

AGENDA ITEM SUMMARY

December 16, 2014

City Council

STAFF

Lance Smith, Strategic Financial Planning Manager
Kevin Gertig, Utilities Executive Director

SUBJECT

Second Reading of Ordinance No. 146, 2014, Revising Chapter 26 of the City Code Regarding Payments in Lieu of Taxes and Franchise Fees, and Specifying that the Operation and Maintenance of the Street Lighting System is an In Kind Payment by the Light & Power Fund in Lieu of Taxes and Franchise Fees.

EXECUTIVE SUMMARY

The purpose of this item is to codify the Electric Utility's fiscal responsibility for providing municipal street lighting as an in-kind franchise fee payment to the General Fund. The Ordinance also revises the language related to the Water and Wastewater Funds' required 6% payment to the General Fund to clarify that this is a payment-in-lieu-of-taxes and franchise fees (as opposed to just a payment-in-lieu-of-taxes). The second change is consistent with Article V, Section 23 of the City Charter and with the wording used in City Code to reference the same fee paid by the Light & Power Fund.

The Ordinance was adopted on First Reading on October 28, 2014 by a vote of 4-2 (nays: Overbeck and Cunniff, absent: Poppaw) with direction that staff further review the item with the Council Finance Committee prior to Second Reading.

The City Council Finance Committee discussed this item on November 17, 2014 and recommended that if the Ordinance is approved, staff should provide more transparency to electric customers that the cost of street lighting is included in the electric rates. If approved, the back of the utility bill will be revised to show that approximately 1.2% of the electric bill is used to fund the operation and maintenance of the City's street lighting system. This is approximately \$0.78 per month for a typical residential customer. Staff will also highlight street lighting costs through additional customer outreach and communications.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

BACKGROUND / DISCUSSION

Ordinance No. 146, 2014 is proposed to revise City Code to specify that the operation and maintenance of the street lighting system is an in-kind payment by the Light & Power fund in-lieu of franchise fees. The proposed Ordinance codifies the manner in which these costs have been accounted for since Ordinance No. 095, 1986.

Ordinance No. 146, 2014 was adopted on First Reading after the original 3-3 vote against the Ordinance was reconsidered on October 28, 2014. The second vote was 4-2 with Councilmembers Cunniff and Overbeck voting against the Ordinance. As part of the discussion on October 28, Council asked for further discussion of options for funding the City's street lighting system prior to Second Reading.

Staff met with the City Council Finance Committee on November 17, 2014 to address the funding of the City's street lighting system. Two options were presented to the Committee for discussion:

- Option 1
 - Increase L&P's PILOT to 7.2%
 - Adjust rates down to be cost neutral to rate payers
 - Increase the General Fund Budget to pay the cost of street lighting
- Option 2
 - Ordinance No. 146, 2014 - Codify Light and Power's fiscal responsibility for providing municipal street lighting as an in-kind franchise fee

The following pros and cons were presented for each option:

- **Option 1**

Pros:

- Cost neutral to the General Fund
- Common utility practice
- 7.2% PILOT
 - Reasonable compared with other municipalities
 - High compared with an investor owned utility

Cons:

- New ordinances needed
- revise 2015 electric rates and establish a new street light rate
- appropriation to increase General Fund 2015 budget
- Street light operating cost as a percent of operating revenue varies year to year
- General Fund potentially responsible for street light upgrades (LED)

- **Option 2**

Pros:

- Practice and policy same since 1986
- No changes to 2015 rates or budget
- Common utility practice

Cons:

- Non recorded financial contribution to the General Fund and lack of transparency for the electric rate payer

The Council Finance Committee agreed that the biggest concern for Option 2 (Ordinance No. 146, 2014) was the lack of transparency for the electric rate payer and asked staff how this might be mitigated. Staff responded that the non-cash, in-kind payment is referenced in Light & Power's Payment and Transfers Budgeting for Outcomes (BFO) Offer. Offer 20.1 states: "PILOTs are mandated by Charter and set by City Council by ordinance at an amount equal to 6% of the Utilities' operating revenues from the sale of electricity. The payment compensates the General Fund for the revenue it would receive in taxes and franchise fees if the Utility were privately owned. In addition to this cash payment, the Utility operates and maintains the City's street lighting system at no cost to the City General Fund. This is a non-cash contribution equating to approximately \$1.2 million per year." In addition, staff suggested that to provide better clarity to the Light &

Power customer, that the back of the utility bill could be revised to include a statement that approximately 1.2% of the electric rates are used to fund the operation and maintenance of the City's street lighting system.

Based on the recently adopted 2015 electric rates, a typical residential customer using 700 kWh per month pays approximately \$9.40 per year or 78 cents per month for street lighting costs. If this ordinance is passed, staff will manage additional transparency to Light & Power customers in the communications of the imbedded street lighting costs. Examples include:

- Present on the Utilities web site rate information and explanations that the electric rates fund the operation and maintenance costs of the City's street lighting system
- Present on the monthly utility bill that the electric rates fund the operation and maintenance costs of the City's street lighting system
- Existing stock will be used up and the revised stock for the billing will be reordered
- Continue to highlight the cost of street lighting in future Utilities budget offers

FINANCIAL / ECONOMIC IMPACTS

This Ordinance is cost neutral to Light & Power customers, the Light & Power Fund, and the City's General Fund. (The option of increasing PILOTs by 1.2%, reducing electric rates by a like amount and charging the General Fund for the cost of street lighting is also cost neutral to both the General Fund and Light & Power customers.)

ATTACHMENTS

1. First Reading Agenda Item Summary, October 28, 2014 (PDF)
2. Council Finance Committee Meeting Agenda Item Summary (PDF)
3. Council Finance Committee minutes, November 17, 2014 (PDF)

AGENDA ITEM SUMMARY

October 28, 2014

City Council

STAFF

Ellen Switzer, Utilities Financial Operations Manager
Lance Smith, Strategic Financial Planning Manager
Kevin Gertig, Utilities Executive Director

SUBJECT

First Reading of Ordinance No. 146, 2014, Revising Chapter 26 of the City Code Regarding Payments in Lieu of Taxes and Franchise Fees, and Specifying that the Operation and Maintenance of the Street Lighting System is an In Kind Payment by the Light & Power Fund in Lieu of Taxes and Franchise Fees.

EXECUTIVE SUMMARY

The purpose of this item is to codify the longstanding City policy and practice whereby the Light & Power Fund has been responsible for providing municipal street lighting as an in-kind payment to the General Fund as part of the Electric Utility's payment in lieu of taxes and franchise fees. The Ordinance also revises the language related to the Water and Wastewater Funds' required 6% payment to the General Fund to clarify that this is a payment in lieu of taxes and franchise fees (as opposed to just a payment in lieu of taxes). This change is consistent with Article V, Section 23 of the City Charter and with the wording used in City Code to reference the same fee paid by the Light & Power Fund.

STAFF RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND / DISCUSSION

Prior to 1986 the operation and maintenance costs related to street lighting were paid by the City's General Fund. In 1986, City Council determined that the Electric Utility should assume fiscal responsibility for operating and maintaining the street lighting system. Ordinance No. 095, 1986 deleted the municipal street lighting rate schedule from the City Code and street lighting costs were no longer billed to the General Fund. The City Council in 1986 deemed this change to be consistent with the then-current Charter, which stated that the utility was responsible for the "designing, construction, reconstruction, addition, repair, replacement, maintenance, supervision, and operation of the water and light plants, and the street lighting system and equipment." The Agenda Item Summary presented with Ordinance No. 095, 1986 referenced this expense as an additional payment in lieu of taxes.

In 1987, voters approved changes to the City Charter which eliminated the specific duties of many departments. At that time, all references to which department or fund bore the responsibility for street lighting were removed from the Charter. The Charter change was not intended to change the Electric Utility's responsibility for the street lighting system, but rather to remove the specific codified list of duties and responsibilities for various funds and departments from the Charter to allow more administrative flexibility. The Charter has been silent on street lighting since 1987.

The Light & Power Fund has maintained fiscal responsibility for the street lighting system since 1986. In addition, City Council has set the Light & Power Fund's cash payment in lieu of taxes and franchise fees at 6% of the Fund's operating revenues. (The cash payment was increased from 5% in 1989.) The proposed

Ordinance codifies the current practice of requiring the Electric Utility to maintain fiscal responsibility for the operation and maintenance of the street lighting system in addition to payment of taxes and franchise fees. No changes are proposed for the cash payment of 6% of operating revenues. The Ordinance is consistent with the direction given by City Council when adopting Ordinance No. 095, 1986 and does not change any current practice or policy. Since the costs of street lighting have been built into the electric rates since 1986 there will be no rate impact to rate payers related to the Ordinance.

The Light & Power Fund, Water Fund, and Wastewater Fund each pay 6% of operating revenues to the General Fund. In the City Code this payment is referred to as a “payment in lieu of taxes and franchise” in the Light and Power Fund, but as a “payment in lieu of taxes” in the Water and Wastewater Funds. The City Charter at Article V, Section 23 characterizes the payments as “payment to the general fund in lieu of taxes and franchise fees”. The omission of the reference to franchise fees appears to have been inadvertent. This Ordinance also changes the wording in the Water and Wastewater Funds to be consistent with the Charter and with similar references to the same payments by the Light & Power Fund in the City Code. The Stormwater Fund is not subject to a payment in lieu of taxes and franchise fees, so no corresponding update is required to that portion of the City Code.

FINANCIAL / ECONOMIC IMPACTS

In 2013, the cost of operating and maintaining the street light system totaled \$1.3 million. The costs of street lighting have been built into the electric cost of service and electric rates since 1986, and the current request to amend the City Code under this Ordinance will have no rate impact.

Payments in lieu of taxes and franchise fees vary among Colorado cities and throughout the country as do in kind services. The amounts paid to the General Fund by the Light & Power, Water, and Wastewater Funds are within normal ranges. A 2012 survey of the fees and free services is attached for reference.

ENVIRONMENTAL IMPACTS

None identified.

BOARD / COMMISSION RECOMMENDATION

Since there are no policy changes proposed, and this Ordinance substantially addresses issues of clarification of existing practices, this item was not reviewed by the Energy or Water Boards.

PUBLIC OUTREACH

Out-of-city customers were notified of the proposed ordinance and a public notice was issued in the Coloradoan.

ATTACHMENTS

1. Survey of Municipalities (PDF)
2. Ordinance No. 095, 1986 (PDF)
3. Powerpoint presentation(PDF)

**COUNCIL FINANCE COMMITTEE
AGENDA ITEM SUMMARY**

Staff: Lance Smith
Ellen Switzer

Date: November 17, 2014

SUBJECT FOR DISCUSSION: Options for Funding Street Lighting

EXECUTIVE SUMMARY:

Ordinance 146, 2014 was proposed to revise City Code to specify that the operation and maintenance of the street lighting system was an in kind payment by the Light and Power Fund in lieu of franchise fees. The ordinance did not change the existing practice or policy. Ordinance 146, 2014 was approved on first reading after the original 3-3 vote against the ordinance was reconsidered on October 28, 2014. The second vote was 4-2 with Council Members Cunniff and Overbeck voting against the Ordinance. As part of the discussion on October 28, Council asked for a further discussion of options for funding the City's street lighting system prior to second reading. Second reading is scheduled for November 18, 2014 although staff is recommending postponement of the item until December 16, 2014.

Questions asked by Council included:

Why should street lighting be considered an "in kind" payment?

Why should City Council introduce a new franchise fee?

Why shouldn't City Council increase Light and Power's Payment in Lieu of Taxes and Franchise Fees (PILOTs) and have the General Fund assume responsibility for the cost of street lighting?

GENERAL DIRECTION SOUGHT AND SPECIFIC QUESTIONS TO BE ANSWERED

Does the Council Finance Committee support Staff's recommendation to approve the 2nd reading of Ordinance 146, 2014 codifying the responsibility for the cost of street lighting as a L&P payment to the General Fund in lieu of taxes and/or franchise fees?

Would the Council Finance Committee like a City Council work session in early 2015 to discuss Enterprise Funds payment in lieu of taxes and franchise fees with the full Council?

BACK GROUND

Light and Power has been assigned the responsibility for the cost of operations and maintenance of the City's street lighting system since 1986. Prior to 1986, the City's General Fund was responsible for the operation and maintenance costs of street lighting. The City Code contained a municipal street lighting electric rate to recover the cost from the General Fund. In 1986, City Council approved Ordinance 98, 1986 deleting the street lighting rate schedule thereby making

the Light and Power Fund responsible for the cost of street lighting operations and maintenance. This was based on a City Charter clause delineating the responsibilities of the Light and Power Utility. In 1987, the citizens approved changes to the Charter that removed specific responsibilities of City departments. Since 1987 both the Charter and Code have remained silent on the responsibility for street lighting. The City Attorney's Office has recommended that the City Code be modified to specify that this on-going non-cash street lighting contribution by the Light and Power Fund to the General Fund be codified to clarify that the street lighting services provided by Light and Power are an in kind payment in lieu of franchise fees.

RESPONSE TO QUESTIONS POSED ON FIRST READING

Q. Why should street lighting be considered an "in kind" payment?

A. If Ordinance 146, 2014 is passed on second reading, street lighting would be considered an in kind payment instead of increasing the current 6% in lieu of taxes and franchise payment. A franchise fee is paid to the city to allow utilities permission to use a municipality's rights of way. Typical Colorado franchise fees are 3% of operating revenues. The Light and Power Enterprise Fund is providing street lighting services without charge to the General Fund in lieu of a portion of the cash payment for franchise fees for use of the City's right of way that would be assessed to a private utility. This in kind payment has been the practice for 28 years and is consistent with how many other Colorado municipal utilities are operating. This in kind payment is already built into the 2015 electric rates being considered for Second Reading on November 18, 2014.

Q. Why should City Council introduce a new franchise fee?

A. If Ordinance 146, 2014 is passed on second reading the provision of street lighting by Light and Power would be considered a in kind payment in lieu of franchise fee and the 6% PILOT would remain the same. A payment in lieu of franchise fees is not a new concept or fee. City Charter Part III, Section 23 states: "If the utility is subject to a payment to the general fund in lieu of taxes and franchise fees, an estimate shall be made of the amount of taxes and franchise fees that would be chargeable against such utility if privately owned, and the amount of such payment, as determined by the Council under Article XII, Section 6 of this Charter, shall be charged against the utility fund."

Per City Code, the Light and Power Fund pays 6% of operating revenue to the General Fund in lieu of taxes and franchise fees. The Light and Power Utility also currently reports the cost of street lighting as a non-cash payment to the General Fund in lieu of taxes and franchise fees however the transaction is not recorded in City financial statements. The BFO Offer Summary 20.1 Utilities Light and Power Payments and Transfers states:

"PILOTs are mandated by Charter and set by City Council by ordinance at an amount equal to 6% of the Utilities' operating revenues from the sale of electricity. The payment compensates the General Fund for the revenue it would receive in taxes and franchise fees if the Utility were privately owned. In addition to this cash payment, the Utility operates and maintains the City's street lighting system at no cost to the City General Fund. This is a non-cash contribution equating to approximately \$1.2 million per year."

Based on advice from the City Attorney’s Office, Ordinance 146, 2014 specifies that the contribution for street lighting should be identified as a portion of the payment in lieu of franchise fees.

If a decision is made to no longer consider this as an in kind payment to the General Fund it will be necessary to develop and adopt a new Street lighting rate schedule and modify all other rate schedules. The General Fund would then be responsible for all costs of street lighting.

Q. Why shouldn’t City Council increase Light and Power’s Payment in Lieu of Taxes (PILOTs) and Franchise Fees and have the General Fund assume responsibility for the cost of street lighting?

A. This is certainly an option for Council to consider. Based on staff surveys of some Colorado municipal electric utilities, payments to the municipal general funds vary from 5% to 12% of operating revenues. The provision of in kind services provided to the general fund also varies between Utilities. The following table below summarizes the survey results.

City	Payments in Lieu of Taxes and Franchise Fees	In Kind Services Provided to General Fund	Date of Data
Fort Collins	6%	Street lights	2014
Colorado Springs	6.173 mills/kWh or ~5.4%	None	2014
Longmont	8%	Street lights, Traffic signals, flashers subsidized rates for municipal buildings, additional cash payments for trees and economic development	2014
Loveland	7%	Street lights, Traffic signals, school flashers, other misc. services	2014
Fort Morgan	12%	None	2012
Fountain	5%	Minor such as hanging holiday lights	2012
Glenwood Springs	3% in lieu of taxes, 3% in lieu of franchise	None	2012

Per the most recent American Public Power survey, in 2010 investor-owned distribution utilities paid a median of 3.9 percent of electric operating revenues in taxes and fees to state and local governments. The 50 percent of investor owned utilities in the middle range made payments ranging from 2.5 to 5.8 percent.

There are two viable options for paying for the cost of street lighting. Pros and cons of each are shown below.

Option 1 – Increase the Light and Power’s Fund Payment in Lieu of Taxes and Franchise Fees from 6% to 7.2% and make the General Fund responsible for the cost of operation and maintenance of the street lighting system.

Pros:

- Cost neutral to electric rate payers
- Cost neutral to the General Fund
- 7.2% PILOTs is reasonable in comparison to neighboring public utilities

Cons:

- Would require an ordinance to revise all 2015 electric rate schedules and establish new streetlight rate
 - Increase PILOT to 7.2%
 - Reduce electric rates distribution facilities charges
- Would require an appropriation ordinance to increase the General Fund's 2015 budget
- Street lighting costs as percentage of L&P operating revenues vary year to year
- General Fund could be deemed responsible for upgrades to street lighting system (LEDs)
- 7.2% PILOTs is high in comparison to private investor owned utilities

Option 2 – Change City Code to make the operation and maintenance of the City's street lighting system an additional payment in lieu of franchise fee.

Pros:

- Code clarification only – no change in policy or practice and the intent of Ord. 95, 1986
- No changes needed to 2015 electric rate schedules or 2015 General Fund budget
- Cost neutral to electric rate payers
- Practice is utilized by several other neighboring municipal utilities

Cons:

- PILOTs transaction recorded in City's financial statements understates the value of L&P's contributions to the General Fund

STAFF RECOMMENDATION:

Staff recommends Option 2 which could be accomplished if Council approves Ordinance 146, 2014 on second reading.

BACKGROUND/DISCUSSION:

ATTACHMENTS:

1: AIS from October 28, 2014

Council Finance Committee minutes
November 17, 2014

setting interest rates:

f reserves

3. Possible use of third party capital in the future
4. Other City programs which offer loans (e.g. historic preservation, radon)
5. Participation targets related to Climate Action Plan and Energy Policy
6. Simple and predictable for clarity of outreach and administration

Concerning the "cost of capital" consideration, Mike Beckstead explained that these would likely be taxable bonds due to the use of the funds, therefore, the current estimate for borrowing is between 5-5.25%. Loaning at less than the cost of capital would mean the City would bear a portion of the cost of financing if borrowed funds were used. As an example, for each \$10M borrowed and each 100 basis point spread between borrowing and lending, the cost to the City is approximately \$900K. As a further example, if \$10M were borrowed at 5.5% to support home energy improvements as part of Climate Action Planning and loaned at 1.5% the cost of financing born by the City would be approximately \$3.6M. Bob noted that the City budgets for outcomes and the City may choose to budget money to cover the cost of a lower interest rate in order to achieve the desired outcome. What Council needs to determine is how much difference from cost of capital the City would be willing to fund. Bob suggested encouraging residents to participate by making the rate the market rate minus 100 to 200 basis points. Ross agreed that this was a possibility, but noted that such a discounted rate would need to be budgeted for.

Staff recommends establishing the allowable range of interest rates in the rate ordinance at 2.5-10%. Staff also recommends that the OBF Rules and Regulations reference the key considerations noted above.

Staff also recommends the City Financial Director set the annual interest for loans over the next year at the City's cost of capital less 100 to 200 basis point.

Council Finance agrees with staff's recommendations.

Options for Street Lighting

Lance Smith noted that Staff has brought forward an ordinance to revise City Code to specify that the operation and maintenance of the street lighting system is an in kind payment by the Light and Power Fund in lieu of franchise fees. The ordinance does not change the existing practice or policy. The ordinance was originally voted down (3-3) on October 28, 2014 but then passed 4-2 on reconsideration that same night. Council asked that the item be discussed at Council Finance before second reading which is scheduled for November 18, 2014, but will likely be postponed until December 16.

Lance explained that there are two options for paying for Street Lighting Costs. In Option 1, Utilities would increase L&P's PILOT to 7.2% and adjust rates down to be cost neutral to rate payers. In Option 2, Council passes Ordinance 146, 2014 to codify the intent of the 1986 ordinance and the practice of the past 28 years.

Both Options are common utility practices. Lance pointed out that Option 1 is cost neutral to the General Fund and the 7.2% PILOT is reasonable compared with other municipalities though high compared with an investor owned utility.

Option 2 would require a Code clarification only because the practice and policy would remain the same as it has been since 1986. It would require no changes to the 2015 rates or budget. The only con to option 2 is that the transaction is not recorded in financial statements and therefore is not as immediately transparent as Option 1.

Ross noted that this lack of transparency in Option 2 is his biggest concern. The Mayor asked if there is a way to make Option 2 more transparent. After some discussion, the committee came to the conclusion that by being in the Code, being in the budget document, and by adding the information to the back of utility bills, Staff could make the cost of street lighting more transparent while sticking to Option 2. With the above clarifications, Council Finance agreed with moving forward with Option 2.

2014 Low Income Rebate Update

Katie Wiggett explained that the Finance Department currently administers three rebate programs for low-income, senior and disabled residents: the Property Tax/Rent Rebate, the Utilities Rebate and the Sales Tax on Food Rebate.

The program was revamped at Council's request in 2012, and participation in the program increased 13% in 2012 over 2011, an increase attributed to outreach efforts and program improvements. In 2013, a continued expansion in outreach efforts grew the program by an additional 2%. In 2014, Staff partnered with the Fort Collins Low Income Assistance Project Team to find new ways to better reach low income residents. Staff also worked with CPIO to create dynamic outreach materials including posters, e-mailable flyers, and an improved application. As a result of these efforts, the number of rebates issued in 2014 increased 13% over 2013's totals.

Katie highlighted key outreach efforts in 2014, noting that the addition of electronic advertising materials played a significant role in reaching more partnering organizations and more applicants.

Council Finance is pleased with the outreach efforts made in 2014 and the continued improvements to the program.

General Financial Policy

John Voss showed Council Finance the City's internal Financial Policy webpage. Mike Beckstead explained that this information will be available on the fcgov.com once all policies have been approved by Council.

John Voss explained that, in August, Council Finance approved combining and reducing Policies 3, 4 and 6 into one general financial policy. These three miscellaneous policies contained a lot of information redundant with other policies, City Code and Intergovernmental Agreements (IGAs); they also contained many sections that contained no policy elements or were not financial in nature. John walked the Committee through the various sections of the old policies, explaining what had been cut and what was kept in the new general policy.

Ross noted that section 3.11 which was cut due to its being informational in nature would still be valuable as a paragraph on the future external policy webpage as citizens would find the information on how they can be involved in the dedicated quarter taxes helpful.

The Mayor asked why 3.4 C gives the specific minimum of 55% when this is supposed to be a general policy. She asked that staff look in to where this minimum comes from and whether it is found in any other policy or ordinance. Mike Beckstead said that Staff will look into it and include the answer in the

ORDINANCE NO. 146, 2014
OF THE COUNCIL OF THE CITY OF FORT COLLINS
REVISING CHAPTER 26 OF THE CODE OF THE CITY OF FORT COLLINS
REGARDING PAYMENTS IN LIEU OF TAXES AND FRANCHISE FEES, AND
SPECIFYING THAT THE OPERATION AND MAINTENANCE OF THE STREET
LIGHTING SYSTEM IS AN IN KIND PAYMENT BY THE LIGHT & POWER FUND IN
LIEU OF TAXES AND FRANCHISE FEES

WHEREAS, prior to July 1, 1986, the operation and maintenance costs related to the City's street lighting system were paid by the City's General Fund; and

WHEREAS, on July 1, 1986, City Council adopted Ordinance No. 095, 1986, which removed the municipal street lighting rate schedule from City Code and stopped internal billing of street lighting costs to the General Fund; and

WHEREAS, City Council at the time determined it was consistent with Article IX, Section 2 (B) of City Charter, as it existed in 1986, for the Electric Utility to assume fiscal responsibility for operating and maintaining the street lighting system; and

WHEREAS, the agenda materials accompanying Ordinance No. 095, 1986, characterized the shift in fiscal obligation as an additional payment by the Electric Utility in lieu of taxes; and

WHEREAS, voters in the City approved City Charter revisions in 1987 that eliminated the specific duties of many City departments and created broader administrative flexibility in fund and department management; and

WHEREAS, in streamlining the statements of department's duties, the 1987 Charter revisions also removed any reference to which department(s) or fund(s) bore responsibility for street lighting costs; and

WHEREAS, since 1987, the Light & Power Fund has maintained fiscal responsibility for the street lighting system, and the costs of street lighting have been incorporated into the electric rates paid by customers of the Electric Utility; and

WHEREAS, City Council has established, pursuant to Article V, Section 23 and Article XII, Section 6 of the City Charter, that an annual cash payment in lieu of taxes and franchise fees is owed by the Light & Power Fund, Water Fund, and Wastewater Fund in the amount of 6% of the operating revenues in each fund; and

WHEREAS, staff recommends clarifying descriptions of the annual operating revenues payment made by the Water Fund in Article III, Chapter 26 of the City Code, and by the Wastewater Fund in Article IV, Chapter 26 to be consistent with how the annual Light & Power Fund payment is described in Article VI, Chapter 26, to reflect that such funds are collected in lieu of taxes and franchise fees; and

WHEREAS, staff also recommends updating the City Code to ~~codify the longstanding custom and practice of~~ reflect that the Electric Utility ~~bearing~~ bears fiscal responsibility for the

operation and maintenance of the City's street lighting system in addition to its annual payment in lieu of taxes and franchise fees consistent with previously adopted ordinances; and

WHEREAS, this revision to the City Code will not affect the rates paid by customers of the Electric Utility nor increase the amount of operating revenues paid by the Light & Power Fund in lieu of taxes and franchise fees.

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

Section 1. That updating descriptions in the City Code to reflect the consistent purposes for which the Light & Power Fund, Water Fund, and Wastewater Fund designate a portion of operating revenues for payments in lieu of taxes and franchise fees is in the best interest of the customers of the respective utility services and of the City.

Section 2. That amending the City Code to reflect ~~the custom and practice of that~~ providing street lighting system operation and maintenance as is an additional in-kind component of the franchise fee paid by the Electric Utility in its annual payments in lieu of taxes and franchise fees is consistent with decisions of the City Council in 1986 and remains to be in the best interest of the customers of the Electric Utility and of the City.

Section 3. That Section 26-118(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-118. Determination of user rates.

...

(c) In addition to the monthly service charges set forth in §§ 26-126 and 26-127, there shall be a charge for payments in lieu of taxes and franchise. The charge shall be six and zero-tenths (6.0) percent of said monthly service charges billed pursuant to said §§ 26-126 and 26-127.

...

Section 4. That Section 26-277(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-277. Determination of user rates; annual adjustment.

...

(c) In addition to the monthly service charges set forth in §§ 26-279, 26-280 and 26-282, there shall be a charge for payments in lieu of taxes and franchise. The charge shall be six and zero-tenths (6.0) percent of said monthly service charges billed pursuant to said §§ 26-279, 26-280 and 26-282.

Section 5. That Section 26-392 of the Code of the City of Fort Collins is hereby amended by the addition of a new Subsection (e) to read as follows:

Sec. 26-392. Utility considered a City-owned enterprise.

(e) The enterprise shall annually operate and maintain the City street lighting system as an additional payment in lieu of franchise fees otherwise paid by the enterprise pursuant to Article V, Section 23 of the City Charter.

Introduced, considered favorably on first reading, and ordered published this 28th day of October, A.D. 2014, and to be presented for final passage on the 16th day of December, A.D. 2014.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 16th day of December, A.D. 2014.

Mayor

ATTEST:

City Clerk