

DATE: August 16, 2011
STAFF: Brian Janonis

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

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SUBJECT

First Reading of Ordinance No. 098, 2011, Repealing and Reenacting Division 14, Article III of Chapter 2 of the City Code Dissolving the Electric Board and Creating a New Energy Board.

EXECUTIVE SUMMARY

Decisions Council makes today can have a significant impact on the community's ability to respond to changing conditions in the future. Council needs visionary and innovative advice regarding the community's energy future as it relates to the Plan Fort Collins goals for a sustainable community. Council is in need of advice from subject matter experts, not just in the electric engineering field, but also other experts who are knowledgeable about such things as to how the electrification of transportation impacts carbon emissions and energy consumption. To this end, an Energy Board is being created to replace the Electric Board. The purpose of the Energy Board will be to take a systems approach to the City's energy future looking out 10 years and beyond and to advise Council on such matters.

BACKGROUND / DISCUSSION

The Electric Board was created by Council in 1991 during a period of stability and has served admirably. However, the electric utility industry is rapidly changing as new technologies become available. These technologies will empower customers to make better decisions regarding their energy usage, allow customers to become part of the utility supply chain through distributed generation and storage, and change market paradigms for the purchase and sale of energy. Electricity is simply one form of energy. When one looks at the energy system as a whole, we begin to see the relationships and interconnectedness between transportation, home energy usage, solid waste, industry, agriculture etc.

Decisions Council makes today can have a significant impact on the community's ability to respond to changing conditions in the future. Council needs visionary and innovative advice regarding the community's energy future as it relates to Council adopted Plan Fort Collins goals for a sustainable community, the Fort Collins Climate Action Plan, Energy Policy, and Green Building Program. To this end, this Board should be taking a systems approach to the energy future looking out 10 years and beyond.

Policy related to energy use and generation in the City of Fort Collins is complex and involves multiple City Service Areas. Energy, and its associated opportunities (economic and non-economic) and impacts (including carbon emissions), are much broader than electric power generation and distribution. Citizen involvement and stakeholder expertise provide valuable technical review, community perspective and third party oversight to inform City Council's decisions on energy related topics.

The Council-adopted Plan Fort Collins (2011), Climate Action Plan (2008), Energy Policy (2009), and Green Building Code (2011) provide the framework for charting the City's energy future. The proposed Board would advise the City Council in an integrated way regarding these policies and overall energy and carbon matters. Going forward, it is very likely that the City will be operating in a carbon constrained environment; that is to say, carbon emissions will be limited by law and regulation. This has important implications for the community since the single largest source of City-related carbon emissions is electric energy generation. The second largest is transportation. Interestingly, there is an increasing interdependence between electricity and transportation as Smart Grid/Fort ZED is implemented and as we transition from petroleum-based to electric vehicles.

The impacts of these changes and trends on the City's electric system and carbon emissions will require rigorous analysis and accounting procedures. Additionally, it is critical that we consider their energy and carbon impacts. Furthermore, carbon regulation will have significant impacts on the operation and rates of the City's Electric Utility and our wholesale power supplier.

Thus, the functions of the Energy Board, in replacement of the current Electric Board, will be:

- (1) To advise the City Council and staff regarding development and implementation of the City's energy policy
- (2) To advise the City Council and staff in developing City policies that encourage the incorporation of energy conservation and efficiency, carbon emissions reduction, and renewable energy into the development and provision of City utility services, the design and construction of City transportation projects, and the way in which the City impacts the overall built environment within the City;
- (3) To advise the City Council and staff regarding the alignment of energy programs and policies with City, ratepayer and community values and service delivery expectations;
- (4) To advise the City Council and staff regarding the recommendations for improvements to City energy systems;
- (5) To coordinate with other City boards and commissions regarding energy issues;
- (6) To advise the City Council and staff regarding budgetary, rate-making and operational matters related to the electric utility;
- (7) To annually review and provide advice to City Council and staff on the City's Legislative Policy Agenda regarding energy and energy-related carbon issues; and
- (8) To perform such other duties and functions and have such other powers as may be provided by ordinance of the City Council.

FINANCIAL / ECONOMIC IMPACTS

Although staff cannot quantify at this time, the Energy Board will be identifying businesses opportunities for a variety of existing and new businesses.

ENVIRONMENTAL IMPACTS

The Energy Board will be identifying opportunities to reduce carbon emissions, improve energy balance through getting the most out of the City's resources.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

ORDINANCE NO. 098, 2011
OF THE COUNCIL OF THE CITY OF FORT COLLINS
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

WHEREAS, the Electric Board is a City board established by ordinance in 1991 for the purpose of advising City Council on policy matters pertaining to the municipal electric system and acting as a sounding board to City staff for the purpose of identifying the ratepayers' service delivery expectations; and

WHEREAS, the concept of "energy" is broader in scope than electricity and encompasses any source of usable power; and

WHEREAS, the City's policies related to energy generation, distribution and use in the City are complex and constantly evolving due to advances in the energy field and other related City functions; and

WHEREAS, the City Council has over recent years adopted numerous policies related to energy, including but not limited to the following: (1) the Fort Collins Climate Action Plan to reduce greenhouse gas emissions; (2) the updated Energy Policy identifying renewable energy portfolio standards consistent with those set by the State of Colorado; (3) amendments to the City's building code to better align Fort Collins' built environment with community goals of improved indoor environmental quality, protection of the natural environment, reduced carbon emissions, reduced energy use and reduced water use; and (4) an updated City Plan including new strategies for transportation, increased energy efficiency, increased use of renewable energy and other energy uses; and

WHEREAS, City staff believes that in the future it is very likely that carbon emissions will be regulated more broadly and stringently than they are today; and

WHEREAS, the single largest source of City-related carbon emissions is electric energy generation and the second largest is transportation; and

WHEREAS, policy development related to energy use and generation requires advice and input to City Council from subject matter experts who are familiar with not only the municipal electric system but also with multiple other disciplines such as transportation; and

WHEREAS, by dissolving the Electric Board and establishing in its place a new Energy Board, citizen involvement and stakeholder expertise will be available to City Council through a board of volunteer members with expertise in all related disciplines; and

WHEREAS, for these reasons, the City Council believes that it would be in the best interests of the City to dissolve the Electric Board and create a new Energy Board and has directed City staff

to develop a description in writing of the proposed functions of an Energy Board with broader responsibilities and expertise than the current Electric Board; and

WHEREAS, one of the functions of the Electric Board is to act as the final appeal and hearing body for customer complaints except as is otherwise provided in Chapter 26, Article XII regarding termination of utility service and, upon dissolution of the Electric Board, this function will become the responsibility of the City Manager's Office.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 2-231 through 2-235 of Article III of Chapter 2 of the Code of the City of Fort Collins are hereby repealed with the following sections reenacted to read as follows:

DIVISION 14. ENERGY BOARD

Sec. 2-231. Creation.

There shall be and is hereby created an Energy Board, hereafter referred to in this Division as the "Board."

Sec. 2-232. Membership; term.

(a) Board shall consist of nine (9) members appointed by the City Council.

(b) Each member shall serve without compensation for a term of four years, except that members may be appointed by the City Council for a shorter term in order to achieve overlapping tenure. Appointments shall specify the term of office of each individual. All members shall be subject to removal by the City Council. If a vacancy occurs on the Board, it shall be filled by the City Council for the remaining unexpired portion of the term. No member shall serve more than two consecutive terms. For the purposes of this provision, a "term" shall include the balance of an unexpired term served by a person appointed to fill a vacancy if such unexpired term exceeds twenty-four (24) months.

Sec. 2-233. Functions.

The duties and functions of the Board shall be:

- (1) To advise the City Council and staff regarding the development and implementation of the City's energy policy;
- (2) To advise the City Council and staff in developing City policies that encourage the incorporation of energy conservation and efficiency, carbon emissions reduction, and renewable energy into the development and provision of City utility services, the design and construction of City

transportation projects, and the way in which the City impacts the overall built environment within the City.

- (3) To advise the City Council and staff regarding the alignment of energy programs and policies with City, ratepayer and community values and service delivery expectations;
- (4) To advise the City Council and staff regarding the recommendations for improvements to City energy systems;
- (5) To coordinate with other City boards and commissions regarding energy issues;
- (6) To advise the City Council and staff regarding budgetary, rate-making and operational matters related to the electric utility;
- (7) To annually review and provide advice to City Council and staff on the City's Legislative Policy Agenda regarding energy and energy-related carbon issues; and
- (8) To perform such other duties and functions and have such other powers as may be provided by ordinance of the City Council.

Sec. 2-234. Officers; bylaws.

The Board shall elect annually from its membership a chairperson and such officers as may be required. Bylaws may be adopted by the Board, which bylaws shall not be inconsistent with the Charter, the Code or other policies that may be established by the City Council. A copy of the bylaws shall be filed with the City Clerk for the use of the City Council immediately after adoption by the Board, and the same may be subject to the approval of the City Council.

Sec. 2-235. Minutes; annual report; work plan.

The Board shall take and file minutes in accordance with the requirements of § 2-73 of the Code. On or before January 31 of each year, the Board shall file a report with the City Clerk setting forth the activities of the Board for the previous year. On or before November 30 of each year, the Board shall file a work plan with the City Clerk for the following year.

Section 2. That the currently appointed members of the Electric Board shall continue to perform the duties and functions of members of the Electric Board as described in Section 2-233 of the City Code until such time as the City Council approves appointments to the newly created Energy Board.

Section 3. That a new Section 26-448 shall be added to Chapter 26, Article VI, Division 3 of the Code of the City of Fort Collins which reads in its entirety as follows:

Sec. 26-448. Appeals.

Any customer who believes that he or she has been aggrieved by a final determination or decision by the Utilities General Manager or his or her designee regarding the application of the requirements of Article II of Chapter 26 or any rules or regulations authorized under such article may petition the Utilities General Manager for a hearing. The General Manager may appoint a hearing officer or elect to conduct such hearing him or herself, provided that the aggrieved party makes written application for such hearing within seven (7) days of the date of such final determination or decision. If a timely request for hearing is made, a hearing concerning the propriety of the final determination or decision shall be granted to the aggrieved party and, after notice to the aggrieved party, the hearing shall be held no more than ten (10) calendar days after the filing of the request for hearing. At the hearing the appellant and the City may be represented by an attorney, may present evidence and may cross-examine witnesses. A verbatim transcript of the hearing shall be made. The decision of the hearing officer or Utilities General Manager shall be based upon competent evidence. The aggrieved party may file an appeal from such hearing to the City Manager's Office pursuant to Chapter 2, Article VI, § 2-541 of this Code.

Introduced, considered favorably on first reading, and ordered published this 16th day of August, A.D. 2011, and to be presented for final passage on the 6th day of September, A.D. 2011.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 6th day of September, A.D. 2011.

Mayor

ATTEST:

City Clerk