

**DATE:** June 5, 2012  
**STAFF:** Rita Harris

**AGENDA ITEM SUMMARY**  
FORT COLLINS CITY COUNCIL

**6**

**SUBJECT**

Consideration and Approval of the Minutes of the May 1 and May 15, 2012 Regular Meetings and the May 22, 2012 Adjourned Meeting.

May 1, 2012

**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, May 1, 2012, 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, Manvel, Ohlson, Poppaw, Troxell and Weikunat.

Councilmembers Absent: Kottwitz

Staff Members Present: Atteberry, Harris, Roy.

**Agenda Review**

City Manager Atteberry stated the title of Item No. 13, *Resolution 2012-030 Finding Substantial Compliance and Initiating Annexation Proceedings for the 912 Wood Street Annexation*, has been changed to Wood Street Annexation, as a specific address cannot be used in an annexation title.

Eric Sutherland, 3520 Golden Currant, withdrew Item No. 7, *Second Reading of Ordinance No. 033, 2012, Amending Chapter 26 of the City Code to Allow for On-Bill Utility Financing*, from the Consent Calendar.

**Citizen Participation**

Mel Hilgenberg, 172 North College Avenue, discussed the canal on the Brinks property, opposed the proposed on-campus stadium, requested that the City work with CSU regarding a proposed on-campus parking garage, opposed the Jefferson roundabout, and asked about the status of the alley naming project.

Carl Patton, 619 Skysail Lane, thanked Council for questioning Dr. Frank at its work session and urged Council to consider a ballot referendum in opposition to the stadium in November. He discussed the SOS Hughes newsletter.

Bob Overbeck, 302 Parker, thanked the City for providing free mulch to residents and thanked Council for questioning Dr. Frank at its work session. He provided examples from Kalamazoo, Michigan, in which an on-campus stadium has reduced property value.

Virginia Farver, 1214 Bellview Drive, opposed the AMI Smart Meters based on possible health concerns. She requested a moratorium be placed on meter installation pending further investigation of health impact.

Josh Kerson, 1304 Duft Drive, requested that Police funding be increased to allow training regarding enforcing excessive truck emissions.

Eric Sutherland, 3520 Golden Currant, discussed the City's Utility using debt to fund the Smart Meter program. He stated the tiered rate/Smart Meter combination is contradictory.

Doug Brobst, 1625 Independence Road, thanked Council for questioning Dr. Frank at its work session and asked how many site selection sub-committee meetings have occurred and how many have been face-to-face. He urged Council to consider a ballot referendum in opposition to the stadium in November.

Chester McQueary, 613 Princeton Road, urged Council to allow citizens to have a say regarding the proposed on-campus stadium via a ballot referendum.

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

Mayor Pro Tem Ohlson expressed frustration regarding the perceived lack of funding for Police Services and asked that City Manager Atteberry work with Police Services to alleviate complaints relating to funding issues. City Manager Atteberry replied he will work with Chief Hutto regarding the issue.

Mayor Pro Tem Ohlson supported the idea of placing a referendum regarding the proposed on-campus stadium on the November ballot.

### **CONSENT CALENDAR**

6. Consideration and Approval of the Minutes of the April 3 and April 17, 2012 Regular Meetings.
7. Second Reading of Ordinance No. 033, 2012, Amending Chapter 26 of the City Code to Allow for On-Bill Utility Financing.

This Ordinance, unanimously adopted on First Reading on April 17, 2012, revises language in Chapter 26 of the City Code to enable Utilities to provide financing and on-bill servicing of loans for energy efficiency, water efficiency and renewable energy projects. Utilities is proposing to pilot a new program element for 2012, providing on-bill financing for residential customers participating in the Home Efficiency Program, the Solar Rebate Program and for customers who need to repair or replace a water supply line. The primary goal of the on-bill financing pilot is to facilitate more efficiency upgrades in the residential sector. These upgrades reduce our need for future energy resources, reduce our environmental footprint, promote local economic health by investing in our built environment and improve the health, comfort and safety of our homes.

8. First Reading of Ordinance No. 035, 2012, Appropriating Unanticipated Grant Revenue in the General Fund and Authorizing the Transfer of Appropriated Amounts Between Accounts and Projects for the Multi-jurisdictional Northern Colorado Drug Task Force.

The City has received three grant awards from the Office of National Drug Control Policy and the Department of Justice in the amount of \$201,579 for the operation of the Northern Colorado Drug Task Force (NCDTF) to help fund the investigation of illegal narcotics activities in Larimer County.

9. First Reading of Ordinance No. 036, 2012, Appropriating Additional Unanticipated Grant Revenue in the General Fund for the Exterior Preservation and Reconstruction of the Avery Building at the Intersection of College and Mountain Avenues.

Unexpected costs, including higher bid prices and additional work requested by the owner, have resulted in the Avery Building restoration and renovation project costing more than originally provided for. The original cost of \$430,270 was funded by a State Historic Fund grant for \$215,135, matched by an equal amount provided by the property owner, Avery Building, LLC. The property owner has now provided the City with additional revenue in the amount of \$220,000 to cover the additional costs. The award-winning project is nearing completion, and is expected to be finished at the end of May 2012.

10. First Reading of Ordinance No. 037, 2012, Authorizing the Conveyance of a Permanent, Non-Exclusive Utility Easement on City Parks Property to Maple Hill Master Association.

In April 2004, the City of Fort Collins Parks Department acquired Tract I, Maple Hill, located in northeast Fort Collins, near Turnberry and Country Club Road. The City purchased this tract for a future public neighborhood park as well as for access, drainage and utility easements. Maple Hill Homeowners Association has requested a utility easement for an eight-foot wide irrigation easement through the corner of Tract I.

11. Items Relating to the Wild Plum Farm No. 1 Annexation.

- A. Resolution 2012-028 Setting Forth Findings of Fact and Determinations Regarding the Wild Plum Farm Annexation No. 1.
- B. Hearing and First Reading of Ordinance No. 038, 2012, Annexing Property Known as the Wild Plum Farm Annexation No. 1.

This is a request to annex 0.64 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed and is in the FA – Farming Zone District in Larimer County. The surrounding properties are currently zoned FA – Farming in the Larimer County to the north, west and south; and, Urban Estate in the City (Lincoln Middle School) to the east. The zoning ordinance will come forward on May 15, 2012.

12. Items Relating to the Wild Plum Farm No. 2 Annexation.

- A. Resolution 2012-029 Setting Forth Findings of Fact and Determinations Regarding the Wild Plum Farm Annexation No. 2.
- B. Hearing and First Reading of Ordinance No. 040, 2012, Annexing Property Known as the Wild Plum Farm Annexation No. 2.

This is a request to annex 3.32 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed and is in the FA - Farming District in Larimer County. The surrounding properties are currently zoned FA – Farming in the Larimer County to the north, west and south; and, Urban Estate in the City (Lincoln Junior High School) to the east. The zoning ordinance will come forward on May 15, 2012.

13. Resolution 2012-030 Finding Substantial Compliance and Initiating Annexation Proceedings for the 912 Wood Street Annexation.

The applicant, Sidehill Investment LLC., the property owner, has submitted a written petition requesting annexation of 17.34 acres located on the east side of Wood Street, approximately 1,320 feet east of North Shields Street. The property is developed and is in the O - Open District in Larimer County. The requested zoning for this annexation is UE – Urban Estate. The surrounding properties are currently zoned O – Open in the Larimer County to the south and west, and POL – Public Open Lands in the City (Lee Martinez Park and McMurry Natural Area) to the east and north.

This annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreements.

The only known issue with this annexation is the previously expressed concern by community members and one Councilmember with the LOMR-Fill (Letter of Map Revision-Fill) process that occurred while the property is still in the County. While the floodplain regulations for the Poudre River Basin generally match across the City and the County, the City conditions its approval of LOMR-Fill applications in a way that the County does not. In this instance, the LOMR-Fill was approved by the County and portions of the site have been removed from the floodplain prior to annexation. Remaining portions of the site that are in the floodplain will be required to comply with the City’s floodplain regulations.

14. Resolution 2012-031 Making Findings of Fact Regarding the Appeal of the February 16, 2012, Planning and Zoning Board Denials of Two Stand-alone Modifications Concerning the Proposed Remington Annex Located at 705, 711 and 715 Remington Street.

On March 1, 2012, an appeal of the February 16, 2012 decision of the Planning and Zoning Board to deny the Remington Annex, Modification of Standards was filed by Christian and Robin Bachelet of Remington Annex, LLC.

On April 17, 2012, City Council voted to uphold the decision of the Planning and Zoning Board. In order to complete the record regarding this appeal, the Council should adopt a Resolution making findings of fact and finalizing its decision on the appeal.

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

Ordinances on Second Reading were read by title by Interim City Clerk Harris.

7. Second Reading of Ordinance No. 033, 2012, Amending Chapter 26 of the City Code to Allow for On-Bill Utility Financing.
20. Second Reading of Ordinance No. 034, 2012, Amending Section 26-464 of the City Code to Establish a Medical Assistance Program for Electric Customers.

Ordinances on First Reading were read by title by Interim City Clerk Harris.

8. First Reading of Ordinance No. 035, 2012, Appropriating Unanticipated Grant Revenue in the General Fund and Authorizing the Transfer of Appropriated Amounts Between Accounts and Projects for the Multi-jurisdictional Northern Colorado Drug Task Force.
9. First Reading of Ordinance No. 036, 2012, Appropriating Additional Unanticipated Grant Revenue in the General Fund for the Exterior Preservation and Reconstruction of the Avery Building at the Intersection of College and Mountain Avenues.
10. First Reading of Ordinance No. 037, 2012, Authorizing the Conveyance of a Permanent, Non-Exclusive Utility Easement on City Parks Property to Maple Hill Master Association.
11. Hearing and First Reading of Ordinance No. 038, 2012, Annexing Property Known as the Wild Plum Farm Annexation No. 1.
12. Hearing and First Reading of Ordinance No. 040, 2012, Annexing Property Known as the Wild Plum Farm Annexation No. 2.

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

THE MOTION CARRIED.

**Consent Calendar Follow-up**

Councilmember Troxell discussed Item No. 14, *Resolution 2012-031 Making Findings of Fact Regarding the Appeal of the February 16, 2012, Planning and Zoning Board Denials of Two Stand-alone Modifications Concerning the Proposed Remington Annex Located at 705, 711 and 715 Remington Street*, and stated the historic preservation process needs to change in order to recognize truly deserving properties.

Councilmember Manvel agreed with Councilmember Troxell that the process needs to be reworked.

Councilmember Horak noted Council recently received information regarding the Historic Preservation process, but no outline of future plans for process changes was given. He asked about the future work plan. Karen Cumbo, Director of Planning, Development, and Transportation Services, replied a short cover memo outlined the short-term and long-term actions and stated work has already begun on some of the short-term actions.

### **Staff Reports**

#### *Mason Corridor*

Helen Migchelbrink, City Engineer, provided a brief update regarding the Mason Street Corridor Project. She stated major impacts on downtown traffic will begin in July. The railroad will completely shut down its main line on July 23-29, 2012 to replace track.

Claire Thomas, Publicity Marketing Specialist, stated construction alerts will be placed on the City's web page and Twitter account. Businesses on Mason Street have been invited to a business access meeting, to be held Monday, May 7, 2012. Input has been gathered regarding the art projects to be placed along the Corridor. The kick-off event will occur on Thursday, June 7, 2012, at the Midtown Arts Center.

Councilmember Manvel asked what portion of the project will be opened for bids on May 18th. Migchelbrink replied those bids will be for just over a third of the total funding, approximately \$30 million.

Councilmember Horak commended Thomas on her public involvement work and enthusiasm. He asked what barriers will exist to prevent individuals from crossing the street during construction. Thomas replied the railroad will be staging equipment for several days prior to closure, but the entire section from Cherry Street to Laurel Street will be closed for seven days. Migchelbrink replied Type III barriers, or Jersey barriers, as well as cones and plates will be used to ensure public safety. Additionally, traffic control individuals and potentially police will be involved.

Councilmember Horak expressed concern regarding public safety during the closure. City Manager Atteberry replied the issue will be explored and discussed further. He commended Thomas on her professionalism and commended Migchelbrink on her work for the City.

#### *Poudre River Library District Annual Report*

Holly Carroll, Poudre River Public Library District Executive Director, provided a brief presentation regarding the Library District's annual report. She discussed the remodel of the main library and stated the grand reopening is June 17, 2012. She stated the Harmony Library remodel was funded by Front Range Community College. The new Administrative Center has moved to 301 East Olive. Carroll announced that 76% of the area residents have active library cards.

Mike Liggett, Poudre River Public Library District Board of Trustees President, cited the many varied programs making the Library District so valuable to the community.

Ms. Carroll discussed the additions and deletions from the Library collection.

Councilmember Manvel commended the Library District and its services. He asked if the decrease in the main library collection will be permanent or if the collection will gradually increase.

Mayor Pro Tem Ohlson expressed concern about the collection decrease and asked what physically happened to the books that were removed. Mr. Liggett replied there were some troubling cuts to the collection. The majority of books go to the Friends of the Library sale; those unable to be sold are recycled. Ms. Carroll stated the Library District has a contract with an agency that picks up the books for recycling.

Mayor Pro Tem Ohlson commended Ms. Carroll and Mr. Liggett's work with the Library District.

### **Councilmember Reports**

Councilmember Manvel reported on the joint Fort Collins/Loveland/Larimer County regional quarterly meeting he attended along with Mayor Weitkunat and Councilmember Horak. He stated the Regional Crime Lab, a regional transit study, and the Larimer County Humane Society were discussed.

Mayor Weitkunat discussed the regional meeting and appreciated the fact that representatives from Berthoud were also at the meeting.

Councilmember Horak provided an update regarding the Platte River Power Authority and reported on the hiring process for a new General Manager. He discussed the planned rate increases for the upcoming years.

Mayor Weitkunat reported on the Human Relations Commission and Women's Commission awards. She announced the receipt of the Larimer County Bar Association's 2012 Professionalism Award by City Attorney Steve Roy.

City Attorney Steve Roy thanked the Mayor for the recognition and commended his fellow employees at the Attorney's Office.

### **Resolution 2012-032**

#### **Recognizing the Veterans Plaza Time Capsule and Directing a Future City Council to Open the Time Capsule on Veterans Day 2111, Adopted**

The following is staff's memorandum for this item.

#### ***“EXECUTIVE SUMMARY***

*A time capsule containing donated items was buried at Veterans Plaza in Spring Canyon Community Park in 2011. This Resolution formalizes its burial and requests that it be opened 100 years from now by a future City Council on Veterans Day 2111 with the media and community present.*

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

*The Veterans Plaza at Spring Canyon Community Park contains soil from over 100 battlefields, U.S. Military Cemeteries, and other installations worldwide – places like Omaha Beach and Afghanistan.*



*The Veterans Plaza is a unique, public venue that honors and pays tribute to all military men and women with ties to Northern Colorado. The plaza features:*

- *Paved walking paths, native rock, shade trees, and an amphitheater with performance stage.*
- *Flags representing America, Colorado, and our country's military prisoners of war, and members killed in action or missing in action.*
- *A bronze statue of a soldier holding a young boy on his shoulder, showing him the promise of the future.*
- *A "Victory Garden".*
- *Stone walls embedded with large LCD monitors, which scroll the names of veterans and allow visitors to search for information on specific veterans.*

*On Veterans Day 2011, a time capsule was placed at Veterans Plaza. The capsule contains donated items that represent the Fort Collins community and veterans in general, and is buried at on the north side of the pedestal on which the statue stands. The genesis of this idea stems from former Fort Collins City Councilmember Diggs Brown who wanted to commemorate the veterans who have served the United States. This Resolution asks that a future Fort Collins City Council open the time capsule 100 years from now on Veterans Day 2111 with the media and community present as they were in 2011. “*

Josh Jones, City Manager Graduate Management Intern, discussed the history of the time capsule and Veteran's Plaza and stated the Resolution directs a future Fort Collins City Council to open the time capsule on Veterans Day, 2111.

Ray Martinez, 4121 Stoneridge Court, Veteran's Plaza Committee, thanked Council for following through with the Veterans Plaza project and recognized the importance of the time capsule.

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Troxell, to adopt Resolution 2012-032.

Councilmember Troxell commended the project and recognized former Councilmember Diggs Brown's inception of the idea.

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

THE MOTION CARRIED.

**Ordinance No. 034, 2012,  
Amending Section 26-464 of the City Code to Establish a Medical  
Assistance Program for Electric Customers, Adopted on Second Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

*The Medical Assistance Program is a pilot program which is aimed at providing financial assistance for customers who are in the tiered residential electric rate class and who have electrical durable medical equipment in their household. The program is focused on providing a discount to qualifying customers by reducing the cost associated with the electrical needs of durable medical equipment. The program also provides a discount for those eligible customers with qualifying medical conditions who use air conditioning during the summer billing months. The pilot program will include an income limitation of 60% of the Area Median Income. The amount of the discount is consistent with 150 kWh per month of electric energy usage to those customers with durable medical equipment and consistent with an additional 350 kWh per month of electric energy usage for those with qualifying medical conditions who use air conditioning during the summer billing months. Staff will prepare a report for the City Council on the first year of the pilot program before June 2013.*

*This Ordinance was adopted on First Reading by a vote of 5-1 (Nays: Troxell; Kottwitz absent). On Second Reading, the Ordinance has been amended in the following ways:*

- One of the recital clauses has been amended to reference increased wholesale energy costs as the basis for the assistance program and another recital clause is deleted.*
- The Code language has been re-worded and reformatted to actually establish the discounted rates, rather than simply stating the maximum amounts of the discounts, and to clarify that the discounts may apply either to electrical durable medical equipment or air conditioning, or both, depending upon which is medically necessary for that particular customer.”*

Lance Smith, Utilities Strategic Financial Planning Manager, discussed the pilot program details. Changes made since First Reading include a note that increased wholesale energy costs are part of the basis for the program; the discount is rate based and is pro-rated based on usage; and a statement that the discount is consistent with expected usage for durable medical equipment of 150 kilowatt hours per month and air conditioning of 350 kilowatt hours per month.

Lori Clements, Customer Support Manager, stated customers who have specifically inquired about this program will continue to be contacted as well as other organizations serving affected populations.

Eric Sutherland, 3520 Golden Currant, opposed the details of the program and stated it invites abuse and is not what was requested.

Holly (no last name given), Highlands Ranch resident, spoke representing Colorado Citizens Smart Meter Awareness, asked how this program will function once the AMI system is installed.

Brian Janonis, Utilities Executive Director, stated a new evaluation of rate structures, including possibly time of use rates, will be considered once the AMI system is installed at the end of 2013.

Councilmember Troxell asked how this program will be applied should time of use rates be implemented. Janonis replied this program would need to be modified as it involves a specific rate schedule. This pilot program will be evaluated before June 2013.

Councilmember Manvel noted the pilot program will provide a great deal of insight into the number of users and the effectiveness of the program.

Mayor Pro Tem Ohlson asked if a combination of total consumption and time of use rates could be an option. Janonis replied tiered time of use rates do exist and staff will provide several options for Council to consider after the implementation of the AMI program.

Mayor Weitkunat discussed a memo from the Women's Commission which questioned the income limitation of 60% of the average area median income and suggested tapering off assistance rather than stopping at a set point. The Commission also asked if the self-sufficiency standard for Larimer County was considered.

Smith stated the income threshold was determined based on what has been used for housing and utility assistance, which are typically about 150% of the federal poverty level. The 60% of the area median income represents 185% of the federal poverty level. He stated he is unfamiliar with the self-sufficiency scale but noted there is a financial appeal that can be made to participate in the program.

Janonis stated a payment assistance program also exists for hardship cases. Clements noted the program is funded by other customers who donate money to aid customers who are in danger of having power turned off. Additionally, the City works with public assistance organizations to help people in need.

Mayor Weitkunat asked that staff address the Women's Commission's concern relating to assistance for those in the second and third tiers. Smith replied the assistance could have been staggered over more than one tier, but ultimately the assistance is going to be reached by more customers if it is in the first tier rather than the second or third tiers. The air conditioning assistance does span the first and second tiers.

Councilmember Manvel noted a gradual tapering of assistance could be preferable; however, the simplicity and practicality of the 60% figure is more reasonable.

Councilmember Horak made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 034, 2012, on Second Reading.

Councilmember Manvel stated 80% of utility bills will be lower under tiered rates and this Ordinance shows sensitivity to address the higher rates for populations in need, which would have occurred with or without tiered rates.

Councilmember Troxell stated he would not support the motion as the program was developed without a need and he suggested the tiered rates are going to present a problem in the summer.

Councilmember Manvel noted this debate is not about tiered rates but is about a medical assistance program. There is a utility expense challenge in this community and individuals with medical necessity deserve this assistance. He urged Councilmember Troxell to support the motion.

Councilmember Troxell noted the payment assistance program was never explored as an option to aid in payments for those with medical equipment needs.

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

THE MOTION CARRIED.

**Ordinance No. 033, 2012,  
Amending Chapter 26 of the City Code to Allow for  
On-Bill Utility Financing, Adopted on Second Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

*This Ordinance, unanimously adopted on First Reading on April 17, 2012, revises language in Chapter 26 of the City Code to enable Utilities to provide financing and on-bill servicing of loans for energy efficiency, water efficiency and renewable energy projects. Utilities is proposing to pilot a new program element for 2012, providing on-bill financing for residential customers participating in the Home Efficiency Program, the Solar Rebate Program and for customers who need to repair or replace a water supply line. The primary goal of the on-bill financing pilot is to facilitate more efficiency upgrades in the residential sector. These upgrades reduce our need for future energy resources, reduce our environmental footprint, promote local economic health by investing in our built environment and improve the health, comfort and safety of our homes.”*

Eric Sutherland, 3520 Golden Currant, stated the money spent by the City on energy efficiency programs is being misspent and he opposed the program.

Councilmember Horak made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 033, 2012, on Second Reading. Yeas: Weitkumat, Manvel, Ohlson, Poppaw, Horak and Troxell.  
Nays: none.

THE MOTION CARRIED.

**Other Business**

Mayor Pro Tem Ohlson asked about a photo sent to Council by Gary Wockner showing new fencing along the Poudre River. He requested information regarding what is allowed by easements and the ways in which impacts are minimized for those holding easements. City Manager Atteberry replied he would return with additional information.

Councilmember Horak discussed a packet of information he received which referenced housing impacts around the CSU campus. He stated those individuals have suggested a moratorium or examination of the Code regarding density. He suggested Council examine the density issues in the near future and requested a staff response to the materials submitted.

Councilmember Horak received support from multiple Councilmembers and City Manager Atteberry stated he would provide a response to Council.

*May 1, 2012*

**Adjournment**

The meeting adjourned at 8:10 p.m.

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Mayor

ATTEST:

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Interim City Clerk

**May 15, 2012**

**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, May 15, 2012, 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: Manvel, Ohlson, Poppaw, Troxell and Weitkunat. (Councilmember Kottwitz arrived at 6:05 p.m.)

Councilmembers Absent: Horak

Staff Members Present: Atteberry, Harris, Roy.

Mayor Weitkunat recognized the graduates of the 2012 City Works 101 class.

**Agenda Review**

City Manager Atteberry noted there is a public hearing for Item No. 12, *Hearing and First Reading of Ordinance No. 042, 2012, Amending the Zoning Map of the City and Classifying for Zoning Purposes the Property Included in the Wild Plum Farm Annexation Numbers 1 and 2 to the City of Fort Collins, Colorado*, and stated anyone wishing to address the item specifically could pull it from the Consent Calendar.

**Citizen Participation**

Mel Hilgenberg, 172 North College, thanked Council for providing the City Works 101 program and stated he would like to tour Halligan Reservoir. Mr. Hilgenberg announced the next Fort Collins Symphony performance. He suggested naming City alleys after Will Schwartz, Otto Warner, and Gil Hilgenberg. He opposed the on-campus stadium and supported the downtown hotel as a partnership between entities.

Thomas Edwards, Fort Collins Bicycle Coalition, discussed a lack of bicycle parking at City Hall. He opposed a student organized underwear run.

Bob Overbeck, 302 Parker Street, opposed the on-campus stadium and supported placing a referendum on the ballot.

Carl Patton, 619 Skysail Lane, supported placing a referendum opposing the on-campus stadium on the November ballot.

Monte Barry, 415 South Howes, opposed the City providing economic incentives to Avago.

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

Mayor Weitkunat noted a citizen-initiated ballot referendum could be used by the on-campus stadium opponents.

City Manager Atteberry stated he would look into the bicycle parking issue at City Hall.

### **CONSENT CALENDAR**

6. Second Reading of Ordinance No. 035, 2012, Appropriating Unanticipated Grant Revenue in the General Fund and Authorizing the Transfer of Appropriated Amounts Between Accounts and Projects for the Multi-jurisdictional Northern Colorado Drug Task Force.

This Ordinance, unanimously adopted on First Reading on May 1, 2012, appropriates three grant awards received from the Office of National Drug Control Policy and the Department of Justice in the amount of \$201,579 for the operation of the Northern Colorado Drug Task Force to help fund the investigation of illegal narcotics activities in Larimer County. Also, \$142,784 will be transferred from the NCDTF forfeiture reserve account to the City of Fort Collins General Fund to establish the 2012 annual operating budget for expenses that are not grant funded.

7. Second Reading of Ordinance No. 036, 2012, Appropriating Additional Unanticipated Grant Revenue in the General Fund for the Exterior Preservation and Reconstruction of the Avery Building at the Intersection of College and Mountain Avenues.

Unexpected costs, including higher bid prices and additional work requested by the owner, have resulted in the Avery Building restoration and renovation project costing more than originally provided for. The original cost of \$430,270 was funded by a State Historic Fund grant for \$215,135, matched by an equal amount provided by the property owner, Avery Building, LLC. This Ordinance, unanimously adopted on First Reading on May 1, 2012, appropriates additional revenue in the amount of \$220,000 provided by the property owner to the City to cover the additional costs. The award-winning project is nearing completion, and is expected to be finished at the end of May 2012.

8. Second Reading of Ordinance No. 037, 2012, Authorizing the Conveyance of a Permanent, Non-Exclusive Utility Easement on City Parks Property to Maple Hill Master Association.

In April 2004, the City of Fort Collins Parks Department acquired Tract I, Maple Hill, located in northeast Fort Collins, near Turnberry and Country Club Road. The City purchased this tract for a future public neighborhood park as well as for access, drainage and utility easements. This Ordinance, unanimously adopted on First Reading on May 1, 2012, authorizes the conveyance of a utility easement for an eight-foot wide irrigation easement through the corner of Tract I to Maple Hill Homeowners Association.

9. Second Reading of Ordinance No. 038, 2012, Annexing Property Known as the Wild Plum Farm Annexation No. 1.

Ordinance No. 038, 2012, unanimously adopted on First Reading on May 1, 2012, annexes 0.64 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed and is in the FA – Farming Zone District in Larimer County. The surrounding properties are currently zoned FA – Farming in the Larimer County to the north, west and south; and, Urban Estate in the City (Lincoln Middle School) to the east. The zoning ordinance is being considered on First Reading on May 15, 2012.

10. Second Reading of Ordinance No. 040, 2012, Annexing Property Known as the Wild Plum Farm Annexation No. 2.

Ordinance No. 040, 2012, unanimously adopted on First Reading on May 1, 2012, annexes 3.32 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed and is in the FA - Farming District in Larimer County. The surrounding properties are currently zoned FA – Farming in the Larimer County to the north, west and south; and, Urban Estate in the City (Lincoln Junior High School) to the east. The zoning ordinance is being considered on First Reading on May 15, 2012.

11. First Reading of Ordinance No. 041, 2012, Appropriating Unanticipated Revenue in the Street Oversizing Fund, Authorizing the Transfer of Existing Appropriations in the Street Oversizing Fund for Transfer to the Capital Projects Fund, Appropriating Unanticipated Revenue in the Capital Projects Fund for the Turnberry Road Improvements Project, and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program.

With the development of the Maple Hill, Brightwater Landings, and Richards Lake subdivisions, arterial street improvements are planned for Turnberry Road between Country Club Road and Brightwater Drive. Each of these subdivisions is required to construct local street improvements along their respective Turnberry Road frontages. These improvements have now been incorporated into a larger, City managed project to construct a new two lane arterial roadway east of the existing roadway between Country Club Road and Brightwater Drive. In addition, a pedestrian underpass for a City Parks Trail will be constructed under Turnberry Road as part of this project. The project will also relocate and upgrade utility infrastructure, including the installation of stormsewer and street light improvements as per the approved development plans. Except for the pedestrian underpass which is funded by the Parks Planning Department and the relocation of a water main funded by the East Larimer County (ELCO) Water District, the project will be funded through developer contributions and the Street Oversizing Program. The improvements are in accordance with both the Master Street Plan and the Mountain Vista Subarea Plan



12. Hearing and First Reading of Ordinance No. 042, 2012, Amending the Zoning Map of the City and Classifying for Zoning Purposes the Property Included in the Wild Plum Farm Annexation Numbers 1 and 2 to the City of Fort Collins, Colorado.

This is a request to zone 3.96 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed with an existing single family residence and horse boarding stable and is in the FA – Farming Zone District in Larimer County. The surrounding properties are currently zoned FA – Farming in the Larimer County to the north, west and south; and, Urban Estate in the city (Lincoln Middle School) to the east. The requested zoning for these annexations is Urban Estate. Horse boarding facilities are an allowed use in the Urban Estate zone district.

Staff is recommending that this property be included in the Residential Neighborhood Sign District. A map amendment will not be necessary as this property is already in the District. The “Residential Neighborhood Sign District” was established for the purpose of regulating signs for nonresidential uses in certain geographical areas of the city which may be particularly affected by such signs because of their predominantly residential use and character.

Additionally, as a condition on the requested Urban Estate zoning, staff is recommending the restrictions placed on the property at the County’s Special Review hearing are carried over as restrictions on the horse boarding facility use within the city.

13. First Reading of Ordinance No. 043, 2012, 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 appropriates \$43,319 for 2012 Cultural Development and Programming (CDP1) activities and \$145,407 for the Convention and Visitors Bureau (CVB) from unanticipated revenues and unspent appropriations in the General Fund Lodging Tax Reserves. Approximately \$908,908 in Lodging Tax revenue was collected in 2011 that was distributed to the CDP (70%), CVB (25%) and Visitor Events (CDP2)(5%). After 2011 expenditures and miscellaneous revenue, there is unanticipated revenue and unspent appropriations of \$43,319 for CDP and \$145,407 for CVB available for activities in 2012.

14. Resolution 2012-033 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.

15. Resolution 2012-034 Authorizing the Lease of a Portion of City-Owned Property Located at 200 West Mountain Avenue, Suite B, For Up to Two Years As Part of the Fort Collins Public Access Network (FC-PAN).

FC-PAN is the City’s designated public access provider. One of their responsibilities, as required by the City, is to provide and operate a Community Media Center. City Council

approved the leasing of this space to FC-PAN in 2008 and in 2010, each for a two year term. In lieu of rent, FC-PAN pays the utilities for its space (449 square feet).

16. Routine Deed and Easement.

Right of Way Dedication for additional right-of-way and a Grant and Dedication of a Slope Easement both from The North Poudre Irrigation Company for the South Timberline Road Street Oversizing Project at South Timberline Road and North or Carpenter Road.

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

Ordinances on Second Reading were read by title by Interim City Clerk Harris.

6. Second Reading of Ordinance No. 035, 2012, Appropriating Unanticipated Grant Revenue in the General Fund and Authorizing the Transfer of Appropriated Amounts Between Accounts and Projects for the Multi-jurisdictional Northern Colorado Drug Task Force.
7. Second Reading of Ordinance No. 036, 2012, Appropriating Additional Unanticipated Grant Revenue in the General Fund for the Exterior Preservation and Reconstruction of the Avery Building at the Intersection of College and Mountain Avenues.
8. Second Reading of Ordinance No. 037, 2012, Authorizing the Conveyance of a Permanent, Non-Exclusive Utility Easement on City Parks Property to Maple Hill Master Association.
9. Second Reading of Ordinance No. 038, 2012, Annexing Property Known as the Wild Plum Farm Annexation No. 1.
10. Second Reading of Ordinance No. 040, 2012, Annexing Property Known as the Wild Plum Farm Annexation No. 2.

Ordinances on First Reading were read by title by Interim City Clerk Harris.

11. First Reading of Ordinance No. 041, 2012, Appropriating Unanticipated Revenue in the Street Oversizing Fund, Authorizing the Transfer of Existing Appropriations in the Street Oversizing Fund for Transfer to the Capital Projects Fund, Appropriating Unanticipated Revenue in the Capital Projects Fund for the Turnberry Road Improvements Project, and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program.
12. Hearing and First Reading of Ordinance No. 042, 2012, Amending the Zoning Map of the City and Classifying for Zoning Purposes the Property Included in the Wild Plum Farm Annexation Numbers 1 and 2 to the City of Fort Collins, Colorado.
13. First Reading of Ordinance No. 043, 2012, 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.

21. Items Relating to the Completion of the 2012 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing Funds from the Federal Community Development Block Grant (CDBG) Program and the City's Human Services Program.
  - B. Hearing and First Reading of Ordinance No. 044, 2012, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Community Development Block Grant Fund.
  - D. Hearing and First Reading of Ordinance No. 045, 2012, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Home Investment Partnership Fund.
22. Items Relating to Rebates of Property Taxes, Sales Tax on Food, and Utilities.
  - A. First Reading of Ordinance No. 046, 2012, Amending Certain Sections of Chapter 25 of the City Code Relating to the City's Property Tax Rebate.
  - B. First Reading of Ordinance No. 047, 2012, Amending Certain Sections of Chapter 25 of the City Code Relating to the Rebate of the City's Sales Tax on Food.
23. First Reading of Ordinance No. 048, 2012 Establishing a Moratorium on the Acceptance or Processing of Land Use Applications, Permit Applications, and Other Applications Seeking Approval to Conduct Oil and Gas Extraction or Related Operations Within the City.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt and approve all items on the Consent Calendar. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

### **Staff Reports**

City Manager Atteberry stated a presentation will be given at a later point in the meeting regarding the Project Homeless Connect project.

### **Councilmember Reports**

Mayor Pro Tem Ohlson reported he participated in the Aggie Greens Disc Golf Course grand opening.

### **Items Relating to the Completion of the 2012 Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Activities Utilizing Funds from the Federal Community Development Block Grant (CDBG) Program and the City's Human Services Program**

The following is staff's memorandum for this item.

**“EXECUTIVE SUMMARY**

- A. *Hearing and Resolution 2012-035 Approving the Programs and Projects that Will Receive Funds from the Federal Community Development Block Grant Program and the City’s Human Services Program. (Three Options for Section 2)*
- B. *Hearing and First Reading of Ordinance No. 044, 2012, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Community Development Block Grant Fund.*
- C. *Public Hearing and Resolution 2012-036 Approving the Fiscal Year 2012 Administration and Project Budgets for the Home Investment Partnership Program.*
- D. *Hearing and First Reading of Ordinance No. 045, 2012, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Home Investment Partnership Fund.*

*Resolution 2012-035 will complete the 2012 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, 2012. Ordinance No. 044, 2012, appropriates the City’s FY 2012 CDBG Entitlement Grant from the Department of Housing and Urban Development (HUD). Resolution 2012-036 establishes the major funding categories within the HOME Program for the FY 2012 program year, which also starts on October 1, 2012. Specific projects for the use of HOME funds will be determined in November as a result of the 2012 fall cycle of the competitive process. Ordinance No. 045, 2012, appropriates the City’s FY 2012 HOME Participating Jurisdiction Grant from HUD.*

**BACKGROUND / DISCUSSION**

*Resolution 2012-035 establishes which programs and projects will receive funding with CDBG funds for the FY 2012 program year (including the Entitlement Grant, Program Income, and Unprogrammed funds), which starts on October 1, 2012; and which programs will receive funding from the City’s 2012 Human Services Program, including an allocation of Keep Fort Collins Great (KFCG) funds. 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 and City funds for distribution during the 2012 spring cycle of the competitive process:*

<i>Available Funding</i>	
<i>AMOUNT</i>	<i>SOURCE</i>
<i>\$977,729</i>	<i>FY 2012 CDBG Entitlement Grant</i>
<i>67,436</i>	<i>FY 2011 CDBG Program Income</i>
<i>28,750</i>	<i>FY 2011 Unprogrammed CDBG Funds</i>
<i>389,601</i>	<i>2012 City Human Services Program</i>
<i>150,733</i>	<i>2012 City Human Services Program</i>
<b><i>\$1,614,248</i></b>	<b><i>Total Funding Available</i></b>

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.

The FY 2012 CDBG Entitlement Grant and FY 2011 CDBG Program Income totals \$1,045,164. HUD regulations limit a maximum of 20% of these funds, or \$209,032, for planning and program administrative purposes. The FY 2011 Unprogrammed CDBG funds cannot be used in the calculation for planning and administrative purposes because they were subjected to the calculation for the FY 2011 program year. The following table summarizes the amount and sources of available funds for planning projects and CDBG Program administrative costs:

<b>Funding for Planning and CDBG Program Administration</b>	
<b>AMOUNT</b>	<b>SOURCE</b>
\$195,545	20% of the FY 2012 CDBG Entitlement Grant
13,487	20% of FY 2011 CDBG Program Income
<b>\$209,032</b>	<b>Total Funding Available for Planning and CDBG Program Administration</b>

HUD regulations limit a maximum of 15% of the FY 2012 CDBG funds and FY 2011 CDBG Program Income, or \$156,774 for use in the Public (Human) Services category. The City's 2012 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 \$697,108 of available funding in the Public (Human) Services category. The FY 2011 Unprogrammed CDBG funds can not be used in the calculation for public service purposes because they were subjected to the calculation for the FY 2011 program year. The following table summarizes the amount and sources of available funds for public/human service proposals:

<b>Funding for Public (Human) Services</b>	
<b>AMOUNT</b>	<b>SOURCE</b>
\$146,659	15% of the FY 2012 CDBG Entitlement Grant
10,115	15% of FY 2011 CDBG Program Income
389,601	2012 City Human Services Program
150,733	2012 City Human Services KFCG Funds
<b>\$697,108</b>	<b>Total Funding Available for Public/Human Services Proposals</b>

Considering the set-asides for Planning and Administration and Public (Human) Services presented above, the balance of the FY 2012 CDBG Entitlement Grant and FY 2011 CDBG Program Income amounts, or \$679,358, plus \$28,750 of unprogrammed FY 2011 CDBG funds provide an amount of \$708,108 available for allocation to affordable housing and public facility proposals. The following table summarizes the amount and sources of available funds for affordable housing and public facility proposals:

<b>Funding for Affordable Housing and Public Facilities</b>	
<b>AMOUNT</b>	<b>SOURCE</b>
\$635,524	FY 2012 CDBG Entitlement Grant
\$43,834	FY 2011 CDBG Program Income
\$28,750	FY 2011 Unprogrammed CDBG Funds
<b>\$708,108</b>	<b>Total Funding Available for Affordable Housing Proposals</b>

The City received 30 applications for funding (not counting one affordable housing proposal which was subsequently withdrawn by the applicant) and a staff administration request as part of the 2012 spring cycle of the competitive process requesting a total of \$1,745,240. The total amount of funds available from all sources is \$1,614,248. The total of application requests is, thus, about \$131,000 more than the amount of available funding. Also, HUD regulation limitations within the Public Services category results in a total of \$307,100 more in requests than available funds for the category. Unfortunately, funds in the Planning and Administration and Affordable Housing and Public Facility categories cannot 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.

<b>Category</b>	<b>Number of Applications</b>	<b>Requested Funding</b>	<b>Available Funding</b>	<b>Request-Available Difference</b>
<i>Affordable Housing &amp; Public Facilities</i>	2	\$532,000	\$708,108	\$176,108
<i>Public Services</i>	28	1,004,208	697,108	-307,100
<i>Administration</i>		209,032	209,032	0
<b>Totals</b>	30	\$1,745,240	\$1,614,248	-\$130,992

**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 2012 is \$1,073,914. 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 \$325,047 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 services programs contribute to economic sustainability by providing such programs as job training and child care, so workers can maintain their employment and housing situations.

The City of Fort Collins sees its Competitive Process dollars as an investment in community sustainability. Social sustainability is an important part of that triple bottom line decision making. Funds allocated provide dollars that leverage other funding to support important programs and projects. The City does not view itself as a human services or affordable housing agency, but rather a community partner working in team with others in addressing these critical sustainability dynamics. Funds are strategically allocated to areas of service and funding gaps. Key focus areas are: basic health and safety (emergency food, shelter, etc.); programs that serve vulnerable populations (homebound seniors, persons with HIV/AIDS); empowerment or poverty intervention/prevention programs (job training, self-sufficiency); and programs that decrease

immediate or long-term community cost or impact or multiply benefits back over the long-term (early childhood education and child care, homelessness prevention).

In terms of citizen surveys, results that citizens want, and Council policy priorities, Competitive Process funding is a foundational building block. Empowered and stabilized families and households contribute to thriving neighborhoods. Higher quality neighborhoods lead to a more sustainable, healthy community in all aspects.

**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.

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.

**BOARD / COMMISSION RECOMMENDATION**

The CDBG Commission presents recommendations as to which programs and projects should receive funding from the available funding sources presented above, including CDBG funds and the Human Services Program (HSP). The following tables present the allocations recommended by the Commission to the City Council within each major category:

<b>Planning and Administration Category</b>				
<b>Applicant Project/Program</b>	<b>Request and Recommendation</b>	<b>Source(s) of Funding</b>	<b>Unfunded Balance</b>	<b>Percent of Request Funded</b>
AD-1 City of Fort Collins CDBG Administration	Request \$209,032  Recommendation \$209,032	\$195,545 FY 2012 CDBG Entitlement Grant \$13,487 CDBG Program Income	\$0	100%

<b>Affordable Housing and Public Facility Category</b>				
<b>Applicant Project/Program</b>	<b>Request and Recommendation</b>	<b>Source(s) of Funding</b>	<b>Unfunded Balance</b>	<b>Percent of Request Funded</b>
HO-1 Fort Collins Housing Authority	Request \$455,000	\$250,524 FY 2012 CDBG Entitlement Grant	\$131,892	71%

<b>Affordable Housing and Public Facility Category</b>				
<b>Applicant Project/Program</b>	<b>Request and Recommendation</b>	<b>Source(s) of Funding</b>	<b>Unfunded Balance</b>	<b>Percent of Request Funded</b>
(FCHA): Supportive Housing	Recommendation \$323,108	\$43,834 FY 2011 CDBG Program Income \$28,750 FY 2011 CDBG Unprogrammed Funds		
PF-1 Disabled Resource Services (DRS): Robertson Building Purchase	Request \$77,000  Recommendation \$385,000	\$385,000 FY 2012 CDBG Entitlement Grant	\$0	500%

All funding recommendations in the Affordable Housing and Public Facility category are in the form of a "Due on Sale Loan + 5% Simple Interest."

<b>Public (Human) Service Category</b>				
<b>Applicant Project/Program</b>	<b>Request and Recommendation</b>	<b>Source(s) of Funding</b>	<b>Unfunded Balance</b>	<b>Percent of Request Funded</b>
PS-1 Alliance for Suicide Prevention: Education & Awareness Programs	Request \$3,000  Recommendation \$3,000	\$3,000 (HSP Grant)	\$0	100%
PS-2 B.A.S.E. Camp: Childcare Scholarships	Request \$59,000  Recommendation \$50,000	\$50,000 (CDBG Entitlement Grant)	\$9,000	85%
PS-3 Boys & Girls Club: After- school and School- break Child Care and Youth Program	Request \$22,566  Recommendation \$22,566	\$22,566 (HSP Grant)	\$0	100%
PS-4 CASA: Program Support	Request \$12,995  Recommendation \$0	\$0	\$12,995	0%



<b>Public (Human) Service Category</b>				
<b>Applicant Project/Program</b>	<b>Request and Recommendation</b>	<b>Source(s) of Funding</b>	<b>Unfunded Balance</b>	<b>Percent of Request Funded</b>
<i>PS-5 Catholic Charities: Senior Outreach</i>	<i>Request \$15,000</i>  <i>Recommendation \$15,000</i>	<i>\$4,659 (CDBG Entitlement Grant) \$10,115 (CDBG Program Income) \$226 (HSP KFCG Grant)</i>	<i>\$0</i>	<i>100%</i>
<i>PS-6 Catholic Charities: the Mission and Supportive Services</i>	<i>Request \$60,000</i>  <i>Recommendation \$40,000</i>	<i>\$40,000 (CDBG Grant)</i>	<i>\$20,000</i>	<i>67%</i>
<i>PS-7 Center for Family Outreach: Low- Income Youth Scholarships</i>	<i>Request \$7,020</i>  <i>Recommendation \$7,020</i>	<i>\$7,020 (HSP Grant)</i>	<i>\$0</i>	<i>100%</i>
<i>PS-8 Childsafe Research &amp; Treatment Foundation: Child Abuse Treatment Program</i>	<i>Request \$20,000</i>  <i>Recommendation \$12,000</i>	<i>\$11,106 (HSP Grant) \$894 (HSP KFCG Grant)</i>	<i>\$8,000</i>	<i>60%</i>
<i>PS-9 Colorado Health Network – NCAP: Client Services &amp; Homeless Prevention</i>	<i>Request \$25,000</i>  <i>Recommendation \$15,000</i>	<i>\$15,000 (HSP Grant)</i>	<i>\$10,000</i>	<i>60%</i>
<i>PS-10 Crossroads Safehouse: Advocacy Program</i>	<i>Request \$99,216</i>  <i>Recommendation \$39,853</i>	<i>\$39,853 (HSP KFCG Grant)</i>	<i>\$59,363</i>	<i>40%</i>
<i>PS-11 Disabled Resource Services (DRS): Access to Independence (ATI) Program</i>	<i>Request \$33,065</i>  <i>Recommendation \$23,370</i>	<i>\$22,000 (CDBG Grant) \$1,370 (HSP Grant)</i>	<i>\$9,695</i>	<i>71%</i>

<b>Public (Human) Service Category</b>				
<b>Applicant Project/Program</b>	<b>Request and Recommendation</b>	<b>Source(s) of Funding</b>	<b>Unfunded Balance</b>	<b>Percent of Request Funded</b>
<i>PS-12 Education and Life Training Center (ELTC): Employment Skills Training</i>	<i>Request</i> \$24,500  <i>Recommendation</i> \$20,000	<i>\$20,000</i> <i>(HSP Grant)</i>	<i>\$4,500</i>	<i>82%</i>
<i>PS-13 Elderhaus: Mindset Therapy Center Activity Program</i>	<i>Request</i> \$23,592  <i>Recommendation</i> \$10,800	<i>\$10,800</i> <i>(HSP Grant)</i>	<i>\$12,792</i>	<i>46%</i>
<i>PS-14 Family Center: Childcare Scholarships</i>	<i>Request</i> \$45,000  <i>Recommendation</i> \$35,000	<i>\$35,000</i> <i>(HSP Grant)</i>	<i>\$10,000</i>	<i>78%</i>
<i>PS-15 Food Bank for Larimer County: Kids Café Program</i>	<i>Request</i> \$27,000  <i>Recommendation</i> \$21,407	<i>\$21,407</i> <i>(HSP Grant)</i>	<i>\$5,593</i>	<i>79%</i>
<i>PS-16 Homelessness Prevention Initiative (HPI): Rental Assistance</i>	<i>Request</i> \$50,000  <i>Recommendation</i> \$45,000	<i>\$45,000</i> <i>(HSP KFCG Grant)</i>	<i>\$5,000</i>	<i>90%</i>
<i>PS-17 Larimer Center for Mental Health (LCMH): Community Dual Disorders Treatment (CDDT) Program</i>	<i>Request</i> \$37,884  <i>Recommendation</i> \$28,380	<i>\$28,380</i> <i>(HSP Grant)</i>	<i>\$9,504</i>	<i>75%</i>
<i>PS-18 Larimer Center for Mental Health (LCMH): Emergency Mental Health Services</i>	<i>Request</i> \$24,000  <i>Recommendation</i> \$10,000	<i>\$10,000</i> <i>(HSP KFCG Grant)</i>	<i>\$14,000</i>	<i>42%</i>
<i>PS-19 Matthews House: Transition Program</i>	<i>Request</i> \$31,500  <i>Recommendation</i> \$27,000	<i>\$27,000</i> <i>(HSP Grant)</i>	<i>\$4,500</i>	<i>86%</i>

<b>Public (Human) Service Category</b>				
<b>Applicant Project/Program</b>	<b>Request and Recommendation</b>	<b>Source(s) of Funding</b>	<b>Unfunded Balance</b>	<b>Percent of Request Funded</b>
<i>PS-20 Neighbor to Neighbor (N2N): Housing Counseling</i>	<i>Request \$69,205  Recommendation \$29,760</i>	<i>\$29,760 (HSP KFCG Grant)</i>	<i>\$39,445</i>	<i>43%</i>
<i>PS-21 Neighbor to Neighbor (N2N): Rent Assistance</i>	<i>Request \$30,000  Recommendation \$25,000</i>	<i>\$25,000 (HSP KFCG Grant)</i>	<i>\$5,000</i>	<i>83%</i>
<i>PS-23 Rehabilitation and Visiting Nurse Association (RVNA): Home Health Care Scholarships</i>	<i>Request \$40,000  Recommendation \$33,450</i>	<i>\$33,450 (HSP Grant)</i>	<i>\$6,550</i>	<i>84%</i>
<i>PS-24 Respite Care: Childcare Scholarships</i>	<i>Request \$32,000  Recommendation \$30,000</i>	<i>\$30,000 (CDBG Grant)</i>	<i>\$2,000</i>	<i>94%</i>
<i>PS-25 Turning Point: Crisis Intervention Program</i>	<i>Request \$25,000  Recommendation \$17,500</i>	<i>\$17,500 (HSP Grant)</i>	<i>\$7,500</i>	<i>70%</i>
<i>PS-26 (UDCC) Teaching Tree – Childcare Scholarships</i>	<i>Request \$60,000  Recommendation \$50,000</i>	<i>\$50,000 (HSP Grant)</i>	<i>\$10,000</i>	<i>83%</i>
<i>PS-27 Volunteers of America (VOA): Nutrition Services</i>	<i>Request \$39,200  Recommendation \$29,200</i>	<i>\$29,200 (HSP Grant)</i>	<i>\$10,000</i>	<i>74%</i>
<i>PS-28 Women’s Resource Center (WRC): Dental Connections</i>	<i>Request \$55,465  Recommendation \$34,802</i>	<i>\$34,802 (HSP Grant)</i>	<i>\$20,663</i>	<i>63%</i>

A summary of the Commission's funding recommendations by category is presented in the following table:

<b>Recommended Funding</b>	<b>% of Total</b>	<b>Category</b>
\$708,108	43.9%	<i>Affordable Housing and Public Facility</i>
697,108	43.2%	<i>Public Services</i>
209,032	12.9%	<i>CDBG Administration</i>
<b>\$1,614,248</b>	<b>100.0%</b>	<b>Total</b>

The CDBG Commission has recommended all (100%) of the available funding amount of \$1,614,248 be allocated. The Commission has recommended that the affordable housing proposal receive 71% of its funding request and that the public service proposal receive 500% of its funding request. While recommending that an applicant receive more funding than what was requested is unusual, it is not unprecedented. In 2002, the City Council followed the Commission's recommendation and allocated over \$299,000 to the City's Home Buyer Assistance Program which initially requested \$250,000. The Commission has recommended that 4 of the 28 public service proposals receive full funding; 23 proposals receive partial funding (ranging from 40% to 94%); and 1 proposal to receive no funding. The justifications for the Commission's recommendations can be found in Attachment 5, Minutes of the April 12, 2012, meeting.

**PUBLIC OUTREACH**

HUD regulations require a 30-day public comment period on the proposed allocation of CDBG funds as recommended by the CDBG Commission. Staff placed an ad in the Coloradoan newspaper presenting the list of recommended funding for programs/projects and indicated the public comment period would start on April 16, 2012, and end on May 15, 2012. The Fort Collins Housing Authority has challenged the Commission's recommendation for reduced funding for the Authority's Supportive Housing project (letter attached). Conversely, Disabled Resource Services was thankful for the recommendation for building purchase that it received (letter attached). Staff has prepared the following options for Council's consideration:

**OPTION 1: Maintain the CDBG Commission's funding recommendations.**

***FY 2012 CDBG Entitlement Grant***

\$250,524	<i>Fort Collins Housing Authority: Supportive Housing</i>
385,000	<i>Disabled Resource Services: Robertson Building Purchase</i>

***FY 2011 CDBG Program Income***

\$28,750	<i>Fort Collins Housing Authority: Supportive Housing</i>
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***FY 2011 CDBG Unprogrammed Funds***

\$28,750	<i>Fort Collins Housing Authority: Supportive Housing</i>
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Funding totaling \$323,108 would be allocated to the Fort Collins Housing Authority for its Supportive Housing project; and funding of \$385,000 would be allocated for Disabled Resource Services (DRS). Choosing this option would leave no remaining funding in this category.

**OPTION 2: Modify the funding recommendation of the CDBG Commission to increase funding for the FCHA and decrease funding for DRS.**

***FY 2012 CDBG Entitlement Grant***

\$455,000	<i>Fort Collins Housing Authority: Supportive Housing</i>
180,524	<i>Disabled Resource Services: Robertson Building Purchase</i>

***FY 2011 CDBG Program Income***

\$43,834	<i>Disabled Resource Services: Robertson Building Purchase</i>
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***FY 2011 CDBG Unprogrammed Funds***

\$28,750	<i>Disabled Resource Services: Robertson Building Purchase</i>
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*This option would increase the funding allocation for the Fort Collins Housing Authority's Supportive Housing project to the requested amount of \$455,000. Doing so would require a reduction in funds allocated for Disabled Resource Services new building purchase proposal to \$253,108. Choosing this option would leave no remaining funding in this category.*

*Note: Staff subsequently discussed Option 2 with DRS, and they are agreeable to the reduced amount (\$253,108) of funding. The reduced amount is \$176,108 over what DRS originally asked for (\$77,000).*

**OPTION 3: Modify the funding recommendations of the CDBG Commission to what was originally requested for both proposals.**

***FY 2012 CDBG Entitlement Grant***

\$455,000	<i>Fort Collins Housing Authority: Supportive Housing</i>
4,416	<i>Disabled Resource Services: Robertson Building Purchase</i>

***FY 2011 CDBG Program Income***

\$43,834	<i>Disabled Resource Services: Robertson Building Purchase</i>
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***FY 2011 CDBG Unprogrammed Funds***

\$28,750	<i>Disabled Resource Services: Robertson Building Purchase</i>
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*This option would allocate the funding as originally requested: \$455,000 for FCHA's Supportive Housing Project and \$77,000 for Disabled Resource Services building purchase. Choosing this option would mean the full amount of CDBG funds would be appropriated, but \$176,108 in CDBG funds would carry over to the fall 2012 Competitive Process cycle.*

*Some applicants were disappointed in what resulted in an average five to ten thousand dollar funding decrease from last year's allocations, but understood the realities of a three hundred thousand dollar shortfall on what was requested compared to what was available. Many agencies also been impacted by United Way funding cuts, and State and other funding reductions. In light of these challenges, many applicants expressed gratitude for anticipated City dollars, regardless of the amount.*

*The City received several phone calls and letters. An April 20, 2012, letter from CASA-Court Appointed Special Advocates (copy attached) expressing disappointment with the Commission's recommendation for no (\$0) funding for CASA's Program Support application, which requested \$12,995. Staff does not expect CASA to appeal to the Council for funding at the May 15 meeting. In order for the City to allocate any funding to CASA, a funding recommendation for another agency(s) would need to be reduced as the Commission has recommended all funds eligible for distribution to public/human service agencies be allocated.*

*The City also received a letter from Elderhaus regarding its reduced funding for the Mindset Therapy Center Activity Program (attached). Elderhaus was not critical of the Competitive Process and is not expected to formally contest the Commission's recommendation, but did make an impassioned plea for additional funding. Again, in order for the City to allocate additional funding to Elderhaus, a funding recommendation for another agency(s) would need to be reduced, as all funds available were allocated.*

**HOME Program**

*Resolution 2012-036 establishes the major funding categories within the HOME Program for the FY 2012 Program year, which starts on October 1, 2012. Specific projects for the use of HOME funds will be determined in November as a result of the 2012 fall funding cycle of the competitive process for the allocation of the City's financial resources to affordable housing programs/projects and community development activities. Overall HOME funding needing approval is \$743,833. This overall amount includes: the FY 2012 HOME Grant of \$542,507 and total FY 2011 Program Income of \$201,326. Of that, dollars available for HOME Program Administration equals \$57,556 (10% of Entitlement [\$54,250] and a portion [\$3,306] of HOME FY 2011 Program Income). After Administration costs, there is \$686,277 remaining, to be allocated to specific projects in the fall.*

*The following table summarizes the sources of HOME funding for FY 2012.*

<b>Amount</b>	<b>Source</b>
\$542,507	FY 2012 HOME Participating Jurisdictions Grant (\$54,250 for Administration)
201,326	FY 2011 HOME Program Income (\$3,306 for Administration)
\$743,833	Total

*In addition to the HOME funds above, \$325,047 from the City's Affordable Fund will be also available for allocation to affordable housing proposals in the fall cycle of the competitive process."*

Heidi Phelps, Advance Planning Department, discussed the grant application competitive process. She noted the Affordable Housing Board does not make specific funding level recommendations for projects. This agenda item, which also functions as a public hearing for federal regulatory purposes, is the final step in the funding decision making process. The funding, a total of just over \$1.6 million for the spring competitive process, comes from two primary sources: federal CDBG money and the City's Human Services Program funding. Phelps discussed the variances between the funds available and the funds requested and noted the three options being presented for Council consideration regarding Disabled Resource Services (DRS) funding. The first option is to maintain the Commission's recommendation to provide funding for DRS' entire building purchase and also to provide 71% of the Housing Authority's request. The second option involves modifying the

Commission's recommendation by fully funding the Housing Authority's request while still providing a significant level of funding for the DRS building purchase. The final option involves giving both agencies only their requested amounts and leaves carry-over money for the fall competitive process cycle in this category. Council will make the final funding decisions.

Kay Rios, Community Development Block Grant (CDBG) Commission Chairperson, discussed the competitive process and expressed concerns regarding the post-recommendation process. Ms. Rios discussed the Commission's recommendation to fully fund the DRS building purchase and requested the Council support the Commission's recommendations as formulated for both DRS and the Housing Authority.

David Jones, Touchstone Health Partners Program Supervisor, thanked Council for its consideration of funding assistance.

Mary Ann Paul, Crossroads Safehouse, commended staff in Advance Planning and thanked the CDBG Commission for its recommendation.

Laurie Klith, Center for Family Outreach Executive Director, thanked Council for its consideration of funding assistance and commended staff in Advance Planning for their assistance.

LeAnn Massey, Respite Care Executive Director, commended Advance Planning staff and thanked the CDBG Commission for its time. She commended the process and supported the Commission's funding recommendations.

David King, Disabled Resource Services Board of Directors Chairperson, supported the Commission-recommended Option 1 for the funding of Disabled Resource Services.

Nancy Jackson, Disabled Resource Services Executive Director, thanked the CDBG Commission for its recommendation and supported the Commission-recommended Option 1 for the funding of Disabled Resource Services.

Tedi Jansen, Base Camp representative, thanked Council for its consideration of funding assistance and discussed the importance of the Base Camp program.

Anne Lance, Teaching Tree Early Childhood Learning Center Executive Director, thanked Council for its consideration of funding assistance and commended the CDBG Commission and its process.

Tracy Mead, Education and Life Training Center Executive Director, commended staff, the CDBG Commission and its process, and requested funding support from Council.

Joanne Johnson, Elderhaus Adult Day Program Executive Director, thanked Council for its consideration of funding assistance and commended the CDBG Commission on its work.

Rose Luna, Elderhaus Adult Day Program, spoke on behalf of the citizens who are recipients of the Elderhaus programs and requested funding support from Council. Ms. Luna questioned the fact that some funding requests were over-funded while others were not funded at all.

Kathy Miner, Project Self Sufficiency Assistant Director, thanked the CDBG Commission, staff, and Council for past and continued support.

Glenn Good, Catholic Charities Director, requested funding for the shelter and senior programs operated by Catholic Charities.

Jerri Howe, Mathews House Executive Director, thanked the Advance Planning staff and CDBG Commission and discussed the purpose of the Mathews House in the community. She thanked Council for its consideration of funding assistance.

Mary Callan, The Family Center Development and Marketing Director, thanked Council for past and continued funding support and commended the CDBG Commission competitive process.

Sara Stieben, Child Safe Board of Directors President, thanked Council for its consideration of funding assistance.

Bill Stout, Women's Resource Center, thanked staff and CDBG Commission members and thanked Council for its consideration of funding assistance.

Councilmember Manvel noted the gratitude for the funding should be directed toward the federal government and taxpayers and commended staff and the CDBG Commission for work on the item. He asked about funding levels this year versus past years. Phelps replied last year saw \$800,000 in requests for \$600,000 of available funds; this year saw \$1 million in requests for about \$700,000 of available funds.

Councilmember Manvel asked about the funding request from the Housing Authority. Phelps replied there are varying opinions as to how its tax credit situation would be affected by funding in this cycle as opposed to the fall cycle.

Councilmember Poppaw stated she is a Commissioner on the Fort Collins Housing Authority, as appointed by Council. She stated the fall cycle would push the tax credit out to 2013 and would put the HUD grant application in jeopardy.

Mayor Weitkunat asked if there is a precedent to fund a building purchase at 100% using CDBG funds. Bob Browning, CDBG Commission Vice-Chairperson, replied he is not sure if a building has ever been completely funded. He stated the Commission believes it can both fully fund the building purchase and fund the initial Housing Authority request.

Phelps noted there is precedent for building purchases with the Respite Care building, the old Crossroads Safehouse building, and Sunshine School, which were all fully funded through the competitive process.

Mayor Pro Tem Ohlson commended the non-profit organizations doing work for the community. He asked if the Housing Authority project will be in danger without complete funding. Phelps replied there are differing interpretations of facts with regard to the issue. At the end of April, staff discovered the Housing Authority had secured a site for its project and requested the financials of the project to help in understanding the gap in the funding request. At that time, staff was told financials would not be available for another two weeks, which would be tomorrow.



Mayor Pro Tem Ohlson asked what recommendation staff would have on the item. Phelps replied it would be inappropriate for staff to make a recommendation as staff sometimes acts as an applicant in the competitive process. However, as staff is not an applicant in this season's process, Phelps stated the process was fair and the Commission made a thoughtful and deliberate decision based on information it had at the time and staff would support Option 1 as it upholds the integrity of the process.

Mayor Pro Tem Ohlson asked why the funding recommendation was so low for Child Safe and zero for CASA. Mr. Browning replied the Commission has historically opted to give the majority of requested funds for certain organizations rather than divide funds up equally among all the applicants. Ms. Rios noted part of the consideration is the amount of available resources each organization has outside of CDBG funds.

Mayor Pro Tem Ohlson asked about the projections for increased sales and use tax revenue for 2012 over 2011. Mike Beckstead, Chief Financial Officer, replied the year over year sales and use tax revenue change projection was 2.95%. Year to date, through April, the change is 10.4%.

Mayor Pro Tem Ohlson asked how many dollars are represented by that potential increase. Beckstead replied the increase would be approximately \$2.5 to 3 million.

City Manager Atteberry noted there are many budget offers for the upcoming budget cycle.

Councilmember Manvel asked about full funding for the Disabled Resource Services (DRS) Building and whether that would be for 75% of the purchase or 100% of the purchase. Phelps replied DRS has a two-phase plan and they currently reside in 72% of the building; this funding would purchase all of that portion. The additional percentage will hopefully be purchased in the future.

Councilmember Kottwitz asked why the DRS funding request was recommended for 500% of its request. Mr. Browning replied funding overages exist in the housing and public facilities area, not the public service area. The two funds cannot cross over. Should the full funding not be given to DRS, the funds would be carried over to the fall competitive cycle.

Councilmember Kottwitz requested consistency in the CDBG Commission minutes and documents regarding the recording of votes and that the minutes document the reasons for approving or not approving requests. Phelps replied the comments will be noted and that a full DVD of the proceedings is available.

Mr. Browning noted the Affordable Housing Fund, which is normally available in the fall, is available now. He stated the Housing Authority request could be backfilled now with those funds.

Mayor Weitkunat noted this option would leave the full funding for DRS while also funding the Housing Authority request.

Councilmember Manvel noted this capital expansion project for DRS could be funded by community fundraising. Ms. Rios replied approximately \$100,000 was raised and most of that went toward remodeling the building for accessibility.

Mayor Pro Tem Ohlson noted the DRS request for \$77,000 was submitted per guidance from staff to request roughly 20% of needs. He mentioned there is approximately \$150,000 of additional funding in this cycle due to the Keep Fort Collins Great funds. He asked if outside organizations could submit offers for the next City budget cycle. City Manager Atteberry replied joint offers would likely occur between organizations and the Advance Planning Department.

Councilmember Troxell asked if the Affordable Housing Fund dollars previously mentioned could be voted upon this evening to fund the Housing Authority request. Joe Frank, Advance Planning Director, replied one of the Ordinances would allocate the Affordable Housing Fund for the fall competitive process, though the funds are technically available now. The Housing Authority project would certainly be eligible for those funds and it is Council's prerogative to allocate those funds this evening. Frank stated the Housing Authority requested \$131,892 more than was recommended by the CDBG Commission.

Councilmember Kottwitz asked what additional projects could be funded by those dollars. Frank replied those funds have typically been used for affordable housing projects and homebuyer assistance programs.

Councilmember Kottwitz expressed concern regarding allocating the funds this evening, given that another project may come up in the fall. Frank replied the Affordable Housing Fund was not advertised for the spring competitive process; however, the Housing Authority is a valid use of the funds.

Councilmember Troxell made a motion, seconded by Mayor Pro Tem Ohlson, to adopt Resolution 2012-035, Option 1, with the Housing Authority request being fully funded using funds from the Affordable Housing Fund to complete the request.

Councilmember Kottwitz asked if the Affordable Housing funds had to be allocated this evening or if the allocation could wait. Phelps replied allocating the funds would aid in meeting benchmarks and noted the entire fund has been appropriated.

Councilmember Kottwitz expressed concern regarding the potential interference with the process. Phelps replied the City has a report due to the Housing and Urban Development Department on August 15 regarding the year's proposed plans.

City Manager Atteberry suggested Council take a brief recess to aid staff in examining the issue more thoroughly.

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

### **Staff Reports, Continued**

Mayor Weitkunat stated the Staff Report regarding Project Homeless Connect will take place while Council waits for staff to return.

Sarah Hach, Bohemian Foundation Director of Community Programs, reported on the Project Homeless Connect event, which is a one-day event designed to connect those who are homeless, or

on the brink of homelessness, with the resources they need to improve their daily lives. Ms. Hach discussed the event, intake process, and volunteer aspects of the day.

**Continuation of Items Relating to the Completion of the 2012 Spring  
Cycle of the Competitive Process for Allocating City Financial  
Resources to Affordable Housing and Community Development  
Activities Utilizing Funds from the Federal Community Development  
Block Grant (CDBG) Program and the City's Human Services Program**

City Manager Atteberry recommended that Council adopt Resolution 2012-035 as written and that staff return with a separate Resolution on June 5 after having time to consider the affordable housing competitive process.

City Attorney Roy clarified that staff is recommending adoption of Option 1 at this meeting with an additional allocation of Affordable Housing funds on June 5 by a separate resolution.

Councilmember Troxell and Mayor Pro Tem Ohlson withdrew the previous motion.

Councilmember Troxell made a motion, seconded by Mayor Pro Tem Ohlson, to adopt Resolution 2012-035, Option 1.

Councilmember Poppaw commended the non-profit organizations.

Mayor Pro Tem Ohlson expressed appreciation for the Fort Collins Housing Authority and commended the work of Disabled Resource Services.

Councilmember Kottwitz expressed appreciation for the CDBG Commission and its process.

Mayor Weitkunat noted a competitive process is necessary and expressed appreciation for the process. She expressed concern regarding providing zero funding for CASA.

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

THE MOTION CARRIED.

Councilmember Troxell made a motion, seconded by Councilmember Poppaw, to instruct City staff to return on June 5, 2012, with a resolution filling the gap in funding for the Fort Collins Housing Authority. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 044, 2012, on First Reading. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Manvel, to adopt Resolution 2012-036. Yeas: Weitkumat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 045, 2012, on First Reading. Yeas: Weitkumat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

**Items Relating to Rebates of Property Taxes, Sales Tax on Food, and Utilities, Adopted on First Reading**

The following is staff's memorandum for this item.

***“EXECUTIVE SUMMARY***

- A. *First Reading of Ordinance No. 046, 2012, Amending Certain Sections of Chapter 25 of the City Code Relating to the City's Property Tax Rebate.*
- B. *First Reading of Ordinance No. 047, 2012, Amending Certain Sections of Chapter 25 of the City Code Relating to the Rebate of the City's Sales Tax on Food.*

*The Finance Department currently administers three rebate programs for low income, senior and disabled residents. The rebates are for Property Tax, Utilities and Sales Tax on Food which were created in 1972, 1975 and 1985 respectively.*

*The Finance Department is proposing the following changes to provide consistency among the rebates, allow an increased number of residents to qualify for the Property Tax and Utility Refund and simplify the process for applicants. An increase in the rebate amount for the Sales Tax on Food Rebate is also proposed.*

***Highlights of Proposed Changes to Chapter 25:***

*Property Tax Rebate: Change the income qualification from 30% of area median income (AMI) to 50% of AMI to increase the number of senior and disabled residents that qualify and to align with the Sales Tax on Food rebate income qualifications. Update the application period to August 1st through October 31st.*

*Utility Refund: Change the income qualification from 30% of area median income (AMI) to 50% of AMI to allow for an increased number of senior and disabled residents to qualify and to align with the Sales Tax on Food rebate income qualifications. Update the application period to August 1 through October 31. No Code amendment is needed to make these changes because Code Section 26-613 states that applicants for utility rebates must meet the same qualifications requirements as applicants for property tax rebates.*

*Sales Tax on Food Rebate: Update the rebate amount from \$40 to \$54 per member of qualifying household and index the rebate amount moving forward to the local CPI. Update the application period to August 1 through October 31.*

## **BACKGROUND / DISCUSSION**

### **History**

#### **Property Tax Rebate**

- *Established in 1972 for low income senior (65 and over) residents*
- *Expanded in 1980 to include low income disabled residents*
- *Eligible property owners are entitled to a refund of all City property taxes paid in the preceding year*
- *Eligible renters are entitled to a rebate of 1.44% of rental payments for property on which City property taxes were paid*
- *The 1.44% rebate for renters was the percentage of total rent at the time that resulted in a rebate amount equal to that of property owners which was calculated at \$33.33 in 1972.*
- *Income eligibility level updated in 1998 to 30% of the area median income (AMI) as reported by HUD on an annual basis*

#### **Utility Rebate**

- *Established in 1975 for low income senior residents*
- *Program applies to owners and lessees of property for which City of Fort Collins utilities have been paid*
- *Amount of refund is based on average monthly residential consumption of water, wastewater, stormwater and electric service updated annually*
- *Income eligibility level updated in 1998 to 30% of the area median income (AMI) as reported by HUD on an annual basis*

#### **Sales Tax on Food Rebate**

- *Established in 1984 and rebate amount set at \$25 per person in eligible household*
- *Income eligibility level updated in 1998 to 30% of the area median income (AMI) as reported by HUD on an annual basis*
- *Rebate amount updated to \$40 per person in 1998*
- *In 2005 per Council direction, staff researched and recommended changes to the income level for the Sales Tax on Food Rebate only. The goal was to increase the number of households that qualified*
- *The income eligibility level was raised 50% of AMI. No discussion of raising the other rebate income levels is evident*

### **Summary of Current Qualifications**

*Residency – For all rebates the applicant must reside in the City Limits of Fort Collins prior to the commencement of the calendar year for which application is made and at the time application is made.*

*Citizenship – For all rebates the applicant must fill out an Affidavit of Legal Residency form and produce proof of identification.*

<b>Rebate Type</b>	<b>Who Qualifies</b>	<b>Income Qualification</b>	<b>Amount of Rebate</b>
<i>Property Tax</i>	<i>Senior and disabled property owners and renters</i>	<i>30% of AMI</i>	<i>Equal to property tax paid to City</i>
<i>Utilities</i>	<i>Senior and disabled property owners and renters</i>	<i>30% of AMI</i>	<i>Based on average monthly consumption of water, wastewater, stormwater and electric service</i>
<i>Sales Tax on Food</i>	<i>All residents</i>	<i>50% of AMI</i>	<i>\$40 per member of qualifying household</i>

*30% Income Threshold (Property Tax and Utility Rebates) - based on the U.S. Department of HUD income limits of 30% for the Fort Collins-Loveland area median income and are as follows:*

<b>Number in Household</b>	<b>Maximum Household Income</b>
<i>1</i>	<i>\$16,350</i>
<i>2</i>	<i>\$18,650</i>
<i>3</i>	<i>\$21,000</i>
<i>4</i>	<i>\$23,300</i>

*50 % Income Threshold (Sales Tax on Food Rebate) – based on the U.S. Department of HUD income limits of 50% for the Fort Collins-Loveland area median income and are as follows:*

<b>Number in Household</b>	<b>Maximum Household Income</b>
<i>1</i>	<i>\$27,200</i>
<i>2</i>	<i>\$31,100</i>
<i>3</i>	<i>\$35,000</i>
<i>4</i>	<i>\$38,850</i>

**Summary of Rebate Program Cost and Participation**

*The rebate programs have an annual average payout of \$152,000 over the last five years. The Sales Tax on Food Rebate 60% of the total amount rebated in 2011.*

**Historical Data**

<b>Year</b>	<b># of Applications</b>	<b>Total Rebate</b>	<b>Average Rebate Amount</b>
<i>2007</i>	<i>1,149</i>	<i>\$153,240</i>	<i>\$133</i>
<i>2008</i>	<i>1,312</i>	<i>\$167,426</i>	<i>\$128</i>
<i>2009</i>	<i>1,284</i>	<i>\$157,146</i>	<i>\$122</i>
<i>2010</i>	<i>1,101</i>	<i>\$142,510</i>	<i>\$129</i>
<i>2011</i>	<i>1,126</i>	<i>\$138,654</i>	<i>\$123</i>

**Summary of 2011****Rebate Type**

<b>Rebate Type</b>	<b># of Applications Qualified</b>	<b>Total Rebate</b>	<b>Average Rebate Amount</b>
<i>Sales Tax on Food</i>	1126	\$82,901	\$74
<i>Property Tax</i>	86	\$10,355	\$120
<i>Property Tax - Renters</i>	386	\$22,819	\$59
<i>Utilities</i>	368	\$22,579	\$61

**Analysis of Proposed Changes**

Based on discussions with the Finance Committee in March and further analysis, staff recommends that the income level for the Property Tax Rebate and Utility Rebate be raised from 30% of AMI to 50% of AMI while keeping the Sales Tax on Food Rebate at 50% of AMI. Raising the income level will provide consistency amongst the rebates and allow additional senior and disabled families to qualify. The senior population in the Fort Collins is estimated at 10% of the total. Reliable data on the number of low income senior and disabled households in Fort Collins is minimal. In regards to the Sales Tax on Food Rebate, the current level of participation by families is in the 20% range. Finance is analyzing the contributing factors for the low application rate. Staff will be looking closer at the process in 2012 to determine if the application process is considered too onerous for the financial payout as well as doing additional outreach to increase the participation levels.

Estimated number of Families in Fort Collins: 30,449

<b>Based on Household of 4</b>	<b>30% of AMI \$23,300 max income</b>	<b>50% of AMI \$38,850 max income</b>
<i>Total # of qualifying families</i>	3,650	5,780

In addition, staff is proposing to increase the current rebate amount for the Sales Tax on Food program from \$40 to \$54. The proposed increase to \$54 is based on estimates for the cost of food at home on a national level provided by the United States Department of Agriculture (USDA). The USDA estimates were used in lieu of local data which was not available. The suggested amount is also in line with the actual local Consumer Price Index (CPI) since 1998.

<b>USDA estimates for a family of 4</b>	<b>Monthly</b>	<b>Annual</b>
<i>Moderate Cost Plan (USDA)</i>	\$791.40	\$9,496.80
<i>Total of 2.25% Sales Tax</i>	\$17.80	\$213.68
<i>2.25% Sales Tax Paid per person</i>	\$4.45	\$53.42

**Recap of Proposed Changes**

- Raise income level for Property Tax Rebate and Utility Rebate from 30% of AMI to 50% of AMI
- Raise Sales Tax on Food Rebate amount from \$40 to \$54 per person in qualified households
- Index future Sales Tax on Food Rebate amount to the local Consumer Price Index (CPI)
- Update application period for all rebates to August 1 through October 31

## **FINANCIAL / ECONOMIC IMPACTS**

*Property Tax and Utility Tax Rebate: Based on the estimated participation level the rebate amount would increase from \$56,000 to \$67,000. 2011 application numbers were used as the basis for the estimate.*

*Sales Tax on Food Rebate: Changing the rebate amount from \$40 to \$54 would increase the program cost by \$29,000 based on 2011 application numbers. Total cost of rebate would be \$112,000.*

*Estimated total cost of all rebate programs combined based on proposed changes is \$179,000 which is a 29% increase over the 2011 amount of \$138,654. The budgeted amount for 2012 is \$171,000. If the actual rebates exceed our projections then an additional appropriation will be requested. Offers for the 2013-2014 BFO process will be adjusted accordingly.*

## **BOARD / COMMISSION RECOMMENDATION**

*Presentation was made to the Council Finance Committee at its March 19 meeting. Discussion surrounded the inconsistency amongst the programs and the reasoning for the various income qualifications. There was support for the general concepts of the proposed changes.*

## **PUBLIC OUTREACH**

*Outreach for the rebate programs occurs each year prior to and during the application phase. The outreach includes the following:*

- *Advertisements in the Coloradoan and on Coloradoan website*
- *Article in the "City News" newsletter and on the back of utility bill*
- *Articles in local newsletters like the Aspen Club and Senior Voice*
- *City webpage with downloadable application*
- *Partnerships with local agencies such as the Larimer Food Bank, Volunteers of America, Meals on Wheels, Larimer Health and Human Services, etc*
- *Application forms are distributed to the Senior Center, Aztlan Center, Utility Billing Office and the Workforce Center*
- *Applications mailed out to all applicants from the prior year*

*In addition for 2012, Finance intends to partner with the Fort Collins Public Information Office to prepare and distribute news releases and increase the visibility of the rebates overall."*

John Voss, Interim Finance Director, introduced the item.

Jessica Ping-Small, Sales Tax Manager, stated the Finance Department administers three different rebate programs: food sales tax rebate, property tax and rental rebate, and a utility rebate. She discussed the proposed changes for each rebate program.

Eric Sutherland, 3520 Golden Currant, questioned the source of the Utility rebates and supported additional rebate funding.



Councilmember Troxell asked what problems exist that are being fixed by these changes. Ping-Small replied the sales tax on food rebate is too low and has not been updated; the utility and property tax qualifications need to be changed to provide consistency and to qualify additional residents. She noted fewer individuals are applying for the programs despite greater community need and stated the changes will simplify application processes for qualifying applicants.

Councilmember Troxell asked if utility rebates are coming from General Fund dollars or Utility Fund dollars. Voss replied those rebates have always come from the General Fund, likely because it is a social program.

Councilmember Troxell asked if there is a barrier to having the rebates come from the Utility Fund. City Manager Atteberry replied staff would respond with a memo regarding that issue.

Mayor Pro Tem Ohlson noted a citizen initiative attempted to remove the sales tax on food in 2005. At that time, Council opted for four items: (1) to make the application process easier, (2) to have more outreach and publicity, (3) to pay out more dollars if justified, and (4) to expand the eligibility for the program. He suggested that the Ordinance require an annual staff report be provided to Council.

Mayor Weitkunat asked about renters being eligible for property tax rebates. Ping-Small replied the original theory was that property tax expenses were passed from owners to renters and the program was meant to treat both renters and owners equally. In 2011, renters received \$22,819 in property tax rebates and owners received \$10,355 in rebates.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 046, 2012, on First Reading. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 047, 2012, on First Reading. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

### **Ordinance No. 048, 2012**

#### **Establishing a Moratorium on the Acceptance or Processing of Land Use Applications, Permit Applications, and Other Applications Seeking Approval to Conduct Oil and Gas Extraction or Related Operations Within the City, Adopted on First Reading**

The following is staff's memorandum for this item.

#### ***“EXECUTIVE SUMMARY***

*Although there has not been a great deal of oil and gas drilling in Larimer County until recently, the discovery of the resource-rich Niobrara formation in this region, and the increased use of horizontal hydraulic fracturing (“fracking”) and directional drilling increase the likelihood of oil and gas drilling in the City of Fort Collins. The State of Colorado has largely pre-empted the*

*regulation of oil and gas drilling, even within municipal boundaries, but City staff is monitoring the recent legislative discussions as well as drilling activity, and proposes the development of regulations, and a moratorium on any oil and gas drilling until those regulations are adopted.*

## **BACKGROUND / DISCUSSION**

*While Larimer County has not played a significant role in oil and gas industry issues until recently, two recent developments may result in significant changes and have raised considerable public concern. The first is the successful exploration of the Niobrara formation, which lies deep under much of northeastern Colorado, and the second is the advancing technology of hydraulic fracturing (“fracking”), including horizontal fracking, and directional drilling, to extract the resource from within deeply located shale deposits.*

*Until these recent developments, concern in Fort Collins was largely limited to impacts on the Natural Areas. The City’s Natural Areas Department began working with representatives of the oil and gas industry two years ago to develop a permit process and Best Management Practices (see Attachment 2) for use in connection with large City-owned properties in unincorporated Larimer County and Weld County.*

*Oil and gas exploration and production is regulated by the State in Colorado. Local jurisdictions are extremely limited in their ability to control the location, procedures, and impacts of oil and gas drilling in and around their boundaries. Local regulations cannot present an “operational conflict”, and a combination of the state’s laws, and several court cases resulted in the preemption of local control of setbacks and many other types of impacts. The City’s current regulations in the Land Use Code are minimal, and are outlined in the attached memo (Attachment 1). Attachment 1 also identifies key topic areas for consideration of City regulations.*

*Given the increasing public concern, City staff formed a multi-disciplinary team to identify the issues of greatest concern and explore options to protect the interests of the City of Fort Collins and its citizens. This team includes representatives from Utilities, Natural Areas, the Office of Sustainability, the City Attorney’s office, the City Manager’s office, Poudre Fire Authority, and Planning, Development and Transportation.*

*There is also statewide interest in the impacts, regulation, and enforcement of oil and gas drilling, particularly fracking. Several bills were introduced and subsequently killed during the current (2012) legislative session. The Governor established a task force to address the issues of greatest concern to local governments, the Oil and Gas Commission, and the industry. The President of the Colorado Municipal League (CML) Board represented cities’ interest on the task force, and Longmont Councilmember Brian Bagley was also appointed. The task force completed its work without much significant progress.*

*The City of Fort Collins’ staff team researched the regulations of other Colorado municipalities and counties, and is actively participating in the statewide conversation to benefit from the years of experience of other local governments and find the best ways to protect the interests of the City of Fort Collins and its residents. Utilities explored the legal and technical issues around the provision of water or wastewater treatment to the oil and gas industry, and identified the parameters of such services and any necessary steps for further consideration. No City service is currently provided, and none is recommended at this time.*

*The City of Fort Collins is also participating in the Local Designee program offered by the Colorado Oil and Gas Conversation Commission (COGCC). This agency, which issues permits and regulates all oil and gas drilling in the state, notifies local representatives of permit applications in their region, and provides an opportunity to comment. Larimer County also forwards notices received by the County's designated contact for permit applications in the City's Growth Management Area.*

### **ENVIRONMENTAL IMPACTS**

*Oil and gas drilling within the city could have significant impacts on air quality and water quality, and there is also concern about the increased risk of spills and releases of hazardous materials due to an increase in use, storage and transportation of such materials. In addition to these impacts, well pads and service roads are fragmenting wildlife habitat on a massive scale in northeastern Colorado and in other communities throughout the western United States. The City's Natural Areas are threatened by this fragmentation. In addition, there are high volumes of truck and heavy equipment associated with oil fields. While there is conflicting technical information regarding air and water quality threats, there is little doubt that oil and gas drilling would negatively affect the environment in the community and does not support the City's goals for sustainability.*

### **STAFF RECOMMENDATION**

*There has been no application for a well permit within the City's boundaries yet, although there is a producing well not far from Natural Areas' property. It is likely that extraction interest in this area will increase. Staff therefore recommends:*

- 1. Establishment of a moratorium on drilling permit applications, by ordinance, for a period of eight months. The purpose of this moratorium is to provide time to develop a permitting process for oil and gas drilling, draft land use regulations, and conduct a robust public discussion on the proposed regulations.*
- 2. Development of a permitting process and appropriate regulations to reflect and protect the community interests of Fort Collins, to the degree allowed by law.*

*Staff's proposed work plan for this effort includes:*

- Initial public outreach to identify the key issues (3-4 weeks - target completion June 30)*
- A Council work session on the topic that sets the priorities identified both by staff and in the public outreach efforts (to be scheduled - July)*
- Time for staff to draft the regulations (2-3 months - target completion October 10)*
- Vetting of the regulations by the public, as well as Boards and Commissions (2 months - target completion December 7)*
- Council work session to discuss the regulations (scheduled for December 11)*
- Council Hearing to adopt land use regulations (December 18)"*

Karen Cumbo, Director of Planning, Development, and Transportation Services, stated this moratorium is being recommended by staff in order to allow time to establish new land use regulations. The moratorium does not include applications for drilling outside the City's corporate boundaries; for example, in Natural Areas which lie outside the City's boundaries. No well permits have been issued in the City of Fort Collins for many years; however, increasing public concern has arisen regarding environmental issues and safety around wells.

The Natural Areas Program has drafted a set of best practices, and has reached out to large mineral owners and lessees; however, the City's land use regulations cannot be applied outside the City boundaries. Additionally, Larimer County passes on information regarding any drilling applications which are within the City's Growth Management Area.

Staff is operating under the assumption that there are negative impacts to drilling and the desire is to develop land use regulations that most effectively mitigate the impacts in the community. Staff's recommendation is to establish a moratorium on drilling operations for eight months in order to develop appropriate land use regulations for the City. The moratorium would take effect on June 15, 2012, and would expire February 15, 2013, or upon staff recommendation of land use changes should that occur sooner.

Periods of public outreach are planned, to be followed by a work session which will identify the priorities Council has for the new regulations. Following that, extensive public outreach, including input by Boards and Commissions, will occur.

Mayor Weitkunat noted this moratorium does not specifically address fracking solely, but will put on hold any drilling until regulations can be put in place.

Chester McQueary, 613 Princeton Road, opposed fracking.

Becky Boutz, Laporte resident, expressed appreciation for the moratorium but stated regulations are not strong enough. She supported the ability of home-rule cities to ban fracking altogether.

Robert Winkler, Greeley resident, opposed fracking and opposed the fact that state regulations appear to override local regulations.

Dolores Williams, 415 Mason Court, opposed fracking.

Lynda Blake, 5551 Cornerstone, opposed fracking and encouraged Council to be vigilant about answering citizen questions.

Steve Zelenak, 4098 Trouble Trail, expressed concern about the effects of drilling on the surface level. He supported regulations.

Dian Sparling, 324 Jackson Avenue, supported the moratorium and discussed the health risks of chemicals being produced by the fracking process.

Devin Hirning, 2214 Fossil Creek Parkway, discussed a gas well blow-out in Wyoming and its remaining effects on citizens. He supported the moratorium.

Shane Davis, Firestone resident and Sierra Club spokesperson, discussed groundwater contamination resulting from oil and gas drilling and supported stringent regulations on all aspects of the drilling process.

Richard Kommausch, 1732 Globe Court, agreed with Mr. Davis and supported stringent regulations.

Kerry Miller, 904 Snowy Plain, supported the moratorium and encouraged protection of Natural Areas.

Phil Friedman, 144 Frey Avenue, stated most citizens are users of natural gas but expressed concern regarding its extraction and opposed drilling inside city limits.

John Gascoyne, 718 West Mountain, opposed fracking from both an environmental and public health perspective. He encouraged air and water quality monitoring to begin in order to establish a baseline.

Joann Ginal, 316 Magnolia Street, opposed fracking as its full effects are unknown.

Mark Easter, 2820 Cherry Lane, Save the Poudre representative, supported the moratorium and suggested the inclusion of ground and surface water testing as a condition for any drilling operation.

Bill Jenkins, 710 Mathews, supported the moratorium and requested that Council be open to a complete ban on fracking.

Bob Overbeck, 302 Parker Street, discussed the negative impact of drilling and fracking on roads and supported the moratorium.

Jill Vesty, 1513 West Mountain, opposed fracking and supported the moratorium.

Gary Wockner, 516 North Grant, Clean Water Action spokesperson, supported the moratorium and encouraged the extension of the moratorium into the Natural Areas.

Lesley Manning-Blorchers, Greeley resident, opposed fracking and discussed the “Third Industrial Revolution.”

Rico Moore, 721 West Myrtle Street, supported a ban on fracking.

Councilmember Manvel asked about extending the moratorium into Natural Areas. City Attorney Roy replied this is a moratorium on the processing of applications and the City’s ability to process, receive, and grant or deny applications is limited to the municipal boundaries. As the owner of our Natural Areas outside the boundaries, the City has a certain ability to negotiate, or to require to some extent, certain things with regard to proposed mining activities on those properties. However, the City is not the regulatory agency that receives or considers applications in the County; therefore, the City has no jurisdiction to impose a moratorium on the processing of applications in the County even with regard to our own property.

Councilmember Manvel asked if it would be possible to request that the County not accept applications on Natural Areas properties owned by the City. City Attorney Roy replied Council could pass such a resolution. City Manager Atteberry noted City staff has significant concerns regarding Natural Areas located outside the municipal boundaries and suggested Council should encourage the County Commissioners to protect the resources.

Councilmember Troxell asked what the City is doing in terms of participating in State regulations. Cumbo replied several members of staff have been following the legislation and participating in meetings regarding the issue.

Dan Weinheimer, Legislative Policy Manager, stated the City has been represented by the Colorado Municipal League (CML), though City staff members have not necessarily been invited to

participate in the Governor's Oil and Gas Task Force. At this point, CML is supporting the recommendations of the Task Force.

Councilmember Troxell asked about a local government designee that can participate in rule setting at the State level. Cumbo replied the City is participating in the local designee program, which involves notification by the Oil and Gas Commission of any pending permits in the area, allowing the City the opportunity to comment on the applications. Cumbo stated she believes the local designees do not have any different role than any member of the public.

Councilmember Troxell noted there is a lack of definite information regarding potential negative effects. He asked what steps would be taken to further develop the City's scientific and environmental understanding in terms of decision making. Cumbo replied actual monitoring is not yet occurring; however, a Budget offer addresses some monitoring opportunities which would expand the City's ability to collect data. While normal air and water quality monitoring does occur on an environmental level, Cumbo stated she is unsure it is specific to the impacts of oil and gas drilling.

Carol Webb, Regulatory and Governmental Affairs Manager, stated the City has not collected any data related to impacts on water quality from fracking, partially due to the fact that it is unclear what parameters should be monitored. Years of local water quality data does exist, however.

Mayor Pro Tem Ohlson noted the City of Loveland may have voted tonight to support an emergency ordinance which would put its moratorium in place immediately. He asked why an emergency stance was not taken in Fort Collins. City Manager Atteberry replied there are no pending applications within the city and noted an emergency ordinance is a seldom used tool.

Mayor Pro Tem Ohlson asked about the timeframe for an application. Cumbo estimated a drilling application would take about a month to get through the process. Current land use regulations do not identify a process for these applications. City Attorney Roy stated a vesting of a right to drill occurs upon the filing of a completed application, under State law. That application can then be governed by the regulations in place locally.

Mayor Pro Tem Ohlson asked if all eligible Natural Areas have been annexed to incorporate them into city boundaries. John Stokes, Natural Resources Director, replied all eligible Natural Areas have been annexed.

Mayor Pro Tem Ohlson requested a report regarding which Natural Areas have and have not been annexed.

Mayor Weitkunat asked if there is a differentiation between oil and gas wells on the map indicating locations within the city. Cumbo replied in the negative.

Mayor Weitkunat asked if any applications have occurred within the last year or two. Cumbo replied no applications have been submitted within city boundaries in that time. City Attorney Roy replied that information should be double checked.

Deputy City Attorney Eckman stated no applications have been filed since the Land Use Code took effect, and he does not recall any under the previous Land Development Guidance System; therefore, it seems all of the wells within the city limits were annexed.

*May 15, 2012*

Councilmember Troxell asked about the status of the Meadow Springs property. Stokes replied the Natural Areas department has been working closely with Utilities regarding potential oil and gas exploration and mineral development and has been participating with the State Land Board in a program called Energy by Design. The Nature Conservancy was hired by the State to participate in that process.

Councilmember Troxell asked about participation with Platte River Power Authority (PRPA) at the Rawhide facility. Stokes replied City representatives have spoken to PRPA officials regarding their plans for this issue; however, he is uncertain about the specifics of those communications.

Mayor Weitkunat replied the PRPA Board has had inquiries by several oil and gas companies that hold the mineral rights on the Rawhide property to examine test wells. Webb stated PRPA has considered renting some of its reusable water to the fracking industry and will vote on that decision at an upcoming meeting.

Mayor Pro Tem Ohlson asked for a legal opinion regarding the use of emergency ordinances. City Attorney Roy replied the passage of an emergency ordinance depends on local circumstance and stated the City Charter does not speak to what constitutes an emergency. Such an ordinance takes the affirmative vote of five Councilmembers and requires that the ordinance contain a specific statement about the nature of the emergency. A reasonable person should be able to conclude that the failure to take immediate action could present an imminent threat to the public health, safety, and welfare.

Councilmember Troxell made a motion, seconded by Mayor Weitkunat, to adopt Ordinance No. 048, 2012, on First Reading.

Mayor Pro Tem Ohlson made a motion to amend, seconded by Councilmember Poppaw, to declare this Ordinance an Emergency Ordinance to take effect immediately.

Councilmember Troxell noted there have been no applications in years within city limits and did not agree with the emergency situation.

Councilmember Manvel agreed with Councilmember Troxell; however, he noted the situation is changing rapidly with respect to drilling interest in this area and the placement of a moratorium could encourage applications. He stated there is no downside to an emergency ordinance given public opposition to drilling.

Councilmember Kottwitz expressed concern regarding moratoriums in general and stated she does not support the emergency aspect given other opinions have not been heard.

Mayor Pro Tem Ohlson stated he understands Council's reticence to use an emergency ordinance; however, this appears to be a clear health and safety issue.

Mayor Weitkunat opposed the emergency measure due to a lack of urgency and risk.

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

**THE MOTION FAILED TO PASS.**

May 15, 2012

Councilmember Manvel encouraged staff to be diligent and thorough regarding its work during the moratorium.

Mayor Pro Tem Ohlson stated the City needs to develop the strongest rules and regulations it can for the citizens of Fort Collins.

Mayor Weitkunat requested that staff look at balance in terms of including the oil and gas industry in the discussion.

Councilmember Kottwitz thanked staff for creating the timeline on the moratorium.

The vote on the original motion to adopt Ordinance No. 048, 2012, on First Reading, was as follows: Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

### Adjournment

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Manvel, to adjourn to 6:00 p.m. on May 22, 2012, so that the Council may consider going into Executive Session for the purpose of conducting the mid-year performance reviews of the City Manager and City Attorney. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Troxell. Nays: none.

THE MOTION CARRIED.

The meeting adjourned at 10:25 p.m.

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Mayor

ATTEST:

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Interim City Clerk



May 22, 2012

**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, May 22, 2012, 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: Kottwitz, Manvel, Ohlson, Poppaw, Troxell, and Weikunat.

Councilmembers Absent: Horak

Staff Members Present: Atteberry, Harris, Roy.

**Executive Session Authorized**

Councilmember Ohlson made a motion, seconded by Councilmember Poppaw, to adjourn into executive session, as permitted under Section 2-31(a)(1)(a) of the City Code for to conduct the mid-year performance reviews of the City Attorney, City Manager and Municipal Judge. Yeas: Manvel, Ohlson, Poppaw, Troxell, and Weikunat. Nays: none.

THE MOTION CARRIED.

**Adjournment**

At the conclusion of the executive session, the meeting was adjourned at 8:03 p.m.

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Mayor

ATTEST:

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Interim City Clerk