

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 17

DATE: June 6, 2006

STAFF: Ken Mannon
Steve Seefeld

SUBJECT

First Reading of Ordinance No. 091, 2006, Appropriating Unanticipated Revenue in the Capital Projects Fund - Willow Street Environmental Remediation Project and Northside Aztlan Community Center Replacement Project to be Used for Environmental Site Mitigation in the Vicinity of Willow Street.

RECOMMENDATION

Staff recommends adoption of this Ordinance on First Reading.

EXECUTIVE SUMMARY

This Ordinance appropriates \$200,000 in unanticipated revenue in the Capital Projects Fund - Willow Street Environmental Remediation capital project, in the form of a payment from Public Service Company of Colorado, and up to \$50,000 in the Northside Aztlan Community Center Replacement Project in the form of a payment from Schrader Oil Company of Colorado. The payment will help offset some of the City's costs in complying with Environmental Protection Agency requirements to mitigate contamination and take reasonable steps required in connection with contamination that passes across and under Willow Street and the Northside Aztlan Community Center site. The payment from Schrader is designated for design and construction of a passive vapor barrier/venting system for the Northside Aztlan Community Center.

BACKGROUND

The Environmental Protection Agency ("EPA"), Region VIII, negotiated with Xcel Energy's Colorado subsidiary, Public Service Company of Colorado ("PSCo"), to plan and design environmental clean-up activities to remove contaminated sediment and bedrock and to operate on the site to intercept future subsurface contamination approaching the Poudre River. The contamination has been determined to have originated from the Poudre Valley Gas manufactured gas plant that once operated on property south of Willow Street and now owned by Schrader Oil Company ("Schrader"). The contamination passes across and under City-owned property, and enters the Poudre River.

The EPA, PSCo, Schrader and the City of Fort Collins entered into an Administrative Order on Consent ("AOC") in November 2004, which was intended to allocate responsibility for cleanup costs and outline the parties' future responsibilities and commitments related to the environmental condition of the River, the City's Northside Aztlan Community Center property and the general area.

The AOC includes language intended to protect the City from certain claims for cost recovery or contribution, and from being required to contribute to the initial costs of the environmental cleanup, other than through the cooperation and property access on affected City property. It also requires that all parties owning property affected by the identified contamination, record against the title of their respective properties, an environmental covenant limiting activities and use of the properties so as to avoid any disruption of the identified contamination that will remain in place after the remediation activities.

The AOC required PSCo to pay the City the amount of \$200,000, which was a negotiated amount intended to offset some of the City's costs to take reasonable steps required in the AOC to manage and mitigate environmental conditions across and under Willow Street, the Northside Aztlan Community Center property and in this vicinity. These reasonable steps will be required for projects such as the new Community Center, utilities and street improvements in Willow Street, and other City facilities in and around the area of contamination. The City has the discretion to use these funds as it determines appropriate. Staff is recommending that the funds be set aside in anticipation of environmental costs expected to be incurred in the Willow Street area. If the funds are reserved for the purposes noted above, the rate of depletion of the funds will depend upon the conditions the City encounters as it proceeds with projects in the area.

In addition, the AOC required Schrader to pay to the City the sum of \$1 per square foot of building footprint, up to a maximum of \$50,000, for design and construction of a passive vapor barrier/venting system for the Northside Aztlan Community Center. The AOC required that the system be designed and constructed in accordance with specifications set out in the Appendix K to the AOC; those specifications have been incorporated into the design of the system.

ORDINANCE NO. 091, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED REVENUE IN THE
CAPITAL PROJECTS FUND WILLOW STREET ENVIRONMENTAL
REMEDATION PROJECT AND NORTHSIDE AZTLAN COMMUNITY
CENTER REPLACEMENT PROJECT TO BE USED FOR ENVIRONMENTAL
SITE MITIGATION IN THE VICINITY OF WILLOW STREET

WHEREAS, subsurface contamination has been identified, originating from the site of a former manufactured gas plant (Poudre Valley Gas), that once operated on property south of Willow Street and now owned by Schrader Oil Company; and

WHEREAS, the aforementioned contamination passes across and under City-owned property, including the Northside Aztlan Community Center site, and in the general vicinity of Willow Street, and enters the Poudre River; and

WHEREAS, the Environmental Protection Agency (the "EPA"), Region VIII, has negotiated with Xcel Energy's subsidiary, Public Service Company of Colorado ("PSCo"), to plan and design environmental cleanup activities to remove contaminated sediment and bedrock and to operate on the site into the future ; and

WHEREAS, the EPA together with PSCo, Schrader Oil Company and the City of Fort Collins entered into an Administrative Order on Consent (an "AOC") in November, 2004, with the intent to allocate responsibility for cleanup costs and outline the parties' future responsibilities and commitments related to the environmental condition of the river, the City's Northside Aztlan Community Center, an the general area; and

WHEREAS, in accordance with the terms of the AOC, PSCo paid the City the sum of \$200,000, which is a negotiated amount intended to offset some of the City's costs to take reasonable steps required in the AOC to manage and mitigate environmental conditions across and under Willow Street and the Northside Aztlan Community Center property; and

WHEREAS, additionally, the terms of the AOC require Schrader Oil Company to pay the City the sum of \$1 per square foot of the building footprint for the Northside Aztlan Community Center replacement building, up to a maximum of \$50,000, for design and construction of a passive vapor barrier/venting system for the new Northside Aztlan Community Center ; and

WHEREAS, Article V, Section 9, of the Charter of the City of Fort Collins permits the City Council to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for that fiscal year, does not exceed the current estimate of actual and anticipated revenues to be received during the fiscal year; and

WHEREAS, City staff has determined that the appropriation of the payments from PSCo (\$200,000) and Schrader Oil Company (\$50,000), as described herein, will not cause the total amount appropriated in the Capital Projects Fund Willow Street Environmental Remediation Project and the Northside Aztlan Community Center Replacement Project to exceed the current estimate of actual and anticipated revenues to be received during the fiscal year; and

WHEREAS, it is the desire of the Council to appropriate the sum of \$200,000, paid to the City by PSCo, in the Capital Project Fund Willow Street Environmental Remediation Project to be used for environmental site mitigation in the vicinity of Willow Street, and the sum of \$50,000, to be paid to the City by Schrader Oil Company, in the Capital Projects Fund Northside Aztlan Community Center Replacement Project to be used for design and construction of a passive vapor barrier/venting system for the replacement Northside Aztlan Community Center.

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

Section 1. That there is hereby appropriated for expenditure from unanticipated revenue in the Capital Projects Fund Willow Street Environmental Remediation Project, the sum of TWO HUNDRED THOUSAND DOLLARS (\$200,000) to be used for environmental site mitigation in the vicinity of Willow Street.

Section 2. That there is hereby appropriated for expenditure from unanticipated revenue in the Capital Projects Fund Northside Aztlan Community Center Replacement Project, the sum of FIFTY THOUSAND DOLLARS (\$50,000) to be used for design and construction of a passive vapor barrier/venting system for the replacement Northside Aztlan Community Center.

Introduced and considered favorably on first reading and ordered published this 6th day of June, A.D. 2006, and to be presented for final passage on the 18th day of July, A.D. 2006.

Mayor

ATTEST:

City Clerk

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

Mayor

City Clerk