

**DATE:** May 7, 2013  
**STAFF:** Wanda Nelson

**AGENDA ITEM SUMMARY**  
FORT COLLINS CITY COUNCIL

**6**

**SUBJECT**

Consideration and Approval of the Minutes of the April 2 and 16, 2013 Regular Meetings, the April 9, 2013 Special Meeting and the March 26, 27 and April 23, 2013 Adjourned Meetings.

**April 2, 2013**

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting - 6:00 p.m.**

A regular meeting of the Council of the City of Fort Collins was held on Tuesday, April 2, 2013, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll call was answered by the following Councilmembers: Horak, Kottwitz, Manvel, Ohlson, Poppaw, Troxell and Weitkunat.

Staff Members Present: Atteberry, Nelson, Roy.

**Agenda Review**

City Manager Atteberry stated there were no changes to the agenda.

**Citizen Participation**

Mel Hilgenberg, 172 North College, reported on upcoming community events and commended outgoing Councilmembers. He supported term limit changes and requested additional consideration of the proposed on-campus stadium by the new Council.

Eric Sutherland, 3520 Golden Currant, discussed the concept of home rule for municipalities.

James Owiny, Human Relations Commission, extended an invitation to an event on May 2.

Glen Colton, 625 Hinsdale Drive, discussed the contrast between the Be Local program closing its office and the proposed economic incentive packages for Woodward and other multi-national companies.

Richard Thomas, 1907 Wallenberg Drive, opposed the City's ex parte regulations.

Anita Rehner, 520 Sycamore Street, Diana Hammerdorfer, 227 Scott Avenue, and Chris Maldonado, 412 North Whitcomb, thanked Council for responding to concerns of Old Town property owners by adopting Ordinance No. 033, 2013.

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

8. Items Relating to an Agreement Between the City of Fort Collins, the Fort Collins Downtown Development Authority, and Woodward, Inc. Relating to the Relocation and Construction of the Company's Headquarters and Expanding its Manufacturing and Office Facilities.

- A. Second Reading of Ordinance No. 055, 2013, Authorizing and Approving the Execution and Delivery by the City of an Agreement with Woodward, Inc., and Related Documents, Including Authorizing the Issuance of a Bond, in Connection with an Economic Development Project Relating to Woodward, Inc.; and Providing Other Matters Related Thereto.
  - B. Second Reading of Ordinance No. 056, 2013, Appropriating General Fund Reserves to Fund a Reimbursement Reserve Fund in Connection with an Agreement Between the City, Downtown Development Authority and Woodward, Inc., Regarding the Link-n-greens Development.
9. Second Reading of Ordinance No. 044, 2013, Authorizing the Conveyance to Woodward, Inc. of Two Non-Exclusive Permanent Drainage Easements and a Temporary Construction Easement on City-Owned Property.

**Items Relating to an Agreement Between the City of Fort Collins, the Fort Collins Downtown Development Authority, and Woodward, Inc. Relating to the Relocation and Construction of the Company's Headquarters and Expanding its Manufacturing and Office Facilities, Adopted on Second Reading**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

- A. *Second Reading of Ordinance No. 055, 2013, Authorizing and Approving the Execution and Delivery by the City of an Agreement with Woodward, Inc., and Related Documents, Including Authorizing the Issuance of a Bond, in Connection with an Economic Development Project Relating to Woodward, Inc.; and Providing Other Matters Related Thereto.*
- B. *Second Reading of Ordinance No. 056, 2013, Appropriating General Fund Reserves to Fund a Reimbursement Reserve Fund in Connection with an Agreement Between the City, Downtown Development Authority and Woodward, Inc., Regarding the Link-n-greens Development.*

*These Ordinances relate to providing business investment assistance to Woodward, Inc. to encourage the relocation and construction of the company's headquarters and expanding its manufacturing facilities in Fort Collins. The project will retain or create between 1,400 and 1,700 primary jobs in the community, provide 31 acres of improved open space along the river (including habitat restoration), and anchor the southeastern edge of the River District with a major employer. The two items include:*

- A. *An Agreement between the City, Downtown Development Authority, and Woodward, Inc.; and*
- B. *An appropriation of \$2.27 million in General Fund Reserves in connection with the Agreement with Woodward, Inc.*

Ordinance No. 055, 2013 was adopted on First Reading on March 26, 2013, by a vote of 6-1 (Nays: Ohlson). This Ordinance has been amended on Second Reading to remove a “Whereas clause” in response to Council comments on First Reading. Ordinance No. 056, 2013 was unanimously adopted on First Reading.

**BACKGROUND / DISCUSSION**

During the First Reading of these Ordinances, City Council asked for follow-up on four items. These items include:

- An explanation of the \$4.0 million in net benefits listed in Year 1 from the Economic Impact Analysis;
- An understanding of the anticipated utility usage and impact of the proposed Project; and
- A description of the efforts of the City of Fort Collins related to Talent Development; and
- Data on Woodward’s current emissions, waste output, and recycling (some data to be provided in the Read-Before).

Each item is discussed below.

**Year 1 Net Benefits Explained**

City Council asked for additional information related to the net benefits chart listed on Page 4 of A Report of the Economic Impact of Project Blue Home in Fort Collins, CO dated March 8, 2013 (the analysis of 1,400 employees). Specifically, City Council would like to understand the makeup of the approximately \$4.0 million in net benefits projected in Year 1. These net benefits are comprised of several revenue sources, as shown in **Table 1**, primarily including use tax on Construction Spending, use tax on Manufacturing Purchases, and Building Permits and Capital Expansion Fees. The total revenue anticipated in Year 1 is approximately \$9,325,165 less \$5,305,879 in rebates for a net benefit of \$4,019,287 shown in Year 1 of the chart on Page 4. The economic impact analysis is based on the initial schedule presented by Woodward, which had all phases starting construction and, therefore, paying fees and use tax before the end of 2015 or Year 2 of the analysis. This schedule is subject to change.

**Table 1**  
**Year 1 – Summary of Net Benefits**

<b>Item</b>	<b>Total</b>	<b>Less Rebates</b>	<b>N e t Benefit</b>
<b>Construction Spending*</b>	<b>\$2,455,089</b>	<b>\$1,953,105</b>	<b>\$501,984</b>
<b>Manufacturing Purchases</b>	<b>\$198,238</b>	<b>\$158,591</b>	<b>\$39,648</b>
<b>Building Permits &amp; Capital Expansion Fees**</b>	<b>\$6,671,838</b>	<b>\$3,194,183</b>	<b>\$3,477,655</b>
<b>Total</b>	<b>\$9,325,165</b>	<b>\$5,305,879</b>	<b>\$4,019,287</b>

\*Includes Visitor Spending and Taxable Purchases by the Firm listed on Page 36

\*\* Includes Lodging Taxes listed on Page 38

## **Utility Impacts**

### *Water/Wastewater*

*Based on preliminary estimates, Woodward anticipates consuming between 8 and 18 million gallons annually, which represents approximately 0.1 to 0.2 percent of the annual water treated and delivered by Fort Collins Utility (FCU). Woodward anticipates proportionate share of wastewater. This consumption equates to approximately 75 to 225 average homes. Plenty of capacity exists in the area with major water transmission lines in both Lincoln Avenue and Lemay Avenue. In addition, a major wastewater collection line crosses the site. Finally, FCU does not anticipate any negative impacts to the system from the increased water consumption.*

### *Energy*

*Based on preliminary estimates, Woodward anticipates consuming between 2,000 and 3,000 megawatt-hours (MWh) per month. On an annual basis this represent between 1.6 and 2.4 percent of the total city energy use. The average household in Fort Collins, based on actual data, consumes approximately 740 kilowatt-hours (KWh) per month (or 0.74 MWh). Therefore, this consumption equates to approximately 2,700 to 4,100 average households. Adequate capacity exists in the area to serve Woodward's anticipated demand. Finally, FCU does not foresee any negative impacts to the system from the increased energy consumption.*

## **Talent Development Activities**

*In June 2012, City Council adopted the Economic Health Strategic Plan (EHSP). The plan defines four major objectives of the City regarding the continued health and resiliency of the economic in Fort Collins. One of these objectives relates to workforce development. As a result of adoption, the Economic Health Office (EHO) has begun a variety of activities in the workforce and talent development arena, including:*

- Conveyed a small working group to further review workforce development, including: Front Range Community College Corporate Solutions, Larimer County Workforce, Larimer Small Business Development Corporation (SBDC), and other professionals engage in workforce development – **Meet Monthly***
- Actively participate in the Larimer County Workforce Investment Board, with SeonAh Kendall taking over the team's Board seat – **Meet Monthly***
- Participate in the Larimer SBDC Advisory Board – **Meet Monthly***
- Fund support of the Larimer County Workforce – Annual Workforce Summit; EHO support funds analysis of workforce conditions in Larimer County with special emphasis on the disconnect between needed skills and available workforce – **Analysis Second and Third Quarter 2013, Summit in Fall 2013***
- Developing a partnership with Poudre School District through the small working group – **Second and Third Quarter 2013***
- Expanding the Business Retention and Expansion Survey to address labor and workforce issues – **Spring 2013***
- Participate in the Northern Colorado Healthcare Consortium, which is currently focused on developing workforce particularly nurse aids and other essential support staff for the healthcare industry – **Meet Quarterly***

- *Supporting the development of a workforce report to be prepared by Larimer County – **Third Quarter 2013***
- *Conduct several business site visits discussing a variety of topics including: workforce needs and challenges and raising awareness and connection of available training grants – **Multiple Meetings Monthly***
- *Expanding the EHO team’s knowledge on training grant programs available through the State of Colorado and H1B visas to leverage expertise available globally – **On-going***
- *Funding the support of a Manufacturing Council for Larimer County. The Council will include executives from the County’s largest manufacturers and will focus on a wide range of topics including workforce challenges and development – **Forthcoming***

### ***Emissions/Waste/Recycling***

*Two decades ago, Woodward reported air emissions to the Colorado Department of Public Health and Environment in compliance with their air permit. The AIRS database records from that time show that Woodward’s emissions of VOCs (volatile organic compounds) reached just over 100 tons per year in 1993 and 1994. The VOC emissions dropped to 18 tons per year in 1995. As of 1997, VOC emissions for Woodward dropped below the de minimus reporting threshold.*

*In June 2012, Woodward received an air permit compliance inspection confirming that Woodward is in full compliance with their air permit. The report states that over the years, the vast majority of emission points (~22) have been canceled as processes have changed or been modified. As of June 2012, only a single point (#15) remains “active” and chemical throughputs regarding these solution tanks were evaluated. Both chemicals (nitric acid, hydrochloric acid) appear below de minimus level threshold for Air Pollution Emission Notice (APEN) exemption.*

*The most recent (2011) Toxics Release Inventory (TRI) data for Fort Collins shows that Woodward reported emissions of 22 pounds of lead in 2011, and zero pounds of chromium, copper and nickel as shown in **Attachment 2**. Staff has requested historic data from the Environmental Protection Agency and the Colorado Department of Public Health and Environment. This data, if received, will be provided as a Read Before item for the April 2, 2013 City Council meeting.*

*In addition, staff is collecting data on Woodward’s hazardous waste production and handling as well as recycling program. This data will be provided as part of a Read-Before item on April 2, 2013.*

### ***BOARD / COMMISSION RECOMMENDATION***

*The Economic Advisory Commission (EAC) met on March 27, 2013 to review the financial package. The EAC had previously met on March 20, 2013 to review the Project description, Public Benefits, and Economic Impact Analysis of the proposed Project. The EAC voted 5-1 (nays: Colton) in favor or recommending adoption of the Agreement with Woodward, Inc, see **Attachment 3**. The meeting minutes from March 27, 2013 are included as **Attachment 4**.”*

Bruce Hendee, Chief Sustainability Officer, provided a brief summary of the business assistance package and its benefits to the city. Since First Reading, the term “employee” has been defined to refer to a full-time employee, or the equivalent of one full-time employee, who would be working at a Fort Collins site and have available benefits. Also, since First Reading, the employee

requirements have changed slightly and there is a rebate holdback, should those requirements not be met. Hendee discussed the anticipated water, wastewater and energy usage for the project. With respect to emissions, Hendee stated Woodward has participated in an overall management system to reduce its carbon footprint and has had no reported emissions releases between 1998 and 2010. The emissions released in 2011 were far below the state's requirements.

Eric Sutherland, 3520 Golden Curreant, supported the package and Woodward's model of corporate citizenship.

Arvid Bloom, 1372 Iva Court, supported the business assistance package and Woodward's support of the community.

Nancy York, 130 South Whitcomb, challenged Woodward to address its electrical energy use. She expressed concern about storm drainage into the Poudre River and requested air and water emissions monitoring. She commended the outgoing Councilmembers.

David May, Fort Collins Area Chamber of Commerce, thanked Council for its support of the business assistance package and commended the outgoing Councilmembers.

Glen Colton, 625 Hinsdale Drive, questioned why the largest companies in town do not pay their full share and questioned the impacts of additional residents on the city's resources.

Mel Hilgenberg, 172 North College, supported the business assistance package.

Councilmember Manvel asked about the emissions report which states the lead measurement was not based on actual measurements. Lucinda Smith, Environmental Sustainability Director, replied Woodward estimated those emissions, based on a process looking at its control technology for the closed-loop system. An actual stack emissions test would likely yield a lower emissions amount.

Councilmember Manvel asked about the 1,400 employment level in any four-week period. Hendee replied the level must be maintained for any four-week period, but noted Woodward is making a long-term commitment by locating its headquarters on the property.

Councilmember Kottwitz made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 055, 2013, on Second Reading.

Deputy City Attorney Daggett read changes made to the Ordinance exhibit.

Councilmember Kottwitz stated she is extremely proud to support this item. She thanked Woodward, staff, and Council for work on the item.

Councilmember Troxell stated he would support the business assistance package.

Mayor Pro Tem Ohlson stated he would not support the business assistance package, given his reasoning from First Reading. He stated future incentive packages should include the emissions and energy and water report prior to First Reading.

Councilmember Horak stated he would support the business assistance package and cited its benefits for both short and long term.

Mayor Weitkunat expressed her enthusiastic support for the business assistance package.

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

THE MOTION CARRIED.

Councilmember Kottwitz made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 056, 2013, on Second Reading.

Councilmember Troxell commended the economic and environmental analyses, but cautioned against static analyses in the future.

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

THE MOTION CARRIED.

City Manager Atteberry commended Council for setting the context of sustainability and sustainable economic development and commended the large amount of staff work on the item.

**Ordinance No. 044, 2013,  
Authorizing the Conveyance to Woodward, Inc. of Two Non-Exclusive  
Permanent Drainage Easements and a Temporary Construction  
Easement on City-Owned Property, Adopted on Second Reading**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

*The proposed Woodward Link-N-Greens Campus (“Woodward”) will be a master-planned campus providing the ability to retain and grow primary jobs for the community. The campus will accommodate Woodward’s continued growth of its current operations in Fort Collins. It also includes adjacent commercial services that can be used by Woodward employees and the public with close access to downtown and the Mulberry corridor. The planned campus will help to improve the river corridor through the site including restoration of the natural river corridor landscape, habitat, and appropriate recreation opportunities.*

*For this development, Woodward has requested that the City grant Woodward two permanent drainage easements for stormwater flows, one which would include construction of a buried drainage pipe and the other for a graded swale. In addition, a temporary construction easement is needed for grading, landscaping, and associated restoration work on City-owned property adjacent to the Poudre River. This Ordinance, unanimously adopted on First Reading on March 26, 2013, authorizes the conveyance of the requested easements.”*



*April 2, 2013*

Councilmember Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 044, 2013, on Second Reading.

Councilmember Horak stated wastewater going into the Poudre will be in better shape than with the current use as a golf course.

Mayor Pro Tem Ohlson stated he would support the motion, but questioned the value of the land.

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

THE MOTION CARRIED.

### **Other Business**

Councilmember Horak stated the triple bottom line needs to be more consistently addressed when considering business assistance packages.

Mayor Weitkunat announced a special meeting of Council to be held Tuesday, April 9, 2013.

### **Adjournment**

The meeting adjourned at 7:07 p.m.

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Mayor

ATTEST:

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City Clerk

April 16, 2013

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting - 6:00 p.m.**

A regular meeting of the Council of the City of Fort Collins was held on Tuesday April 16, 2013, 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: Campana, Cunniff, Horak, Overbeck, Poppaw, Troxell and Weitkunat.

Staff Members Present: Atteberry, Nelson, Roy.

**Agenda Review**

City Manager Atteberry stated the staff report on the Water Supply Management Plan will be given at a future meeting and a Resolution has been added to Item No. 23, *Items Relating to the Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC*. He stated a possible Executive Session may occur prior to the Discussion Agenda.

**Citizen Participation**

Mel Hilgenberg, 172 North College, announced community events and encouraged the use of revenues from medical marijuana sales for law enforcement.

Nancy York, 130 South Whitcomb, welcomed the new Councilmembers and encouraged a discussion of the restoration of the watershed and a discussion regarding the City's economic development goal. She discussed wages at Securitas.

**Citizen Participation Follow-up**

Councilmember Poppaw requested staff follow-up on the Securitas issue.

**CONSENT CALENDAR**

6. Consideration and Approval of the Minutes of the March 18, 2013 Adjourned Meeting and the March 19, 2013 Regular Meeting.
7. Second Reading of Ordinance No. 051, 2013, Authorizing the Conveyance of a Non-Exclusive Drainage and Landscaping Easement and an Access Easement on the Hickory Trail Property to Charles Meserlian.

Charles Meserlian (the "Developer") is planning a 1.89 acre live/work residential development called Hickory Commons (the "Development") located in the 300 block of Hemlock Street, immediately north of the City's Salyer Natural Area and east of City-owned

property known as the Hickory Trail. The Development requires off-site drainage and landscaping improvements on the Hickory Trail property. In order to complete the installation of the planned improvements, the Developer is requesting that the City grant a 3,601 square foot non-exclusive drainage and landscaping easement and an access easement on City-owned property.

This Ordinance, unanimously adopted on First Reading on March 19, 2013, would authorize the conveyance of the non-exclusive drainage and landscaping easement and access easement on the Hickory Trail property.

8. Second Reading of Ordinance No. 052, 2013, Appropriating Prior Year Reserves in the Water Fund for the Construction of a Pre-Sedimentation Basin as Part of the High Park Fire Remediation.

The 2013 Budget for the Water Fund included \$987,953 for BFO Offer 244.1 – Fire Mitigation Capital Improvements. After further evaluation of the potential ways capital investment could improve the ability of Fort Collins Utilities to treat water from the Cache la Poudre watershed, a pre-sedimentation basin is being constructed. The total cost of this basin will be \$2,150,000.

This Ordinance, unanimously adopted on First Reading on March 19, 2013, appropriates \$1,250,000 from the Water Fund reserves so that the construction of the pre-sedimentation basin can be completed and operational before June 2013.

9. Second Reading of Ordinance No. 053, 2013, Designating the Oliver and Leota Chandler Property, 710 Mathews Street, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

This Ordinance, unanimously adopted on First Reading on March 19, 2013, designates the Oliver and Leota Chandler Property at 710 Mathews Street as a Fort Collins Landmark. The owner of the property, Barbara Liebler, is initiating this request.

10. First Reading of Ordinance No. 058, 2013, Appropriating Prior Year Reserves.

City Council authorized expenditures in 2012 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2012 because:

- there was not sufficient time to complete bidding in 2012 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies
- the project for which the dollars were originally appropriated by Council could not be completed during 2012 and reappropriation of those dollars is necessary for completion of the project in 2013
- to carry on programs, services, and facility improvements in 2013 with unspent dollars previously appropriated in 2012

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2012 and reflect no change in Council policies.

11. Items Relating to the Design and Implementation of a Traffic Responsive Traffic Signal System at Signals Adjacent to the Railroad Tracks in the Vicinity of Lemay, Riverside and Mulberry.

- A. Resolution 2013-032 Authorizing the Mayor to Execute an Intergovernmental Agreement with the Colorado Department of Transportation to Use Federal Congestion Mitigation Air Quality (CMAQ) Funds for the Design and Implementation of a Traffic-Responsive Traffic Signal System at Signals Adjacent to the Railroad Tracks in the Vicinity of College Avenue, Lemay Avenue, Riverside Avenue and Mulberry Street.
- B. First Reading of Ordinance No. 059, 2013, Appropriating Unanticipated Grant Revenue in the Transportation Services Fund for the Design, Equipment Procurement and Implementation of a Traffic-Responsive Traffic Signal System.

The City's Traffic Operations Department was awarded a \$248,370 Federal Congestion Mitigation Air Quality (CMAQ) grant to design, procure equipment and implement a traffic responsive traffic signal system at select intersections that are impacted by railroad and truck operations. The project will be implemented at intersections along North College Avenue (U.S. 287), Riverside Avenue (SH 14), Mulberry Street (SH 14) and Lemay Avenue where trains and heavy trucks impact traffic on those major streets. The project is intended to reduce traffic delays by more quickly dispersing congestion at the intersections impacted by the passing trains.

12. First Reading of Ordinance No. 060, 2013, Appropriating Unanticipated Federal Department of Energy Grant Revenues in the Light and Power Fund.

This Ordinance appropriates \$845,323 of additional revenue related to the Renewable and Distributed Systems Integration (RDSI) project. This total includes \$372,500 of additional Department of Energy grant funding, as well as \$472,823 in other RDSI project revenues.

13. First Reading of Ordinance No. 061, 2013, Amending Section 2.2.10 of the Land Use Code by the Addition of a New Subparagraph (D) Pertaining to Parkway Landscaping Amendments.

This Ordinance amends the City's Land Use Code to add a new administrative process for changes to parkway landscaping in approved development plans. This is a necessary follow-up to new Streetscape Standards adopted by City Council on February 26, 2013. It involves parkway landscaping in single family housing developments where approved development plans specify turfgrass in the parkways (the strips of land between street curbs and detached sidewalks). These residential parkways are part of the City-owned right-of-way, but abutting property owners are responsible for parkway landscaping. The new process makes it easier for homeowners to request changes to approved plans.

14. First Reading of Ordinance No. 062, 2013, Approving an Intergovernmental Agreement Amending Certain Provisions of the First Amended Intergovernmental Agreement Pertaining to the Development of the Interstate 25/State Highway 392 Interchange.

This Ordinance approves an amendment to the Intergovernmental Agreement (IGA) between the City of Fort Collins and the Town of Windsor regarding the I-25/SH 392 Interchange. The First Amended IGA became effective on November 27, 2012. The IGA provides that Windsor and Fort Collins will annually share property and sales tax revenue generated in the area surrounding the I-25/ SH 392 Interchange (the CAC). The amount to be shared is the amount of increased taxes in the CAC beyond the amount collected in the base year. The IGA provided that the base year would be the revenues collected in the year 2012, the year the IGA became effective.

In discussions with the Town of Windsor, it was concluded that it would be more equitable if the base year for the increment calculation was 2010 rather than 2012. The tax revenues were reduced by as much as 25% in 2011 and 2012, since construction of the interchange was ongoing during that year. 2010 was the last year of tax revenues before construction began, and as such, would be a more accurate reflection of tax revenues for the purpose of determining increased increments to be divided.

A similar Ordinance was adopted by the Windsor Town Board on Second Reading on March 25, 2013.

15. First Reading of Ordinance No. 063, 2013, Authorizing the Conveyance of a Non-Exclusive Utility Easement on Springer and Williams Natural Areas to Platte River Power Authority.

Platte River Power Authority (Platte River) has requested a realignment of its existing easement (granted in 1982) across Natural Areas property to accommodate the proposed construction of the Woodward Inc. (Woodward) Link-N-Greens Campus, a master planned development, on adjacent property. As part of the development plan, Woodward is working with Platte River to reroute a portion of the overhead electric transmission line that crosses the Link-N-Greens campus. Subsequently, the transmission line will also need to be relocated from its current position on Springer Natural Area (Springer). To construct the new alignment, Platte River is requesting a 60 to 100-foot wide permanent easement, approximately 550 feet in length across the Springer and Williams Natural Areas to replace the 1982 easement. In addition, Platte River is requesting a temporary construction easement of roughly the same area. Natural Areas Department (NAD) staff is working with Platte River to delineate the final easement areas.

If the new alignment is approved, Platte River will vacate the existing 1982 easement in the north and west portions of Springer; remove all features associated with that part of the transmission line and restore the site. All impacts within the proposed temporary and permanent easement areas on Springer and Williams will be fully restored, as well. The overall restoration effort enables the site to be returned to a more natural riparian forest. The net benefit of the larger restoration in the former transmission line corridor will exceed the impacts caused by this project.

16. Resolution 2013-033 Authorizing the Acceptance of a Partial Donation of 1.345 Acres of Real Property from Interstate Land Holdings, LLC for Natural Areas Purposes.

The I-25 / SH 392 Interchange Project required the City to complete wetland mitigation improvements on property adjacent to Fossil Creek Reservoir Natural Area owned by Interstate Land Holdings, LLC. The owner of the property has agreed to convey the property to the City at an amount lower than the market value for the property. The owner has chosen to donate the remaining value of the property to the City. The purpose of this Resolution is to officially document the acceptance of the donation at a lower than market value for the benefit of the owner for tax reporting purposes.

17. Resolution 2013-034 Authorizing the Mayor to Execute an Intergovernmental Agreement Creating a Public Entity to Manage the Loveland to Fort Collins Stage of the USA Pro Challenge Cycling Race.

Fort Collins successfully partnered with Loveland, Estes Park, Windsor and Larimer County to secure a stage in the 2013 USA Pro Challenge (Pro Challenge), a seven day, professional cycling race. This Resolution authorizes the City to enter into an intergovernmental agreement with these local government partners to create a new public entity, the Northern Colorado Pro Challenge Local Organizing Committee (LOC), which would be responsible for planning, funding, promoting and conducting the Fort Collins-Loveland stage of the August, 2013 Pro Challenge.

18. Resolution 2013-035 Authorizing the Mayor to Enter into a Third Addendum to the Intergovernmental Agreement Between the City of Fort Collins and Poudre Valley Fire Protection District to Amend the Fire Chief's Spending Limit from \$20,000 to \$75,000 per Expenditure and Ratifying the First and Second Addenda to Such Agreement.

The City and the Poudre Valley Fire Protection District (PVFPD) entered into an Intergovernmental Agreement (IGA) in 1981 to establish the Poudre Fire Authority (PFA) to provide fire and emergency services to Fort Collins and surrounding areas. The IGA has been amended several times over the years and currently includes a spending limit for the Fire Chief, over which the Chief must seek Board approval. The proposed amendment (Addendum 3) will change the Fire Chief's spending limit from \$20,000 to \$75,000. In addition to allowing the increased spending limit, the Resolution also ratifies two previous Amendments to the IGA (Addenda 1 and 2) which were previously approved in inconsistent manners.

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

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

7. Second Reading of Ordinance No. 051, 2013, Authorizing the Conveyance of a Non-Exclusive Drainage and Landscaping Easement and an Access Easement on the Hickory Trail Property to Charles Meserlian.

8. Second Reading of Ordinance No. 052, 2013, Appropriating Prior Year Reserves in the Water Fund for the Construction of a Pre-Sedimentation Basin as Part of the High Park Fire Remediation.
9. Second Reading of Ordinance No. 053, 2013, Designating the Oliver and Leota Chandler Property, 710 Mathews Street, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

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

10. First Reading of Ordinance No. 058, 2013, Appropriating Prior Year Reserves.
11. First Reading of Ordinance No. 059, 2013, Appropriating Unanticipated Grant Revenue in the Transportation Services Fund for the Design, Equipment Procurement and Implementation of a Traffic-Responsive Traffic Signal System.
12. First Reading of Ordinance No. 060, 2013, Appropriating Unanticipated Federal Department of Energy Grant Revenues in the Light and Power Fund.
13. First Reading of Ordinance No. 061, 2013, Amending Section 2.2.10 of the Land Use Code by the Addition of a New Subparagraph (D) Pertaining to Parkway Landscaping Amendments.
14. First Reading of Ordinance No. 062, 2013, Approving an Intergovernmental Agreement Amending Certain Provisions of the First Amended Intergovernmental Agreement Pertaining to the Development of the Interstate 25/State Highway 392 Interchange.
15. First Reading of Ordinance No. 063, 2013, Authorizing the Conveyance of a Non-Exclusive Utility Easement on Springer and Williams Natural Areas to Platte River Power Authority.
24. First Reading of Ordinance No. 064, 2013, Amending the City Code to Authorize the City Manager to Ban Open Burning in the City Upon Recommendation of the Fire Chief.
25. First Reading of Ordinance No. 065, 2013, Designating the Jessup Farm Property, 1908 South Timberline Road, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

Councilmember Cunniff withdrew Item No. 17, *Resolution 2013-034 Authorizing the Mayor to Execute an Intergovernmental Agreement Creating a Public Entity to Manage the Loveland to Fort Collins Stage of the USA Pro Challenge Cycling Race*, from the Consent Calendar.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to adopt all items not withdrawn from the Consent Calendar. Yeas: Weitkumat, Cunniff, Horak, Campana, Overbeck, Troxell and Poppaw. Nays: none.

THE MOTION CARRIED.

**Consent Calendar Follow-Up**

Councilmember Poppaw commended the example of regional cooperation in regards to Item No. 14, *First Reading of Ordinance No. 062, 2013, Approving an Intergovernmental Agreement Amending Certain Provisions of the First Amended Intergovernmental Agreement Pertaining to the Development of the Interstate 25/State Highway 392 Interchange.*

**Staff Reports**

Jon Haukaas, Water Engineering Field Operations Manager, reported on an award received by the City for its Canal Importation Ponds flood mitigation project.

**Councilmember Reports**

Mayor Weitkumat reported on the Airport Steering Committee meeting. She noted the Airport houses the Civil Air Patrol and stated the Airport is still trying to pursue the grant for blended air space. She stated the Airport is still searching for a carrier and there are seven interested parties.

Mayor Pro Tem Horak reported on the Platte River Power Authority's strategic plan creation. He also reported on the Colorado State Land Board meeting and a meeting with the Warren Lake residents regarding tree removal.

**Resolution 2013-034**

**Authorizing the Mayor to Execute an Intergovernmental Agreement  
Creating a Public Entity to Manage the Loveland to Fort Collins  
Stage of the USA Pro Challenge Cycling Race, Adopted**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

*Fort Collins successfully partnered with Loveland, Estes Park, Windsor and Larimer County to secure a stage in the 2013 USA Pro Challenge (Pro Challenge), a seven day, professional cycling race. This Resolution authorizes the City to enter into an intergovernmental agreement with these local government partners to create a new public entity, the Northern Colorado Pro Challenge Local Organizing Committee (LOC), which would be responsible for planning, funding, promoting and conducting the Fort Collins-Loveland stage of the August, 2013 Pro Challenge.*

***BACKGROUND/ DISCUSSION***

*Fort Collins, Loveland, Estes Park, Windsor and Larimer County came together in 2012 to submit a bid to host a beginning and ending stage of the 2013 Pro Challenge. The Pro Challenge is an annual professional road cycling stage race featuring riders from sixteen international, professional teams. The race first occurred in Colorado in 2011; Northern Colorado, the first group to submit a regional bid, was awarded the 6th stage of the Pro Challenge. The race will be in Northern Colorado on Saturday, August 24, 2013. The exact route is yet to be determined; however, it will start at The Ranch, pass through Windsor, Loveland and Estes Park, and end in downtown Fort Collins.*



*As a Gold-level Bicycle Friendly Community, Fort Collins has demonstrated a commitment to cycling through education, encouragement, enforcement and engineering. This event provides media exposure on a statewide, national and international scale and furthers Fort Collins reputation as a leader in the cycling work. Additionally, the Pro Challenge will bring an estimated \$2 - \$4 million in publicity.*

*An event of this magnitude requires significant planning and coordination. Representatives from the partner entities, as well as other community organizations such as the Fort Collins Convention and Visitors Bureau and the Downtown Business Association, are working together to ensure the event is a success. The Pro Challenge owner, Classic Bicycle Racing, LLC (CBR), requires communities that are hosting the start or finish of a Pro Challenge stage to enter into a contract specifying all of the services and facilities the host community will provide. Given the regional nature of this partnership, it is in the best interest of all parties to create a new public entity with the power and authority to enter into contracts for the purpose of fulfilling Northern Colorado's race stage obligations, so that no one community bears sole responsibility and liability for the event. The purpose of this Resolution is to authorize the execution of an intergovernmental agreement between Larimer County, Fort Collins, Loveland, Windsor and Estes Park that would create a new public entity, the Northern Colorado Pro Challenge Local Organizing Committee (LOC).*

*The LOC would enter into the contract with CBR. Through that contract, the LOC would agree to provide services such as transportation, security, road closures, emergency medical services, permits, parking, volunteers, food, lodging, portable restrooms, trash removal and recycling. The LOC would also have authority to enter into other contracts for services and facilities (including contracts with each local government entity to provide in-kind services and facilities), accept donations and community sponsorships, organize volunteers, and assume general managerial responsibilities over the Northern Colorado stage of the Pro Challenge.*

*The LOC will be governed by a nine member Executive Committee, which includes one representative from each municipality. Kelly DiMartino, Assistant to the City Manager, is serving as the City's representative. Other members will be appointed by the municipal representatives based on expertise needed to put on the event. The LOC will have nine committees: Operations, Technical, Media and Public Relations, Marketing, Volunteers, VIP/Hospitality, Sponsorship/Sales, Education/Community Outreach, and Festival & Ancillary Events.*

### **FINANCIAL / ECONOMIC IMPACTS**

*As part of the 2013-2014 Budget Process, City Council approved \$50,000 for the event; the City has also agreed to provide \$50,000 of in-kind services. The event is expected to create a positive economic impact and local spending benefit."*

Councilmember Cunniff asked about the \$50,000 worth of in-kind contributions and whether overtime service and other types of ongoing staff time are considered in-kind. Kelly DiMartino, Assistant to the City Manager, replied the City is wanting to be very transparent with its expenses for this event and those types of expenses are going to be accounted for and will count against the in-kind contributions for the event. City Manager Atteberry replied he would consider overtime and other additional costs to be something beyond in-kind expenses.

*April 16, 2013*

Councilmember Cunniff expressed concern about the open-ended nature of some of the expenses. City Manager Atteberry replied Council will be advised of the expenditures and noted cost control is of utmost importance.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2013-034.

Mayor Weitkunat stated this is an exciting event; however, other mayors have warned of the possibility of excessive expenditures.

Councilmember Troxell asked if there is a sunset related to the public entity creation. DiMartino replied there will be a nine member executive committee which will sunset at the conclusion of the event.

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

THE MOTION CARRIED.

City Manager Atteberry stated this event is a significant national event which will forward the bicycle culture in Fort Collins.

#### **Executive Session**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to go into Executive Session for the purpose of meeting with the City Attorney, City Manager, and other affected members of City Staff to discuss potential litigation and related legal issues as permitted under Section 2-31(A)(2) of the City Code.

Councilmember Poppaw stated she would oppose the motion as the item was added to the agenda late and the issue should be discussed publically.

Mayor Pro Tem Horak supported the Executive Session, as the legal advice could be pertinent.

Councilmember Cunniff stated he could not support the Executive Session, unless given the assurance of substantial public discussion regarding the moratorium and Prospect Energy.

Councilmember Troxell supported the Executive Session.

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

THE MOTION FAILED AS THE VOTE REQUIRES A 2/3 MAJORITY VOTE.

**Ordinance No. 057, 2013**  
**Terminating the Moratorium Imposed by Ordinance No. 145, 2012 with Respect to Oil and Gas Operations Conducted under an Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC and Exempting Such Operations from the Prohibitions Contained in Section 12-135 of the City Code, Second Reading Continued to April 23, 2013**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

*On March 19, 2013, Council approved an Operator’s Agreement with Prospect Energy to conduct oil and gas operation in the city limits. The terms of the Agreement ensure stringent public health and safety measures are in place through Best Management Practices (BMPs), which generally exceed current requirements mandated by the Colorado Oil and Gas Conservation Commission (COGCC), and provide strict controls on the release of methane gases and other volatile organic compounds (VOCs). The Council also adopted on First Reading, Ordinance No. 057, 2013, by a vote of 5-1 (nays: Ohlson, absent: Poppaw), removing the Moratorium imposed by Ordinance No. 145, 2012, with respect to an Oil and Gas Operator Agreement with Prospect Energy.*

***BACKGROUND/ DISCUSSION***

*During Council discussion on March 19, 2013, questions arose regarding the inclusion of Undeveloped Acreage (UDA) in the Operator Agreement. Staff responded incorrectly as to when staff was aware of the UDA. The UDA was disclosed on March 1, 2013. Staff received the first Operator Agreement that included the UDA on March 7, 2013.*

*Council further inquired as to how development of the UDA may occur. Generally, Prospect Energy is limited to the terms and conditions contained in a confidential Surface Use Agreement (SUA) with Anheuser-Busch, Incorporated signed in April 2011. According to the Larimer County mineral lease notice (Attachment 4), the SUA is for a primary term of three years expiring March 2014. If, at the expiration of the Primary Term of the SUA, lands not then included within a producing or spacing unit are not engaged in drilling or reworking operations, then the lease expires. According to the notice, an option to extend the agreement for an additional three years is available if Prospect Energy makes an additional payment.*

*In addition to any requirements imposed by the SUA, any oil and gas development would be required to comply with the Council-approved Operator Agreement. A key aspect of the Agreement requires the following:*

***Conceptual Review*** – *No less than thirty (30) days prior to the submission of an Application for a Permit to Drill (APD) (note: APD is the Colorado Oil and Gas Conservation Commission (COGCC) permitting process), Prospect Energy will schedule a meeting with the City to review the proposed new well or drilling activity. The goal of this meeting would be for staff and the applicant to review the proposed oil and gas operation in a manner that ensures compliance with the operator agreement and applicable state and federal regulations. This pre-submittal meeting will also allow the applicant and staff to:*

- *explore site-specific concerns*

- *discuss project impacts and potential mitigation methods including field design and infrastructure construction to minimize impacts*
- *discuss coordination of field design with other existing or potential development and operators*
- *identify sampling and monitoring plans for air and water quality, and other elements of the operator agreement as contained in Exhibit A (Best Management Practices)."*

Laurie Kadrich, Community Development and Neighborhood Services Director, stated the adoption of this Ordinance would lift the moratorium for Prospect Energy, which would be allowed to drill new wells and not be subject to the limitation of the moratorium, which currently would only allow them to maintain existing wells. This Ordinance would also exempt Prospect Energy from the hydraulic fracturing ban, including any new wells that would be developed within the UDA.

Kadrich stated Council also has the option to consider an amendment to the Resolution, which is in response to comments received from citizens, related to concerns that this action would enable Prospect Energy to re-enter plugged and abandoned wells that are in the Fort Collins Field or the Undeveloped Area (UDA). Kadrich stated that is not the intent of Prospect Energy; this amendment would clarify that intent. This amendment would also restrict Prospect Energy to the rules that will be in place on August 1 for any drilling that would occur prior to that date. Kadrich continued to detail the agreement and showed maps of the Fort Collins Field and UDA. She discussed the requirements of the agreement, which would aid in environmental safety and public health, as well as those which would protect natural resources.

Mayor Weitkunat requested details on the changes to the Ordinance since First Reading. City Attorney Roy replied there are no changes in the Ordinance.

Gary Wockner, 516 North Grant, Clean Water Action, stated this issue should have been pulled and reviewed at a work session. He requested Council vote against lifting the moratorium and expressed concern about the potential for development in the UDA.

Maya Hesser, 2133 Ford Lane, congratulated the new Councilmembers and stated she feels betrayed by this potential agreement. She requested the moratorium be left in place until July in order to allow the City to discuss potential dangers with residents.

Rico Moore, 721 West Myrtle, corrected information presented regarding earthquake potential and opposed both the Ordinance and Resolution.

Danny Hesser, 2133 Ford Lane, requested the moratorium be left in place.

Nannette Hamilton, 1655 Dogwood Court, congratulated the new Councilmembers and Mayor Weitkunat. She opposed the lifting of the hydraulic fracturing ban.

Matthew Martinez, Fort Collins resident, expressed concern regarding the newly presented materials. He asked about bond requirements for the company.

Elizabeth Hudetz, 1407 Ticonderoga Drive, expressed concern about potential accidents and requested that Council continue the moratorium.

Lynda Blake, 5551 Cornerstone Drive, opposed all fracking in Fort Collins.

Robert Winkler, Weld County resident, supported an indefinite moratorium on all drilling.

Tom Hoehn, 218 South Washington, supported the fracking ban and moratorium.

Ward Giltner, Prospect Energy, congratulated the new Councilmembers and requested that Council adopt the agreement.

Janice Lynne, 218 South Washington, opposed the possible development of the UDA.

Kelly Giddens, Wellington resident, opposed exempting Prospect Energy from the fracking moratorium, citing health risks.

Rudy Zitti, 1626 Fantail Court, supported Prospect Energy and requested adoption of the operator agreement.

John Gascoyne, 718 West Mountain, stated Prospect Energy has operated in bad faith and encouraged protection of citizens.

Scott Hall, Prospect Energy, supported adoption of the Ordinance and stated Prospect Energy wishes to work cooperatively with the City and citizens.

Ward Luthe, Fort Collins resident, requested that Council uphold the moratorium.

Nancy York, 130 South Whitcomb, requested that Council uphold the moratorium.

Mayor Weitkumat noted neither the ban nor moratorium are being lifted, per se; this item only addresses Prospect Energy and existing operations within the city. Kadrich clarified the action before Council would apply to existing operations and expansion of new operations within the UDA for the existing operator only.

Councilmember Cunniff asked about the geology of the UDA and what could be produced there. Kadrich replied the operator had done internal studies about the area and believes the geology to be similar to that of the existing Fort Collins Field.

Councilmember Poppaw asked what boards and commissions have weighed in on this issue. Kadrich replied this item has not been reviewed with any boards or commissions.

Councilmember Poppaw asked who was in negotiations for this item. Kadrich replied she and Lindsay Ex were present during all of the meetings and attorneys and other staff members were present intermittently.

Councilmember Poppaw asked if any Councilmembers were involved. Kadrich replied no Councilmembers were involved during any of the negotiations.

Councilmember Campana stated there was more than a year of dialogue regarding operator agreements with the Planning and Zoning Board, the Air Quality Advisory Board, the Water Board,

and the Oil and Gas Advisory Committee. Kadrach agreed, but replied this specific operator agreement was not discussed with any of the boards or commissions.

Councilmember Poppaw stated this operator agreement received no vetting either with the general public or with boards and commissions.

Councilmember Campana stated the details were vetted and the information extracted from those meetings was taken to the negotiations. Kadrach replied that statement is accurate for most of the best management practices that are contained in the operator agreement.

Councilmember Campana asked about chemical disclosures. Lindsay Ex, Environmental Planner, replied the operator has committed to disclosing all the chemical used in its operations through both the FrackFocus.org website and to the City.

Councilmember Campana asked about the air quality monitoring in the operator agreement. Melissa Hovey, Senior Environmental Planner, replied staff has negotiated three different phases of air monitoring: background air monitoring, monitoring during any well completion phase, and monitoring in response to any spills, emergencies, or citizen complaints.

Councilmember Campana asked if water quality would be treated similarly. Bonnie Pierce, Environmental Data Analyst, replied the operator has agreed to baseline sampling, follow-up sampling at one, three and six years, and monitoring of additional chemicals to those on the COGCC list.

Councilmember Campana asked about on-site chemical storage. Pierce replied the agreement does not allow for permanent on-site storage for chemical waste.

Councilmember Campana stated his understanding is that the operator is only allowed to use a closed-circuit system for fracking, which in this case generates a bit of water rather than consuming any water. Kadrach replied in the affirmative.

Councilmember Campana asked about bonding and the aspects of the agreement related to any type of leakage or contamination. Kadrach replied the operator agreement outlines the requirements for follow-up should testing reveal contamination. Dan Weinheimer, Policy and Project Manager, replied all operators are required by the COGCC to carry a \$1 million general liability insurance policy and to bond \$2,000 per well on non-irrigated land, or \$5,000 per well on irrigated land. Wells deeper than 3,000 feet require a \$20,000 bond and there are other requirements for in-lieu bonds.

Councilmember Campana requested staff input regarding the seemingly recent discussions regarding the UDA. Kadrach replied the fact that Prospect Energy has a lease in that particular location had never previously been discussed. However, since December, that area has been shown as being available for oil and gas development. The specific information with the UDA was not brought forward to Council until the First Reading of the operator agreement.

Councilmember Poppaw requested the date of the First Reading of the operator agreement. Kadrach replied it was March 19, 2013.

Councilmember Poppaw asked how many of the currently seated Councilmembers were at that meeting and voting. City Clerk Nelson replied three of the current members were voting at that meeting.

Councilmember Poppaw noted this could potentially be the first time new Councilmembers are hearing about the UDA.

Councilmember Troxell asked about the potential involvement of Larimer County Public Health. Kadrich replied the Air Quality Board encouraged the City to work with the County Board regarding data collection and impacts on the City and County.

Councilmember Troxell requested comments on state legislation in process. Weinheimer replied Bill 1275 is not currently active and he reviewed the seven currently active bills. Kadrich replied the more stringent of the regulations in the agreement or any of the bills that may pass would apply to the operator.

Mayor Weitkunat asked about the agreement's protection of the health and well-being of citizens. Kadrich replied the agreement has many areas of additional requirements regarding air quality, emergency preparedness, observation allowances, and soils gas testing regulations. She stated the project team members approached each area of expertise and put out the best practices known for each area in order to provide the best protections for the community. In some cases, they are far above State and COGCC requirements, in some cases they are the same.

Councilmember Overbeck asked who funds City employee training and soil and air quality monitoring. Ex replied the City's Office of Emergency Management would commit regarding emergency situations. However, in the case of an emergency, the City has the ability to be reimbursed.

Councilmember Poppaw asked who would fund the reimbursement. Kadrich replied the operator would be required to reimburse the City.

Councilmember Troxell made a motion, seconded by Mayor Pro Tem Horak, to adopt Ordinance No. 057, 2013, on Second Reading.

Councilmember Poppaw made a motion, seconded by Councilmember Cunniff, to postpone the item to April 29th, after a work session can be held on April 23.

Councilmember Poppaw stated this issue deserves a work session due to its complexity and noted four of the seven Councilmembers were not present for First Reading and the item has not been properly publically vetted.

Councilmember Cunniff agreed with Councilmember Poppaw.

Mayor Pro Tem Horak suggested postponement could be a dangerous action but stated he could potentially support postponement of part of the item.

Councilmember Poppaw asked what portions of the item need more vetting. Mayor Pro Tem Horak replied the operator agreement is not the controversial part; the only portion that needs more vetting

is the UDA portion. He supported the stringency of the agreement and supported limiting the release of the moratorium to only the Fort Collins Field and not to the UDA.

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

THE MOTION FAILED.

Mayor Pro Tem Horak made a motion to amend Ordinance No. 057, 2013, seconded by Councilmember Cunniff, to terminate the moratorium for the Fort Collins Field only.

City Attorney Roy clarified the intent of the motion to terminate the moratorium for Prospect Energy's operations only within the Fort Collins Field, to apply the operator agreement to allow new drilling only in the Fort Collins Field, and to exempt them from the ban with regard to all operations within the Fort Collins Field.

Councilmember Campana questioned why the best practices and high standards of health and safety should not be applied to the UDA. Mayor Pro Tem Horak replied the location of well pads is already known for the Fort Collins Field. The UDA does not have set well pads or specific parameters.

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

City Attorney Roy stated the Ordinance, as written, would lift the moratorium with respect to all oil and gas operations within both the Fort Collins Field and the UDA. He asked if Council intends to lift the moratorium on all oil and gas operations within the Fort Collins Field, or does it wish to do so only if those operations are conducted in accordance with a new operator agreement that applies just to the Fort Collins Field and not to the UDA. The hydraulic fracturing ban in Section 2 can only be lifted if done in connection with an operator agreement.

City Attorney Roy clarified Council can expand the exception that exists in the moratorium by amending Section 1 of the Ordinance, and not doing Section 2. Section 2 must be conditioned on a revised operator agreement, which the operator may or may not be willing to enter into.

Mayor Pro Tem Horak asked if Prospect Energy could operate in the Fort Collins Field under the existing agreement. City Attorney Roy replied they could operate if the City wanted to interpret that it applied to a portion of the area described in the agreement. However, if Prospect Energy takes the position that the agreement does not apply, it may contend there are no conditions it needs to honor contained within the agreement within that Field.

Councilmember Campana suggested a modified operator agreement that would cover the Fort Collins Field and allow some additional time for the UDA. He suggested Council condition approval on a modified operator agreement.

Councilmember Cunniff asked if the previously approved operator agreement requires modifications to operations at existing wells to comply with the inspection requirements of the agreement. Kadrich replied it does not require that, unless the operator drills a new well on an existing well pad.



*April 16, 2013*

Councilmember Cunniff stated he would not support the motion to amend and supported upholding the moratorium for the Fort Collins Field until remediation can be explored.

City Attorney Roy clarified the intent of the motion is to terminate the moratorium with regard to the operations in the Fort Collins Field, and the exception would be conditioned upon a new operator agreement. He proceeded to read the applicable amendments to the Ordinance.

Councilmember Troxell asked about the course of action for any potential changes. City Attorney Roy replied an Ordinance passed on Second Reading is final.

Mayor Pro Tem Horak stated his intent was that the moratorium would be lifted for the existing Fort Collins Field, and within that, the City needs an operator agreement substantially similar to the existing agreement for that Field. Additionally, the hydraulic fracturing ban is applied in the same manner.

Councilmember Troxell stated he is unclear about the status of the UDA, but assumed that would be discussed in the future. He expressed appreciation for the efforts of fellow Councilmembers but stated he is leery of such modifications on Second Reading and would therefore oppose the motion to amend.

Councilmember Cunniff agreed with Councilmember Troxell and stated he would not support the motion.

The vote on the motion to amend the motion to adopt Ordinance No. 057, 2013 on Second Reading was as follows: Yeas: Horak and Weitkunat. Nays: Troxell, Overbeck, Poppaw, Cunniff and Campana.

THE MOTION FAILED.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to postpone the item to next Tuesday, April 23, for a possible work session and adjourned meeting for possible action on the item.

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

THE MOTION FAILED.

Councilmember Cunniff, seconded by Councilmember Poppaw, to postpone the item for a work session on April 23 and contemplation of final action on Monday, April 29.

Mayor Weitkunat made a motion to amend Councilmember Cunniff's motion, seconded by Councilmember Campana, to consider final action on April 23, following the work session, effectively returning to the previous motion.

Councilmember Troxell asked about the timing issue between the 23rd and 29th. City Manager Atteberry replied staff has stressed the importance of timing.

Councilmember Troxell stated he would oppose the postponement motions and would prefer an up or down vote on the motion to approve the Ordinance on Second Reading.

Mayor Pro Tem Horak stated postponement to a date certain allows the process to continue.

Councilmember Poppaw stated Council is struggling with the issue and the public deserves a work session. She stated she would support the motion made by Councilmember Cunniff.

Councilmember Troxell questioned the necessity of a work session. City Manager Atteberry requested that Council give direction as to what information it may need for the work session. Mayor Weitkunat replied Council is seeking specific information on the UDA.

Councilmember Overbeck asked if public participation would occur at the continued meeting. City Attorney Roy replied Council's existing rules do not accommodate additional citizen input at an adjourned meeting.

Councilmember Overbeck stated having citizen input at the adjourned meeting would be very important to him.

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

THE MOTION CARRIED.

The vote on the motion to postpone Second Reading of Ordinance No. 057, 2013 to April 23, after a work session is held on the topic was as follows: Yeas: Cunniff, Horak, Weitkunat, Campana and Poppaw. Nays: Troxell and Overbeck.

THE MOTION CARRIED.

**Ordinance No. 064, 2013**  
**Amending the City Code to Authorize the City Manager to Ban Open**  
**Burning in the City Upon Recommendation of the Fire Chief, Adopted on First Reading**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

*During the spring and summer of 2012, Fort Collins and Larimer County experienced record setting fire weather following a prolonged drought. As a result, the community experienced not only the worst wildfire in the history of Larimer County, but the second largest wildfire in the history of Colorado and the second most costly season in lost homes and property. During this time, Governor Hickenlooper and the Larimer County Commissioner enacted fire bans due to the extreme fire conditions. The Fort Collins City Council also adopted a fire ban through an emergency ordinance (Emergency Ordinance No. 065, 2012). At that time, staff was directed to figure out a more efficient way to implement a fire ban and to avoid the emergency ordinance process.*

## **BACKGROUND/ DISCUSSION**

*2012 was an extraordinary year from a fire danger standpoint and for the first time in recent memory, a fire ban was enacted within the city limits. Even during years when conditions are dry and high fire danger exists in the surrounding open spaces, the fire danger within the city limits is moderate, due to the amount of irrigated property, grass areas, shrubs and trees. However, in 2012, conditions became extreme, and there was an increase in all types of fires, including non-vegetation fires. Potting soil became very dry, which led to more ignitions from discarded smoking materials. Decks and other wooden debris became more susceptible to fire as fuel moistures dropped. It quickly became apparent that fire risks were increasing as the hot, dry and windy conditions persisted. This, coupled with a scarcity of firefighting resources in the state and region, including local crews committed to the High Park fire, eventually led to the determination that a fire ban was needed within the city limits.*

*Although such conditions do not happen overnight, they can become dangerous more quickly than the routine timeline required to pass an ordinance on First and Second Reading. In 2012, these conditions led to an emergency ordinance with a single reading. At that time, Council expressed concern with the use of an emergency ordinance as a tool in this circumstance, and directed staff to explore other options. In response, staff contacted numerous other jurisdictions to determine what they did in similar situations. Some of the practices of other jurisdictions are:*

- *Regulations that give the Fire Chief the authority to implement a ban.*
- *Special ordinances that authorize the City Manager to implement the ban.*
- *State implemented bans (which may raise home rule issues).*

*Of all the options explored, it appears that the most efficient, reactive, and easily implemented option is to give the City Manager the authority to implement a ban based on the input of the local fire officials, without Council approval. The City Manager would still be required to provide notice to the City Council within twenty-four (24) hours of the issuance of such a ban. The City Manager would also be authorized to lift the ban as conditions improve, which would allow flexibility to react quickly as conditions change.*

*This process is currently used in Timnath and is currently under consideration by the Loveland City Council, as well. The Ordinance will apply to all public and private property within the city limits, as well as to all City-owned properties outside of the city limits.*

*There will be two stages of restrictions based on the severity of the conditions allowing for a phased approach, much as is being done with the water restrictions. A violation of the prohibitions of Stage 1 or 2 fire restrictions in the city would be subject to a misdemeanor violation”*

Bob Poncelow, Poudre Fire Authority Fire Marshal, noted County and State fire restrictions do not apply to the city limits of Fort Collins as it is a home rule city. During the High Park Fire, when an emergency ordinance to ban open burning within the city limits was brought before Council, staff was directed to explore other options to enact fire restrictions. Poncelow reviewed the definition of open burning and the types of criteria which will be examined when considering restrictions. He reviewed Stage 1 and 2 fire restrictions.

Councilmember Troxell asked about the emergency ordinance used last year. City Manager Atteberry replied this item would prevent the use of an emergency ordinance, as Council has typically opposed the use of that technique.

Councilmember Troxell supported the placement of the decision to enact restrictions with the City Manager, but stated he would like to see further efforts toward a less qualitative approach for enacting restrictions. City Manager Atteberry replied he has discussed that with Chief DeMint and suggested Council adopt the Ordinance on First Reading and allow staff to further study the issue. Chief DeMint, Poudre Fire Authority, noted quantitative measurements are not readily found and stated Poudre Fire Authority's wild land team developed a response plan built on fuel moisture and weather data.

Councilmember Cunniff asked how the community will be informed that a fire restriction is in place and requested information regarding penalties for violations. Poncelow replied a violation would be a violation of the Fire Code, which is typically a misdemeanor. Public outreach would be done through the PFA Public Affairs and Education Officer, in conjunction with the City's Communications Public Involvement Office and the County.

City Attorney Roy clarified a violation would be considered a misdemeanor criminal offense, subject to the penalty provisions of the Code.

Councilmember Poppaw made a motion, seconded by Mayor Pro Tem Horak, to adopt Ordinance No. 064, 2013, on First Reading. Yeas: Horak, Weitkunat, Campana, Troxell, Overbeck, Poppaw and Cunniff. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 065, 2013**  
**Designating the Jessup Farm Property, 1908 South Timberline Road,**  
**as a Fort Collins Landmark Pursuant to Chapter 14**  
**of the City Code, Adopted on First Reading**

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

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

*The owner of the property, Gino Campana of Jessup Farm LLC, is initiating this request for Fort Collins Landmark designation for the Jessup Farm Property at 1908 South Timberline Road.*

***BACKGROUND/ DISCUSSION***

*The property is eligible for designation as a Fort Collins Landmark under Designation Standards 1, 2, and 3 for its association with significant historical events and persons, and also for its architectural significance to Fort Collins.*

*The Jessup Farm is significant under Standard 1 for its association with agricultural contexts in Fort Collins since the late nineteenth century, including the open range cattle industry, farming and ranching, and sheep raising.*

*Additionally, the property is significant under Standard 2 for its association with prominent cattlemen James B. Arthur and Joseph Jessup, as well as members of the Johnson family, prominent farmers who first moved to the area in 1902.*

*Furthermore, the property displays architectural significance under Standard 3 as its buildings are distinctive examples of vernacular rural architecture holding high levels of integrity. The gabled-ell farmhouse represents a well-preserved and rare housing type in Fort Collins, while various outbuildings on the farm site illustrate changing agricultural practices in northern Colorado during the twentieth century.*

### **FINANCIAL/ ECONOMIC IMPACTS**

*Recognition of the Jessup Farm Property at 1908 South Timberline Road as a Fort Collins Landmark enables its owner to qualify for federal, state and local financial incentive programs available only to designated properties. Additionally, based upon research conducted by Clarion Associates, the property would see an increase in value following its designation. Clarion Associates attributed this increase to the fact that future owners also qualify for the financial incentives; the perception that designated properties are better maintained; the appeal of owning a recognized historic landmark; and the assurance of predictability that design review offers.*

### **BOARD / COMMISSION RECOMMENDATION**

*The Landmark Preservation Commission and staff recommend adoption of the Ordinance on First Reading. At a public hearing held on March 13, 2013, the Landmark Preservation Commission voted to recommend designation of this property under Designation Standards (1), (2), and (3) for its association with significant historical events and persons, and also for its architectural significance to Fort Collins”*

Karen McWilliams, Historic Preservation Planner, stated this Ordinance would designate the Jessup Farm Property as a City of Fort Collins Landmark. She reviewed the history and geography of the property and discussed the proposed building revisions.

Councilmember Troxell asked if the application was prepared by the applicant. McWilliams replied in the negative and noted most landmark designation applications are prepared by staff, generally with the help of Historic Preservation graduate students at Colorado State University.

Councilmember Troxell asked if the applications are reviewed for accuracy. McWilliams replied the Jessup Farm was surveyed originally in 1992 by a professional historic preservation consulting firm. At that time, the property was identified as National Register and Fort Collins eligible. Since then, the property was proposed to be nominated for Colorado’s most endangered properties list. All of the information has since been reviewed by staff and the Landmark Preservation Commission’s Chair.

Councilmember Troxell expressed support for the project and staff work on the item.

April 16, 2013

Councilmember Cunniff asked if Council is considering only the historical designation and not a potential future project for the site. McWilliams replied in the affirmative.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 065, 2013, on First Reading. Yeas: Weitkunat, Poppaw, Horak, Troxell, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

**Other Business**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn to Tuesday, April 23, 2013, so that the Council may consider any additional business that may come before the Council. Yeas: Campana, Troxell, Cunniff, Horak and Weitkunat. Nays: Overbeck and Poppaw.

THE MOTION CARRIED.

**Adjournment**

The meeting adjourned at 9:45 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**April 9, 2013**

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Special Meeting - 6:00 p.m.**

A special meeting of the Council of the City of Fort Collins was held on Tuesday, April 9, 2013, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll Call was answered by the following Councilmembers: Horak, Kottwitz, Manvel, Ohlson, Poppaw, Troxell, and Weitkunat.

Staff Members Present: Williams, Nelson, Roy.

Mayor Weitkunat asked outgoing Councilmembers for comments.

Councilmember Manvel commented on his wonderful experience and thanked the citizens of his district and the City as a whole. He thanked City staff and his fellow Councilmembers.

Councilmember Kottwitz thanked the citizens of Fort Collins, City staff, and her fellow Councilmembers. She thanked her family and friends who have supported her during her term.

Mayor Pro Tem Ohlson thanked the citizens of Fort Collins, the City management and staff, and the fellow Councilmembers with whom he has worked over the years. He commented on the pride he has in local government.

City Clerk Nelson administered the oaths of office for newly elected Councilmembers Overbeck, Campana, and Cunniff, and re-elected Mayor Weitkunat.

The outgoing Councilmember stepped down and the newly constituted Council was seated.

**Resolution 2013-029**  
**Expressing Gratitude and Appreciation to Ben Manvel**  
**for His Contributions to the Community as a Councilmember, Adopted**

Councilmember Poppaw read Resolution 2013-029 in full, commending outgoing Councilmember Manvel.

Linda Stanley, 2040 Bennington Circle, commended Mr. Manvel on his service to the City.

Glen Colton, 625 Hinsdale Drive, commended Mr. Manvel on his thoughtfulness and thoroughness throughout his tenure.

Rick Price, 1925 Wallenberg Drive, commended Mr. Manvel on his work supporting bicycling in Fort Collins.

*April 9, 2013*

Tim Johnson, 1337 Stonehenge Drive, commended Mr. Manvel on his work regarding transportation within the city.

Scott Mason, Fort Collins resident, commended Mr. Manvel for his service to the city.

Gina Janett, 730 West Oak, commended Mr. Manvel for his service, mathematical skills, and work to protect Old Town homes.

Gary Wockner, 516 North Grant, commended Mr. Manvel for his consideration, respect, and graciousness.

Doug Brobst, 1625 Independence Road, commended Mr. Manvel for being a supporter of neighborhoods and wished him luck.

Lloyd Walker, 1756 Concord Drive, commended Mr. Manvel on his work toward increasing quality of life in Fort Collins.

Ray Martinez, 4121 Stoneridge Court, commended Mr. Manvel on his graciousness and respect.

Don Butler, Fort Collins resident, commended Mr. Manvel on his support of North Fort Collins and commended the work of Ms. Kottwitz.

Councilmember Poppaw made a motion, seconded by Councilmember Horak, to adopt Resolution 2013-029.

Mayor Weitkunat noted Council had previously met to express thoughts and commendations but invited Council to make additional comments.

Councilmember Poppaw thanked Ann Manvel for her support of her husband and thanked Mr. Manvel for being a mentor and for his contributions to the community.

Councilmember Horak commended Mr. Manvel's representation of the Council and City.

Councilmember Cunniff commended Mr. Manvel's service to the City.

Councilmember Troxell commended Mr. Manvel's work on the City-CSU liaison committee.

Councilmember Overbeck commended Mr. Manvel on his service.

Mayor Weitkunat commended Mr. Manvel on his service.

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

THE MOTION CARRIED.



**Resolution 2013-030**  
**Expressing Gratitude and Appreciation to Aislinn Kottwitz**  
**for Her Contributions to the Community as a Councilmember, Adopted**

Councilmember Troxell read Resolution 2013-030 in full, commending outgoing Councilmember Kottwitz.

Eric Kronwell, 1613 Barnwood Drive, commended Ms. Kottwitz on her service and authenticity.

Rudy Zitti, 1626 Fantail, commended Ms. Kottwitz on her service.

Ray Martinez, 4121 Stoneridge Court, commended Ms. Kottwitz on her service and character.

Gary Thomas, Fort Collins resident, commended Ms. Kottwitz on her compassion and service.

Councilmember Troxell made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2013-030.

Councilmember Poppaw commended Ms. Kottwitz on her unwavering values and service to the City.

Councilmember Troxell commended Ms. Kottwitz on her service and perseverance.

Councilmember Horak commended Ms. Kottwitz on her service.

Councilmember Campana commended Ms. Kottwitz on her service and representation of District 3.

Mayor Weitkunat commended Ms. Kottwitz on her strength, passion, and commitment.

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

THE MOTION CARRIED.

**Resolution 2013-031**  
**Expressing Gratitude and Appreciation to Kelly Ohlson**  
**for His Contributions to the Community as Mayor Pro Tem and Councilmember, Adopted**

Mayor Weitkunat read Resolution 2013-031 in full, commending outgoing Mayor Pro Tem Ohlson.

John Michala, Fort Collins resident, commended Mr. Ohlson on his impact on the City's open spaces and natural areas.

Glen Colton, 625 Hinsdale Drive, commended Mr. Ohlson on his hard work and selflessness.

Mel Hilgenberg, 172 North College, commended Mr. Ohlson, Mr. Manvel, and Ms. Kottwitz on their service, and wished Mayor Weitkunat luck in her future term.

*April 9, 2013*

Tim Johnson, 1337 Stonehenge Drive, commended Mr. Ohlson on his work regarding natural areas and open spaces, as well as City Plan.

Rick Price, 1925 Wallenberg Drive, commended Mr. Ohlson on his service to the bicycle community and to the City.

Cordelia Stone, Fort Collins resident, commended Mr. Ohlson on his service to the City.

Scott Mason, Fort Collins resident, commended Mr. Ohlson on his service to the City and recognized his work regarding the city's neighborhoods, natural areas, and open spaces.

John Gascoyne, 718 West Mountain, commended Mr. Ohlson regarding his work on the City's open spaces.

Gary Wockner, 516 North Grant, commended Mr. Ohlson on his knowledge of the community and City government.

Gina Janett, 730 West Oak, commended Mr. Ohlson for his work regarding the environment and recycling, as well as his service to the community.

Don Butler, Fort Collins resident, commended Mr. Ohlson on his work regarding North Fort Collins.

Dan Binn, Fort Collins resident, commended Mr. Ohlson on his service to the community.

Lloyd Walker, 1756 Concord Drive, commended Mr. Ohlson on his work regarding the city's neighborhoods.

Doug Brobst, 1625 Independence Road, commended Mr. Ohlson on his service.

Linda Stanley, 2040 Bennington Circle, commended Mr. Ohlson on his public policy and local solutions.

David Roy, Fort Collins resident, commended Mr. Ohlson on his service to the community.

Ray Martinez, 4121 Stoneridge Court, commended Mr. Ohlson on his honesty and genuineness.

Councilmember Horak made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2013-031.

Councilmember Poppaw commended Mr. Ohlson on his tireless work for the City.

Councilmember Troxell commended Mr. Ohlson on his service to the City.

Councilmember Horak commended Mr. Ohlson on his passion and tenacity.

Councilmember Overbeck commended Mr. Ohlson on his service.

Councilmember Cunniff commended Mr. Ohlson on his contribution and service.

Councilmember Campana commended Mr. Ohlson on his service to the City.

Mayor Weitkunat commended Mr. Ohlson on his service to the City.

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

THE MOTION CARRIED.

### **Election of Mayor Pro Tem**

Mayor Weitkunat stated the Council would elect a Mayor Pro Tem to act as Mayor in the absence or disability of the Mayor.

Gary Wockner, 516 North Grant, supported Councilmember Poppaw for the position of Mayor Pro Tem.

Mel Hilgenberg, 172 North College, opposed the proposed on-campus stadium and thanked City staff and management.

Gina Janett, 730 West Oak, supported Councilmember Poppaw for the position of Mayor Pro Tem.

John Michala, Fort Collins resident, supported Councilmember Poppaw for the position of Mayor Pro Tem.

Lloyd Walker, 1756 Concord Drive, supported Councilmember Poppaw for the position of Mayor Pro Tem.

Doug Brobst, 1625 Independence Road, supported Councilmember Poppaw for the position of Mayor Pro Tem.

Councilmember Cunniff stated he would not seek the position of Mayor Pro Tem.

Councilmember Poppaw discussed her strengths as a Councilmember and stated she would be honored to hold the position of Mayor Pro Tem.

Councilmember Horak discussed his strengths as a Councilmember and stated he would be privileged to hold the position of Mayor Pro Tem.

Councilmember Troxell made a motion, seconded by Councilmember Campana, to nominate Councilmember Horak as Mayor Pro Tem.

Councilmember Cunniff opposed the process of election and stated he would not support the motion.

Councilmember Troxell commended Councilmember Horak's community engagement and stated he would support the motion.

*April 9, 2013*

Councilmember Campana stated he feels fortunate to have the choice and commended both Councilmembers.

Councilmember Overbeck stated he would support Councilmember Poppaw for the position.

Mayor Weitkunat discussed the need for the Mayor Pro Tem to bring the Council agenda work forward. She stated she would support the motion.

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

THE MOTION CARRIED.

**Adjournment**

At the conclusion of the executive session, the meeting was adjourned at 7:57 p.m.

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Mayor

ATTEST:

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City Clerk

**March 26, 2013**

**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, March 26, 2013, 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.

(Secretary's note: Councilmember Kottwitz arrived at 6:05 p.m. and Councilmember Horak arrived at 6:10 p.m.)

Staff Members Present: Atteberry, Nelson, Roy.

**Agenda Review**

City Manager Atteberry stated the Urban Renewal Authority meeting scheduled to follow the Council meeting is anticipated to be held tomorrow evening. Additionally, the work session regarding the City Council end-of-term report has been cancelled and a written report will be provided in lieu of the work session. There has been an advertised need for a possible Executive Session which is also likely to occur tomorrow evening.

**CONSENT CALENDAR**

4. Second Reading of Ordinance No. 047, 2013, Enacting Water Rates Adjustments for the Water Supply Shortage Response Levels Established in the Water Supply Shortage Response Plan and Amending the Plan.

Based on the uncertainty of how much water supply will be available from the two main sources of supply, the Poudre River and Colorado-Big Thompson Project (CBT), which was presented to City Council as a staff report on February 5, the City Manager will declare Response Level 1 water restrictions for the City of Fort Collins on March 6 for the water restrictions to be effective on April 1, 2013.

The Water Supply Shortage Response Plan, Ordinance No. 048, 2003, recommends water rate adjustments for Response Levels 2, 3 and 4. In preparing for the potential of moving to Response Level 2 or higher, Fort Collins Utilities staff has determined the amount that water rates need to be increased for each Response Level. Revising rates to be revenue neutral is consistent with the intent of the Water Supply Shortage Response Plan and how the rates were developed in 2003. This Ordinance, unanimously adopted on First Reading on March 18, 2013, attempts to maintain revenues at the 2013 budgeted level for each possible Response Level. The Ordinance also increases the Excess Water Use Surcharge for each Response Level beginning with Response Level 1.

At the time the City Council declares that municipal water supply conditions are such that water restrictions are no longer needed, all water rates will revert to the rates shown in Chapter 26 of the City Code.

In preparation for the implementation of the Water Supply Shortage Response Plan in the coming months, the City Manager has recommended two amendments be made to Ordinance No. 048, 2003. One involves changes to the definition and use of “water fountains” (changed to “water features”) and the other involves changes to the terms of permits for large acreage and parks and athletic/playing fields.

5. Resolution 2013-027 Making an Appointment to the Senior Advisory Board.

A vacancy currently exists on the Senior Advisory Board due to the resignation of Rebecca Lindsey. Mayor Karen Weitkunat and Councilmember Gerry Horak opted to readvertise and interview new applicants for the vacancy. The interview team is recommending Joann Thomas to fill the vacancy, with a term to begin immediately and set to expire on December 31, 2014.

Mayor Pro Tem Ohlson 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.

**Items Relating to an Agreement Between the City of Fort Collins, the Fort Collins Downtown Development Authority, and Woodward, Inc. to Provide Business Investment Assistance for the Relocation and Construction of the Company’s Headquarters and Expanding its Manufacturing and Office Facilities, Adopted on First Reading**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

- A. *First Reading of Ordinance No. 55, 2013, Authorizing and Approving the Execution and Delivery by the City of an Agreement with Woodward, Inc. and Related Documents, Including the Authorization of a Borrowing, in Connection with an Economic Development Project Relating to Woodward, Inc., and Providing Other Matters Related Thereto.*
- B. *First Reading of Ordinance No 56, 2013, Appropriating General Fund Reserves to Fund Capital Public Improvements in Connection with a Community Development Business Assistance Agreement Between the City, Downtown Development Authority, and Woodward, Inc. Regarding the Link-n-Greens Development.*

*City Council will consider two items related to providing business investment assistance to Woodward, Inc. to encourage the relocation and construction of the company’s headquarters and expanding its manufacturing facilities in Fort Collins. The project will retain or create between 1,400 and 1,700 primary jobs in the community, provide 29 acres of improved open space along the river (including habitat restoration), and anchor the southeastern edge of the River District with a major employer. The two items include:*

- A. *An Agreement between the City, Downtown Development Authority, and Woodward, Inc.; and*
- B. *An appropriation of \$2.27 million in General Fund Reserves in connection with the Agreement with Woodward, Inc.*

## **BACKGROUND / DISCUSSION**

### **Project Overview**

#### *Location*

*This area consists of 101.5 acres and is generally located at the southwest corner of East Lincoln and South Lemay Avenue. The Cache la Poudre River is the southern boundary and the majority of the western boundary of the P.D.P. The Poudre River Trail is located on the property within an easement. The project is zoned C-C-R Community Commercial – Poudre River District, and the proposed uses are permitted in this zone district at this location.*

#### *History*

*The land is currently used as the Link-n-Greens golf course which has been in operation since 1986. The property contains a barn, silos and outbuildings known as the Coy/Hoffman Barn, which were designated on the Colorado State Register of Historic Properties in 1995. The barn is associated with the earliest development of agriculture in the area, having been built during the 1860s as part of a homestead. Woodward has expressed an interest in working with the City in recognizing the historic importance of the downtown river corridor. Although there are no specific plans to date, they have indicated an interest in participating in some manner in recognizing the Coy Barn and other historic features. As part of the development the barn will be renovated. A specific use has not been identified, although, in order to protect the structure, it may not be open to the general public.*

#### *Project Description*

*The proposed Woodward project is being established to accommodate a new campus to accommodate the company's continuing growth. Woodward is a global company and has been in Fort Collins since 1955. They have continued to experience growth in sales and breadth of market of their products. The company serves two major market sectors, including aerospace and energy. It is Woodward's intent to expand their facilities to meet the growing demand for their products and to expand in northern Colorado. Over time, the project will be home to their international headquarters and for the global headquarters of up to two of their businesses: Industrial Turbomachinery Systems (ITS) and Engine Systems (ES). As a large base level employer Woodward generates over \$2 billion in sales per year.*

*Woodward has outgrown their Drake facility and need to expand their overall facilities to accommodate continued growth. Woodward intends to develop a campus of office, manufacturing, and testing facilities on the Link-N-Greens site. The campus will include a collection of buildings with parking areas served by private drives. In conjunction with the campus, a retail and commercial center is proposed to be located in the southeast corner of the site. Approximately*

70,000 square feet of office and commercial development is planned for this area. The combined building footprint of the industrial/manufacturing facility is projected to be 600,500 square feet in buildings ranging from one to three stories. A future phase of construction will contain an unknown amount of commercial development including service based restaurant, retail and office for the benefit of the general public and Woodward employees.

Development of the industrial campus for Woodward will occur in four phases beginning with a first phase of approximately 259,300 square feet. Timing of each of the phases will be based on market demand. Unlike the Drake campus this one will not be fenced. Instead security will be through other measures, primarily at the buildings. This will allow the campus to have an open street-front landscape appearance. The project plan is divided into Phase One and Future Phases up to four phases. Phase One includes the core components of the Woodward operations and would represent over \$100 million in investment. Over all four phases construction would be approximately \$200 million (including production equipment). The river restoration area would be dedicated to the City and be constructed with phase one.

The project anticipates four phases as described below

- **Phase I** – 259,000 square feet of manufacturing and office space including the relocation of the ITS operations from the Drake/Lemay site. In addition, this phase includes receiving and material space, a production support building, and a café/multipurpose building. Woodward has committed to start this project with final approval of this Agreement and their Board of Directors.
- **Phase II** – 60,000 square feet office building to include the relocation of the Corporate Headquarters from the Drake/Lemay site. Final decision to proceed on this phase anticipated in early 2014.
- **Phase III** – 209,000 square feet of manufacturing and office space including the relocation of the ES operations from Loveland. This expansion may occur on the Drake/Lemay site rather than at Link-N-Greens.
- **Phase IV** – 72,000 square feet Energy Tech Center. In recent discussions this phase may happen concurrently with Phase II. A decision on this phase is likely in early 2014.
- **Drake/Lemay Facility** – The facility will remain a productive part of Woodward's operations. At this time, it is unclear what aspect of the business will use the facility.

Woodward has been in discussion with the City over the last 6 to 8 months on details of the project layout and relationship with the community. The project was reviewed and approved unanimously by the Planning & Zoning Board on February 21. There was no opposition to the project. Woodward intends to close on sale of the property in April or May of 2013 with site work for Phase I commencing in August or September of 2013. The estimated time of completion of construction for Phase I would be late winter of 2015 with delivery of production parts by 2016.

#### *Public Improvements*

The project will utilize Tax Increment Financing to make various upgrades to various site features. The first three public improvements listed below will be completed as part of Phase I. Following is a brief description:



- **Transmission Line** – Currently there is a significant Platte River Power Authority (“PRPA”) transmission line that crosses the site diagonally from Northeast to Southwest. The current location of the transmission line impacts the development potential of the property. The City, working with PRPA, will cause the transmission line to be relocated along Lemay Avenue extending across Mulberry Street and connecting back to the current alignment south of the Poudre River. The route of the transmission line will be positioned back from Lemay far enough to allow for a row of trees. Additionally, the new route will reduce the impact to the City owned natural areas along the river reducing the number of existing towers in the natural area. The Land Conservation and Preservation Board supported the proposed alignment on March 13, 2013.
- **Right of Way Improvements** – The City will design and construct improvements to both Lincoln Avenue and Lemay Avenue required by the proposed relocation and expansion of Woodward’s corporate headquarters and production facility. The improvements along Lincoln Avenue will generally include a center turn lane, bike lanes, and a temporary pedestrian path along the south side of the street. Improvements to Lemay Avenue will include a parkway, trees, sidewalk, street lighting, and other improvements to comply with the full street cross section. Some improvements may be on an interim basis until funds are available for the broader Lincoln Boulevard Improvements.
- **Open Space Improvements** – Woodward will gift a 29 acre parcel to the City for the purpose of restoring the property to a natural condition. The restoration will include landscape and habitat improvements based on a design developed by the City’s natural areas department. The tax increment financing will be used to help offset the design and construction costs related with these improvements.
- **Lincoln Boulevard Improvements** – To the extent available, tax increment financing may provide funds to assist with future enhancements along Lincoln Avenue. intent of the improvements is to transform the standard cross section into a boulevard similar to Mountain Avenue west of Old Town. The specific details of these improvements are not set but may include construction of new or improved street and intersections, sidewalks and benches, bicycle lanes and racks, trees and other landscaping, gateway features, transit related infrastructure, storm water improvements, directional signage, public art and other project for a positive neighborhood image, and interpretive features of culture and history relevant to the area. These improvements are subject to a successful voter initiative to provide capital funding for the portion of the cost not covered by tax increment financing and subject to the availability of tax increment depending on the timing of Phase III construction.

#### *Utility Partnership*

*There is an opportunity in the future for Woodward to partner with the City and participate in the Fort Collins Solar Program (FCSP). The intent of the FCSP is to enter into 20 year purchase power agreements with commercial customers for the purchase of the energy produced from customer photovoltaic systems. The program is currently funded in the 2013 and 2014 budgets. Timing is a significant issue related to solar installed with this program. Utilities are allowed to apply a multiplier of 3 towards meeting the State’s Renewable Energy Standard up until July 2015. The FCSP must use the multiplier to be economically practical. Rooftop space for the installation of solar at Woodward may or may not be available until 2015. Fort Collins Utilities has expressed an interest in working with Woodward as a participation in the Note, the one caveat will have to be*

completion of any solar array whose energy will be purchased through the FCSP before July of 2015.

Fort Collins Utilities (FCU) is working with Woodward through the Integrated Design Assistance Program (IDAP) and has committed \$75,000 in funds to assist with this energy efficiency design. Through this program, FCU is providing financial and technical assistance in the design phase and will provide a financial incentive based on facility energy savings. Utilities staff are participating in an early design charrette attended by multiple stakeholders to promote a holistic approach to design. A copy of the preliminary IDAP package is attached.

In addition to the work on site, there is also discussion related to a partnership that would utilize Woodward equipment, which would allow them to demonstrate their equipment, at the Drake Waste processing plant to use the methane created in the treatment process to make electricity. The electricity created would qualify towards our Renewable Energy Standard.

#### *PRPA Transmission Line Relocation IGA*

The City will enter into an Intergovernmental Agreement (“IGA”) with PRPA subject to approval by the City Council. The IGA provides that the City of Fort Collins will pay for the relocation and installation of the transmission lines that currently cross the property. Funding for the relocation of the lines will be paid from tax increment financing (“TIF”) generated by the development of the Woodward Property. The IGA has been presented to and approved by the PRPA Board of Directors. Relocation of the line will occur starting in 2013 and will result in one new transmission tower placed in a natural area just south of Mulberry and the removal of three transmission towers northwest of Mulberry in a natural area. The City, upon approval of the IGA will manage the project including all public outreach.

#### **Public Benefit**

Fort Collins provides a high quality of place attributed to the lively historic downtown and the city’s impressive parks, trails and open space networks. These community assets make Fort Collins an attractive place for both a well-educated workforce and diverse industries. Woodward’s proposed relocation and expansion represents an opportunity to strengthen the existing high quality of place. The Project meets numerous City Plan policy objectives, occurs in a Catalyst Project Area (as defined by City Plan), and presents the opportunity to enhance and expand the Poudre River Corridor natural area. Thus, the project represents an opportunity to achieve more than economic outcomes but an opportunity to strengthen the overall community.

#### *City Plan Policy Objectives*

The project as proposed by Woodward meets a variety of City Plan objectives, including but not limited to:

#### **Economic Health**

- **EH 1.1 – Support Job Creation:** The project will create between 185 and 400 new primary jobs as well as transfer between 515 and 600 jobs from within the region.

- ***EH 1.4 – Target the Use of Incentives to Achieve Community Goals:*** The project will achieve broader community goals as described, including natural areas restoration, open space preservation, and infill/redevelopment.
- ***EH 2.1 – Support Targeted Industry Clusters:*** Woodward is a member of the Clean Energy cluster and an active member of the Colorado Clean Energy Cluster non-profit entity supporting clean energy research and development.
- ***EH 4.1 – Prioritize Targeted Redevelopment Areas:*** The Link-N-Greens site is within an identified targeted redevelopment areas within City Plan.

### ***Environmental Health***

- ***ENV 1.1 – Protect and Enhance Natural Features:*** The project as proposed and approved by the Planning and Zoning board protects and restores approximately 29 acres of open space adjacent to the Cache la Poudre River.
- ***ENV 2.1 – Maintain System of Open Lands:*** The project adds to the open space system surrounding the Cache la Poudre River. Through habitat restoration it will enhance the integrity of wildlife habitat.
- ***ENV 2.10 – Maintain Access:*** The Poudre River Trail currently travels along the boundary of the project. Subject to available funding, the trail will be moved further from the river's edge with select developed river access points. This approach provides access to the natural area while providing for habitat restoration.
- ***ENV 5.4 – Support Renewable Energy in New Development:*** The project is actively engaged in the IDAP program provided by FCU to achieve facility energy savings. In addition, Woodward is looking to partner with FCU through the Fort Collins Solar Program.
- ***ENV 7.11 – Participate in Research, Development and Demonstrations:*** Woodward and FCU are contemplating a partnership to foster research, development and demonstrations projects in the renewable energy and energy management sector.
- ***ENV 24.2 – Conserve Natural Features:*** The project includes a dedication of 29 acres along the Cache la Poudre River. This land also includes an area of a historic river oxbow.
- ***ENV 24.4 – Restore and Enhance:*** The project includes the restoration of landscaping and habitat on a 29 acre parcel adjacent to the river.
- ***ENV 26.3 – Ensure Setbacks for Channel Instability and Improve Channel Migration:*** The 29 acre natural parcel includes an opportunity to stabilize the river bank and allow for greater lateral migration, potentially in the location of the historic river oxbow.

### ***Community and Neighborhood Livability***

- ***LIV 5.1 – Encourage Targeted Redevelopment and Infill:*** The Link-N-Greens site is encompassed by the identified targeted redevelopment areas within City Plan.
- ***LIV 21.4 – Provide Access to Transit:*** The project includes access to bus stops along Lincoln Avenue and Lemay Avenue. In addition, future enhancements to Lincoln Avenue may include additional transit facilities intended to provide circulation to and through Old Town.

## **Transportation**

- **T 3.3 – Transit Supportive Design:** *Interim and future enhancements to Lincoln Avenue will seek to integrate transit and alternative modes of transportation into the immediate improvements and final design.*

## **Catalyst Project Areas**

*During the Plan Fort Collins process project team members, City Council, and the public identified areas throughout the city that have the potential to “showcase” opportunities to embrace the Plan Fort Collins vision themes of Innovate, Sustain, and Connect. Through a combination of public and private actions that complement and build upon one another, these areas have the potential for lasting, desirable change. The Lincoln Triangle Area was identified as one of these Catalyst Project Areas.*

*The Lincoln Triangle Area contains a rich mix of historic and new development as well as substantial vacant and underdeveloped parcels. The Link-N-Greens site is one such underdeveloped area. The proposed Project meets many aspects of the Area Vision, including:*

- **Showcase Heritage:** *The Coy/Hoffman Barn will be maintained as a part of the project preserving a link to the history of the area.*
- **River Links:** *The dedication of additional open space along the river will provide an opportunity to enhance and expand the Poudre River corridor.*
- **Connect:** *The interim and ultimate improvements along both Lemay and Lincoln Avenue will provide additional pedestrian and bicycle connective in the area.*

*Finally, the Lincoln Triangle Catalyst Project Area lists several priority projects; one of these projects is the improvement of Lincoln Avenue. The City has already begun the planning of these improvements; however, the project, if all phases are completed, may provide much needed funding for the completion of the project.*

## **Net Benefits to Other Taxing Entities**

*The Project will generate additional benefits and costs for local taxing districts other than the City and the DDA. Additional discussion of the City and DDA fiscal impacts occurs below under the Financial Assistance Overview section. Both Larimer County and the Poudre School District (“PSD”) will see net benefits from the project, primarily from additional property tax revenue. Despite the site’s location within the DDA, both Larimer County and PSD retain 50 percent of any property tax increment generated in the district. The net benefits to each are summarized below:*

- **Larimer County:** *Between \$5.5 million and \$5.8 million in net benefits with a present value of \$3.9 million to \$4.1 million (using a 5 percent discount rate).*
- **PSD:** *Between \$11.7 million and \$12.0 million in net benefits with a present value of \$8.1 million to \$8.2 million (using a 5 percent discount rate).*

**Financial Assistance Overview**

The opportunity to retain approximately 700 primary jobs and encourage the expansion of a business to include 700 – 1,000 new primary jobs to Fort Collins (with 185-400 new jobs to Northern Colorado) generates significant positive economic impacts to the community (See Financial/Economic Impacts). As a result, the City Council will consider a Business Assistance Agreement (the “Agreement”) providing three primary forms of investment in the proposed Project. These investments include: (1) tax increment assistance through the DDA; (2) rebate of use tax on eligible manufacturing equipment and construction materials; and (3) rebate of applicable development review, capital expansion, street oversizing, and utility plant investment fees (“Capital Expansion/PIF Rebates”).

**Table 1  
Business Assistance Package Summary**

	<b>Response</b>
DDA Tax Increment Revenues	\$16.7 MM
Manufacturing Equipment and Construction Use Tax Rebates (80%)	\$3.8 MM
Development Fee Rebates (100%)	\$0.3 MM
Capital Expansion/PIF Rebates (80%)	\$2.7 MM
<b>Total</b>	<b>\$23.5 MM</b>

**Tax Increment Assistance**

Woodward has focused on the Link-N-Greens property (see **Attachment 1: Project Location Map**) for the potential relocation and expansion of the company’s corporate headquarters and production facilities. On March 5, 2013 City Council, with unanimous support, considered the amendment of the DDA Plan of Development to include the property on first reading of Ordinance No. 49, 2103. By amending the Plan of Development, the City Council enables the use of tax increment financing to support the Project.

Based on a Larimer County Assessor Estimate of Future Value dated January 29, 2013 and the initial phasing schedule provided by Woodward, the project will generate approximately \$16.7 million in tax increment revenue over the remaining life of the DDA area. These funds will be used to reimburse Woodward and the City for several costs associated with the Project, including: facades, right of way improvements (Lincoln and Lemay), relocation of a Platte River Power Authority (“PRPA”) transmission line, open space restoration, and future enhancements to Lincoln Avenue, as shown in **Table 2**. In addition, a portion of the tax increment revenue will cover financing cost associated with the reimbursement amounts.

**Table 2**  
**Summary of Public Improvement Costs**

	<b>Estimated Total Cost (Millions)</b>	<b>Tax Increment Pledge (Millions)</b>	<b>Balance* (Millions)</b>	<b>Recipient</b>
<i>Building Facades</i>	<b>\$6.00</b>	<b>\$3.80</b>	<b>\$2.20</b>	<b>Woodward</b>
<i>Right of Way Improvements</i>	<b>\$1.75</b>	<b>\$1.75</b>	<b>\$0.00</b>	<b>City</b>
<i>Transmission Line Relocation</i>	<b>\$1.30</b>	<b>\$1.30</b>	<b>\$0.00</b>	<b>City</b>
<i>Open Space Improvements</i>	<b>\$3.50</b>	<b>\$3.00</b>	<b>\$0.50</b>	<b>City</b>
<i>Lincoln Boulevard</i>	<b>\$11.00</b>	<b>\$2.85</b>	<b>\$8.15</b>	<b>City</b>
<i>Financing</i>	<b>\$4.00</b>	<b>\$4.00</b>	<b>\$0.00</b>	<b>N/A</b>
<b>Total</b>	<b>\$27.55</b>	<b>\$16.70</b>	<b>\$11.15</b>	

*\*Any unfunded balance remaining after the TIF pledge is the responsibility of the recipient listed in the table.*

*Woodward has agreed to advance the funds necessary to relocation the Transmission Line and construct the Right of Way Improvements and Open Space Improvements (described above). The DDA and City have agreed to reimburse this advance and evidence that commitment with a bond<sup>1</sup>. Tax Increment revenue will be used to repay the Bond principal and interest on the bond will be variable and indexed to the 10 year U.S. Treasury Note rate<sup>2</sup>. This rate will likely fall well below the current market based cost of capital. Woodward has agreed to these terms as a way to demonstrate their commitment to the community and improvement of the Lincoln Triangle Catalyst Project Area.*

*Due to the variable rate and uncertainty regarding phasing, the City has agreed to appropriate \$2.27 million in General Fund Reserves for the purpose of creating a reimbursement reserve. These reimbursement reserve funds will only be required if the Tax Increment revenue generated by the project falls short of the amount necessary to reimburse Woodward's advanced funds with interest, as described in the Bond. In the event only Phase I is completed, the entire amount of these funds may be needed to complete the capital projects. However, if only Phases I, II, and IV are completed; the additional TIF generated by these additional Phases should eliminate the need for the reimbursement reserve funds (depending on the actual schedule of these phases).*

#### *Use Tax Rebate*

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<sup>1</sup> *The Bond is being issued pursuant to Article XX, Section 6 of the Colorado Constitution, Article V, Section 19.8 of the City Charter, the Downtown Development Authority Act, the Supplemental Act, and pursuant to the 2006 Election.*

<sup>2</sup> *The actual interest rate will be determined by comparing the 10 year U.S. Treasury Note on the initial advance date compared to the 10 year U.S. Treasury Note on each subsequent anniversary date and using the difference. At no time will the interest fall below 0.25 percent per annum.*

Woodward plans to invest approximately \$169.1 million in new buildings and \$50.5 million in new equipment as part of the proposed Project. As part of the Agreement, City Council will consider rebating 80 percent of the use tax collected in connection with these investments. The rebate would include approximately \$2.6 million of the total \$3.3 million due on construction materials and \$1.2 million of the total \$1.4 million due on eligible equipment see **Table 3**. In both cases, the rebates go beyond the general fund portion of the rate. As a result, the general fund must bear the additional cost of the rebate to avoid impacting revenue associated with the dedicated sales tax rates (e.g., Open Space, Street Maintenance, Building on Basics, and Keep Fort Collins Great). This additional cost will be backfilled from the revenue generated by indirect and induced economic impacts to the community. The estimated total backfill is approximately \$800,000 for all phases.

The actual amount of the use tax rebate will be tied to Woodward achieving an employment level of 1,400 by December 31, 2018. The City will retain 40 percent of any rebate amount until the employment level has been reached by Woodward. If the target employment level is reached after December 31, 2018 but before December 31, 2020 Woodward will receive the retained 40 percent less \$500,000 (combined between use tax and development fee rebates). Woodward will not be entitled to the remaining 40 percent if the target level is not reached by December 31, 2020.

**Table 3**  
**Summary of Use Tax Rebates**

	<i>Estimated Total (Millions)</i>	<i>Tax Rebate (Millions)</i>	<i>Retained Revenue (Millions)</i>	<i>Backfill (Millions)</i>
<i>Construction Materials</i>	<b>\$3.3</b>	<b>\$2.6</b>	<b>\$0.7</b>	<b>\$0.7</b>
<i>Eligible Equipment</i>	<b>\$1.4</b>	<b>\$1.2</b>	<b>\$0.2</b>	<b>\$0.1</b>
<b>Total</b>	<b>\$4.7</b>	<b>\$3.8</b>	<b>\$0.9</b>	<b>\$0.8</b>

*Development Fee Rebate*

As part of the Agreement, City Council will consider rebating 50 percent of the applicable Capital Expansion, Street Oversizing and Utility Plant Investment fees due for the Project. In addition, City Council will consider rebating 100 percent of the applicable Development Review Fees (e.g., Plan Check, and Base Building Permit Fee). The rebate will include approximately \$3.0 million of the total \$5.7 million due see **Table 4**. These fees are collected to offset the cost each new project imposes on the capital infrastructure within the City. As a result, the cost of the rebate must be backfilled from the revenue generated by indirect and induced economic impacts to the community. The backfilled revenue will make each capital fund whole. The estimated total backfill is approximately \$2.7 million.

The actual amount of the development fee rebate will be tied to Woodward achieving an employment level of 1,400 by December 31, 2018. The City will retain 40 percent of any rebate amount until the employment level has been reached by Woodward. If the target employment level is reached after December 31, 2018 but before December 31, 2020 Woodward will receive the retained 40 percent less \$500,000 (combined between use tax and development fee rebates). Woodward will not be entitled to the remaining 40 percent if the target level is not reached by December 31, 2020.

**Table 4**  
**Summary of Development Fees**

	<b>Total (Millions)</b>	<b>Rebate (Millions)</b>	<b>Retained Revenue (Millions)</b>	<b>Backfill</b>
<i>Wastewater</i>	<b>\$0.60</b>	<b>\$0.30</b>	<b>\$0.30</b>	<b>\$0.30</b>
<i>Water</i>	<b>\$1.10</b>	<b>\$0.55</b>	<b>\$0.55</b>	<b>\$0.55</b>
<i>Stormwater</i>	<b>\$0.30</b>	<b>\$0.15</b>	<b>\$0.15</b>	<b>\$0.15</b>
<i>Electric</i>	<b>\$2.00</b>	<b>\$1.00</b>	<b>\$1.00</b>	<b>\$1.00</b>
<i>Street Oversizing</i>	<b>\$1.20</b>	<b>\$0.60</b>	<b>\$0.60</b>	<b>\$0.60</b>
<i>Capital Expansion</i>	<b>\$0.20</b>	<b>\$0.10</b>	<b>\$0.10</b>	<b>\$0.10</b>
<i>Development Review/Other</i>	<b>\$0.30</b>	<b>\$0.30</b>	<b>\$0.00</b>	<b>\$0.00</b>
<b>Total</b>	<b>\$5.70</b>	<b>\$3.00</b>	<b>\$2.70</b>	<b>\$2.70</b>

*Use Tax and Fee Backfill*

*As described, the Agreement contemplates rebates of use tax and fees that will require backfill by the General Fund. Based on the Economic Impact Analysis, there is between \$3.8 million and \$6.2 million in indirect and induced net benefits to the City from various sources over the first 16 years (these sources exclude any revenue from utilities as they cannot be comingled with General Fund revenues to meet these obligations). These indirect and induced impacts and the resulting revenue will backfill the portions of the rebates over a period of between 10 and 16 years depending on financing costs.*

*The total backfill required (including use tax and fees) assuming all phases are constructed on schedule is approximately \$3.5 million. However, the actual Project phasing will impact the contemplated use tax rebates and development fee rebates. As stated, the nature of the rebate will require backfill for a portion of the total rebate amount. Therefore, the backfill shifts depending on the construction phasing. **Table 5** provides an overview of the total rebates and the required backfill. Under the Phase I only scenario the City will rebate \$1.37 million in use tax and \$1.73 million in development fees for a total rebate of \$3.11 million. This scenario requires a backfill of \$1.93 million. Furthermore, the hold back of 40 percent of the rebates will influence the actual cash needed in any given year to fund this backfill. The 40 percent holdback of the rebates will most likely not be due to Woodward until after December 31, 2018 but before December 31, 2020. This lowers the backfill amount as initially need for each phase. Staff continues to evaluate the best method to fund the backfill amount.*

**Table 5**  
**Overview of Use Tax by Scenario**

	<b>Phase I Only (Millions)</b>	<b>Phase I, II, &amp; IV (Millio ns)</b>	<b>All Phases (Millions)</b>
<i>Use Tax Rebate</i>	<b>\$1.37</b>	<b>\$2.43</b>	<b>\$3.8</b>
<i>Use Tax Backfill</i>	<b>\$0.29</b>	<b>\$0.51</b>	<b>\$0.80</b>



<i>Development Fee Rebates</i>	<b>\$1.73</b>	<b>\$2.36</b>	<b>\$2.98</b>
<b>Total Rebates</b>	<b>\$3.11</b>	<b>\$4.79</b>	<b>\$6.78</b>
<b>Total Backfill Required</b>	<b>\$1.93</b>	<b>\$2.68</b>	<b>\$3.50</b>
<i>Initial Backfill (60%)</i>	<i>\$1.16</i>	<i>\$1.61</i>	<i>\$2.10</i>
<i>Holdback (40%)</i>	<i>\$0.77</i>	<i>\$1.07</i>	<i>\$1.40</i>

*NOTE: The proposed project is subject to change. Changes in timing, final construction investment, and final equipment purchases will affect both the financial assistance offered by the City and the financial/economic impacts to the City.*

**FINANCIAL / ECONOMIC IMPACTS**

**Economic Impact Analysis Overview**

*The Project will generate economic impacts during construction and operations. The construction activities, occurring while Woodward builds its new facilities, will generate one-time impact for construction workers and businesses in the area. The on-going operations of the firm will create annual economic impacts, employing workers in the community and supporting additional economic activity throughout the region.*

*The economic impacts were evaluated based on two scenarios: (1) a total employment level of 1,400, including 700 existing employees, 515 employees transferred from within the region, and 185 new employees; and (2) a total employment level of 1,700 including 700 existing employees, 600 employees transferred from within the region, and 400 new employees. Both scenarios assume a total investment in the buildings of \$169.1 million and \$50.5 million in manufacturing equipment. In addition, both scenarios assume an average annual salary for all jobs of \$76,000, which equates to 170% of the Larimer County average annual income (\$44,564 based on Bureau of Labor Statistics Employment and Wage data, Fourth Quarter 2011).*

*The economic impact analyses (See Attachment 8 and 9) estimate the one-time impacts from construction will be the same for both scenarios with approximately 1,652 jobs supported by the \$169.1 million investment at an average annual salary of \$55,106. In addition, the analyses estimate that the facility will support between 1,400 and 2,227 total jobs see **Table 6**. These estimates assume a modest manufacturing multiplier for the transferred jobs and a full manufacturing multiplier of 2.23 for the new jobs. The average salary ranges from \$49,794 to \$52,393.*

**Table 6**  
**Summary of Economic Impacts**

	<b>Scenario 1</b>	<b>Scenario 2</b>
<b>Construction (One-Time)</b>		
<i>Jobs</i>	<i>1,652</i>	<i>1,652</i>
<i>Earnings</i>	<i>\$91,034,579</i>	<i>\$91,034,579</i>
<i>Average Earnings per Job</i>	<i>\$55,106</i>	<i>\$55,106</i>
<b>Operations (On-going)**</b>		
<i>Jobs</i>	<i>1,400</i>	<i>2,227</i>
<i>Earnings</i>	<i>\$73,349,666</i>	<i>\$110,890,650</i>
<i>Average Earnings per Job</i>	<i>\$52,393</i>	<i>\$49,794</i>

**\*\*Total change in earning during the first year of full employment.**

*In addition, the analyses evaluate the fiscal impacts to the City of Fort Collins, Larimer County, Poudre School District, and Downtown Development Authority. These impacts include estimates of both revenues and expenses based on the published 2012 budgets for each jurisdiction. Full details of the calculations can be found in the attached reports. Furthermore, the analyses net out the costs of the proposed assistance described above before estimating additional benefits. The net benefits are estimated to range from \$8.7 million to \$12.0 million (net benefits here includes all revenue sources, e.g., sales and use tax, utility revenue, etc.); including all revenue sources see **Table 7**. The net benefits previously described, between \$3.8 million and \$6.2 million, exclude the utility net benefits included here because the rebate backfill cannot rely on utility funds to meet that obligation. Assuming a 5 percent discount rate the present value of the estimated net benefits today is between \$7.0 million and \$9.1 million.*

**Table 7**  
**Summary of Fiscal Impacts**

	<b>Scenario 1</b>	<b>Scenario 2</b>
<i>Additional Benefits</i>	\$32,541,701	\$50,740,478
<i>Additional Costs</i>	(\$23,861,724)	(\$38,751,622)
<i>Net Benefits</i>	\$8,679,877	\$11,988,856
<b><i>Present Value of Net Benefits ***</i></b>	<b>\$6,957,716</b>	<b>\$9,088,081</b>

\*\*\* This analysis uses a 5% discount rate.

*This project considers an expansion of an existing manufacturer in Fort Collins. Woodward is considering locations outside the City for possible relocation and expansion of its manufacturing and headquarters operations. The company currently employs 700 workers in the City and supports real and personal property of \$22.3 million. Woodward's current operations represent approximately \$850,000 in net revenues to the City annually. The new construction and expansion would increase the company's impact on Fort Collins by approximately \$8.68 million over the next 16 years. Therefore, the estimated value to Fort Collins if the manufacturer were to leave the city is a loss of \$22.55 million over the next 16 years or a loss to the city of \$1.4 million per year on average or \$16.2 million in present value. More than 27 percent (\$6.25 million) of the total net revenue is generated in the first two years as shown in the graph below.*

**NOTE:** *The proposed project is subject to change. Changes in timing, final construction investment, and final equipment purchases will affect both the financial assistance offered by the City and the financial/economic impacts to the City.*

### **General Fund Reserves Appropriation Impact**

*The proposed Project and the Agreement contemplate a phased approach to construction. Due to this phasing, the commitments by the City, DDA, and Woodward shift accordingly. In addition, the timing of the phases may significantly impact the available TIF pledge for the project. There are several potential scenarios that could unfold as Woodward reacts to market demand. The most likely scenarios have been analyzed further. The impacts of each scenario to the TIF and Loan are summarized in **Table 8**.*

*If Woodward never constructs more than Phase I, then the TIF will not support full repayment of the advanced funds plus interest. The agreement contemplates the City appropriating up to \$2.27*

million for the purpose of creating a reimbursement reserve. The need for these reimbursement reserve funds will change as additional phases are completed by Woodward. Assuming Phase I, II, and IV are built, on the current proposed schedule, the need for these additional funds will disappear. Staff recommends this approach because the community receives \$4.8 million in public improvements (Right-of-Way improvements and Open Space improvements) at a \$2.27 million discounted cost in the worst case. Otherwise, the TIF funds these costs exclusively. In addition, the City has agreed to stand behind the full reimbursement of the advanced funds plus interest regardless of the Tax Increment revenue, interest rate increase, or other unforeseen economic condition. This commitment is, however, subject to annual appropriation as required by the Colorado State Constitution.

**Table 8  
Overview of TIF/Loan by Scenario**

	<b>Phase I Only (Millions)</b>	<b>Phase I, II, &amp; IV (Millions)</b>	<b>All Phases (Millions)</b>
Total TIF Available	<b>\$7.30</b>	<b>\$11.10</b>	<b>\$16.70</b>
Facade Pledge	\$1.50	\$2.80	\$3.80
TIF Balance	\$5.80	\$8.30	\$12.90
Bond Principal	\$6.05	\$6.05	\$8.90
Estimated Interest	<b>\$2.02</b>	<b>\$2.25</b>	<b>\$4.00</b>
<b>Additional Funds Required</b>	<b>(\$2.27)</b>	<b>\$0.00</b>	--

## **ENVIRONMENTAL IMPACTS**

### *Landscape*

*Of the 101.5 acre parcel almost one third of the site will be preserved and restored as natural area. A river restoration area of approximately 28.7 acres is proposed as part of the project, and would be constructed as part of the initial phase. Additionally, the remainder of the site will be designed incorporating Xeriscape principles.*

*The project's Ecological Characterization Study reports that the Link-n-Greens site contains several natural habitats and features, predominately the Poudre River corridor, several wetlands that have formed along the fringe of the golf course ponds (0.10 acres), and 464 significant trees. The site's existing habitat value is largely contained within the areas immediately adjacent to the Poudre River due to the ornamental nature of the golf course and the lack of habitat diversity associated with a bluegrass lawn. The site has also been evaluated for Threatened and Endangered species and the only potentially suitable habitat was for the Preble's Meadow Jumping Mouse. However, no populations of jumping mouse are known to exist in the Poudre River downstream of Watson Lake (north of Bellevue).*

*To meet the standards associated with the Land Use Code, the project has proposed an overall buffer area of 28.7 acres instead of the 23.4 acres that would be required through the 300' standard. At no point is the proposed buffer zone less than 210' and the buffer zone is as large as 600' along the historical oxbow (a U-shaped area where the Poudre River was able to meander out of its main channel when it was connected with its floodplain). Staff has worked extensively with the applicant*

*to develop a river restoration project that would enhance the overall river habitat substantially beyond conditions existing today. Additionally the Poudre River Trail will be realigned to allow more distance between the river riparian habitats while still providing an interesting experience.*

#### Noise

*Production activities will be conducted within the proposed buildings and the level of noise is not anticipated to exceed maximum allowable Db(A) levels. Buildings and service areas are located interior to the site to mitigate off site impacts.*

#### **BOARD / COMMISSION RECOMMENDATION**

*Planning and Zoning Board, February 21, 2013*

*Water Board, January 17, 2013*

*Land Conservation and Stewardship Board, March 13, 2013 (Meeting Minutes Unavailable)*

*Economic Advisory Commission, March 15, 2013 (Meeting Minutes Unavailable)*

#### **PUBLIC OUTREACH**

*Neighborhood Meetings: August 20, 2012(ODP), November 2, 2012 (PDP)*

*Natural Area/River Concept Neighborhood Meeting: January 30, 2013*

*In addition, the Fort Collins Area Chamber of Commerce commissioned a study conducted by Behavior Research Center during February 2013. The study measured the attitude of registered Fort Collins voters in regard to various issues within the community. Of the 301 respondents, most were in agreement on the need to retain existing employers (88%) to create quality jobs. The study specifically asked respondents on whether Woodward, Inc. should be a top priority for the City of Fort Collins. A resounding 85 percent agreed that retaining Woodward, Inc. should be a priority for the City, while 9 percent were not sure and 6 percent did not see this as a priority.”*

City Manager Atteberry stated this item aligns with the City’s economic and land use policies and furthers the City’s vision of being a world-class community.

Bruce Hendee, Chief Sustainability Officer, stated this is one of the last large infill properties in the downtown area. He noted this project will provide a catalyst for the annexation of the Mulberry corridor. Additionally, this project will help close a gap between several Natural Areas and will further the intent of City Plan to develop this area. The Overall Development Plan and Project Development Plan were unanimously approved by the Planning and Zoning Board. Hendee discussed significant site improvements which benefit the project as well as the community. Most significantly, a 31-acre parcel will be dedicated to the City to be used as a Natural Area and Lincoln and Lemay Avenues will be improved and funded by tax increment financing. Additionally, a transmission line will be relocated as part of the project.

Josh Birks, Economic Health Director, reviewed the economic and environmental benefits of the project. He discussed the way in which the project addresses each of the three main aspects of the vision for the area: showcasing heritage, providing links to the Poudre River, and creating better connectivity. Birks also discussed the project’s benefits to other taxing entities, including Larimer

County and the Poudre School District and discussed the additional benefits in terms of jobs created by the expansion activity.

Mike Beckstead, Chief Financial Officer, reviewed the details of the incentive package which is generally broken into three categories: tax increment financing, use tax rebates, and fee rebates. The four phases of the tax increment total \$16.7 million, the 80% use tax rebate will apply to equipment and construction materials and is valued at \$3.8 million, and fee rebates equate to \$2.7 million for capital expansion, street oversizing, and plant investment fees, and \$300,000 for development review fees. Beckstead went on to detail each of the categories.

Ross Cunniff, 2267 Clydesdale, questioned the opportunity cost of the package.

Zach Heath, 135 South Sunset, suggested using tax revenue from the project to fund affordable housing.

Hank Gardner, Fort Collins resident, supported the assistance package and the project as a tremendous opportunity for Fort Collins.

Linda Stanley, 2040 Bennington Circle, opposed the extent of the assistance package citing inaccurate benefit estimates.

Gordan Thibedeau, United Way of Larimer County, supported the assistance package and commended Woodward on its philanthropic nature.

Sherry Grant, Fort Collins resident, supported the assistance package.

Mark Weaver, 4412 Idledale Drive, supported the assistance package.

Patrick Edwards, 1731 Valley Forge, questioned the risk of the assistance package to citizens.

Cheryl Zimlick, Downtown Development Authority member, supported the assistance package.

Ann Hutchison, Fort Collins Chamber of Commerce, supported the assistance package.

Eric Sutherland, 3520 Golden Currant, supported the assistance package.

Ashley Styles, Fort Collins resident, supported the assistance package.

Glen Colton, 625 Hinsdale Drive, expressed concern about the extent of the assistance package.

Fonda Budai, 2531 Antelope Road, supported the assistance package.

Michael Bello, 2309 Sunstone Drive, supported the assistance package.

Pete Gasley, Loveland resident, supported the assistance package.

Steve Lucas, 4417 Gray Fox, supported the assistance package and commended Woodward on its philanthropic nature.

Steve Stiesmeyer, Loveland resident, supported the assistance package.

Tim Johnson, 1337 Stonehenge, expressed concern about the assistance package and environmental impacts of Woodward.

Mel Hilgenberg, 172 North College, supported the assistance package.

Bevin Parker, Downtown Development Authority member, supported the assistance package.

Walt Elish, Northern Colorado Economic Development Corporation, supported the assistance package.

Allen Ginsborg, 5700 Hearthstone, supported the assistance package.

David May, Fort Collins Chamber of Commerce, supported the assistance package.

Nancy York, 130 South Whitcomb, encouraged Council to carefully consider the winners and losers with respect to the assistance package.

Councilmember Kottwitz commended the staff report and asked if some of the rebated taxes and fees will be covered by some of the direct and indirect financial impact from Woodward's spending in the community. She asked about infrastructure projects which will be covered by this incentive package. Beckstead replied the economic benefits more than cover the backfill of the rebates. Hendee stated there will be several million dollars worth of City projects which will occur as a result of the tax increment financing.

Councilmember Kottwitz asked about the history of the property in terms of development. Hendee replied the site presented many challenges but Woodward wanted to remain in the community.

Councilmember Kottwitz asked for an estimate of Woodward's contributions to the community. Hendee replied Woodward has given \$1 million to the Museum of Discovery, \$2.5 million to the Engines Lab, and \$1 million to the Engineering School at CSU, among others.

Councilmember Horak asked about the social and environmental impacts of the company and assistance package. Hendee replied half of Woodward's business involves the development of products for clean and renewable energy. Additionally, it has a strong track record of promoting employment through CSU and Front Range Community College.

Councilmember Horak requested additional information regarding emissions prior to Second Reading and asked about the City's role in terms of the workforce center and training for Woodward jobs. Birks replied one of the new goals in the Economic Health Strategic Plan is a focus on talent development in the workforce area.

Councilmember Manvel asked why there appears to be a net benefit to the City of \$4 million in the first year. Birks replied a significant portion of the initial net benefit is from the construction activity associated with the initial phases. Councilmember Manvel requested additional details prior to Second Reading.

Mayor Pro Tem Ohlson asked if it is the Downtown Development Authority's responsibility if the debt services come up short. Beckstead replied the commitment of the City is to ensure that Woodward gets reimbursed in full for all of the public improvement costs it puts forward to get the project started. Matt Robenalt, Downtown Development Authority Executive Director, replied the referenced provision avoids the abatement of property taxes below a certain level in order for the DDA to generate enough tax increment revenue to pay its debt service for a project commitment, and is embodied in Section 2.38 of the agreement with Woodward.

Mayor Pro Tem Ohlson asked if any enterprise zone tax credits are going to be claimed and what governmental entities they would impact. Birks replied the site is within the Enterprise Zone and stated it will be up to Woodward as to whether or not it wants to apply for those tax credits, which relate primarily to state income tax paid by the company and provide some credit against that income tax for certain investments.

Mayor Pro Tem Ohlson requested information and data related to water usage and other environmental impacts prior to Second Reading. Hendee cited an instance in which Woodward quickly responded and mitigated a noise complaint issue.

Mayor Pro Tem Ohlson asked how it was determined that Lincoln would be developed as a boulevard-type roadway. Hendee replied there were a number of catalyst projects identified within *Plan Fort Collins* to demonstrate the themes of innovate, sustain, and connect. One of those projects was the Lincoln Triangle, which has been considered to be an important area that has not received much infrastructure funding.

Councilmember Kottwitz made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 055, 2013, on First Reading.

City Attorney Roy read the changes to the Ordinance which Council received in its read-before packet.

Councilmember Kottwitz thanked staff and Council for work on this item, which she referenced as a legacy project for the City. She discussed the positive environmental, social, and economic impacts of the project.

Mayor Pro Tem Ohlson commented that the Ordinance should reference actual facts relating to tax revenue generation and encouraged consistency relating to land value. He requested additional air, water, and energy information prior to Second Reading and stated documents related to the item should have been available to the public much earlier. He stated he would not support the motion as he cannot identify any tax generation that does not go back to the project. He commended Woodward on being an excellent corporate citizen.

Councilmember Troxell commended the project and Woodward. He stated the City's risk is mitigated by the partnership.

Councilmember Poppaw thanked the speakers and stated she would support the motion. She encouraged Woodward to increase its giving to the community as it increases its revenue.

Councilmember Manvel thanked the speakers and commended staff for work on the item. He noted most companies that bring jobs to Fort Collins pay taxes and fees in full; however, this is a special company and situation and the project will be good for the City's future.

Councilmember Horak agreed with Mayor Pro Tem Ohlson that information should have been available to the public earlier. He commended Woodward on its job retention and noted the costs associated with the selected property are larger than with greenfield development. He stated the negative impacts of other types of development would be much greater and losing Woodward would be a large detriment to the community.

Mayor Weitkunat stated this is a defining project for Fort Collins and referenced the assistance package as a community investment.

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

THE MOTION CARRIED.

Councilmember Kottwitz made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 056, 2013, on First Reading.

City Attorney Roy read the changes to the Ordinance which Council received in its read-before packet.

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

THE MOTION CARRIED.

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

**Ordinance No. 044, 2013,  
Authorizing the Conveyance to Woodward, Inc. of Two Non-Exclusive  
Permanent Drainage Easements and a Temporary Construction  
Easement on City-Owned Property, Adopted on First Reading**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

*The proposed Woodward Link-N-Greens Campus (“Woodward”) will be a master-planned campus providing the ability to retain and grow primary jobs for the community. The campus will accommodate Woodward’s continued growth of its current operations in Fort Collins. It also includes adjacent commercial services that can be used by Woodward employees and the public with close access to downtown and the Mulberry corridor. The planned campus will help to improve the river corridor through the site including restoration of the natural river corridor landscape, habitat, and appropriate recreation opportunities.*



*The proposed use is compatible with existing and anticipated development, and supports the City's vision for this area. Fort Collins' City Plan (Plan Fort Collins) identifies this site in its Targeted Infill and Redevelopment Areas Map and denotes the Lincoln Avenue Area as one of its "Catalyst Project Areas". These Areas are identified as locations in the city having potential to showcase opportunities to embrace the Plan Fort Collins vision themes of Innovate, Sustain, and Connect. They are viewed as potential places for public/private initiatives using a triple bottom line approach addressing economic, environmental, and social factors in a balanced manner.*

*For this development, Woodward has requested that the City grant Woodward two permanent drainage easements for stormwater flows, one which would include construction of a buried drainage pipe and the other for a graded swale. In addition, a temporary construction easement is needed for grading, landscaping, and associated restoration work on City-owned property adjacent to the Poudre River.*

## **BACKGROUND / DISCUSSION**

### **River Restoration Plan**

*The Link-n-Greens PDP site has been developed and used as a golf course since 1986, and is generally characterized by irrigated turf, man-made lined ponds and trees planted in patterns that line the golf holes. The Cache la Poudre River is the southerly boundary and the majority of the westerly boundary of the property and the Poudre River trail is located on the property within an easement.*

*City staff and the project development team have consulted extensively on habitat restoration of the buffer zone, the area between the river and office/industrial/commercial development in the project area. Natural Areas staff desires to use the buffer zone to achieve more natural topographic and river flow conditions within the buffer zone and to create and expand native wetlands, cottonwood woodlands, and upland shrublands and grasslands within the buffer zone and the extended riparian restoration area. Project and City planning staff used evaluations of historic aerial photos, river morphology, and existing topography to guide their development of a native riparian restoration plan for the proposed buffer zone in the project area. A detailed plan of the resulting restoration (the "River Restoration Landscape Regimes") is attached. This plan would include allowing the Poudre River to overflow its banks during high flow periods into a designed overflow channel that would assist in creating adjacent wetlands and areas of upland floodplain forest. Early modeling is showing that the floodplain in the downstream Springer and Williams Natural Areas will be increased by 0.01 feet. The improvements to the floodplain to the northwest benefit the City and the increased floodplain in the natural areas improve wetlands and upland floodplain forest. A floodplain easement on Springer and Williams Natural Areas will not be required by the City. Instead the City is proposing to issue a Liability Waiver to Woodward, Inc. for their Letter of Map Revision ("LOMR").*

*The north river bank is partially located on the Link-N-Greens property, but also meanders onto adjacent City-owned parcels. In order to accomplish a more holistic landscape restoration effort, efforts would extend beyond the Link-N-Greens property line to allow improvement along the river bank areas regardless of property boundaries. Therefore, several temporary easement locations have been identified on City property that will allow for grading, landscaping, and temporary construction access required to complete this work.*

*The site contains several hundred trees. Many of the trees were “development” trees planted with the golf course. Many of these trees are ornamental, non-native species and are planted in patterns that define the golf course holes and tees. Other trees are “pre-development” trees, mostly associated with the river edge, areas near the Coy/Hoffman Barn, and near the northeast corner of the property. All trees have been assessed for health, species and condition. Most of the trees associated with the previous golf course development will be removed to accommodate the new development pattern. Significant pre-development trees within the river buffer area, the northeast corner of the property, and those associated with Coy/Hoffman Barn will be retained where possible. However, as development and river restoration occurs it will be necessary to remove many significant trees. Reasons for tree removal include:*

- *Poor health, as determined by the City Forester;*
- *Hazardous conditions;*
- *Regrading within the Poudre River buffer zone which will: (1) allow the river to overflow its banks during high flow periods into a designed overflow channel that would assist in creating adjacent wetlands and areas of upland floodplain forest; (2) achieve more natural topographic and river flow conditions within the buffer zone and to create and expand native wetlands, floodplain cottonwood woodlands, and upland shrublands and grasslands within the buffer zone and the extended riparian restoration area; and (3) Incorporate bank stabilization measures in areas identified by the City.*

*These habitat restoration efforts would also enhance the ecological character and function of the river corridor, as well as enhance the natural ecological character of the site. In addition, planned habitat restoration efforts will enhance the existing wildlife movement corridor along the river. The habitat restoration and enhancement plans for the buffer area will meet the buffer area performance standards specified in the City of Fort Collins Land Use Code.*

### ***Affected City Properties***

*The City owns several properties adjacent to the Poudre River. The attached Easement Location Map shows the City properties and the areas where the temporary construction easement is requested. The City parcels are as follows:*

- *Parcel A: Udall Natural Area – the City acquired this site in 1994 with funds from Stormwater and Natural Resources for stormwater purposes and for a natural area.*
- *Parcel B: Old Pickle Plant Site, 500 Riverside Avenue – the City acquired this site in 1995 in part as buffer for Wastewater Treatment Plant #1 and Wastewater provided funds for the purchase.*
- *Parcel C: Wastewater Treatment Plant, 920 East Mulberry Street: Site was purchased by the Water Utility.*
- *Parcel D: City property – this site was acquired by the City in 1990 at the same time as the Springer Natural Area at Lemay and Mulberry. When this property was acquired, the uses included natural areas and a buffer for the Waste Water Plant #1.*

- *Parcel E: Colorado Department of Transportation (“CDOT”): This property is owned by CDOT and the City has an easement over a portion of the property for the Poudre Trail. Staff is working to obtain this parcel from CDOT for the City.*

### ***Easements Requested by Woodward***

#### ***Drainage Easements***

*Woodward is requesting two permanent drainage easements both located in Parcel D.*

- 1. One permanent drainage easement located near Mulberry Street would be for the storm water flows from Woodward’s property and a portion of storm water drainage from Lemay Avenue. It is Woodward’s intention to construct a pipe for these flows. The easement area is 30 feet x 100 feet and totals approximately 3,000 square feet. At this point in their design, the easement is planned to be in the location as shown on the Easement Location Map. The approximate width, length and total area of this easement is not expected to change during final design; however, the exact location of the easement request may shift a few degrees or feet, which may slightly change the total square footage of the easement.*
- 2. The second permanent drainage easement is also located in Parcel D adjacent to the boundary of Parcel E and the Woodward’s property. This easement is for concentrated water flows from the water quality pond for the Woodward development. The water will pass through a low flow public trail crossing structure and then will flow through an open channel on the City’s property. This easement area is 60 feet x 120 feet and totals approximately 7,200 square feet. Again, at this point in their design, this easement is planned to be as shown on the attached Easement Location Map. As with the other drainage easement, the width, length and total area of this easement is not expected to change during final design; however, the exact location of the easement request may shift a few degrees or feet, which may slightly change the total square footage of the easement.*

*Any necessary adjustments to the legal descriptions of either easement will be made prior to the signing of the Deed of Easement.*

#### ***Temporary Construction Easement***

*To complete the restoration work described above, Woodward needs a temporary construction easement (“TCE”) in Parcels A, B, C, D and E. Woodward will be grading and restoring the areas shown on the Easement Location Map and removing concrete from the River.*

*City staff is working with CDOT to obtain Parcel E. It is anticipated that this conveyance will be completed by April 2013. Staff is requesting that Council authorize the City to grant the TCE on this parcel to Woodward, Inc. after the City acquires the parcel. Because the Temporary Construction Easement is partially on Parcel E, it would not be signed until the City has received and recorded a Deed for Parcel E from CDOT.*

*Woodward will be responsible for restoration of all affected areas. The restoration will be detailed in the Easement Agreement.*

*The two permanent drainage easements and the temporary construction easement will not become effective until Woodward, Inc. completes their purchase of the Link-n-Greens property.*

**FINANCIAL / ECONOMIC IMPACTS**

*All areas affected are valued at \$5,000/acre. Staff has established a value of \$900 for the two permanent easements and a value of \$3,590 for the temporary easement for the restoration work. It is staff's recommendation that we do not charge Woodward for these easements because the benefit the City is receiving of the enhanced riverbank due to this restoration exceeds the value of the easements. Ecosystem impact fees for the work within Natural Areas have been estimated at \$4,588 and will be further refined at the completion of the project.*

**BOARD / COMMISSION RECOMMENDATION**

*At its January 17, 2013 meeting, the Water Board unanimously voted to recommend approval of the easements.*

*At its February 13, 2013 meeting, the Land Conservation and Stewardship Board voted unanimously to recommend approval of the two non-exclusive permanent drainage easements and the temporary construction easement."*

Helen Matson, Real Estate Services Manager, discussed the two permanent drainage easements and one temporary construction easement to be granted to Woodward for its project.

Mayor Pro Tem Ohlson requested a staff explanation of the value of the property, which has been mentioned to be \$3 million, but the City is valuing it at \$5,000 per acre. Matson replied Woodward paid a higher amount for its land because it was included with other developable land frontage. The City's property is along the River and, therefore, not developable, so it is valued at a much lower rate. City Manager Atteberry replied he cannot speak to the number mentioned by Mr. Ginsborg; however, the City has consulted with appraisers to arrive at the \$5,000 per acre figure.

Councilmember Troxell made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 044, 2013, on First Reading.

Councilmember Manvel asked about a CDOT-owned property on the map. Matson replied CDOT acquired the property in the late 1940s for work it was doing on Mulberry. It is an abandoned property and will be quick claim deeded to the City at some point in the near future.

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

THE MOTION CARRIED.

**Resolution 2013-027**  
**Adopting the *Affordable Housing Redevelopment Displacement Mitigation Strategy*,  
a Strategic Plan for Preserving Affordable Housing,  
including Mobile Home Parks and Other Types of Affordable Housing, Adopted**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

*The City Council placed the development of an “Affordable Housing Relocation Strategic Plan” on its 2012 Work Plan. The purpose of the Strategic Plan was to develop City policies and requirements applicable to redevelopment projects by defining the City’s role, responsibilities, obligations, and involvement in redevelopment projects which cause the displacement of low-income people from their homes (with an emphasis on mobile home parks), whether they are located inside the city limits or within the City’s Growth Management Area (GMA), within the restrictions of the City Charter.*

*The Affordable Housing Redevelopment Displacement Mitigation Strategy identifies strategies to preserve existing affordable housing units. It also clarifies City and property-owner/redeveloper responsibilities and obligations to residents when redevelopment projects cause the displacement of low-income people from their homes.*

***BACKGROUND / DISCUSSION***

*City policies contained in City Plan, the City’s Comprehensive Plan, and the Affordable Housing Strategic Plan 2010-2014, encourage the preservation of existing affordable housing units, list manufactured housing/mobile homes as an important component of the community’s housing stock, and call for the mitigation of impacts on residents displaced through the closure of mobile home parks due to redevelopment activities.*

*The City Council placed the development of an “Affordable Housing Relocation Strategic Plan” on its 2012 Work Plan to address City policies contained in City Plan and the Affordable Housing Strategic Plan 2010-2014. This past fall, City staff, with the assistance of a consulting team, began an effort to clarify the City’s role, responsibilities, and obligations in avoiding the loss of affordable housing and dealing with relocation issues when redevelopment causes the displacement of low-income people from their homes. The Affordable Housing Redevelopment Displacement Mitigation Strategy addresses the City Council’s request for a change to the current ad hoc, case-by-case methods of dealing with the loss of affordable housing and mobile home parks.*

*For a variety of reasons, a couple of mobile home parks recently closed in Fort Collins, and since the mid-1990s a total of five parks have closed. These closures displaced park residents and caused them to relocate. In all of the displacement cases, City staff provided support and collaborated with other agencies to relocate or find other housing for park residents. While there were some similarities in these park closures, the City’s involvement varied, and was basically handled on an ad hoc, case-by-case basis.*

*Affordable multi-family rental units are typically considered the more common form of low-income housing in the community. In 2010, the City Council adopted the Affordable Housing Strategic Plan*

2010-2014, which contains four priority goals for the development of additional affordable housing; the preservation of existing affordable units; the addition of units and facilities for special populations (homeless, seniors, etc.); and offering additional home ownership opportunities for low-income families. The City already has several programs in place to acquire, manage, and preserve apartments on a non-profit basis to keep rents at affordable levels and to provide assistance to first-time home buyers.

Manufactured/mobile homes are a unique form of low-income housing. Many mobile home residents are homeowners (they own their unit) but lease the land on which their home is located. Closure/redevelopment of a mobile home park means that unit owners must move not only their personal belongings, but also must move the unit itself, or find another form of housing – a challenging and stressful situation for residents.

The following table presents a comparison of the number of units in designated affordable housing multi-family apartment/condo complexes, where rents are limited to levels affordable to low-income families and that contain long-term commitments (e.g., 30 years) for affordability, versus the number of manufactured/mobile housing units located in mobile home parks within the City limits and boundaries of the Growth Management Area (GMA).

<b>Number of Units</b>	<b>Category</b>
1,969	Designated Affordable Housing Units in Multi-Family Apartment/Condo Complexes
2,781	Mobile/Manufactured Housing Units within the City Limits and GMA boundary.

While not every family residing in a mobile home park qualifies as low-income, information from key stakeholder groups, including mobile home park property-owners/managers and park residents, indicates that the vast majority of residents are low-income (including many seniors on fixed incomes). Thus, from the table data above, mobile home units represent a significant proportion of the city’s inventory of lower cost/affordable housing. However, there are no requirements that lot rents remain affordable to low-income families, and there no affordability period guarantees with any of the mobile home parks. Most mobile home park residents are on month-to-month leases.

The Affordable Housing Redevelopment Displacement Mitigation Strategy is a strategic plan that deals with displacement mitigation of families forced to relocate due to redevelopment activities. But, the strategic plan also deals with preservation and stabilization options to reduce the potential for future redevelopment and displacement of low-income residents. Simply put, if a affordable rental unit and/or mobile home park can be stabilized and preserved, it reduces the probability of needing to deal with relocation issues in the future. Topics covered in greater detail in the strategic plan include:

- A review of current City policies from City Plan and the Affordable Housing Strategic Plan 2010-2014.
- An inventory and analysis of apartments with income controls and required affordability periods and manufactured/mobile home parks.
- Options to discourage the loss of affordable housing including affordable rental units and mobile home parks including:

- *Acquisition of designated affordable units by non-profit agencies (e.g., the Fort Collins Housing Authority) to preserve them in the affordable housing inventory.*
- *Rezoning of mobile home parks into a Manufactured/Mobile Home Park District.*
- *Financial assistance for infrastructure maintenance and upgrades.*
- *Resident purchase of mobile home parks.*
- *Options to mitigate the impacts of dislocation from affordable housing including:*
  - *Requirements of the Federal Uniform Relocation Act.*
  - *Requirements of the Fort Collins Urban Renewal Authority.*
  - *Additional notice of mobile home park closure.*
  - *Requirements for a Relocation Report.*
  - *Required payment of relocation costs.*
- *Summary of the public involvement process.*

### **City Council Work Session, October 23, 2012**

*On October 23, 2012, the planning team (staff and consultants) conducted a work session with the City Council to review mobile home park preservation techniques and relocation assistance requirements to mitigate the impact on residents displaced and forced to relocate due to a redevelopment project. The team was seeking feedback from the Council as to the level of comfort the Council may have with some of the preservation techniques and relocation assistance requirements researched by the team so far in the planning process. A summary of the work session is attached (see Attachment 1). Council gave direction to the planning team to keep all options on the table, with one exception (the Notice of Vacancy “Illegal Closures”), and to process them further with the stakeholder groups and the public, before returning to the Council for final decisions. While Council kept many options on the table, it did not mean that all options would eventually be supported and adopted by the Council.*

### **FINANCIAL / ECONOMIC IMPACTS**

*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. Residents of affordable housing include teachers, emergency services personnel, retail clerks, office support staff, etc., who all provide needed goods and services to Fort Collins residents on a daily basis.*

*Redevelopment projects can produce significant benefits for Fort Collins, whether in increased sales and property tax, or by removing blighted or underused properties, or by generating jobs or employment. So, it is always wise to consider whether some types of redevelopment should be exempted from displacement mitigation strategies because they could produce benefits to the City that offset (or more than offset) the costs they impose on current residents of the property.*

*Requirements for redevelopment projects to pay the relocation costs of displaced low-income families would eliminate the need for the City to consider contributing funds for relocations purposes. Requirements for redevelopment projects to pay for the relocation of displaced families will increase the costs of the redevelopment project and could make some projects economically infeasible.*

### **ENVIRONMENTAL IMPACTS**

*Affordable housing helps provide for a healthy environment. By offering affordable housing options for low-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 geothermal applications and other energy saving techniques.*

*Most new affordable housing developments and significant rehabilitation projects utilize financial subsidies from federal grant programs (e.g., CDBG and HOME). Utilization of federal funds requires an Environmental Assessment and an analysis of floodplain hazards, noise, hazardous materials, etc.*

### **STAFF RECOMMENDATION**

*Staff recommends adoption of the Affordable Housing Redevelopment Displacement Mitigation Strategy.*

*Affordable rental units (apartments and homes), mobile homes (pre-1976), and manufactured homes (1976 and later, which meet HUD safety standards) remain an important source of affordable housing in Fort Collins and Larimer County. When affordable residential units are lost, they compound the difficulty of meeting the city's affordable housing needs. Many of the existing mobile/manufactured homes are located in mobile home parks, which raise challenges when mobile home parks are redeveloped for other uses. Mobile/manufactured home owners own their homes but rent the spaces where they are located. When mobile home parks close, residents need to move their homes to other locations, which is complicated by the fact that many homes are old and difficult to move and spaces in mobile home parks are often in short supply (particularly for older homes). If the mobile/manufactured home cannot be moved, the owner faces the loss of not just a place to live but an asset that they have purchased. In recent years, Fort Collins has experienced several mobile home park closures, has been asked to assist in relocating residents, and has done so on an ad hoc, case-by-case basis. The Affordable Housing Redevelopment Displacement Mitigation Strategy document sets a strategic policy direction for the City to address these issues in a more consistent way in the future.*

*The Affordable Housing Redevelopment Displacement Mitigation Strategy recommends that the City of Fort Collins take the following seven steps to address the above issues, each of which is described in more detail in the Strategic Plan document. Some of the following recommended steps have been modified from the Public Review Draft document based on recommendations by the Affordable Housing Board and/or the Planning and Zoning board - the footnotes help explain the changes. A table comparing the initial recommendations in the Public Review Draft and changes made and contained in the Affordable Housing Redevelopment Displacement Mitigation Strategy document presented to the City Council is provided in the Board/Commission Recommendations section below.*

1. *Continue to expand the inventory of "designated affordable" dwelling units, buildings, and complexes through current programs administered by the Fort Collins Housing Authority, other non-profit affordable housing agencies, and private developers.*



2. *Continue to offer relocation assistance to those residents of affordable units redeveloped with the use of federal, Fort Collins Urban Renewal Authority (FCURA), or other City funds, but do not extend a requirement to pay relocation expenses in private redevelopment projects that do not use public funds and do not require a discretionary land use decision by the City.<sup>1</sup>*
3. *Draft a Manufactured Home Park Zoning District and rezone into that district those mobile home parks that are relatively large and can serve as significant sources of affordable housing for the long term. From 1965 to 1997 the City of Fort Collins had two mobile home park zoning districts and most of the existing mobile home parks located inside the city limits were zoned in one of those districts. A copy of the City's former M-M Medium Density Mobile Home Park district is attached for reference (see attachment 2).*
4. *Create a loan or grant program, or use the existing financial assistance competitive process, that would be available to finance significant investments in new or existing affordable housing infrastructure that would be available to those larger mobile home parks willing to commit to continuing operation of their mobile home parks for a at least 10 years.<sup>2</sup>*
5. *Require a one (1) year notice of closure period for mobile home parks (rather than the 6 month minimum notice required by the state). As an alternative, allow a six (6) month closure notice if the park owner delivers to each resident on or before the notice date a detailed Relocation Report listing all available mobile home park spaces available within 25 miles, providing the contact information for each of those park owners, and including documented estimates of the costs of moving mobile/manufactured homes to those locations. In addition, the notice provision shall also alert residents that the park may be closed before the mandatory notice period has expired if all park residents have been successfully relocated to each party's mutual satisfaction.<sup>3</sup>*
6. *Require that redevelopment projects involving City financial assistance or a discretionary land use decision by the City pay (a) actual costs of relocating owner occupied mobile/manufactured homes to a new site within a 25 mile radius of the mobile home park, up to a maximum of \$6,000 for a single-wide home and \$8,000 for a double-wide home, and (b) the actual value (as determined by the County Assessor) of any home that is structurally able to be moved but that cannot be moved due to the unavailability of any spaces within 25 miles, and (c) one-half of the actual value (as determined by the County Assessor) of any*

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<sup>1</sup> *The Fort Collins Urban Renewal Authority is currently considering narrowing its relocation assistance policies to apply only when there is an eminent domain/condemnation action by the URA. This policy change would have a significant impact on mobile/manufactured home owners, since they do not own the land that is the subject of the condemnation action and generally do not participate in the negotiations. This represents a departure from federal Uniform Relocation Act requirements followed by the Fort Collins URA in the past, which were designed to protect renters in these types of situations.*

<sup>2</sup> *Wording revised to broaden applicability to all affordable housing infrastructure, as recommended by Planning and Zoning Board.*

<sup>3</sup> *Wording revised to reflect recommendations of the Affordable Housing Board.*

mobile/manufactured homes that cannot be moved due to structural weakness or poor condition.<sup>4</sup>

7. Build the capacity of homeowner groups, non-profit affordable housing providers, and support organizations to purchase affordable housing types, including mobile home parks, offered for redevelopment and manage them as long-term sources of affordable housing.<sup>5</sup>

**BOARD / COMMISSION RECOMMENDATION**

*Affordable Housing Board*

The Affordable Housing Board conducted a public hearing on February 7, 2013, to solicit comments on the Public Review Draft of the Affordable Housing Redevelopment Displacement Mitigation Strategy. The Board recommended changes to two of the seven recommendations as contained in the Public Review Draft of the Affordable Housing Redevelopment Displacement Mitigation Strategy. These changes have been incorporated into the recommendations listed in the previous section. A copy of the Board’s meeting minutes is attached (see Attachment 3).

**Planning and Zoning Board**

The Planning and Zoning Board conducted a special public hearing on March 15, 2013, to solicit comments on the Public Review Draft of the Affordable Housing Redevelopment Displacement Mitigation Strategy. Minutes of the March 15, 2013, Planning and Zoning Board Meeting are attached (see Attachment 4).

Presented below is a table comparing the recommendations as contained in the Public Review Draft document, to the changes recommended by the Affordable Housing Board, to the changes recommended by the Planning and Zoning Board, and whether or not changes were made to the recommendations in the Affordable Housing Redevelopment Displacement Mitigation Strategy document presented to Council.

**Comparison of Recommendations from Affordable Housing Board and Planning and Zoning Board**

**Public Review Draft ó City Council Document**

<b>Public Review Draft Recommendations</b>	<b>Affordable Housing Board Recommendations</b>	<b>Planning and Zoning Board Recommendations</b>	<b>City Council Document</b>
<i>1. Continue to expand the inventory of “designated</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>

<sup>4</sup> Affordable Housing Board recommended that this provision be strengthened, and Planning and Zoning Board recommended that it be deleted. Recommendation remains unchanged from Public Review Draft, except that relocation cost caps recommended by the AHB have been included.

<sup>5</sup> Wording revised to reflect Planning and Zoning Board recommendation to broaden impact to include purchase of all types of affordable housing.

<b>Public Review Draft Recommendations</b>	<b>Affordable Housing Board Recommendations</b>	<b>Planning and Zoning Board Recommendations</b>	<b>City Council Document</b>
<i>affordable” dwelling units, buildings, and complexes through current programs administered by the Fort Collins Housing Authority, other non-profit affordable housing agencies, and private developers.</i>			
2. <i>Continue to offer relocation assistance to those residents of affordable units redeveloped with the use of federal, Fort Collins Urban Renewal Authority (FCURA), or other City funds, but do not extend a requirement to pay relocation expenses in private redevelopment projects that do not use public funds.</i>	<i>No change</i>	<i>No Change</i>	<i>No change</i>
3. <i>Draft a Manufactured Home Park Zoning District and rezone into that district those mobile home parks that are relatively large and can serve as significant sources of affordable housing for the long term.</i>	<i>No change</i>	<i>Do Not Include Inconsistent with Comprehensive Plan and current zoning criteria –</i>	<i>Recommended Strategy remains in City Council document</i>
4. <i>Create a loan or grant program, or use the existing financial assistance competitive process, that would be available to finance significant investments in mobile home park water, sewer, septic, or road infrastructure that would be available to those larger mobile home parks willing to commit to</i>	<i>No change</i>	<i>Substitute text to broaden recommendation to all affordable housing types: “Create a loan or grant program, or use the existing financial assistance competitive process, that would be available to finance significant investments in <del>mobile home park</del></i>	<i>PZ Board revised text included in City Council document</i>

<b>Public Review Draft Recommendations</b>	<b>Affordable Housing Board Recommendations</b>	<b>Planning and Zoning Board Recommendations</b>	<b>City Council Document</b>
<p><i>continuing operation of their mobile home parks for a at least 10 years.</i></p>		<p><del>water, sewer, septic, or road</del> <u>new or existing affordable housing infrastructure</u> that would be available to those larger mobile home parks willing to commit to continuing operation of their mobile home parks for a at least 10 years.</p>	
<p><i>5. Require a one (1) year notice of closure period for mobile home parks (rather than the 6 month minimum notice required by Colorado law). However, as an alternative, the City could offer to allow a six (6) month closure notice if the park owner delivers to each resident on or before the notice date a detailed Relocation Report listing all available mobile home park spaces available within 25 miles, providing the contact information for each of those park owners, and including documented estimates of the costs of moving mobile/manufactured homes to those locations. In addition, the ordinance should provide an incentive for the park owner to assist in relocation by providing that park may be closed before the mandatory one year notice period has</i></p>	<p><i>Recommend substitute text to ensure adequate notice of potential earlier closing  “Require a one year notice of closure period for mobile home parks (rather than the 6 month minimum notice required by the state). As an alternative, the City could offer to allow a six (6) month closure notice if the park owner delivers to each resident on or before the notice date a detailed Relocation Report listing all available mobile home spaces available within 25 miles, providing the contact information for each of those park owners, and including documented estimates of the costs of moving mobile/manufactured homes to those locations. <b><u>In addition, the notice provision shall also alert residents</u></b></i></p>	<p><i>No change</i></p>	<p><i>AHB revised text included in City Council document</i></p>

<b>Public Review Draft Recommendations</b>	<b>Affordable Housing Board Recommendations</b>	<b>Planning and Zoning Board Recommendations</b>	<b>City Council Document</b>
<p><i>expired if all park residents have been successfully relocated.</i></p>	<p><b><u>that the park may be closed before the mandatory notice period if all park residents have been successfully relocated to each party's mutual satisfaction.</u></b></p>		
<p>6. Require that redevelopment projects pay (a) actual costs of relocating owner occupied mobile/manufactured homes to a new site within a 25 mile radius of the mobile home park and (b) pay at least a portion of the value of units that cannot be moved.</p> <ul style="list-style-type: none"> <li>Note – this applies only to projects involving city financial assistance or a discretionary land use decision.</li> </ul>	<p>Require that <b><u>mobile home park owners or</u></b> redevelopers pay (a) actual costs of relocating mobile/manufactured homes to a new site within 25 miles of the <u>redevelopment site, with a maximum relocation cost of \$6,000 for a single-wide unit and \$8,000 for a double-wide unit, (b) the actual value of any home (as determined by the County Assessor) that is structurally able to be moved but that cannot be moved due to the unavailability of any spaces within 25 miles, and (c) the actual value of any home (as determined by the County Assessor) that cannot be moved due to structural weakness or poor condition.</u></p> <ul style="list-style-type: none"> <li>Should apply to all applications for redevelopment regardless of city financial involvement</li> </ul>	<p>Do not include. Not the most effective way to promote affordable housing, may subsidize substandard housing, and inappropriately shifts cost burdens to mobile home park owners. Instead recommend impact fee or TIF to help cover cost of relocation or development of affordable housing.</p>	<p>Recommended Strategy remains in City Council document.</p>

<b>Public Review Draft Recommendations</b>	<b>Affordable Housing Board Recommendations</b>	<b>Planning and Zoning Board Recommendations</b>	<b>City Council Document</b>
	<i>or land use decision</i>		
7. <i>Build the capacity of homeowner groups, non-profit affordable housing providers, and support organizations to purchase mobile home parks offered for redevelopment and manage them as long-term sources of affordable housing.</i>	No change	Recommend revised text: “Build the capacity of homeowner groups, non-profit affordable housing providers, and support organizations to purchase <u>affordable housing types, including mobile home parks offered for redevelopment and manage them as long-term sources of affordable housing.</u> ”	PZ Board revised text included in City Council document

**Summary of Significant Differences**

- Recommendation #3 - Create a Mobile Home Park Zoning District and rezone several mobile home parks into the new zone to help preserve them. The Planning and Zoning Board does not support a new mobile home park zone. The Affordable Housing Board supports the recommendation.
- Recommendation #6 - Require redevelopment projects to pay displacement relocation costs. The Affordable Housing Board supports the recommendation and sets limits as to the amounts of assistance to individual unit owners. The Planning and Zoning Board does not support the recommendation and, instead, suggests establishment of an impact fee or use of TIF to fund relocation costs and the development of additional affordable housing.

**PUBLIC OUTREACH**

The involvement of stakeholder groups, the general public, and City boards and commissions was a very important component of this project. Three key stakeholder groups were identified and have been involved in the project, including: (1) mobile home park property-owners; (2) mobile home park residents (unit owners and renters) and interested citizens; and (3) affordable housing and human service agencies (e.g., Fort Collins Housing Authority, Neighbor-to-Neighbor, CARE Housing, The Murphy Center, and Funding Partners).

A project website (<http://www.fcgov.com/socialsustainability/mobilehomeservices.php>) was established for the dissemination of information, announcement of upcoming public meetings, and collection of public comments. An online survey was available to offer another option for people to provide feedback who were not able to attend the information open house, or may not be able to attend the public hearings.

*Two key City advisory boards have been involved in the process, the Affordable Housing Board, because mobile homes are a low cost, affordable housing component of the community's housing stock, and the Planning and Zoning Board, because future redevelopment of mobile home parks will likely involve decisions by the Board.*

*Two departments of the Larimer County government were also involved, including the Planning Department and the Environmental Health Department.*

### **Stakeholder / Public Meetings**

*Three stakeholder informational meetings were scheduled in September 2012 as part of the first phase of the public process for the project. The three meetings for the specific stakeholder groups included: (1) manufactured/mobile home park property-owners; (2) manufactured/mobile home owners, park residents, and interested citizens; and (3) affordable housing and social service agencies. Notes from these initial informational meetings are attached (see Attachment 5).*

*In November 2012, a second set of stakeholder meetings were conducted to provide a project update and report on the results of the October 23, 2012, City Council work session about how to mitigate the impacts to residents when manufactured/mobile home parks are redeveloped for other uses. Topics covered at the meetings included the following:*

- *Mobile Home Park Preservation and Stabilization Techniques*
  - *Mobile Home Park Zoning District*
  - *Resident Purchase of Mobile Home Parks*
  - *Infrastructure Maintenance/Replacement Financial Assistance*
- *Notice of Park Closure*
  - *Relocation Assistance Requirements*
  - *Relocation Report*
  - *Payment of Relocation Costs*

*Notes from these second set of stakeholder meetings are attached (see Attachment 6).*

### **Open House**

*On January 24, 2013, an Open House was conducted to present the Public Review Draft of the Affordable Housing Redevelopment Displacement Mitigation Strategy. Printed copies of the draft strategic plan document were available at the open house. The document was also available for viewing on the project's web site. Flyers announcing the open house, as well as the future public hearings by the Affordable Housing Board, the Planning and Zoning Board, and the City Council, were mailed to all 23 mobile home park property-owners and to 3,600+ residents (unit owners and renters) of mobile home parks, located both inside the City limits and within the Growth Management Area. Flyers were also sent via email to citizens who had attended previous stakeholder meetings and/or who indicated they wished to receive notices of additional meetings by submitting their email address on the project's web page, and to selected staff of affordable housing and social service agencies.*

*The open house contained a series of 15 informational boards highlighting the key points of the strategic plan to preserve affordable housing units, including mobile home parks, and the proposed*

*requirements for the payment of relocation assistance to displaced residents. Members of the planning team (staff and consultants) were available to answer questions and provide additional information. Approximately 80 people attended the open house. Most attendees were residents of mobile home parks, but a few park owners and staff from affordable housing agencies also attended. Attendees were encouraged to fill out comment cards or complete the on-line survey using available laptop computers.*

### ***Survey Results and Selected Public Comments***

*The Public Review Draft of the Affordable Housing Redevelopment Displacement Mitigation Strategy was posted for public review on the project's web site on January 10, 2013. In order to obtain additional detailed feedback on the strategic plan, the planning team organized an on-line survey that was posted on the web site and publicized on January 11, 2012. The survey was not a random sample, statistically valid survey to obtain results that could be equated to being representative of opinions of a larger group of people in the community. Anyone could visit the project's web site and participate in the survey.*

*Public input from the survey and comment cards were integrated and the results are summarized in the Affordable Housing Redevelopment Displacement Mitigation Strategy.”*

Ken Waido, Chief Planner, stated Council will have the option of several strategies to deal with the loss of affordable housing and mobile home parks, the details of which will be formulated in the future. Waido detailed the two components of the plan: options for maintaining or sustaining affordable housing and mobile home parks, and the requirements for relocation mitigation and assistance. He discussed the three strategies presented for preservation or stabilization: a mobile home park district, aiding in funding infrastructure maintenance and replacement for mobile home parks, and resident ownership of mobile home parks. The strategies presented regarding mobile home park closures are as follows: increasing the time of notice of closure from the minimum 6 months required by the State, requiring a relocation report about potential relocation sites to residents, and requiring payment of relocation costs from a redevelopment project. Waido discussed the public outreach process and recommendations to continue to add to the affordable housing stock, continue to offer relocation assistance, draft a mobile home park zone, assist with financial assistance for infrastructure improvements, extend the notice of closure to one year, require the payment of relocation costs, and work with the residents to establish homeowners associations.

Eric Sutherland, 3520 Golden Currant, stated tax sharebacks should be used for housing assistance.

Patrick Edwards, 1731 Valley Forge, stated residents should not be forced to move from their homes.

Zach Heath, 35 South Sunset, discussed an article on rent and supported the adoption of a strategic plan to preserve affordable housing.

Tawny Payton, Rocky Mountain Home Association Executive Director, discussed the manufactured home industry and noted it is not subsidized but still supports the need for affordable housing. She opposed the adoption of the strategic plan.



Dave Bell, Fort Collins resident, stated a one year notice of closure is not long enough and relocation costs should come from the developer.

Chris Seifert, AMC, Inc., stated infrastructure upgrades are often not affordable by smaller park owners and stated larger operators will not want to purchase the parks due to cost.

Rose Lew, 2014 Westview Road, supported the strategic plan and the Affordable Housing Board recommendations.

Melissa Dougherty, American Land Lease, owner of Skyline community, expressed support for affordable housing but expressed concern regarding three of the recommendations, including the creation of a mobile home zone.

Keith Cowan, 400 Hickory Street, owner of Hickory Village Mobile Home Park, opposed the sales tax on mobile homes.

Brittan Cook, mobile home park manager, opposed recommendations 3, 5, and 6, particularly the relocation cost issue, as deterrents to growth.

Shraka Martin, Fort Collins resident, supported the strategic plan.

Sara Cunningham, Skyline community manager, opposed recommendations 3, 5, and 6.

Cheryl Distaso, Fort Collins Community Action Network, supported the strategic plan.

Christian Hendrickson, Rocky Mountain Home Association counsel, opposed recommendations 3, 5, and 6.

Nancy York, 130 South Whitcomb, discussed the juxtaposition between the Woodward business assistance package and affordable housing. She supported the strategic plan.

Mayor Weitkunat commended the staff work and report. She asked what determined the final recommendations. Waido replied staff made the decision to bring forward a slightly changed document, though the intent and effect of the recommendation remained unchanged.

Mayor Weitkunat requested a staff response to the concerns regarding recommendations 3, 5, and 6. Waido replied there were differences between mobile home park owners and residents and stated the major concerns of residents were lot rent increases and longevity of parks. He stated the rezoning would apply to the largest parks with a high percentage of ownership of units. The rezoning could help stabilize and preserve those parks, though there is no guarantee it may not redevelop in some fashion. The details of potential development of a mobile home zone district would be developed following a Council recommendation to proceed. Shelby Sommer, Clarion and Associates, discussed the one year notice requirement recommendation, which is supported by residents but deemed too long by park owners and managers. She noted a relocation report would decrease that time to as little as 6 months to aid in the concerns of the development community. In terms of relocation costs, Ms. Sommer stated the Affordable Housing Board does support the recommendation; however the Planning and Zoning Board does not. The recommendation is for

development projects to pay relocation costs if there is City funding assistance and/or if land use approval is sought.

Councilmember Troxell asked about the focus on manufactured housing rather than a more broad focus on affordable housing. Waido replied the designated affordable housing component is the top goal of the City's affordable housing strategic plan and the City does provide financial assistance and development incentives to maintain and add to that inventory.

Councilmember Troxell expressed concern that recommendations 3, 5, and 6 are counter to affordable housing. He argued the plan should be more forward thinking on other housing types rather than focused on existing developments. Waido replied mobile home residents are often not interested in changing their housing style. Ms. Sommer noted the Planning and Zoning Board recommended applying recommendations 1, 2, 4 and 7 to all types of affordable housing.

Councilmember Poppaw noted the contribution from the City in the case of the Bender Mobile Home Park relocation dramatically outweighed the contributions from the developer and land owner.

Councilmember Horak asked what the adoption of this Resolution would mean. Waido replied the recommendations would set some broad parameters for strategies to be developed further by staff.

Mayor Pro Tem Ohlson asked about the use of tax increment financing. Joe Frank replied the URA legislation allows the use of TIF for relocation and requires the URA to pay expenses in the case of eminent domain. The City's Urban Renewal Authority pays relocation costs.

Mayor Pro Tem Ohlson questioned why the developer and land owners are mentioned as paying those costs. Mr. Frank replied few of the mobile home parks are in the Urban Renewal Authority area.

Councilmember Horak made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2013-027.

Councilmember Horak noted this is a strategic plan to aid in the conscious consideration of affordable housing issues.

Councilmember Manvel commended staff work on the item and stated this plan is a good first step.

Councilmember Poppaw commended staff work on the item and thanked Ms. Distaso for her work on the issue. She stated she would support the motion.

Mayor Weitkunat questioned whether or not support of the motion is support of the seven elements as written. For example, she opposed drafting a manufactured home park zone district.

Mayor Pro Tem Ohlson stated adoption of this plan would mean development of the recommendations which will then be presented to Council for consideration in the future.

Councilmember Troxell expressed support for affordable housing but questioned the specificity of the plan with regard to mobile homes. He stated he would support a broader, more systemic plan.

Mayor Pro Tem Ohlson stated he would support the motion but noted the Ordinances that would implement the plan are the items which will make a difference.

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

THE MOTION CARRIED.

### **Extension of the Meeting**

Councilmember Manvel made a motion, seconded by Mayor Pro Tem Ohlson, to extend the meeting to consider the remainder of the agenda. Yeas: Weitkunat, Manvel, Ohlson and Poppaw. Nays: Kottwitz, Troxell and Horak.

THE MOTION CARRIED.

### **Ordinance No. 048, 2013, Amending Chapter 10 of the City Code Relating to Development in the Poudre River Floodplain, Adopted on Second Reading**

The following is the staff memorandum for this item.

#### ***“EXECUTIVE SUMMARY***

*The final component of the Stormwater Repurposing program is to review the level of regulation protecting life and property for areas within the Poudre River floodplain. This Ordinance, adopted on First Reading on March 18, 2013 by a vote of 5-1 (Nays: Ohlson), revises City Code to establish a “performance-based” criteria and regulation that places more emphasis on life safety through advance warning and evacuation. An effective date of July 1, 2013 has been established so that advance notice can be provided to property owners and applicants for development submittals.*

*The Ordinance contains revised Code language to include an additional provision described in the staff presentation on First Reading at the March 18, 2013 Council meeting. The provision states that an Emergency Response and Preparedness Plan (ERPP) will not be required in situations where structures or portions of structures will be removed from the 100-year floodplain and dryland access will be provided through the construction of new improvements associated with a FEMA-approved Conditional Letter of Map Revision in advance of a Letter of Map Revision or Physical Map Revision pursuant to §10-80(a)(1).”*

Ken Sampley, Stormwater and Floodplain Manager, stated a provision was added to clarify that the properties who were going to take their development outside of the floodplain would not need an emergency response plan. Additionally, it was determined there are only four residential properties in the City limits and seventy-two properties in the growth management area that are within the floodplain; therefore the staff recommendation is to not require an emergency response plan for those residences.

Councilmember Horak made a motion, seconded by Councilmember Manvel, to adopt Ordinance No. 048, 2013, on Second Reading.

Mayor Pro Tem Ohlson stated he would not support the motion as there was a systemic failure of process and product.

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

THE MOTION CARRIED.

**Resolution 2013-028**  
**Making Findings of Fact and Conclusions Regarding the Appeal of the Decision of the Planning and Zoning Board to Approve Sign Modifications for the Foothills Mall Redevelopment Project Development Plan, Adopted**

The following is the staff memorandum for this item.

***“EXECUTIVE SUMMARY***

*On February 7, 2013, the Planning and Zoning Board approved three modification of standards requests pertaining to two electronic message center ground signs proposed to be located along the South College Avenue frontage of the Foothills Mall Redevelopment project. On February 21, 2013, Mayor Pro Tem Kelly Ohlson filed a Notice of Appeal with the City Clerk, appealing the Planning and Zoning Board’s approval of the three modifications.*

*On March 19, 2013, City Council took the following actions:*

- 1. Mayor Pro Tem Ohlson, the Appellant, withdrew his appeal of the Planning and Zoning Board’s decision to grant a modification to allow two electronic message center signs to exceed fifty percent (50%) of the total area of the sign face (Section 3.8.7(M)(4)(d) of the Land Use Code).*
- 2. By a vote of 5 - 0, the City Council upheld the Planning and Zoning Board’s decision to grant a modification to allow two electronic message center signs along the South College Avenue frontage of the development (Section 3.8.7(M)(4)(h) of the Land Use Code).*
- 3. With regard to the Planning and Zoning Board’s decision to grant a modification to allow two electronic message center signs to display messages in full color, the City Council, by a vote of 3 – 2 (Nays: Troxell, Kottwitz), determined that the Planning and Zoning Board failed to properly interpret and apply the relevant provisions of the Land Use Code, the unique hardship standard in particular, and that the Board erred in its determination that the granting of the modification would not be detrimental to the public good. This vote resulted in the City Council overturning the decision of the Planning and Zoning Board to allow full color message displays.*
- 4. The City Council modified the approval by the Planning and Zoning Board of the Foothills Mall Redevelopment Project Development Plan by adding a new condition to that approval*

*which requires that electronic message center signs must comply with the manner of display required by Section 3.8.7(M)4)(c).*

*In order to finalize this appeal process, Council is required to adopt a Resolution making findings of fact and finalizing its decision on the Appeal.*

### **BACKGROUND / DISCUSSION**

*Mayor Pro Tem Ohlson's Notice of Appeal did not contain any specific grounds for the appeal but did include a general description of the issues to be considered on appeal. The issues centered on the Planning and Zoning Board's approval of modification requests to:*

- 1. Section 3.8.4(M)4)(c) - Allow two electronic message center signs (a.k.a. digital signs) to display messages in full color rather than in one color;*
- 2. Section 3.8.4(M)4)(d) - Allow the size of two electronic message center signs to exceed fifty (50%) of the total area of the sign face. Specifically, allow the size of each of the two signs to be sixty-four percent (64%) of the total area of the sign.*
- 3. Section 3.8.4(M)4)(h) - Allow more than one electronic message center signs along the South College Avenue frontage of the development. Specifically, allow two such signs along the frontage, with the signs separated by a distance of 1164 feet.*

*At the March 19, 2013 hearing on the matter, Council considered the testimony of City staff, the applicant, the appellant, and other parties in interest. After consideration of the record and discussion, City Council took the actions described above in the Executive Summary."*

Mayor Weitkunat recused herself from the discussion of this item due to a conflict of interest.

Councilmember Poppaw recused herself from the discussion of this item as she did not participate in the appeal hearing.

Patrick Edwards, 1731 Valley Forge, supported the Resolution.

Councilmember Horak made a motion, seconded by Councilmember Manvel, to adopt Resolution 2013-028. Yeas: Horak, Manvel and Ohlson. Nays: Kottwitz and Troxell.

THE MOTION CARRIED.

### **Adjournment**

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Manvel, to adjourn to 6:00 p.m. on March 27, 2013, so that the Council may consider any additional business that may come before the Council, including a possible Executive Session. Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Horak and Troxell. Nays: none.

THE MOTION CARRIED.

*March 26, 2013*

The meeting was adjourned at 11:12 p.m.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**March 27, 2013**

**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 Wednesday, March 27, 2013, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll Call was answered by the following Councilmembers: Horak, Kottwitz, Manvel, Ohlson, Troxell, and Weikunat.

Councilmembers Absent: Poppaw

(Secretary's note: Councilmember Kottwitz arrived at 6:08 p.m.)

Staff Members Present: Atteberry, Nelson, Roy.

**Executive Session Authorized**

Mayor Pro Tem Ohlson made a motion, seconded by Councilmember Horak, to adjourn into executive session as permitted under Section 2-31(a)(2) of the City Code for the purpose of meeting with the City Attorney, City Manager and other affected members of City staff to discuss legal issues and potential litigation. Yeas: Horak, Manvel, Ohlson, Troxell, and Weikunat. Nays: none.

THE MOTION CARRIED.

**Adjournment**

At the conclusion of the executive session, the meeting was adjourned at 6:30 p.m.

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Mayor

ATTEST:

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City Clerk

April 23, 2013

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, April 23, 2013, 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: Campana, Cunniff, Horak, Overbeck, Poppaw, Troxell, and Weitkunat.

Staff Members Present: Atteberry, Nelson, Roy.

**Items Relating to the Oil and Gas Operator Agreement  
Between the City and Prospect Energy, LLC., Continued to May 21, 2013**

The following is the staff memorandum for these items.

***“EXECUTIVE SUMMARY***

- A. *Second Reading of Ordinance No. 057, 2013 Terminating the Moratorium Imposed by Ordinance No. 145, 2012 with Respect to Oil and Gas Operations Conducted under an Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC and Exempting Such Operations from the Prohibitions Contained in Section 12-135 of the City Code (Options 1 and 2).*
- B. *Resolution 2013-036 Approving an Amendment to the Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC (Options 1 and 2).*

*On March 19, 2013, Council approved an Operator’s Agreement with Prospect Energy to conduct oil and gas operation in the city limits. The terms of the Agreement ensure stringent public health and safety measures are in place through Best Management Practices (BMPs), which generally exceed current requirements mandated by the Colorado Oil and Gas Conservation Commission (COGCC), and provide strict controls on the release of methane gases and other volatile organic compounds (VOCs). The Council also adopted on First Reading, Ordinance No. 057, 2013, by a vote of 5-1 (nays: Ohlson, absent: Poppaw), removing the Moratorium imposed by Ordinance No. 145, 2012, with respect to an Oil and Gas Operator Agreement with Prospect Energy.*

- *Option #1- Amended Operator Agreement Resolution 2013-036*

*Resolution 2013-036 will further amend the Operator’s Agreement with Prospect Energy to clarify that (1) no new drilling will occur in any plugged or abandoned well in the Fort Collins Field and that (2) all Colorado Oil and Gas Conservation Commission rules to be effective August 1, 2013 will apply to any exploration and drilling activities in the Undeveloped Acreage (UDA), and (3) along*



*the west and southern boundaries of the UDA, a 1,000 foot set-back shall be required from any residential area in accordance with COGCC standards of measurement, and (4) the Amended Agreement must be executed by both parties on or before June 15, 2013.*

- *Option #2 – Amended Operator Agreement Resolution 2013-036*

*Limit the Agreement to the Fort Collins Field by removing UDA from the Operator Agreement and prohibit re-entry into plugged and abandoned wells.*

### **BACKGROUND / DISCUSSION**

*During Council discussion on March 19, 2013, questions arose regarding the inclusion of Undeveloped Acreage (UDA) in the Operator Agreement. Staff responded incorrectly as to when staff was aware of the UDA. The UDA was disclosed on March 1, 2013. Staff received the first Operator Agreement that included the UDA on March 7, 2013.*

*Council further inquired as to how development of the UDA may occur. Generally, Prospect Energy is limited to the terms and conditions contained in a confidential Surface Use Agreement (SUA) with Anheuser-Busch, Incorporated signed in April 2011. According to the Larimer County mineral lease notice (Attachment 4), the SUA is for a primary term of three years expiring March 2014. If, at the expiration of the Primary Term of the SUA, lands not then included within a producing or spacing unit are not engaged in drilling or reworking operations, then the lease expires. According to the notice, an option to extend the agreement for an additional three years is available if Prospect Energy makes an additional payment.*

*In addition to any requirements imposed by the SUA, any oil and gas development would be required to comply with the Council-approved Operator Agreement. A key aspect of the Agreement requires the following:*

**Conceptual Review** – *No less than thirty (30) days prior to the submission of an Application for a Permit to Drill (APD) (note: APD is the Colorado Oil and Gas Conservation Commission (COGCC) permitting process), Prospect Energy will schedule a meeting with the City to review the proposed new well or drilling activity. The goal of this meeting would be for staff and the applicant to review the proposed oil and gas operation in a manner that ensures compliance with the operator agreement and applicable state and federal regulations. This pre-submittal meeting will also allow the applicant and staff to:*

- *explore site-specific concerns*
- *discuss project impacts and potential mitigation methods including field design and infrastructure construction to minimize impacts*
- *discuss coordination of field design with other existing or potential development and operators*
- *identify sampling and monitoring plans for air and water quality, and other elements of the operator agreement as contained in Exhibit A (Best Management Practices).*

**STAFF RECOMMENDATION**

*If Council desires to have the Best Management Practices described in the Operator Agreement apply to the UDA, Staff recommends adoption of the Option #1 Ordinance No. 057 on Second Reading and Resolution 2013-036 - Amending the Agreement to clarify that (1) no new drilling will occur in any plugged or abandoned well in the Fort Collins Field and that (2) all Colorado Oil and Gas Conservation Commission rules to be effective August 1, 2013 will apply to any exploration and drilling activities in the Undeveloped Acreage (UDA), and (3) along the west and southern boundaries of the UDA, a 1,000 foot set-back shall be required from any residential area in accordance with COGCC standards of measurement, and (4) the Amended Agreement must be executed by both parties on or before June 15, 2013."*

Mayor Pro Tem Horak suggested the item should be delayed until the conclusion of the work session. City Attorney Roy recommended the item be postponed to a specific date.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to postpone Second Reading of Ordinance No. 057, 2013 to May 21, 2013.

Mayor Weitkunat asked if Council would be willing to suspend the rules and allow citizens to comment regarding the continuation.

Councilmember Poppaw asked if a suspension of the rules is necessary, given the fact that public comment would be taken on the existing motion. City Attorney Roy replied it is considered a suspension of the rules because this is technically the same meeting as the previous meeting and the rules state there is only opportunity for citizen comment once per item, regardless of how many motions are made during the discussion of the item.

Councilmember Cunniff made a motion, seconded by Councilmember Poppaw, to suspend the rules to allow public comment regarding the continuation of this item. Yeas: Troxell, Horak, Weitkunat, Overbeck, Poppaw, Campana and Cunniff. Nays: none.

**THE MOTION CARRIED.**

Rico Moore, 721 West Myrtle, supported the motion to postpone the item in order to allow citizens an opportunity to study the issue and allow media to report on possible chemical spills by Prospect Energy.

Leo Buccelloto, Fort Collins resident, stated there is a moratorium and ban on fracking in place and questioned why Prospect Energy may be allowed to use hydraulic fracturing and expand its operations using that process. He questioned the agreement he suggested was signed with Prospect Energy behind closed doors and accused the Council of the appearance of corruption.

Rob Willis, Counsel for Prospect Energy, stated this process has been ongoing for over a year and the Memorandum of Understanding has been contemplated by Prospect Energy for several months. He stated his client has attempted to be transparent and is disappointed that there is a possibility of postponement.

*April 23, 2013*

Scott Hall, Prospect Energy, opposed the possibility of postponement and stated he would like a decision on the item. He stated there are some development and lease expiration deadlines being faced by the company.

Diane Vella, Fort Collins resident, stated this is the first she has heard of this item and supported postponement to allow time for additional information to be provided.

Dolores Williams, 415 Mason Court, questioned the inclusion of the Undeveloped Area and expressed concern about potential health and safety issues.

Ward Luthe, Fort Collins resident, questioned aspects of the operator agreement and supported postponement of the item.

Brad Palmeroy, Wellington Operating Company, stated he is a former owner of the Fort Collins Field and supported protection of the rights of mineral owners. He stated there is a general lack of understanding of the definition of fracking.

Councilmember Cunniff clarified Council's intent to hold the work session regarding the moratorium and operator agreement after the work session on the mall redevelopment.

Mayor Pro Tem Horak stated meetings between Prospect Energy and staff have not involved Councilmembers and stated no agreement was signed prior to a vote.

Councilmember Troxell stated Council may be losing sight of doing what is best for Fort Collins. He stated Prospect Energy has been forthright and up-front and has been involved with the discussions for several months.

Councilmember Poppaw opposed the notion that Council is corrupt and stated the point of this postponement is to allow the opportunity for the public to have a dialogue about this after the facts are presented at a work session.

Councilmember Campana opposed the suggestion of a conspiracy and stated the original objective of the moratorium was to balance the importance of the oil and gas industry with the health and safety concerns of the community.

Mayor Weitkunat stated this is an emotionally charged issue and Council is attempting to make the best decision possible for the community.

The vote on the motion to postpone the item to May 21, 2013, was as follows: Yeas: Horak, Weitkunat, Overbeck, Poppaw, Campana, Cunniff and Troxell. Nays: none.

**THE MOTION CARRIED.**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to adjourn the meeting to the end of the work session in order to give Council the opportunity to go into Executive Session or to adjourn to April 29, 2013. Yeas: Weitkunat, Overbeck, Poppaw, Campana, Cunniff, Troxell and Horak. Nays: none.

*April 23, 2013*

THE MOTION CARRIED.

(Secretary's note: Council adjourned at 6:37 p.m. until the conclusion of the work session and reconvened at 10:15 p.m.)

**Adjournment**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn to 6:00 p.m. on Monday, April 29, 2013, so that the Council may consider any additional business that may come before the Council, including a possible Executive Session. Yeas: Weitkumat, Poppaw, Horak, Troxell, Campana, Cunniff and Overbeck. Nays: none.

THE MOTION CARRIED.

The meeting adjourned at 10:20 p.m.

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Mayor

ATTEST:

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City Clerk