



AGENDA ITEM: 1 (Special Meeting)
MEETING DATE: 4/12/2011
TO: City Council
FROM: Greg George, Development Services Director
PRESENTER: Alison Hade, Community Partnership Office

TITLE:

A RESOLUTION AUTHORIZING THE RELEASE OF A RESTRICTION ON CONVEYANCE OF PROPERTY RECORDED WITH THE LARIMER COUNTY CLERK AND RECORDER AT RECEPTION NO. 20070091371 FOR LOT 25, BLOCK 6, GIULIANO FIRST SUBDIVISION, LOVELAND, COLORADO PURSUANT TO SECTION 16.43.080 OF THE LOVELAND MUNICIPAL CODE

DESCRIPTION:

Pursuant to provisions in Section 16.43.080.D of the Loveland Municipal Code, this item is a request that City Council grant a waiver from the repayment obligation for selling an affordable housing unit to a household that does not meet the City's definition of a "qualified household". Section 16.43.080.D allows City Council to grant waivers to all or any portion of the repayment obligation on a case-by-case basis for good cause shown. The applicants contend that there are certain circumstances constituting a hardship that require them to sell the home as soon as possible. Those circumstances are described in the written request from the applicants included as Exhibit A to the accompanying staff memorandum. Also included, separate from the packet, is a confidential letter from the applicants detailing their financial and medical concerns. The staff memorandum includes findings for Council to consider in determining if there is good cause for granting the waiver. The applicants are Richard and Wilma Price. The subject property is located at 3462 Hewitt Street.

BUDGET IMPACT:

Yes No

If the waiver is granted, then the City would not receive any percentage of net proceeds from a future sale of the property.

SUMMARY:

Section 16.43.080.C of the Loveland Municipal Code requires that if, within 20 years from the original sale of an "affordable housing unit", an owner sells a "for sale" dwelling unit to a household that does not meet the City's definition of a "qualified household", then the owner

must refund to the City a percentage of the net proceeds from such sale. The percentage to be refunded is based on the number of years from the original sale that the owner has owned the dwelling. These restrictions are recorded in a deed restriction that is effective for a period of 20 years from the date of original sale.

In this case, the owners have owned the dwelling for 4 years and are therefore required to refund the City 25% of the net proceeds of any sale. The owners had an offer on the home but the buyer terminated the Earnest Money pending City Council action to remove the deed restriction. The current deed restriction applies to any sale of the property prior to 2027.

LIST OF ATTACHMENTS:

- A. Resolution
- B. Staff memorandum

RECOMMENDED CITY COUNCIL ACTION:

City staff recommends the following motion for City Council action:

Move to make the findings listed in the City staff memorandum dated April 12, 2011 and, based on those findings, adopt A RESOLUTION AUTHORIZING THE RELEASE OF A RESTRICTION ON CONVEYANCE OF PROPERTY RECORDED WITH THE LARIMER COUNTY CLERK AND RECORDER AT RECEPTION NO. 20070091371 FOR LOT 25, BLOCK 6, GIULIANO FIRST SUBDIVISION, LOVELAND, COLORADO PURSUANT TO SECTION 16.43.080 OF THE LOVELAND MUNICIPAL CODE.

REVIEWED BY CITY MANAGER:

RESOLUTION #R-21-2011

A RESOLUTION AUTHORIZING THE RELEASE OF A RESTRICTION ON CONVEYANCE OF PROPERTY RECORDED WITH THE LARIMER COUNTY CLERK AND RECORDER AT RECEPTION NO. 20070091371 FOR LOT 25, BLOCK 6, GIULIANO FIRST SUBDIVISION, LOVELAND, COLORADO PURSUANT TO SECTION 16.43.080 OF THE LOVELAND MUNICIPAL CODE

WHEREAS, Section 16.43.080 of the Loveland Municipal Code requires: (1) the City to place a deed restriction or encumbrance prohibiting the sale of an affordable housing unit to any person or entity other than a qualifying household, and prohibiting the rental of the property, for a period of twenty years from the date of the initial purchase of the affordable housing unit; and (2) the owner to pay the City a certain percentage of the owner's "net proceeds" on the sale of the unit to a non-qualifying household in violation of the deed restriction or encumbrance; and

WHEREAS, Subsection D of Section 16.43.080 permits the City Council to waive all or any portion of the owner's repayment obligation set forth in Section 16.48.080 on a case-by-case basis for good cause shown; and

WHEREAS, in accordance with Section 16.43.080, the City and Aspen Homes of Colorado, Inc. (the "Builder") entered into a Restriction on Conveyance of Property dated November 27, 2007 and recorded with the Larimer County Clerk and Recorder at reception number 20070091371 (the "Restriction") pursuant to which the property legally described as Lot 25, Block 6, Giuliano Subdivision, Loveland, Colorado (the "Property") was made subject to the requirements of Section 16.43.080; and

WHEREAS, in December, 2007, the Builder sold the Property to Richard and Wilma Price (the "Owners"), who were determined by the City to be a qualifying household; and

WHEREAS, for financial and medical reasons, the Owners must sell the Property; and

WHEREAS, the Owners have had the Property on the market for over a year and have been unable to find a buyer, qualified or otherwise, willing to close on the sale of the Property; and

WHEREAS, the Owners believe that the Restriction has negatively affected their ability to sell the Property and have requested that the City Council waive all of their repayment obligation pursuant to Subsection D of Section 16.43.080; and

WHEREAS, having reviewed the Owners' specific financial and medical concerns, the City Council desires to waive all of the Owners' repayment obligation for good cause shown pursuant to Subsection D of Section 16.43.080 by authorizing a release of the Restriction in accordance with the provisions set forth below.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LOVELAND, COLORADO:

Section 1. That, in accordance with Subsection D of Section 16.43.080, the City Council finds that the Owners' specific financial and medical concerns constitute good cause justifying a waiver of the repayment obligation set forth in Section 16.43.080, and authorizes the release of the Restriction in accordance with the provisions of Section 2 below.

Section 2. That the City Manager and the City Clerk are hereby authorized to execute and deliver a release, in a form approved by the City Attorney, of the Restriction on Conveyance of Property dated November 27, 2007 and recorded with the Larimer County Clerk and Recorder at reception number 20070091371 (the "Restriction"), at the time of closing of the sale of the Property by the Owners. Said release shall be executed and delivered to the title company conducting the closing and shall be recorded, simultaneously with the deed from the Owners, with the Larimer County Clerk and Recorder at the Owners' expense.

Section 3. That this Resolution shall be effective as of the date of its adoption.

ADOPTED this 12th day of April, 2011.

Cecil A. Gutierrez, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:


Assistant City Attorney



MEMORANDUM

TO: City Council

FROM: Alison Hade, Community Partnership Office

DATE: April 12, 2011

RE: Richard and Wilma Price - Fee Waiver Repayment

I. EXHIBITS

- A. Letter from Richard and Wilma Price requesting waiver of fee repayment
- B. Section 16.43.080, Loveland Municipal Code

II. FINDINGS

Section 16.43.080.D of the Loveland Municipal Code does not provide specific criteria upon which to determine a hardship, except that City Council may consider granting the waiver on a case-by-case basis for good cause shown.

Based on the information provided in the applicants' letter request the waiver, City staff recommends that City Council make the following findings to establish a hardship for granting the waiver for good cause:

- A. Both applicants are on a fixed income through Social Security.
- B. One of the applicants has difficulties with mobility, making living in a two story home difficult.
- C. The deed restriction on this property requires that if any owner sells the home to a household that does not meet the City's definition of a "qualified household" prior to 2027, then said owner must pay the City a percentage of any net proceeds.
- D. The applicants have a willing buyer, but the buyer refuses to go through with the purchase if the deed restriction remains in effect.
- E. The current offer on the home is approximately \$10,000 less than the owners currently owe at closing. There will be no net proceeds from the pending sale.
- F. If the bank forecloses on the property the City's Deed Restriction would be terminated, resulting in the elimination of the requirement for subsequent owners to repayment any net proceeds to the City.
- G. The release of Restriction will not be recorded until sale of the dwelling has closed.

To: Loveland City Council
From: Richard and Wilma Price
3462 Hewitt Street
Loveland, CO 80538

Our household consists of my wife, Wilma, myself, and Molly (our adopted granddaughter) who is age 18. Both my wife and I live on a fixed income through Social Security Disability.

Our home is located in Enchantment Ridge Cottages. We purchased our home in December 2007; however, we never anticipated being in this dire situation.

Because of extenuating circumstances, we find it necessary to sell our home. Since we purchased under the affordable housing program we are now requesting a hardship exception from the "Restriction on Conveyance of Property" in selling our home. The requirements are causing significant barriers to a current buyer and, if not granted, would continue to affect our ability to sell to any other potential future buyers, should the current sale falls through.

Briefly, we are selling due to my wife's health problems which are increasingly affecting her ability to be mobile. She has progressed from a cane to a walker during the last few years. Our home is, unfortunately, a two story and, as a consequence, we need to find a living situation that will reduce barriers to her mobility as time moves on, ideally a one story house.

The issues in our current home are twofold. First, the stairway is problematic. Secondly, the bathrooms upstairs are too small to be adaptive to any future needs. To correct these deficiencies would be cost prohibitive.

Briefly, our house has been on the market for over a year. We started last year, 2010, with a price point that would have had a net for which I would have owed 25% to the city, but as the year progressed it became more apparent that instead of a small net we are now faced with an out of pocket loss of \$10,000. We purchased our house in December 2007 at around \$204,000 and at this time we expect to sell for less than \$192,000. Our realtor has explained to us, this is a fortunate offer. At present, we have a buyer who we have agreed on a purchase price.

However, the buyer is unwilling to move forward with any restrictions. Since this has been our only offer in over a year and half we desperately need a hardship determination which removes all restrictions.

Without a "hardship exception", it is probable that if we do not sell we may, in a few months, be unable to pay our mortgage which would result in a short sale or foreclosure. This could have a negative impact on Aspen Homes and the entire neighborhood. Obviously, this possibility would end our ability to ever purchase again and we want to avoid this possibility at all costs by selling now.

We sincerely appreciate having had the opportunity to purchase a home through the affordable housing program. It was never our intention to end up in this predicament.

We sincerely hope that the Council will provide us with a new opportunity which allows us to manage all the future challenges that we face. The approval of a "hardship exception" will at least give us some control over our future for which we will be eternally grateful.

Truly yours,

Richard and Wilma Price

developments by City staff members and City boards and commissions shall be accomplished in as expeditious a manner as possible consistent with good planning principles.

16.43.060 Dispersion of affordable housing.

Where affordable housing units are part of a residential development also containing market-rate housing, the planning commission shall review the preliminary plat to ensure that affordable housing units shall, to the extent possible without creating practical difficulties, be mixed with the other residential units and not clustered together or segregated in any way from market-rate housing in the development. The Community Services Department Director, in all instances, shall have the discretion to approve the final location and distribution of affordable housing units in the development on the final plat, provided that such locations are in substantial compliance with the planning commission's approval of the preliminary plat.

16.43.070 Plat designation of affordable housing units required.

All preliminary and final plats which include affordable housing developments or affordable housing units shall indicate which dwelling units shall be constructed as affordable housing units. For single-family detached dwelling units, each lot upon which an affordable housing unit is to be constructed shall be designated on the preliminary and final plat. For multi-family housing or duplex housing, the preliminary and final plat shall indicate the percentage of units within the development which shall be constructed as affordable housing units. An affordable housing development may be developed in phases. For a phased development, each preliminary and final plat shall indicate which dwelling units shall be constructed as affordable housing units. The Community Services Department Director, in all instances, shall have the discretion to approve the number and phasing of affordable housing units within a phased development on the final plat. The Community Services Department Director shall also have the authority to approve administrative amendments to final plats changing the number or location of affordable housing units designated on a final plat, provided that such locations are in substantial compliance with the planning commission's approval of the preliminary plat and with all other applicable provisions of this Chapter.

16.43.080 Deed restriction for affordable housing units required.

- A. "For sale" units. No certificate of occupancy shall be issued for any "for-sale" single-family dwelling, multi-family building, or duplex containing an affordable housing unit(s) unless: (1) the applicant provides documentation satisfactory to the director of development services that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat; and (2) a deed restriction or encumbrance, in a form approved by the city attorney, prohibiting the sale of the affordable housing unit(s) to any person or entity other than a qualifying household, and prohibiting the rental of the property, for a period of twenty years from the date of the initial purchase of the affordable housing unit(s) has been placed on the property. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (1) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender's successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (2) twenty years after the date of the initial purchase of the affordable housing unit by the initial qualifying household, provided there is no existing default under the deed restriction or encumbrance. All "for-sale" affordable housing units must be owner-occupied.

- B. "For rent" units. No certificate of occupancy shall be issued for any "rental" multi-family building or duplex containing an affordable housing unit(s) unless: (1) the applicant provides documentation satisfactory to the director of development services that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat; and (2) a deed restriction or encumbrance, in a form approved by the city attorney, prohibiting the rental of the affordable housing units to any person(s) other than a qualifying household, and prohibiting the conversion of the affordable housing units from "rental" units to "for-sale" units without the prior written approval of the city, for a period of twenty years from the date of the issuance of a certificate of occupancy. The deed restriction or encumbrance shall contain a provision stating that it is the intent of the parties that the respective rights and obligations set forth in the deed restriction or encumbrance shall constitute covenants, equitable servitudes, and/or liens that run with the land and shall benefit and burden any personal representatives, successors, and assigns of the parties. The deed restriction or encumbrance shall also contain a provision indicating that it automatically expires: (1) if title to property mortgaged by an institutional lender is transferred to the institutional lender, or to the institutional lender's successor or assign, by foreclosure or deed-in-lieu of foreclosure; or (2) twenty years after the date on which a certificate of occupancy was first issued for the property, provided there is no existing default under the deed restriction or encumbrance.
- C. Payment required. If an owner sells a "for sale" unit to a household that does not meet the city's definition of a qualifying household, or rents a "for rent" unit to a household that does not meet the definition of a qualifying household at a rent defined as affordable by the Colorado Housing and Finance Authority Rent and Income Table, the owner shall pay the city the amounts set forth below.
1. If all or any part of the capital expansion fees or any other fees imposed by the city upon new development were waived in accordance with Section 16.38.080, the owner shall pay the city an amount as required by the following table:

Number of years from original sale (if a "for sale" unit), or number of years from the issuance of the first certificate of occupancy (if a "for rent" unit)	Amount owed to city
1	95% of amount waived
2	90% of amount waived
3	85% of amount waived
4	80% of amount waived
5	75% of amount waived
6	70% of amount waived
7	65% of amount waived
8	60% of amount waived
9	55% of amount waived
10	50% of amount waived
11	45% of amount waived
12	40% of amount waived
13	35% of amount waived
14	30% of amount waived
15	25% of amount waived
16	20% of amount waived
17	15% of amount waived
18	10% of amount waived
19	5% of amount waived

20	\$0
----	-----

2. If capital expansion fees or any other fees imposed by the city upon new development were not waived in accordance with Section 16.38.080, the owner shall pay the city an amount as required by the following table:

Number of years from date of original sale	Percentage of net proceeds due to city
0-5 years	25%
5-10 years	20%
10-15 years	15%
15-20 years	10%

D. Hardship waiver. The city council may waive all or any portion of the repayment obligations set forth in this section on a case-by-case basis for good cause shown. (Ord. 5433 § 6, 2009)

16.43.100 Use tax credit for qualified affordable housing units.

- A. Incentives Provided. An applicant who meets all of the applicable criteria set forth in this Section may receive, as a credit against any fees assessed by the City in connection with the construction of new qualified affordable housing units within the City, or in connection with the reconstruction or remodel of an existing dwelling unit within the City, a sum equal to the building materials use tax paid to the City in connection with the construction of such units.
- B. Criteria to Receive Credit. The credit shall be issued at the time a certificate of occupancy is issued for the single family dwelling, multi-family building or duplex containing an affordable housing unit. In order to receive the use tax credit set forth in Subsection A, the applicant shall meet one of the following criteria:
 - 1. For "for-sale" dwelling units, the applicant shall provide documentation satisfactory to the Community Services Department Director that the building for which the certificate of occupancy is requested contains the required number of affordable housing units identified on the final plat.
 - 2. For "rental" dwelling units, the applicant shall provide documentation satisfactory to the Community Services Department Director and City Attorney that the multi-family building or duplex containing affordable housing rental unit(s) are located in an affordable housing development and will provide affordable housing units to qualifying households for not less than twenty (20) years.
- C. Application. Any person or entity, which wishes to receive the incentive credit provided for in Subsection A, shall submit a completed use tax credit application to the Human Services Administrator. The application shall be accompanied by documentation in support of the criteria set forth in this Section. An application which fails to contain complete information and sufficient documentation to support the criteria set forth above shall not be considered. The completed application for the incentive credit shall be submitted and approved prior to issuance of a use tax credit and prior to issuance of a certificate of occupancy. (Ord. 5433 § 6, 2009)

16.43.110 Annual Review of affordable housing ownership.

Once each year, the Human Services Administrator shall obtain an ownership report concerning each "for-sale" affordable housing unit for which the City has issued a certificate of occupancy. In the event an affordable housing unit is owned or occupied by a person other than the initial qualifying household, the current owner of the affordable housing unit shall submit documentation to the Human Services Administrator verifying that the affordable housing unit is owned by a qualifying household and has not been rented. In the event the current owner fails to provide such information in a timely manner, or the information provided fails to support continuing compliance with the requirements set



CITY OF LOVELAND
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 2 (Special Meeting)
MEETING DATE: 4/12/2011
TO: City Council
FROM: City Manager
PRESENTER: Bill Cahill

TITLE:

Appointment of Member to North Front Range Metropolitan Organization ("NFRMPO") Air Quality Technical Committee

DESCRIPTION:

The NFRMPO invited the City of Loveland and their other members to appoint a technical member to the newly forming North Front Range Air Quality Technical Committee ("AQTC"). The AQTC will provide scientific and technical information to the NFRMPO Planning Council regarding air quality issues and air pollution reduction measures.

BUDGET IMPACT:

Yes No

SUMMARY:

From the NFRMPO Planning Council:

"The NFRMPO Planning Council, in addition to its role as a regional transportation planning board, performs as the North Front Range lead air quality planning agency. As such, one of the Planning Council's big tasks starting this year will be to analyze and provide recommendations on the Front Range Ozone State Implementation Plan (i.e., the state air quality plan.) The AQTC will assist Planning Council and the NFRMPO staff with the planning effort.

The AQTC will consist of member community representatives and liaisons from state and regional transportation and air quality planning agencies."

A committee consisting of Cecil Gutierrez, Larry Heckel, Joan Shaffer and Bill Cahill met and recommend the appointment of Irene Fortune.

Irene is a two-term member of the City of Loveland Transportation Advisory Board. She has a Bachelors degree in Chemistry with 28 years working in chemical manufacturing for two multi-national chemical manufacturing companies. She is also an active leader for the League of Women Voters.

LIST OF ATTACHMENTS:

None

RECOMMENDED CITY COUNCIL ACTION:

Motion to appoint Irene Fortune as the City of Loveland Representative to the North Front Range Air Quality Technical Committee.

REVIEWED BY CITY MANAGER:



CITY OF LOVELAND
CITY MANAGER'S OFFICE

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2303 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 1 (Study Session)
MEETING DATE: 4/12/2011
TO: Mayor and City Council
FROM: Rod Wensing, Assistant City Manager
PRESENTER: Rod Wensing

TITLE:
Mid-Session Legislative Update / Discussion

BUDGET IMPACT:

Yes No

SUMMARY:

This is an information and discussion item only. It is a follow-up to a Council request for a mid-session Legislative update.

LIST OF ATTACHMENTS:

CML Legislative Box Score – April 1, 2011

RECOMMENDED CITY COUNCIL ACTION:

Consideration and discussion

REVIEWED BY CITY MANAGER:

CML LEGISLATIVE BOX SCORE

2011 Regular Session

Updated April 1, 2011

Check for the latest box score at www.cml.org

Lobbyist assigned to each bill in ()

Subject

* means with amendments

SUPPORT

SB 9	<i>Animal Control – Costs of animal impoundment.</i> Sen. Steadman, Rep. Fischer. Changes complicated bonding and impoundment provisions for care of animals impounded in cases of alleged abuse or neglect, and requires payment by owner for actual costs of care. (Kevin Bommer)	Postponed indefinitely
SB 35	<i>State Budget – Prohibition on transfers of severance tax, federal mineral lease cash funds.</i> Sen. Roberts, Rep. Coram. Establishes a prohibition on the transfer of local government severance tax and FML money to backfill the state general fund and against the governor freezing the use of such funds from use for their intended purposes. (Kevin Bommer)	Postponed indefinitely
SB 66	<i>Liquor – Special events permits.</i> Sen. Jahn. Allows a local licensing authority to elect sole authority to approve or deny applications for special event permits and remove the state licensing authority from its current obligation of reviewing and promptly acting on the issuance of state permits for those jurisdictions. Total events may increase from 10 days to 15 days. (Kevin Bommer)	S. Appropriations
SB 86	<i>Taxation – Sales tax appeals.</i> Sen. Foster, Rep. Murray. Makes technical changes to laws controlling how appeals from a notice of tax assessment or denial of a tax refund are addressed. (Geoff Wilson)	Signed by Governor
SB 134	<i>Criminal Justice: Prohibit Synthetic Cannabinoids.</i> Sen. Kopp, Reps. Murray and Vigil. Makes synthetic cannabinoids, difficult to detect by adding them to the statutory list of schedule I controlled substances. (Kevin Bommer)	S. Judiciary
SB 178	<i>Taxation – Exemption elections.</i> Sen. Newell. Repeals the requirement that adoption of a tax exemption in a county or statutory municipality requires prior approval at an election. Permits the governing bodies of statutory municipalities to adopt local tax exemptions without an election.	H. Local Government
SB 196	<i>Public safety – Classification of meth precursor drugs.</i> Sen. Boyd, Rep. Summers. Removes ephedrine from list of schedule II controlled substances and adds ephedrine, pseudoephedrine, and phenylpropanolamine to the statutory list of schedule III controlled substances. Such drugs then only available by prescription with change in statute. (Kevin Bommer)	S. Health and Human Services
SB 206	<i>Housing – Exemption of non-commercial mortgage-related activities.</i> Sen. Boyd, Rep. Holbert. The bill restores an exemption for certain governmental and quasi-governmental entities from the "Mortgage Loan Originator Licensing and Mortgage Company Registration Act." The exemption was inadvertently removed in 2010 legislation. (Mark Radtke)	S. Health and Human Services
HB 1036	<i>Public Safety – "Blue Alert" for injured peace officers.</i> Rep. Gardner, D., Sen. King, S. Creates the blue alert program within CBI to facilitate the immediate apprehension of persons who kill or seriously injure peace officers by issuance of a "blue alert" in the same manner in which an "amber alert" is issued for missing or apprehended children. (Kevin Bommer)	Signed by Governor*
HB 1043	<i>Medical Marijuana – Clean-up legislation.</i> Rep. Massey, Sen. Steadman. Clarifies several aspects of the Colorado Medical Marijuana Code adopted in 2010 and extends the moratorium on new licenses until July 1, 2012. (Kevin Bommer)	H. 2 nd Reading*

HB 1072	<i>Initiative Reform - Initiative Petition Representatives.</i> Speaker McNulty, Sen. Morse. Initiative filers would have to affirm they are familiar with state law regarding initiative process. Must file an expenditure report regarding petition gathering activity within 10 days of filing petitions. Citizens are given 10-day period to file complaints about petition circulators. (Mark Radtke)	S. Judiciary*
HB 1122	<i>Home Rule – Modification of charter requirements.</i> Rep. Schafer. Extends the time periods for the first meeting of a charter commission, submission of proposed charter, and the maximum period after publication of the notice of an election to approve the proposed home rule charter during which the election must be held. (Geoff Wilson)	Signed by Governor
HB 1123	<i>State Budget – Prohibition on transfers of severance tax, federal mineral lease cash funds.</i> Rep. Coram, Sen. Roberts. Establishes a prohibition on the transfer of local government severance tax, FML, and state severance tax for water projects to backfill the state general fund and against the governor freezing the use of such funds from use for their intended purposes. (Kevin Bommer)	Postponed indefinitely
SCR 001	<i>Initiative Reform –Initiative process and signature requirements.</i> President Shaffer & Sen. Spence. Reps. Murray and Court. Places question on the ballot to raise bar for amending the Colorado constitution. Increases number of votes needed to approve constitutional amendment to 60% of votes cast. Statutory changes would continue to pass with simple majority. Statutory initiatives would require two-thirds vote in the legislature to be changed during first three years. Constitutional amendment initiative petitioners would be required to secure at least five percent of signature totals in each of the state’s congressional districts. (Mark Radtke)	Awaiting Senate concurrence*
SJR 005	<i>Unfunded Mandates – No unfunded mandates resolution.</i> Sen. Roberts, Rep. Gerou. Calls for the federal government to refrain from creating any new unfunded mandates to be passed down to state or local governments; and for the General Assembly to not create new mandates on local governments without providing adequate funding (Kevin Bommer)	S. Consideration of Resolutions

OPPOSE

SB 26	<i>Taxes – Business personal property tax exemption.</i> Sen. Scheffel, Rep. Holbert. Eliminates business personal property tax (BPPT), starting with 25% exemption for newly purchased business personal property in 2013. Exemption on new equipment is increased by 25% every 2 years thereafter. Tax applied to existing equipment continues to depreciate at current schedule. (Mark Radtke)	Postponed indefinitely
SB 54	<i>Immigration – Authority to arrest unlawful aliens.</i> Sen. Lambert, Rep. Balmer. Permits warrantless arrests of suspected aliens in the country illegally, convicted of a crime, or subject to deportation. (Kevin Bommer)	Postponed indefinitely
SB 95	<i>Transportation – FASTER repeal.</i> Sen. Grantham, Rep. Conti. Repeals most of the provisions of SB 10-108, the FASTER legislation. (Mark Radtke)	Postponed indefinitely
SB 98	<i>Taxes – Business personal property tax phase-out.</i> Sen. King, S. Annually exempts a percentage of all business personal property from BPPT. Percentage increases over time until the property is 100% exempt. (Mark Radtke)	Postponed indefinitely
SB 112	<i>Labor – Prohibition on collective bargaining.</i> Sen. Cadman. Prohibits any governmental entity or officer from engaging in collective bargaining or recognizing any designated employee representative for the purpose of collective bargaining. (Kevin Bommer)	Postponed indefinitely
SB 159	<i>Budget – Limited gaming revenue distribution.</i> Sen. Steadman, Rep. Ferrandino. Permanently reduces the amount of funding available for eligible local governments through the Local Government Limited Gaming Impact Fund. (Kevin Bommer)	Before Governor*
SB 162	<i>Budget – Cigarette sales tax shareback.</i> Sen. Hodge, Rep. Ferrandino. Eliminates the rebate of cigarette sales tax to cities and counties that repealed local sales taxes in accordance with a 1973 sales tax simplification agreement. (Geoff Wilson)	Postponed indefinitely

SB 164	<i>Budget – Cash-fund transfers to general fund.</i> Sen. Hodge, Rep. Gerou. Transfers cash funds to the state general fund, including local severance tax and federal mineral lease monies totalling nearly \$85 million. (Kevin Bommer)	Signed by Governor*
HB 1046	<i>Transportation – Planning areas.</i> Rep. Vaad. Eliminates areas outside of metropolitan planning organization (MPO) boundaries from participation in Colorado Department of Transportation (CDOT) regional planning. Local governments' roles in regional transportation planning would be eliminated, and the statewide transportation advisory committee would be eliminated. (Mark Radtke)	Postponed indefinitely
HB 1059	<i>Public Safety – Prohibit on local government accident fees.</i> Rep. Swalm. Prohibits local governments from imposing a fee or seeking reimbursement for costs incurred by first responders in connection with a motor vehicle accident. (Kevin Bommer)	Postponed indefinitely
HB 1063	<i>Public safety – Animal control/welfare.</i> Rep. McKinley. Places significant restrictions animal control agents' powers and gives owners greater ability to avoid financial responsibility for injured or sick animals. Creates fiscal impacts on municipalities but does not apply to animal control officers employed by municipalities and enforcing municipal ordinances. (Kevin Bommer)	Postponed indefinitely
HB 1070	<i>Labor – Prevailing wage.</i> Rep. Soper, Sen. Tochtrop. Requires payment of federal prevailing wage (Davis-Bacon) for public works, which are defined as any public construction project financed in whole or in part with state money. (Kevin Bommer)	Postponed indefinitely
HB 1075	<i>Transportation – FASTER transit funds.</i> Rep. Becker. Redirects the money from FASTER transit grants into the HUTF. While it would increase the monthly HUTF disbursements flowing to cities and towns by less than two percent, the change would damage the coalition working to improve transportation funding for both state and local needs. (Mark Radtke)	Postponed indefinitely
HB 1084	<i>Transportation – FASTER late registration fee.</i> Rep. Baumgardner, Sen. Grantham. Repeals \$25 per month late fee for vehicle registration. Returns late fees to a flat \$10 charge that can be waived at the discretion of county clerks. (Mark Radtke)	Postponed indefinitely
HB 1092	<i>Transportation – Closure of local streets to bicycles.</i> Rep. Kerr, A., Sen. Brophy. This bill prohibits local governments from banning bicycle traffic on streets unless a separate, parallel bicycle path is provided. (Mark Radtke)	Postponed indefinitely
HB 1094	<i>Waste Management – Mandatory waste sorting.</i> Rep. Hullinghorst, Sen. Aguilar. Mandates that municipalities with a population greater than 25,000 residents determine the "quantities" and "categories" of solid waste "and other materials" that originate in the municipality over each 12-month period and annually report information to the state health department. (Geoff Wilson)	Postponed indefinitely
HB 1107	<i>Immigration – Enforcement of illegal immigration violations.</i> Rep. Baumgardner, Sen. Harvey. Mandates several enforcement responsibilities on local law enforcement that are federal responsibilities. (Kevin Bommer)	Postponed indefinitely
HB 1116	<i>Waste Management – Local government waste services.</i> Rep. Szabo. Mandates that local governments receive voter approval before providing, contracting to provide, or requiring residents of a local government to pay fees for waste services. Ballot is required to contain a description of the service to be provided and the cost of the service and must be submitted at an election upon which other matters are being voted. (Geoff Wilson)	Passed House*
HB 1140	<i>Immigration - Illegal alien laws & withholding of local government funds.</i> Rep. Balmer. This bill would withhold local government grants, direct distributions, and state-collected, locally-shared severance tax, federal mineral lease, or cigarette sales tax revenue - respectively - if a local government does not participate in the "Secure Communities" program. (Kevin Bommer)	S. State, Veterans & Military Affairs*

HB 1141	<i>Taxes – Business personal property tax exemption.</i> Rep. Holbert, Sen. Scheffel. This bill exempts business personal property purchased during the calendar years 2012 and 2013 from business personal property tax. The property purchased during those two years would continue to be exempt from tax during the period it is owned by the original purchaser. This would result in a significant reduction in property tax revenue for local governments. (Mark Radtke)	H. 2 nd Reading*
HB 1199	<i>Building permit fees – Solar permit installation fees.</i> Rep. Gardner, B., Sen. Mitchell. Extends prohibition on counties and municipalities from charging permit fees to install solar energy device or system that exceeds \$500 for a residential application or \$1,000 for a nonresidential application, regardless of local costs. Adds new prohibitions and restrictions on charges for plan review and other related fees. (Mark Radtke)	S. Business, Labor & Technology*
HB 1223	<i>Oil & Gas: Oil and Gas Conservation Commission composition.</i> Rep. Scott, Sen. King, S. Increases oil and gas industry representation on the State body that regulates this industry and proposes to eliminate the current local government representative on the Commission. (Geoff Wilson)	H. Agriculture, Livestock, & Natural Resources
HB 1255	<i>Economic Development - Alternative Energy Parks.</i> Rep. DelGrosso, Sen. Schwartz. Allows for creation of “alternative energy parks” by the Office of Economic Development. Parks could be created around an existing alternative energy business. Local property taxes and municipal sales taxes may be included in the tax increment financing that would support improvements in the alternative energy park. Park would be governed by an alternative energy authority board made up primarily of individuals appointed by the Colorado Economic Development Commission. (Mark Radtke)	H. Finance
HB 1263	<i>Taxes - Business personal property tax exemptions.</i> Rep. Priola, Sen. Scheffel. Increases the dollar amount from which businesses are exempt from paying business personal property tax from \$5,500 to \$14,000 of property value. Exempts business personal property assessments above current levels (adjusted upward at a small percentage each year) for state assessed utilities and businesses during the next ten years.	H. Appropriations*
HB 1264	<i>Transportation - ATVs on Streets.</i> Rep. Priola. Allow for licensing off-road vehicles driven on municipal streets. Vehicles would be restricted to roads with a maximum speed limit of 45 miles per hour. Local governments could prohibit off-road vehicles on “paved highways” but not from unpaved roads. (Mark Radtke)	H. Appropriations*

OPPOSE UNLESS AMENDED

HB 1275	<i>Transportation – Diesel engine idling limits.</i> Rep. Priola. Establishes a statewide standard for diesel engine idling rules in in the model traffic code that applies to commercial diesel vehicles. Pre-empts municipal ability to pass more stringent rules. Sets a five-minute per hour idling limit with several exceptions. (Mark Radtke)	H. Appropriations*
----------------	--	--------------------

FORMERLY OPPOSED

SB 45	<i>Utilities – Transmission line siting.</i> Sen. Johnston, Rep. Levy. Establishes a stakeholder process to examine whether and to what extent local land use processes affect siting of high power transmission facilities. (Geoff Wilson)	Legislative Council*
HB 1115	<i>Contracts – Reduce Construction Contract Retainage.</i> Reps. Priola & Soper, Sen. Tochtrop. The bill reduces the maximum amount of retainage that can be held-back from the current initial 10 percent to 5 percent throughout the life of the contract. The bill adds language to the existing statute that sets triggers for the release of retainage at project close out. (Mark Radtke)	S. Appropriations*



CITY OF LOVELAND
FINANCE DEPARTMENT

Civic Center • 500 East Third • Loveland, Colorado 80537
(970) 962-2695 • FAX (970) 962-2900 • TDD (970) 962-2620

AGENDA ITEM: 2 (Study Session)
MEETING DATE: 4/12/2011
TO: City Council
FROM: Renee Wheeler, Finance
PRESENTER: Renee Wheeler

TITLE:
Conceptual review of Financial Sustainability Options

DESCRIPTION:
Conceptual discussion of options generated to date in the Financial Sustainability process to determine whether City Council would be supportive of additional refinement of those options for inclusion in the recommendations to solve the \$3.5 million future year projected gap between revenues and expenditures in the General Fund.

BUDGET IMPACT:

Yes No

Future year budget considerations

SUMMARY:

The process approved by City Council to develop options to close the projected \$3.5 million gap between revenues and expenditures for future year budgets in the General Fund has yielded some options for conceptual discussion. If the City Council is in favor of refinement of those options, additional detail will be provided in a future study session where options for consideration will be presented. The public input process on budget balancing strategies continues through the end of April. The electronic survey is available on the home page of the City's website. The collective public input will be instrumental in considering the viability of recommendations.

The options generated so far include \$2.1 million of both expenditure reductions and revenue enhancements.

\$3.5 million is the average gap between revenues and expenditures annually throughout the 10-Year Financial Master Plan for the General Fund. In 2012 the specific amount is \$3,116,000.

The gap can be addressed through cost reductions, additional revenues, or a combination of both. The direction to date suggests a combination is appropriate. Absent tax revenue enhancements that would require an election, the balance of the gap will have to be generated through cost reductions. There are three basic ways to reduce expenditures:

- Provide existing services cheaper – find a different way to provide services through contracting services.
- Reduce the cost per unit – provide all the same services but the cost to provide them is reduced resulting in employee compensation reductions.
- Cut services provided – eliminate services resulting in layoffs.

The discussion for this meeting is intended to conceptually discuss options generated to date, determine merit for additional refinement of those options and discuss City Council's preference for the strategies.

LIST OF ATTACHMENTS:

Staff memorandum

RECOMMENDED CITY COUNCIL ACTION: Information Only

REVIEWED BY CITY MANAGER:



DATE: April 12, 2011
TO: City Council
FROM: Renee Wheeler, Assistant City Manager/Finance Director
THROUGH: Bill Cahill, City Manager
RE: Financial Sustainability Options Status

Several options have been identified in the Financial Sustainability Process to date that need to be discussed at the conceptual level with City Council for the purpose of determining whether additional research and refinement of the ideas are warranted.

Each of these ideas should be tested for alignment with the set of principles agreed upon at the February 22, 2011 study session.

1. Provide the highest quality of public service which is sustainable on a long-term basis.
2. Set reasonable expectations for delivering quality, customer-centered services in a fair, equitable, efficient and cost-effective manner.
3. Advance services and programs that promote safety, quality of life and business growth.
4. Balance the services to be delivered with the resources available, both in terms of people and money.
5. Promote a fiscally conservative approach to achieve financial sustainability, maintaining flexibility to respond to opportunities and challenges.
6. Maintain the City as an employer of choice, able to attract and retain high-quality employees.

Our challenge is to close the average annual \$3.5 million gap between the projected revenues and expenditures in the financial master plan starting in 2012. The gap in 2012 is projected to be \$3.1 million and if the \$2.1 million of options are reasonable to City Council, \$1 million remains to be identified.

Public input is continuing, but the direction to date from the City Council and the public suggests that it is appropriate to consider a combination of cost reduction and revenue increases. The options generated so far include both expenditure reductions and revenue enhancements.

- \$271,000 – Employee generated operational efficiency options.
- \$228,000 – Employee benefit and administration cost reductions.
- \$259,000 – Changing the strategy for the management of the fleet to eliminate underutilized equipment and “pool” the use of remaining equipment. It would also generate savings through the elimination of future year replacement costs of \$1.5 million.
- \$370,000 – Sale of 118 units eliminated from the fleet.
- \$320,000 – Minor fee increases in several departments.
- \$652,000 – Payment In Lieu of Taxes increase of 1% on utility enterprise funds only.

Employee Savings Options

There were around 165 ideas submitted by employees. Through a variety of sorting tasks conducted by an employee task force, there were thirteen actionable options that are expected to generate \$271,000. These options are related to reducing costs for the way the City currently conducts business. The suggestions are related to limiting take home vehicles, eliminating vehicle allowances, eliminating supplies, budget FICA taxes more specifically to account for pretax elections for medical and dependent care, finding corporate sponsors for public events like 4th of July, charge fees for museum exhibits/shows, and publishing ordinances by title only (which would require an election). In 2006, a ballot measure to change the Charter to allow for publishing ordinances by title was defeated by a margin of 14%, 57% opposed to 43% in favor of the measure.

Employee Compensation and Benefits Review

The City's employee compensation and benefits were compared to market (both public and private) in an attempt to identify any components of the salaries and benefits provided that might be out of alignment. The total savings in this category of options is estimated to be \$228,000 – 261,000.

Principle number 6 above is followed in evaluating employee compensation and benefits. In general, compensation changes are tested against general market trends. In sum, pay reductions are not recommended. However, there are minor areas of benefits which can be adjusted without the City suffering a disadvantage compared to the market.

The benefit review only revealed a couple of benefits that exceeded the market, (1) life insurance and (2) the management of sick leave hours. The City currently offers 2 times the annual salary for life insurance, where the market is reflecting a benefit of 1.5 times the annual salary. If the benefit is decreased to align with the market the difference in the premium would save the City \$23,000. The City's sick leave accumulation and payout policies also differ from the general market and an adjustment may yield savings, particularly when aligned with potential changes in short-term and long-term disability coverage.

Finally the contract for the administration costs associated with the Employee Assistance Program was renegotiated resulting in a reduction of \$11,000. The Employee Assistance Program is a confidential telephone assistance and referral service provided by The Hartford's Guidance Resources/ComPsych. Through this plan, employees have access to a number of health, wellness, legal resources and discounts 24 hours a day.

Fleet Management Strategy

The Vehicle Maintenance staff conducted a study of vehicle utilization to identify the bottom 10% of underutilized vehicles/equipment. Using utilization standards for municipal government fleets from both the National Association of Fleet Administrators and the American Public Works Association 118 vehicles or equipment were identified for elimination from the fleet. The outcome of the study suggests that the City can reduce costs of managing the operations and maintenance costs of the fleet by \$259,000 and the future replacement costs of the fleet by \$1.5 million. The 118 vehicles or equipment identified by the study would be sold for an estimated one time savings of \$370,000 in 2012.

Minor Fee Increases

There are a variety of fee increases that have been submitted for consideration that would generate approximately \$320,000. The risk associated with the estimates is that they would assume that the participation would not be impacted by the fee increases. The following is a brief listing of those that are being considered.

- \$37,000 - Minor fees for services provided in Parks and Recreation (non-resident fees, changes to Senior Center fees and low income subsidies), Culture (Museum donation solicitation and Rialto rental fee increase), and facilities rental increase (for Pulliam, Library Gertrude Scott Room, Civic Center Plaza)
- \$30,000 - Public Works Rights of Way Permit and Inspection fee increases.
- \$10,000 and more – Development Services application fee increases phased in over a few years being sensitive to the balance between better cost recovery for services provided and the impact on development and building activity. Planning currently recovers about 8% of its costs from the user fees. Direction from the public input to date indicates that this should be significantly higher.
- \$169,000 – Increase cost recovery for the street maintenance fee charged monthly on the utility bills from 50% to 60%
- \$12,000 – Municipal violation ticket surcharge increase from \$10 to \$25
- \$62,000 – A new \$20 fee on sales tax license renewals. Most cities are already charging a renewal fee annually.

Payment in Lieu of Taxes (PILT)

All Enterprise Funds currently pay the General Fund a 6% PILT on gross revenues (with some consideration with specific revenue line item exclusions) in all but the Golf Enterprise Fund, which pays 3% of gross revenues. The recommendation is to increase the PILT by 1% to 7% in all utility enterprise funds, excluding Golf.

While this payment to the General Fund has been called a PILT, City Charter Section 13-2(c) provides that the City's utilities can be required by the Council to pay the General Fund "a reasonable return on the City's investment in utility properties and capital investments" and the equivalent of what the City would obtain "from a franchise fee or utility occupation tax" imposed on its utilities. Therefore, the use of the term PILT to describe the current 6% charge to the utilities more accurately should be called a franchise fee.

Charging an additional 1% to the Enterprise Funds, except the Golf Enterprise Fund, provides the City a reasonable return of its investment. *It is imperative to understand that even a 1% increase will likely be passed through directly to utility enterprise fund customers over future years.* It is possible that even with a rate increase, the revenue would be equitably generated by the community in a manner that may be more acceptable than a mill levy increase. Nearly all funds are considering a 2012 rate increase for various business reasons, (i.e., wholesale power rate increases), so it is likely that most funds will still see a 2012 rate increase. Collecting this return on investments from the utilities in addition to the current PILT or franchise fee would make Loveland the highest in the neighboring communities with the exception of the 8% PILT that Longmont charges its electric utility.

While the recommendation is to increase the fee by 1%, increasing the rate by 2% would generate \$1,303,239. The increase would need to be considered at the household impact level. If the average residential bill is \$47, then a 1% increase monthly would be 47 cents a month and a 2% increase would be 94 cents a month.

The Balance to Target

If these options are approved, there is still a \$1 million balance remaining to achieve the targeted \$3.5 million.

Because salaries and benefits are 73% of the General Fund operating budget and 66% of the total General Fund budget including transfers and capital, the \$1 million balance will impact personnel costs in some way. There are basically three ways to address the balance absent of tax revenue enhancements that would require an election.

- Provide existing services cheaper – find a different way to provide services through contracting services.
- Reduce the cost per unit – provide all the same services but reduce the cost to provide them resulting in employee compensation reductions.
- Cut services provided – eliminate services resulting in layoffs.

Staff requests discussion and direction on these approaches and will return to City Council at the next study session on Financial Sustainability with refinement and additional items to close the remaining gap.