

AGENDA
Regular Meeting
March 6, 2012 - 7:30 p.m.

City Council meeting packets are prepared several days prior to the meetings. This information is reviewed and studied by the Councilmembers, eliminating lengthy discussions to gain basic understanding. Timely action and short discussion on agenda items does not reflect lack of thought or analysis. An informational packet is available for public inspection which is posted immediately on the bulletin board adjacent to the Council Chambers, which can be accessed Monday through Friday 8:00 a.m. to 5:00 p.m. excluding holidays.

1. CALL TO ORDER
2. PLEDGE
3. ROLL CALL:
 - Mayor: Lyle Achziger
 - Mayor Pro-Tem: John Morris
 - Council: Laura Brown
 - Fred Burmont
 - April Neibauer
 - Jay Schaffer
 - Matthew Wells
4. PROCLAMATION:
Americanism Day – March 18, 2012
5. AUDIENCE PARTICIPATION (public comment on items not on agenda):
The City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address City Council. Your comments will be limited to two (2) minutes. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the appropriate staff person for follow-up. Thank you!
6. APPROVAL OF AGENDA
7. CONSENT AGENDA:
The Consent Agenda contains items that can be decided without discussion. Any Councilmember may request removal of any item they do not want to consider without discussion or wish to vote no on, without jeopardizing the approval of other items on the consent agenda. Items removed will be placed under New Business in the order they appear on the agenda (this should be done prior to the motion to approve the agenda).
 - A. Approval of Minutes of the Regular Meeting of February 21, 2012
 - B. Approving Contract for Legal Services
 - C. Ordinance No. 535-12 - Addressing the reduction of the City's mill levy by ten (10) mills conditioned on the voter approval of a ten (10) mill increase for the Evans Fire Protection District (2nd Rd)
 - D. Resolution No. 09-2012 – 2012 Ditch Rates
 - E. Ordinance No. 536-12 - Watering Conservation Measures (1st Rd)
8. NEW BUSINESS:
 - A. Continued Public Hearing – Resolution No. 08-2012 - Variance to allow carports with solar panels – 3202 11th Avenue The Grove) - TABLED
 - B. Preliminary Budget Revision – Evans Swimming Pool
 - C. Award of Bid – 2012 Evans WWTP Biosolids Removal
 - D. Award of Bid – 11th Avenue Water Line Replacement Project
9. REPORTS
 - A. City Manager
 - B. City Attorney
10. AUDIENCE PARTICIPATION (general comments):
Please review the Audience Participation section listed at the beginning of the agenda for procedures on addressing City Council.
11. ADJOURNMENT

February 2012 - January 2013

Yearly Planner

Feb 2012						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29			

March

6 5:00 PM Ground Breaking Ceremony - Union Colony School site

6:00 PM Worksession/City Council

14 5:30 PM Candidate Forum - City Complex

15 5:00 PM Evans Chamber BAH - John Elway Dealers-2501 35th Avenue

20 6:00 PM Worksession/City Council

April

3 City Municipal Election

6:00 PM Worksession/City Council

9 6:30 PM Newly Elected and Current Council Orientation Session

17 6:00 PM Worksession/City Council

May

1 6:00 PM Worksession/City Council

15 6:00 PM Worksession/City Council

June

19 CML Conference - Breckenridge

20 CML Conference - Breckenridge

21 CML Conference - Breckenridge

22 CML Conference - Breckenridge

Aug 2012						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

Mar 2012						
S	M	T	W	T	F	S
			1	2	3	
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

Sep 2012						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

Apr 2012						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

Oct 2012						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

May 2012						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

Nov 2012						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	

Jun 2012						
S	M	T	W	T	F	S
				1	2	
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Dec 2012						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

Jul 2012						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

Jan 2013						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

PROCLAMATION

PROCLAIMING MARCH 18, 2012 AS "AMERICANISM DAY" IN THE CITY OF EVANS, COLORADO

WHEREAS, in this time and throughout our history, the American Republic has found strength in its citizens' loyalty to the great national principles and ideals upon which this country was founded; and

WHEREAS, everyday Americans at home and abroad bear witness to their national allegiance by extending deep devotion and sacrifice, some even at the cost of their lives; and

WHEREAS, the continuing threat of terrorism on this great Nation has only helped to unite and strengthen America, making Americans more determined, more generous, and proud to meet the challenges we face in defending our freedom; and

WHEREAS, all loyal citizens should stand up and be proud that we are Americans and should make it clearly known to all that our democracy will long endure; and

WHEREAS, it is fitting that we set aside one day in the year when every citizen may pause to reflect on his debt to the devotion of other Americans, and to bear witness in every appropriate way to his own Americanism.

NOW THEREFORE, I, Lyle Achziger, Mayor of the City of Evans do hereby proclaim March 18, 2012 as Americanism Day in the City of Evans.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Evans this 6th day of March, 2012.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

By _____
Mayor

COUNCIL COMMUNICATION

DATE: March 6, 2012
AGENDA NO.: 7.A
SUBJECT: Approval of Minutes
PRESENTED BY: City Clerk Staff

AGENDA ITEM DESCRIPTION:

Approval of minutes.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

N/A

SUGGESTED MOTIONS:

"I move to approve the minutes as presented."

MINUTES
EVANS CITY COUNCIL
Regular Meeting
February 21, 2012 - 7:30 P.M.

CALL TO ORDER

Mayor Achziger called the meeting to order at 7:34 p.m.

PLEDGE

ROLL CALL:

Present: Mayor Achziger, Mayor Pro Tem Morris, Councilmembers Brown, Burmont, Neibauer, Schaffer and Wells

PROCLAMATION:

Mayor Achziger proclaimed February 19-25, 2012 as National Engineers Week.

AUDIENCE PARTICIPATION:

There was no audience participation.

APPROVAL OF AGENDA:

Mayor Pro Tem Morris made motion, seconded by Councilmember Schaffer to approve the agenda as presented. Motion passed with all voting in favor thereof.

CONSENT AGENDA:

- A. Approval of Minutes of the Regular Meeting of February 7, 2012
- B. Acceptance of Resignation of David James from the Zoning Board of Appeals
- C. Ordinance No. 533-12 – Approval of Final Plat– Strohs 3rd Addition – 11th Ave. and 29th St. (2nd Rd)
- D. Ordinance No. 534-12 - Adoption of 2012 Official Zoning Maps (2nd Rd)
- E. City Manager's Amended Employment Agreement

Councilmember Wells made motion, seconded by Councilmember Brown to approve the Consent Agenda as presented. Motion passed with all voting in favor thereof.

UNRESOLVED BUSINESS:

- A. Resolution No. 06-2012 – Establishing a policy for Bulk Water Sales and Amending Resolution No. 07-2012 – Establishing fee for the purchase of Bulk Water Sales

Earl Smith, Director of Public Works explained the following:

At the February 7, 2012 City Council meeting, a revision to the City's bulk water sales policy was considered. The primary driving force behind the discussions were concerns over the sale and use of water to companies supplying water to the oil and gas exploration industry.

At the meeting it was concluded that the City should offer bulk water sales to the oil and gas industry for hydraulic fracking operations providing the water is used within the City's water

service area. The draft policy has been revised to reflect this direction. Staff also updated the water rate resolution to reflect the new policy wherein the bulk water sales rate charged to the oil and gas industry for hydraulic fracturing operations includes a system development surcharge (as highlighted in yellow). The system development surcharge collects the rate necessary to ensure any water sold for hydraulic fracturing operations covers our potential costs for exceeding our usage cap under the treated water service agreement with the City of Greeley.

To recap, Staff analyzes the impact of any bulk water sales on the system development charge for usage above the City's volumetric base of 2,600-acre feet. For 2012, the City's system development charge that would be paid to Greeley would be \$15,437/AF for any water usage above the City's cap figure. This translates to a cost of \$47.37/1000 gallons. The City would net \$5.37/1000 gallons (\$8.17/1000 g - \$2.80/1000 g) on bulk water sales. This would calculate into a \$42.00/1000 gallon loss if the City did not charge an adequate fee. The proposed water rate resolution charges \$47.37/1000 gallons for bulk water sold for the purposes of hydraulic fracturing.

Councilmember Burmont stated that he does not believe that allowing water sales to the oil and gas industry is consistent with current water restrictions.

Mr. Smith explained that this policy was drafted per City Council's direction and that the price per thousand gallons far exceeds standard rates. It's at the discretion of the applicant to choose to pay those fees. Furthermore, it would not impact the fees paid to Greeley as the City can discontinue the permitting process at any time if the usage cap figure is exceeded.

Councilmember Morris made motion, seconded by Councilmember Wells to approve Resolution No. 07-2012. Motion passed 6-1. Ayes: Mayor Achziger, Mayor Pro Tem Morris, Councilmembers Brown, Neibauer, Schaffer and Wells. Nay: Councilmember Burmont.

NEW BUSINESS:

- A. Public Hearing – Resolution No. 08-2012 - Variance to allow carports with solar panels – 3202 11th Avenue (The Grove) – continued to March 6, 2012

Mayor Achziger opened the Public Hearing.

Councilmember Schaffer made motion, seconded by Councilmember Brown to continue the Public Hearing to March 6, 2012 at 7:30 pm. Motion passed with all voting in favor thereof.

- B. Appointment of John Clark & Michael Buck and Re-appointment of Ron Thaden to the Zoning Board of Appeals

Mayor Achziger reported the following:

Mr. Clark is a resident of Evans and is interested in serving on the Zoning Board of Appeals. This will be his first appointment and in order to stagger the terms of the Zoning Board of Appeals, staff is recommending that his term expire in July of 2017.

Mr. Buck is also a resident of Evans and is interested in serving on the Zoning Board of Appeals. This will be his first appointment and in order to stagger the terms of the Zoning Board of Appeals, staff is recommending that his term expire in July of 2015.

Mr. Thaden was first appointed to the Zoning Board of Appeals on December 20, 2005, and then re-appointed for a second five-year term on January 16, 2007. If re-appointed now, Mr. Thaden's term would run through January of 2017.

Mayor Pro Tem Morris made motion, seconded by Councilmember Schaffer to appoint John Clark, Michael Buck and re-appoint Ron Thaden to the Zoning Board of Appeals. Motion passed with all voting in favor thereof.

C. Award of Professional Services for the Evans Ditch Pedestrian/Bicycle Trail Design and Right-of-Way Acquisition

Cameron Parrott, City Engineer, reported the following:

The City's 2012 budget includes funding for the design and right-of-way acquisition of a new trail along the Evans Ditch between 49th and 36th Streets. This new section of trail will connect two existing trail sections. The total corridor length is approximately 2.4 miles.

Staff mailed the request for proposals to a number of design firms and advertised the request. The City received proposals from 5 design firms. The proposal scoring was done by a team of 5 members. Several proposal factors were scored on a scale of 1-5, with 1 being poor and 5 being excellent. This group scored the proposals based on the following 5 weighted factors (weighting in parenthesis): Scope (3), Assigned Personnel (2), Availability (1), Motivation (1), and Firm Capability (2).

The firms that submitted proposals and their overall proposal scores were:

<u>Consultant</u>	<u>Overall Proposal Scores</u>
Martin/Martin, Inc.	183.5
Landmark Engineering, LTD	170.0
AECOM	156.5
Drexel, Barrell & Co.	155.0
Alta Planning + Design	143.0

After the proposal scoring process was completed, it was decided that an interview session would be beneficial to help determine a recommended service provider. The top 2 firms from the proposal scoring process were selected for interviews. The interviews were conducted on January 20th, 2012. The interviews were scored using the same criteria and weighting factors as the proposals.

The firms that were interviewed and their overall interview scores were:

<u>Consultant</u>	<u>Overall Interview Scores</u>
Landmark Engineering, LTD	119.0
Martin/Martin, Inc.	104.5

This project is funded through a Federal grant from the Transportation Enhancement fund. The grant covers 80% of the contract cost (\$134,400) and the City is responsible for the 20% Local match (\$33,600). This is a reimbursement contract with the State, so the Capital Streets Fund budget for 2012 includes \$168,000 for this project. Since this was Federally Funded project, the City had to perform the consultant selection process as a qualification based selection. Once the consultant was chosen, the City then negotiated the scope and fee. The City then negotiated a final scope of work and a “not to exceed” fee with Landmark Engineering, LTD., which is \$167,970.

Based upon the proposal and interview scoring groups’ reviews, it is recommended that City Council award the professional services agreement for the Evans Ditch Pedestrian/Bicycle Trail - Design and Right-of-Way Acquisition project to Landmark Engineering, LTD.

Councilmember Brown made motion, seconded by Mayor Pro Tem Morris to approve the Award of Professional Services for the Evans Ditch Pedestrian/Bicycle Trail Design and Right-of-Way Acquisition to Landmark Engineering, LTD. Motion passed with all voting in favor thereof.

- D. Ordinance No. 535-12 - Addressing the reduction of the City’s mill levy by ten (10) mills conditioned on the voter approval of a ten (10) mill increase for the Evans Fire Protection District (1st Rd)

Russ Anson, City Attorney, reported the following:

The Evans Fire Protection District is beginning preparations for their May 2012. Under the Service Plan, they are anticipating to place the issue of the property tax transfer on the ballot which would effectively increase the mill levy for the Fire District by ten mills which in accordance with the Service Plan and Intergovernmental Agreement with the City, will effectively cause the City to reduce its mill levy by ten mills.

Section V(b)(2) of the Fire District Service Plan provides specifically:

“As soon as practicable after the Fire District is organized, the Fire District and City will accomplish a “property tax transfer” from the City to the Fire District, whereby the City will decrease its property tax by 10 mills and the Fire District will increase its property tax by 10 mills. The ‘property tax transfer’ will result in a zero net tax increase to the citizens and property owners of the City and Fire District. The first step in accomplishing the property tax transfer will be for the City Council to adopt an ordinance that reduces its property tax by 10 mills to be effective immediately upon approval of the Fire District’s voters to increase the Fire District’s property tax by 10 mills. At the next election period following the City’s adoption of the property tax reduction ordinance, as permitted by state law, the Fire District shall seek voter

approval for a property tax increase of 10 mills. It is anticipated that the Fire District property tax increase election will be held in May 2012.”

One of the steps in transferring the responsibilities for operating the Fire Department from the City to the Evans Fire Protection District is to allow the Fire District to collect sufficient monies to provide operation funds for the District. The transfer of the mill levy of ten mills to the Fire District with the corresponding reduction of ten mills in the City’s Fire District will accomplish this purpose without an increase in the mill levy for City residents.

Councilmember Schaffer made motion, seconded by Councilmember Wells to approve Ordinance No. 535-12 on first reading. Motion passed with all voting in favor thereof.

REPORTS:

The City Manager had nothing new to report.

The City Attorney had nothing new to report.

AUDIENCE PARTICIPATION:

There was no audience participation.

ADJOURNMENT TO EXECUTIVE SESSION:

Mayor Pro Tem Morris made motion, seconded by Councilmember Schaffer to adjourn to Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to CRS 24-6-402(4)(e). Motion passed with all voting in favor thereof.

City Council adjourned into Executive Session at 8:29 p.m.

City Council came out of Executive Session at 10:52 p.m.

ADJOURNMENT:

Mayor Achziger adjourned the meeting at 10:55 p.m.

Shannon Metcalf,
Customer Service Unit Manager

COUNCIL COMMUNICATION

DATE: March 6, 2012
AGENDA NO.: 7.B
SUBJECT: Approving Contract for Legal Services
PRESENTED BY: Aden Hogan, Jr., City Manager

AGENDA ITEM DESCRIPTION:

Per City Council's direction, staff is submitting to Council a Contract for Legal Services with Russell Anson. This contract outlines the duties and responsibilities of the City Attorney as well as compensation.

FINANCIAL SUMMARY:

\$145/hour for legal fees for routine matters
\$185/hour for litigation and developer applications, approvals, hearings and relation issues

RECOMMENDATION:

Approve legal services contract

SUGGESTED MOTIONS:

"I move to approve the Contract for Legal Services with Russell Anson."

"I move to deny approval of the Contract for Legal Services with Russell Anson."

CONTRACT FOR LEGAL SERVICES

THIS CONTRACT FOR LEGAL SERVICES is made effective _____, 20__ , by and between R. Russell Anson (hereinafter called "Attorney"), and the City of Evans, Colorado (hereinafter called the "City").

RECITALS:

1. The City is desirous of contracting for its legal services.
2. R. Russell Anson is authorized to practice law in the State of Colorado and has represented the City as its City Attorney for 25 years.

AGREEMENT

1. Attorney shall furnish all legal services required by the City except, however, said Attorney will be responsible for legal liaison and coordinating duties with respect to legal specialists as authorized or required by the City. Attorney agrees to provide services in accordance with the attached letter of representation labeled "Exhibit A."

2. Attorney will supply secretarial and other support staff services necessary to render the services the City requires by this Contract.

3. Attorney will supply office furniture, law books, fixtures, and telephone service necessary to render the services to the City required by this Contract. Law books and/or other items purchased or furnished for Attorney's use by the City will remain the property of the City at the end of Attorney's tenure as Attorney to the City.

4. Attorney shall maintain professional liability insurance in an amount no less than one million dollars (\$1,000,000.00).

5. Attorney is acting as an independent contractor, therefore, the City will not be responsible for F.I.C.A. taxes, health or life insurance, or vacation or sick time. The position contracted for herein shall not be a full-time position.

6. Attorney agrees to:

- a. As directed, attend meetings of the City Council and other boards and commissions of the City.
- b. As directed, attend meetings and conferences with City staff and officers.
- c. Perform all duties required by the rules and regulations of the City and by state and federal law.

- d. Provide timely attention to and advice with regard to compliance with all applicable law.
- e. As directed, represent the City in its dealings with others.
- f. As directed, represent the City in litigation in which it may be involved.

7. The City shall pay for the services provided by payment rate of \$145.00 per hour for legal fees for routine matters and \$185.00 per hour for litigation and developer applications, approvals, hearings and relation issues, payable monthly following submission of itemized statements to the City, which figures shall be subject to review by the City each year upon the anniversary of this Contract.

8. The City will pay, in addition to payment of legal fees, all filing fees, bonds, witness fees, deposition costs, long distance telephone charges, reproduction costs, computer research, as well as other costs and expenses incurred by Attorney on behalf of the City, as more specifically stated on Exhibit "A".

9. This Contract may be terminated by either party upon thirty (30) days written notice.

10. This Contract shall become effective upon execution for an indefinite term at the pleasure of the City.

IN WITNESS WHEREOF, the parties hereto have set their hands the day and year first above written.

CITY OF EVANS

By: _____

ATTEST:

R. RUSSELL ANSON

By:  _____

**R. RUSSELL ANSON
ATTORNEY AT LAW**

Eaton Town Attorney
Evans City Attorney
Johnstown Town Attorney

P. O. Box 336155 · Greeley, CO 80633 · (970) 353-5508 · FAX: (970) 356-3835 · E-mail: ansonofc@aol.com

February 1, 2012

Mayor and City Council Members
City of Evans
1100 37th Street
Evans, CO 80620

RE: Legal Representation of the City of Evans

Dear Mayor Achziger and City Council Members:

You have asked that I continue to represent the City of Evans as City Attorney. This letter will summarize the terms and conditions upon which I will provide representation to the City.

SCOPE OF SERVICES

I agree to represent you as City Attorney. In that regard, I will represent you and provide such reasonable legal services as are necessary in day-to-day matters including attending City Council meetings and responding to staff requests, and litigation including pre-trial, trial, and post-trial proceedings up to the rendition of judgment. At those times when I am on vacation or otherwise absent from my office for extended periods of time, I will provide the City Manager with a telephone number, a fax number, or an e-mail address at which I will be available to the City during my absence. Should, however, I be unavailable during such absence from the office by any of the foregoing means of communication, I will arrange for a backup attorney to respond to inquiries by the City Manager or other City staff members. Such arrangement will be coordinated with the City Manager.

ATTORNEY FEES

My objective is to handle your work in a cost effective manner, consistent with my commitment to provide you with high quality legal services. My charges for the services to be rendered are based upon the amount of time expended. Given that, I will seek payment for attorney fees in

accordance with my current billing rate which currently is \$145.00 per hour (including transportation time, but at one-half the normal hourly rate) for routine matters and \$185.00 per hour for litigation and developer applications, approvals, hearings, related issues, and for developer litigation. All billing for representation will be to the City of Evans, and payments of all invoices will be made from the City of Evans. Any change to my hourly rate shall be subject to the approval by the City Council.

COSTS AND EXPENSES

In addition to hourly fees, I shall seek reimbursement for costs and expenses, such as fees fixed by law or assessed by courts, court reporters' fees, process server's fees, messenger fees, delivery charges, postage, parking, photocopying and other reproduction costs, FAX transmission costs, and other similar items, as well as transportation, meals, lodging, and other reasonable costs of any necessary out-of-town travel. Unless otherwise specified, the costs and expenses will be billed as follows:

Large Volume Photocopying and Fax Transmission: 15¢ per page or at cost

Other Costs and Expenses: Actual cost

BILLING

I will bill on a monthly basis for all services and disbursements. My monthly statement will itemize all expenses incurred on your behalf. I bill out time in increments of one-tenth of an hour.

I expect payment within forty-five (45) days after the statement is mailed. I reserve the right to charge interest at the rate of 1½ percent per month on any portion of my fees and costs that are not paid within forty-five (45) days.

If you have any questions regarding any of my bills or any of the work I do on your behalf, please raise them with me immediately so that they can be resolved without delay.

EXPERTS, CONSULTANTS, AND INVESTIGATORS

In the event it becomes necessary to hire expert witnesses, consultants, investigators, or an outside attorney for assistance, I will not hire such persons without your consent and only if you agree to pay their fees and charges.

CLIENT'S DUTIES

I anticipate that you will cooperate with me, keep me promptly informed of any relevant developments in this matter, faithfully comply with this agreement, and keep me advised of your address and telephone number and any changes of such address or telephone number.

RESOLUTION OR SETTLEMENT

No resolution or settlement of any nature shall be made as to any matter for which I represent you without your specific approval.

CONFLICTS OF INTEREST

You recognize that I am not in a position to represent conflicting interests of different clients. Upon accepting any new client or new matter, I attempt to determine whether the engagement would present a conflict with any other matter pending of any other client. Because I am performing work for a number of clients, conflicts between the interests of various clients may be discovered after the engagement is undertaken or may develop during the course of the representation. Upon discovery of any such conflict, I will promptly inform you and will endeavor to work with you toward a resolution that is acceptable. If, however, the conflict can only be resolved by my withdrawing as your counsel, my obligation to you shall be limited solely to working with you to find an acceptable replacement.

OWNERSHIP OF FILES AND RECORDS

Except with regard to original records or files which I accept upon the understanding that they belong to you, all files, copies of documents, correspondence or other materials that I accumulate in connection with your representation shall be my property. Upon the termination of my representation, I will return any property belonging to you upon your request provided that all fees and expenses have been paid. I shall require from you written authorization to transfer any property belonging to you to a third party. Copies of any files and other materials accumulated during my representation will be made available to you at your expense. I will retain files for a period of not less than seven (7) years and may, thereafter, destroy the files upon not less than thirty (30) days written notice of such intended destruction delivered to the City Manager. After destruction, the files will no longer be available.

TERMINATION AND WITHDRAWAL

You may request that I withdraw from any matter and case representing the City of Evans at any time. I may withdraw from representing you with your consent or without your consent for good

Mayor and City Council Members

Page 4

February 1, 2012

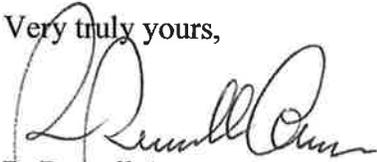
cause, such as failure to comply with your duties as provided above, failure to follow my advice on any matter material to your case, or if circumstances arise that would render my continuing representation unlawful or unethical. On the termination of our services, whether or not it is terminated by you or by me, all unpaid charges shall immediately become due and payable.

DISCLAIMER OF GUARANTEE

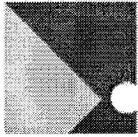
I will use my best efforts in representing you but make no promises or guarantees regarding the outcome of any subject matter for which I am representing you. My comments regarding the outcome of any matter are mere expressions of opinion. I also do not guarantee any time frame within which the subject matter for which I am representing you will be resolved.

Please promptly advise me if any of the foregoing terms and conditions are not agreeable to you. Again, I would like to emphasize that I am looking forward to a mutually rewarding relationship with you. Please feel free to call me if you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. Russell Anson". The signature is fluid and cursive, with a large initial "R" and a long, sweeping underline.

R. Russell Anson



Professionals Direct
INSURANCE COMPANY

(An insurance company, herein called the Company)

**ProDirect Select®
DECLARATIONS**

Lawyers Professional
Liability Insurance Policy

**THIS IS A CLAIMS-MADE
POLICY. PLEASE READ THE
POLICY CAREFULLY.**

Issue Date: September 26, 2011

Policy Number: 11CO10236600600-LPL

Change Description: Policy Renewal

2. Policy Period:

Effective Date: December 1, 2011

Expiration Date: December 1, 2012

Firm Retroactive Date: FPA

Endorsement Effective Date:

12:01 A.M. Standard Time at the address of the Named Insured as stated herein.

1. Named Insured and Address:

R. Russell Anson, Attorney At Law
2569 53rd Avenue
Greeley, CO 80631

4. Limit of Liability:

\$1,000,000 Each Claim
\$2,000,000 Aggregate

3. Producer Name: Duane Crone
Mainstreet Financial Services, Inc.
150 Nickerson Street Suite 201
Seattle WA 98109

Schedule of Lawyer(s)

<u>Lawyer</u>	<u>Retroactive Date</u>
R Russell Anson	FPA

5. Deductible:

\$5,000 Per Claim

Annual Premium: \$1,804.00

Revised Annual Premium:

Additional/Return Premium:

Taxes/State fees: \$0

THIS IS NOT A BILL

Forms Attached at Issue:

S-LPL-J200 (04/09) S-LPL-CO (04-09) S-LPL-E210 (01-09)

Forms attached by endorsement:

By acceptance of this policy the Insured agrees that the statements in this Declaration and the Application on file with the Company and any attachments hereto are the Insured's agreements and representations, and that this policy embodies all agreements existing between the Insured and the Company or any of its representatives relating to this insurance.

Countersigned at:
Grand Rapids, MI

Authorized Representatives:

Charles F. Cronin, Secretary

Countersign Date: September 26, 2011

COUNCIL COMMUNICATION

DATE: March 6, 2012

AGENDA NO.: 7.C

SUBJECT: Ordinance No. 535-12 - Addressing the reduction of the city's mill levy by ten (10) mills conditioned on the voter approval of a ten (10) mill increase for the Evans Fire Protection District (2nd Rd)

PRESENTED BY: Russ Anson, City Attorney

AGENDA ITEM DESCRIPTION:

The Evans Fire Protection District is beginning preparations for the May 2012 election to be held on May 8th, and under the Service Plan approved by the City Council, they are anticipating to place the issue of the property tax transfer in that election which would effectively increase the mill levy for the Fire District by ten mills which, in accordance with the Service Plan and Intergovernmental Agreement with the City, will effectively cause the City to reduce its mill levy by ten mills. The Fire District is required to certify its ballot content by March 9; therefore, this Ordinance will need final adoption prior to that date.

Section V(b)(2) of the Fire District Service Plan provides specifically:

“As soon as practicable after the Fire District is organized, the Fire District and City will accomplish a “property tax transfer” from the City to the Fire District, whereby the City will decrease its property tax by 10 mills and the Fire District will increase its property tax by 10 mills. The ‘property tax transfer’ will result in a zero net tax increase to the citizens and property owners of the City and Fire District. The first step in accomplishing the property tax transfer will be for the City Council to adopt an ordinance that reduces its property tax by 10 mills to be effective immediately upon approval of the Fire District’s voters to increase the Fire District’s property tax by 10 mills. At the next election period following the City’s adoption of the property tax reduction ordinance, as permitted by state law, the Fire District shall seek voter approval for a property tax increase of 10 mills. It is anticipated that the Fire District property tax increase election will be held in May 2012.”

FINANCIAL SUMMARY:

One of the steps in transferring the responsibilities for operating the Fire Department from the City to the Evans Fire Protection District is to allow the Fire District to collect sufficient monies to provide operation funds for the District. The transfer of the mill levy of ten mills to the Fire District with the corresponding reduction of ten mills in the City’s Fire District will accomplish this purpose without an increase in the mill levy for City residents.

RECOMMENDATION:

Staff recommends approval of Ordinance No. 535-12 to further the City's commitment to support fire protection services through the Evans Fire Protection District.

SUGGESTED MOTIONS:

"I move to approve Ordinance No. 535-12 on second reading."

"I move to deny approval of Ordinance No. 535-12 on second reading."

CITY OF EVANS, COLORADO

ORDINANCE NO. 535-12
(SECOND READING)

ADDRESSING THE REDUCTION OF THE CITY'S MILL LEVY BY TEN
(10) MILLS CONDITIONED ON THE VOTER APPROVAL OF A TEN (10)
MILL INCREASE FOR THE EVANS FIRE PROTECTION DISTRICT

WHEREAS, the Evans Fire Protection District has been officially organized and approved pursuant to an election of the people of the City of Evans and Court Order of the Weld District Court dated November 4, 2011; and

WHEREAS, the Service Plan of the Evans Fire Protection District provides, at Section V(b)(2), that:

“As soon as practicable after the Fire District is organized, the Fire District and City will accomplish a ‘property tax transfer’ from the City to the Fire District, whereby the City will decrease its property tax by ten mills, and the Fire District will increase its property tax by ten mills.”

WHEREAS, pursuant to the Intergovernmental Agreement for transfer of emergency services, at Section 4(a), it is anticipated that once the funding process provided by Section V(2)(b) of the Service Plan has been successfully accomplished, and the Fire District has received sufficient ad valorem revenues and other funds to be financially capable of providing appropriate emergency services directly to the citizens of the City of Evans and property within its jurisdiction, the Fire District employees and volunteers, as well as the fire stations and firefighting equipment and apparatus, shall be transferred to the Fire District, and the City will be able to reduce its financial support of the Fire District; and

WHEREAS, the aforementioned “property tax transfer” will result in a zero net tax increase to the citizens and property owners of the City and the Fire District; and

WHEREAS, the City Council of the City of Evans believes that such steps will further its objective to better serve the health, safety, and welfare of the City's citizens.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO, THAT:

Section 1. The City of Evans mill levy of 13.536 mills shall be reduced by ten (10) mills, conditioned on the Fire District's voters approving an increase in the Fire District's mill levy by ten (10) mills. The decrease in the City's mill levy shall be effective beginning in the levy year in which the Fire District's voters approve its mill levy increase, for reduction in City tax collections beginning in the year immediately following the year in which the Fire District's voters approve its mill levy increase.

Section 2. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 21st day of February, 2012.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 6th day of March, 2012.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

CITY COUNCIL COMMUNICATION

DATE: March 6, 2012

AGENDA NO.: 7.D

SUBJECT: Resolution No. 09-2012 – Evans Ditch Rates

PRESENTED BY: Earl H. Smith, P.E., Director of Public Works/Planning

AGENDA ITEM DESCRIPTION:

To provide, or assist in providing the financing required to operate and maintain the Evans Supply Ditch, fees are established annually. The fees are established in a Resolution by City Council before the irrigation season begins each year.

Attached is a copy of a new resolution for 2012 that will establish the normal ditch rates. All rates are set at a level to reflect a cost of living adjustment of 1.87 percent which is similar to other fees established for this year.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

It is recommended that ditch fees established for 2012 to reflect a 1.87% increase to those set in 2011. As a reminder, the reason for lower non-potable water rates is to promote the use of the Evans Ditch and other non-potable supplies as a supplemental water supply, providing relief from the demands placed upon our potable water supplies.

SUGGESTED MOTIONS:

“I move to adopt Resolution No. 12-2012.”

“I move to deny adoption of Resolution No. 12-2012.”

CITY OF EVANS, COLORADO

RESOLUTION NO. 09-2012

RESOLUTION ESTABLISHING USER RATES FOR THE EVANS SUPPLY DITCH FOR 2012

WHEREAS, the City of Evans, Colorado owns and operates the Evans Supply Ditch; and

WHEREAS, the City Council of the City of Evans, Colorado, has the authority to establish rules and regulations for the use of the Evans Supply Ditch; and

WHEREAS, Ordinance No. 274 of the City of Evans, Colorado, provides that the City Council establish irrigation rates of the Evans Supply Ditch for the ensuing irrigation season; and

WHEREAS, the Water and Sewer Board has reviewed the cost of operation, repairs, replacements, capital improvements, and future expansion of the Evans Ditch system; and

WHEREAS, the Water and Sewer Board finds it necessary to establish water rates for the Evans Ditch system to cover the cost of operations and necessary capital improvements; and

WHEREAS, the Water and Sewer Board of the City of Evans has recommended it would be in the best interest of the City to establish Evans Ditch rates; and

WHEREAS, the City Council of the City of Evans, is in agreement with the recommendation of the Water and Sewer Board.

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

Section 1. In order to provide, or assist in providing, the funding required for operating and maintaining the Evans Supply Ditch during 2012, irrigation fees are hereby established and made payable by persons desiring to use irrigation water from the Evans Supply Ditch. The irrigation fees shall be in the following amounts:

- A. Each yard or lot with up to a maximum of one acre \$78.69
- B. For areas in excess of one acre:
 - First acre \$78.69
 - Second acre (or fraction thereof) \$48.27
 - Third acre (or fraction thereof) \$44.06
 - Each additional acre (or fraction thereof) \$31.17

Section 2. Each person or persons making application for the use of the Evans Supply Ditch shall state the number of acres, yards, or lots to be watered or irrigated, or for whatever purpose the water is to be used. All irrigation fees are payable to the City Treasurer of the City of Evans.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Evans on this 6th day of March, 2012.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

By _____
Mayor

CITY COUNCIL COMMUNICATION

DATE: March 6, 2012

AGENDA NO.: 7.E

SUBJECT: Ordinance No. 536-12 Water Conservation Measures

PRESENTED BY: Earl H. Smith, P.E., Director of Public Works/Planning

AGENDA ITEM DESCRIPTION:

The attached ordinance outlines the proposed terms and conditions of the City's annual water conservation efforts as it relates to outdoor water use. You may recall the City has a drought response plan in place which outlines the various criteria considered when determining the extent of water conservation measures. It is too early in the season to consider restrictions as identified in the drought response plan so we typically begin the irrigation season with our standard watering schedule. If dry conditions persist or a shortage of supply becomes apparent we will revise the schedule as necessary.

The primary change with this ordinance is in Section 1., within 13.04.200 Water Conservation Measures B., where we have removed reference to a specific calendar year and make these effective on an annual basis. By doing this we do not have to adopt a new ordinance each year.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

The Water and Sewer Board recommends approval and staff concurs.

SUGGESTED MOTIONS:

“I move to approve of Ordinance No. 536-12 on first reading.”

“I move to deny approve of Ordinance No. 536-12 on first reading.”

CITY OF EVANS, COLORADO

ORDINANCE NO. 536-12

AN ORDINANCE AMENDING SECTION 13.04.200 OF THE EVANS MUNICIPAL CODE CONCERNING WATER CONSERVATION MEASURES

WHEREAS, the Water and Sewer Board has recommended the City Council adopt water conservation measures for the annual irrigation season; and

WHEREAS, it is recommended that the City Council adopt the water conservation measures using an odd/even address watering schedule allowing three watering days per week; and

WHEREAS, in order to limit maximum day demand to a level consistent with capabilities of existing water transmission and distribution facilities while permitting lawn, garden, and tree irrigation the City Council hereby establishes water conservation measures.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANS, COLORADO:

Section 1. Section 13.04.200 of the Evans Municipal Code shall be amended to read as follows:

13.04.200 Water Conservation Measures. A. The use of water for sprinkling of lawns, gardens, and trees will be permitted on scheduled days except between the hours of 12:00 and 5:00 p.m. For fixing the date upon which water may be used for sprinkling, the water customers of the City of Evans are divided into two divisions as follows:

1. Single family residences with even-numbered building addresses shall use water for sprinkling on Sunday, Tuesday, and Thursday of each week, and single family residences with odd-numbered building addresses shall use water for sprinkling on Monday, Wednesday, and Saturday of each week.

2. All other properties including commercial, multi-family residents, apartments, government, and non-profit organizations shall use water for sprinkling on Sunday, Tuesday, and Friday of each week.

3. The use of water for sprinkling of lawns, gardens, and trees on certain grounds served by the Evans water system will be permitted during the twenty-four (24) hour periods of each day of the week. The grounds to which this paragraph refers include, but are not limited to, the following:

- (a) City of Evans public grounds, School District 6 grounds, and other private properties with multiple addresses having large irrigated areas.
- (b) Newly seeded or sodded lawns less than three months old.

B. The above listed restrictions shall become effective at 12:01 a.m. on April 15 of each calendar year and shall be in effect until October 15 of each calendar year, except that heavy use athletic fields, as determined by the City, may begin watering as early as March 15 of each calendar year.

Section 2. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. This Ordinance shall become effective upon final passage.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 6th day of March, 2012.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING this 20th day of March, 2012.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

COUNCIL COMMUNICATION

DATE: March 6, 2012

AGENDA #: 8.A

SUBJECT: Continued Public Hearing —Resolution No. 08-2012 – Variance Request to Section 19.48 of the Evans Municipal Code for Carports - 3202 11th Avenue, Evans, Colorado - (The Grove/Campus Crest) – TABLED

PRESENTED BY: Sheryl Trent, Community and Economic Development Director

BACKGROUND INFORMATION		
Location:	3202 11 th Avenue	
Applicants:	Campus Crest, Owner SolarCity Corp, Applicant	
Existing Land Use:	C-3 High Intensity Commercial	
Proposed Land Use:	Same	
Surrounding Land Use:	North	Commercial vacant land to be developed, church
	South	Post Office, Moose Lodge
	East	Ditch, storage and industrial uses
	West	Residential
Existing Zoning:	C-3	
Proposed Zoning:	Same	
Surrounding Zoning:	North	C-3
	South	C-3
	East	C-3
	West	R-1, R-2, C-1
Future Land Use Designation:	Commercial	

PROJECT DESCRIPTION: This project has been requested to be tabled by the applicant for further research and presentation. The City has received an application from Campus Crest, land owner, represented by SolarCity Corp, for a Variance in order to construct carports. The carports will serve as the supporting structure for installation of solar panels. Please see the attached vicinity map and the attached application for the property location, which is 3202 11th Avenue in Evans, commonly referred to as The Grove.

A previous USR for this property has been approved for the installation of solar panels on the roofs of some of the buildings.

RECOMMENDATION: Recommend denial of the request for a variance as it does not meet the criteria of the municipal code.

ANALYSIS:

Background:

The development was originally constructed in 2005 with a Use by Special Review as allowed under the code. High Intensity Commercial land, as this is zoned, allows multi family housing to be constructed pursuant to the USR.

SolarCity is proposing to construct solar carports at The Grove, Campus Crest's multi-family housing complex located at 3200-3300 11th Ave. The solar carports would be built to cover existing parking spaces on the east, south, and west sides of the lot.

If approved, the applicants will have to come through the site planning process to apply for a building permit, and will be required to adhere to all the standards in the Evans Municipal Code. As known to staff at this point (without a formal application) the designs of the proposed solar carports comply with Chapter 18.33.060, Multifamily Architectural and Site Design Standards of the City of Evans Land Use Code. The materials and colors of the carports are compatible with the character of the surrounding buildings. Adequate pedestrian lighting will be installed in the carports.

Section 19.48 of the Evans Municipal Code (Accessory Structures):

The entire Section 19.48 has been attached for the review of the City Council. The applicable sections that are under consideration for this variance application have been pulled out as follows:

“Carport” shall mean a structure that is not fully enclosed and which is accessory to a residence or residences and capable of being used for storage of one or more vehicles.” **The proposed variance will meet this code.**

Maximum height. Accessory structures other than garages shall not exceed the height of the principal building or 15 feet, whichever is less. Garages shall not exceed the height of the principal building. This provision shall not apply to structures used for agricultural purposes in the AG – Agricultural – zoning district, or to structures in I – Industrial – zoning districts. **The proposed variance will meet this code**

Maximum number. In all R – Residential – zoning districts, only one detached accessory structure/building, not including garages, shall be permitted per 8,000 square feet of lot area, or fraction thereof, up to a maximum of three such structures per lot. The preceding provision notwithstanding, each principal building shall be allowed at least one detached accessory structure/building. For example, three mobile homes on one lot would each be allowed one detached accessory structure/building, even if the lot were less than 24,000 square feet. **The proposed variance will NOT meet this code.**

Garages and carports accessory to multifamily dwellings.

Detached garages and carports shall be compatible with the principal building architecture, and shall incorporate similar and compatible forms, scale, materials, colors, and details. **The proposed variance will NOT meet this code due to the form and scale of the carports.**

Carports shall be limited to six spaces per parking structure and each carport structure shall be located not closer than 20 feet to any other carport structure. **The proposed variance will NOT meet this code – several of the carports have between 20 and 40 spaces.**

Detached garages and carports shall have pitched roofs with a minimum slope of 4:12. **The proposed variance will NOT meet this code.**

To the maximum extent feasible, garage entries, carports, and parking garages shall not be located between a principal multifamily building and a street frontage, but shall instead be internalized in building groups so that they are not visible from adjacent public streets. **The proposed variance will NOT meet this code.**

The applicant has stated the following:

Chapter 19.48.034 E, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article 5: *Carports shall be limited to six spaces per parking structure and each carport structure shall be located not closer than 20 feet to any other carport structure.* The proposed solar carport designs occupy between 24 and 40 parking spaces. The purpose of this project is to build adequate roof area to house solar PV panels that will generate enough electricity to offset all of the electricity used by the building's occupants. In addition, covered parking is a valuable commodity that will be in demand so it is desirable for the building's occupants to see a multitude of available covered parking spaces. In order to conform to this code article, the size of the carports would have to be drastically reduced which would negatively impact the

ability for the solar carports to serve their intended purpose of providing enough solar electricity to offset building electricity usage.

Chapter 19.48.034 E, Garages and carports accessory to multifamily dwellings, of the City of Evans Land Use Code states in article 8: *Detached garages and carports shall have pitched roofs with a minimum slope of 4:12.* The proposed solar carport designs have a pitched roof with a slope of 1:12. Based on our experience building carports for the past several years, we believe that a 1:12 pitch is the most aesthetically pleasing for a carport roof. A steeper roof, while matching the pitch of surrounding buildings, creates a strange-looking roof line for a carport.

Please see the picture below. If this carport had a 4:12 pitch, the front edge of the carport roof would be 15' lower than the back edge of the roof.



These carports were built with a 1:12 roof pitch. The red line imagines a 4:12 pitch.

Section 19.58 of the Evans Municipal Code (Variance Criteria):

Below are the Criteria for approval of a Variance:

19.58.030 Criteria for Variances.

A. The City Council must find all of the following circumstances to be true in order to approve a variance:

1. Approval of the variance would not jeopardize the health, safety, or welfare of any person; **Staff finds the proposed variance would meet this criteria of approval.**
2. Denial of the variance would result in a practical difficulty and unnecessary hardship to the applicant; **Staff finds that there is no practical difficulty or unnecessary hardship to the applicant if the variance is denied.**
3. Such practical difficulty and unnecessary hardship are due to an irregular, narrow, or steep lot, or other physical situation or condition of the building or land; **Staff finds that this criteria has not been met**
4. Such practical difficulty and unnecessary hardship have not been unreasonably self-imposed by the applicant. **Staff finds that since no hardship exists, this criteria is not applicable.**

Issues:

The main concern with the application is the adjacency and compatibility with the existing structure and the surrounding land uses. The construction of the carports will be a significant physical addition to the site and change the character of the building and the compatibility of the building with surrounding land uses. The very large and long carports will be seen from the street frontage on 11th from the west and from the south, as well as from the north on the west side.

The applicant has not met the criteria in the code regarding approval of a variance.

Notice of this public hearing was provided in accordance with Chapter 19.64 of the Municipal Code.

FINDINGS OF FACT AND CONCLUSIONS

After reviewing the Campus Crest USR for installation of solar panels the following findings of fact and conclusions have been determined:

The variance criteria in Section 19.58 of the Evans Municipal Code cannot be appropriately and sufficiently met.

STAFF RECOMMENDATION:

I recommend that the City Council deny the requested variance with the findings and conclusions listed above.

RECOMMENDED PLANNING COMMISSION MOTION:

“Mr. Mayor, on the issue of the Campus Crest Variance for construction of carports, I move that Resolution No. 08-2012 be denied because it does not meet the criteria outlined in Sections 19.58 of the Municipal Code.”

“Mr. Mayor, on the issue of the Campus Crest Variance for construction of carports, I move that the City Council approve Resolution No. 08-2012 because it meets the

criteria outlined in Sections 19.58 of the Municipal Code.”

“Mr. Mayor, on the issue of the Campus Crest Variance for construction of carports, I move that the City Council approve Resolution No. 08-2012 with conditions as follows because it meets the criteria outlined in Sections 19.58 of the Municipal Code.”

Conditions:

- 1
 - 2
 - 3
-

VARIANCE PUBLIC HEARING PROCEDURE

NOTE: Public Hearings are a quasi-judicial process and the City Council is required to refrain from public input or comment until the Public Hearing is conducted.

- A. Open Public Hearing.
- B. Receive report from Staff.
- C. Applicant presents his position.
- D. Ask to hear from anyone who supports granting the variance.
* In order to afford all members of the public an equal opportunity to comment on this issue, we respectfully request that you limit your comments to **2 minutes**.
- E. Ask to hear from anyone who opposes granting the rezoning.
* In order to afford all members of the public an equal opportunity to comment on this issue, we respectfully request that you limit your comments to **2 minutes**.
- F. Applicant rebuttal
- G. Close the Public Hearing.
- H. Ask for discussion.
- I. Council action.
- J. Approval of variances shall be by resolution after considering the Zoning Board of Appeals' recommendation (five affirmative votes of Council are required to reverse the ZBA's recommendation), conducting a hearing concerning the rezoning request, and the following criteria:

The City Council must find all of the following circumstances to be true in order to approve a variance:
 - 1. Approval of the variance would not jeopardize the health, safety, or welfare of any person;
 - 2. Denial of the variance would result in a practical difficulty and unnecessary hardship to the applicant;
 - 3. Such practical difficulty and unnecessary hardship are due to an irregular, narrow, or steep lot, or other physical situation or condition of the building or land;
 - 4. Such practical difficulty and unnecessary hardship have not been unreasonably self-imposed by the applicant.
- K. The variance granted may differ from the one requested, and conditions may be placed on a variance.

COUNCIL COMMUNICATION

DATE: March 6, 2012

AGENDA NO.: 8.B

SUBJECT: Preliminary Budget Revision – Evans Municipal Pool

PRESENTED BY: Brian Stone, Recreation Director

AGENDA ITEM DESCRIPTION:

At the request of City Council, Recreation staff has developed a budget to open the Municipal Pool for the 2012 season. However, in order to open the Evans Municipal Pool for the season a budget revision is necessary to recognize the anticipated revenues and expenses associated with this facility. If approved as a preliminary budget revision, this will allow staff to begin operations and staffing the pool for the summer. The official appropriation will be included in the 1st Quarter budget revision.

As you can see below, the net impact to the General Fund will require use of fund balance (and is considered a one-time cost); these funds will be allocated from 2011 excess sales tax revenue.

FINANCIAL SUMMARY:

General Fund

Revenue: \$71,022.00
Expenditure: \$22,033.00
Net Impact: -\$49,989.00

RECOMMENDATION:

Staff recommends approval of the preliminary budget revision.

SUGGESTED MOTIONS:

“I move to adopt the preliminary budget revision for the Evans Municipal Pool.”

“I move to deny the adoption of the preliminary budget revision for the Evans Municipal Pool.”

COUNCIL COMMUNICATION

DATE: March 6th, 2012

AGENDA NO.: 8.C.

SUBJECT: Award of Bid - 2012 Evans WWTP Biosolids Removal

PRESENTED BY: Earl H. Smith, P.E., Director of Public Works

AGENDA ITEM DESCRIPTION:

The 2012 Wastewater Budget includes funding for the removal of biosolids from the lagoons at the Evans WWTP located off 37th Street and 1st Avenue. This project is a regular maintenance activity for lagoon style treatment facilities and is typically completed every 5-7 years.

As per the City's purchasing policies this project was advertised in the Greeley Tribune, on the City of Evans' website, and bid packets were mailed to contractors on our vendors list. For this project, it was the contractor's responsibility to determine an estimated quantity of biosolid material (dry tons) to be removed from the lagoons. Then the contractor used a unit price per dry ton to determine their overall bid. Bids were opened on February 15, 2012, with results as follows:

<u>Contractor</u>	<u>Misc. Items</u>	<u>Est. Quantity (Dry Tons)</u>	<u>Unit Price (\$/Dry Ton)</u>	<u>Bid Amount</u>
Liquid Waste Management, Inc.	\$15,000.00	1,750	\$218.00	\$396,500.00
Parker Ag Services, LLC	\$22,000.00	1,445	\$447.00	\$667,915.00

FINANCIAL SUMMARY:

The 2012 Wastewater Enterprise Fund includes \$250,000 budgeted for this project. In order to make the contract whole, we are asking for a preliminary budget revision to reallocate some funding from the 2011 budget surplus to make up the difference between the project budget and the lowest bid. The preliminary budget revision would reallocate \$146,500 of these 2011 surplus funds toward the Biosolids Removal project making the total project budget \$396,500.

RECOMMENDATION:

Staff recommends that City Council award the 2012 Evans WWTP Biosolids Removal Project to Liquid Waste Management, Inc., and approve a preliminary budget revision for a total award amount of \$396,500.

SUGGESTED MOTIONS:

"I move to award the 2012 Evans WWTP Biosolids Removal Project to Liquid Waste Management, Inc. and to authorize the Mayor's signature on an agreement in the amount of \$396,500."

"I move to deny award of the 2012 Evans WWTP Biosolids Removal Project."

COUNCIL COMMUNICATION

DATE: March 6, 2012

AGENDA NO.: 8.D.

SUBJECT: Award of Bid; 11th Avenue Water Line Replacement

PRESENTED BY: Earl H. Smith, P.E., Director of Public Works

AGENDA ITEM DESCRIPTION:

The 2012 Water Capital Improvement Plan includes funding for the replacement of an aging and undersized water line in 11th Avenue between 32nd Street and State Farm Road. There is also funding for a new water line connection between 30th Street and State Farm Road through the TriPointe property.

As per the City's purchasing policies this project was advertised in the Greeley Tribune, on the City of Evans' website, and bid packets were mailed to contractors on our vendors list. Bids were opened on February 29, 2012, with results as follows:

<u>Contractor</u>	<u>Bid Amount</u>
Duran Excavating, Inc.	\$390,983.00
Gerrard Excavating, Inc.	\$432,037.90
Northern Colorado Constructors, Inc.	\$443,170.00
Hirschfeld Backhoe & Pipeline, Inc.	\$455,713.65
GLH Construction, Inc.	\$570,388.26

FINANCIAL SUMMARY:

The 2012 Water Enterprise Fund includes \$440,000 budgeted for the 11th Avenue project and \$150,000 budgeted for the connection through the TriPointe property for a total overall available budget of \$590,000. All bids fell within the available project budget.

RECOMMENDATION:

Staff recommends that City Council award the 11th Avenue Water Line Replacement Project to Duran Excavating, Inc., with a 5% contingency for unforeseen utility conflicts in the amount of \$410,000.00.

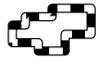
SUGGESTED MOTIONS:

"I move to award the 11th Avenue Water Line Replacement Project to Duran Excavating, Inc. and to authorize the Mayor's signature on an agreement in the amount of \$410,000.00."

"I move to deny award of the 11th Avenue Water Line Replacement Project."



Legend



Evans
City Limits



Project Site

Vicinity Map
**11th Avenue
Water Line
Project**

