

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

ITEM NUMBER: 7

DATE: August 15, 2006

STAFF: Maurice Head

SUBJECT

Second Reading of Ordinance No. 105, 2006, Appropriating Unanticipated Developer Contributions in the General Fund for Affordable Housing.

RECOMMENDATION

Staff recommends adoption of the Ordinance on Second Reading.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on July 18, 2006, appropriates unanticipated revenue in the Advance Planning budget from Flying Heights, LLC, for density bonuses the City received in exchange for a binding, written recordable relinquishment of the City's rights under the Agreement of Restrictive Covenants Affecting Real Property. \$14,242 will be appropriated to the Affordable Housing Fund to be used in the Competitive Process to award the funds for other affordable housing projects.

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 17

DATE: July 18, 2006

STAFF: Maurice Head

SUBJECT

First Reading of Ordinance No. 105, 2006, Appropriating Unanticipated Developer Contributions in the General Fund for Affordable Housing.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

EXECUTIVE SUMMARY

This Ordinance appropriates unanticipated revenue in the Advance Planning budget from Flying Heights, LLC, for density bonuses the City received in exchange for a binding, written recordable relinquishment of the City's rights under the Agreement of Restrictive Covenants Affecting Real Property. \$14,242 will be appropriated to the Affordable Housing Fund to be used in the Competitive Process to award the funds for other affordable housing projects.

BACKGROUND

On April 18, 2003, the City and APACO Industries and Importers, Inc. and Jensen Investment Group, LLC, entered into an Agreement of Restrictive Covenants Affecting Real Property pertaining to a 19-unit development project known as Cherokee Flying Heights PDP ("Cherokee PDP"). APACO Industries and Imports, Inc. abandoned the project after accruing large debts against the development.

In the fall of 2005, the City was approached by Flying Heights, LLC, the new developer of Cherokee PDP, who explained that the debt structure on the project made it infeasible to develop Cherokee PDP as affordable housing. The developer proposed that in exchange for the City waiving the affordability requirements under the Agreement of Restrictive Covenants, it would be willing to reimburse the City for fees waived or delayed and compensate the City for the density bonus of four additional units which were granted to the development because of its status as an affordable housing project. The City agreed to accept a certified check in the amount of \$45,853, in exchange for a binding, written and recordable relinquishment of the City's rights under the Agreement of Restrictive Covenants Affecting Real Property. The City deposited Flying Heights, LLC, payment of \$45,853 in January, 2006.

The breakdown of these fees and density bonuses is as follows:

1. Engineering - Fees	\$ 6,178
2. Building & Zoning - Permit	\$25,433
3. Advance Planning - Affordable Housing	<u>\$14,242</u>
TOTAL	\$45,853

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**ORDINANCE NO. 105, 2006
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING UNANTICIPATED DEVELOPER CONTRIBUTIONS
IN THE GENERAL FUND FOR AFFORDABLE HOUSING**

WHEREAS, the City of Fort Collins and APACO Industries and Importers, Inc. and Jensen Investment Group, LLC, entered into an Agreement of Restrictive Covenants Affecting Real Property pertaining to a 19-unit development project known as Cherokee Flying Heights PDP (“Cherokee PDP”); and

WHEREAS, APACO Industries and Importers, Inc. and Jensen Investment Group, LLC, subsequently decided not to pursue the project; and

WHEREAS, in the fall of 2005, Flying Heights, LLC, the new developer of Cherokee PDP, approached the City and explained that the debt structure on the project made the feasibility of developing Cherokee PDP as affordable housing impracticable; and

WHEREAS, the developer proposed that in exchange for the City waiving the requirement for affordable housing under the Agreement of Restrictive Covenants, they would pay the City engineering and permit fees that were waived or delayed and compensate the City for the density bonus of four additional units which was granted to the development because of its status as an affordable housing project; and

WHEREAS, the City and Flying Heights, LLC, ultimately agreed to a binding, written and recordable relinquishment of the City’s rights under the Agreement of Restrictive Covenants Affecting Real Property in exchange for a certified check in the amount of \$45,853; and

WHEREAS, in January, 2006, Flying Heights, LLC, paid the City previously waived engineering fees - \$6,178; previously waived building and zoning permit fees - \$25,433; and paid a premium of \$14,242 for the affordable housing density bonus for a total of \$45,853; and

WHEREAS, Council wishes to appropriate the funds received for affordable housing (\$14,242) to be used in the Competitive Process to award these funds for other affordable housing projects; and

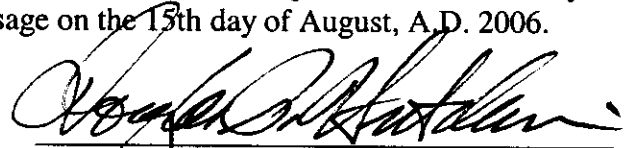
WHEREAS, Article V, Section 9, of the Charter of the City of Fort Collins permits the City Council to make supplemental appropriations by ordinance at any time during the fiscal year, provided that the total amount of such supplemental appropriations, in combination with all previous appropriations for 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 developer contribution, as described herein, will not cause the total amount appropriated in the General Fund to exceed

the current estimate of actual and anticipated revenues to be received in that fund during the fiscal year.

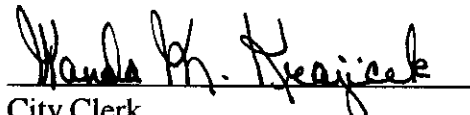
NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated from unanticipated revenue in the General Fund the sum of FOURTEEN THOUSAND TWO HUNDRED FORTY-TWO DOLLARS (\$14,242) for expenditure in the General Fund for the affordable housing competitive process.

Introduced and considered favorably on first reading, and ordered published this 18th day of July, A.D. 2006, and to be presented for final passage on the 15th day of August, A.D. 2006.



Mayor

ATTEST:



City Clerk

Passed and adopted on final reading this 15th day of August, A.D. 2006.

Mayor

ATTEST:

City Clerk