these appropriations not be approved, a stop work order will need to be considered. Ordinance No. 089, 2011, is a recommended appropriation from the Water Fund for \$1.2 million which would allow the NPC to ensure the exhibit space is complete when the building opens.

Jill Stillwell, Cultural Services Director, provided an overview of the Operating Agreement between the City and the NPC. The NPC and the City remain separate entities though the City has been allowed to appoint 3 members to the NPC Board. Each entity will be required to approve the Operating Agreement on an annual basis.

Bruce Lockhart, 2500 East Harmony, questioned the inability of the Downtown Development Authority to pay its debts and questioned the use of the Water Fund for these appropriations.

Martina Wilkinson, NPC Executive Committee member, discussed community support for the project and supported the Ordinances.

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Eric Sutherland, 3520 Golden Currant, asked how much advance notice Council received regarding financing of the RMI2 building. He asked for additional details regarding the status of the Water Fund.

Dan Gessler, 2000 South College, president of Alden, discussed the decision of his engineering company to open its western branch in Fort Collins, which was influenced by the cultural amenities found in the City.

Steve Vandermeer, 1212 Westview, NPC Board President, expressed appreciation for the Board's partnership with the City and supported the Ordinances.

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

Mayor Pro Tem Ohlson suggested the work session scheduled to follow this meeting be postponed.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to reschedule the work session to July 12, 2011. Yeas: Weitkunat, Manvel, Poppaw, Ohlson, Horak and Troxell. Nays: none.

(\*\*Secretary's note: Councilmember Kottwitz was not present for the previous vote.)

**THE MOTION CARRIED.**

Councilmember Poppaw asked about the repercussions of loaning the money. Freeman replied the issuance of this loan would not have any impact on water rates and is treated as an investment. Should those funds be needed for other uses in the future, Council could replace them with General Fund Reserves. These loans are not considered to be long-term, but rather temporary fixes for temporary cash flow issues.

Councilmember Horak asked why the larger \$3 million appropriation was coming from the General Fund Reserves. Freeman replied staff is attempting to balance where the dollars originate. Councilmember Horak suggested the use of capital projects funds.

Councilmember Horak asked why an interest-bearing loan to the DDA was not considered. Freeman replied it was considered. Matt Robenault, Downtown Development Authority Director, replied that type of loan was not an option for the DDA because it bundles multiple projects together when it issues debt.

Councilmember Horak suggested taxpayers are losing an opportunity to earn interest with the proposed scenario. Robenault replied the DDA incurred additional costs when the City quit buying its debt, as it had done for the past 9 years.

Councilmember Horak asked why the City stopped buying the DDA's debt. Robenault replied using the interest rates the City had offered in previous debt purchases would have provided the DDA with

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\$12.5 million in principal. Because the DDA had to find another debt purchaser, the incurred financing costs prevented it from including the museum in the 2010 issuance.

Councilmember Horak suggested the City could possibly work out a loan with the contractor. Ken Mannon, Operations Services Director, replied the option was discussed and the contractor indicated that was not possible.

Councilmember Poppaw asked about implications to the City's bond rating should it miss a payment to the contractor and become in default of the contract. Freeman replied there may not be an impact with one incident; however, further research would need to be carried out.

Councilmember Horak asked how the City obligated money it did not have. Freeman replied the City intended to receive income from the funding partners. Obligations are occasionally made when money is not yet in hand.

Councilmember Kottwitz asked where the DDA receives its funding and what role the City plays in DDA funding. Freeman replied the City does not play a role in funding the DDA; it receives funding through tax increment financing and an on-going mill levy. Robenault replied the DDA receives a 5 mill property tax levy assessed within the district and receives tax increment financing from building improvements.

Councilmember Kottwitz asked whether the City would be in default of the contract if these loans are not made and who would be liable for the \$600,000 payment should a work stoppage occur. City Attorney Roy replied failure to make a payment per a contract is generally considered a material breach of the contract. Mannon replied the City would be liable for the \$600,000.

Councilmember Kottwitz asked why the Water Fund is being used for part of the loan. Freeman replied the \$3 million is an appropriation, not a loan, from the General Fund Reserves. In the past, the General Fund has been the only source for inter-fund loans or loans for projects such as this. Council now has the ability to elect to take loans from other funds and the Water Fund currently has the most resources.

Mayor Pro Tem Ohlson asked why 100% of the projected revenues from retail sales at the museum are slated to go to the private NPC, given 70% of the project will be funded by public dollars. Stillwell replied the NPC solely survives off those types of revenues and donations.

Mayor Pro Tem Ohlson asked how the City benefitted from negotiations. Stillwell replied having a private partner allows the City to do significant fundraising and grant writing it is unable to do as a municipal organization.

Mayor Pro Tem Ohlson asked about the operations and maintenance costs for the building. Stillwell replied the operating plan has not yet been completed but will need to be in place and approved by both the NPC and Council by the time the facility opens in 2012. The operating plan is slated to have a 4-year projection.

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City Attorney Roy clarified there is one formal agreement which has been executed between the parties. That agreement calls for both parties to approve an operating plan on a regular basis. Council's approval and the NPC's approval of that plan will likely need to be evidenced by resolution.

Mayor Pro Tem Ohlson expressed concern that there is no definite plan for operations and maintenance costs. City Manager Atteberry replied staff would respond to those concerns.

Mayor Pro Tem Ohlson asked if staff is considering placing the NPC employees on the City's health insurance program. City Manager Atteberry replied there are other entities indirectly tied to the City whose employees participate in the health insurance program. Ingrid Decker, Senior Assistant City Attorney, replied the original concept was to allow the NPC employees to have equivalent benefits through the City's program, but at the cost of the NPC. However, it has since been determined that is not feasible.

Mayor Pro Tem Ohlson asked about donor acknowledgement policies. City Manager Atteberry replied those policies were approved by the City Manager, per the operating agreement, and a copy would be forwarded to Council.

Mayor Pro Tem Ohlson asked about the City's \$350,000 annual contribution versus the NPC's \$100,000 amount. Stillwell replied one of the items which would cause the relationship between the City and the NPC to dissolve would be if the City opted out of funding the facility. The \$350,000 is approximately half of the current annual City contribution to the facility; should the City's contribution go below that mark, it would be a trigger point for having a conversation about the partnership continuing.

Mayor Pro Tem Ohlson asked why only one of the City's three Board seats has been filled. Stillwell replied this is an opportunity for the City to expand its representation on the Board.

Councilmember Manvel stated it was an oversight to have not had complete representation on the Board. City Manager Atteberry agreed but suggested moving forward with three representatives. Marty Heffernan was the City's lead negotiator on the contract and negotiated for over two years.

Councilmember Horak asked if there will be a membership to the Museum that will ultimately appoint Boardmembers. Mr. Vandermeer, President of the NPC, replied the Board currently appoints the Boardmembers, with the exception of the City representatives. Councilmember Horak encouraged changing the system to allow the members to appoint Boardmembers.

Councilmember Horak asked if the NPC would be open to the City having more than three representatives. Mr. Vandermeer replied the NPC welcomes the full Board representation and would be open to discussion regarding additional membership.

Councilmember Horak proposed approving the loan from the Water Fund and changing its amount from \$875,000 to \$2,075,000, allowing for work to continue for three more months, during which time further discussion could occur regarding additional funding.

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Councilmember Horak made a motion, seconded by Mayor Pro Tem Ohlson, to adopt Ordinance No. 088, 2011 as amended, on First Reading.

City Attorney Roy asked for clarification regarding the motion which would not appropriate the entire amount among the three Ordinances but would rather increase the amount in Ordinance No. 088 from \$875,000 to \$2,075,000. He requested latitude to make changes to the Ordinance to achieve the appropriate intent.

City Manager Atteberry noted, should the motion be approved as stated, exhibit fabrication funding would be affected; thereby affecting the museum opening. Stillwell stated it is possible for exhibit fabrication to begin with money that has already been contributed for that purpose.

Councilmember Poppaw asked if these changes would negatively affect the bottom line. Stillwell replied contracting the entire fabrication at once would provide certain efficiencies as opposed to phasing; however, she did not have a specific dollar savings amount.

City Attorney Roy asked if appropriating some of the money for exhibits would be an acceptable part of the motion.

Mayor Weitkunat clarified the motion on the table noting the loan would come from the Water Fund in the amount of \$2,075,000, for the purpose of paying three months of construction costs.

City Manager Atteberry stated he would like staff to have the flexibility to possibly add exhibit fabrication costs as part of the Ordinance on Second Reading. Putting exhibit fabrication on hold for three months will delay the museum opening, thereby affecting revenues.

Councilmember Manvel supported the concept of the motion but expressed concern regarding adding the two unrelated sums together.

Councilmember Kottwitz stated she would not support the motion, though she appreciated the attempt to compromise. She asked for a detailed accounting of the Water Fund with this loan.

Mayor Pro Tem Ohlson stated he would support the motion given the compromise attempts.

Councilmember Horak and Mayor Pro Tem Ohlson amended the motion to adopt Ordinance No. 088, 2011, as written.

Mayor Weitkunat stated this project has a great deal of community support and it is unfortunate the funding timing issue has become a focus.

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

**THE MOTION CARRIED.**

*July 5, 2011*

Councilmember Manvel made a motion, seconded by Mayor Weitkunat, to adopt Ordinance No. 087, 2011, as amended, on First Reading.

Councilmember Manvel made a motion, seconded by Councilmember Horak, to amend Ordinance No. 087, 2011, to change the appropriation amount from \$3 million to \$1.5 million.

Councilmember Troxell asked what the impact such a change would have on the project. City Manager Atteberry replied the previously adopted Ordinance No. 088, 2011, would fund July construction costs. Funding 3 months of construction will cost approximately \$2 million, not including exhibit fabrication.

Councilmember Manvel clarified partial amounts of each loan will be repaid by the DDA.

Councilmember Horak clarified changing the amount to \$1.5 million will fund the next three months of construction while still allowing the investigation of other funding sources or replacement of this General Fund money.

Councilmember Kottwitz asked about the duration of the loan. City Manager Atteberry replied, once the DDA is able to sell its bonds, the City will receive the money quickly thereafter. Additionally, significant pledges are due between 2012 and 2017.

The vote on the motion to amend was as follows: Yeas: Weitkunat, Kottwitz, Manvel, Poppaw, Horak and Troxell. Nays: Ohlson.

THE MOTION CARRIED.

City Manager Atteberry asked about Council's intent regarding exhibit construction. Stillwell replied there are designated immediately available funds for construction of the three exhibition sections.

The vote on the motion to adopt Ordinance No. 087, 2011, as amended, was as follows: Yeas: Weitkunat, Manvel, Poppaw, Horak and Troxell. Nays: Kottwitz and Ohlson.

THE MOTION CARRIED.

Councilmember Troxell made a motion, seconded by Mayor Weitkunat, to adopt Ordinance No. 089, 2011, on First Reading.

Mayor Pro Tem Ohlson stated he would not support the motion as funds are already present to begin exhibit construction. Stillwell confirmed the City is not yet under contract for exhibit fabrication and noted adoption of Ordinance No. 089, 2011, would fund all eleven zones of exhibits.

Councilmember Horak stated he would not support the motion.

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Councilmember Troxell asked when the exhibit pledges to pay for the loan in Ordinance No. 089, 2011, would be due. Stillwell replied the exhibit pledges would come in beginning in 2011 through December, 2017. The loan would be repaid with a 3.75% interest rate.

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

THE MOTION FAILED.

### **Extension of the Meeting**

Councilmember Manvel made a motion, seconded by Councilmember Troxell, to extend the meeting past 10:30 p.m. Yeas: Weitkunat, Manvel, Ohlson, Horak and Troxell. Nays: Kottwitz and Poppaw.

THE MOTION CARRIED.

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

### **Resolution 2011-057**

#### **Establishing a Process for Enhancing Communication Between the City Council and the Council-Appointed Platte River Power Authority Board Member, Adopted**

The following is staff's memorandum for this item.

#### ***“EXECUTIVE SUMMARY***

*Each of the four member cities that established Platte River Power Authority (“PRPA”) has two representatives serving on the PRPA Board of Directors. One is the mayor, and the other is appointed by City Council. In May 2011, Council requested that a process be established to provide direction to the Council-appointed member of PRPA. This resolution establishes the process for the Council-appointed Board member to communicate with, and receive comments from, City Councilmembers.*

#### ***BACKGROUND / DISCUSSION***

*PRPA was established by the cities of Fort Collins, Loveland, Longmont and Estes Park to be their wholesale power provider. The contract establishing PRPA requires each municipality to have two members on the board of directors of PRPA. One is the mayor, and the other is appointed by City Council.*

*Historically, the Council-appointed Board member has been the Director of Utilities. The Director of Utilities reports to and receives direction from the City Manager. As the policy making body for the City, Councilmembers desire to provide comments regarding positions the non-mayoral PRPA Board member should take on particular PRPA agenda items.*

July 5, 2011

*This resolution establishes a process, consistent with the City Charter, to have the Council-appointed Board member communicate with City Councilmembers and for Councilmembers to provide comments regarding particular PRPA agenda items. “*

Brian Janonis, Utilities Executive Director, stated this Resolution provides a process for the Council-appointed representative to get feedback and input from Council and to provide information to Council about issues coming before the PRPA Board.

Eric Sutherland, 3520 Golden Currant, stated Council is the only connection between citizens and the PRPA Board. He opposed the Resolution.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2011-057, as amended.

Councilmember Poppaw supported the Resolution.

City Manager Atteberry noted this Resolution clarifies Council’s expectations of the relationship between Council and the appointed Boardmember.

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

THE MOTION CARRIED.

**Ordinance No. 074, 2011,  
Appropriating Funds From the City’s General Fund Reserves for Transfer to the Fort  
Collins Urban Renewal Authority for the Purpose of Providing a Loan for the Kaufman  
and Robinson, Inc. Project at 1330 Blue Spruce, Adopted on Second Reading**

The following is staff’s memorandum for this item.

**“EXECUTIVE SUMMARY**

*This Ordinance, unanimously adopted on First Reading on June 7, 2011, authorizes a loan from the City to the Urban Renewal Authority (URA) to reimburse Kaufman and Robinson, Inc for the public improvements associated with building a new location at 1330 Blue Spruce Drive. Offsetting these costs allowed the retention and expansion of a locally owned business to be economically feasible. The total cost of this Project was \$192,891. The requested loan amount from the City of Fort Collins General Fund Reserves to the URA will be \$192,891. The URA will utilize the City’s Interfund Borrowing program that was formally added to the City’s investment policies in 2008. This program enables the City to use a portion of its investment portfolio to assist City Departments and related entities (e.g., the URA) to access funds at a competitive interest rate while still providing a market based yield to the City investment portfolio.*

July 5, 2011

Bruce Lockhart, 2500 East Harmony, asked why the City is loaning money to the Urban Renewal Authority.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 075, 2011, on Second Reading.

Mayor Pro Tem Ohlson discussed an article which stated California has eliminated urban renewal authorities and tax increment financing.

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

THE MOTION CARRIED.

**Ordinance No. 075, 2011,  
Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a  
Second Loan to the Fort Collins Urban Renewal Authority for the North College  
Marketplace Project, Adopted on Second Reading**

The following is staff's memorandum for this item.

**“EXECUTIVE SUMMARY**

*This Ordinance, unanimously adopted on First Reading on June 7, 2011, authorizes a loan in the amount of \$3 million from the City to the Urban Renewal Authority (URA) to fulfill the remaining reimbursement obligation for the North College Marketplace granted by the URA Board in September 2008. The first appropriation for \$5 million was received in April 2009 for Off Site Street Infrastructure, Wetlands Mitigation, and Demolition/Site Preparation. The requested loan amount from the City of Fort Collins' Water Fund Reserves to the URA will be \$3 million and reimbursed to the project for the On-Site public improvements. Staff originally intended to request the funds from the City's General Fund reserves however, after discussions with the Finance department, Utilities and the Attorney's office, the request changed to the Utilities Water Fund reserves to ensure the URA was not overburdening the General Fund reserves.*

*Utilities anticipates that significant capital project needs in the future and ongoing systemic adjustment of Water Utility revenues and operating costs may necessitate water rate increases in the future. The proposed loan of Water Fund reserves is not expected to create additional need for rate increases or to cause the reserves to fall below required levels, assuming that staff-projected rate increases are implemented. The Ordinance provides that it is the Council's intent that in the event that unexpected capital projects needs or timing results in an increased need for reserves in the Water Fund, the Council would provide replacement funds in order to repay the loan to the Water Fund to meet that need. It is anticipated that the URA will issue bonds within the next few years, and in that event, the loan from the Water Fund would be repaid at that time.”*

July 5, 2011

Bruce Lockhart, 2500 East Harmony, opposed making a loan from the Water Fund and asked about the repercussions for not approving the loan.

Councilmember Troxell made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 075, 2011, on Second Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 077, 2011,  
Appropriating Unanticipated Revenue in the Light and Power, Water and Wastewater  
Funds for Capital Projects to Relocate Utility Facilities in the Mason Corridor Bus Rapid  
Transit Project and Transferring Existing Light and Power Appropriations into the Light  
and Power Utility Relocation Capital Project, Adopted on First Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

*This Ordinance appropriates capital project funding for the Utilities to relocate existing electric, water and wastewater facilities to accommodate the Mason Corridor Bus Rapid Transit (BRT) Project. Light and Power will also supply power to the bus stations along the corridor. The Utilities are being viewed by the MAX/BRT Project as independent contractors and will be reimbursed by the MAX/BRT Project funds for the relocation expenses upon completion. The MAX/BRT Project will also pay for the cost of electric power supply to the bus stations. The Ordinance provides new capital appropriations in the Light Power Fund (\$620,000), Water Fund (\$625,000) and Wastewater Fund (\$1,150,000) for the relocation work. Following completion of the construction, the Utilities will invoice the MAX/BRT Project based on actual costs and will receive the unanticipated revenue being appropriated by the Ordinance.*

*In addition to electric duct bank relocation, Light and Power will use this opportunity to upgrade the capacity of the duct bank. These system upgrade costs have been budgeted in Light and Power's existing 2011 lapsing appropriation. The Ordinance transfers \$400,000 of the existing Light and Power lapsing budget into the new BRT electric relocation/upgrade capital project. The costs of the upgrade will not be reimbursed by the MAX/BRT Corridor Project.*

***BACKGROUND / DISCUSSION***

*This Ordinance appropriates the following funds related to utilities work to accommodate the Mason Corridor Bus Rapid Transit Project. The amounts shown are construction estimates. The MAX/BRT Corridor Project will pay the Utilities based on actual design and construction costs. Relocation work will not proceed until authorization is issued by the MAX/BRT project manager.*

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***\$400,000 Light and Power Fund – New Capital Project Appropriation***

*This portion of the appropriation is fifty percent of the \$800,000 cost to relocate and upgrade existing electric facilities for the MAX/BRT Project Corridor Project. This phase will involve the relocation of the duct bank between Drake and Prospect. The duct bank is being relocated due to logistical conflicts with the Mason Street Corridor guide way. Construction on this phase is anticipated to be completed by year-end. This \$400,000 expense will be reimbursed by the MAX/BRT Project funding.*

***\$400,000 Light and Power Fund – Transfer of Existing 2011 Appropriation***

*The Light and Power Fund will bear fifty percent of the cost for the \$800,000 upgrade and relocation because this project will enlarge capacity for the electric system as well as move the existing system to accommodate the MAX/BRT Project. This portion of the appropriation is to be transferred from the existing 2011 Light and Power appropriation into the new Light and Power capital project. There will be no reimbursement for this half of the expense.*

***\$220,000 Light and Power Fund - New Capital Project Appropriation***

*This is the estimated cost to provide electric service to the bus stations along the MAX/BRT Project Corridor. This electric construction is planned for 2012 and 2013. One hundred percent of the station power costs will be reimbursed by MAX/BRT Project.*

***\$625,000 Water Fund - New Capital Project Appropriation***

***\$1,150,000 Wastewater Fund - New Capital Project Appropriation***

*With the construction of the MAX/BRT Project beginning in 2011, the Utility is faced with as many as 18 separate locations where the MAX/BRT crosses or parallels existing water and sewer infrastructure. This will impact the integrity, serviceability, longevity and safety of the operation of both the Utility pipelines and the MAX/BRT. Because of potential negative impacts to the Utility infrastructure (both immediately and in the future) or future impacts to the MAX/BRT, this is the opportunity to improve, modify and/or protect the water and sewer lines before the BRT improvements are built. The project has a short lead time with design scheduled to be done by early fall and construction completed by early in 2012. One hundred percent of the Water and Wastewater Utility's expenses will be reimbursed by MAX/BRT Project funding."*

Bruce Lockhart, 2500 East Harmony, expressed concern citizens were not able to vote on the Mason Street Corridor project expenditures. He encouraged placement of the item on the November ballot.

Councilmember Troxell asked if the high voltage lines at the Drake substation are scheduled to be undergrounded. Steve Catanach, Light and Power Operations Manager, replied in the negative.

Councilmember Troxell suggested this would be an appropriate opportunity to put together a proposal for undergrounding there and for all other high voltage transmission lines in the City. Catanach replied that could be explored and a report prepared.

July 5, 2011

Councilmember Troxell made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 077, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

**Items Relating to Amendments to the Definitions in Article I of  
Chapter 26, the Electric Article of Chapter 26, and to Standards for  
Interconnection of Electric Generation Facilities, Adopted on First Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

- A. *First Reading of Ordinance No. 079, 2011, Making Certain Amendments to Chapter 26 of the City Code Pertaining to the Provision of Net Metering Service and Certain Definitions Related Thereto.*
- B. *First Reading of Ordinance No. 080, 2011, Amending Various Provisions of the City Code and the Land Use Code Pertaining to the Definition of General Manager.*
- C. *First Reading of Ordinance No. 081, 2011, Making Certain Amendments to Interconnection Standards for Generating Facilities Connected to the Fort Collins Distribution System*

*The Fort Collins Utilities Light and Power Department is proposing minor revisions to the definitions section of Article I and to the Electric Article of Chapter 26 of the City Code and the Land Use Code. These revisions include updating the definition of General Manager, clarification regarding the provision of net metering service and clarification regarding authority to execute interconnection or parallel generation agreements on behalf of the City. Light and Power is also recommending adding clarifying language to the City's indemnification and insurance requirements contained in the City's Interconnection Standards. These standards govern operational and other requirements for interconnection generating facilities to the City's electric distribution system.*

***BACKGROUND / DISCUSSION***

*The Light and Power Department is proposing the following revisions to the Electric Article of the City Code and revisions to the Land Use Code. These revisions are primarily definitional in nature.*

- 1. *Title revision and appointment: General Manager of Utility Services or General Manager shall mean Utilities Executive Director or appointed designee of such Executive Director. Sec 26-391. “Definitions”.*
- 2. *Clarifying that “Net metering service” is available exclusively for a qualifying facility “using a qualifying renewable technology”. Sections 26-391, 465 through 468.*

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*Also included is an amendment specifically authorizing the Utilities General Manager or the Manager's appointed designee to sign interconnection agreements or parallel generation agreements.*

*Light and Power is also recommending adding clarifying language to the City's indemnification and insurance requirements contained in the City's Interconnection Standards. As currently written, the indemnification and insurance requirements in the Interconnection Standards allow for no flexibility where a governmental entity cannot by law indemnify the City and may elect to self-insure in accordance with Colorado law. By adding the following language, "except when the Operator is a governmental entity that self-insures in accordance with Colorado law", the City's Interconnection Standards will now allow for that flexibility. "*

Eric Sutherland, 3520 Golden Currant, supported the renewable energy aspects of the Ordinances.

Councilmember Troxell stated he would like the City to have a more comprehensive perspective with regard to the marketplace and would like to see real-time information going to customers as part of the Smart Meter program. He asked about the feed-in tariff, time of use, and other demand-side management issues.

Councilmember Manvel made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 079, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 080, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 081, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

#### **Resolution 2011-054**

#### **Naming Three Alleys Within the Block Bounded by South College Avenue, West Laurel Street, South Mason Street and West Olive Street, No Action Taken**

The following is staff's memorandum for this item.

## **“EXECUTIVE SUMMARY**

*The Downtown Development Authority (DDA) is preparing a capital improvement project to enhance three alleys in the block bounded by South College, West Laurel, South Mason and West Olive. In conjunction with this project, the City of Fort Collins is preparing to name these three alleys. The three proposed names are “John Coltrane Alley,” “Ella Fitzgerald Alley” and “Billie Holiday Alley.” The selection of these three names is based on a public outreach process that resulted in a winning theme of eclectic music and art. If approved, the alley naming will simplify way-finding for pedestrians, bicyclists, drivers, delivery personnel and emergency responders.*

## **BACKGROUND / DISCUSSION**

*The Downtown Development Authority is continuing its alley improvement program for the 2011 construction season. Similar previous efforts resulted in improved alleys that are attractive, brighter, safer and more heavily traveled. Providing names for these alleys helps the public navigate the City’s urban area and contributes to an overall sense of direction. Naming these alleys is consistent with past practice: Trimble Court, Tenney Court, Old Firehouse Alley, and Montezuma Fuller Alley.*

*Review of the request to name these three alleys has followed the Current Planning Department’s procedures for street naming. Since the alleys fall below the classification of arterial and collector streets, the names do not need to be derived from the approved list of names established by City Code Section 24-91. All directly affected property owners were notified, as well as surrounding property owners. The Poudre Fire Authority and all affected utilities, City departments, and various mapping agencies were notified. All respondents indicated that there are no problems or concerns with the proposed names.*

*The public outreach and name selection process included meetings and mailings with surrounding property owners beginning with a public meeting on March 30, 2011. Participants were first asked to prioritize a theme. Four themes were offered. These themes and their final rank order in the voting, were eclectic music and art, trains, Colorado State University, and history. The process is explained more completely in the Public Outreach section below.*

## **FINANCIAL / ECONOMIC IMPACTS**

*There are no negative financial impacts to City of Fort Collins as the cost of installing new street signs will be borne by DDA’s capital project fund. The overall economic health of the City will be enhanced with improved alleys that will benefit the safety and mobility of business owners, employees, customers and the general public. Maintenance of the alleys will be similar to that for the other improved downtown alleys, and funded through the existing contract between the DDA and the City of Fort Collins Parks Department. These improvements may provide a catalyst for private property owners to re-invest and upgrade their properties.*

July 5, 2011

## **PUBLIC OUTREACH**

*The public outreach and name selection process consisted of a kick-off public meeting on March 30, 2011 which established four themes as a method for narrowing down the options. A variety of names were suggested for each theme. These themes, and their final rank order in the voting were: eclectic music and art, trains, Colorado State University, and history. This was followed by numerous contacts with the surrounding property owners and included a mail-in survey to 55 stakeholders. Survey results were eclectic music and art - 7 votes, trains - 4 votes, Colorado State University - 4 votes, and history - 1 vote, and resulted in the winning theme and three names. Finally, a mailing to affected property and business owners within approximately 800 feet of the subject alleys was sent to inform them about the proposed Resolution on the July 5, 2011 City Council agenda.”*

Councilmember Troxell expressed concern there is no local context for the proposed alley names. He asked that the item be reconsidered with more public input and thoughtful deliberation.

Ted Shepard, Chief Planner, noted living people are not considered when naming collectors and arterials within the City.

Derf Green, Downtown Development Authority, stated public input was solicited throughout the area resulting in only very limited participation. The theme for this alley is eclectic art and music.

Councilmember Troxell encouraged broadening the Colorado State University and train theme ideas.

Amanda Miller, Project Manager, stated three names of recently deceased CSU faculty were presented to participants at the original meeting and participants did not feel it was appropriate to use those names.

Mayor Pro Tem Ohlson stated Council should have been consulted earlier in the process. He asked how the eclectic music theme was derived. Shepard replied the idea is to foster a hip urban scene and create a catalyst for further redevelopment in this subsection of the downtown area.

Mayor Weitkunat stated the names may not foster the proposed direction.

Councilmember Poppaw appreciated the direction but agreed with Mayor Weitkunat. She asked about the timing of the issue. Mr. Green replied the timing is driven, in part, by the necessity to place the alley name in a concrete band on either end of the alley.

Mayor Pro Tem Ohlson suggested the public outreach for naming should have extended beyond just the bordering property owners.

City Manager Atteberry suggested staff return in two weeks with new options.

July 5, 2011

**Resolution 2011-055**  
**Authorizing the Mayor to Execute an Amendment to the**  
**Intergovernmental Agreement with the Fort Collins Urban Renewal Authority, Adopted**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

*At the June 7, 2011 meeting, Council requested the Urban Renewal Authority (URA) Board modify the Intergovernmental Agreement (IGA) between the City and the URA to formalize the requirement that, when the City advances funds to the URA in support of the URA's activities, a loan agreement and promissory note accompany the advance of funds.*

***BACKGROUND / DISCUSSION***

*Council would like to formalize the process for loaning funds to the URA based on approved projects and eligible costs associated with the development. The URA continues to need funding from the City for projects until such time that the URA can obtain private financing with proven revenue streams sufficient to pay higher interest rates on its loans. The City wants to ensure the funding is appropriately dedicated to a project with a loan agreement and promissory note in place.”*

Eric Sutherland, 3520 Golden Currant, expressed concern the URA does not have a business plan.

Councilmember Manvel made a motion, seconded by Councilmember Troxell, to adopt Resolution 2011-055. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

**Other Business**

Councilmember Horak made a motion, seconded by Mayor Pro Tem Ohlson, to waive the attorney-client privilege as it applies to the report that Council has received from special counsel legal Gerald E. Dahl concerning the City's relationship with Character Fort Collins, which report is dated June 10, 2011, so that the report can be made available to the public. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

*July 5, 2011*

**Adjournment**

The meeting adjourned at 11:50 p.m.

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Mayor

ATTEST:

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City Clerk

**July 19, 2011**

**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 19, 2011, 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: Horak, Kottwitz, Manvel, Ohlson, Poppaw, Troxell and Weikunat.

Staff Members Present: Atteberry, Krajicek, Roy.

**Citizen Participation**

Chuck Washington, 1125 Deercraft Court, spoke regarding expenditure of surplus funds and encouraged reinstating Dial-a-Ride services in the southeast part of town.

Chantel Havre, 1705 Remington Street, Community for Sustainable Energy, discussed sustainable energy in Fort Collins and thanked Councilmembers for their service.

Peggy Loonan, 708 Gilgalad Way, expressed concern regarding the City appeal process and opposed current practices of staff in that process.

Laurence Budd, 1442 Glen Haven Drive, discussed FCPAN, the Fort Collins public access channel and requested that the rejection of a certain medical program be examined.

Joan Black, 1206 Canvasback Court, thanked Councilmember Horak for his response regarding Dial-a-Ride access and supported expanding access further south.

Devin Hirning, 2214 Fossil Creek Parkway, opposed the staff recommendation regarding Item No. 19, *Resolution 2011-060 Amending the Rules of Procedure Governing the Conduct of City Council Meetings*.

Pam Jennings, Disabled Resource Services, 424 Pine Street, thanked Council and the Fort Collins CDBG Commission for fully funding the Disabled Resources Services funding request.

Eric Sutherland, 3520 Golden Currant, showed a video of Steve Catanach, Light and Power Operations Manager, stating Council had vetted the business case for the Smart Meter project. Mr. Sutherland alleged that is not a true statement.

Mel Hilgenberg, 172 North College, thanked Councilmember Troxell for pulling the alley naming issue off the July 5, 2011 Consent Calendar. He suggested alternative names of Will Schwartz, Otto Warner, and Gale Hilgenberg.

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Lloyd Walker, 1756 Concord Drive, discussed inconsistencies between the City's bicycle policies and the Land Use Code. He offered several suggestions to improve the situation including the creation of a Bike Overlay Zone within 1.5 miles of CSU's campus.

Sarah Burnett, 714 Gilgalad Way, discussed Item No. 18, *First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council*. She supported the Ordinance as it would allow site visits by Council.

Jonathan Feiman, 959 Gilgalad Way, opposed staff's role in the preparation of Agenda Item Summaries for appeals of land use decisions.

### **Citizen Participation Follow-up**

Mayor Weitkunat spoke on behalf of City employees in response to Mr. Sutherland's accusations. She spoke to the honesty, integrity, ethics, and quality work of City staff.

Mayor Pro Tem Ohlson agreed with Mayor Weitkunat and spoke to the integrity of staff.

Councilmember Manvel requested an explanation regarding Mr. Budd's question about the public access channel programming.

Councilmember Horak requested an examination of the current Dial-a-Ride system and feedback regarding concerns. He asked for numerical data supporting the Smart Meter program and for an explanation of the appeal process that can be shared with citizens.

Councilmember Kottwitz thanked Mr. Washington and Ms. Black for their input regarding the southeast connections for Dial-a-Ride. She stated she would like to see Transfort and Dial-a-Ride as two separate issues in the future.

Mayor Pro Tem Ohlson requested all available information regarding the context of the decision to decrease Dial-a-Ride services, which had been above and beyond federal standards previously.

Councilmember Horak requested an analysis of the distribution of available funds with respect to possibly increasing Dial-a-Ride services.

### **Agenda Review**

City Manager Atteberry stated there are revised Ordinances for Item Nos. 18 and 26, *First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council* and *Items Relating to the Fort Collins Museum/Discovery Science Center Project*. Item No. 28, *First Reading of Ordinance No. 098, 2011, Repealing and Reenacting Division 14, Article III of Chapter 2 of the Code of the City of Fort Collins Dissolving the Electric Board and Creating a New Energy Board*, is recommended to be withdrawn to the August 16, 2011 meeting.

**CONSENT CALENDAR**

6. Second Reading of Ordinance No. 076, 2011, Appropriating Unanticipated Revenue in the General Fund for the Purchase, Training and Ongoing Maintenance of the E911 and Emergency Dispatch Systems at Fort Collins Police Services Dispatch Center.

Larimer Emergency Telephone Authority provides funds to the Fort Collins Police Services to be used for equipment and training to process E911 calls. This Ordinance, unanimously adopted on First Reading on July 5, 2011, appropriates those funds.

7. Second Reading of Ordinance No. 077, 2011, Appropriating Unanticipated Revenue in the Light and Power, Water and Wastewater Funds for Capital Projects to Relocate Utility Facilities in the Mason Corridor Bus Rapid Transit Project and Transferring Existing Light and Power Appropriations into the Light and Power Utility Relocation Capital Project.

This Ordinance, unanimously adopted on First Reading on July 5, 2011, appropriates capital project funding for the Utilities to relocate existing electric, water and wastewater facilities to accommodate the Mason Corridor Bus Rapid Transit (BRT) Project. Light and Power will also supply power to the bus stations along the corridor.

8. Second Reading of Ordinance No. 078, 2011, Appropriating Unanticipated Grant and Other Revenue in the Conservation Trust Fund for the Hughes Stadium Disc Golf Course.

This Ordinance, unanimously adopted on First Reading on July 5, 2011, appropriates an \$85,000 awarded by Great Outdoors Colorado has awarded for the completion of the Hughes Stadium Disc Golf Course. The project involves the development of an 18-hole disc golf course at Hughes Stadium in conjunction with Colorado State University. The course is primarily located in the stormwater detention basin directly west of Overland Trail Road. The course will include new trees and shrubs, a new access road off County Road No. 42C, and the course tee areas and baskets.

9. Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities.

A. Second Reading of Ordinance No. 079, 2011, Making Certain Amendments to Chapter 26 of the City Code Pertaining to the Provision of Net Metering Service and Certain Definitions Related Thereto.

B. Second Reading of Ordinance No. 080, 2011, Amending Various Provisions of the City Code and the Land Use Code Pertaining to the Definition of General Manager.

C. Second Reading of Ordinance No. 081, 2011, Making Certain Amendments to Interconnection Standards for Generating Facilities Connected to the Fort Collins Distribution System.

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These Ordinances, unanimously adopted on First Reading on July 5, 2011, make minor revisions to the definitions section of Article I and to the Electric Article of Chapter 26 of the City Code and the Land Use Code. These revisions include updating the definition of General Manager, clarification regarding the provision of net metering service and clarification regarding authority to execute interconnection or parallel generation agreements on behalf of the City. Light and Power is also recommending adding clarifying language to the City's indemnification and insurance requirements contained in the City's Interconnection Standards. These standards govern operational and other requirements for interconnection generating facilities to the City's electric distribution system.

10. Second Reading of Ordinance No. 082, 2011, Calling a Special Municipal Election to Be Held in Conjunction with the November 1, 2011 Larimer County Coordinated Election.

This Ordinance, unanimously adopted on First Reading on July 5, 2011, calls a Special Municipal Election to be held in conjunction with the November 1, 2011 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 16 meeting. If Council does not take action by ordinance or resolution before the statutory deadline (September 2) 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 1, 2011 ballot. However, a group of citizens is currently circulating an initiative petition proposing a prohibition on the establishment, operation or licensing of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused product manufacturing within the city of Fort Collins. The deadline to submit the petition to the City Clerk's Office is July 19, 2011. 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 1, 2011 Coordinated Election.

11. Items Relating to the Access Road at Soapstone Prairie Natural Area.

- A. Second Reading of Ordinance No. 083, 2011, Authorizing the Transfer to Larimer County of Public Right-of-Way Easements Acquired by the City for the Reconstruction of Rawhide Flats Road.
- B. Second Reading of Ordinance, No. 084, 2011, Authorizing the Conveyance of Access Easements to Three Private Land Owners within the Soapstone Prairie Natural Area.

To complete the process of improving Rawhide Flats Road, the City has requested that Larimer County vacate sections of road right-of-way that were abandoned in 2008 when the road was realigned and reconstructed by the City to provide access to Soapstone Prairie Natural Area. The County conditioned its approval of the road improvements on the City's

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follow up to request this vacation in order to stop the unnecessary public use of the old abandoned road areas and to allow the land to revert to the surrounding landowner(s). Once the sections of right-of-way are vacated, the ownership will revert to the adjacent landowners. In connection with the vacation of the unneeded sections of right-of-way, the City is proposing to transfer to the County six new right-of-way easements that the City acquired to build the realigned portions of the improved road. This transfer will establish that the easements are held by Larimer County as public road easements for Rawhide Flats Road along with the other segments of the Road, and that the right-of-way being vacated is no longer needed.

The City has also asked the County to vacate any remaining public road rights-of-way within Soapstone Prairie Natural Area. This action will establish that Rawhide Flats Road north of the Natural Area boundary line is a private road owned by the City for the sole purpose of providing access to Soapstone Prairie Natural Area. There are currently three property owners with in-holding properties within Soapstone Prairie Natural Area. When this section of Rawhide Flats Road is vacated, these owners will lose their legal access to their properties. In order to continue to provide these owners legal access to their property, the City will need to grant each owner an access easement from the boundary of the Natural Area to their property line. The access easements will follow the same alignment as the existing road on the Soapstone Prairie Natural Area. These Ordinances were unanimously adopted on First Reading on July 5, 2011.

12. Second Reading of Ordinance No. 085, 2011, Authorizing the Conveyance to Capstone Development Corporation of Three Easements on Stormwater Utility Property at Creekside Park.

Capstone Development Corporation is planning a mixed use development. The project area is 10.4 acres and is located near Stuart Street and College Avenue. It fronts College Avenue around the Discount Tire property and continues to the west to the railroad. The project area is also at the rear of the Dairy Queen property. This mixed use development is for student housing and retail space. It will have two buildings, 221 dwelling units and 8,000 square feet of new retail space. The retail space will be the first floor of the building fronting on South College Avenue.

This Ordinance, unanimously adopted on First Reading on July 5, 2011, authorizes a drainage easement for construction of a new flood control channel, a drainage easement for sheet flows from the adjoining property, and a temporary construction easement to construct a pedestrian trail and an underground stormwater pipe on City-owned property known as Creekside Park.

13. Second Reading of Ordinance No. 086, 2011, Authorizing the Conveyance to Solitaire Homes, LLC of a Public Trail Easement on City Property.

Solitaire Homes, LLC is planning a 27 acre (approximately) development north and west of Laporte Avenue and Taft Hill Road, opposite the Poudre School District offices. This

Ordinance, unanimously adopted on First Reading on July 5, 2011, authorizes a 438 square foot public trail easement from the City across City property managed by the Water Utility to facilitate a planned trail within the development.

14. First Reading of Ordinance No. 090, 2011, Appropriating General Fund Prior Year Reserves for the Affordable Housing Fund and Land Bank Program.

City Council authorized expenditures in 2010 for Affordable Housing and the Land Bank Program. All of the authorized expenditures were not spent in 2010 because the projects for which the dollars were originally appropriated could not be completed during 2010. Reappropriation of \$295,821 is necessary for completion of the projects in 2011. These unexpended monies lapsed into the General Fund balance at the end of 2010 and reflect no change in Council policies.

15. Items Relating to the Shields Street Bridge Replacement and LaPorte Avenue Bridge Replacement.

- A. Resolution 2011-058 Authorizing the Mayor to Enter into a Contract with the Colorado Department of Transportation for the Construction of the Shields Street Bridge Replacement and Laporte Avenue Bridge Replacement.
- B. First Reading of Ordinance No. 091, 2011, Appropriating Unanticipated Revenue from the Colorado Department of Transportation in the City Bridge Program Fund for the Shields Street Bridge Replacement and Laporte Avenue Bridge Replacement.

The City of Fort Collins Engineering Department has been awarded three grants from the federally funded Colorado Off-System Bridge Program totaling \$2,225,932. This funding contract between the City and Colorado Department of Transportation is for the replacement of two structurally deficient bridges owned by the City. The two bridges are Shields Street Bridge over Larimer Canal No. 2, and Laporte Avenue Bridge over the Arthur Ditch.

16. Items Relating to a Long-Term Solar Power Arrangement for the Water Treatment Facility.

- A. First Reading of Ordinance No. 092, 2011, Authorizing the Execution of a Power Purchase Agreement Contract with a Photovoltaic Provider at the Water Treatment Facility for a Term of Up to 20 Years.
- B. Resolution 2011-059 Authorizing a Revocable Permit to a Selected Solar Provider for the Use of the City Water Treatment Facility Property for a Solar Project.

The Water Treatment Facility receives its electrical power from Xcel Energy. A solar power generation project, with a fixed electrical rate sold back to the City, allows the offset of a portion of electrical usage at the plant site. A third party Photovoltaic system developer will design, construct, operate and maintain for up to 20 years a solar power project. This Ordinance allows for a 20-year contract between the system developer and the City. The

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Resolution issues a revocable permit for use of a portion of land onsite of the Water Treatment Facility by the photovoltaic system developer.

17. Items Relating to Grass Height Restrictions and Updating Related City Code References.

- A. First Reading of Ordinance No. 093, 2011, Amending Article IV of Chapter 20 of the City Code Regarding Weeds, Grass and Rubbish.
- B. First Reading of Ordinance No. 094, 2011, Amending Article VII of Chapter 12 of the City Code Regarding Resource Conservation.

In an effort to promote water conservation, lower greenhouse gas emissions, and provide options for Fort Collins residents who are interested in using water-wise turfgrass, these Code amendments will allow certain grass types to be exempt from the current six (6) inch height limit. The grass types that would be exempt are Blue Grama and Buffalo grass, and they would have a height limit of twelve (12) inches.

18. First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council.

This Ordinance changes the timing for the scheduling of appeal hearings and for requesting site inspections and also amends the appeals procedure so as to allow the general public to participate in the appeal hearing and to allow Councilmembers who have filed an appeal to participate in deciding the appeal.

19. Resolution 2011-060 Amending the Rules of Procedure Governing the Conduct of City Council Meetings.

This Resolution would amend the rules of procedure that govern the conduct of City Council meetings with regard to citizen comment during the Citizen Participation segment of the meetings. The 30-minute time limit that currently exists for the Citizen Participation segment of the meetings would be eliminated and two topics would be specified as not appropriate for comment: matters on the discussion agenda for the meeting and quasi-judicial matters.

20. Resolution 2011-061 Adopting the Recommendations of the Cultural Resources Board Regarding Fort Fund Disbursements.

The Cultural Development and Programming and Tourism Programming accounts (Fort Fund) provide grants to fund community events. This resolution will adopt the recommendations from the Cultural Resources Board to disburse these funds.

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21. Resolution 2011-062 Making Appointments to the Retirement Committee and the Women's Commission.

A vacancy currently exists on the Retirement Committee due to the resignation of Dick Burkhartzmeyer. Councilmembers Ben Manvel and Wade Troxell reviewed the applications on file. The interview team is recommending John Lindsay to fill the vacancy with a term to begin immediately and set to expire on December 31, 2011.

A vacancy also exists on the Women's Commission due to the resignation of Randi Nelson. Applications were solicited and Councilmembers Ben Manvel and Wade Troxell conducted interviews. The interview team is recommending Jan Hawn to fill the vacancy with a term to begin immediately and set to expire on December 31, 2012.

**\*\*\*END CONSENT\*\*\***

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

6. Second Reading of Ordinance No. 076, 2011, Appropriating Unanticipated Revenue in the General Fund for the Purchase, Training and Ongoing Maintenance of the E911 and Emergency Dispatch Systems at Fort Collins Police Services Dispatch Center.
7. Second Reading of Ordinance No. 077, 2011, Appropriating Unanticipated Revenue in the Light and Power, Water and Wastewater Funds for Capital Projects to Relocate Utility Facilities in the Mason Corridor Bus Rapid Transit Project and Transferring Existing Light and Power Appropriations into the Light and Power Utility Relocation Capital Project.
8. Second Reading of Ordinance No. 078, 2011, Appropriating Unanticipated Grant and Other Revenue in the Conservation Trust Fund for the Hughes Stadium Disc Golf Course.
10. Second Reading of Ordinance No. 082, 2011, Calling a Special Municipal Election to Be Held in Conjunction with the November 1, 2011 Larimer County Coordinated Election.
11. Items Relating to the Access Road at Soapstone Prairie Natural Area.
  - A. Second Reading of Ordinance No. 083, 2011, Authorizing the Transfer to Larimer County of Public Right-of-Way Easements Acquired by the City for the Reconstruction of Rawhide Flats Road.
  - B. Second Reading of Ordinance, No. 084, 2011, Authorizing the Conveyance of Access Easements to Three Private Land Owners within the Soapstone Prairie Natural Area.
12. Second Reading of Ordinance No. 085, 2011, Authorizing the Conveyance to Capstone Development Corporation of Three Easements on Stormwater Utility Property at Creekside Park.

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13. Second Reading of Ordinance No. 086, 2011, Authorizing the Conveyance to Solitaire Homes, LLC of a Public Trail Easement on City Property.
26. Items Relating to the Fort Collins Museum/Discovery Science Center Project.
  - A. Second Reading of Ordinance No. 087, 2011, Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for the Fort Collins Museum/Discovery Science Center Project.
  - B. Second Reading of Ordinance No. 088, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Loan to FCDM, Inc. for the Fort Collins Museum/Discovery Science Center Project.

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

14. First Reading of Ordinance No. 090, 2011, Appropriating General Fund Prior Year Reserves for the Affordable Housing Fund and Land Bank Program.
15. First Reading of Ordinance No. 091, 2011, Appropriating Unanticipated Revenue from the Colorado Department of Transportation in the City Bridge Program Fund for the Shields Street Bridge Replacement and Laporte Avenue Bridge Replacement.
25. Items Relating to the Completion of the 2011 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing the Federal Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Programs, and the City's Human Services Program.
  - C. First Reading of Ordinance No. 096, 2011, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Community Development Block Grant Fund.
  - D. First Reading of Ordinance No. 097, 2011, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Home Investment Partnerships Fund.

Councilmember Horak withdrew Item Nos. 18 and 19, *First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council and Resolution 2011-060 Amending the Rules of Procedure Governing the Conduct of City Council Meetings.*

Councilmember Troxell withdrew Item No. 17, *Items Relating to Grass Height Restrictions and Updating Related City Code References.*

Eric Sutherland, 3520 Golden Currant, withdrew Item Nos. 9 and 16, *Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities and First Reading of Ordinance No. 092, 2011,*

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*Authorizing the Execution of a Power Purchase Agreement Contract with a Photovoltaic Provider at the Water Treatment Facility for a Term of Up to 20 Years.*

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

THE MOTION CARRIED.

### **Consent Calendar Follow-up**

Mayor Pro Tem Ohlson asked for a brief description of Item No. 15, *First Reading of Ordinance No. 091, 2011, Appropriating Unanticipated Revenue from the Colorado Department of Transportation in the City Bridge Program Fund for the Shields Street Bridge Replacement and Laporte Avenue Bridge Replacement*. Rick Richter, Engineering and Capital Projects Manager, replied the item references two bridges that will be replaced using grant funds received from the Colorado Department of Transportation. As grant money will be used, previously allocated dollars will be used to redesign two additional deficient bridges.

Councilmember Horak suggested additional details be present when describing bridge locations.

### **Staff Reports**

City Manager Atteberry stated Fort Collins has been designated as one of the best locations for tri-athletes. Lawrence Pollack, Finance Department Systems Analyst, identified a need for and created a Budgeting for Outcomes process network.

John Stokes presented an update regarding the Poudre River Ecological Vision, a project being proposed by the Natural Resource Department. The project would create a high-level, yet quantitative, ecological description of the Poudre River. Costs are expected to be relatively low with a fair amount of volunteer work coming from Colorado State University personnel. This project is not driven by other water projects such as Seaman Reservoir.

Councilmember Troxell asked if a similar project is being proposed for other City watersheds. Stokes replied a group at Utilities is examining small stream systems within the City. Kevin Gertig, Water Resources and Treatment Operations Manager, replied those studies are an important part of the City's urban watershed monitoring program. A full report and assessment will be provided to Council in the near future.

Councilmember Horak encouraged the involvement of the United States Geological Survey.

Mayor Pro Tem Ohlson supported the project and staff's initiative in its proposal.

### **Councilmember Reports**

Councilmember Manvel reported on a new brochure from the Poudre River Heritage Board. The brochure will be available in local bookstores and discusses the history of Poudre River water projects and provide descriptions of the River sections.

Councilmember Poppaw thanked Beet Street and the City for their efforts at obtaining the National Endowment for the Arts “Our Town” grant. Jill Stilwell, Cultural Services Director, stated the grant will fund planning and design of an art incubator in Fort Collins.

Mayor Pro Tem Ohlson stated the Finance Committee discussed the Avago project and the sales tax rebate on food. Additionally, the Committee recommended the Downtown Development Authority not move forward with the downtown hotel project request for proposal.

Mayor Weitkumat stated there will be a regional meeting with Loveland and Larimer County at Harmony Library Thursday regarding connection and transportation issues. She complimented the recent renovations to Council chambers.

#### **Items Relating to the Completion of the 2011 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing the Federal Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Programs, and the City’s Human Services Program, Adopted on First Reading**

The following is staff’s memorandum for this item.

#### ***“EXECUTIVE SUMMARY***

- A. *Public Hearing and Resolution 2011-063 Approving the Programs and Projects that Will Receive Funds from the Federal Community Development Block Grant Program, the Home Investment Partnerships Program, and the City’s Human Services Program.*
- B. *Public Hearing and Resolution 2011-064 Approving the Fiscal Year 2011 Administration and Project Budgets for the Home Investment Partnerships Program.*
- C. *First Reading of Ordinance No. 096, 2011, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Community Development Block Grant Fund.*
- D. *First Reading of Ordinance No. 097, 2011, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Home Investment Partnerships Fund.*
- E. *Public Hearing and Resolution 2011-065 Eliminating Restrictions on the Use of Affordable Housing Funds Currently Earmarked for the Acquisition of Former Rental Properties.*

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*Resolution 2011-063 will complete the 2011 spring cycle of the competitive process for allocating City financial resources to affordable housing programs/projects and community development activities by listing the specific programs/projects that will receive funding starting October 1, 2011. Ordinance No. 096, 2011, appropriates the City's FY 2011 CDBG Entitlement Grant from the Department of Housing and Urban Development (HUD). Resolution 2011-064 establishes the major funding categories within the HOME Program for the FY 2011 program year, which also starts on October 1, 2011. Specific projects for the use of HOME funds will be determined in November as a result of the 2011 fall cycle of the competitive process. Ordinance No. 097, 2011, appropriates the City's FY 2011 HOME Participating Jurisdiction Grant from HUD. Resolution 2011-065 eliminates the restriction on \$60,000 of Affordable Housing Fund dollars that they be used for the acquisition of former rental properties by first-time home buyers to allowing the funds to be used for the purchases of non-rental properties.*

**BACKGROUND / DISCUSSION**

*Resolution 2011-063 establishes which programs and projects will receive funding with CDBG funds for the FY 2011 program year (including funds from the Entitlement Grant and Program Income), which starts on October 1, 2011; which programs and projects will receive funding from carry-over funds from the HOME Program; and which programs will receive funding from the City's 2011 Human Services Program. The CDBG Commission presents to the City Council a list of recommendations as to which programs and projects should receive funding. The following table summarizes the total amount and sources of all available CDBG, HOME, and City funds for distribution during the spring cycle of the competitive process:*

<b>AMOUNT</b>	<b>SOURCE</b>
\$923,469	FY 2011 CDBG Entitlement Grant
61,815	FY 2011 CDBG Program Income
8,883	Prior Year's CDBG Program Income
191,338	FY 2010 Unprogrammed CDBG Funds
211,906	FY 2010 Unprogrammed HOME Funds
102,381	FY 2010 Unprogrammed HOME CHDO Funds
25,328	FY 2004 Unprogrammed HOME Funds
389,601	2011 City Human Services Program
150,733	2011 City Human Services KFCG Funds
\$2,065,454	Total Funding Available

*Unprogrammed funds are funds from previous years that have yet to be allocated to specific programs or projects. Program Income includes repayments from rehabilitation loans and home buyer assistance loans along with repayments from development loans. Community Housing Development Organization (CHDO) funds are HOME funds that need to be reserved for allocation to agencies which qualify as CHDOs including the Fort Collins Housing Corporation, CARE Housing, and Neighbor-to-Neighbor, Inc..*

*The FY 2011 CDBG Entitlement Grant and CDBG Program Income totals \$994,167. HUD regulations limit a maximum of 20% of these funds, or \$198,832, for planning and program*

administrative purposes. The following table summarizes the amount and sources of available funds for planning projects and CDBG Program administrative costs:

**Funding for Planning and CDBG Program Administration**

<b>AMOUNT</b>	<b>SOURCE</b>
\$184,693	20% of the FY 2011 CDBG Entitlement Grant
12,363	20% of FY 2011 CDBG Program Income
1,776	20% of Prior Year's CDBG Program Income
\$198,832	Total Funding Available for Planning and CDBG Program Administration

HUD regulations limit a maximum of 15% of the FY 2011 CDBG funds and CDBG Program Income, or \$149,124 for use in the Public Services category. The City's 2011 Human Services Program adds \$389,601 and Human Services Program KFCG funds adds an additional \$150,733, for use in the category, for a total of \$689,458 of available funding. The following table summarizes the amount and sources of available funds for public/human service proposals:

**Funding for Public/Human Services**

<b>AMOUNT</b>	<b>SOURCE</b>
\$138,520	15% of the FY 2011 CDBG Entitlement Grant
9,272	15% of FY 2011 CDBG Program Income
1,332	15% of Prior Year's CDBG Program Income
389,601	2011 City Human Services Program
150,733	2011 City Human Services KFCG Funds
\$689,458	Total Funding Available for Public/Human Services Proposals

Considering the set-asides for Planning and Administration and Public/Human Services presented above, the balance of the FY 2011 CDBG Entitlement Grant and CDBG Program Income amounts, or \$646,211, plus \$191,338 of unprogrammed FY 2010 CDBG funds, \$211,906 of unprogrammed FY 2010 HOME funds, \$102,381 of unprogrammed FY 2010 HOME CHDO funds, and \$25,328 of unprogrammed FY 2004 HOME CHDO funds, provide an amount of \$1,177,164 available for allocation to affordable housing proposals. The following table summarizes the amount and sources of available funds for affordable housing proposals:

**Funding for Affordable Housing**

<b>AMOUNT</b>	<b>SOURCE</b>
\$600,256	FY 2011 CDBG Entitlement Grant
40,180	FY 2011 CDBG Program Income
5,775	Prior Year's CDBG Program Income
191,338	FY 2010 Unprogrammed CDBG Funds
211,906	FY 2010 Unprogrammed HOME Funds

102,381	<i>FY 2010 Unprogrammed HOME CHDO Funds</i>
25,328	<i>FY 2004 Unprogrammed HOME CHDO Funds</i>
\$1,177,164	<i>Total Funding Available for Affordable Housing Proposals</i>

*The City received 31 applications for funding and a staff administration request as part of the 2011 spring cycle of the competitive process requesting a total of \$2,678,987. The total amount of funds available from all sources is \$2,065,454. The total of application requests is, thus, \$613,533 more than the amount of available funding. Also, HUD regulation limitations within the Public Services category results in a total of \$260,697 more in requests than available funds for the category. Unfortunately, funds in the Planning and Administration and Affordable Housing categories can not be used to fund any Public Service applications. The following table summarizes the amount of funding requests compared to the amount of funding available for each of the major funding categories.*

<i>Category</i>	<i>Number of Applications</i>	<i>Requested Funding</i>	<i>Available Funding</i>	<i>Request-Available Difference</i>
<i>Affordable Housing</i>	3	<i>\$1,530,000</i>	<i>\$1,177,164</i>	<i>-\$352,836</i>
<i>Public Services</i>	28	<i>\$950,155</i>	<i>\$689,458</i>	<i>-260,697</i>
<i>Administration</i>	-	<i>\$198,832</i>	<i>\$198,832</i>	<i>0</i>
<i>Totals</i>	<i>31</i>	<i>\$2,678,987</i>	<i>\$2,065,454</i>	<i>-\$613,533</i>

### ***Removing Restrictions on the Use of Affordable Housing Funds in the Home Buyer Assistance Program***

*The City's Home Buyers Assistance (HBA) Program uses funding from the HOME and CDBG federal grants and the City's Affordable Housing Fund (AHF). In the past, normal assistance has been split with 50% coming from the HOME Program and 50% coming from the CDBG Program (federal regulations limit the use of CDBG funds to be no more than 50% of the total assistance). The City's AHF dollars have been earmarked for assistance to families wishing to purchase former rental housing units (for the use of federal funds, federal regulations require rental units to be vacant for three months in order to avoid displacement concerns and relocation payments).*

*With the change in federal HOME regulations, it is now basically impossible to continue using HOME funds as the 50% match to CDBG funds in providing down payment and closing cost assistance in the HBA Program. Staff is suggesting that the City change its policy regarding the use of the AHF in the HBA program, eliminating the condition that they be used only for the acquisition of former rental units and allowing the funds to be used for any home purchase. Staff's request is to remove the "former rental unit only" restriction for \$60,000 of AHF dollars already approved through the competitive process for the HBA. This \$60,000 could then be used to match \$60,000 of CDBG funds already allocated to the HBA Program. This would still leave \$84,000 of AHF to assist first-time home buyers wishing to purchase former rental units.*

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*Without the ability to use AHF as a match, assistance in the HBA would be limited to CDBG funds, or only half the amount of assistance families would need to acquire a new home. Stated another way, without a 50% match to CDBG funds, families would need to have between \$4,000 and \$5,000 of their own money to buy a home – not many low-income families have that amount of funds available.*

*The CDBG Commission discussed this issue at its monthly meeting on February 10, 2011, and voted unanimously to recommend the requested change in the use of AHF dollars (see Attachment 8).*

*The Affordable Housing Board discussed this issue at its monthly meeting on March 3, 2011, and voted unanimously to recommend the requested change in the use of AHF dollars (see Attachment 9).*

*Resolution 2011-065 would eliminate the restrictions on the use of \$60,000 of Affordable Housing Funds currently earmarked for the acquisition of former rental properties and permit the funds to be used for the acquisition of any home by a first-time home buyer.*

### **FINANCIAL / ECONOMIC IMPACTS**

*The Community Development Block Grant (CDBG) Program, and the Home Investment Partnership (HOME) Program provide federal funds from the Department of Housing and Urban Development (HUD) to the City of Fort Collins which can be allocated to housing and community development related programs and projects, thereby, reducing the demand on the City's General Fund Budget to address such needs. The total amount of CDBG funds available for allocation during FY 2011 is \$1,185,505, while the total amount of HOME funds for FY 2011 is \$644,352. Together, the CDBG and HOME programs provide \$1,829,857 of federal funds to the City. The City's General Fund does contribute \$389,601 in the Human Services Program and \$150,733 of KFCG funds for allocation during the spring cycle, and \$325,024 of Affordable Housing Fund dollars for the fall cycle of the competitive process.*

*Through the provision of affordable housing, more of Fort Collins' work force can reside within the community. This means there is an available labor pool within the city, which is a positive benefit to economic sustainability.*

*Public/human service programs contribute to economic sustainability by providing such programs as job training and child care, so workers can maintain their employment.*

### **ENVIRONMENTAL IMPACTS**

*Affordable housing programs help provide for a healthy environment. By offering affordable housing options for lower income people, more of Fort Collins' work force can live in the community instead of being forced to live outside the community and commute into the city for work. This helps reduce traffic congestion and, thus, improves air quality.*

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*Affordable housing developers, including for-profit and non-profit agencies, are utilizing green building practices. Green building practices are being used in both new construction and major rehabilitation of existing housing unit projects. These practices include geo-thermal applications and other energy saving techniques.*

*All affordable housing projects utilizing CDBG and HOME funds are required to pass a HUD environmental review which covers such items as noise impacts, floodplains, hazardous materials, etc.”*

Ken Waido, Chief Planner, discussed the history and aspects of the competitive process. Sources of funding are primarily the CDBG and HOME programs as well as the City’s Human Services Program and funds from Keep Fort Collins Great. There is a total deficit of over \$600,000 in unfunded requests.

Kay Rios, CDBG Chairperson, discussed funding recommendations. Union Place, an affordable housing project, is recommended to be funded after concerns were addressed by staff. The Fort Collins Housing Authority’s land acquisition application was not granted funding as the project does not have City entitlement or a tax credit deal.

Robert Ross, 201 7th Street, Boulder, Union Place project architect, read a letter from Donna Merton thanking the Affordable Housing Board and the CDBG Commission for recommending approval of its funding request. The Union Place project is going to be used as a national green affordable housing model to be replicated across the country.

Linda Preston, BASE Camp Executive Director, thanked staff and the CDBG Commission for recommending approval of its funding request.

Bill Stout, Women’s Resource Center, thanked staff and the Human Services Commission for recommending it receive its funding request which will go toward a low-cost dental program.

Whitney Johnson, Matthews House Case Manager, thanked the CDBG Commission for recommending approval of its funding request.

Pat Parker, Crossroads Safe House Director, thanked staff for assistance with the grant writing process and thanked the CDBG Commission for recommending approval of its funding request which will provide partial funding for four advocates assisting victims of domestic violence.

Councilmember Manvel asked when the Union Place project should be discussed. Waido replied Council will make the final decision as to whether competitive process funds will be used as part of the complex financial package that will help subsidize the development of the project. If approved tonight, dollars will not be allocated until it is certain the project has the entitlements and other funding it needs to proceed.

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Mayor Pro Tem Ohlson expressed concern about distortion of the process should Council vote to approve funding for the Union Place project. He stated the project is completely different from the one considered by the CDBG and the URA.

Councilmember Manvel asked if the Union Place project set to be funded with the recommendations is the same project reviewed by the CDBG Board. Waido replied the proposal was for \$750,000 for 103 affordable units. Since the proposal was submitted, the tax credits and need to add the 55 market rate units have changed. There have been previous occasions where Council has determined a project is not ready to receive an allocation on the current cycle. Delaying a decision on this \$750,000 would result in either the City holding onto the dollars or using them in the next program year.

Mayor Pro Tem Ohlson noted a memo from staff indicated the CDBG Board reviewed a different proposal.

Councilmember Poppaw thanked the CDBG Board for its work deliberating the proposals. She asked if the decision by the CDBG Commissioners to support the project with changes was unanimous. Ms. Rios replied the Commission offered a majority vote to support the project with its requested funding.

Councilmember Poppaw asked if the funds would be lost if Council delayed a vote on this particular project. Waido replied federal regulations exist regarding the amount of CDBG funds the City can carry over. However, it would be possible for the project to resubmit for funds as part of the process.

Councilmember Poppaw asked about the lack of tax credits for the Fort Collins Housing Authority land acquisition. Ms. Rios replied the project has not yet secured tax credits.

Councilmember Troxell asked if the project has a geothermal component. Waido replied in the affirmative.

Councilmember Troxell noted this project is one of two geothermal projects in the City which have not yet come out of the ground. Mr. Ross replied the project has physically been at a standstill over the last year; however, a great deal of work has been going into preparing the application for the tax credits.

Councilmember Troxell asked when the applicant knew the 9% tax credit was not going to happen. Mr. Ross replied that was discovered at the end of April. It was one of the most competitive years in history for Colorado Finance Housing Authority funding requests.

Mayor Weitkunat asked about the security of the project's funding sources and whether the project has received its funds from the Division of Housing. Mr. Ross replied he was uncertain.

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Mayor Weitkunat asked about the status of the 4% tax credits. Mr. Ross replied they are in the process of being completed and the process is non-competitive.

Mayor Weitkunat asked if the developers were given an explanation for the project not receiving the 9% tax credits. Mr. Ross stated there were no definitive explanations given.

Christina Vincent, Urban Renewal Authority Redevelopment Program Administrator, stated this project has been in the works since 2008 and was among a few other URA projects with funding problems for vertical construction. The economic viability of the project was not coming together beginning in 2010. Given the \$4 million that has already been invested in the project, staff members are of the opinion that the developers have been compliant with direction from staff. They do need to appear before the URA Board again and go through the major amendment process for the proposed project changes.

Mayor Weitkunat noted finances will need to come from a variety of sources; however, it is important to know the financial structure is in place. The CDBG funds are representing the community commitment to the affordable housing aspect of the project.

Waido noted it is important for other investors to see a local financial commitment, and, should the project not be completed, the \$750,000 will come back.

Councilmember Horak asked about the change in the number of affordable units. Vincent replied the URA Board approved 89 units, 40% of which were affordable. The number of affordable units has increase to 103.

Councilmember Horak asked what concerns and thoughts the CDBG Commissioners had regarding the project changes. Ms. Rios replied these types of projects often have changes and the money would be returned if the project was not completed. Jeff Taylor, CDBG Boardmember, stated the Board noted the project includes a large number of units at the lowest AMI. Market units are frequently added to maintain the economic viability of a project. It is vital that the City show financial support. Additionally, the private partnership is critical.

Councilmember Horak asked about the process for the major amendment. Waido replied staff will make a recommendation based on the application and a hearing officer will make a decision following a public hearing. An appeal of that decision would result in a hearing before Council. The hearing will likely be held in the next two to three months.

Mayor Pro Tem Ohlson asked if a process exists by which Council could postpone tonight's decision but not have to wait until the fall competitive process for the project to return. Waido replied Council's decision tonight will be used to complete the annual plan to submit to HUD.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Resolution 2011-063.

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Councilmember Horak commended the CDBG process and the Board's vetting of the applications and noted the importance of affordable housing in the community.

Councilmember Manvel stated he would support the motion despite the legitimate process questions and noted the URA Board will have the ability to approve the project. He thanked the CDBG Board for its work on the applications.

Councilmember Troxell stated he would support the motion.

Councilmember Poppaw thanked the CDBG Board for its service and the applicants for their work in the community.

Councilmember Kottwitz thanked the community's non-profits and other social service organizations. She stated she would not support the motion based on the process issues.

Mayor Pro Tem Ohlson asked if there are funds left over in any of the categories. Waido replied all of the available funding is being recommended to be allocated.

Mayor Pro Tem Ohlson stated he would not support the motion given the process issues.

Mayor Weitkunat noted this is a competitive process and funds need to be used to gain other funds. Affordable housing projects should be isolated from the Development Review process as the need is greater for the projects to exist.

Mayor Pro Tem Ohlson stated standards should not be lessened for lower income residents.

Mayor Weitkunat clarified the process for Community Development Block Grants should be separate from the Development Review process.

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

THE MOTION CARRIED.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 096, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Resolution 2011-064. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

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Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 097, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Resolution 2011-065. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

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

**Items Relating to the Fort Collins Museum/Discovery  
Science Center Project, Adopted on Second Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

- A. *Second Reading of Ordinance No. 087, 2011, Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for the Fort Collins Museum/Discovery Science Center Project.*
- B. *Second Reading of Ordinance No. 088, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Loan to FCDM, Inc. for the Fort Collins Museum/Discovery Science Center Project.*

*At the July 5, 2011 City Council meeting, Council adopted on First Reading, two ordinances which appropriate funding to continue construction on the new Fort Collins Museum/Discovery Science Center facility. Ordinance No. 087, 2011, adopted 5-2 (nays: Kottwitz, Ohlson) appropriates \$1.5 million from General Fund reserves to the capital project. Council amended the original ordinance from \$3 million to \$1.5 million. Ordinance No. 088, 2011, adopted 6-1 (nays: Kottwitz) appropriates \$875,000 from Water Fund reserves to the Non-profit Corporation as a loan. These ordinances will keep the museum project moving forward for several months and avoid a costly work stoppage.*

*The building project is experiencing a \$3,875,000 cash flow issue from two sources. The Downtown Development Authority (DDA) has committed \$3 million for the building but funds are not currently available. The Non-profit Corporation has raised \$4,561,916 of which \$875,000 is in the form of pledges to be paid between 2011 and 2014. The two Ordinances allow construction to continue for several months. This additional time allows Council to consider the Building Community Choices reserve at the July 12 work session and other potential funding mechanisms; review the next few*

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*months of sales tax; and the DDA will receive its certification from the County in August, providing key data to determine when its \$3 million commitment can be paid to the project.*

## **BACKGROUND / DISCUSSION**

*Through Council's support, the Fort Collins Museum and the Discovery Science Center (DSC) joined together to create an exceptional new museum experience and facility. In 2005, Council included the new museum in the Building on Basics (BOB) capital program, which received strong voter support. BOB provided \$6.183 million for the project and required DSC to provide at least \$3.6 million in matching funds. The DSC (which has transitioned into the Museum Non-Profit Corporation (NPC)) has raised more than \$8 million to date, far exceeding their original \$3.6 million commitment.*

*BOB also provides \$200,000 annually for seven years for operation and maintenance of the new facility. The BOB operations and maintenance dollars will end after seven years of operations. The current plan to replace these funds is to continue to build the institutional endowment over the next seven years to generate enough income to cover the \$200,000 BOB operations and maintenance dollars.*

## **BUILDING**

*The building construction project is experiencing a \$3,875,000 cash flow problem. Two significant sources of funding are currently not available to pay into the construction project, which began on August 16, 2010 and is slated for completion in November 2011.*

*Council adopted on First Reading Ordinance No. 087, 2011, for \$1.5 million and Ordinance No. 088, 2011, for \$875,000, totaling \$2,375,000 to keep the museum project moving forward for several months and avoid a costly work stoppage.*

*To default on a construction contract would have an impact on the City's bond rating, and could have a significant impact on the City's reputation with contractors with the potential result of fewer firms willing to bid to the City and increased bids on future projects.*

*The Downtown Development Authority (DDA) committed \$3 million for the building but the funds are not currently available. The DDA is exploring funding options but will not have the funding in 2011. The Museum Non-profit Corporation (NPC) has committed \$4,561,916 to the museum building, with \$875,000 of that amount in the form of pledges. These pledges will be paid between 2011 and 2014 and are not available to fund the project now.*

*Ordinance No. 087, 2011 appropriates \$1.5 million from the General Fund to the capital project. Council amended the Ordinance for Second Reading from \$3 million to \$1.5 million. This funding covers half of the DDA's \$3 million commitment, but is not a loan to the DDA. The DDA will receive its certification from the County in August, providing key data to determine when and how the DDA will issue bonds for this and other upcoming DDA projects. It is possible the City could*

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*be the purchaser of the DDA's bonds. The remaining \$1.5 million will be needed in several months to complete the construction project. On First Reading, Council asked if the funding source could be a source other than the General Fund. Building Community Choices remaining balance is another possible source.*

*Ordinance No. 088, 2011, approves an \$875,000 loan to the NPC to cover pledges made to the project. The loan details are attached as an Exhibit to the Ordinance, and include a 3.5% interest rate (prime rate of 3.25% plus .25%) with a payout schedule starting in 2012 and ending in 2014.*

## **EXHIBITS**

*Council did not adopt on First Reading, Ordinance No. 089, 2011, to loan the NPC an additional \$1.2 million to cover pledges designated specifically for fabrication of exhibits for the new facility. There are eleven themed areas in the master exhibit plan. Three themed areas are funded through designated donations that have been paid: music and sound, science, and natural areas. The \$1.2 million for the remaining zones is in the form of pledges to be paid between 2012 and 2017. NPC continues to explore private bridge loans to cover the pledges. Interest rates will be higher than what the City could provide, which will decrease the amount of funding available for exhibit fabrication. If a loan cannot be secured, the remaining zones will be phased into the gallery as pledges are paid, between 2012 and 2017.*

*Council asked if staff would be adding to the bottom line of the total exhibit costs if the exhibits were phased in over time. The bottom line will see a 10 – 20% increase by phasing the exhibits. The percentage moves toward 20% as the phases are spread farther apart over time.*

*On First Reading, Council requested a list of the top 4 or 5 operation and maintenance costs, besides staffing, for the new facility. These items include:*

- *Utilities – estimated at \$42,600 annually (based on modeling projections that could change according to the actual use of the building and future costs of utilities)*
- *Custodial, trash and recycling – estimated at \$59,000*
- *Maintenance and repair – estimated at \$55,000 year one (Primarily HVAC, electrical, preventive maintenance inspections, filters, etc. not covered under warranty. This number will ratchet up as warranties expire and the building begins to age)*
- *Grounds maintenance/snow removal - estimated at \$18,500*

*Council also directed staff to fill all three available City appointed seats on the NPC Board. Staff will work with the City Manager to appoint the two vacant seats as soon as possible.*

## **FINANCIAL / ECONOMIC IMPACTS**

*Ordinance No. 087, 2011, appropriates \$1,500,000 in the General Fund to cover construction of the Museum building. The DDA's pledge has already been appropriated in the Capital Projects fund, however the project is underway and it is unable to make payment at this time.*

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*To fund its pledge, the DDA plans to seek external financing. In that scenario the amount of available reserves in the General Fund at the end of 2012 are forecasted to exceed the policy minimum by \$7,500,000. If, however, the DDA instead asks the City for a loan, and the loan is granted, available reserves above the policy minimum will be \$4.5 million.*

*Ordinance No. 088, 2011 authorizes \$875,000 in the Water Fund to be loaned to the NPC. The NPC building commitments have already been appropriated in the project, however the project is underway and they are unable to make payment at this time. The NPC has building pledges equal to their commitment but the pledges will come in installments through 2014. The Water fund currently has reserves that exceed its policy minimums allowing it to make this loan. The proposed terms are 3.5% annual interest and \$875,000 in principal to be paid according to the loan agreement.”*

Jill Stilwell, Cultural Services Director, discussed the Ordinances and Council’s First Reading approvals. Councilmember Horak has added an amendment for consideration tonight to add back \$1.5 million to Ordinance No. 087, 2011, to cover the DDA’s commitment in total. The third Ordinance heard on First Reading was not passed but could be brought back before Council at its direction.

Eric Sutherland, 3520 Golden Currant, suggested there is no guarantee that tax increment collected by the Downtown Development Authority will be applied to this project. He made comparisons between the museum and the RMI2 project and stated there was no governance of the RMI2 project at all.

Annette Geiselman, Discovery Science Center Director, thanked Council for adopting Ordinance No. 088, 2011, on First Reading. She discussed community support for the museum.

Councilmember Horak made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 087, 2011 as amended, Option A, on Second Reading.

City Attorney Roy read the Ordinance changes into the record.

Mayor Pro Tem Ohlson stated he has had several meetings with staff over the last year regarding this issue in which staff was unaware of certain changes. He asked what assurance exists that the governance model and communication to Council will be improved. City Manager Atteberry replied staff is reviewing its processes to ensure these types of communication issues do not occur again. He stated he is personally going to sit on the Board of Directors of the Non-Profit Corporation (NPC) for a significant period of time.

Mayor Pro Tem Ohlson asked why the City only filled one of its allotted three positions on the Board. City Manager Atteberry replied those positions will be filled moving forward.

Mayor Pro Tem Ohlson expressed concern with 25% of the permanent exhibit space being dedicated to music. Stilwell replied an exhibit design master plan firm was hired to determine what the

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exhibits should be and the building was designed around those exhibits. Those exhibits fall into eleven thematic areas, one of which is music and sound.

Mayor Pro Tem Ohlson expressed concern with the relatively little amount of exhibit space being dedicated to sustainability and energy. Stilwell replied the exhibits are designed to be a cohesive experience with music having its own area primarily due to electric needs. Other areas incorporate several themes and sustainability is discussed throughout the exhibit space.

Councilmember Horak asked if the exhibits were influenced by donors. Stilwell replied in the negative.

Councilmember Kottwitz noted the early childhood section of the museum has not yet been funded. Marty Heffernan, Director of Culture, Parks, Recreation, and Environment, clarified the space for that exhibit is part of the construction; however, the fundraising for the actual exhibits has not yet occurred.

Councilmember Poppaw asked how the exhibits and fundraising were prioritized. Stilwell replied the early childhood piece is a discreet area that can be completed at a later time.

City Manager Atteberry suggested that piece is a prime opportunity for seeking specific donors.

Stilwell discussed other areas of the museum yet to be completely funded including the digital dome, the early childhood area, and some thematic exhibit areas.

Councilmember Horak asked how much funding the early childhood area is expected to need. Stilwell replied approximately \$450,000 is needed.

Councilmember Horak suggested an independent review of the exhibit space allocations be held and stated the Board should no longer be able to appoint boardmembers.

Councilmember Kottwitz stated she supports the project but would not support the motion as citizens may not have intended to spend an additional \$3 million on the project.

Mayor Pro Tem Ohlson expressed support for the project but stated there has been undue influence by donors. Appropriate recognition for donors is necessary; however, one large corporate logo is not suitable for a project 70% funded by public dollars. Ms. Geiselman replied donor recognition guidelines, approved by City Manager Atteberry, have been accurately followed.

City Manager Atteberry asked for a brief description of donor recognition. Ms. Geiselman replied a \$1 million donation will afford the donor the recognition opportunity of an exhibit theme. All donor recognition will be artfully and tastefully completed with a great deal of sensitivity to avoiding advertisements.

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Mayor Pro Tem Ohlson asked if the sponsorship recognition at the Gardens on Spring Creek has improved as it was previously distracting. Heffernan replied the individual recognitions were too prominent and staff has been consulted.

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

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 088, 2011, on Second Reading. Yeas: Weitkunat, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: Kottwitz.

THE MOTION CARRIED.

**Resolution 2011-066**  
**Approving an Agreement Between the City and Avago Technologies US, Inc. to**  
**Provide Business Investment Assistance for the Building 4 Retrofit, Adopted**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

*This Resolution approves a Business Investment Agreement between the City and Avago Technologies. The Agreement provides two performance based investments: (1) a one-time use tax rebate on manufacturing equipment purchased as part of the expansion; and (2) a personal property tax rebate on the same equipment for ten years. Both investments relate to revenues the City would not otherwise collect if the expansion did not occur within the City. The total investment package has a value of approximately \$3.2 million and includes both local and state investments. The total value of the use tax and personal property constitutes \$2.912 million of the package value. NOTE: The value of the package has increased since the Council Finance Committee briefing on July 5, 2011. The increase is due to additional investment in manufacturing equipment by Avago.*

***BACKGROUND / DISCUSSION***

*In 2005, the City Council adopted the first Economic Action Plan to provide staff focus and direction regarding efforts to enhance the local economy. The Action Plan contains four key strategies: (1) job creation through business retention, expansion, incubation, and attraction; (2) be proactive on economic issues; (3) build partnerships; and (4) diversify the economy. Furthermore, City Council has given consistent and clear direction that all investment agreements be performance based.*

*In 2006, the City commissioned a study to evaluate the geographic concentration and interconnectedness of companies within the community in order to determine potential industry*

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clusters. The study identified several existing and emerging industry clusters. The identified clusters were modified into five targeted industry clusters, which became the focus of job creation activities. These clusters included: Clean Energy, Bioscience, Chip Design, Software, and Uniquely Fort Collins.

On August 17, 2010, the City adopted Resolution 2010-055, authorizing and directing the City Manager to continue to support on behalf of the City participation in the formation and development of cluster initiatives relating to the identified targeted industries of the City, to work with regional partners and local business entities to develop strategic plans for the clusters, and to support the advancement of the plans as they are implemented for the purpose of primary job retention, expansion, and creation.

Avago Technologies has a 50-year history of innovation dating back to origins within Hewlett-Packard Company (HP). The company began as HP's components division back in the early 1960s and thrived there for three decades. When HP spun off Agilent Technologies in 1999, the company became Agilent's Semiconductor Products Group (SPG) and expanded into new markets and applications. In late 2005, SPG was acquired by several private equity partners and Avago Technologies was founded. Over the years, Avago has assembled a team of over 1,000 design and product engineers and maintains highly collaborative design and product development resources around the world that have resulted in the development of numerous groundbreaking technologies.

The Business Investment Agreement being offered to Avago Technologies is consistent with both the Action Plan strategies and City Council direction:

- *The proposed Business Investment Agreement rebates tax revenues generated by the project; without the project these revenues would not be received by the City.*
- *The Economic Action Plan clearly identifies business retention and expansion as the primary goal for the City's job creation efforts over business attraction; the proposed expansion supports this goal.*
- *Plan Fort Collins call for creating a diversity of jobs that enables citizens and businesses to thrive; the proposed expansion provides an array of jobs and salary ranges. Most importantly, the expansion brings back much needed high-tech manufacturing jobs.*

## **PROJECT OVERVIEW**

Avago Technologies plans to expand its wafer manufacturing, which currently occurs only in Taiwan. The company evaluated expansion at facilities in Taiwan, Italy, and Fort Collins. Avago Technologies selected the City for expansion for several reasons, including: (1) low power costs, (2) progressive utilities willing to assist in the modernization of plant operations related to power and water consumption, and (3) a Business Investment Agreement as described in detail below. This expansion represents an opportunity to bring a type of chip manufacturing to Fort Collins that has occurred primarily off-shore.

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*The wafer fabrication expansion includes:*

- *The retrofit of the existing Building 4 (approximately 10,000 square feet);*
- *\$17 million in retrofit construction costs;*
- *\$57.5 million in wafer manufacturing equipment;*
- *\$5.7 million in equipment installation;*
- *An increase in water use of approximately 20.0 million gallons, an estimated 10 percent increase (equivalent to annual consumption of approximately 300 average homes; no anticipated impact on peak demand or the physical plant); and*
- *An increase of approximately 1.0 megawatts of electric capacity (equivalent to annual consumption of approximately 500 average homes; no anticipated impact on peak demand or the physical plant).*

*Furthermore, the proposed expansion is anticipated to add approximately 92 jobs including:*

- *8 Engineers earning approximately \$100,000 annually;*
- *14 Technicians earning approximately \$70,000 annually; and*
- *70 Operators earning approximately \$40,000 annually.*

### ***BUSINESS INVESTMENT AGREEMENT***

*On April 22, 2011, Economic Health Office staff provided Avago Technologies with an offer of assistance to support the retrofit of Building 4 for wafer fabrication (Attachment 1). The package was submitted to Avago Technologies confidentially. The item was scheduled for Council Finance Committee consideration (July 5, 2011) and City Council action (July 19, 2011). The meetings were scheduled after the Colorado Economic Development Commission (EDC) considered a request for assistance from its Strategic Fund. The EDC requests that all potential assistance packages remain confidential until it has an opportunity to consider the request. The EDC considered the request on June 16, 2011. The Council Finance Committee meetings and City Council action were scheduled shortly after this meeting in consultation with the City Manager.*

*The City of Fort Collins uses a variety of local investments to assist primary employers with expansion efforts. The total value of the proposed investment package is approximately \$3.2 million and includes both local and state investments (\$2.9 million in local investments and \$300,000 in state investments). The package includes the following items:*

- *\$1.725 million in Equipment Use Tax rebate on the initial manufacturing equipment investment associated with the project*
- *Approximately \$817,000 in Personal Property Tax savings on manufacturing equipment over a 10 year period*
- *Expedited review and commitment by City staff to Avago's desired timeline*
- *Free Integrated Design Assistance valued at \$20,000 to improve operating efficiencies*
- *Assistance with building re-commissioning, valued at up to \$150,000 to maximize building efficiency and reduce utility costs*

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- *Implementation of the evaporative cooling credit against sewer costs, creating approximately \$20,000 annually or a total of \$200,000 over ten years*
- *\$230,000 in Colorado Economic Development Commission's (EDC) Strategic Fund assistance (subject to Board approval); and*
- *\$73,600 in Colorado FIRST Customized Job Training Funds.*

*The Utility items listed above are available to any company within Fort Collins, whether expanding or continuing operations. They have been included in the package description because the competition may not offer similar utility assistance.*

### **FINANCIAL / ECONOMIC IMPACTS**

*Martin Shields, Associate Professor of Economic and Regional Economist at Colorado State University prepared an Economic Impact Analysis (EIA) of Avago Technologies planned expansion (Attachment 2). The following summarizes that analysis:*

- *New equipment will generate approximately \$1.725 million in use tax revenue (offset by investment package)*
- *The same equipment will generate approximately \$163,000 in annual personal property tax revenue of \$1.63 million over the ten year agreement period (partially offset by investment package)*
- *Construction activity (\$17 million retrofit and \$5.7 million equipment installation) will support 228 direct jobs and 74 spin-off jobs throughout the anticipated 15-month construction period*
- *Construction will generate approximately \$323,400 in use tax revenue on materials*
- *The 92 new jobs will support an additional 155 in spin-off secondary jobs at an average salary of \$48,900*
- *The 92 new jobs will generate approximately \$554,000 in sales tax revenue and \$413,000 in property tax revenue over the next ten years; and*
- *The EIA recognizes additional sales tax and property tax revenue will be generated by the spin-off jobs; however, the analysis provides a conservative estimate of economic impact and does not estimate these revenues.*

*The proposed Business Investment Agreement will have the following impacts on the City of Fort Collins finances:*

- *All of the estimated \$1.725 million in use tax revenue collected on the purchase of the wafer fabrication equipment will be rebated*
- *Half of the estimated \$163,000 in annual Personal Property Tax revenue collected on the wafer fabrication equipment will be rebated for ten years for a total of approximately \$817,000*
- *Utilities will invest approximately \$170,000 in one-time energy and water efficiency design assistance*

- In addition, Avago will take advantage of the new evaporative cooling credit offered by the Fort Collins Utilities for a total savings of \$200,000 over the course of ten years
- However, the City would not have collected Use Tax or Personal Property Tax revenue if the expansion had occurred in Italy or Taiwan.
- Net impact of the Business Investment Agreement is approximately \$1.755 million, as shown in **Table 1**.

**Table 1**  
Estimated Revenue, Rebate, and Net Revenue

<b>Revenue</b>	<b>Estimated Revenue</b>	<b>Rebate/ Incentive</b>	<b>Net Revenue</b>
<b>One-Time Items</b>			
Construction Use Tax	\$323,000	\$0	\$323,000
Equipment Use Tax <sup>1</sup>	\$1,725,000	\$1,725,000	\$0
Integrated Design Assistance	\$0	\$20,000	(\$20,000)
Building Re-commissioning	\$0	\$150,000	(\$150,000)
<b>Subtotal</b>	<b>\$2,048,000</b>	<b>\$1,895,000</b>	<b>\$153,000</b>
<b>On-Going Items (Cumulative over 10 Years)</b>			
Equipment Personal Property Tax	\$1,630,000	\$817,000	\$817,000
Spin Off Sales Tax	\$554,000	\$0	\$554,000
Spin Off Property Tax	\$413,000	\$0	\$413,000
Evaporative Cooling Credit	\$0	\$200,000	(\$200,000)
<b>Subtotal</b>	<b>\$2,597,000</b>	<b>\$1,017,000</b>	<b>\$1,602,000</b>
<b>Total</b>	<b>\$4,645,000</b>	<b>\$2,912,000</b>	<b>\$1,755,000</b>

<sup>1</sup> Current City Code allows for a rebate of 1.5 percent of the 3.0 percent use tax. The proposed Business Investment Agreement increases the rebate to the full 3.0 percent; therefore the incentive provides a value of \$727,500 above current Code.

## **ENVIRONMENTAL IMPACTS**

Avago plans to make the following system upgrades as part of the retrofit of Building 4:

- A site-wide HVAC retrofit.
- A "free heating" project, which utilizes waste heat from HVAC Chillers to reheat incoming outside air for Building 4. Similar to a Building 2 upgrade that reduced natural gas consumption on site by approximately 5%.
- Purchase and installation of a high efficiency chiller sized to handle the building's base load conditions (in winter) and run at optimum performance.
- Replace two boilers with two new very high efficiency condensing boilers matched to the building's base load, which avoids running boilers to big to run efficiently.

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*Based on the Fort Collins Utility assistance , the upgrades will help to reach 3 million kilowatt-hours of annual savings. This savings in energy consumption will have the following environmental benefits:*

- *The project would comprise 14% of the City's annual efficiency savings goal;*
- *The project would avoid 2119 metric tons of carbon emissions annually; and*
- *The carbon emissions savings are equivalent to the annual emissions of 415 cars or 264 homes or the amount of carbon sequestered by 54,333 tree seedlings grown for ten years."*

Josh Birks, Economic Advisor, discussed the project at Avago and noted the Fort Collins site was selected for the expansion over sites in Taiwan and Italy. Construction will begin in earnest soon and the facility should be operational by next fall. An economic impact analysis was completed by a Colorado State University economist. The appraisal estimated the project would generate \$1.725 million in use tax revenues, \$1.38 million in personal property tax, and approximately 228 direct construction industry jobs for approximately 15 months. Additionally, 92 primary jobs would generate approximately \$500,000 in sales tax revenue over 10 years. The net value of the business agreement is an approximately \$730,000 additional rebate on top of the standing rebates outlined in City Code.

Glenn Colton, 625 Hinsdale Drive, expressed concern the City has been providing too many financial incentives for private industry. The City should consider providing financial incentives based on need rather than simple requests.

Eric Sutherland, 3520 Golden Currant, discussed water and power use of the new facility.

Thomas Welch, 4033 Mesa Verde, expressed concern the proposed expansion will negatively affect neighboring homes and presented a petition signed by seven of those homes.

Mayor Weitkunat asked for a staff perspective of the operations. Birks replied Building 4, in which some manufacturing occurs, is approximately 40,000 square feet total; only 10,000 square feet of which is occupied. This expansion would include an additional 10,000 square feet of manufacturing space thereby still leaving half of the building vacant.

Steve Wolley, Avago Facilities Manager, stated this development is entirely interior with no additional exterior construction. He stated neighborhood concerns had previously been addressed by construction of a wall to block out sound and interior lighting structure changes. There are further changes which could be made if needed.

City Manager Atteberry stated he would approach Hewlett Packard with the neighborhood concerns as well.

Mayor Weitkunat asked about the means of communication between Avago and neighbors. Mr. Wolley replied the concerns have been heard and will certainly be addressed.

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Councilmember Poppaw asked how policies at Avago could change to ensure the company is being the best neighbor possible. Mr. Wolley replied interior lighting can be managed by lighting systems rather than users. A physical solution will need to be developed for noise mitigation.

Councilmember Poppaw asked if Mr. Wolley would personally be willing to have somewhat regular meetings with neighbors. Mr. Wolley replied in the affirmative.

Councilmember Troxell asked why Fort Collins residents should care about Avago's products. Mr. Wolley replied this facility makes cell phone parts, which are sold worldwide, as well as other products.

Councilmember Kottwitz made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2011-066.

Councilmember Poppaw supported the project and thanked Mr. Wolley for his presence and responses.

Mayor Pro Tem Ohlson asked how the projected water and electricity usage could not affect supply. Steve Catanach, Light and Power Operations Manager, replied the increase will have no impact on the plant infrastructure or available capacity.

Mayor Pro Tem Ohlson stated he would like to see more information in the future in terms of the costs, or potential negative impacts of these types of business agreements.

Mayor Pro Tem Ohlson requested salary ranges be provided when projected jobs are discussed.

Councilmember Troxell asked if distributed energy generation would be part of this project. Mr. Wolley replied Building Four will operate on a "free heating" scenario. Various conservation activities, such as warming water to room temperature using the waste heat off chillers, will continue. Efficiencies are the least expensive, most effective way for industry to beat the carbon emissions problem.

Councilmember Troxell asked if any integration of on-site energy use has occurred to help shift peak. Mr. Wolley replied electric needs basically never cease; however, generators are run during peak hours to help offset some peak time demand.

Councilmember Manvel supported the Resolution.

Councilmember Horak supported the Resolution.

Councilmember Kottwitz thanked staff for actively pursuing this project and commended Mr. Wolley for his service to the community.

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Mayor Weitkunat noted Council has always supported expansion and retention of existing primary businesses and thanked Mr. Wolley for his commitment to the business and community.

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

THE MOTION CARRIED.

City Manager Atteberry discussed the possible movement of the remaining agenda items, the Executive Session, and the URA Meeting to other dates.

Mayor Weitkunat led a brief discussion of the items yet to be heard.

Councilmember Manvel made a motion, seconded by Mayor Pro Tem Ohlson, to postpone Item Nos. 17, 18, and 19, *Items Relating to Grass Height Restrictions and Updating Related City Code References, First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council, and Resolution 2011-060 Amending the Rules of Procedure Governing the Conduct of City Council Meetings*, to a date to be determined by the Leadership Team and City Manager. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

### **Extension of the Meeting**

Councilmember Manvel made a motion, seconded by Mayor Pro Tem Ohlson, to extend the meeting in order to consider Item Nos. 9, 16, and 29, *Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities, Items Relating to a Long-Term Solar Power Arrangement for the Water Treatment Facility, and Resolution 2011-067 Creating a Council Futures Committee*.

Councilmember Horak expressed concern about moving forward with the items at the late hour. Councilmember Poppaw suggested future examination of agendas to attempt to eliminate these situations.

Councilmember Manvel and Mayor Pro Tem Ohlson withdrew the motion.

Councilmember Manvel made a motion, seconded by Mayor Pro Tem Ohlson, to postpone Item Nos. 9 and 29, *Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities and Resolution 2011-067 Creating a Council Futures Committee* to a date to be determined by the Leadership Team and City Manager.

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Councilmember Horak suggested continuing all appropriate items to an adjourned meeting on July 26th.

Councilmember Manvel and Mayor Pro Tem Ohlson withdrew the motion.

**Adjournment**

Councilmember Horak made a motion, seconded by Councilmember Manvel, to adjourn to 6:00 p.m. on July 26, 2011, to consider all business not considered on July 19, 2011, and to consider going into Executive Session.

City Manager Atteberry suggested Item Nos. 16 and 29 be heard on July 26, 2011, with the remaining business to be heard in August or September.

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

THE MOTION CARRIED.

The meeting adjourned at 11:15 p.m.

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Mayor

ATTEST:

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City Clerk

**July 19, 2011**

**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 19, 2011, 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: Horak, Kottwitz, Manvel, Ohlson, Poppaw, Troxell and Weikunat.

Staff Members Present: Atteberry, Krajicek, Roy.

**Citizen Participation**

Chuck Washington, 1125 Deercraft Court, spoke regarding expenditure of surplus funds and encouraged reinstating Dial-a-Ride services in the southeast part of town.

Chantel Havre, 1705 Remington Street, Community for Sustainable Energy, discussed sustainable energy in Fort Collins and thanked Councilmembers for their service.

Peggy Loonan, 708 Gilgalad Way, expressed concern regarding the City appeal process and opposed current practices of staff in that process.

Laurence Budd, 1442 Glen Haven Drive, discussed FCPAN, the Fort Collins public access channel and requested that the rejection of a certain medical program be examined.

Joan Black, 1206 Canvasback Court, thanked Councilmember Horak for his response regarding Dial-a-Ride access and supported expanding access further south.

Devin Hirning, 2214 Fossil Creek Parkway, opposed the staff recommendation regarding Item No. 19, *Resolution 2011-060 Amending the Rules of Procedure Governing the Conduct of City Council Meetings*.

Pam Jennings, Disabled Resource Services, 424 Pine Street, thanked Council and the Fort Collins CDBG Commission for fully funding the Disabled Resources Services funding request.

Eric Sutherland, 3520 Golden Currant, showed a video of Steve Catanach, Light and Power Operations Manager, stating Council had vetted the business case for the Smart Meter project. Mr. Sutherland alleged that is not a true statement.

Mel Hilgenberg, 172 North College, thanked Councilmember Troxell for pulling the alley naming issue off the July 5, 2011 Consent Calendar. He suggested alternative names of Will Schwartz, Otto Warner, and Gale Hilgenberg.

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Lloyd Walker, 1756 Concord Drive, discussed inconsistencies between the City's bicycle policies and the Land Use Code. He offered several suggestions to improve the situation including the creation of a Bike Overlay Zone within 1.5 miles of CSU's campus.

Sarah Burnett, 714 Gilgalad Way, discussed Item No. 18, *First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council*. She supported the Ordinance as it would allow site visits by Council.

Jonathan Feiman, 959 Gilgalad Way, opposed staff's role in the preparation of Agenda Item Summaries for appeals of land use decisions.

### **Citizen Participation Follow-up**

Mayor Weitkunat spoke on behalf of City employees in response to Mr. Sutherland's accusations. She spoke to the honesty, integrity, ethics, and quality work of City staff.

Mayor Pro Tem Ohlson agreed with Mayor Weitkunat and spoke to the integrity of staff.

Councilmember Manvel requested an explanation regarding Mr. Budd's question about the public access channel programming.

Councilmember Horak requested an examination of the current Dial-a-Ride system and feedback regarding concerns. He asked for numerical data supporting the Smart Meter program and for an explanation of the appeal process that can be shared with citizens.

Councilmember Kottwitz thanked Mr. Washington and Ms. Black for their input regarding the southeast connections for Dial-a-Ride. She stated she would like to see Transfort and Dial-a-Ride as two separate issues in the future.

Mayor Pro Tem Ohlson requested all available information regarding the context of the decision to decrease Dial-a-Ride services, which had been above and beyond federal standards previously.

Councilmember Horak requested an analysis of the distribution of available funds with respect to possibly increasing Dial-a-Ride services.

### **Agenda Review**

City Manager Atteberry stated there are revised Ordinances for Item Nos. 18 and 26, *First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council* and *Items Relating to the Fort Collins Museum/Discovery Science Center Project*. Item No. 28, *First Reading of Ordinance No. 098, 2011, Repealing and Reenacting Division 14, Article III of Chapter 2 of the Code of the City of Fort Collins Dissolving the Electric Board and Creating a New Energy Board*, is recommended to be withdrawn to the August 16, 2011 meeting.

**CONSENT CALENDAR**

6. Second Reading of Ordinance No. 076, 2011, Appropriating Unanticipated Revenue in the General Fund for the Purchase, Training and Ongoing Maintenance of the E911 and Emergency Dispatch Systems at Fort Collins Police Services Dispatch Center.

Larimer Emergency Telephone Authority provides funds to the Fort Collins Police Services to be used for equipment and training to process E911 calls. This Ordinance, unanimously adopted on First Reading on July 5, 2011, appropriates those funds.

7. Second Reading of Ordinance No. 077, 2011, Appropriating Unanticipated Revenue in the Light and Power, Water and Wastewater Funds for Capital Projects to Relocate Utility Facilities in the Mason Corridor Bus Rapid Transit Project and Transferring Existing Light and Power Appropriations into the Light and Power Utility Relocation Capital Project.

This Ordinance, unanimously adopted on First Reading on July 5, 2011, appropriates capital project funding for the Utilities to relocate existing electric, water and wastewater facilities to accommodate the Mason Corridor Bus Rapid Transit (BRT) Project. Light and Power will also supply power to the bus stations along the corridor.

8. Second Reading of Ordinance No. 078, 2011, Appropriating Unanticipated Grant and Other Revenue in the Conservation Trust Fund for the Hughes Stadium Disc Golf Course.

This Ordinance, unanimously adopted on First Reading on July 5, 2011, appropriates an \$85,000 awarded by Great Outdoors Colorado has awarded for the completion of the Hughes Stadium Disc Golf Course. The project involves the development of an 18-hole disc golf course at Hughes Stadium in conjunction with Colorado State University. The course is primarily located in the stormwater detention basin directly west of Overland Trail Road. The course will include new trees and shrubs, a new access road off County Road No. 42C, and the course tee areas and baskets.

9. Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities.

A. Second Reading of Ordinance No. 079, 2011, Making Certain Amendments to Chapter 26 of the City Code Pertaining to the Provision of Net Metering Service and Certain Definitions Related Thereto.

B. Second Reading of Ordinance No. 080, 2011, Amending Various Provisions of the City Code and the Land Use Code Pertaining to the Definition of General Manager.

C. Second Reading of Ordinance No. 081, 2011, Making Certain Amendments to Interconnection Standards for Generating Facilities Connected to the Fort Collins Distribution System.

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These Ordinances, unanimously adopted on First Reading on July 5, 2011, make minor revisions to the definitions section of Article I and to the Electric Article of Chapter 26 of the City Code and the Land Use Code. These revisions include updating the definition of General Manager, clarification regarding the provision of net metering service and clarification regarding authority to execute interconnection or parallel generation agreements on behalf of the City. Light and Power is also recommending adding clarifying language to the City's indemnification and insurance requirements contained in the City's Interconnection Standards. These standards govern operational and other requirements for interconnection generating facilities to the City's electric distribution system.

10. Second Reading of Ordinance No. 082, 2011, Calling a Special Municipal Election to Be Held in Conjunction with the November 1, 2011 Larimer County Coordinated Election.

This Ordinance, unanimously adopted on First Reading on July 5, 2011, calls a Special Municipal Election to be held in conjunction with the November 1, 2011 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 16 meeting. If Council does not take action by ordinance or resolution before the statutory deadline (September 2) 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 1, 2011 ballot. However, a group of citizens is currently circulating an initiative petition proposing a prohibition on the establishment, operation or licensing of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused product manufacturing within the city of Fort Collins. The deadline to submit the petition to the City Clerk's Office is July 19, 2011. 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 1, 2011 Coordinated Election.

11. Items Relating to the Access Road at Soapstone Prairie Natural Area.

- A. Second Reading of Ordinance No. 083, 2011, Authorizing the Transfer to Larimer County of Public Right-of-Way Easements Acquired by the City for the Reconstruction of Rawhide Flats Road.
- B. Second Reading of Ordinance, No. 084, 2011, Authorizing the Conveyance of Access Easements to Three Private Land Owners within the Soapstone Prairie Natural Area.

To complete the process of improving Rawhide Flats Road, the City has requested that Larimer County vacate sections of road right-of-way that were abandoned in 2008 when the road was realigned and reconstructed by the City to provide access to Soapstone Prairie Natural Area. The County conditioned its approval of the road improvements on the City's

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follow up to request this vacation in order to stop the unnecessary public use of the old abandoned road areas and to allow the land to revert to the surrounding landowner(s). Once the sections of right-of-way are vacated, the ownership will revert to the adjacent landowners. In connection with the vacation of the unneeded sections of right-of-way, the City is proposing to transfer to the County six new right-of-way easements that the City acquired to build the realigned portions of the improved road. This transfer will establish that the easements are held by Larimer County as public road easements for Rawhide Flats Road along with the other segments of the Road, and that the right-of-way being vacated is no longer needed.

The City has also asked the County to vacate any remaining public road rights-of-way within Soapstone Prairie Natural Area. This action will establish that Rawhide Flats Road north of the Natural Area boundary line is a private road owned by the City for the sole purpose of providing access to Soapstone Prairie Natural Area. There are currently three property owners with in-holding properties within Soapstone Prairie Natural Area. When this section of Rawhide Flats Road is vacated, these owners will lose their legal access to their properties. In order to continue to provide these owners legal access to their property, the City will need to grant each owner an access easement from the boundary of the Natural Area to their property line. The access easements will follow the same alignment as the existing road on the Soapstone Prairie Natural Area. These Ordinances were unanimously adopted on First Reading on July 5, 2011.

12. Second Reading of Ordinance No. 085, 2011, Authorizing the Conveyance to Capstone Development Corporation of Three Easements on Stormwater Utility Property at Creekside Park.

Capstone Development Corporation is planning a mixed use development. The project area is 10.4 acres and is located near Stuart Street and College Avenue. It fronts College Avenue around the Discount Tire property and continues to the west to the railroad. The project area is also at the rear of the Dairy Queen property. This mixed use development is for student housing and retail space. It will have two buildings, 221 dwelling units and 8,000 square feet of new retail space. The retail space will be the first floor of the building fronting on South College Avenue.

This Ordinance, unanimously adopted on First Reading on July 5, 2011, authorizes a drainage easement for construction of a new flood control channel, a drainage easement for sheet flows from the adjoining property, and a temporary construction easement to construct a pedestrian trail and an underground stormwater pipe on City-owned property known as Creekside Park.

13. Second Reading of Ordinance No. 086, 2011, Authorizing the Conveyance to Solitaire Homes, LLC of a Public Trail Easement on City Property.

Solitaire Homes, LLC is planning a 27 acre (approximately) development north and west of Laporte Avenue and Taft Hill Road, opposite the Poudre School District offices. This

Ordinance, unanimously adopted on First Reading on July 5, 2011, authorizes a 438 square foot public trail easement from the City across City property managed by the Water Utility to facilitate a planned trail within the development.

14. First Reading of Ordinance No. 090, 2011, Appropriating General Fund Prior Year Reserves for the Affordable Housing Fund and Land Bank Program.

City Council authorized expenditures in 2010 for Affordable Housing and the Land Bank Program. All of the authorized expenditures were not spent in 2010 because the projects for which the dollars were originally appropriated could not be completed during 2010. Reappropriation of \$295,821 is necessary for completion of the projects in 2011. These unexpended monies lapsed into the General Fund balance at the end of 2010 and reflect no change in Council policies.

15. Items Relating to the Shields Street Bridge Replacement and LaPorte Avenue Bridge Replacement.

- A. Resolution 2011-058 Authorizing the Mayor to Enter into a Contract with the Colorado Department of Transportation for the Construction of the Shields Street Bridge Replacement and Laporte Avenue Bridge Replacement.
- B. First Reading of Ordinance No. 091, 2011, Appropriating Unanticipated Revenue from the Colorado Department of Transportation in the City Bridge Program Fund for the Shields Street Bridge Replacement and Laporte Avenue Bridge Replacement.

The City of Fort Collins Engineering Department has been awarded three grants from the federally funded Colorado Off-System Bridge Program totaling \$2,225,932. This funding contract between the City and Colorado Department of Transportation is for the replacement of two structurally deficient bridges owned by the City. The two bridges are Shields Street Bridge over Larimer Canal No. 2, and Laporte Avenue Bridge over the Arthur Ditch.

16. Items Relating to a Long-Term Solar Power Arrangement for the Water Treatment Facility.

- A. First Reading of Ordinance No. 092, 2011, Authorizing the Execution of a Power Purchase Agreement Contract with a Photovoltaic Provider at the Water Treatment Facility for a Term of Up to 20 Years.
- B. Resolution 2011-059 Authorizing a Revocable Permit to a Selected Solar Provider for the Use of the City Water Treatment Facility Property for a Solar Project.

The Water Treatment Facility receives its electrical power from Xcel Energy. A solar power generation project, with a fixed electrical rate sold back to the City, allows the offset of a portion of electrical usage at the plant site. A third party Photovoltaic system developer will design, construct, operate and maintain for up to 20 years a solar power project. This Ordinance allows for a 20-year contract between the system developer and the City. The

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Resolution issues a revocable permit for use of a portion of land onsite of the Water Treatment Facility by the photovoltaic system developer.

17. Items Relating to Grass Height Restrictions and Updating Related City Code References.

- A. First Reading of Ordinance No. 093, 2011, Amending Article IV of Chapter 20 of the City Code Regarding Weeds, Grass and Rubbish.
- B. First Reading of Ordinance No. 094, 2011, Amending Article VII of Chapter 12 of the City Code Regarding Resource Conservation.

In an effort to promote water conservation, lower greenhouse gas emissions, and provide options for Fort Collins residents who are interested in using water-wise turfgrass, these Code amendments will allow certain grass types to be exempt from the current six (6) inch height limit. The grass types that would be exempt are Blue Grama and Buffalo grass, and they would have a height limit of twelve (12) inches.

18. First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council.

This Ordinance changes the timing for the scheduling of appeal hearings and for requesting site inspections and also amends the appeals procedure so as to allow the general public to participate in the appeal hearing and to allow Councilmembers who have filed an appeal to participate in deciding the appeal.

19. Resolution 2011-060 Amending the Rules of Procedure Governing the Conduct of City Council Meetings.

This Resolution would amend the rules of procedure that govern the conduct of City Council meetings with regard to citizen comment during the Citizen Participation segment of the meetings. The 30-minute time limit that currently exists for the Citizen Participation segment of the meetings would be eliminated and two topics would be specified as not appropriate for comment: matters on the discussion agenda for the meeting and quasi-judicial matters.

20. Resolution 2011-061 Adopting the Recommendations of the Cultural Resources Board Regarding Fort Fund Disbursements.

The Cultural Development and Programming and Tourism Programming accounts (Fort Fund) provide grants to fund community events. This resolution will adopt the recommendations from the Cultural Resources Board to disburse these funds.

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21. Resolution 2011-062 Making Appointments to the Retirement Committee and the Women's Commission.

A vacancy currently exists on the Retirement Committee due to the resignation of Dick Burkhartzmeyer. Councilmembers Ben Manvel and Wade Troxell reviewed the applications on file. The interview team is recommending John Lindsay to fill the vacancy with a term to begin immediately and set to expire on December 31, 2011.

A vacancy also exists on the Women's Commission due to the resignation of Randi Nelson. Applications were solicited and Councilmembers Ben Manvel and Wade Troxell conducted interviews. The interview team is recommending Jan Hawn to fill the vacancy with a term to begin immediately and set to expire on December 31, 2012.

**\*\*\*END CONSENT\*\*\***

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

6. Second Reading of Ordinance No. 076, 2011, Appropriating Unanticipated Revenue in the General Fund for the Purchase, Training and Ongoing Maintenance of the E911 and Emergency Dispatch Systems at Fort Collins Police Services Dispatch Center.
7. Second Reading of Ordinance No. 077, 2011, Appropriating Unanticipated Revenue in the Light and Power, Water and Wastewater Funds for Capital Projects to Relocate Utility Facilities in the Mason Corridor Bus Rapid Transit Project and Transferring Existing Light and Power Appropriations into the Light and Power Utility Relocation Capital Project.
8. Second Reading of Ordinance No. 078, 2011, Appropriating Unanticipated Grant and Other Revenue in the Conservation Trust Fund for the Hughes Stadium Disc Golf Course.
10. Second Reading of Ordinance No. 082, 2011, Calling a Special Municipal Election to Be Held in Conjunction with the November 1, 2011 Larimer County Coordinated Election.
11. Items Relating to the Access Road at Soapstone Prairie Natural Area.
  - A. Second Reading of Ordinance No. 083, 2011, Authorizing the Transfer to Larimer County of Public Right-of-Way Easements Acquired by the City for the Reconstruction of Rawhide Flats Road.
  - B. Second Reading of Ordinance, No. 084, 2011, Authorizing the Conveyance of Access Easements to Three Private Land Owners within the Soapstone Prairie Natural Area.
12. Second Reading of Ordinance No. 085, 2011, Authorizing the Conveyance to Capstone Development Corporation of Three Easements on Stormwater Utility Property at Creekside Park.

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13. Second Reading of Ordinance No. 086, 2011, Authorizing the Conveyance to Solitaire Homes, LLC of a Public Trail Easement on City Property.
26. Items Relating to the Fort Collins Museum/Discovery Science Center Project.
  - A. Second Reading of Ordinance No. 087, 2011, Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for the Fort Collins Museum/Discovery Science Center Project.
  - B. Second Reading of Ordinance No. 088, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Loan to FCDM, Inc. for the Fort Collins Museum/Discovery Science Center Project.

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

14. First Reading of Ordinance No. 090, 2011, Appropriating General Fund Prior Year Reserves for the Affordable Housing Fund and Land Bank Program.
15. First Reading of Ordinance No. 091, 2011, Appropriating Unanticipated Revenue from the Colorado Department of Transportation in the City Bridge Program Fund for the Shields Street Bridge Replacement and Laporte Avenue Bridge Replacement.
25. Items Relating to the Completion of the 2011 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing the Federal Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Programs, and the City's Human Services Program.
  - C. First Reading of Ordinance No. 096, 2011, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Community Development Block Grant Fund.
  - D. First Reading of Ordinance No. 097, 2011, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Home Investment Partnerships Fund.

Councilmember Horak withdrew Item Nos. 18 and 19, *First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council and Resolution 2011-060 Amending the Rules of Procedure Governing the Conduct of City Council Meetings.*

Councilmember Troxell withdrew Item No. 17, *Items Relating to Grass Height Restrictions and Updating Related City Code References.*

Eric Sutherland, 3520 Golden Currant, withdrew Item Nos. 9 and 16, *Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities and First Reading of Ordinance No. 092, 2011,*

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*Authorizing the Execution of a Power Purchase Agreement Contract with a Photovoltaic Provider at the Water Treatment Facility for a Term of Up to 20 Years.*

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

THE MOTION CARRIED.

### **Consent Calendar Follow-up**

Mayor Pro Tem Ohlson asked for a brief description of Item No. 15, *First Reading of Ordinance No. 091, 2011, Appropriating Unanticipated Revenue from the Colorado Department of Transportation in the City Bridge Program Fund for the Shields Street Bridge Replacement and Laporte Avenue Bridge Replacement*. Rick Richter, Engineering and Capital Projects Manager, replied the item references two bridges that will be replaced using grant funds received from the Colorado Department of Transportation. As grant money will be used, previously allocated dollars will be used to redesign two additional deficient bridges.

Councilmember Horak suggested additional details be present when describing bridge locations.

### **Staff Reports**

City Manager Atteberry stated Fort Collins has been designated as one of the best locations for tri-athletes. Lawrence Pollack, Finance Department Systems Analyst, identified a need for and created a Budgeting for Outcomes process network.

John Stokes presented an update regarding the Poudre River Ecological Vision, a project being proposed by the Natural Resource Department. The project would create a high-level, yet quantitative, ecological description of the Poudre River. Costs are expected to be relatively low with a fair amount of volunteer work coming from Colorado State University personnel. This project is not driven by other water projects such as Seaman Reservoir.

Councilmember Troxell asked if a similar project is being proposed for other City watersheds. Stokes replied a group at Utilities is examining small stream systems within the City. Kevin Gertig, Water Resources and Treatment Operations Manager, replied those studies are an important part of the City's urban watershed monitoring program. A full report and assessment will be provided to Council in the near future.

Councilmember Horak encouraged the involvement of the United States Geological Survey.

Mayor Pro Tem Ohlson supported the project and staff's initiative in its proposal.

### **Councilmember Reports**

Councilmember Manvel reported on a new brochure from the Poudre River Heritage Board. The brochure will be available in local bookstores and discusses the history of Poudre River water projects and provide descriptions of the River sections.

Councilmember Poppaw thanked Beet Street and the City for their efforts at obtaining the National Endowment for the Arts “Our Town” grant. Jill Stilwell, Cultural Services Director, stated the grant will fund planning and design of an art incubator in Fort Collins.

Mayor Pro Tem Ohlson stated the Finance Committee discussed the Avago project and the sales tax rebate on food. Additionally, the Committee recommended the Downtown Development Authority not move forward with the downtown hotel project request for proposal.

Mayor Weitkumat stated there will be a regional meeting with Loveland and Larimer County at Harmony Library Thursday regarding connection and transportation issues. She complimented the recent renovations to Council chambers.

#### **Items Relating to the Completion of the 2011 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing the Federal Community Development Block Grant (CDBG) and Home Investment Partnerships (HOME) Programs, and the City’s Human Services Program, Adopted on First Reading**

The following is staff’s memorandum for this item.

#### ***“EXECUTIVE SUMMARY***

- A. *Public Hearing and Resolution 2011-063 Approving the Programs and Projects that Will Receive Funds from the Federal Community Development Block Grant Program, the Home Investment Partnerships Program, and the City’s Human Services Program.*
- B. *Public Hearing and Resolution 2011-064 Approving the Fiscal Year 2011 Administration and Project Budgets for the Home Investment Partnerships Program.*
- C. *First Reading of Ordinance No. 096, 2011, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Community Development Block Grant Fund.*
- D. *First Reading of Ordinance No. 097, 2011, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Home Investment Partnerships Fund.*
- E. *Public Hearing and Resolution 2011-065 Eliminating Restrictions on the Use of Affordable Housing Funds Currently Earmarked for the Acquisition of Former Rental Properties.*

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*Resolution 2011-063 will complete the 2011 spring cycle of the competitive process for allocating City financial resources to affordable housing programs/projects and community development activities by listing the specific programs/projects that will receive funding starting October 1, 2011. Ordinance No. 096, 2011, appropriates the City's FY 2011 CDBG Entitlement Grant from the Department of Housing and Urban Development (HUD). Resolution 2011-064 establishes the major funding categories within the HOME Program for the FY 2011 program year, which also starts on October 1, 2011. Specific projects for the use of HOME funds will be determined in November as a result of the 2011 fall cycle of the competitive process. Ordinance No. 097, 2011, appropriates the City's FY 2011 HOME Participating Jurisdiction Grant from HUD. Resolution 2011-065 eliminates the restriction on \$60,000 of Affordable Housing Fund dollars that they be used for the acquisition of former rental properties by first-time home buyers to allowing the funds to be used for the purchases of non-rental properties.*

**BACKGROUND / DISCUSSION**

*Resolution 2011-063 establishes which programs and projects will receive funding with CDBG funds for the FY 2011 program year (including funds from the Entitlement Grant and Program Income), which starts on October 1, 2011; which programs and projects will receive funding from carry-over funds from the HOME Program; and which programs will receive funding from the City's 2011 Human Services Program. The CDBG Commission presents to the City Council a list of recommendations as to which programs and projects should receive funding. The following table summarizes the total amount and sources of all available CDBG, HOME, and City funds for distribution during the spring cycle of the competitive process:*

<b>AMOUNT</b>	<b>SOURCE</b>
\$923,469	FY 2011 CDBG Entitlement Grant
61,815	FY 2011 CDBG Program Income
8,883	Prior Year's CDBG Program Income
191,338	FY 2010 Unprogrammed CDBG Funds
211,906	FY 2010 Unprogrammed HOME Funds
102,381	FY 2010 Unprogrammed HOME CHDO Funds
25,328	FY 2004 Unprogrammed HOME Funds
389,601	2011 City Human Services Program
150,733	2011 City Human Services KFCG Funds
\$2,065,454	Total Funding Available

*Unprogrammed funds are funds from previous years that have yet to be allocated to specific programs or projects. Program Income includes repayments from rehabilitation loans and home buyer assistance loans along with repayments from development loans. Community Housing Development Organization (CHDO) funds are HOME funds that need to be reserved for allocation to agencies which qualify as CHDOs including the Fort Collins Housing Corporation, CARE Housing, and Neighbor-to-Neighbor, Inc..*

*The FY 2011 CDBG Entitlement Grant and CDBG Program Income totals \$994,167. HUD regulations limit a maximum of 20% of these funds, or \$198,832, for planning and program*

administrative purposes. The following table summarizes the amount and sources of available funds for planning projects and CDBG Program administrative costs:

**Funding for Planning and CDBG Program Administration**

<b>AMOUNT</b>	<b>SOURCE</b>
\$184,693	20% of the FY 2011 CDBG Entitlement Grant
12,363	20% of FY 2011 CDBG Program Income
1,776	20% of Prior Year's CDBG Program Income
\$198,832	Total Funding Available for Planning and CDBG Program Administration

HUD regulations limit a maximum of 15% of the FY 2011 CDBG funds and CDBG Program Income, or \$149,124 for use in the Public Services category. The City's 2011 Human Services Program adds \$389,601 and Human Services Program KFCG funds adds an additional \$150,733, for use in the category, for a total of \$689,458 of available funding. The following table summarizes the amount and sources of available funds for public/human service proposals:

**Funding for Public/Human Services**

<b>AMOUNT</b>	<b>SOURCE</b>
\$138,520	15% of the FY 2011 CDBG Entitlement Grant
9,272	15% of FY 2011 CDBG Program Income
1,332	15% of Prior Year's CDBG Program Income
389,601	2011 City Human Services Program
150,733	2011 City Human Services KFCG Funds
\$689,458	Total Funding Available for Public/Human Services Proposals

Considering the set-asides for Planning and Administration and Public/Human Services presented above, the balance of the FY 2011 CDBG Entitlement Grant and CDBG Program Income amounts, or \$646,211, plus \$191,338 of unprogrammed FY 2010 CDBG funds, \$211,906 of unprogrammed FY 2010 HOME funds, \$102,381 of unprogrammed FY 2010 HOME CHDO funds, and \$25,328 of unprogrammed FY 2004 HOME CHDO funds, provide an amount of \$1,177,164 available for allocation to affordable housing proposals. The following table summarizes the amount and sources of available funds for affordable housing proposals:

**Funding for Affordable Housing**

<b>AMOUNT</b>	<b>SOURCE</b>
\$600,256	FY 2011 CDBG Entitlement Grant
40,180	FY 2011 CDBG Program Income
5,775	Prior Year's CDBG Program Income
191,338	FY 2010 Unprogrammed CDBG Funds
211,906	FY 2010 Unprogrammed HOME Funds

102,381	<i>FY 2010 Unprogrammed HOME CHDO Funds</i>
25,328	<i>FY 2004 Unprogrammed HOME CHDO Funds</i>
\$1,177,164	<i>Total Funding Available for Affordable Housing Proposals</i>

*The City received 31 applications for funding and a staff administration request as part of the 2011 spring cycle of the competitive process requesting a total of \$2,678,987. The total amount of funds available from all sources is \$2,065,454. The total of application requests is, thus, \$613,533 more than the amount of available funding. Also, HUD regulation limitations within the Public Services category results in a total of \$260,697 more in requests than available funds for the category. Unfortunately, funds in the Planning and Administration and Affordable Housing categories can not be used to fund any Public Service applications. The following table summarizes the amount of funding requests compared to the amount of funding available for each of the major funding categories.*

<i>Category</i>	<i>Number of Applications</i>	<i>Requested Funding</i>	<i>Available Funding</i>	<i>Request-Available Difference</i>
<i>Affordable Housing</i>	3	<i>\$1,530,000</i>	<i>\$1,177,164</i>	<i>-\$352,836</i>
<i>Public Services</i>	28	<i>\$950,155</i>	<i>\$689,458</i>	<i>-260,697</i>
<i>Administration</i>	-	<i>\$198,832</i>	<i>\$198,832</i>	<i>0</i>
<i>Totals</i>	<i>31</i>	<i>\$2,678,987</i>	<i>\$2,065,454</i>	<i>-\$613,533</i>

***Removing Restrictions on the Use of Affordable Housing Funds in the Home Buyer Assistance Program***

*The City’s Home Buyers Assistance (HBA) Program uses funding from the HOME and CDBG federal grants and the City’s Affordable Housing Fund (AHF). In the past, normal assistance has been split with 50% coming from the HOME Program and 50% coming from the CDBG Program (federal regulations limit the use of CDBG funds to be no more than 50% of the total assistance). The City’s AHF dollars have been earmarked for assistance to families wishing to purchase former rental housing units (for the use of federal funds, federal regulations require rental units to be vacant for three months in order to avoid displacement concerns and relocation payments).*

*With the change in federal HOME regulations, it is now basically impossible to continue using HOME funds as the 50% match to CDBG funds in providing down payment and closing cost assistance in the HBA Program. Staff is suggesting that the City change its policy regarding the use of the AHF in the HBA program, eliminating the condition that they be used only for the acquisition of former rental units and allowing the funds to be used for any home purchase. Staff’s request is to remove the “former rental unit only” restriction for \$60,000 of AHF dollars already approved through the competitive process for the HBA. This \$60,000 could then be used to match \$60,000 of CDBG funds already allocated to the HBA Program. This would still leave \$84,000 of AHF to assist first-time home buyers wishing to purchase former rental units.*

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*Without the ability to use AHF as a match, assistance in the HBA would be limited to CDBG funds, or only half the amount of assistance families would need to acquire a new home. Stated another way, without a 50% match to CDBG funds, families would need to have between \$4,000 and \$5,000 of their own money to buy a home – not many low-income families have that amount of funds available.*

*The CDBG Commission discussed this issue at its monthly meeting on February 10, 2011, and voted unanimously to recommend the requested change in the use of AHF dollars (see Attachment 8).*

*The Affordable Housing Board discussed this issue at its monthly meeting on March 3, 2011, and voted unanimously to recommend the requested change in the use of AHF dollars (see Attachment 9).*

*Resolution 2011-065 would eliminate the restrictions on the use of \$60,000 of Affordable Housing Funds currently earmarked for the acquisition of former rental properties and permit the funds to be used for the acquisition of any home by a first-time home buyer.*

### **FINANCIAL / ECONOMIC IMPACTS**

*The Community Development Block Grant (CDBG) Program, and the Home Investment Partnership (HOME) Program provide federal funds from the Department of Housing and Urban Development (HUD) to the City of Fort Collins which can be allocated to housing and community development related programs and projects, thereby, reducing the demand on the City's General Fund Budget to address such needs. The total amount of CDBG funds available for allocation during FY 2011 is \$1,185,505, while the total amount of HOME funds for FY 2011 is \$644,352. Together, the CDBG and HOME programs provide \$1,829,857 of federal funds to the City. The City's General Fund does contribute \$389,601 in the Human Services Program and \$150,733 of KFCG funds for allocation during the spring cycle, and \$325,024 of Affordable Housing Fund dollars for the fall cycle of the competitive process.*

*Through the provision of affordable housing, more of Fort Collins' work force can reside within the community. This means there is an available labor pool within the city, which is a positive benefit to economic sustainability.*

*Public/human service programs contribute to economic sustainability by providing such programs as job training and child care, so workers can maintain their employment.*

### **ENVIRONMENTAL IMPACTS**

*Affordable housing programs help provide for a healthy environment. By offering affordable housing options for lower income people, more of Fort Collins' work force can live in the community instead of being forced to live outside the community and commute into the city for work. This helps reduce traffic congestion and, thus, improves air quality.*

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*Affordable housing developers, including for-profit and non-profit agencies, are utilizing green building practices. Green building practices are being used in both new construction and major rehabilitation of existing housing unit projects. These practices include geo-thermal applications and other energy saving techniques.*

*All affordable housing projects utilizing CDBG and HOME funds are required to pass a HUD environmental review which covers such items as noise impacts, floodplains, hazardous materials, etc.”*

Ken Waido, Chief Planner, discussed the history and aspects of the competitive process. Sources of funding are primarily the CDBG and HOME programs as well as the City’s Human Services Program and funds from Keep Fort Collins Great. There is a total deficit of over \$600,000 in unfunded requests.

Kay Rios, CDBG Chairperson, discussed funding recommendations. Union Place, an affordable housing project, is recommended to be funded after concerns were addressed by staff. The Fort Collins Housing Authority’s land acquisition application was not granted funding as the project does not have City entitlement or a tax credit deal.

Robert Ross, 201 7th Street, Boulder, Union Place project architect, read a letter from Donna Merton thanking the Affordable Housing Board and the CDBG Commission for recommending approval of its funding request. The Union Place project is going to be used as a national green affordable housing model to be replicated across the country.

Linda Preston, BASE Camp Executive Director, thanked staff and the CDBG Commission for recommending approval of its funding request.

Bill Stout, Women’s Resource Center, thanked staff and the Human Services Commission for recommending it receive its funding request which will go toward a low-cost dental program.

Whitney Johnson, Matthews House Case Manager, thanked the CDBG Commission for recommending approval of its funding request.

Pat Parker, Crossroads Safe House Director, thanked staff for assistance with the grant writing process and thanked the CDBG Commission for recommending approval of its funding request which will provide partial funding for four advocates assisting victims of domestic violence.

Councilmember Manvel asked when the Union Place project should be discussed. Waido replied Council will make the final decision as to whether competitive process funds will be used as part of the complex financial package that will help subsidize the development of the project. If approved tonight, dollars will not be allocated until it is certain the project has the entitlements and other funding it needs to proceed.

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Mayor Pro Tem Ohlson expressed concern about distortion of the process should Council vote to approve funding for the Union Place project. He stated the project is completely different from the one considered by the CDBG and the URA.

Councilmember Manvel asked if the Union Place project set to be funded with the recommendations is the same project reviewed by the CDBG Board. Waido replied the proposal was for \$750,000 for 103 affordable units. Since the proposal was submitted, the tax credits and need to add the 55 market rate units have changed. There have been previous occasions where Council has determined a project is not ready to receive an allocation on the current cycle. Delaying a decision on this \$750,000 would result in either the City holding onto the dollars or using them in the next program year.

Mayor Pro Tem Ohlson noted a memo from staff indicated the CDBG Board reviewed a different proposal.

Councilmember Poppaw thanked the CDBG Board for its work deliberating the proposals. She asked if the decision by the CDBG Commissioners to support the project with changes was unanimous. Ms. Rios replied the Commission offered a majority vote to support the project with its requested funding.

Councilmember Poppaw asked if the funds would be lost if Council delayed a vote on this particular project. Waido replied federal regulations exist regarding the amount of CDBG funds the City can carry over. However, it would be possible for the project to resubmit for funds as part of the process.

Councilmember Poppaw asked about the lack of tax credits for the Fort Collins Housing Authority land acquisition. Ms. Rios replied the project has not yet secured tax credits.

Councilmember Troxell asked if the project has a geothermal component. Waido replied in the affirmative.

Councilmember Troxell noted this project is one of two geothermal projects in the City which have not yet come out of the ground. Mr. Ross replied the project has physically been at a standstill over the last year; however, a great deal of work has been going into preparing the application for the tax credits.

Councilmember Troxell asked when the applicant knew the 9% tax credit was not going to happen. Mr. Ross replied that was discovered at the end of April. It was one of the most competitive years in history for Colorado Finance Housing Authority funding requests.

Mayor Weitkunat asked about the security of the project's funding sources and whether the project has received its funds from the Division of Housing. Mr. Ross replied he was uncertain.

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Mayor Weitkunat asked about the status of the 4% tax credits. Mr. Ross replied they are in the process of being completed and the process is non-competitive.

Mayor Weitkunat asked if the developers were given an explanation for the project not receiving the 9% tax credits. Mr. Ross stated there were no definitive explanations given.

Christina Vincent, Urban Renewal Authority Redevelopment Program Administrator, stated this project has been in the works since 2008 and was among a few other URA projects with funding problems for vertical construction. The economic viability of the project was not coming together beginning in 2010. Given the \$4 million that has already been invested in the project, staff members are of the opinion that the developers have been compliant with direction from staff. They do need to appear before the URA Board again and go through the major amendment process for the proposed project changes.

Mayor Weitkunat noted finances will need to come from a variety of sources; however, it is important to know the financial structure is in place. The CDBG funds are representing the community commitment to the affordable housing aspect of the project.

Waido noted it is important for other investors to see a local financial commitment, and, should the project not be completed, the \$750,000 will come back.

Councilmember Horak asked about the change in the number of affordable units. Vincent replied the URA Board approved 89 units, 40% of which were affordable. The number of affordable units has increase to 103.

Councilmember Horak asked what concerns and thoughts the CDBG Commissioners had regarding the project changes. Ms. Rios replied these types of projects often have changes and the money would be returned if the project was not completed. Jeff Taylor, CDBG Boardmember, stated the Board noted the project includes a large number of units at the lowest AMI. Market units are frequently added to maintain the economic viability of a project. It is vital that the City show financial support. Additionally, the private partnership is critical.

Councilmember Horak asked about the process for the major amendment. Waido replied staff will make a recommendation based on the application and a hearing officer will make a decision following a public hearing. An appeal of that decision would result in a hearing before Council. The hearing will likely be held in the next two to three months.

Mayor Pro Tem Ohlson asked if a process exists by which Council could postpone tonight's decision but not have to wait until the fall competitive process for the project to return. Waido replied Council's decision tonight will be used to complete the annual plan to submit to HUD.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Resolution 2011-063.

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Councilmember Horak commended the CDBG process and the Board's vetting of the applications and noted the importance of affordable housing in the community.

Councilmember Manvel stated he would support the motion despite the legitimate process questions and noted the URA Board will have the ability to approve the project. He thanked the CDBG Board for its work on the applications.

Councilmember Troxell stated he would support the motion.

Councilmember Poppaw thanked the CDBG Board for its service and the applicants for their work in the community.

Councilmember Kottwitz thanked the community's non-profits and other social service organizations. She stated she would not support the motion based on the process issues.

Mayor Pro Tem Ohlson asked if there are funds left over in any of the categories. Waido replied all of the available funding is being recommended to be allocated.

Mayor Pro Tem Ohlson stated he would not support the motion given the process issues.

Mayor Weitkunat noted this is a competitive process and funds need to be used to gain other funds. Affordable housing projects should be isolated from the Development Review process as the need is greater for the projects to exist.

Mayor Pro Tem Ohlson stated standards should not be lessened for lower income residents.

Mayor Weitkunat clarified the process for Community Development Block Grants should be separate from the Development Review process.

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

THE MOTION CARRIED.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 096, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Resolution 2011-064. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

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Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 097, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Resolution 2011-065. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

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

**Items Relating to the Fort Collins Museum/Discovery  
Science Center Project, Adopted on Second Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

- A. *Second Reading of Ordinance No. 087, 2011, Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for the Fort Collins Museum/Discovery Science Center Project.*
- B. *Second Reading of Ordinance No. 088, 2011, Appropriating Prior Year Reserves in the Water Fund for the Purpose of Providing a Loan to FCDM, Inc. for the Fort Collins Museum/Discovery Science Center Project.*

*At the July 5, 2011 City Council meeting, Council adopted on First Reading, two ordinances which appropriate funding to continue construction on the new Fort Collins Museum/Discovery Science Center facility. Ordinance No. 087, 2011, adopted 5-2 (nays: Kottwitz, Ohlson) appropriates \$1.5 million from General Fund reserves to the capital project. Council amended the original ordinance from \$3 million to \$1.5 million. Ordinance No. 088, 2011, adopted 6-1 (nays: Kottwitz) appropriates \$875,000 from Water Fund reserves to the Non-profit Corporation as a loan. These ordinances will keep the museum project moving forward for several months and avoid a costly work stoppage.*

*The building project is experiencing a \$3,875,000 cash flow issue from two sources. The Downtown Development Authority (DDA) has committed \$3 million for the building but funds are not currently available. The Non-profit Corporation has raised \$4,561,916 of which \$875,000 is in the form of pledges to be paid between 2011 and 2014. The two Ordinances allow construction to continue for several months. This additional time allows Council to consider the Building Community Choices reserve at the July 12 work session and other potential funding mechanisms; review the next few*

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*months of sales tax; and the DDA will receive its certification from the County in August, providing key data to determine when its \$3 million commitment can be paid to the project.*

## **BACKGROUND / DISCUSSION**

*Through Council's support, the Fort Collins Museum and the Discovery Science Center (DSC) joined together to create an exceptional new museum experience and facility. In 2005, Council included the new museum in the Building on Basics (BOB) capital program, which received strong voter support. BOB provided \$6.183 million for the project and required DSC to provide at least \$3.6 million in matching funds. The DSC (which has transitioned into the Museum Non-Profit Corporation (NPC)) has raised more than \$8 million to date, far exceeding their original \$3.6 million commitment.*

*BOB also provides \$200,000 annually for seven years for operation and maintenance of the new facility. The BOB operations and maintenance dollars will end after seven years of operations. The current plan to replace these funds is to continue to build the institutional endowment over the next seven years to generate enough income to cover the \$200,000 BOB operations and maintenance dollars.*

## **BUILDING**

*The building construction project is experiencing a \$3,875,000 cash flow problem. Two significant sources of funding are currently not available to pay into the construction project, which began on August 16, 2010 and is slated for completion in November 2011.*

*Council adopted on First Reading Ordinance No. 087, 2011, for \$1.5 million and Ordinance No. 088, 2011, for \$875,000, totaling \$2,375,000 to keep the museum project moving forward for several months and avoid a costly work stoppage.*

*To default on a construction contract would have an impact on the City's bond rating, and could have a significant impact on the City's reputation with contractors with the potential result of fewer firms willing to bid to the City and increased bids on future projects.*

*The Downtown Development Authority (DDA) committed \$3 million for the building but the funds are not currently available. The DDA is exploring funding options but will not have the funding in 2011. The Museum Non-profit Corporation (NPC) has committed \$4,561,916 to the museum building, with \$875,000 of that amount in the form of pledges. These pledges will be paid between 2011 and 2014 and are not available to fund the project now.*

*Ordinance No. 087, 2011 appropriates \$1.5 million from the General Fund to the capital project. Council amended the Ordinance for Second Reading from \$3 million to \$1.5 million. This funding covers half of the DDA's \$3 million commitment, but is not a loan to the DDA. The DDA will receive its certification from the County in August, providing key data to determine when and how the DDA will issue bonds for this and other upcoming DDA projects. It is possible the City could*

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*be the purchaser of the DDA's bonds. The remaining \$1.5 million will be needed in several months to complete the construction project. On First Reading, Council asked if the funding source could be a source other than the General Fund. Building Community Choices remaining balance is another possible source.*

*Ordinance No. 088, 2011, approves an \$875,000 loan to the NPC to cover pledges made to the project. The loan details are attached as an Exhibit to the Ordinance, and include a 3.5% interest rate (prime rate of 3.25% plus .25%) with a payout schedule starting in 2012 and ending in 2014.*

## **EXHIBITS**

*Council did not adopt on First Reading, Ordinance No. 089, 2011, to loan the NPC an additional \$1.2 million to cover pledges designated specifically for fabrication of exhibits for the new facility. There are eleven themed areas in the master exhibit plan. Three themed areas are funded through designated donations that have been paid: music and sound, science, and natural areas. The \$1.2 million for the remaining zones is in the form of pledges to be paid between 2012 and 2017. NPC continues to explore private bridge loans to cover the pledges. Interest rates will be higher than what the City could provide, which will decrease the amount of funding available for exhibit fabrication. If a loan cannot be secured, the remaining zones will be phased into the gallery as pledges are paid, between 2012 and 2017.*

*Council asked if staff would be adding to the bottom line of the total exhibit costs if the exhibits were phased in over time. The bottom line will see a 10 – 20% increase by phasing the exhibits. The percentage moves toward 20% as the phases are spread farther apart over time.*

*On First Reading, Council requested a list of the top 4 or 5 operation and maintenance costs, besides staffing, for the new facility. These items include:*

- *Utilities – estimated at \$42,600 annually (based on modeling projections that could change according to the actual use of the building and future costs of utilities)*
- *Custodial, trash and recycling – estimated at \$59,000*
- *Maintenance and repair – estimated at \$55,000 year one (Primarily HVAC, electrical, preventive maintenance inspections, filters, etc. not covered under warranty. This number will ratchet up as warranties expire and the building begins to age)*
- *Grounds maintenance/snow removal - estimated at \$18,500*

*Council also directed staff to fill all three available City appointed seats on the NPC Board. Staff will work with the City Manager to appoint the two vacant seats as soon as possible.*

## **FINANCIAL / ECONOMIC IMPACTS**

*Ordinance No. 087, 2011, appropriates \$1,500,000 in the General Fund to cover construction of the Museum building. The DDA's pledge has already been appropriated in the Capital Projects fund, however the project is underway and it is unable to make payment at this time.*

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*To fund its pledge, the DDA plans to seek external financing. In that scenario the amount of available reserves in the General Fund at the end of 2012 are forecasted to exceed the policy minimum by \$7,500,000. If, however, the DDA instead asks the City for a loan, and the loan is granted, available reserves above the policy minimum will be \$4.5 million.*

*Ordinance No. 088, 2011 authorizes \$875,000 in the Water Fund to be loaned to the NPC. The NPC building commitments have already been appropriated in the project, however the project is underway and they are unable to make payment at this time. The NPC has building pledges equal to their commitment but the pledges will come in installments through 2014. The Water fund currently has reserves that exceed its policy minimums allowing it to make this loan. The proposed terms are 3.5% annual interest and \$875,000 in principal to be paid according to the loan agreement.”*

Jill Stilwell, Cultural Services Director, discussed the Ordinances and Council’s First Reading approvals. Councilmember Horak has added an amendment for consideration tonight to add back \$1.5 million to Ordinance No. 087, 2011, to cover the DDA’s commitment in total. The third Ordinance heard on First Reading was not passed but could be brought back before Council at its direction.

Eric Sutherland, 3520 Golden Currant, suggested there is no guarantee that tax increment collected by the Downtown Development Authority will be applied to this project. He made comparisons between the museum and the RMI2 project and stated there was no governance of the RMI2 project at all.

Annette Geiselman, Discovery Science Center Director, thanked Council for adopting Ordinance No. 088, 2011, on First Reading. She discussed community support for the museum.

Councilmember Horak made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 087, 2011 as amended, Option A, on Second Reading.

City Attorney Roy read the Ordinance changes into the record.

Mayor Pro Tem Ohlson stated he has had several meetings with staff over the last year regarding this issue in which staff was unaware of certain changes. He asked what assurance exists that the governance model and communication to Council will be improved. City Manager Atteberry replied staff is reviewing its processes to ensure these types of communication issues do not occur again. He stated he is personally going to sit on the Board of Directors of the Non-Profit Corporation (NPC) for a significant period of time.

Mayor Pro Tem Ohlson asked why the City only filled one of its allotted three positions on the Board. City Manager Atteberry replied those positions will be filled moving forward.

Mayor Pro Tem Ohlson expressed concern with 25% of the permanent exhibit space being dedicated to music. Stilwell replied an exhibit design master plan firm was hired to determine what the

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exhibits should be and the building was designed around those exhibits. Those exhibits fall into eleven thematic areas, one of which is music and sound.

Mayor Pro Tem Ohlson expressed concern with the relatively little amount of exhibit space being dedicated to sustainability and energy. Stilwell replied the exhibits are designed to be a cohesive experience with music having its own area primarily due to electric needs. Other areas incorporate several themes and sustainability is discussed throughout the exhibit space.

Councilmember Horak asked if the exhibits were influenced by donors. Stilwell replied in the negative.

Councilmember Kottwitz noted the early childhood section of the museum has not yet been funded. Marty Heffernan, Director of Culture, Parks, Recreation, and Environment, clarified the space for that exhibit is part of the construction; however, the fundraising for the actual exhibits has not yet occurred.

Councilmember Poppaw asked how the exhibits and fundraising were prioritized. Stilwell replied the early childhood piece is a discreet area that can be completed at a later time.

City Manager Atteberry suggested that piece is a prime opportunity for seeking specific donors.

Stilwell discussed other areas of the museum yet to be completely funded including the digital dome, the early childhood area, and some thematic exhibit areas.

Councilmember Horak asked how much funding the early childhood area is expected to need. Stilwell replied approximately \$450,000 is needed.

Councilmember Horak suggested an independent review of the exhibit space allocations be held and stated the Board should no longer be able to appoint boardmembers.

Councilmember Kottwitz stated she supports the project but would not support the motion as citizens may not have intended to spend an additional \$3 million on the project.

Mayor Pro Tem Ohlson expressed support for the project but stated there has been undue influence by donors. Appropriate recognition for donors is necessary; however, one large corporate logo is not suitable for a project 70% funded by public dollars. Ms. Geiselman replied donor recognition guidelines, approved by City Manager Atteberry, have been accurately followed.

City Manager Atteberry asked for a brief description of donor recognition. Ms. Geiselman replied a \$1 million donation will afford the donor the recognition opportunity of an exhibit theme. All donor recognition will be artfully and tastefully completed with a great deal of sensitivity to avoiding advertisements.

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Mayor Pro Tem Ohlson asked if the sponsorship recognition at the Gardens on Spring Creek has improved as it was previously distracting. Heffernan replied the individual recognitions were too prominent and staff has been consulted.

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

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 088, 2011, on Second Reading. Yeas: Weitkunat, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: Kottwitz.

THE MOTION CARRIED.

**Resolution 2011-066**  
**Approving an Agreement Between the City and Avago Technologies US, Inc. to**  
**Provide Business Investment Assistance for the Building 4 Retrofit, Adopted**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

*This Resolution approves a Business Investment Agreement between the City and Avago Technologies. The Agreement provides two performance based investments: (1) a one-time use tax rebate on manufacturing equipment purchased as part of the expansion; and (2) a personal property tax rebate on the same equipment for ten years. Both investments relate to revenues the City would not otherwise collect if the expansion did not occur within the City. The total investment package has a value of approximately \$3.2 million and includes both local and state investments. The total value of the use tax and personal property constitutes \$2.912 million of the package value. NOTE: The value of the package has increased since the Council Finance Committee briefing on July 5, 2011. The increase is due to additional investment in manufacturing equipment by Avago.*

***BACKGROUND / DISCUSSION***

*In 2005, the City Council adopted the first Economic Action Plan to provide staff focus and direction regarding efforts to enhance the local economy. The Action Plan contains four key strategies: (1) job creation through business retention, expansion, incubation, and attraction; (2) be proactive on economic issues; (3) build partnerships; and (4) diversify the economy. Furthermore, City Council has given consistent and clear direction that all investment agreements be performance based.*

*In 2006, the City commissioned a study to evaluate the geographic concentration and interconnectedness of companies within the community in order to determine potential industry*

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*clusters. The study identified several existing and emerging industry clusters. The identified clusters were modified into five targeted industry clusters, which became the focus of job creation activities. These clusters included: Clean Energy, Bioscience, Chip Design, Software, and Uniquely Fort Collins.*

*On August 17, 2010, the City adopted Resolution 2010-055, authorizing and directing the City Manager to continue to support on behalf of the City participation in the formation and development of cluster initiatives relating to the identified targeted industries of the City, to work with regional partners and local business entities to develop strategic plans for the clusters, and to support the advancement of the plans as they are implemented for the purpose of primary job retention, expansion, and creation.*

*Avago Technologies has a 50-year history of innovation dating back to origins within Hewlett-Packard Company (HP). The company began as HP's components division back in the early 1960s and thrived there for three decades. When HP spun off Agilent Technologies in 1999, the company became Agilent's Semiconductor Products Group (SPG) and expanded into new markets and applications. In late 2005, SPG was acquired by several private equity partners and Avago Technologies was founded. Over the years, Avago has assembled a team of over 1,000 design and product engineers and maintains highly collaborative design and product development resources around the world that have resulted in the development of numerous groundbreaking technologies.*

*The Business Investment Agreement being offered to Avago Technologies is consistent with both the Action Plan strategies and City Council direction:*

- The proposed Business Investment Agreement rebates tax revenues generated by the project; without the project these revenues would not be received by the City.*
- The Economic Action Plan clearly identifies business retention and expansion as the primary goal for the City's job creation efforts over business attraction; the proposed expansion supports this goal.*
- Plan Fort Collins call for creating a diversity of jobs that enables citizens and businesses to thrive; the proposed expansion provides an array of jobs and salary ranges. Most importantly, the expansion brings back much needed high-tech manufacturing jobs.*

## **PROJECT OVERVIEW**

*Avago Technologies plans to expand its wafer manufacturing, which currently occurs only in Taiwan. The company evaluated expansion at facilities in Taiwan, Italy, and Fort Collins. Avago Technologies selected the City for expansion for several reasons, including: (1) low power costs, (2) progressive utilities willing to assist in the modernization of plant operations related to power and water consumption, and (3) a Business Investment Agreement as described in detail below. This expansion represents an opportunity to bring a type of chip manufacturing to Fort Collins that has occurred primarily off-shore.*

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*The wafer fabrication expansion includes:*

- *The retrofit of the existing Building 4 (approximately 10,000 square feet);*
- *\$17 million in retrofit construction costs;*
- *\$57.5 million in wafer manufacturing equipment;*
- *\$5.7 million in equipment installation;*
- *An increase in water use of approximately 20.0 million gallons, an estimated 10 percent increase (equivalent to annual consumption of approximately 300 average homes; no anticipated impact on peak demand or the physical plant); and*
- *An increase of approximately 1.0 megawatts of electric capacity (equivalent to annual consumption of approximately 500 average homes; no anticipated impact on peak demand or the physical plant).*

*Furthermore, the proposed expansion is anticipated to add approximately 92 jobs including:*

- *8 Engineers earning approximately \$100,000 annually;*
- *14 Technicians earning approximately \$70,000 annually; and*
- *70 Operators earning approximately \$40,000 annually.*

### ***BUSINESS INVESTMENT AGREEMENT***

*On April 22, 2011, Economic Health Office staff provided Avago Technologies with an offer of assistance to support the retrofit of Building 4 for wafer fabrication (Attachment 1). The package was submitted to Avago Technologies confidentially. The item was scheduled for Council Finance Committee consideration (July 5, 2011) and City Council action (July 19, 2011). The meetings were scheduled after the Colorado Economic Development Commission (EDC) considered a request for assistance from its Strategic Fund. The EDC requests that all potential assistance packages remain confidential until it has an opportunity to consider the request. The EDC considered the request on June 16, 2011. The Council Finance Committee meetings and City Council action were scheduled shortly after this meeting in consultation with the City Manager.*

*The City of Fort Collins uses a variety of local investments to assist primary employers with expansion efforts. The total value of the proposed investment package is approximately \$3.2 million and includes both local and state investments (\$2.9 million in local investments and \$300,000 in state investments). The package includes the following items:*

- *\$1.725 million in Equipment Use Tax rebate on the initial manufacturing equipment investment associated with the project*
- *Approximately \$817,000 in Personal Property Tax savings on manufacturing equipment over a 10 year period*
- *Expedited review and commitment by City staff to Avago's desired timeline*
- *Free Integrated Design Assistance valued at \$20,000 to improve operating efficiencies*
- *Assistance with building re-commissioning, valued at up to \$150,000 to maximize building efficiency and reduce utility costs*

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- *Implementation of the evaporative cooling credit against sewer costs, creating approximately \$20,000 annually or a total of \$200,000 over ten years*
- *\$230,000 in Colorado Economic Development Commission's (EDC) Strategic Fund assistance (subject to Board approval); and*
- *\$73,600 in Colorado FIRST Customized Job Training Funds.*

*The Utility items listed above are available to any company within Fort Collins, whether expanding or continuing operations. They have been included in the package description because the competition may not offer similar utility assistance.*

### **FINANCIAL / ECONOMIC IMPACTS**

*Martin Shields, Associate Professor of Economic and Regional Economist at Colorado State University prepared an Economic Impact Analysis (EIA) of Avago Technologies planned expansion (Attachment 2). The following summarizes that analysis:*

- *New equipment will generate approximately \$1.725 million in use tax revenue (offset by investment package)*
- *The same equipment will generate approximately \$163,000 in annual personal property tax revenue of \$1.63 million over the ten year agreement period (partially offset by investment package)*
- *Construction activity (\$17 million retrofit and \$5.7 million equipment installation) will support 228 direct jobs and 74 spin-off jobs throughout the anticipated 15-month construction period*
- *Construction will generate approximately \$323,400 in use tax revenue on materials*
- *The 92 new jobs will support an additional 155 in spin-off secondary jobs at an average salary of \$48,900*
- *The 92 new jobs will generate approximately \$554,000 in sales tax revenue and \$413,000 in property tax revenue over the next ten years; and*
- *The EIA recognizes additional sales tax and property tax revenue will be generated by the spin-off jobs; however, the analysis provides a conservative estimate of economic impact and does not estimate these revenues.*

*The proposed Business Investment Agreement will have the following impacts on the City of Fort Collins finances:*

- *All of the estimated \$1.725 million in use tax revenue collected on the purchase of the wafer fabrication equipment will be rebated*
- *Half of the estimated \$163,000 in annual Personal Property Tax revenue collected on the wafer fabrication equipment will be rebated for ten years for a total of approximately \$817,000*
- *Utilities will invest approximately \$170,000 in one-time energy and water efficiency design assistance*

- In addition, Avago will take advantage of the new evaporative cooling credit offered by the Fort Collins Utilities for a total savings of \$200,000 over the course of ten years
- However, the City would not have collected Use Tax or Personal Property Tax revenue if the expansion had occurred in Italy or Taiwan.
- Net impact of the Business Investment Agreement is approximately \$1.755 million, as shown in **Table 1**.

**Table 1**  
Estimated Revenue, Rebate, and Net Revenue

<i>Revenue</i>	<i>Estimated Revenue</i>	<i>Rebate/ Incentive</i>	<i>Net Revenue</i>
<b>One-Time Items</b>			
<i>Construction Use Tax</i>	\$323,000	\$0	\$323,000
<i>Equipment Use Tax</i> <sup>1</sup>	\$1,725,000	\$1,725,000	\$0
<i>Integrated Design Assistance</i>	\$0	\$20,000	(\$20,000)
<i>Building Re-commissioning</i>	\$0	\$150,000	(\$150,000)
<b>Subtotal</b>	<b>\$2,048,000</b>	<b>\$1,895,000</b>	<b>\$153,000</b>
<b>On-Going Items (Cumulative over 10 Years)</b>			
<i>Equipment Personal Property Tax</i>	\$1,630,000	\$817,000	\$817,000
<i>Spin Off Sales Tax</i>	\$554,000	\$0	\$554,000
<i>Spin Off Property Tax</i>	\$413,000	\$0	\$413,000
<i>Evaporative Cooling Credit</i>	\$0	\$200,000	(\$200,000)
<b>Subtotal</b>	<b>\$2,597,000</b>	<b>\$1,017,000</b>	<b>\$1,602,000</b>
<b>Total</b>	<b>\$4,645,000</b>	<b>\$2,912,000</b>	<b>\$1,755,000</b>

<sup>1</sup> Current City Code allows for a rebate of 1.5 percent of the 3.0 percent use tax. The proposed Business Investment Agreement increases the rebate to the full 3.0 percent; therefore the incentive provides a value of \$727,500 above current Code.

## **ENVIRONMENTAL IMPACTS**

Avago plans to make the following system upgrades as part of the retrofit of Building 4:

- A site-wide HVAC retrofit.
- A "free heating" project, which utilizes waste heat from HVAC Chillers to reheat incoming outside air for Building 4. Similar to a Building 2 upgrade that reduced natural gas consumption on site by approximately 5%.
- Purchase and installation of a high efficiency chiller sized to handle the building's base load conditions (in winter) and run at optimum performance.
- Replace two boilers with two new very high efficiency condensing boilers matched to the building's base load, which avoids running boilers to big to run efficiently.

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*Based on the Fort Collins Utility assistance , the upgrades will help to reach 3 million kilowatt-hours of annual savings. This savings in energy consumption will have the following environmental benefits:*

- *The project would comprise 14% of the City's annual efficiency savings goal;*
- *The project would avoid 2119 metric tons of carbon emissions annually; and*
- *The carbon emissions savings are equivalent to the annual emissions of 415 cars or 264 homes or the amount of carbon sequestered by 54,333 tree seedlings grown for ten years."*

Josh Birks, Economic Advisor, discussed the project at Avago and noted the Fort Collins site was selected for the expansion over sites in Taiwan and Italy. Construction will begin in earnest soon and the facility should be operational by next fall. An economic impact analysis was completed by a Colorado State University economist. The appraisal estimated the project would generate \$1.725 million in use tax revenues, \$1.38 million in personal property tax, and approximately 228 direct construction industry jobs for approximately 15 months. Additionally, 92 primary jobs would generate approximately \$500,000 in sales tax revenue over 10 years. The net value of the business agreement is an approximately \$730,000 additional rebate on top of the standing rebates outlined in City Code.

Glenn Colton, 625 Hinsdale Drive, expressed concern the City has been providing too many financial incentives for private industry. The City should consider providing financial incentives based on need rather than simple requests.

Eric Sutherland, 3520 Golden Currant, discussed water and power use of the new facility.

Thomas Welch, 4033 Mesa Verde, expressed concern the proposed expansion will negatively affect neighboring homes and presented a petition signed by seven of those homes.

Mayor Weitkunat asked for a staff perspective of the operations. Birks replied Building 4, in which some manufacturing occurs, is approximately 40,000 square feet total; only 10,000 square feet of which is occupied. This expansion would include an additional 10,000 square feet of manufacturing space thereby still leaving half of the building vacant.

Steve Wolley, Avago Facilities Manager, stated this development is entirely interior with no additional exterior construction. He stated neighborhood concerns had previously been addressed by construction of a wall to block out sound and interior lighting structure changes. There are further changes which could be made if needed.

City Manager Atteberry stated he would approach Hewlett Packard with the neighborhood concerns as well.

Mayor Weitkunat asked about the means of communication between Avago and neighbors. Mr. Wolley replied the concerns have been heard and will certainly be addressed.

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Councilmember Poppaw asked how policies at Avago could change to ensure the company is being the best neighbor possible. Mr. Wolley replied interior lighting can be managed by lighting systems rather than users. A physical solution will need to be developed for noise mitigation.

Councilmember Poppaw asked if Mr. Wolley would personally be willing to have somewhat regular meetings with neighbors. Mr. Wolley replied in the affirmative.

Councilmember Troxell asked why Fort Collins residents should care about Avago's products. Mr. Wolley replied this facility makes cell phone parts, which are sold worldwide, as well as other products.

Councilmember Kottwitz made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2011-066.

Councilmember Poppaw supported the project and thanked Mr. Wolley for his presence and responses.

Mayor Pro Tem Ohlson asked how the projected water and electricity usage could not affect supply. Steve Catanach, Light and Power Operations Manager, replied the increase will have no impact on the plant infrastructure or available capacity.

Mayor Pro Tem Ohlson stated he would like to see more information in the future in terms of the costs, or potential negative impacts of these types of business agreements.

Mayor Pro Tem Ohlson requested salary ranges be provided when projected jobs are discussed.

Councilmember Troxell asked if distributed energy generation would be part of this project. Mr. Wolley replied Building Four will operate on a "free heating" scenario. Various conservation activities, such as warming water to room temperature using the waste heat off chillers, will continue. Efficiencies are the least expensive, most effective way for industry to beat the carbon emissions problem.

Councilmember Troxell asked if any integration of on-site energy use has occurred to help shift peak. Mr. Wolley replied electric needs basically never cease; however, generators are run during peak hours to help offset some peak time demand.

Councilmember Manvel supported the Resolution.

Councilmember Horak supported the Resolution.

Councilmember Kottwitz thanked staff for actively pursuing this project and commended Mr. Wolley for his service to the community.

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Mayor Weitkunat noted Council has always supported expansion and retention of existing primary businesses and thanked Mr. Wolley for his commitment to the business and community.

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

THE MOTION CARRIED.

City Manager Atteberry discussed the possible movement of the remaining agenda items, the Executive Session, and the URA Meeting to other dates.

Mayor Weitkunat led a brief discussion of the items yet to be heard.

Councilmember Manvel made a motion, seconded by Mayor Pro Tem Ohlson, to postpone Item Nos. 17, 18, and 19, *Items Relating to Grass Height Restrictions and Updating Related City Code References, First Reading of Ordinance No. 095, 2011, Amending the Appeals Procedure Contained in Chapter 2, Article II, Division 3 of the City Code Relating to the Procedures for Hearing Appeals to the City Council, and Resolution 2011-060 Amending the Rules of Procedure Governing the Conduct of City Council Meetings*, to a date to be determined by the Leadership Team and City Manager. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

### **Extension of the Meeting**

Councilmember Manvel made a motion, seconded by Mayor Pro Tem Ohlson, to extend the meeting in order to consider Item Nos. 9, 16, and 29, *Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities, Items Relating to a Long-Term Solar Power Arrangement for the Water Treatment Facility, and Resolution 2011-067 Creating a Council Futures Committee*.

Councilmember Horak expressed concern about moving forward with the items at the late hour. Councilmember Poppaw suggested future examination of agendas to attempt to eliminate these situations.

Councilmember Manvel and Mayor Pro Tem Ohlson withdrew the motion.

Councilmember Manvel made a motion, seconded by Mayor Pro Tem Ohlson, to postpone Item Nos. 9 and 29, *Items Relating to Amendments to the Definitions in Article I of Chapter 26, the Electric Article of Chapter 26, and to Standards for Interconnection of Electric Generation Facilities and Resolution 2011-067 Creating a Council Futures Committee* to a date to be determined by the Leadership Team and City Manager.

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Councilmember Horak suggested continuing all appropriate items to an adjourned meeting on July 26th.

Councilmember Manvel and Mayor Pro Tem Ohlson withdrew the motion.

**Adjournment**

Councilmember Horak made a motion, seconded by Councilmember Manvel, to adjourn to 6:00 p.m. on July 26, 2011, to consider all business not considered on July 19, 2011, and to consider going into Executive Session.

City Manager Atteberry suggested Item Nos. 16 and 29 be heard on July 26, 2011, with the remaining business to be heard in August or September.

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

THE MOTION CARRIED.

The meeting adjourned at 11:15 p.m.

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Mayor

ATTEST:

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City Clerk

July 26, 2011

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Adjourned Meeting - 6:00 p.m.**

An adjourned meeting of the Council of the City of Fort Collins was held on Tuesday, July 26, 2011, 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: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak, and Troxell.

Staff Members Present: Atteberry, Krajicek, Roy.

**Items Relating to a Long-Term Solar Power  
Arrangement for the Water Treatment Facility, Adopted on First Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

- A. *First Reading of Ordinance No. 092, 2011, Authorizing the Execution of a Power Purchase Agreement Contract with a Photovoltaic Provider at the Water Treatment Facility for a Term of Up to 20 Years.*
- B. *Resolution 2011-059 Authorizing a Revocable Permit to a Selected Solar Provider for the Use of the City Water Treatment Facility Property for a Solar Project.*

*The Water Treatment Facility receives its electrical power from Xcel Energy. A solar power generation project, with a fixed electrical rate sold back to the City, allows the offset of a portion of electrical usage at the plant site. A third party Photovoltaic system developer will design, construct, operate and maintain for up to 20 years a solar power project. This Ordinance allows for a 20-year contract between the system developer and the City. The Resolution issues a revocable permit for use of a portion of land onsite of the Water Treatment Facility by the photovoltaic system developer.*

***BACKGROUND / DISCUSSION***

*The Water Treatment Facility is located in Larimer County and as such, receives its electrical power from Xcel Energy instead of City Light and Power. Xcel Energy has a Solar Rewards program that gives third party entities rebates and renewable energy credits for solar power generation. The City cannot take full advantage of the rebates and credits, and instead, selects through a competitive process, a photovoltaic (PV) system developer who designs, constructs, operates and maintains the solar system, and sells the power generated to the City, based on a negotiated fixed rate, through a power purchase agreement.*

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*The City received nine proposals, interviewed three firms, and is in the process of negotiating a power purchase agreement with the selected solar system developer.*

*The proposed solar system will generate approximately 145,000 kWh per year. This system is not sized to supply the entire electrical demand for the Water Treatment Facility, but will contribute significantly to the energy savings at the plant.*

*This power purchase agreement is a 20-year contract between the PV system developer and the City. The City Code provides that a multi-year contract for a period of 5 years must be authorized by ordinance.*

*The advantages of the power purchase agreement are:*

- *Fixed rate of electricity throughout the 20-year term, based on a negotiated initial price.*
- *The power generated will only be sold to the City at the Water Treatment Facility.*
- *No upfront capital costs for the City.*
- *No operation and maintenance costs for the duration of the contract*
- *Renewable energy on site to help attain the City's sustainability goals.*
- *Ability to purchase the system, at fair market value, after year 5, if desired.*

*The Resolution authorizes the execution of a revocable permit to the Photovoltaic System Developer for the solar project. It addresses the project site at the Water Treatment Facility site and its use by the PV system developer to construct the solar system. The City Charter allows Council to grant a permit at any time for the use or occupation of any public place.*

*The site where the solar project will be located is within the security of the water treatment facility, and on raw land that is not currently in use by the plant processes.*

### **FINANCIAL / ECONOMIC IMPACTS**

*The Water Treatment Facility utilizes electricity to treat drinking water for its customers. The power purchased from the solar developer will offset a portion of that electrical power demand that must be purchased from Xcel Energy. The advantage is the fixed rate of this portion of the power versus the expected increases in electrical costs from Xcel. Over the 20-year term of the power purchase agreement, the estimated savings is \$108,000.*

### **ENVIRONMENTAL IMPACTS**

*This project will not impact the quantity and quality of drinking water produced. By replacing utility electricity with renewable solar power, the Water Treatment Facility will continue to work towards the City's internal sustainability goal of reducing energy consumption by 20% of the 2005 baseline by 2020, and demand peak use by 15% by 2020."*

Lisa Voytko, Water Treatment Facility Water Production Manager, stated this Ordinance would allow execution of a power purchase agreement with a third party solar system provider for 20 years.

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Power would be sold back to the City at a fixed negotiated rate. The Resolution allows for the third party developer to access the Water Treatment Facility site for equipment installation. Benefits of this project include overall electrical cost reduction at the facility and incorporation of energy efficiency. Voytko showed photos of and plans for the site and project.

Eric Sutherland, 3520 Golden Currant, expressed concern regarding the purchasing policies of the City relating to this project and stated the City's electric rates have been subsidized by Xcel rate payers.

Mayor Pro Tem Ohlson asked about the habitat value of the land proposed to be used for the solar project. Voytko replied the land is currently mowed hydro-mix grass with pipeline surrounding it. The land was made grade-level in 2000.

Mayor Pro Tem Ohlson asked how long this idea has been circulating within the organization. Steve Catanach, Light and Power Operations Manager, replied the original idea was presented at a Council Finance Committee meeting in late 2009.

Mayor Pro Tem Ohlson asked what financial implications may concern the Water Board. Catanach replied the initial idea was that the City would fund and construct the solar array and sell the renewable energy credits to Xcel. The price for each megawatt hour has dropped from \$135 to \$35 since, resulting in the currently-proposed third party structure.

Mayor Pro Tem Ohlson asked if the City has passed external sustainability goals. Catanach replied the City has a community goal, as well as an internal City organization goal, of reducing carbon emissions by 20% by 2020 and by 80% by 2050. City Manager Atteberry stated he would provide an outline of the internal and external sustainability goals prior to Second Reading.

Councilmember Manvel asked about the current wholesale rate from Xcel. Voytko replied the City is on the primary general rate but Xcel charges are based on use during peak and off-peak hours and also has several additional charges.

Councilmember Manvel asked if this is a feed-in tariff situation in which energy is being purchased ahead of time at a fixed rate. Catanach replied that is somewhat the case other than it is a price set, taking into account the value of the renewable energy credits to Xcel.

Councilmember Troxell asked about Xcel's power quality issues with respect to the water treatment facility. Voytko replied the facility has two feeds from Xcel which are currently being improved to come from two different substations. The facility has not had any issues with power in at least the last few years.

Councilmember Troxell made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 092, 2011, on First Reading. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

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Councilmember Horak made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2011-059. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

**Resolution 2011-067**  
**Creating a Council Futures Committee, Adopted**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

*At the Council retreat on May 6 and 7, 2011, Council indicated an interest in forming a Futures Committee, the purpose of which would be to develop a vision for the future of Fort Collins, using economic modeling and other information to help inform and establish a guide for Council to consider in making decisions about the future of the community.*

***BACKGROUND / DISCUSSION***

*Prospective committee members have met informally twice in the past month in order to more clearly define the aspirations, roles and functions, meeting schedule, and intent of the committee. The intent was clearly to look beyond the present and develop ideas about the distant future, looking beyond the typical City planning horizons and to develop informed ideas about where our community should be heading. Additionally, the Committee wanted to develop an approach to the financial strategies and systems required to successfully achieve the desired future.*

*Some of the specific considerations were to develop a clear set of measurable goals and objectives. Key questions considered for future discussion were:*

- *What are the visionary considerations that should shape our future and make it better as a community?*
- *A significant focus of the committee should be on energy, water, and the natural and built environment*
- *Another focus will be on social issues such as homelessness and poverty.*
- *Are there clearly stated goals and objectives that will keep the community on the path to achieving this future?*
- *What are the potential roadblocks to success?*
- *Is the budget aligned with the goals?*
- *When considering future ideas, capital costs, lifecycle, operations and maintenance should be key considerations.*
- *Is there a financial model which aligns funding strategies with the future vision?*
- *Are advisory boards and commissions directly reinforcing the goals? Committees have been developed over the years on an ad hoc basis. Today there are overlapping responsibilities and duties that do not always directly align with the City's goals, plans, and policies. The*

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*committee would like to take these Boards into consideration and make sure they are directly reinforcing the future direction of the community.*

- *Are City programs and activities in alignment with the future vision?*
- *Are there clear metrics to measure outcomes and determine success?*
- *What are the regional contextual issues and what are the key considerations of this context? How does this City fit in with its regional partner cities?*

*The intent is for the committee to operate in a dynamic process whereby numerous ideas are considered and evaluated. Some of the ideas may evolve into actionable recommendations to Council for programs, activities or projects, while others may not make be considered further. Generating, evaluating, and refining ideas will be a significant consideration. To add ideas to the process the committee may bring in speakers, visit sites in other Front Range communities, or attend specific seminars. Many of the City staff will be engaged with the committee on a project by project basis, and at various times, different City departments may be asked to attend committee meetings.*

*With respect to Plan Fort Collins, the committee should recognize the value of the Plan and be familiar with its components. The focus however, will be to consider farther into the future than the current planning horizon and attempt to determine a path to the future.*

*The committee will meet twice a month and will elect a rotating chair. Members will be appointed by City Council and appointments will be made at the start of election terms.”*

City Manager Atteberry stated this item came from suggestions at the May Council workshop. If passed, the Resolution appoints Councilmembers Poppaw, Troxell, and Horak to the Committee. A revised Resolution and Agenda Item Summary are included in tonight’s packet.

Bruce Hendee, Assistant to the City Manager, discussed the proposed logistics and general notion of the committee. He stated the Committee would support the City’s notion of the triple bottom line which represents the balance of environment, economy and the social fabric of the community. The intent of the Committee would be to develop and evaluate ideas, with aid from staff and the community, to bring before Council for consideration.

Eric Sutherland, 3520 Golden Currant, expressed concern the City organization is not making progress in terms of looking at the near future.

Councilmember Poppaw thanked City Manager Atteberry and staff for the vision to create this best practices committee.

Councilmember Horak made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2011-067.

Councilmember Horak noted the committee is as much about the present as it is the future.

City Manager Atteberry noted this item was Council driven.

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

THE MOTION CARRIED.

**Other Business**

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Poppaw, to cancel the August 2, 2011 regular Council meeting pursuant to the provisions of Section 2-28(a) of the City Code, so that Councilmembers can attend the various neighborhood gatherings that will be held that same evening in connection with the *Neighborhood Night Out* celebration.

Mayor Pro Tem Ohlson suggested Council meetings be rescheduled around some of these annual events in order to prevent several summer meetings from being cancelled.

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

THE MOTION CARRIED.

**Executive Session Authorized**

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Manvel, to go into Executive Session, pursuant to Section 2-31(a)(2) of the City Code, for the purpose of meeting with attorneys for the City and affected members of City staff regarding the manner in which particular policies, practices and/or regulations of the City may be affected by existing or proposed provisions of federal, state or local law and to discuss potential litigation. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

**Meeting Reconvened**

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Manvel, to go into Executive Session, pursuant to Section 2-31(a)(1) of the City Code, for the purpose of conducting the mid-year performance reviews of the City Manager, City Attorney and Municipal Judge. Yeas: Weitkunat, Kottwitz, Manvel, Ohlson, Poppaw, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

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**Adjournment**

The meeting adjourned at 10:47 p.m.

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Mayor

ATTEST:

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City Clerk