

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 9 A-D

DATE: April 18, 2006

STAFF: Steve Seefeld
Helen Matson
Anne Aspen
Marc Virata

SUBJECT

Items Relating to the Northside Aztlan Community Center Located at 112 Willow Street.

RECOMMENDATION

Staff recommends the adoption of the Ordinances on Second Reading.

EXECUTIVE SUMMARY

- A. Second Reading of Ordinance No. 058, 2006, Authorizing the Conveyance of an Exclusive Easement For a High Pressure Natural Gas Line to Public Service Company of Colorado Located at 112 Willow Street.
- B. Second Reading of Ordinance No. 059, 2006, Exempting the Relocation of a High Pressure Gas Line in Connection with the Redevelopment of the Northside Aztlan Community Center From Regulation Under the Land Use Code.
- C. Second Reading of Ordinance No. 060, 2006, Authorizing the Conveyance of a Permanent, Non-Exclusive Easement to Public Service Company of Colorado and the United States Environmental Protection Agency For Environmental Remediation Activities and Facilities On the Northside Aztlan Community Center Property and Gustav Swanson Natural Area.
- D. Second Reading of Ordinance No. 061, 2006, Vacating an Alley Right-of-way Established as Part of the 1873 Map of the Town of Fort Collins.

These Ordinances, which were adopted on First Reading on April 4, 2006, relate to the completion of the plat and preliminary work associated with the construction of the new Northside Aztlan Community Center ("NACC") at 112 Willow Street. Two of the Ordinances relate to the relocation of a high pressure gas line, which will be necessary in order to allow the platting and construction of the NACC to proceed. In addition to a new easement for Public Service Company of Colorado for the gas line, an exemption from the requirements of the Land Use Code is in order to allow the relocation to proceed without separate advance review of the relocation. Ordinance No. 060, 2006, authorizes the grant of an easement to Public Service Company and the U.S. Environmental Protection Agency for permanent facilities for the environmental work along the Poudre River near the NACC. Ordinance No. 061, 2006, vacates an alley right-of-way that was shown on the original Town Plat and is located on the site of the NACC.

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

ITEM NUMBER: 17 A-D

DATE: April 4, 2006

**STAFF: Steve Seefeld
Helen Matson
Anne Aspen
Marc Virata**

COPY

SUBJECT

Items Relating to the Northside Aztlan Community Center Located at 112 Willow Street.

RECOMMENDATION

Staff recommends the adoption of the Ordinances on First Reading.

FINANCIAL IMPACT

The City will reimburse Public Service for its costs to move the existing gas line to the new easement area.

COPY

EXECUTIVE SUMMARY

- A. First Reading of Ordinance No. 058, 2006, Authorizing the Conveyance of an Exclusive Easement For a High Pressure Natural Gas Line to Public Service Company of Colorado Located at 112 Willow Street.
- B. First Reading of Ordinance No. 059, 2006, Exempting the Relocation of a High Pressure Gas Line in Connection with the Redevelopment of the Northside Aztlan Community Center From Regulation Under the Land Use Code.
- C. First Reading of Ordinance No. 060, 2006, Authorizing the Conveyance of a Permanent, Non-Exclusive Easement to Public Service Company of Colorado and the United States Environmental Protection Agency For Environmental Remediation Activities and Facilities On the Northside Aztlan Community Center Property and Gustav Swanson Natural Area.
- D. First Reading of Ordinance No. 061, 2006, Vacating an Alley Right-of-way Established as Part of the 1873 Map of the Town of Fort Collins.

This item includes four Ordinances related to the completion of the plat and preliminary work associated with the construction of the new Northside Aztlan Community Center ("NACC") at 112 Willow Street. The new building is adjacent to the existing facility. Two of the Ordinances relate to the relocation of a high pressure gas line, which will be necessary in order to allow the

plating and construction of the NACC to proceed. In addition to a new easement for Public Service Company of Colorado for the gas line, an exemption from the requirements of the Land Use Code is in order to allow the relocation to proceed without separate advance review of the relocation. Ordinance No. 060, 2006, authorizes the grant of an easement to Public Service Company and the U.S. Environmental Protection Agency for permanent facilities for the environmental work along the Poudre River near the NACC. The Council has previously authorized this easement, but a new authorization is being requested in light of modifications to the easement area described. Ordinance No. 061, 2006, vacates an alley right-of-way that was shown on the original Town Plat and is located on the site of the NACC. These items are each needed in order to allow staff to finalize the plat for the NACC project.

BACKGROUND

The Northside Aztlan Community Center ("NACC") was opened to the public in 1978. The NACC has been very popular. In 1996, the voters approved funding through the Building Community Choices capital program, to replace the current NACC with a new building that will contain approximately 50,000 square feet. The new NACC is to be constructed at the same site and the existing NACC will remain open during construction. This project is nearing completion of the development review process and the plat for the NACC is being finalized. The new facility is being constructed in the location of the existing parking lot. Once the new facility is built, the old building will be removed to provide a parking lot for the new NACC. Construction is scheduled to begin this summer.

A. Ordinance No. 058, 2006, Authorizing the Conveyance of an Exclusive Easement For a High Pressure Natural Gas Line to Public Service Company of Colorado Located at 112 Willow Street.

There are two exclusive gas easements through the NACC site at 112 Willow Street. These two easements overlap each other and Public Service uses only one of the easements. Both easements are located directly underneath the location for the new facility. Therefore, the City has requested that Public Service move its high pressure gas line to the new location described in the Ordinance. Public Service will move its line once Council approves the granting of the easement and the easement has been executed by all parties. Once the high pressure gas line is moved to its new location, Public Service will vacate the two existing easements. It is the policy of Public Service to vacate easements by executing a Quit Claim Deed to the underlying property owner. In this case, Public Service will issue a Quit Claim Deed to the City for the vacated easements.

B. Ordinance No. 059, 2006, Exempting the Relocation of a High Pressure Gas Line in Connection with the Redevelopment of the Northside Aztlan Community Center From Regulation Under the Land Use Code.

The high pressure gas line needs to be moved prior to the commencement of construction as it lies within the proposed building footprint. Since the City's Land Use Code defines "development" to include the moving of private utility lines, a separate development plan and review is required solely for the line's relocation. In this particular case, however, there are unique and unusual circumstances that would create a hardship for the owner (the City) if this

gas line relocation were required to go through the entire public process. The new NACC is proposed to be built on the front portion of the site of the existing Aztlan Center. Once the new center is complete, the existing Center will be demolished and the new parking lot will be constructed in its place. The site will be very tight during the phasing of this project, especially while both buildings coexist. The project is on an aggressive timeline and must provide continuous service, both for the users of the recreation facility and the users of the gas utility. Two neighborhood meetings have been held, two staff reviews have been held and the NACC Project is nearly ready for a public hearing (Type I – Administrative Hearing). The gas line move, which is required because of the placement of the new Center, must happen prior to construction of the new Center. A separate Project Development Plan for the gas line move would push the already tight timeline of the Northside Aztlan Center Project Development Plan back by a few months with detriment to the public for little added value to the public.

C. Ordinance No. 060, 2006, Authorizing the Conveyance of a Permanent, Non-Exclusive Easement to Public Service Company of Colorado and the United States Environmental Protection Agency For Environmental Remediation Activities and Facilities On the Northside Aztlan Community Center Property and Gustav Swanson Natural Area.

In October 2004, the City Council authorized the conveyance of a permanent easement in the area of the NACC to Public Service in order to allow Public Service to complete and continue operation of the remediation facilities required pursuant to the Administrative Order on Consent for the Poudre River cleanup that the City has entered into with Public Service, the U.S. Environmental Protection Agency and Schrader Oil Company. Since that authorization, Public Service has refined its final plans for the permanent water treatment facility and related utilities, and has provided revised legal descriptions for the easement area needed. The proposed Ordinance authorizes an easement to Public Service under and on these new easement areas in the place of the easement areas previously authorized. Completion of the easement and coordination of installation of Public Service's utility lines with the NACC construction are necessary to avoid interference with either project.

D. Ordinance No. 061, 2006, Vacating an Alley Right-of-way Established as Part of the 1873 Map of the Town of Fort Collins.

In 1873, by an order of the Board of County Commissioners of Larimer County, the Town of Fort Collins was incorporated. In its order the Board of County Commissioners also established the Town Map, which included an alley on Block 3 of the Town of Fort Collins. The City, as part of the redevelopment plan for the NACC, has requested the entire alley be vacated. The City owns the majority of the lots that abut the alley with the exception of Lagunitas Giddings, Inc. (portions of Lots 2, 4, and 6) and Lagunitas Willow, Inc. (Lot 8). The vacation has been requested as the redevelopment plan design for the NACC results in the main building being built over a portion of the alley. The alley is not paved (with the exception of the existing NACC parking lot, which is situated over a portion of the alley right-of-way but obtains access from Willow Street) and is not used for access or as a driveway to the properties, but does contain several utilities within the area. The City has been working with Lagunitas Giddings, Inc. and Lagunitas Willow, Inc. as part of the NACC redevelopment to coordinate the site design and legal designation of areas within the NACC plat.

All public and private utilities have been notified of the proposed vacation and they report no objections, provided the area is retained as a utility easement. With this Ordinance the entire area proposed to be vacated will be retained as a utility easement. Upon completion of utility work related to the relocated main building, an easement vacation will be pursued for areas that are no longer needed as a utility easement.

COPY

ATTACHMENTS

1. Northside Aztlan Community Center Location Map
2. Alley Right-of-way Vacation - Vicinity Map and aerial view

COPY

COPY

ORDINANCE NO. 058, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF AN EXCLUSIVE EASEMENT
FOR A HIGH PRESSURE NATURAL GAS LINE
TO PUBLIC SERVICE COMPANY OF COLORADO
LOCATED AT 112 WILLOW STREET

WHEREAS, the City is the owner of a certain parcel of real property located in Fort Collins, Colorado, known as Northside Aztlan Community Center (the "Property") located at 112 Willow Street; and

WHEREAS, the City is planning to construct a new Northside Aztlan Community Center (the "Project") on the Property; and

WHEREAS, Public Service Company of Colorado ("PSCo") currently has two exclusive easements for high pressure gas lines that run directly under the location of the Project; and

WHEREAS, PSCo has notified the City that it will only need one gas line easement in the new location; and

WHEREAS, the City has requested that PSCo move its high pressure line to a single new easement area over, under and across the Property in the location more particularly described on Exhibit "A", attached hereto and incorporated herein by this reference (the "Easement Area"); and

WHEREAS, the City has agreed to reimburse PSCo for all its costs associated with the movement of the high pressure gas line, since the move is required for the City's construction project; and

WHEREAS, PSCo has agreed that once PSCo has moved the high pressure gas line to the new Easement Area, PSCo will vacate the abandoned portions of the two existing easements by quit claim deed to the City; and

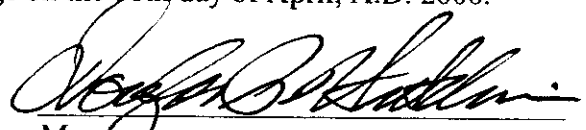
WHEREAS, Section 23-111 of the City Code provides that the City Council is authorized to sell, convey, or otherwise dispose of real property owned by the City, provided the Council first finds by ordinance that any sale or other disposition of real property owned by the City is in the best interest of the City of Fort Collins.

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

Section 1. That the conveyance of an easement to PSCo over, under and across the Easement Area, consistent with the terms of this Ordinance, will be for the benefit of the City's citizens and is in the best interest of the City of Fort Collins.

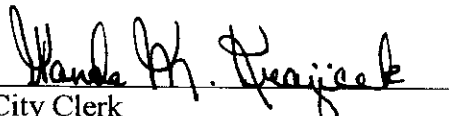
Section 2. That the Mayor is hereby authorized to execute such documents of conveyance as are necessary to convey the easement described herein to PSCo upon the terms and conditions described above, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City, including any necessary corrections to the legal description thereof that do not result in a material increase or change in character of the intended Easement Area.

Introduced, considered favorably on first reading, and ordered published this 4th day of April, A.D. 2006, and to be presented for final passage on the 18th day of April, A.D. 2006.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading on the 18th day of April, A.D. 2006.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 059, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
EXEMPTING THE RELOCATION OF A HIGH PRESSURE GAS LINE
IN CONNECTION WITH THE REDEVELOPMENT OF THE
NORTHSIDE AZTLAN COMMUNITY CENTER FROM REGULATION
UNDER THE LAND USE CODE

WHEREAS, the City is in the process of redeveloping the Northside Aztlan Community Center (the "Center"), which redevelopment is being submitted by the City to review under the Land Use Code; and

WHEREAS, it has become necessary to relocate a certain high pressure gas line prior to commencement of construction of the Center since the high pressure gas line lies within the proposed building footprint; and

WHEREAS, the Project Development Plan for the building and construction of the Center has not yet been approved; and

WHEREAS, the Land Use Code defines the term "development" to include the moving of private utility lines; and

WHEREAS, Section 1.2.4 of the Land Use Code provides that the Land Use Code shall apply to any and all "development of land" within the municipal boundaries of the City, unless expressly and specifically exempted, or provided otherwise in the Land Use Code; and

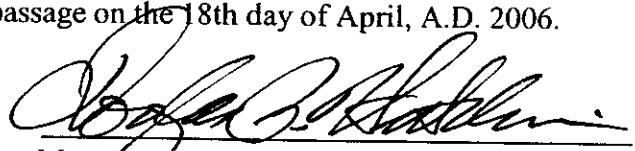
WHEREAS, if the relocation of the high pressure gas line were required to be approved through the regulations of the Land Use Code, significant hardship would be worked upon the City by reason of the delay of the construction project for the Center in order to accommodate the time necessary to process a development application for relocation of the gas line; and

WHEREAS, the Council has determined that the imposition of the regulations of the Land Use Code on the relocation of the high pressure line would be of little, if any, benefit to the public, and would impose substantial hardships upon the City in the redevelopment of the Center; and

WHEREAS, the Council has determined that the relocation of the high pressure gas line should be exempt from the regulations of the City under the Land Use Code.

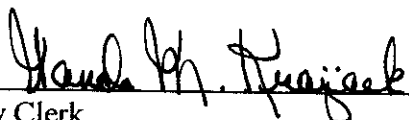
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the relocation of the high pressure gas line as is necessary for the accomplishment of the redevelopment of the North Side Aztlan Community Center is, in accordance with Section 1.2.4 of the Land Use Code is hereby expressly and specifically exempted from regulation under the Land Use Code.

Introduced and considered favorably on first reading and ordered published this 4th day of April, A.D. 2006, and to be presented for final passage on the 18th day of April, A.D. 2006.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading this 18th day of April, A.D. 2006.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 060, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF A PERMANENT, NON-EXCLUSIVE
EASEMENT TO PUBLIC SERVICE COMPANY OF COLORADO
AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
FOR ENVIRONMENTAL REMEDIATION ACTIVITIES AND FACILITIES
ON THE NORTHSIDE AZTLAN COMMUNITY CENTER PROPERTY
AND GUSTAV SWANSON NATURAL AREA

WHEREAS, the City of Fort Collins (the "City") is the owner of various properties to the north, south and under the Poudre River between College Avenue and Linden Street, including Gustav Swanson Natural Area (the "Natural Area") to the north of the River, and the Northside Aztlan Center property, including the property on which the United Way Building is situated (the "Aztlan Property") to the south of the River; and

WHEREAS, the Natural Area and the Aztlan Property, are together described on Exhibit "A", attached hereto and incorporated herein by this reference, and are collectively referred to in this Ordinance as the "City Property"; and

WHEREAS, pursuant to various licenses to enter granted by the City Manager under the authority granted to him in Resolution 2003-119, on November 4, 2003, Public Service Company of Colorado ("PSCo") and the United States Environmental Protection Agency ("EPA") have conducted extensive investigation of a seep of a black, oily substance characterized as coal tar in the Poudre River in the vicinity of the City Property identified by the City in late 2002, and the source and extent of related contamination, and have carried out certain initial remediation of the contamination; and

WHEREAS, on October 5, 2004, the Council adopted on second reading Ordinance No. 146, 2004, which authorized the conveyance of a permanent, nonexclusive easement to PSCo for ongoing environmental remediation and monitoring activities; and

WHEREAS, on October 19, 2004, the Council adopted on second reading Ordinance No. 163, 2004, which authorized the execution of an Administrative Order on Consent ("AOC") by the United States Environmental Protection Agency and a related Environmental Covenant in connection with environmental contamination and remediation in the Cache La Poudre River on and in the vicinity of the City Property; and

WHEREAS, on November 10, 2004, the City and all other parties completed and entered into said AOC and the Environmental Covenant required in the AOC was signed and recorded by the City shortly thereafter; and

WHEREAS, the detailed plans for the investigation and remediation work to be completed, including necessary backfill and restoration of the affected area upon completion of that work, as currently anticipated, are expected to include a 700 foot vertical wall and hydraulic control system in the south bank of the Poudre River, a small treatment building in which water

collected by the hydraulic control system will be treated, and other minor structures to support the operation and maintenance of these facilities and ongoing monitoring of the area; and

WHEREAS, in order to install, operate, maintain and access the remedial facilities, the Council has previously authorized a permanent nonexclusive easement on and under the City Property, but a final easement for those facilities and activities has not been completed; and

WHEREAS, since the time of the initial request and approval, the final design and detailed plans for the permanent facilities to be installed by PSCo have been completed, and those final plans call for a modification of the easement areas required; and

WHEREAS, accordingly, City staff has worked with PSCo to prepare descriptions of the final easement areas required in lieu of the easement areas previously approved in October 2004, including an area for a wastewater treatment facility and barrier wall more particularly described on Exhibit "B", an area for a nonexclusive access road to said facility more particularly described on Exhibit "C", an area for a nonexclusive electric utility easement more particularly described on Exhibit "D", and an area for a nonexclusive telephone utility easement more particularly described on Exhibit "E", each of which exhibits is attached hereto and incorporated herein by this reference (collectively referred to as the "Easements"); and

WHEREAS, in order to allow for ongoing monitoring and supervision of the activities of PSCo, and to provide for such access as may be needed to ensure proper implementation of the remediation work, EPA has requested that the City include in its grant of easement to PSCo a provision allowing EPA to conduct such activities on the City Property as may be necessary to enforce PSCo's obligations under the AOC; and

WHEREAS, in connection with the Council's authorization of the easements proposed in 2004, City staff previously made an approximate value finding for those easements in the amount of approximately \$740,000; and

WHEREAS, in 2004, in view of the anticipated benefits to the City and to the general public of the environmental cleanup activities that are proposed to occur in the river and near and on the City Property which will be facilitated by the easements, the Council authorized the conveyance of those easements without requiring payment of consideration for the Easements; and

WHEREAS, due to modifications of the described areas for the Easements from the originally proposed easement areas, City staff has refined and updated its value finding for the Easements, and has estimated that the value of the Easements is approximately \$453,350; and

WHEREAS, consistent with the understandings of the City, EPA and PSCo in entering into the AOC and in negotiations since that time, staff continues to recommend that the City convey the Easements without requiring payment of consideration for them; and

WHEREAS, City staff has negotiated with PSCo and EPA the terms and conditions of the permanent easement required for PSCo's ongoing environmental remediation and monitoring, as set forth in the Permanent Easement Agreement dated March 31, 2006, a copy of

which is on file in the office of the City Clerk and available for public review (the "Easement Agreement"); and

WHEREAS, the Easement Agreement further provides that the City may relocate PSCo's utilities on the City Property to a satisfactory alternative location in the future if the City determines such relocation to be of benefit to the City; and

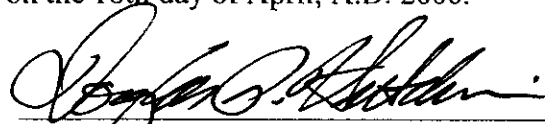
WHEREAS, Section 23-111 of the City Code provides that the City Council is authorized to sell, convey, or otherwise dispose of real property owned by the City, provided the Council first finds by ordinance that any sale or other disposition of real property owned by the City is in the best interest of the City of Fort Collins.

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

Section 1. That the conveyance of the Easements to PSCo and EPA, as set forth herein, instead of the permanent easements previously authorized by the Council in Ordinance No. 146, 2004, will be in the best interest of the City of Fort Collins.

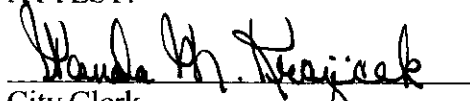
Section 2. That the Mayor is hereby authorized to execute the Easement Agreement, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines to be necessary and appropriate to protect the interests of the City, including any necessary corrections to the legal description shown thereon that do not result in a material increase or change in character of the intended Easement Areas.

Introduced, considered favorably on first reading, and ordered published this 4th day of April, A.D. 2006, and to be presented for final passage on the 18th day of April, A.D. 2006.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading on the 18th day of April, A.D. 2006.

Mayor

ATTEST:

City Clerk

ORDINANCE NO. 061, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
VACATING AN ALLEY RIGHT-OF-WAY ESTABLISHED
AS PART OF THE 1873 MAP OF THE TOWN OF FORT COLLINS

WHEREAS, in 1873, by an order of the Board of County Commissioners of Larimer County, the Town of Fort Collins was incorporated; and

WHEREAS, in its order the Board of County Commissioners also established the Town Map, which included an alley on Block 3 of the Town of Fort Collins; and

WHEREAS, the City Council has received a request to vacate this alley; and

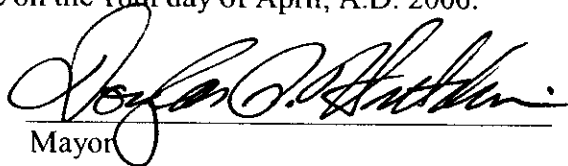
WHEREAS, said portion of alley right-of-way is no longer necessary or desirable to retain for street purposes; and

WHEREAS, pertinent City agencies and private utility companies have been contacted and reported no objection to the proposed vacation, provided that a utility easement be reserved unto the City; and

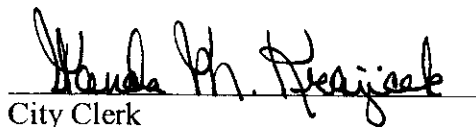
WHEREAS, the right of the residents of the City of Fort Collins will not be prejudiced or injured by the vacation of said street right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the portion of alley right-of-way, more particularly described on Exhibit "A", attached hereto and incorporated herein by this reference, is hereby vacated, abated and abolished, reserving the same unto the City as a utility easement.

Introduced, considered favorably on first reading, and ordered published this 4th day of April, A.D. 2006, and to be presented for final passage on the 18th day of April, A.D. 2006.


Mayor

ATTEST:


City Clerk