

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 12

DATE: March 21, 2006

STAFF: Jim Hibbard
Roger Buffington

SUBJECT

First Reading of Ordinance No. 047, 2006, Authorizing an Addendum to the Existing Intergovernmental Agreement with the Fort Collins-Loveland Water District, Extending for Five Years the Time for Annexations of Subdivisions to be Eligible Under the Agreement.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading. The District's Board of Directors unanimously approved the extension and the City's Water Board unanimously recommends Council approve the extension.

FINANCIAL IMPACT

Since the adoption of this IGA, the City has collected water plant investment fees and raw water requirements (at the City's prevailing rates) from builders and developers for most properties developing within this area. For these properties, the City sells water to the District for resale to its customers. The City charges the District a bulk rate determined annually based upon the City's costs of service, currently \$1.529 per thousand gallons including a 6% Payment in Lieu of Taxes. This will result in approximately \$20,000 in general fund revenue for 2006.

EXECUTIVE SUMMARY

Under the provisions of the existing Intergovernmental Agreement, certain developing properties in the Fort Collins-Loveland Water District service area have the option of meeting either City or District water development requirements. The Agreement specifies that the properties were within the City limits at the time of the Agreement or must be annexed into the City within five years from the date of the Agreement to be eligible. The initial five-year period is nearly passed. The Agreement allows for two five-year extensions to the period under which properties can annex and be eligible.

BACKGROUND

In March 1998, the Fossil Creek Reservoir Area Plan was adopted by the Fort Collins City Council and the Larimer County Planning Commission. This Plan was the result of a joint study completed by the City and County Planning Departments. The primary objective of the Plan was to establish

a land use framework which would direct future urban development towards the Fort Collins city limits while preserving open lands and critical natural areas around the Fossil Creek Reservoir.

Land within the Fossil Creek Reservoir planning area is also within the service area of the Fort Collins-Loveland Water District. The District's development fees are not oriented toward the higher densities required by the Area Plan. This was compounded somewhat by the fact that the District does not accept stock in the south-side ditch companies, which is the water historically used to irrigate land in the planning area. As a result of this situation, the landowners in the area approached the City and the District with a request which would facilitate the higher densities required by the Area Plan and efficiently use the water historically used for agricultural irrigation.

As a result of that request, in April 2001, the City and the Fort Collins-Loveland Water District (FCLWD) entered into an Intergovernmental Agreement (IGA) under which the City would sell treated water to the District for resale to its customers within the City limits in an area located south of Harmony Road, east of the Union Pacific Railroad, west of County Road 7 and north of County Road 34. Since the adoption of this IGA, the City has collected water plant investment fees and raw water requirements (at the City's prevailing rates) from builders and developers for most properties developing within this area. For these properties, the City sells water to the District at a bulk rate determined annually based upon the City's costs of service (currently \$1.529/1,000 gallons).

The option for developers to satisfy the City's raw water requirements and the resulting water sold by the City to the District applies only to eligible subdivisions, which the IGA defines as those subdivisions in the IGA area that were in the City or would be annexed into the City within five years of the date of the Agreement. The Agreement does allow two five-year extensions of the time period to establish eligibility by annexation. The IGA required that any such extension of this time period must be approved by City Council.

This arrangement established by the IGA has worked well for the City, the FCLWD and land owners within the area. It has been helpful in encouraging the higher density residential development to occur farther north of Fossil Creek Reservoir and thereby preserving more open space around the reservoir.

The City and the District have recently received requests from property owners and developers to extend the period to become eligible by annexation for an additional five years. On February 22, 2006, the FCLWD Board unanimously approved this extension to the agreement, and at its meeting on February 23, 2006, the Water Board voted unanimously to recommend approval of an addendum to the IGA extending this period an additional five years.

Recently, a homeowners association of a multifamily development in the agreement area served by FCLWD and South Fort Collins Sanitation District raised a concern over the District's monthly rates. In its response, staff indicated the District's Board, who is elected to office by District property owners, must consider their request to adjust rates. The IGA between the City and FCLWD is not the instrument that determined which utility would provide water and wastewater service to their subdivision. In short, whether the eligibility period in the IGA is extended or not does not solve or make worse the rate issue raised.

ATTACHMENTS

1. City/FCLWD IGA Area
2. Water Board Minutes

ATTACHMENT: 1 CITY/FCLWD IGA AREA

Agreement Boundary

Legend

City Limits



Excerpt from Water Board Meeting Minutes of February 23, 2006

Intergovernmental Agreement with Fort Collins-Loveland Water District for the Sale and Delivery of Potable Water – Jim Hibbard

Jim Hibbard, Water Engineering and Field Service Manager presented the history of the intergovernmental agreement. In April 2001, the City and the Fort Collins-Loveland Water District entered into an agreement which the City would sell treated water to the District for use within city limits. The City and the District have recently received requests from property owners and developers in the agreement area to extend the period for an additional five years.

Board member Paul Czarnecki made a motion, seconded by Johannes Gessler to support the extension of the time for the annexation of eligible subdivisions for an additional five year period. The motion passed unanimously.

ORDINANCE NO. 047, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING AN ADDENDUM TO THE EXISTING INTERGOVERNMENTAL
AGREEMENT WITH THE FORT COLLINS-LOVELAND WATER DISTRICT,
EXTENDING FOR FIVE YEARS THE TIME FOR ANNEXATIONS
OF SUBDIVISIONS TO BE ELIGIBLE UNDER THE AGREEMENT

WHEREAS, in March 2001, the City Council adopted on second reading Ordinance No. 035, 2001, authorizing the Mayor to enter into an Intergovernmental Agreement ("IGA") between the City and the Fort Collins-Loveland Water District ("District") for the Sale and Delivery of Potable Water; and

WHEREAS, the City and the District entered into the IGA on April 16, 2001; and

WHEREAS, pursuant to the IGA, the City sells and delivers potable water to the District to then be used by the District to provide water service to the District's customers in approved subdivisions and developments that are located south of Harmony Road, east of the Union Pacific Railroad tracks, west of County Road 7 and north of County Road 34 extended east (the "Service Area"); and

WHEREAS, in addition, pursuant to the IGA, the City collects raw water and fees consistent with the City's raw water and plant investment fees from those annexing property owners in the Service Area that opt to arrange for service from the District through the City; and

WHEREAS, it is the expressed intent and understanding of the City and the District that the only subdivisions and developments in the Service Area that will be eligible to receive the benefit of the City's obligations under the IGA, and for which the City will be obligated under the IGA, are those that have been annexed into the City or, if not already annexed, those that are annexed within five years of the date of the IGA, unless such five year period is extended by mutual agreement of the parties for up to two additional five year periods as provided in the IGA; and

WHEREAS, the District's raw water requirements for providing water services to its customers continue to be more costly than the City's raw water requirements because the District's primary source of water is Colorado Big Thompson Water ("CBT Water"); and

WHEREAS, the City owns more diverse water rights including stock in the south-side ditch companies whose water was historically used to irrigate the agricultural land in the Service Area; and

WHEREAS, because use of the south-side ditch company stock to satisfy raw water requirements is a more effective use of water and encourages the development of urban densities desired by the City in the Service Area, the District and impacted property owners have asked the City to enter into an addendum extending the initial five year period for annexation of properties within the terms of the IGA for an additional five year period; and

WHEREAS, pursuant to C.R.S. Sections 29-1-203(1), governmental entities in Colorado are authorized to cooperate and contract with one another to provide any function, service or facility lawfully authorized to each of the cooperating and contracting governmental facilities.

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

Section 1. That the extension of the period for eligible annexations under the IGA for an additional five year period is in the best interest of the City and its citizens and is necessary for the public's health, safety and welfare.

Section 2. That the extension of the period for eligible annexations under the IGA and performance by the City of its associated obligations under the IGA, including the collection of raw water and fees as therein provided, are hereby approved.

Section 3. That the Mayor is hereby authorized to execute an addendum to the IGA consistent with the terms of this Ordinance.

Introduced, considered favorably on first reading, and ordered published this 21st day of March, A.D. 2006, and to be presented for final passage on the 4th day of April, A.D. 2006.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading this 4th day of April, A.D. 2006.

Mayor

ATTEST:

City Clerk