

AGENDA ITEM SUMMARY

City Council

December 3, 2013

STAFF

Wanda Nelson, City Clerk

SUBJECT

Consideration and Approval of the Minutes of the November 5, 2013 Regular Council Meeting.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes from the November 5, 2013 Regular Council Meeting.

ATTACHMENTS

1. 1105 min (PDF)

November 5, 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, November 5 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 and Troxell.

Councilmembers Absent: Weitkunat

Staff Members Present: Atteberry, Nelson, Roy.

Agenda Review

City Manager Atteberry requested that Item No. 10, *Items Relating to West Vine Basin Stormwater Improvements*, be moved to the Discussion Agenda due to Councilmember Campana's conflict on the item. Additionally, he announced a visit by Estes Park leaders who are here to express their appreciation for assistance during and following the September floods.

Citizen Participation

Mel Hilgenberg, 172 North College, discussed the passing of Howard Welker, requested Council consider assisting the County with upfront funds for flood relief efforts, opposed the proposed on-campus football stadium, and supported the placement of a parking garage on the site of the current Denver Rescue Mission and the relocation of the Mission to the old club on Linden Street.

Marge Griffin, Fort Collins resident, requested answers and information regarding the Boxelder Stormwater Authority. She opposed the Authority and its plans for a dam on her property.

Maggie Weinroth, ASCSU, provided an update on ASCSU's fall cleanup efforts in the community.

Leonard Urban, 1808 Cannes Court, discussed the Saturday Morning organization which aids homeless in the community. He requested assistance from the City for advertising and possible expansion.

Cheryl Distaso, Fort Collins Community Action Network, commended the work session regarding the mosquito spraying issue.

Eric Sutherland, 3520 Golden Curreant, opposed the Boxelder Stormwater Authority stating the engineering, legalities in financing, and overarching concept are flawed and not in the public interest. He suggested the City should respond with real answers. He also stated there is a

significant problem with the DDA budget in that more property tax funds are going to the DDA than authorized.

Citizen Participation Follow-up

Councilmember Troxell stated he would like CSU to host a legitimate public process with regard to the proposed on-campus stadium and he would like Council to have the ability to visit other on-campus stadium communities. He stated possible parking privatization would also need public input and dialogue and expressed the importance of an intergovernmental agreement between CSU and the City.

Councilmember Overbeck thanked the citizens for speaking and asked that Mr. Urban contact him regarding the Saturday Morning organization.

Councilmember Cunniff requested a work session discussion regarding the Boxelder issue.

Mayor Pro Tem Horak suggested a community outreach type of discussion prior to a possible work session. He commended ASCSU for its fall cleanup efforts in the community and requested staff provide resource assistance lists for Mr. Urban.

CONSENT CALENDAR

ANNUAL BUDGET-RELATED CONSENT ITEMS

1. Second Reading of Ordinance No. 138, 2013, Authorizing the Appropriation of 2014 Fiscal Year Operating and Capital Improvement Funds for the Fort Collins-Loveland Municipal Airport.

The 2014 annual operating budget for the Airport totals \$783,750, and will be funded from Airport operating revenues, contributions from the Cities of Fort Collins and Loveland (\$177,500 from each City), and interest earnings. As in 2013, this amount for each City is \$92,500 greater than the prior years' contributions of \$85,000. For the City of Fort Collins, the original \$85,000 is funded from General Fund ongoing revenue, while the one-time increase of \$92,500 will be funded from General Fund reserves. This Ordinance, unanimously adopted on First Reading on October 15, 2013, authorizes the City of Loveland to appropriate the City of Fort Collins contribution, which is a 50% share of the 2014 Airport budget and totals \$391,875.

This Ordinance also appropriates the City's 50% share of capital funds, totaling \$757,480, for the Airport from federal and state grants; contributions from Fort Collins and Loveland; and the Airport General Fund. Most of the 2014 Airport capital funds, totaling \$1,514,960, will be used to complete major Airport improvements, such as the acquisition of an Aircraft Rescue and Fire Fighting apparatus, and the construction of a snow removal equipment storage facility.

2. Items Relating to the 2014 Downtown Development Authority Budget.

A. Second Reading of Ordinance No. 139, 2013, Being the Annual Appropriation Ordinance

for the Fort Collins Downtown Development Authority Relating to the Annual Appropriations for the Fiscal Year 2014 and Fixing the Mill Levy For the Downtown Development Authority for Fiscal Year 2014.

- B. Second Reading of Ordinance No. 140, 2013, Appropriating Proceeds from the Issuance of City of Fort Collins Downtown Development Authority Subordinate Tax Increment Bond, Series 2013A, for the Purpose of Making Certain Capital Improvements Within the Downtown Area of Fort Collins.

Ordinance, No. 139, 2013 sets the Downtown Development Authority (DDA) 2014 Operations and Maintenance Budget amount of \$764,404 to be appropriated for fiscal year 2014 for the administrative operations budget, appropriates the 2014 Line of Credit Draw in the amount of \$1,000,000, sets the amount of \$3,197,101 for debt service payments to be appropriated for fiscal year 2014, and sets the 2014 Mill Levy for the Fort Collins DDA at five (5) mills (unchanged since tax year 2002). The approved Budget will become the Downtown Development Authority's financial plan for 2014.

Ordinance No. 140, 2013 appropriates bond proceeds in the amount of \$6,050,000. These Ordinances were unanimously adopted on First Reading on October 15, 2013.

3. Second Reading of Ordinance No. 145, 2013, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for the Fiscal Year 2014; Amending the Budget for the Fiscal Year Beginning January 1, 2014, and Ending December 31, 2014; and Fixing the Mill Levy for Fiscal Year 2014.

This Ordinance, unanimously adopted on First Reading on October 15, 2013, amends the adopted 2014 Budget and sets the amount of \$500,514,287 to be appropriated for fiscal year 2014. Including the 2014 adopted budgets for the General Improvement District (GID) No. 1 of \$194,001 and the revised Urban Renewal Authority (URA) budget of \$2,191,746 the total City appropriations amount to \$502,900,034. The Net City Budget, which excludes GID, URA, internal transfers between City funds, is \$398,157,679 for 2014. This Ordinance also sets the 2014 City mill levy at 9.797 mills, unchanged since 1991.

NON-BUDGET RELATED CONSENT ITEMS

4. Consideration and Approval of the Minutes of the October 1, 2013 Regular Meeting.
5. Second Reading of Ordinance No. 141, 2013, Appropriating Unanticipated Revenue from the Public Service Company into the Capital Projects Fund for the Trail Acquisition and Development-Special Funds Project.

The Public Service Company's (PSCo or Xcel) West Main Pipeline Project required easements across City-owned Coyote Ridge, Colina Mariposa, and Hazaleus Natural Areas located along South Shields Street between Fort Collins and Loveland and on the Kingfisher Natural Area near Timberline Road. PSCo has agreed to provide \$2,000,000 as compensation for the easements, and as mitigation for the project's community wide impacts. This Ordinance, unanimously adopted on First Reading on October 15, 2013, appropriates PSCo revenue, funding in the amount of \$1,000,000, to be used for the construction of a ten-

foot wide concrete regional trail on the east side of Shields Street from Fossil Creek Drive to Trilby Road. The Ordinance has been amended on Second Reading to specify the Art in Public Places (APP) amount for the Art Project (\$7,800); and, the amount for APP maintenance and operations (\$2,200).

6. Second Reading of Ordinance No. 142, 2013, Authorizing the Appropriation of Prior Year Reserves in the General Fund for the Police Dispatch Radio Console Replacement Project.

This Ordinance, unanimously adopted on First Reading on October 15, 2013, appropriates \$250,000 from Camera Radar reserves and \$554,658 from the existing Police Services budget to fund the replacement of Police dispatch equipment that has reached the end of its useful life. The total cost to replace the equipment is approximately \$804,658.

7. Second Reading of Ordinance No. 143, 2013, Authorizing the Appropriation of Keep Fort Collins Great Reserves for the Purchase of Additional Body-Worn Cameras.

This Ordinance, unanimously adopted on First Reading on October 15, 2013, appropriates \$182,000 from the KFCG reserves for the purchase of 40 more body-worn cameras for on-duty police officers.

8. Second Reading of Ordinance No. 144, 2013, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Horsetooth Road and Timberline Road Intersection Improvements Project.

This Ordinance, unanimously adopted on First Reading on October 15, 2013, authorizes the use of eminent domain, if deemed necessary, to acquire property interests needed to construct improvements at the Horsetooth Road and Timberline Road intersection. The Horsetooth Road and Timberline Road Intersection Improvements Project will construct safety and congestion mitigation improvements at the intersection. The project is planned to begin construction in the summer of 2014 and be completed in the fall of 2014. The project budget consists of both federal and local funds. To construct these improvements, the City will need to acquire certain property interests adjacent to the project area. The acquisitions include right-of-way and temporary easements from thirteen property owners. Timely acquisition of the property is necessary to meet the anticipated construction schedule. Staff fully intends to negotiate in good faith with all affected owners, and is optimistic that all property negotiations can be completed prior to the start of the Project. Staff is requesting authorization of eminent domain for all property acquisitions for the Project to comply with federal acquisition requirements. Eminent domain action will be used only if such action is deemed necessary.

9. First Reading of Ordinance No. 155, 2013, Appropriating Prior Year Reserves in the General Fund for the Purchase of a Police Scene Response Vehicle.

The purpose of this item is to authorize and appropriate funding for a Police Scene Response Vehicle from the Camera Radar Reserve Account. Police Services currently uses a repurposed 1993 transport van, previously retired from Dial-a-Ride in 2003, for the primary response to

major vehicle collisions within the city. The purpose of this vehicle is to provide full capability for securing a large traffic collision scene, marking lane closures, establishing detours, and creating a safe work zone for both officers and citizens. The current vehicle being used is well beyond its useful service life, and needs to be replaced in order to maintain quality scene response services by the City. Police Services has identified a suitable replacement vehicle, manufactured by Lynch Diversified Vehicles. The new scene response vehicle will cost \$171,476, to be funded from the Camera Radar Reserve account.

10. Items Relating to West Vine Basin Stormwater Improvements.

- A. Resolution 2013-088 Authorizing the Execution of a Supplemental Intergovernmental Agreement between the City and Larimer County for the Construction of Certain Stormwater Improvements in the West Vine Basin.
- B. First Reading of Ordinance No. 156, 2013, Appropriating Unanticipated Revenue in the Stormwater Fund from Larimer County for Construction of Certain Stormwater Improvements in the West Vine Basin.

The purpose of this item is to approve an Intergovernmental Agreement (IGA) between the City and Larimer County to share funds for the construction of the West Vine Basin Stormwater Outfall Channel from Vine Drive north to the Cache la Poudre River.

11. First Reading of Ordinance No. 157, 2013, Designating the Mark and Effie Miller Property, 315 Whedbee Street, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

The owners of the property, Maggie and Bryan Dennis, are initiating this request for Fort Collins Landmark designation of the Mark and Effie Miller Property at 315 Whedbee Street.

12. Resolution 2013-089 Finding Substantial Compliance and Initiating Annexation Proceedings for the Mail Creek Crossing Annexation.

The purpose of this item is to initiate the annexation process for Mail Creek Crossing. A written petition has been submitted requesting annexation of 39.608 acres located on the north side of Zephyr Road, approximately 1,450 feet east of South Timberline Road (just east of Bacon Elementary). The property is located within the Fossil Creek Reservoir Area Plan. In accordance with the Intergovernmental Agreement with Larimer County, adopted in 1999, properties within the Fossil Creek Reservoir Area receive their land use approvals in the County and are annexed into the City prior to construction.

Mail Creek is a residential development containing 137 single family dwelling units; the requested zoning for this annexation is LMN - Low Density Mixed Use Neighborhood. The surrounding properties are currently zoned LMN to the south (Timbers Development), north (Kechter Crossing), and east (proposed Kechter Farm development). To the west are LMN zone districts (Bacon Elementary) and MMN - Medium Density Mixed Use Neighborhood (vacant land).

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

13. Resolution 2013-090 Amending the City Council's Financial Management Policies by the Addition of an Introduction Section.

The purpose of this item is to approve an Introduction section to the Financial Management Policies.

Staff is recommending that language be included within the Financial Management Policies specifically stating that the policies are developed per the Charter to provide guidance to staff, and that the Council has the ability to approve exceptions to the policies under extraordinary circumstances, if it determines that doing so is in the best interests of the City. Financial Services and the City Attorney think the best place for this clarification is in the introduction section of the Financial Management Policies document and not within each individual policy.

14. Resolution 2013-091 Making an Amendment to the Boards and Commissions Manual to Eliminate the Requirement that all Board and Commission Members be Registered Voters.

The purpose of this item is to amend the membership eligibility requirements outlined in the Boards and Commissions Manual to remove the requirement that all persons appointed to boards and commissions must be registered voters.

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

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

1. Second Reading of Ordinance No. 138, 2013, Authorizing the Appropriation of 2014 Fiscal Year Operating and Capital Improvement Funds for the Fort Collins-Loveland Municipal Airport.
2. Items Relating to the 2014 Downtown Development Authority Budget.
 - A. Second Reading of Ordinance No. 139, 2013, Being the Annual Appropriation Ordinance for the Fort Collins Downtown Development Authority Relating to the Annual Appropriations for the Fiscal Year 2014 and Fixing the Mill Levy For the Downtown Development Authority for Fiscal Year 2014.
 - B. Second Reading of Ordinance No. 140, 2013, Appropriating Proceeds from the Issuance of City of Fort Collins Downtown Development Authority Subordinate Tax Increment Bond, Series 2013A, for the Purpose of Making Certain Capital Improvements Within the Downtown Area of Fort Collins.

3. Second Reading of Ordinance No. 145, 2013, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for the Fiscal Year 2014; Amending the Budget for the Fiscal Year Beginning January 1, 2014, and Ending December 31, 2014; and Fixing the Mill Levy for Fiscal Year 2014.
5. Second Reading of Ordinance No. 141, 2013, Appropriating Unanticipated Revenue from the Public Service Company into the Capital Projects Fund for the Trail Acquisition and Development-Special Funds Project.
6. Second Reading of Ordinance No. 142, 2013, Authorizing the Appropriation of Prior Year Reserves in the General Fund for the Police Dispatch Radio Console Replacement Project.
7. Second Reading of Ordinance No. 143, 2013, Authorizing the Appropriation of Keep Fort Collins Great Reserves for the Purchase of Additional Body-Worn Cameras.
8. Second Reading of Ordinance No. 144, 2013, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Horsetooth Road and Timberline Road Intersection Improvements Project.

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

9. First Reading of Ordinance No. 155, 2013, Appropriating Prior Year Reserves in the General Fund for the Purchase of a Police Scene Response Vehicle.
10. First Reading of Ordinance No. 156, 2013, Appropriating Unanticipated Revenue in the Stormwater Fund from Larimer County for Construction of Certain Stormwater Improvements in the West Vine Basin.
11. First Reading of Ordinance No. 157, 2013, Designating the Mark and Effie Miller Property, 315 Whedbee Street, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

Councilmember Cunniff withdrew Item No. 7, *Second Reading of Ordinance No. 143, 2013, Authorizing the Appropriation of Keep Fort Collins Great Reserves for the Purchase of Additional Body-Worn Cameras*, from the Consent Calendar.

Councilmember Cunniff withdrew Item No. 9, *First Reading of Ordinance No. 155, 2013, Appropriating Prior Year Reserves in the General Fund for the Purchase of a Police Scene Response Vehicle*, from the Consent Calendar.

Councilmember Troxell withdrew Item No. 10, *Items Relating to West Vine Basin Stormwater Improvements*, from the Consent Calendar.

Staff Reports

Mike Gavin, Operations Emergency Management Director, provided an update regarding the City's response to the recent flooding.

Kevin Gertig, Water Resources and Treatment Operations Manager, provided the current estimate of reimbursable expenses with regard to flood response.

City Manager Atteberry noted an after-action report will likely be scheduled for a January work session.

Frank Lancaster, Estes Park Town Administrator, thanked the City for assistance during the floods and commended the cooperative efforts of Northern Colorado.

Councilmember Reports

Councilmember Cunniff reported on the Legislative Review Committee meeting.

Mayor Pro Tem Horak reported on the potential location of a Rebuild Community Supply.

Ordinance No. 143, 2013, Authorizing the Appropriation of Keep Fort Collins Great Reserves for the Purchase of Additional Body-Worn Cameras, Adopted on Second Reading

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on October 15, 2013, appropriates \$182,000 from the KFCG reserves for the purchase of 40 more body-worn cameras for on-duty police officers.”

Councilmember Cunniff stated he wanted to have additional discussion regarding the public process and expressed concern regarding records retention and how open records requests would play into these video records.

Vivian Armendariz, 820 Merganser Drive, expressed concern regarding the public notification of the presence of body-worn cameras. She asked how citizens will know when they are being recorded and how citizens can be guaranteed videos will be deleted.

Rebecca Sorber, Fort Collins resident, expressed concern regarding the use of the term “common sense” and “at the officer's discretion” with regard to the use of the cameras.

Cheryl Distaso, Fort Collins Community Action Network, stated this item needs further public vetting. She stated the existing standard operating procedures with respect to the cameras is not stringent enough and stated those procedures should be on the City's website.

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Police Chief Hutto stated Council has received a memo outlining the proposed public participation process.

Councilmember Cunniff requested staff input regarding the open records aspect. City Attorney Roy replied the Criminal Justice Records Act applies specifically to records maintained by Police Services and other law enforcement agencies; the Colorado Open Records Act is a more general law that applies to various kinds of public records maintained by the City and other public entities.

Councilmember Cunniff asked who can request records under the Criminal Justice Act. City Attorney Roy replied the Police Chief generally has more discretion regarding whether or not to release records under this Act. Chief Hutto replied the majority of those requests have been granted; however, the importance of privacy and ongoing investigations are weighed against the benefit of releasing the information.

Councilmember Cunniff asked about the placement of the policies on the website. Chief Hutto replied the policy will be placed on the website shortly.

Councilmember Overbeck asked if Ms. Sorber and others with policy concerns will be able to provide input regarding the process and policies. Chief Hutto replied in the affirmative.

Councilmember Overbeck requested an estimate of the timeline for policy development. Chief Hutto replied the process is on-going and discussed some of the upcoming events.

Councilmember Overbeck asked if there is a pressing need to get the cameras in place soon. Chief Hutto replied he considers the cameras to be a best practice and noted twenty cameras are already in use. The forty additional cameras would likely be rolled out gradually through the next few months.

Councilmember Troxell made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 143, 2013, on Second Reading.

Councilmember Cunniff stated he would support the motion, although there are significant concerns which have been raised by citizens. He commended the Police response to those concerns.

Mayor Pro Tem Horak stated the cameras are an advantage to citizens.

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

THE MOTION CARRIED.

**Ordinance No. 155, 2013,
Appropriating Prior Year Reserves in the General Fund for the
Purchase of a Police Scene Response Vehicle, Adopted on First Reading**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

The purpose of this item is to authorize and appropriate funding for a Police Scene Response Vehicle from the Camera Radar Reserve Account.

Police Services currently uses a repurposed 1993 transport van, previously retired from Dial-a-Ride in 2003, for the primary response to major vehicle collisions within the city. The purpose of this vehicle is to provide full capability for securing a large traffic collision scene, marking lane closures, establishing detours, and creating a safe work zone for both officers and citizens. The current vehicle being used is well beyond its useful service life, and needs to be replaced in order to maintain quality scene response services by the City. Police Services has identified a suitable replacement vehicle, manufactured by Lynch Diversified Vehicles. The new scene response vehicle will cost \$171,476, to be funded from the Camera Radar Reserve account.

BACKGROUND / DISCUSSION

Police Services currently uses a repurposed 1993 transport van, originally retired from the Dial-a-Ride fleet in 2003, for primary response to major vehicle collisions within the city. The purpose of this vehicle is to provide broad capability to secure a large traffic collision scene, mark lane closures, establish detours, and create a safe work zone for both officers and citizens. Additionally, the vehicle carries a portable generator, portable lighting, scene reconstruction equipment, and a work space for officers to interview involved parties and coordinate the scene.

The current vehicle is well beyond its useful service life, retired from the Dial-a-Ride fleet with almost 200,000 miles and ongoing maintenance issues. It was repurposed in March 2004 as a stop-gap to address existing police needs until a long-term solution could be determined. While a permanent replacement vehicle was considered as long ago as 2006, other budgetary priorities took precedence at the time, leading to increased maintenance investment over the following years to keep the response vehicle mission capable.

The last three years have seen a significant increase in vehicle maintenance issues, and consequently, a decrease in availability and productive use of this vehicle to respond to scenes. The current vehicle frequently will not start when needed, leading to gaps in the ability of Police Services to deliver equipment to major collision investigations or other scenes. Officers often make frequent trips to the vehicle when it is inoperable to retrieve needed equipment as an investigation unfolds, or simply to have needed equipment available at the onset of the investigation, resulting in increased closure time of roadways and lost productivity. Frequently, an engine and crew from Poudre Fire Authority are also requested to provide lighting to the scene in order to overcome the limitations of the existing vehicle, at the expense of taking an engine and crew out of service for the duration of the event.

Police Services has identified a suitable replacement step-van style vehicle manufactured by Lynch Diversified Vehicles (LDV) and seeks to fund the purchase of the new vehicle, based on specifications subjected by LDV, for \$171,476. The purchase will be funded from the Camera Radar Reserve account. Police Services and other City departments have historically requested funding from this account for capital acquisitions that impact traffic safety within the community. While the LDV vehicle will be used in multiple scene command and control roles across the organization, as is the current scene response vehicle, 90% of its use will be dedicated to major traffic collision scene response, providing necessary equipment to secure the scene, relieve existing officers, and investigate the incident. Based on a proven step-van design, the new LDV vehicle is capable of providing all of the functionality of the existing vehicle and carrying capacity for the assorted equipment currently deployed, as well as having on-board capability to provide night scene lighting without having to draw resources away from Poudre Fire Authority.

*The layout of the LDV vehicle reflects a minimalist, right-sized approach that still meets the mission needs of Police Services. With a design similar to commercial service vehicles, the layout incorporates seating for a small workstation and equipment storage in the cargo area, shelter from the elements, and a separate rear utility storage area for portable traffic control signs, 100+ traffic cones, roadway lighting, etc. (**Attachment 1**). In addition to being more efficient, this design increases employee safety by separating and securing hundreds of pounds of equipment away from the driver. Such equipment was previously stored throughout the van, including immediately behind the driver. The features of the new vehicle will minimize the risk of secondary injury in the event of an impact. Additionally, it is anticipated that, due to its layout and design features, the new vehicle will be a more useful scene response/command vehicle for special events and other scenes that don't warrant deployment of the larger Interagency Command Post shared with Poudre Fire Authority. The anticipated service life of this new vehicle is 20 years.*

FINANCIAL / ECONOMIC IMPACTS

The LDV vehicle will be procured via City purchasing regulations and procedures to maximize the purchasing value of public funds following a fair and equitable process. An advertised bid was conducted to determine the low, responsible, and responsive bidder that met the required vehicle specifications.”

Councilmember Cunniff requested information regarding the typical cost for police scene response vehicles, comparables from other communities, details regarding past uses of the camera radar fund, and a triple bottom line analysis of the carbon footprint of these vehicles.

Captain Jerry Schiager, Police Services, replied comparable vehicles range in price from \$124,000 to just over \$200,000. He stated this vehicle went through a competitive bid process and is rather simple in design, with the exception of about \$30,000 in lighting. He stated the camera radar fund brings in \$600,000-700,000 per year; approximately 60-70% of which goes back to the contractor for management and maintenance. The fund has been used for equipment for the Traffic Unit, radar guns, and automated ticket writers. Additionally, \$50,000 per year goes to the Safe Ride Home program. Captain Schiager stated the carbon footprint of this new truck, with a gas V10 engine, is about half that of the 20-year old propane-fueled vehicle. He noted the vehicle is not a particularly high mileage vehicle.

Councilmember Troxell made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 155, 2013, on First Reading.

Councilmember Cunniff stated he would support the motion and thanked staff for the response.

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

THE MOTION CARRIED.

Items Relating to West Vine Basin Stormwater Improvements, Adopted on First Reading

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

- A. *Resolution 2013-088 Authorizing the Execution of a Supplemental Intergovernmental Agreement between the City and Larimer County for the Construction of Certain Stormwater Improvements in the West Vine Basin.*
- B. *First Reading of Ordinance No. 156, 2013, Appropriating Unanticipated Revenue in the Stormwater Fund from Larimer County for Construction of Certain Stormwater Improvements in the West Vine Basin.*

The purpose of this item is to approve an Intergovernmental Agreement (IGA) between the City and Larimer County to share funds for the construction of the West Vine Basin Stormwater Outfall Channel from Vine Drive north to the Cache la Poudre River.

BACKGROUND / DISCUSSION

*In 1997, the City of Fort Collins and Larimer County entered into an IGA (**Attachment 1**) addressing stormwater management matters in the West Vine storm drainage basin. The IGA allows for the sharing of costs by the City and County associated with the analysis, design, and construction of storm water improvements needed to relieve flooding and associated property damage in the West Vine Basin.*

*In 2004, City Council adopted the Stormwater Master Plan Update (Master Plan) for the City of Fort Collins. The Master Plan included stormwater improvements for the West Vine Basin, located in the northwest portion of the city (**Attachment 2**). The existing 100-year floodplain indicates that stormwater flows will inundate numerous properties in the basin and overtop several major roads, including Shields Street north of Vine Drive (**Attachment 3**). The Master Plan identifies a number of proposed improvements to mitigate the boundary limits of the 100-year floodplain. Specifically, the Master Plan calls for a stormwater outfall channel from the Cache la Poudre River south to Vine Drive and west to the Forney Detention Pond near North Taft Hill Road and West Vine Drive.*

In October 2011, Larimer County initiated the North Shields Street widening project, which includes the widening of Shields Street from Willox Lane south to the Arthur Ditch, which is situated just north of Vine Drive. The County project includes the widening of Shields Street from approximately 24 feet to 64 feet, and the replacement of the Shields Street Bridge over the Cache la Poudre River. In order to mitigate potential flooding at the Shields Street project, the County approached City staff with a proposal to team with the City to analyze, design, and construct the lower portions of the City's Master Plan Outfall Channel. The existing 100-year West Vine Basin floodplain currently overtops Shields Street just north of the Arthur Ditch, and any future improvements to Shields Street will need to accommodate this 100-year flow of approximately 1,200 cubic feet per second (cfs). Rather than construct a large culvert or bridge system at this overtopping location, the County proposed to team with the City to design and construct the Master Plan stormwater outfall channel from at least Vine Drive north to the Cache la Poudre River. The Outfall Channel, as currently shown in the Master Plan, would convey the 100-year stormwater flows along the west side of Shields Street to the river, thus eliminating the need to build a bridge or culvert system on North Shields Street.

*In May 2012, the City and the County signed an amendment to the 1997 IGA to share costs for the analysis and design of the Outfall Channel with the understanding that a future IGA amendment would be implemented for the construction of the designed stormwater improvements (**Attachment 4**). During 2012 and 2013, city staff and the project team have finalized a selected alternative, negotiated the necessary land acquisition, and have prepared a 60% level design for the project. A construction cost estimate has been prepared for the project, with the intention of starting project construction in December 2013. It is anticipated that 100% design level plans will be completed in the next two months. Prior to construction, the City and Larimer County both need to approve and execute the IGA to allow for the sharing of respective construction funds for the West Vine Outfall Channel project.*

FINANCIAL / ECONOMIC IMPACTS

The estimated construction cost associated with the project is \$2,301,000. The City has agreed to fund up to \$1,201,000 of the project costs, with Larimer County paying the remaining \$1,100,000 of the construction costs. These costs are based upon a 50% level design for the project and may be subject to change as the project design progresses.

*A 2013-14 BFO offer to include the City's portion of the future construction costs for the Outfall Channel was submitted in May 2012. Upon execution of the IGA, the County shall transfer to the City no less than \$612,500. Per the April 2012 IGA Amendment, the City is crediting the County for one-half (1/2) the cost of the previous completed Design Phase with this transfer. A summary of the total estimated costs for the current project phase is shown in **Attachment 5**.*

Through the financial partnership with Larimer County, the City's financial contribution toward the completion of the project will be approximately half of that originally estimated and identified in the Master Plan. The project will also eliminate the need for a costly bridge/culvert system under North Shields Street; a system which could eventually become unnecessary as a result of continued future upstream construction of the Outfall Channel. The Outfall Channel will fully contain the 100-year floodplain, eliminating potentially life-threatening road overtopping situations and flood damages for several homes and properties in the basin.

The IGA amendment terms include an approximately 50%-50% cost share between the City and the County, respectively, up to a maximum of the funds currently available from each entity. The specific language describing the supplement to the 1997 IGA is included in the new IGA, and is an Exhibit to the Resolution. The IGA amendment also includes a funding arrangement that allows for future cost sharing between the City and the County to be based on a mutually agreeable cost breakdown, rather than the current sharing arrangement, which dictates that costs are shared based on the amount of fees collected by each entity from within the basin.

ENVIRONMENTAL IMPACTS

The construction of the Outfall Channel will allow for the reconnection of the historic Soldier Canyon Creek to the Cache la Poudre River. The Creek has been lost to development through the years, and only isolated portions remain today. The Outfall Channel has been designed in such a manner to improve the wildlife habitat and connectivity along the length of the channel, west through the basin from the Cache la Poudre River to Vine Drive and further west to the foothills in future phases. The Outfall Channel includes stormwater quality treatment facilities that will improve the quality of the stormwater runoff prior to reaching the Cache la Poudre River. Wetlands will also be planted in the bottom of the channel to mitigate any wetlands impacted by the project.

BOARD / COMMISSION RECOMMENDATIONS

*The Master Plan improvements for the West Vine Basin, including the Outfall Channel, were presented to and adopted by various City boards and commissions as part of the Master Drainage Plan adoption process in the early 2000s. A memorandum describing the project was sent to City Council in January 2013 (**Attachment 6**). The project has also been included in the Capital Projects section of the City Managers Update over the last 6 months.*

PUBLIC OUTREACH

Several public open houses were held in the early 2000s to present the results of the West Vine Basin Master Drainage Plan to the residents of the area. The Outfall Channel was included in the Master Drainage Plan at the time. City and County staff have met with affected landowners along Shields Street in 2011 and 2012 to discuss both the Shields Street widening project and the Outfall Channel project. Alternative alignments for the Outfall Channel were presented to the landowners, along with potential impacts to their properties as a result of the widening of Shields Street. Several meetings have taken place with the affected landowners as well as an open house in August 2012 at Lincoln Junior High School to present the findings of the alternative analysis phase of both projects to the residents of the basin. The project was also presented to the public at the Poudre River Open House at the Lincoln center on June 26, 2013. A project website is located on the Fort Collins Utilities web page. It is the City's intent to continue to combine the public outreach efforts for the West Vine Outfall Channel and the North Shields Street projects to maximize the combined resources of the City and the County and to be concise and consistent in the public outreach phase of both projects.

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

Eric Sutherland, 3520 Golden Curreant, stated the West Vine Stormwater Project was budgeted and audited through Larimer County but that was not the case with the Boxelder Stormwater Authority.

Councilmember Troxell made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2013-088. Yeas: Overbeck, Cunniff, Troxell, Poppaw and Horak. Nays: none.

THE MOTION CARRIED.

Councilmember Troxell made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 156, 2013, on First Reading. Yeas: Overbeck, Cunniff, Troxell, Poppaw and Horak. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 158, 2013,
Amending Article III of Chapter 12 of the City Code
Pertaining to Smoking in Public Areas, Adopted on First Reading**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

The purpose of this item is to propose an expansion of the City’s Smoking Ordinance to include smoke-free outdoor dining areas, bar patios, and Transfort’s public transit facilities, shelters, benches, and platforms.

This item proposes expansion of the City’s Smoking Ordinance to include outdoor dining areas, bar patios, and Transfort’s public transit facilities in response to citizen feedback, enforcement issues, health impacts, and best practices. Research is beginning to indicate that outdoor exposure to secondhand smoke has negative health impacts, and both local and national trends show an increase in smoking regulations in outdoor areas. The City of Fort Collins Neighborhood Services and Transfort Departments worked closely with the Larimer County Department of Health and Environment to research public health trends and best practices regarding smoking regulations.

BACKGROUND / DISCUSSION

History

In 1984, Fort Collins was the first city in Colorado to pass a comprehensive smoking ordinance. The ordinance limited smoking in public buildings and required restaurants to have no-smoking sections. It was passed by City Council but then placed onto the ballot by referendum. The voters passed the referendum, agreeing with the City ordinance, and made history because it was only the second time the tobacco industry had been defeated on the ballot (the first time was in San Francisco in 1982). In 2003, Fort Collins was one of the first communities in Colorado to

designate bars, restaurants, and workplaces as smoke-free. In 2006, the Fort Collins' Smoking Ordinance was amended to conform to the Colorado Indoor Clean Air Act which helped the community regulate smoking in all indoor public places.

The City of Fort Collins has a history of working collaboratively with the Larimer County Department of Health and Environment and Tobacco Free Larimer County. Both agencies assisted when the City adopted the smoking ordinance prohibiting smoking in all indoor public places. The agencies collaborate to provide community education, training, signs and other educational materials, research data and trends, evidence-based public health information, and on-going education and information sharing.

Over the past 2-3 years, enforcement issues and citizen concerns regarding the City's current smoking ordinance have been increasing. Based on requests from citizens, staff worked with Larimer County and began exploring options to strengthen or expand the smoking ordinance. One of the key areas of concern and confusion was related to whether there is already a ban on smoking in outdoor dining areas/patios. This confusion stemmed from the current regulation that requires no smoking within 20 feet of doors. This regulation resulted in some establishments being able to allow smoking on patio tables that are more than 20 feet from a door, so some patios could allow some smoking while others were too small to allow any and others simply chose not to allow it at all. Ultimately, people were confused about whether smoking was allowed on patios.

Additionally, in 2012, Larimer County Department of Health and Environment had staff and resources available to work collaboratively with Neighborhood Services and Transfort to research, survey, and develop options regarding smoking in outdoor public places. Larimer County received the Tobacco Education, Prevention, and Cessation grant from the Colorado Department of Public Health and Environment in order to help support some of the work and research involved in this effort. If Council chooses to adopt this Code expansion, the grant money will also help fund signage to businesses for their patios as well as some Transfort signage.

*City Council discussed this item at its August 13, 2013 Work Session (See **Attachment 1** for summary). Council directed staff to move forward with the smoking ordinance expansion options.*

Health Impacts (See Attachments 2 and 3)

Secondhand smoke has been designated as a human cancer-causing agent by the Environmental Protection Agency (EPA) and several other national and state agencies. Various Surgeon Generals' reports advise that "there is no safe level of secondhand smoke". Recent research conducted in 2010 concludes that even short term exposure to tobacco smoke has an immediate effect on the systems of the body. New methods of measurement show poisonous particulates from tobacco smoke in outdoor areas near buildings, covered areas, and restaurant and bar patios and service lines are significant, especially when in close proximity to others. Both national and local studies (done in Greeley and Pueblo) show communities with indoor smoke-free laws generally have fewer overall hospitalizations for heart attacks and respiratory emergencies.

It is well known that exposure to secondhand smoke causes lung cancer, increased risks for other cancers, and respiratory illnesses. The Center for Disease Control recommends designating smoke-free areas as a proven practice to improve health. Additionally, chronic diseases such as asthma, heart disease, and lung disease get worse upon secondhand smoke exposure. Drifting tobacco smoke can trigger asthmatic attacks, bronchial infections, and other serious health problems in nonsmokers. Expanding smoke-free areas offers more protection for the health of the community.

More specifically, measurements of secondhand smoke conducted in a variety of outdoor locations by the California Air Resources Board in 2008, found that in many settings, especially next to buildings, concentrations of secondhand smoke are comparable to indoor concentrations where smoking is permitted. The Environmental Protection Agency uses the air quality index (AQI) with rating levels from 0-500. It is helpful to know that corresponding health advisory categories range from good (AQI of 50 or below) to very hazardous (AQI rating above 400). Recent studies at outdoor dining areas and bar patios where smoking was allowed measured an AQI of above 150 which corresponds to a health advisory indicating that the air is unhealthy for everyone. (Attachment 3)

National and Local Trends (Attachment 2)

There are growing trends, both nationally and locally, toward having outdoor smoke-free environments. Nationally, 266 municipalities have smoke-free outdoor dining, 126 municipalities have smoke-free outdoor dining areas and bar patios, and 313 municipalities have smoke-free outdoor transit areas. Approximately, 2,300 regulations exist within states, cities, and counties that restrict smoking in other outdoor areas including: parks, beaches, stadiums, entertainment venues, etc. In Colorado, seven municipalities have adopted smoke-free outdoor dining areas and bar patios, and five municipalities have smoke-free outdoor public transit waiting area laws.

According to a 2013 national Gallup survey, almost 60% of respondents supported no smoking laws/rules in public places. This is up from 30% in 2003. Additionally, 53% of respondents in the Health District of Northern Colorado 2010 Community Health Survey said it was not acceptable to smoke in public.

Fort Collins is known as a healthy community. The rate of cigarette use among residents continues to drop and is currently at 11.3% according to the Health District of Northern Colorado 2010 Survey. This puts Fort Collins ahead of most communities in reaching the Healthy People 2010 goal for reducing cigarette use to below 12%. Smoke-free areas are a proven public health strategy to reduce use. The City's smoking ordinance adopted in 2003 is likely a contributing factor for the significant 3% drop in cigarette use from 2001 to 2004. Additionally, tobacco rates are considered when overall health ratings of a community are determined, and Fort Collins has received various healthy community designations which lend to the community and provide economic appeal.

Current Smoking Ordinance

Currently, the City of Fort Collins smoking ordinance prohibits smoking in the following places:

- *Places of employment*
- *Public buildings*
- *Businesses used by the public (including bowling alleys and bingo parlors)*
- *Indoor restaurants, cafes, coffee shops, and bars*
- *Indoor common areas (lobbies, hallways, clubhouses, etc.) of multi-family residential complexes*
- *20 feet from all entryways of places of employment, public buildings, and businesses.*

The current penalty is a criminal misdemeanor with fines up to \$1,000 and/or up to 180 days in jail. Enforcement is done by Code Compliance by responding to complaints and doing some proactive patrols downtown.

Overall, compliance with the current smoking ordinance has been successful with relatively few complaints received and little enforcement action needed. Since 2003, Code Compliance has received approximately 350 complaints, issued 7 citations, and gained voluntary compliance in most cases. Usually, a discussion with the business owner regarding the complaint is enough to resolve the problem. Occasionally, enforcement action must occur. Most of the complaints and inquires occurred during the first couple years after the ordinance was adopted.

Smoking Ordinance Expansion Proposal

Based on public support, code compliance experience, departmental input from Neighborhood Services and Transport, and emerging research on public health regarding secondhand smoke in outdoor areas, the proposed expansion of the smoking ordinance includes:

- *Outdoor dining areas and bar patios*
- *20 feet from outdoor dining areas and bar patios*
- *Outdoor areas at public transit facilities except for a designated smoking area that is 20 feet from building entrances, bus shelters and benches*
- *20 feet from bus stop shelters, benches, and platforms.*

If Council chooses to adopt these changes, staff will enhance education efforts to impacted restaurants, bars, and transit areas. This will include in-person visits to restaurant and bar owners/managers, information provided to the general public through articles, signs, social media, etc., educational campaigns at transit stations and on busses. Additionally, we will provide additional and improved signage to restaurants and bars with outdoor dining areas or patios, and add new signs at transit facilities.

Enforcement efforts will begin with more of an educational approach - including proactive patrols to impacted areas where people will be told about the new, expanded ordinance. Fort Collins Police Services have agreed to partner with and assist Code Compliance with downtown smoking patrols and enforcement as they are able. This will help with the initial enforcement process to ensure compliance is occurring early on since this is when, based on past experience,

most complaints about violations will likely happen. Continued enforcement will be the responsibility of Code Compliance. Enforcement efforts at/on transit facilities will be coordinated by transit security.

Implementation

Staff recommends an implementation date of January 1, 2014. This will give staff enough time to get the signs made and delivered/hung, educational materials made, as well as to conduct public outreach.

FINANCIAL / ECONOMIC IMPACTS

There may be some financial impact to local businesses due to the expansion of the smoking ordinance with either an increase or decrease in business.

There will be no increase to the City budget; however, enforcement and educational efforts will utilize existing City resources.

ENVIRONMENTAL IMPACTS

There will be improved air quality in outdoor dining areas, bar patios, and transit locations due to less secondhand smoke exposure.

BOARD / COMMISSION RECOMMENDATION

The Air Quality Advisory Board voted to support the proposed expansion of the smoking ordinance at their September 16, 2013 meeting (**Attachment 4**).

PUBLIC OUTREACH

In late 2012 and early 2013, City staff conducted outreach and informal surveys to gather local input regarding the possibility of expanding the local smoking ordinance to outdoor dining areas and bar patios. The following input was received:

Fort Collins Survey - General Public (1,358 respondents)

Do you support smoke-free outdoor dining areas and bar patios?

- Strongly support 61.1%
- Somewhat support 6.8%
- Don't know 1.7%
- Somewhat oppose 7.9%
- Strongly oppose 22.5%

68% of respondents support expanding the smoking ordinance to include outdoor dining areas and bar patios. Only 16% of respondents indicate that they currently experience problems with exposure to secondhand smoke in these outdoor areas.

Fort Collins Survey - Restaurant/Bar Managers (14 respondents - focused on businesses that currently allow smoking on their outdoor patios)

Has the existing indoor smoke-free laws affected business?

- *No impact/neutral* 42.9%
- *Positive impact* 35.7%
- *Negative impact* 14.3%
- *Don't know* 7.1%

*57% of respondents currently allow smoking on their outdoor dining area or bar patio.
57% of respondents do not support an expansion of the smoking ordinance.*

Staff also interviewed Transfort riders and conducted an online survey to try to understand the level of support for implementing smoke-free policies in transit areas and 20-foot perimeter from bus shelters, benches and platforms. The following input was received:

Transfort Riders Survey (115 riders interviewed)

- *Support smoke-free policies* 60%
- *Oppose smoke-free policies* 33%
- *Don't know* 7%

Transfort On-line Survey (41 respondents)

- *Support smoke-free policies* 88%
- *Oppose smoke-free policies* 12%

Additionally, the following outreach methods were used:

Coloradoan Articles

CityNews article

Social Media

Presentations to the Air Quality Advisory Board

City Council Work Session (August 13, 2013)"

Beth Sowder, Neighborhood Services Manager, stated this item proposes to expand the current City smoking Ordinance to smoke-free outdoor dining areas, bar patios, 20 feet from those patios and dining areas, and Transfort's transit facilities, shelters, benches and platforms. She provided the history of the smoking Ordinance in the City and stated the need for this expansion is due to citizen input, and confusion regarding the current Ordinance and its enforcement. Sowder went on to discuss the recent findings relating to air quality and other negative effects of smoking in outdoor dining areas. She reviewed the City's current smoking Ordinance and discussed the enhanced educational efforts which will be a part of any new adopted Ordinance, which is recommended to take effect January 1, 2014.

Kim Sharpe, Healthier Communities Coalition of Larimer County, supported adoption of the Ordinance.

Cory Carroll, 3213 Nelson Lane, supported adoption of the Ordinance.

Siyu Wu, Youth Advisory Board, supported adoption of the Ordinance.

Ben Peart, Tony's Restaurant and Lounge, opposed adoption of the Ordinance as written and noted businesses have put forth significant investments to create responsible smoking patios and other outdoor areas. He suggested amending the Ordinance to allow businesses to allow smoking in patios and outdoor areas that are away from the public.

Peter Munro, Estoria Bar, opposed adoption of the Ordinance and stated he was never contacted regarding this potential change.

Dan Sapienza, Larimer County Health District, supported adoption of the Ordinance.

Mica Pepin, Tobacco No Youth Coalition, supported adoption of the Ordinance.

Kim Snodgrass, Surfside 7, opposed adoption of the Ordinance expressing concern this action will push smokers into more public areas.

Nimue Jennings-Ling, Tobacco No Youth Coalition, supported adoption of the Ordinance.

Gillian Breuer, Tobacco No Youth Coalition, supported adoption of the Ordinance.

Demitrius Katopudis, Tony's Restaurant and Lounge, opposed adoption of the Ordinance as written and suggested amending the Ordinance to allow businesses to allow smoking in patios and outdoor areas that are away from the public.

Mackenzie Weitzel, Health for the Associated Students of Colorado State University, presented data from a CSU student survey and stated the majority of students support adoption of the Ordinance.

Tucker Veltcamp, bartender and CSU student, opposed adoption of the Ordinance as written and expressed concern the ban could negatively affect employees.

Vivian Armendariz, 820 Merganser Drive, supported adoption of the Ordinance and asked how the Ordinance will be enforced. She asked if it would be possible to ban smoking in Old Town Square.

Councilmember Cunniff asked if it would be possible to include Old Town Square in the smoking ban. Sowder replied a staff group has been formed to discuss the possibility of those types of additional areas.

Councilmember Cunniff stated the 20-foot ban has been less uniformly enforced than the indoor ban and asked if it is possible to increase enforcement. Polly Lauridsen, Code Compliance

Supervisor, replied proactive patrols will be increased and District 1 officers will be utilized as well.

Councilmember Troxell requested a timeline of the inclusion of other areas, such as Old Town Square. Sowder replied staff is anticipating a spring work session for the additional items.

Mayor Pro Tem Horak asked how the restaurant and bar outreach was conducted. Sowder replied staff did not know the Estoria patio was large enough to allow smoking, which is why they were not contacted as part of the outreach for this item.

Councilmember Cunniff made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 158, 2013, on First Reading.

Councilmember Cunniff expressed support for the motion and supported moving forward with other areas, such as Old Town Square and on trails and in parks.

Mayor Pro Tem Horak supported the Ordinance and suggested staff research how other communities have dealt with the issue of patios and other outdoor smoking areas.

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

THE MOTION CARRIED.

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

Items Relating to Utility Rates, Fees and Charges for 2014, Adopted on Second Reading

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

- A. *Second Reading of Ordinance No. 146, 2013, Amending Chapter 26 of the City Code to Revise the Electric Rates, Fees and Charges.*
- B. *Second Reading of Ordinance No. 147, 2013, Amending Chapter 26 of the City Code to Revise the Electric Development Fees and Charges.*
- C. *Second Reading of Ordinance No. 148, 2013, Amending Chapter 26 of the City Code of the City of Fort Collins to the Revise Water Rates and Charges.*
- D. *Second Reading of Ordinance No. 149, 2013, Amending Chapter 26 of the City Code to Revise the Water Plant Investment Fees.*
- E. *Second Reading of Ordinance No. 150, 2013, Amending Chapter 26 of the City Code to Revise the Wastewater Rates and Charges.*

F. Second Reading of Ordinance No. 151, 2013, Amending Chapter 26 of the City Code of the City of Fort Collins to Revise the Sewer Plant Investment Fees.

G. Second Reading of Ordinance No. 152, 2013, Amending Chapter 26 of the City Code to Revise the Stormwater Plant Investment Fees.

H. Postponement of Second Reading of Ordinance No. 153, 2013, Amending Chapter 10 of the City Code of the City of Fort Collins to Revise Floodplain Permit Fees Indefinitely.

The purpose of this item is to adopt the 2014 Utility rates, fees and charges. The approved 2014 City Budget included small gradual rate increases in the electric, water and wastewater utilities. The rate increases being proposed in these Ordinances are consistent with or less than what is shown in the approved 2014 City Budget.

These Ordinances were adopted on First Reading on October 15, 2013. Councilmember Campana recused himself from the discussion. Ordinance Nos. 146 (Electric Rates), 148 (Water Rates), 149 (Water Plant Investment Fees), 151 (Sewer Plant Investment Fees), 152 (Stormwater Plant Investment Fees) and 153 (Floodplain Permit Fees) were unanimously adopted. Ordinance Nos. 147 (Electric Development Fees), and 150 (Wastewater Rates) were adopted by a vote of 5-1 (Nays: Weitkunat).

Ordinance No. 150, 2013 (Wastewater Rates) has been amended on Second Reading to correct an error in the new base charge for 1 1/2" connections to reflect the new base charge of \$37.85.

Ordinance No. 151, 2013 (Sewer Plant Investment Fees) has been amended on Second Reading to reflect the change from standard fees for 3 inch connections to development specific fees reflected elsewhere in the ordinance.

Staff requests that Ordinance No. 153, 2013 (Floodplain Permit Fees) be postponed indefinitely. A new Ordinance will be presented for First Reading on November 19, 2013, that includes all of the permit fee changes being proposed for 2014, some of which were not included in Ordinance No. 153, 2013."

(Secretary's note: Councilmember Campana was not present for the discussion of this item due to a conflict of interest.)

Eric Sutherland, 3520 Golden Currant, stated the public and Council have been misinformed and argued Smart Meters do not save any money or reduce greenhouse gas emissions.

Councilmember Cunniff made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 146, 2013, on Second Reading. Yeas: Troxell, Poppaw, Horak, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

November 5, 2013

Councilmember Cunniff made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 147, 2013, on Second Reading. Yeas: Troxell, Poppaw, Horak, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

Councilmember Cunniff made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 148, 2013, on Second Reading. Yeas: Troxell, Poppaw, Horak, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

Councilmember Cunniff made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 149, 2013, on Second Reading. Yeas: Troxell, Poppaw, Horak, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

Councilmember Cunniff made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 150, 2013, on Second Reading. Yeas: Troxell, Poppaw, Horak, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

Councilmember Cunniff made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 151, 2013, on Second Reading. Yeas: Troxell, Poppaw, Horak, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

Councilmember Cunniff made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 152, 2013, on Second Reading. Yeas: Troxell, Poppaw, Horak, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

Councilmember Cunniff made a motion, seconded by Councilmember Troxell, to postpone Second Reading of Ordinance No. 153, 2013 indefinitely. Yeas: Troxell, Poppaw, Horak, Overbeck and Cunniff. Nays: none.

THE MOTION CARRIED.

**Ordinance No. 154, 2013,
Appropriating Funds from the City's General Fund Reserves for Transfer to the Fort
Collins Urban Renewal Authority for the Purpose of URA Reimbursements for the
Capstone Redevelopment Corporation Summit on College Project, and Approving a Loan
Agreement for that Purpose, Adopted Option B on Second Reading**

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

This Ordinance, adopted on First Reading on October 15, 2013 by a vote of 5-2 (Nays: Cunniff, Overbeck) approves a Loan Agreement between the City of Fort Collins and Fort Collins Urban Renewal Authority that will fund the approved \$5 million tax increment financing reimbursement to Capstone Development Partners.

On the same agenda as Second Reading of the Ordinance, the City Council will consider Resolution 2013-090, to approve a preamble to the Financial Management Policies that recognizes that exceptions to the Policy may be made by Council ordinance or resolution (see Agenda Item No. 13). A revised version of Ordinance No. 154, 2013, to reflect the adoption of Resolution 2013-090 is provided for Council consideration in the event that Resolution 2013-090 is adopted.”

Megan Bolin, Economic Health Analyst, stated the purpose of this loan agreement is to allow the URA to fulfill its reimbursement obligation to Capstone Development Partners for The Summit redevelopment project. She showed photos of the site and reviewed The Summit project and reimbursement agreement.

Jeff Jones, Capstone Development Partners, expressed appreciation for the TIF approved in 2011 and stated his project is at 96% occupancy. The plan is to build a parking structure on the site, despite the fact it will be a detriment to the financial success of the project, and the approval and financial processes are ongoing.

Jim Martell, attorney representing Capstone, stated Council will not be able to fulfill its obligation to the URA or Capstone should this item not be approved.

Eric Sutherland, 3520 Golden Currant, argued the City does not have an obligation in place and stated this deal was not put together correctly.

Councilmember Troxell asked about Options A and B. City Attorney Roy replied Option A is the same version of the Ordinance approved on First Reading; Option B is recommended by staff to be adopted as Council has adopted the Resolution that approves a new introductory section to the financial management policies under the Consent Calendar. This introduction includes a provision that makes explicit, as part of the policies, Council’s ability to approve exceptions to the policy. Option B makes the finding that extraordinary circumstances exist, and pursuant to the policies and the authority to approve exceptions, Council is approving this loan agreement.

November 5, 2013

Councilmember Cunniff asked if there is an estimate of the market rate for loans of this magnitude for the URA. Mike Beckstead, Chief Financial Officer, replied a policy rate is estimated at 4.96%. A market rate would be a function of borrowing costs, taxability of the use of the funds, and other items.

Councilmember Overbeck asked if default would actually occur should Council not adopt this Ordinance. Deputy City Attorney Daggett replied it is correct to say that the City would not be in default on an obligation, because the City has not entered into any obligation with respect to this project; however, the issue would relate to the URA's performance under the redevelopment agreement, which the URA would have difficulty meeting without the City loan.

Councilmember Troxell made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 154, 2013, Option B, on Second Reading.

Councilmember Cunniff expressed concern relating to monitoring of contractual aspects and stated this is poor policy given the variance on actual versus projected revenues.

Councilmember Overbeck stated risk needs to be more appropriately managed and reviewed and the terms of this deal need to be further examined.

Councilmember Campana stated this developer has done everything it said it would do and the URA went into this agreement with the developer based on the fact that the City was going to provide funds for the loan. He stated the City is not losing money; it is making slightly less interest on its money.

Councilmember Troxell stated this is a commitment between the City and URA and the City should stand behind that commitment.

Mayor Pro Tem Horak suggested Council may want to consider an Executive Session.

Councilmember Poppaw made a motion, seconded by Councilmember Troxell, that the Council go into Executive Session as permitted under Section 2-31(a)(2) of the City Code for the purpose of meeting with the City Attorney, the City Manager, and affected members of City staff to discuss potential litigation and related legal issues. Yeas: Cunniff, Troxell, Poppaw, Horak, Campana and Overbeck. Nays: none.

THE MOTION CARRIED.

(Council went into executive session at 9:05 p.m. and returned at 9:20 p.m.)

Councilmember Cunniff stated the URA is not an entity that has earned the right to get these types of favorable loan terms and argued the project was not built as proposed.

Councilmember Troxell stated an agreement was made with the URA and not living up to the agreement is bad for the URA and Fort Collins.

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

THE MOTION CARRIED.

Items Relating to the Adoption of the Colorado Water Conservation Board Floodplain Regulations, Adopted on First Reading

The following is the staff memorandum for this item.

“EXECUTIVE SUMMARY

- A. *First Reading of Ordinance No. 160, 2013, Amending Chapter 10 of the City Code Regarding Flood Hazard Areas to Conform to Colorado Water Conservation Board Floodplain Regulations.*
- B. *First Reading of Ordinance No. 161, 2013, Amending Chapter 10 of the City Code Regarding Flood Hazard Areas to Clarify Certain Provisions.*
- C. *First Reading of Ordinance No. 162, 2013, Amending Chapter 10 of the City Code Regarding Flood Hazard Areas to Revise Certain Requirements.*

The purpose of this item is to adopt new minimum statewide floodplain regulations promulgated by the Colorado Water Conservation Board (CWCB) in January 2011 and additional proposed Code language clarifications and City policy revisions. All communities must adopt the CWCB regulations by January 2014. The City of Fort Collins already has adopted many of these standards. Therefore, there are relatively few changes needed to meet the CWCB statewide regulations.

BACKGROUND / DISCUSSION

CWCB Adoption Rules and Regulations Adoption Process

For a community to participate in the National Flood Insurance Program (NFIP), it must adopt and enforce floodplain management regulations that meet or exceed the minimum NFIP standards, as well as any more restrictive state requirements. The Colorado Water Conservation Board (CWCB) is the state agency responsible for floodplain management. The CWCB commenced a process in 2010 to revise and update the Floodplain Rules and Regulations (Rules) governing floodplains within the State of Colorado. The Rules were initially promulgated in 1987, revised in 2005 and updated in January 2011. As provided in the Colorado Revised Statutes, flooding is considered to be an issue of statewide concern, and therefore any rules governing it will apply statewide in all municipalities and counties, regardless of home rule status.

A number of goals were formulated by CWCB staff leading to the stimulus to initiate the revision process.

1. *The need for increased public safety in times of ever-growing flood losses around the country.*
2. *Regulations that would result in lower flood insurance premiums statewide.*
3. *Clarification that all state agencies must comply with the Rules.*
4. *Housekeeping language clarifications and other small items to correct known conflicts from the prior revisions.*

The CWCB initiated a considerable public outreach process prior to adoption of the Rules. The City of Fort Collins Stormwater staff engaged in various opportunities to learn more about the regulations and informally comment on the proposed standards. The City also discussed the proposed changes with the various City boards and commissions and community organizations, including:

- *Downtown Development Authority, March 7, 2010*
- *Chamber of Commerce, March 16, 2010*
- *Water Board, March 25, 2010*
- *Council's Legislative Review Committee, April 13, 2010.*

***Attachment 1** is a letter from Mayor Hutchinson providing formal comment to the CWCB. The City also formally commented in writing (**Attachment 2**) and orally as part of the official Rule Making Process in November 2010. The City strongly supported the CWCB's efforts and the CWCB was responsive to the City's comments and concerns on specific issues.*

Effective January 14, 2011, the State of Colorado adopted higher standards for floodplain management, which are outlined in the Rules and Regulations for Regulatory Floodplains in Colorado (Rules). The Rules are the minimum standards for the State of Colorado and by extension, the NFIP in Colorado. A three-year implementation was provided, such that all communities have until January 14, 2014 to adopt the new regulations. The Federal Emergency Management Agency and the CWCB both must review any proposed changes to a community's floodplain regulations to ensure conformance with the minimum standards. Staff has received comments from the CWCB and FEMA and has made minor changes to the proposed revisions to address these comments. This includes updates to the variance Code language related to historic structures and clarifying that freeboard is still required for annexed properties that have a Letter of Map Revision Based on Fill.

Comparison of City of Fort Collins Floodplain Regulations to CWCB Minimum Standards

The National Flood Insurance Program's (NFIP) Community Rating System (CRS) is a voluntary incentive program that recognizes and encourages community floodplain management activities that exceed the minimum NFIP requirements. As a result, flood insurance premium rates are discounted to reflect the reduced flood risk resulting from the community actions meeting the three goals of the CRS:

1. *Reduce flood damage to insurable property*
2. *Strengthen and support the insurance aspects of the NFIP*
3. *Encourage a comprehensive approach to floodplain management.*

The City of Fort Collins is recognized by FEMA as one of the top 1% of communities in the country with regard to the Community Rating System (CRS) and is the highest rated community in the State of Colorado. Compared to many other communities in Colorado, the City of Fort Collins is required to only make minor code changes to be in compliance with the State Rules. For many communities, the new regulations are more restrictive than their current adopted standards and will result in a major shift in floodplain regulation.

*The differences between the City's Current Floodplain Regulations, FEMA minimum standards, new State standards and the proposed City regulations are shown in **Attachment 3**.*

A. Ordinance No. 160, 2013 – Amending Chapter 10 of City Code Regarding Flood Hazard Areas to Conform to Colorado Water Conservation Board Floodplain Regulations.

There are two criteria from the State Rules that need to be directly included in the City of Fort Collins Regulations. Listed below are the City Code sections and corresponding State Rule with detailed explanations of the changes:

1. ***10-16 - Critical Facilities Definition*** - Rule 6 A (p. 12-14, Attachment 4) - *The definition of Critical Facilities has expanded from the definition the City of Fort Collins currently utilizes. **Attachment 5** is a table comparing the two definitions. The State has categorized critical facilities into four categories:*
 - *Essential Services*
 - *Hazardous Material Facilities*
 - *At-Risk Population Facilities, and*
 - *Government Services.*

Staff proposes to adopt the State's general definition for critical facilities and add separate definitions for each of the above categories, providing specific details on what types of facilities are included. Facilities currently regulated by the City and not included in the State's list have been included into the appropriate category.

*The State outlines regulatory requirements for Critical facilities in Rule 6 D and E (p. 15, **Attachment 4**). The State Rules offer communities the option of prohibiting critical facilities in the 100-year floodplain or requiring them to elevate and have dryland access. The City has had the prohibition of critical facilities since 1995. Staff recommends maintaining the prohibition of all critical facilities in the 100-year floodplain because of the truly critical nature of these facilities. In addition, dry access is very difficult to obtain and in many cases infeasible. Only essential services and at-risk population critical facilities will be prohibited in the 500-year floodplain. This change has been incorporated into City Code Section 10-81(a). This matches with Larimer County and the alignment of regulations for the Poudre River that took place in 2007 between the City and County.*

Other sections of code were revised to reflect the new critical facility categories.

2. **10-37(c)(2) b-c - Freeboard** - Rule 11 B (p. 23, Attachment 4) - *Minimum freeboard for additions and substantial improvements in City and FEMA designated floodplains will change from six inches to one foot to meet the State standard. For reference, it should be noted that in 2005, the City lowered the freeboard for additions and substantial improvements from eighteen inches to 6 inches in City and FEMA designated floodplains.*
3. **10-80 and 10-113 - LOMR-Fill Freeboard** - Rule 11 C (p.23, Attachment 4) - *Requires 1 foot of freeboard for all LOMR-Fill areas, including those where the LOMR-Fill occurred in the past and for those properties annexed into the City of Fort Collins. The requirement for a floodplain use permit is also included.*

There are three policies in the City of Fort Collins Regulations that are no longer valid given the adoption of the State Rules. Listed below are the City Code sections and corresponding State Rule with explanations of the changes:

1. **10-29(c) and 10-29(d) - Hardship Exemption** - Rule 15 (p. 27, Attachment 4) - *Variances. The City currently does not require hardship to be shown when seeking a variance in a City Basin Floodplain. The new State standards require hardship be shown for any variances to the State Rules.*
2. **10-138(3)b-c., 10-139(3)c-d., and 140(3)c-d -Remodeling** - Rule 11 A (p. 23, Attachment 4) - *Remodeling criteria in City Basin floodplains will need to meet the minimum FEMA standards. (i.e., “Pop-top” additions in City Floodplains will no longer be treated differently than any other remodel. All improvements, including those on floors above the flood elevation, will be counted toward substantial improvement.) For reference, it should be noted that in 2005, this standard was lowered from the minimum NFIP regulation to accommodate easier redevelopment in City Basins, such as Old Town.*
3. **10-114 - Waivers** - Rule 5 (p. 11, Attachment 4) - *Waivers for properties expected to be removed from a City Basin floodplain by construction of a Capital Improvement Project will no longer be allowed. The property will be required to conform to the floodplain regulations of Chapter 10 until the Capital Project is complete and the mapping has been updated to formally remove the property from the floodplain. The waiver policy was implemented in 2005 to allow development in City Basin floodplains to not have to wait for completion of a project and the corresponding remapping.*

New Section Heading for Division 5 - *Because the City Basin Floodplains will now be administered nearly identically to the FEMA Basin Floodplains, Division 6 has been removed. Division 5 will be renamed to be “FEMA BASIN and CITY BASIN FLOODPLAINS”. Necessary code sections from Division 6 that are not already included in Division 5, have been moved and incorporated into Division 5. (Example: Section 10-143 moved to now be 10-114)*

Additional Required Changes

10-16 Definitions - Add a definition for the word “Colorado Floodplain Regulations.”

10-16 Definitions - Add a definition for the word “Conditional Letter of Map Revision. (CLOMR)”

10-16 - Definitions - Flood Hazard Area is modified to include areas removed from the floodplain by a LOMR-Fill

10-16 - Definitions - Add a definition for the word “Physical Map Revision (PMR).”

10-16 - Definitions - Add a definition for the word “Preliminary Map Revision.”

10-20 - Application to Certain Lands - Clarification that properties removed from the floodplain by a LOMR-Fill are subject to the provisions of this Article.

10-27 Floodplain Use Permit - minor wording change

10-29 Conditions for Variance - wording changes required by FEMA for historic structures.

10-41 Specific Standards for Mobile Buildings and Manufactured Homes - Details regarding acceptable methods for mobile home installation are removed from code. Many of these methods are no longer used. The FEMA publication has been updated and will be used for determining acceptable installation methods.

B. Ordinance No. 161, 2013 – Amending Chapter 10 of City Code Regarding Flood Hazard Areas to Clarify Certain Provisions.

Several clarification items have been identified by staff to assist in implementing the CWCB regulations and the City’s current Code language. These items include references to updated FEMA publications, code language that is not written clearly, and clarification of long-standing policies and practices that will help staff and applicants with understanding the floodplain requirements. Listed below are the City Code sections along with an explanation of the proposed change:

10-16 - Definitions - Add a definition for the word “Abandoned” to facilitate implementation of the nonconforming structures standards in Section 10-46(1).

10-16 Definitions - Cumulative Substantial Improvements - clarify that this value is tracked only during the time period that the structure is mapped in the floodplain. A provision is being added clarifying ordinary maintenance repairs are not to be included in the calculation of cumulative substantial improvement so long as there are no other structural improvements taking place. If structural improvements are taking place, then these items are still to be included in the calculation of substantial improvement or cumulative substantial improvement. This has been standard practice for over 16 years.

10-16 - Definitions - Add a definition for the word “hardship”. This was at the request of the Water Board. The definition is based on FEMA guidance.

10-16 - Definitions - Letter of Map Amendment and Letter of Map Revision revise by removing the word “National.”

10-16 - Definitions - Market value is modified with minor clarifications.

10-16 - Definitions - Start of Construction is modified with minor clarifications.

10-16 - Definitions - Substantial Improvement is modified to clarify how the time period for calculation of substantial improvement is determined. A provision is being added

clarifying ordinary maintenance repairs are not to be included in the calculation of substantial improvement so long as there are no other structural improvements taking place. If structural improvements are taking place, then these items are still to be included in the calculation of substantial improvement or cumulative substantial improvement. This has been standard practice for over 16 years.

10-26(4) Executive Director's Powers and Duties - *Revise to only allow a Professional Land Surveyor to complete a FEMA Elevation Certificate. This is per State law regarding who is allowed to certify elevations.*

10-26(11) - *Provide the Executive Director the ability to require escrow for improvements that are required as part of approval of a floodplain use permit.*

10-27 Floodplain Use Permit - *Add several clarifications:*

- *Clarify the standards that should be used when preparing floodplain mapping. All floodplain mapping should meet the requirements set forth in the latest version of the FEMA publication, "Guidelines and Specifications for Flood Hazard Mapping Partners."*
- *Clarify that an escrow may be required.*

10-37 General Provisions related to Elevation of Structures - *Add a provision clarifying that a FEMA Elevation Certificate or FEMA Floodproofing Certificate is required to be submitted and approved for any structure required to elevate under the provisions of 10-37. This is a minimum FEMA requirement and has been in practice by the City for over 20 years per 10-26 (4) Executive Director's Power's and Duties. Stating this requirement in Section 10-37 will provide clarification on this requirement for applicants.*

10-38 Specific Standards for Floodproofing - *clarified that Section 10-38(3)a. is a "pre-construction" floodproofing certificate and 10-38(4) is a "post-construction" elevation certificate.*

C. Ordinance No. 162, 2013 – Amending Chapter 10 of City Code Regarding Flood Hazard Areas to Revise Certain Requirements.

Unrelated to the State mandatory changes, City staff has identified policy and procedure changes to the City's floodplain regulations. Listed below are the City code sections along with an explanation of the proposed change:

10-45 - Map Revision Criteria - *Refine the criteria for when map revisions are needed when working in the floodway and the flood elevation is decreasing. This allows projects to progress to construction faster, by shifting some of the documentation to the end of the project, rather than the beginning. This new standard will be in alignment with State minimum requirements. The City's Streets Department Pavement Management Program will benefit from this change. However, it may result in portions of projects needing to be redone because not enough analysis was provided at the front-end of the project and problems are then discovered at the back-end. In certain situations, this may also lead to the City's mapping becoming out-of-date and/or shifting the responsibility of updates to subsequent private applicants or the City's Stormwater Department.*

10-80 - Emergency Response and Preparedness Plan Requirement for LOMR-Fill Areas - *Adds a provision that an Emergency Response and Preparedness Plan (ERPP) as specified*

in City Code Section 10-48 shall remain applicable when a Letter of Map Revision based on Fill (LOMR-F) has been issued. This provision should have been included in March 2013 when the ERPP code language was adopted.

10-80 - Freeboard for LOMR-Fill Areas - *For LOMR-Fill areas that did not have a required freeboard as a condition of their approval or that were annexed into the City of Fort Collins, this provision increases the required freeboard for LOMR-Fill from the minimum one foot State requirement, as provided in Ordinance A, to the elevation requirements set forth in Section 10-37.*

10-80 - Removal of Property from the Poudre River Flood Fringe - *Adds a provision that the requirements of this section apply even if the Letter of Map Revision (LOMR-F) occurred when not located in the City. This closes a loop-hole of obtaining a LOMR-F prior to annexation and then not being subject to the conditions established for properties in the City that go through the same processes. This is especially important related the prohibition of residential structures and critical facilities on LOMR-F areas in the Poudre River floodplain. A provision is included that stipulates that this requirement does not apply to properties already annexed into the City, except for the freeboard requirement, as required by the CWCB.*

10-113 - Freeboard for LOMR-Fill Areas - *For LOMR-Fill areas that did not have a required freeboard as a condition of their approval or that were annexed into the City of Fort Collins, this provision increases the required freeboard for LOMR-Fill from the minimum one foot State requirement, as provided in Ordinance A, to the elevation requirements set forth in Section 10-37.*

10-113 - Removal of Property from the Flood Fringe of FEMA Basin Floodplains - *Adds a provision that the requirements of this section apply even if the LOMR-F occurred when not located in the City. This closes a loop-hole of obtaining a LOMR-F prior to annexation and then not being subject to the conditions established for properties in the City that go through the same processes. This is especially important related the prohibition of critical facilities on LOMR-F areas in the FEMA Basin floodplains. A provision is included that stipulates that this requirement does not apply to properties already annexed into the City, except for the freeboard requirement, as required by the CWCB.*

FINANCIAL / ECONOMIC IMPACTS

*There will be some short-term financial impacts to some floodplain properties due to the adoption of the Statewide Floodplain Regulations that require properties to follow certain new regulations. However, these regulations are also designed to provide long-term financial benefits by protecting properties from flood damage. If the CWCB regulations were not to be adopted by the City, there could be significant financial impacts because the community could be placed on probation or be suspended from the National Flood Insurance Program. **Attachment 6** is a letter from FEMA to the State outlining the consequences for communities that do not adopt the CWCB's Rules and Regulations.*

ENVIRONMENTAL IMPACTS

There will be some short-term financial impacts to some floodplain properties due to the adoption of the Statewide Floodplain Regulations that require properties to follow certain new regulations. However, these regulations are also designed to provide long-term financial

benefits by protecting properties from flood damage. If the CWCB regulations were not to be adopted by the City, there could be significant financial impacts because the community could be placed on probation or be suspended from the National Flood Insurance Program. **Attachment 6** is a letter from FEMA to the State outlining the consequences for communities that do not adopt the CWCB's Rules and Regulations.

BOARD / COMMISSION RECOMMENDATIONS

The Water Board and Planning and Zoning Board each had a work session on this issue and then took action at a regular meeting. The Water Board voted unanimously in favor of the proposed changes. **Attachment 7** is an excerpt from the Water Board minutes. The Planning and Zoning Board motion to recommend the proposed changes failed by a 3-3 vote. **Attachment 8** is an excerpt for the Planning and Zoning Board Minutes.

PUBLIC OUTREACH

City staff conducted public outreach during July and August to make the public aware of these required changes. A press release was issued and a web site was created. Presentations were given to the following groups/organizations:

- Chamber of Commerce - August 23, 2013
- Home Builders Association - August 27, 2013
- City Staff - August 20, 2013 and August 29, 2013
- Landmark Preservation Commission - scheduled for October 23, 2013

The following groups were contacted, but declined a presentation:

- North Fort Collins Business Association
- South Fort Collins Business Association
- Downtown Development Authority
- Board of Realtors
- Natural Resources Advisory Board

Based on feedback from Council during the September 24, 2013 Work Session, staff sent a postcard to all floodplain property owners to notify them of the proposed changes (**Attachment 9**).

Feedback

The majority of the attendees of the presentations understood the reason for the proposed changes and that it was important for the City to adopt these State-mandated standards. A key concern from these meetings was the impact on remodels and additions in the Old Town Basin. Staff understands these concerns and will work closely with property owners and design professionals to explain the regulations and to work toward creative design solutions that meet the floodplain regulations. It is important to note that past capital projects have reduced the floodplain and removed over 300 structures from the Old Town floodplain since 1997, thereby reducing by approximately 37% the number of properties in Old Town that must comply with the

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City's floodplain regulations. Future capital projects will continue to reduce the number of properties at risk of flooding and that must comply with the floodplain regulations. Furthermore, it is important to note that there is a variance provision for historically designated structures that can be utilized when the floodplain standards cannot be met.

There was also concern that the definition of "abandoned" was too harsh and that foreclosed properties could easily be considered abandoned. A suggestion was made to not consider a property abandoned if property taxes were still being paid. Floodplain staff in consultation with the City Attorney's office did not feel that this was meeting the intent of defining abandoned and therefore, this suggestion was not incorporated.

In addition, staff responded in writing to questions from Mickey Willis regarding the regulations.

There were several calls received from the postcard that was sent. Many property owners wanted to know if the changes required them to purchase flood insurance. A few wanted to know specifics about their property and any impacts specific to them. However, most callers did not have any plans to modify or redevelop their property and therefore were not concerned about the regulations."

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

Ken Sampley, Stormwater Floodplain Program Manager, briefly introduced the item.

Marsha Hilmes-Robinson, Floodplain Administrator, stated the Colorado Water Conservation Board (CWCB) has adopted new minimum statewide floodplain standards and all communities must adopt these minimum standards by January 2014. The City has already adopted many of these standards and has relatively minimal changes to make. She outlined the areas which will be impacted by the changes and discussed the three Ordinances presented for Council consideration: Ordinance No. 160, 2013, which are the CWCB required changes, Ordinance No. 161, 2013, which are clarifications to go along with the CWCB changes, and Ordinance No. 162, 2013, which are the proposed City policy and procedural changes. She detailed the public outreach process regarding these changes.

Councilmember Cunniff asked if the County will also need to look at similar changes outside the City limits. Hilmes-Robinson replied in the affirmative.

Councilmember Cunniff made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 160, 2013, on First Reading. Yeas: Poppaw, Horak, Overbeck, Cunniff and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Cunniff made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 161, 2013, on First Reading.

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Councilmember Troxell asked if this item addresses a requirement from the state. Hilmes-Robinson replied it is not a direct requirement but includes items that help facilitate the implementation of the required items.

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

THE MOTION CARRIED.

Councilmember Cunniff made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 162, 2013, on First Reading. Yeas: Poppaw, Horak, Overbeck, Cunniff and Troxell. Nays: none.

THE MOTION CARRIED.

Adjournment

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to adjourn to 6:00 p.m. November 12, 2013. Yeas: Overbeck, Cunniff, Troxell, Poppaw, Horak and Campana. Nays: none.

THE MOTION CARRIED.

The meeting adjourned at 9:55 p.m.

Mayor

ATTEST:

City Clerk