



If you would like to address City Council, please place your name on the sign-up sheet located at the back of the council room. You will be recognized to speak during the "audience participation" portion of the agenda.

AMENDED

AGENDA

Regular Meeting

September 17, 2013 - 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 on our website at www.cityofevans.org and posted immediately on the bulletin board adjacent to the Council Chambers.

1. CALL TO ORDER

2. PLEDGE

3. ROLL CALL

Mayor:	Lyle Achziger
Mayor Pro-Tem:	John Morris
Council:	Laura Brown
	Mark Clark
	April Neibauer
	Brian Rudy
	Jay Schaffer

4. AUDIENCE PARTICIPATION

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!

5. APPROVAL OF AGENDA

6. CONSENT AGENDA

A. Approval of Minutes of the Regular Meeting of September 3, 2013

7. NEW BUSINESS

A. Resolution No. 32-2013 — Disaster/Emergency Declaration for Evans Flood 2013 Incident

- B. Emergency Ordinance No. 569-13 — Confirming the Declaration of an Emergency and the Expenditure of Funds from the Emergency Contingency Fund for the Evans Flood 2013 Incident
 - C. Emergency Ordinance No. 570-13 — 2013 Budget 3rd Revision Amending Ordinance No. 568-13 and Appropriating Sum of Revenues and Fund Balances for the Amended 2013 City of Evans Budget
 - D. Emergency Ordinance No. 571-13 — Imposing a Moratorium on Building or Development within Areas of Specific Flood Hazard and other Flooded Areas
 - E. Emergency Ordinance No. 572-13 — Authorizing and Directing the Removal and Disposal of Debris Caused by the September 2013 Flooding from Private and Public Properties
 - F. Emergency Ordinance No. 573-13 — Authorizing the Chief of Police or Duly Authorized Official to Prohibit Access to Public and/or Private Areas Damaged by the September 2013 Flood and Deemed to be Unsafe
 - G. Emergency Ordinance No. 574-13 — Imposing a Curfew within the Area Evacuated due to the September 2013 Flood
8. REPORTS
- A. City Manager
 - B. City Attorney

9. AUDIENCE PARTICIPATION (general comments)

Please review the Audience Participation section listed at the beginning of the agenda for procedures on addressing City Council.

10. EXECUTIVE SESSION

- A. For the purpose of discussing matters that may be subject to negotiations C.R.S. 24-6-402(4)(e).

11. ADJOURNMENT

CITY OF EVANS – MISSION STATEMENT

“To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community.”

COUNCIL COMMUNICATION

DATE: September 17, 2013

AGENDA ITEM: 6.A

SUBJECT: Approval of Minutes

PRESENTED BY: Raegan Robb, City Clerk

AGENDA ITEM DESCRIPTION:

Approval of the minutes of the Regular City Council meeting of September 3, 2013.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

N/A

SUGGESTED MOTIONS:

"I move to approve the consent agenda and the minutes as presented."

MINUTES
EVANS CITY COUNCIL
Regular Meeting
September 3, 2013 - 7:30 P.M.

CALL TO ORDER

Mayor Achziger called the meeting to order at 7:30 p.m.

PLEDGE

ROLL CALL:

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

AUDIENCE PARTICIPATION:

There was no audience participation.

RECOGNITIONS

A. Safety Event Presentation to Officer Mike Yates.

Police Chief Rick Brandt presented the proclamation for the City Safety Event to Officer Yates, which thanked him for his efforts and professionalism. Mayor Achziger also expressed his appreciation for Officer Yates efforts and the leadership he displayed.

B. August Yard of the Month

Zach Ratkai, Building & Development Manager, presented the Yard of the Month for August.

APPROVAL OF AGENDA:

Councilmember Schaffer made the motion, seconded by Councilmember Rudy, to approve the agenda as presented. The motion passed with all voting in favor thereof.

CONSENT AGENDA:

A. Approval of Minutes of the Regular Meeting of the August 20, 2013

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

OLD BUSINESS

A. Resolution No. 29-2013 for USR Bell Supply

Mayor Achziger stated that the public hearing is a continuation and asked to hear from staff.

Zach Ratkai, Building and Development Manager, reported the following to City Council:

Mr. Ratkai explained that the hearing was for a Use by Special Review (USR), which was requested by Borchert Pointe, LLC, who owns property in the City where outdoor storage exceeds the allowed

20% in the City of Evans Municipal Code. The owner originally requested to be approved to utilize up to 68% of the site for outdoor storage, since the Planning Commission hearing on August 5th, 2013, the request has been changed to utilize up to 60% as outdoor storage.

Mr. Ratkai stated that staff was recommending approval with conditions in order to meet the criteria for the approval of the special use. The conditions are to allow the outdoor storage standard to be exceeded for a five (5) year period with an automatic expiration at the end of the five (5) years. Staff is recommending some screening and landscaping as conditions of approval as well.

He stated that, Borchert Pointe, LLC approached the city in the spring of 2013 with the plan to construct an office/warehouse building to serve as the Evans base for Bell Supply. As part of this plan, a site plan was submitted and is currently under administrative review by staff. The zoning for the site limits allowed outdoor storage to 20% of the total site area. The site plan, and intentions for the property, show a storage yard. The applicant is requesting a Use by Special Review approval to allow outdoor storage in excess of that allowed in an I-2 zone – 20% is the allowed amount of outdoor storage, the request is for 68%.

Mr. Ratkai proceeded to read the criteria and staff's findings from Section 19.44 of the Municipal code. They are as followed:

- 1. The proposed use is found to be unlikely to harm the health, safety, or welfare of the City or its residents.***

The use could certainly harm the welfare of the City and our residents by eliminating the compatibility with the commercially zoned properties to the south. With heavy industrial use (60% outdoor storage) commercial uses to the south would be limited, which affects the long term financial sustainability of the City.

- 2. The proposed use would benefit the City in terms of employment, tax revenue, or other similar effects, as compared to the absence of the proposed use.***

This type of storage allotment is associated typically with heavy industrial use and is best located in areas of I-3 zoning that are well removed from the public right of way and away from commercial uses. Even in the I-3 zone the code states 30% is the maximum for outdoor storage. In urban areas such as the City of Evans, uses such as outdoor storage should be limited (as the code intended) in order to fulfill the goals of the 2010 Comprehensive Plan and long range planning and sustainability issues.

- 3. The proposed use shall be consistent with the Evans Comprehensive Plan and shall be compatible with the surrounding area.***

The use is NOT consistent with the Evans Comprehensive Plan nor is it compatible with the surrounding area. Much of the surrounding area is developed as industrial, with similar office/warehouse/storage use. The proposal from the applicant is a request to meet a similar standard to existing conditions in the area; however many of these sites are out of

compliance. The City is in the process of issuing notices of violation to the remaining land owners in violation of the outdoor storage code.

- 4. The location, size, design, and operating characteristics of the proposed use shall be compatible with the existing and proposed future land uses within the general area in which the proposed use is to be located and will not create significant noise, traffic, or other conditions or situations that may be objectionable or detrimental to other permitted uses in the vicinity. Reasonable conditions may be placed on uses by special review to protect the public health, safety, and welfare by mitigating impacts.***

The current and future land uses in that site are not compatible with outdoor storage of this intensity on this size of property. It will create a situation/condition that will negatively affect other property owners in the area, especially the commercial properties to the south. Additional screening throughout the perimeter and the requirement for a landscape buffer-yard and a different kind of fencing will be required to mitigate impacts.

- 5. The site shall be physically suitable for the type and intensity of the proposed land use.***

The site is physically suitable for outdoor storage, except for the zoning, the compatibility with surrounding uses to the south (commercially zoned) and proximity to the public right of way.

- 6. The proposed land use shall not adversely affect traffic flow and parking in the neighborhood.***

The outdoor storage use proposed would not adversely affect traffic flow and parking in the area.

- 7. The location of other approved uses by special review in the neighborhood shall be determined, in order to avoid an over-concentration of such uses.***

The applicant has pointed out that in the area; there are storage yards in which outdoor covers a substantial area of the property. However, the sites referenced are out of compliance with the Municipal Code. Staff is currently issuing letters of violation in the area to other land owners that may not be aware of the code related to outdoor storage.

In consideration of surrounding uses, currently the approval on 1470 42nd Street is for up to 50%, and that was allowed as it could be screened from 42nd Street and was a much smaller piece of land, and hence a much smaller impact on the neighborhood. Most recently, 1461 43rd Street to the south of this property was approved to have 60% outdoor storage, with conditions placed on the property for the addition of substantial screening as well as a temporary, revocable time period during which excess storage would be allowed. Those approvals, which will stay for that legal description on that site, will remain in place and anything other would be an over concentration of the outdoor storage use in the area.

Mr. Ratkai explained that the main concern with the application is the adjacency and compatibility with commercial and other industrial zoning. The property is located near 42nd Street, which is a major thoroughfare for the City of Evans and therefore compatibility with existing industrial uses and future commercial uses is critical to the future development and sustainability of the City. With 60% of the lot being used for outdoor storage that issue becomes even more important to the long term compatibility issues in the neighborhood.

The precedent set by allowing a USR for additional outdoor storage in this I-2 zone at this location could lead to other land owners requesting the same USR for the same reasons (business oriented). That would essentially mean the land in this area would exceed even the highest use allowed in the I-3 zone (currently 30%).

The land sits higher than the adjacent commercial lots along 42nd Street and no amount of screening allowed under the code would allow compatibility to exist with other uses in the area. There is no fence or landscaping allowed by the code that could be installed on site to improve the compatibility for 42nd Street, the commercial properties to the north, and the Highway 85 corridor to the east.

Additionally, this land is zoned I-2 for a reason. The premise behind appropriate zoning includes the issues of land use. Zoning permits certain uses on land and usually move from the least intense uses to the most intense uses, protecting land and the public from more intense uses by placing that zoning away from areas of commercial, residential, or lower uses land zoning. The land uses should move from least significant impact to higher impact, especially along major arterials and areas of importance to the City.

Other land in the area is zoned either I-1 or C-3 (lowest industrial zoning in our code, highest commercial zoning in our code, which would be compatible uses). This land is visually adjacent to Highway 85, and also adjacent to other I-1 and C-3 sites that comply with the code.

Notice of this public hearing was provided in accordance with Chapter 19.64 and 18.28.125 of the Municipal Code.

After reviewing the Bell Supply USR for outdoor storage that exceeds the 20% and a security residence on property located at 4101 Carson Avenue, the following findings of fact and conclusions have been determined:

The review criteria in Sections 19.44 of the Evans Municipal Code can be appropriately and sufficiently met with conditions to allow approval of this special use would be consistent with the 2010 Comprehensive Plan and with the surrounding land uses.

Mr. Ratkai stated that he recommends that the Planning Commission forward a recommendation of approval with conditions of the requested USR with the findings and conclusions listed above as well as the following conditions:

1. The approval for excess storage is for a period of five (5) years and will expire on August 20, 2018, this approval period is renewable at time of expiration. The said

renewal is not automatic and must be initiated by the property owner at the time of expiration or if the nature of the land use warrants review of the USR conditions approved herein, and;

2. The approval is contingent upon a landscape buffer of fifteen (15) feet surrounding both the northern and southern sides of the subject property, and a twenty (20) foot landscape buffer on the rear of the property (review to be secured through the site plan process).
3. The approval is contingent upon in installation of a fully opaque, six (6) foot tall cedar privacy fence to screen the storage yard as shown on the preliminary site plan.

Council member Schaffer asked what businesses south of the property would be affected.

Mr. Ratkai answered that the property to the south is vacant and there are no business with buildings adjacent to this property.

Council member Clark asked about the properties currently out of compliance with City Code and if they have the same opportunity to go through a USR.

Mr. Ratkai stated that the violation letters provide for the USR process as an option to those violating properties.

Mayor Achziger stated that is how he understood USR process as well.

Mayor Achziger asked how the businesses located to the south would be impacted without the improvements.

Mr. Ratkai explained without the conditions other businesses looking for property to the south may not be interested.

Mayor Achziger asked to hear from the applicant.

Todd Bloom, Director of Development, Tebo Development, 3111 28th Street, Boulder CO 80302, was present to represent the owners. Mr. Bloom stated the following to City Council:

That the properties owned by Borchert Pointe, LLC all surround 4101 Carson Avenue. He proceeded to explain that the improvements and conditions will only help the company with marketing their properties adjacent to the property. He described the landscaping plan, including storm drainage to help mitigate any storage and site issues. He also explained the intended use of the property is best described as a “lay down” yard. By having the 6 foot fence, the site of the property and impact on other properties would be minimal. He illustrated to council what the addition of landscaping, a storm water retention pond, and fence would look like.

Mr. Bloom stated that the biggest concern is the condition of the 5 year expiration on the USR. He explained that if a 15 year lease came in for the property, the condition will be a hindrance.

The owner feels that the developments they will place on the property including water and sewer services in the equivalent to two million dollars is more than adequate to prove that they intend to stick to all the other conditions of the USR. He asked the applicant's attorney, Kent Naughton, from Witwer, Oldenburg, Barry & Johnson, LLP 822 7th Street, Suite 760 Greeley, CO 80631, to present the applicants issues with the conditions discussed by staff.

Mr. Naughton explained that the expiration is the biggest concern since Council has the ability to revoke a USR due to any violations at any time and the property owner plans on putting in \$2 million in development improvements. He felt that the need for the expiration of 5 years should not even be an issue under these circumstances.

He also stated that this is the first development in the area, and Mr. Naughton wanted to ensure that the property owners do not jeopardize any future development or relationship with the City. He pointed out that the development would have be a new building with landscaping and cedar fence that will enhance the area. He believed that this property would be a shining example of what the area should be.

Council member Schaffer asked about the steel pipe on the property and how high it is stacked.

Mr. Bloom explained that the property is used for a lay down yard and all the equipment is typically laid on the ground and only reaching 4-5 foot high.

Council member Schaffer asked about what kind of building they are proposing to build.

Mr. Bloom explained that the building is a prefabricated steel building, but it has the required masonry and stucco requirements of the City.

Mr. Ratkai mentioned that the building meets the City's industrial code including the masonry facade.

Council member Clark asked if the is the conditions listed by staff are deal breaker for them in this development.

Mr. Bloom explained that 5 year expiration is the deal breaker because of the risk of change in staff and council running against a 15 year lease with a business.

Council member Clark asked if council can extend the USR.

Mr. Ratkai and Ms. Trent stated they can at the time of expiration.

Mayor Pro-Tem Morris asked if the truck access is off of Carson Avenue.

Mr. Bloom responded that is was.

Council member Schaffer asked how big the building will be.

Mr. Bloom said it would be 12,500 square feet.

Mayor Pro-Tem Morris asked if having the storage exceeded the height of the fence and if it is a violation.

Mr. Bloom could not answer that question.

Mayor Pro-Tem Morris said that the issue seems to be the ability to view the equipment on the site. He asked again if there was a possibility that this would happen under the new conditions.

Mr. Bloom stated that the intent for the site was for lay down storage where the equipment is placed directly on the ground and may never reach above 4-5 feet in height.

Mayor Achziger asked to clarify that the landscaping including the fence was to cover the area. Mr. Bloom said yes.

Mayor Achziger asked the City Attorney when the City Council could have the applicant come back for any violations and if Council could extend the USR at that time.

Scott Krob, City Attorney, stated that the Council can make a revocation on a legitimate complaint. He also reminded them that the initial term is 5 years and the USR can extend without complaints but under our City code we can bring them back at any time.

Mayor Pro-Tem Morris asked if an automatic renewal or review would help with the USR process. Mr. Bloom stated that no expiration would be the best solution.

Mayor Achziger asked about the investment of \$2 million if it was Tebo or Bell Oil. Mr. Bloom explained the investment would come from Tebo.

Mayor Achziger asked if there will be trucks or cranes parked on the property. Mr. Bloom explained that they may be parking trucks or cranes inside the fence.

Mayor Achziger wanted clarification that derricks are not being put up. Mr. Bloom explained that it is strictly a storage area.

Mayor Pro-Tem Morris asked for clarification from the City Attorney that the USR is tied to the property. City Attorney Scott Krob indicated that it was tied to the property.

Mayor Pro-Tem asked if Council can tie it to a business as well. Mr. Krob stated that council could attach it to the business as well.

Mayor Pro-Tem Morris asked Mr. Bloom if this would be okay with the applicant. Mr. Bloom said that should not be a problem but he requested that the language is broad enough for mergers and acquisitions.

Mayor Achziger asked if anyone in the audience to support this issue.
There was none.

Mayor Achziger asked if there was anyone who wished to speak in opposition to this issue.
There was none.

Mayor Achziger asked if there was anything else from the applicant.
There was none.

Mayor Achziger asked if there were any issues that Council needed clarified by staff.

Council Member Neibauer asked where the 5 year expiration condition came from.
Mr. Ratkai responded that it was based upon Council's previous discussions and direction to staff.

Mayor Achziger asked if staff has a problem with the recommendation of the approval based upon the USR being reviewed after 5 years versus automatic renewal.

Mr. Ratkai responded that staff has no issues either way with Council's direction and would rely on City legal staff to vet any changes to the USR.

Mr. Ratkai asked the applicant for clarification about the 3D rendering of the landscaping and the intent of the applicant to put large landscaping on the property.

Mr. Bloom stated that the rendering was used to illustrate 5-7 year old landscaping on the property.

Mayor Achziger closed the public hearing.

Mayor Achziger asked for Council discussion

Council member Schaffer asked if this is the type of business we want on the 42nd corridor considering its future as a major corridor.

Mayor Achziger expressed that he does feel it meets the criteria of the corridor.

Mayor Pro-Tem Morris felt it is appropriate attaching the business to the USR as well as the property because we will be seeing this more and more. He expressed concerns about the future of the property, and stated that in 20 years the oil business may no longer be booming and the City needs to be aware of how that affects the property.

Mayor Achziger clarified that if the City ties the agreement to the use of the property, then the lease will not be a concern.

Mayor Pro-Tem Morris agreed.

Mayor Achziger asked if there were any other questions or discussion.

Mayor Achziger clarified that the applicant is applying for a specific use for the property and that council is asking to tie the USR to the use of the property, since the business ceasing would terminate the USR as well.

Council Member Neibauer stated she would be hesitant to be more specific about the USR.

Councilmember Schaffer made the motion, seconded by Councilmember Rudy, to adopt Resolution No. 29-2013, which supports the conditions, with exception of the 5 year review, and ties the USR to the type of business on the property. The motion passed with all voting in favor thereof.

NEW BUSINESS:

A. Request for Full-Time Position Increase

Jessica Gonifas, Deputy City Manager reported the following:

Historically, IT in the City has not had any dedicated staff with the exception of a contracted systems administrator who works for the City about one day per week. The previous City Clerk coordinated the IT efforts and provided some customer support. But, for the most part, IT has essentially been decentralized with the departments handling much of their own IT needs for both purchasing and support.

She explained that, in 2012, the City developed a five year strategic plan for IT with the goal of providing a framework and set of strategies for the effective utilization and management of information technology throughout the City. One of the areas of focus in the study was staffing and a key recommendation was to create a centralized IT division lead by an IT Manager. This department is now located within Administrative Services and reports to the Deputy City Manager.

Earlier this year, the management team recommended to the City Council that the IT Manager position be funded in 2013 as a temporary full time position authorized through the end of the current year. At that time, the team felt it was a conservative approach avoiding adding long term fixed costs. After approval by the City Council, staff first searched for a firm to provide this support. We were not able to find a third party that was able to commit this level of resources for a limited period of time. The next attempt to hire for the position was made through the City recruitment process as a direct hire by the City for the temporary position. The City did offer the position to the top candidate who rejected the offer due to not wanting to take a temporary assignment not knowing if it would be extended long term. Finally, an IT Manager was identified through an IT staffing agency. Although the manager worked for a couple of weeks, the fit and technical skill set was not what the City needed. The position is currently vacant. After much discussion, the management team felt the difficulty in hiring the right IT manager for the City was due to the temporary nature of the position and that it was unlikely a person at this level in an organization was going to leave their current long term position for a temporary position.

As was presented in the budget work session on August 27th, staff is recommending funding the IT

manager position long term, starting in the 2014 budget.

Due to our difficulty in recruiting for the position as temporary and the fact that the position was going to be recommended as an addition in 2014, we are respectfully requesting you consider approving an increase in the full time equivalents for the long term recruitment of the IT Manager now, rather than waiting until 2014.

She explained that this decision was for City Council's consideration, pursuant to Section II.C.a. of the Financial Policies, which outlines that the City Council will approve: "The number of full time positions and dollar amount for total regular staff."

Council Member Schaffer asked if we can possibly get back the top candidate. Ms. Gonifas responded that if she is available she would be able to reapply through the new recruitment process.

Mayor Pro-Tem Morris commented that he is in full support of this, stating that the City needs the skill set of a full time IT person.

Councilmember Clark asked if the City will need to have more staff or if one person will suffice.

Ms. Gonifas stated that the 5 year strategic plan forecasts that the City will eventually need a technician and move GIS under IT, but the plan does not add another FTE.

Mayor Achziger stated that he agrees that we need the position and compelled staff to budget appropriately to be competitive and retain this person in order to help the City remain a leader in the region.

Councilmember Schaffer made the motion, seconded by Councilmember Clark, to the increase the full time position in the City's Information Technology Division by one. The motion passed with all voting in favor thereof.

REPORTS:

The Deputy City Manager, Jessica Gonifas reported on the following:

She highlighted the update on the gravity flow irrigation system repair from the Monitoring Report. She then asked for Zach Ratkai to report out on code enforcement activities on the east side of town.

Mr. Ratkai reported on the code enforcement data on properties east of highway 85 at the request of the Mayor from the previous meetings.

Scott Krob, City Attorney, reported that he is finishing up the documents on the closing for the Library which will be finalized on September 5th. He indicated that he is also working on land use items with the Development Review Team and on EQR's with the Public Works Director.

AUDIENCE PARTICIPATION:

There was no audience participation.

ADJOURNMENT:

Mayor Achziger adjourned the meeting at 8:55 p.m.

City Clerk

NOT YET APPROVED

COUNCIL COMMUNICATION

DATE: September 17, 2013

AGENDA ITEM: 7.A

SUBJECT: Resolution No. 32-2013 – Disaster Emergency Declaration

PRESENTED BY: Aden Hogan, City Manager

AGENDA ITEM DESCRIPTION:

This resolution serves as a declaration by the City Council of the City of Evans, Colorado, that a state of disaster emergency is in effect within the incorporated areas of Evans, Colorado, due to the heavy rains and flooding that have occurred throughout the City of Evans, Weld County, and other Colorado Counties between September 9-15, 2013. The heavy rains and flooding caused substantial damages to private and public properties (including, but not limited to, buildings owned and maintained by City of Evans), power outages, and closures of City roads due to flooding and standing water, with the full extent of such damages remain unknown at the present time.

The Resolution requests State and Federal funding for disaster relief and authorizes the Mayor to sign any and all documents for the purpose of defining and communicating the existence of said disaster emergency.

FINANCIAL SUMMARY:

Through this Resolution, the City Council is requesting the Governor of the State of Colorado to do whatever is necessary to seek said Federal funds for disaster emergency relief for the City of Evans and its citizens, and to derive funds from the State of Colorado for emergency disaster relief which may be in excess of TABOR limitations.

According to the Robert T. Stafford Disaster Relief and Emergency Assistance Act, citizens, businesses, schools, and government institutions suffering damage as a result of such storms may qualify for Federal Disaster Relief, as long as the Board of County Commissioners declares that there exists in Weld County a disaster emergency.

RECOMMENDATION:

Staff recommends adoption of the resolution.

SUGGESTED MOTIONS: h

“I move to adopt Resolution No. 32-2013.”

“I move to deny adoption of Resolution No. 32-2013.”

RESOLUTION 32-2013

DECLARATION OF DISASTER EMERGENCY AND AUTHORIZING THE MAYOR TO SIGN ANY NECESSARY DOCUMENTS

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado, and

WHEREAS, heavy rains and flooding have occurred throughout Weld County and Evans and various other municipalities on September 9-13, 2013, causing substantial damages to private and public properties (including, but not limited to, buildings owned and maintained by City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown, and

WHEREAS, as a result of such storm damage, businesses, government operations, schools, and other institutions have been closed, and

WHEREAS, pursuant to C.R.S. §§ 24-33.5-701, et. seq. (the “Colorado Disaster Emergency Act), and Title VI of PL 93-288, as amended, The Robert T. Stafford Disaster Relief and Emergency Assistance Act, citizens, businesses, schools, and government institutions suffering damage as a result of such storms may qualify for Federal Disaster Relief, as long as the Board of County Commissioners and/or the Evans City Council declares that there exists in Weld County and the City of Evans a disaster emergency.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Evans, Colorado, that a state of disaster emergency is in effect within the incorporated areas of Evans, Colorado.

BE IT FURTHER RESOLVED by the Council that it requests the Governor of the State of Colorado to do whatever is necessary to seek said Federal funds for disaster emergency relief for the City of Evans and its citizens, and to derive funds from the State of Colorado for emergency disaster relief which may be in excess of TABOR limitations.

BE IT FURTHER RESOLVED that the Mayor be, and hereby is, authorized to sign any and all documents for the purpose of defining and communicating the existence of said disaster emergency.

The above and foregoing Resolution was, on motion duly made and seconded, adopted by the following vote on the 17th day of September, A.D., 2013.

CITY COUNCIL
EVANS, COLORADO

ATTEST:

Lyle Achziger, Mayor

EVANS CITY CLERK

BY: _____
City Clerk

COUNCIL COMMUNICATION

DATE: September 17, 2013

AGENDA ITEM: 7.B

SUBJECT: Ordinance No. 569-13, concerning a declaration of an emergency requiring the expenditure of funds from the Emergency Contingency Fund

PRESENTED BY: Jessica Gonifas, CPA, Deputy City Manager

AGENDA ITEM DESCRIPTION:

This ordinance allows use of Emergency Contingency Funds in accordance with Section 8.7-1 of the Evans Home Rule Charter regarding the Evans flood of 2013. The City is faced with severe damage to both City and personal property and the financial impact maybe in excess of available funding within the City's General, Water, Waste Water and Storm funds.

FINANCIAL SUMMARY:

The Emergency Contingency Fund currently has available funds of \$1,000,000. This ordinance only declares an emergency and allows the use if necessary, but does not appropriate expenditures. If is it determined that funds are needed, a budget revision appropriating the use of funds will be brought forward for consideration in the future.

RECOMMENDATION:

Staff recommends approval of the ordinance to declare an emergency and allow use of Emergency Contingency Funds if necessary.

SUGGESTED MOTIONS:

"I move to approve ordinance 569-13 to declare an emergency in the City and allow use of Emergency Contingency Funds."

"I move to deny ordinance 569-13 to declare an emergency and allow the use of Emergency Contingency Funds."

CITY OF EVANS, COLORADO

ORDINANCE NO. 569-13

AN EMERGENCY ORDINANCE CONFIRMING THE DECLARATION OF AN EMERGENCY REQUIRING THE EXPEDITURE OF FUNDS FROM THE EMERGENCY CONTINGENCY FUND FOR THE EVANS FLOOD OF 2013

WHEREAS, in accordance with Section 8.7-1 of the Evans Home Rule Charter the Council may declare an emergency and expend funds from the Emergency Contingency Fund; and

WHEREAS, the City of Evans, Colorado, suffered an imminent threat from widespread or severe damage, injury or loss of life or property resulting from the flood of 2013 which started on September 13, 2013; and

WHEREAS, the magnitude of responding to and recovery from the impact of the Flood of 2013 maybe in excess of the City's available General, Water, Waste Water, and Storm Funds resources due to the cost of debris removal, rebuilding and emergency services coverage; and

WHEREAS, the City Manager has certified that funds are available for an emergency in the Emergency Contingency Fund; and

WHEREAS, the City Council must declare an emergency by ordinance.

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

Section 1: The City Council declares that an emergency exists as a result of the flood of 2013 which started on September 13, 2013.

Section 2: The aforementioned emergency may necessitate the transfer and expenditure of funds from the Emergency Contingency Fund due to the sudden impact of the flood and the inadequate available General, Water, Waste Water, and Storm Funds amounts to cover the costs of the emergency.

Section 3: The adoption of this Ordinance will promote the health, safety and general welfare of the Evans community.

Section 4: Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of

the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 17th day of September, 2013.

CITY OF EVANS, COLORADO

By: _____

Mayor

ATTEST:

City Clerk

COUNCIL COMMUNICATION

DATE: September 17, 2013

AGENDA NO.: 7.C

SUBJECT: 2013 Budget 3rd Revision - Ordinance No. 570-13 – Amending Ordinance No. 568-13 and Appropriating Sum of Revenues and Fund Balances for the Amended 2013 City of Evans Budget (1st Rd)

PRESENTED BY: Jessica Gonifas, CPA, Deputy City Manager & City Treasurer

AGENDA ITEM DESCRIPTION:

This budget revision relates to increases in appropriations for several funds based on projected expenditures related to the Evans 2013 flood. The City Council approves specific items during the year which require an amendment to the adopted budget as required by the City of Evans Charter (Section 7.3 & 8.6).

Ordinance No. 570-13 is the third revision to the 2013 Operating and Capital Budget. The original 2013 Budget was approved by Ordinance No. 542-12 on October 23rd 2012. The first revision to the 2013 Budget was approved by Ordinance No. 558-13 on April 16, 2013. The second revision to the 2013 Budget was approved by Ordinance No. 568-13 on July 16, 2013.

FINANCIAL SUMMARY:

Although the total costs of the flood are unknown at this point, staff believes it is necessary to consider a budget revision in order to allow for the expenditures of funds related to response and recovery. It is unknown at this time what and how much will be reimbursable through other means, but staff is documenting and tracking all costs in detail to facilitate as much reimbursement as possible as we move forward.

Following is a summary of the requested revisions in the applicable fund along with a projected ending fund balance for those funds.

Fund	Amount Requested	Description	Budgeted Ending 2013 Fund Balance
General	\$300,000	Response and initial recovery	\$3,008,357
Refuse	\$100,000	Debris clean up	\$188,816
Waste Water	\$100,000	Plant repairs	\$914,554

We will provide you with periodic updates as we move through the recovery phase.

RECOMMENDATION:

Staff recommends approval of the ordinance.

SUGGESTED MOTIONS:

I move to approve Ordinance No. 570-13 on first reading.

I move to deny approval of Ordinance No. 570-13 on first reading.

Attachment A
 2013 Budget Revision #3

#	Description	Fund/Funding Source	Reserves	Rev	Exp
1.1	2013 Flood Response & Recovery				
	General: Excess Fund Balance		300,000		300,000
Total Fund			300,000	-	300,000
		<i>Fund Balance Impact</i>			<i>(300,000)</i>
1.2	2013 Flood Debris Clean Up				
	Refuse: Excess Fund Balance		100,000		100,000
Total Fund			100,000	-	100,000
		<i>Fund Balance Impact</i>			<i>(100,000)</i>
1.3	2013 Flood Plant Repairs				
	Waste Water: Excess Fund Balance		100,000		100,000
Total Fund			100,000	-	100,000
		<i>Fund Balance Impact</i>			<i>(100,000)</i>

CITY OF EVANS, COLORADO

ORDINANCE NO. 570-13

AN ORDINANCE AMENDING THE 2013 BUDGET; APPROPRIATING GENERAL FUND EXPENDITURES OF \$300,000, APPROPRIATING REFUSE FUND EXPENDITURES OF \$100,000, AND APPROPRIATING WASTE WATER FUND EXPENSES OF \$100,000.

WHEREAS, in accordance with Section 8.6 of the Evans Home Rule Charter the Council may make additional appropriations by ordinance during the fiscal year; and

WHEREAS, the City Manager has certified that additional funds are available for appropriations in each fund from actual and anticipated revenues of the current year and prior year cash reserves; and

WHEREAS, the City Council is advised that certain revenues, expenditures and transfers must be approved by ordinance.

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

Section 1: Upon the City Manager's certification that there are current and prior year revenues available for appropriation in the General Fund, Refuse Fund, and Waste Water Fund, and the City Council hereby makes supplemental appropriations as itemized in Attachment "A" attached hereto.

Section 2: The City Council hereby authorizes and directs the City Manager to enter into such contracts and execute such documents on behalf of the City as may be necessary and customary to expend the funds hereby appropriated for all operations, capital projects and debt within this budget as amended in accordance with the requirements of the Home Rule Charter and the City's Financial Policies.

Section 3: The adoption of this Ordinance will promote the health, safety and general welfare of the Evans community.

Section 4: If any provision of this Ordinance or portion thereof is held by a court of competent jurisdiction to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect any other provision which can be given effect without the invalid portion.

Section 5: All prior ordinances, resolutions, or other acts, or parts thereof, by the City of Evans in conflict with this Ordinance are hereby repealed, except that this repealer shall not be construed to revive any previously repealed or expired act, ordinance or resolution, or part thereof.

Section 6: Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of

the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 17th day of September, 2013.

CITY OF EVANS, COLORADO

By: _____
Mayor

ATTEST:

City Clerk

COUNCIL COMMUNICATION

DATE: September 17, 2013

AGENDA ITEM: 7.D

SUBJECT: Emergency Ordinance No. 571-13 — Imposing a Moratorium on Building or Development within Areas of Specific Flood Hazard and other Flooded Areas

PRESENTED BY: Scott Krob, City Attorney /
Sheryl Trent, Community and Economic Development Manager

AGENDA ITEM DESCRIPTION:

The Ordinance imposes a moratorium on building or development within areas of specific flood hazard and other flooded areas. The ordinance will expire six months from its effective date, on approximately March 17, 2014, unless repealed by the City Council prior to its expiration.

FINANCIAL SUMMARY: There is no financial impact to the City as a result of this ordinance.

RECOMMENDATION:

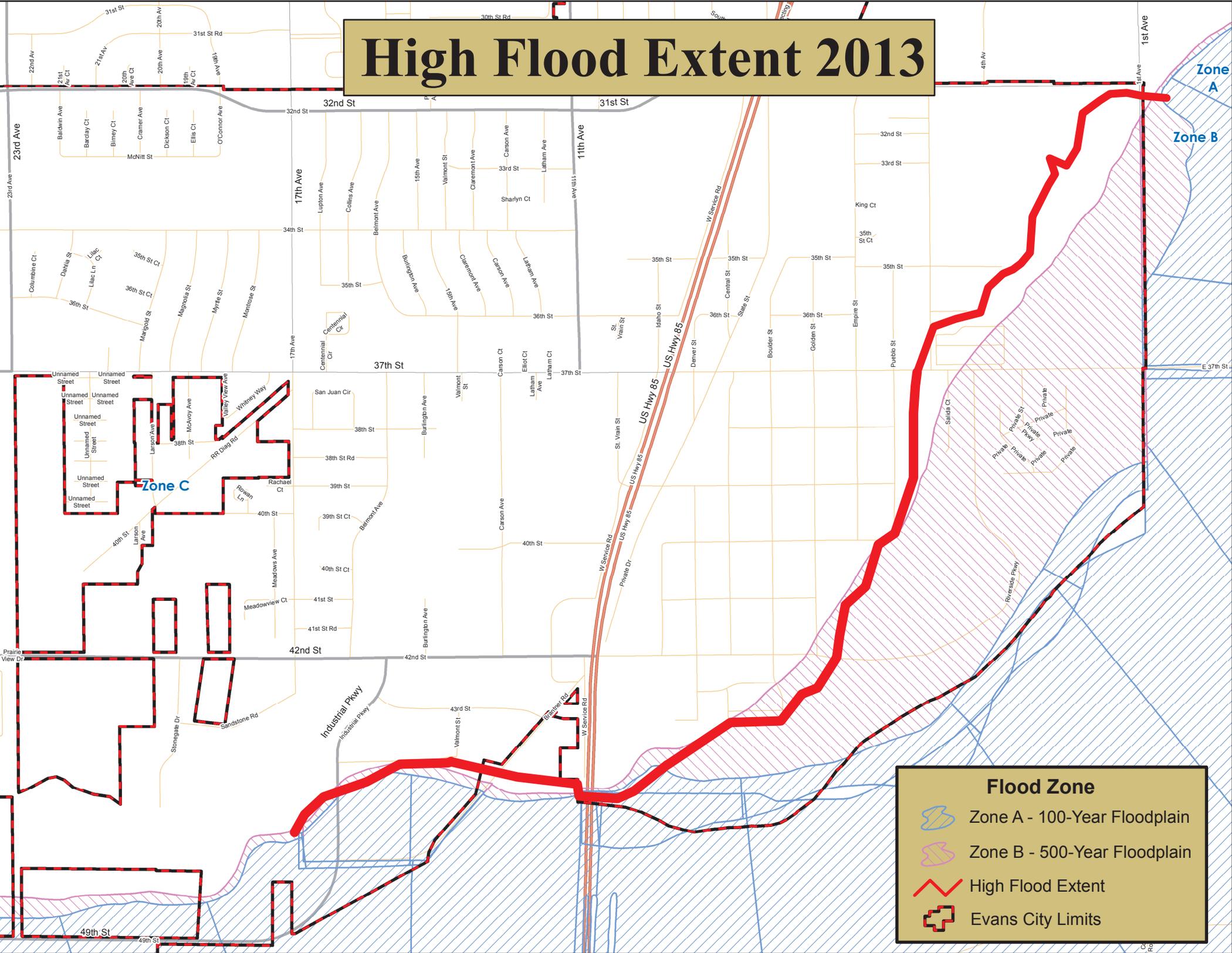
Staff recommends approval of the Ordinance to impose a moratorium on building or development within areas of specific flood hazard and other flooded areas, as identified by attachment A.

SUGGESTED MOTIONS:

“I move to approve Ordinance 571-13 to impose a moratorium on building or development within areas of specific flood hazard and other flooded areas.”

“I move to deny Ordinance 571-13 to impose a moratorium on building or development within areas of specific flood hazard and other flooded areas.”

High Flood Extent 2013



Flood Zone

- Zone A - 100-Year Floodplain
- Zone B - 500-Year Floodplain
- High Flood Extent
- Evans City Limits

CITY OF EVANS, COLORADO

ORDINANCE NO. 571-13

**AN EMERGENCY ORDINANCE IMPOSING A MORATORIUM
ON BUILDING OR DEVELOPMENT WITHIN
AREAS OF SPECIAL FLOOD HAZARD AND OTHER FLOODED AREAS**

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, the legislature of the state of Colorado has in Title 29, Article 20 of the Colorado Revised Statutes, as amended and other Statutes delegate the responsibility of local governmental units to adopt regulations designed to minimize flood losses; and

WHEREAS, the City has adopted regulations to prevent and limit flood damage, which are set forth in Chapter 16.04 of the City Code; and

WHEREAS, the City has designated areas that are subject to periodic inundation, which can result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, and extraordinary public expenditures for flood protection and relief, all of which adversely affect the health, safety and general welfare of the public, and identified them as “areas of special flood hazard” as defined in Section 16.04.050 of the City Code; and

WHEREAS, heavy rains and flooding occurred throughout Weld County and Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damages to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown; and

WHEREAS, areas beyond and in addition to those identified by the City as areas of special flood hazard were flooded as a result of the September 2013 storms; and

WHEREAS, as a result of such storm damage, businesses, government operations, schools, and other institutions have been closed; and

WHEREAS, Section 16.040.050 of the City Code contains the following definitions:

“Structure” means a walled and roofed building or manufactured home that is principally above ground.

“Development” means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

WHEREAS, the City Council needs time to develop and adopt appropriate standards limiting the construction, development, and other activities that will be permitted within certain areas that have been identified as special flood hazard areas and areas that have suffered flooding in September 2013.

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

1. Effective immediately, no further permits shall be approved or issued for structures or development, as those terms are defined above, on any property within the area depicted on the map attached as Exhibit A, which includes the areas of special flood hazard as defined in Section 16.04.070 and related sections of the City Code and all areas flooded during the September 9 through 13, 2013 storm.
2. No person shall construct any structure(s) or undertake any development, as those terms are defined above, on any property within the area depicted on Exhibit A.
3. This ordinance shall expire six months from its effective date, unless repealed by the City Council prior to its expiration.
4. Any person who violates any provision of this Ordinance shall be punished as provided in Chapter 1.16 of the City Code.
5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
6. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.
7. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17th DAY OF SEPTEMBER, 2013.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

BY: _____
Lyle E. Achziger, Mayor

COUNCIL COMMUNICATION

DATE: September 17, 2013

AGENDA ITEM: 7.E

SUBJECT: Emergency Ordinance No. 572-13 — Authorizing and Directing the Removal and Disposal of Debris Caused by the September 2013 Flooding from Private and Public Properties

PRESENTED BY: Scott Krob, City Attorney / Fred Starr, City Public Works Director

AGENDA ITEM DESCRIPTION:

The Ordinance authorizes the City of Evans, acting through its City Manager or other duly authorized designee, to promulgate regulations for the removal and disposal of all debris in the flooded area caused by the September 2013 flooding, as depicted on Exhibit A, regardless of whether the debris is located on or in public or private property. The Ordinance specifies that:

- no person shall remove or dispose of any debris from property located in the area depicted on Exhibit A, in any manner other than that set forth in the City’s regulations;
- the City of Evans Police and the City of Evans Code Enforcement Officer are hereby authorized to take such actions as necessary to enforce the City’s regulations regarding removal and disposal of debris from the area depicted on Exhibit A; and
- any person found to be in violation of this Ordinance or the regulations promulgated to implement this ordinance will be subject to penalties set forth in Chapter 1.16 of the Evans Code.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

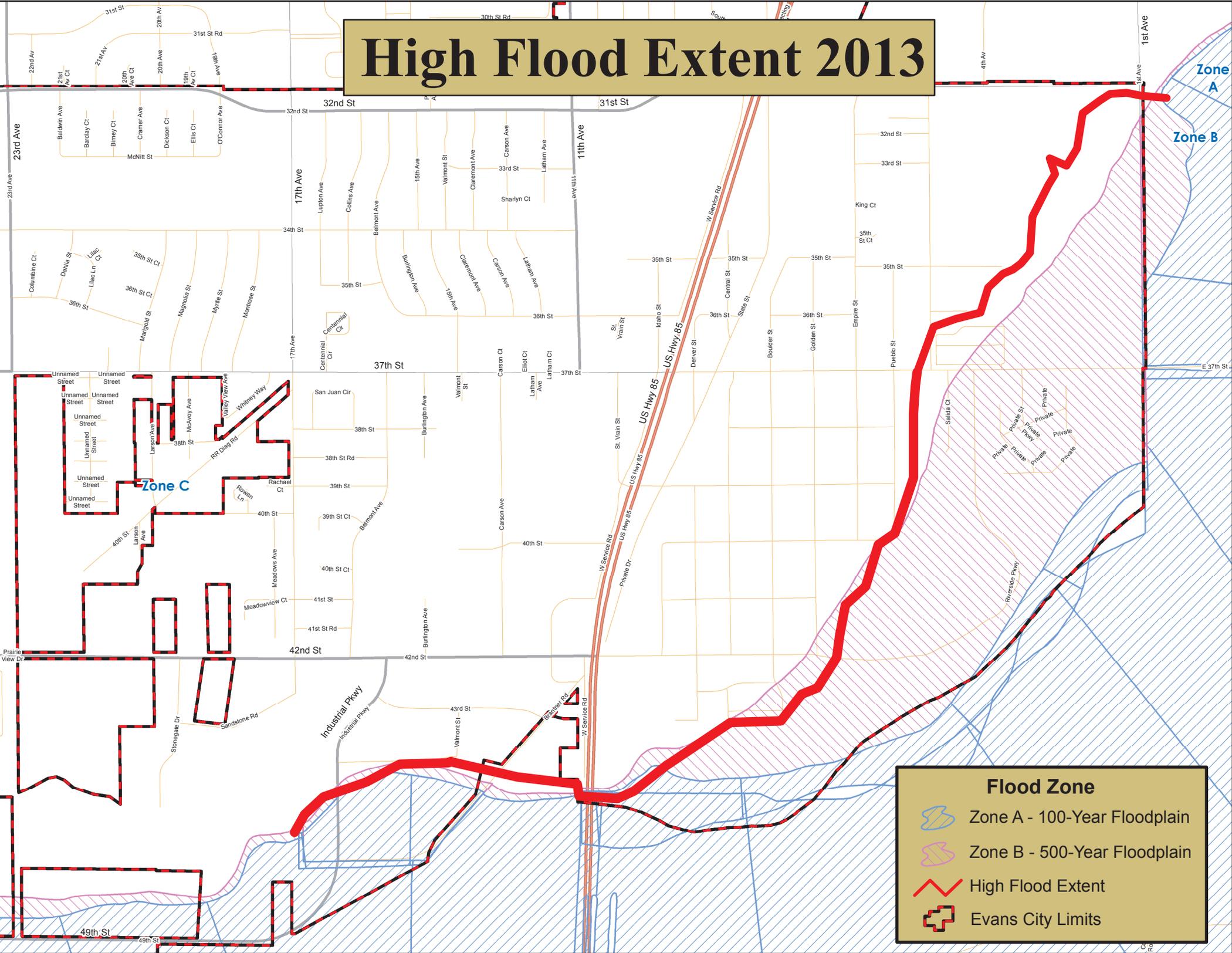
Staff recommends approval of the Ordinance to authorize the City of Evans to promulgate regulations for the removal and disposal of all debris in the flooded area caused by the September 2013 flooding.

SUGGESTED MOTIONS:

“I move to approve ordinance 572-13 to authorize the City of Evans to promulgate regulations for the removal and disposal of all debris in the flooded area caused by the September 2013 flooding.”

“I move to deny ordinance 572-13 to authorize the City of Evans to promulgate regulations for the removal and disposal of all debris in the flooded area caused by the September 2013 flooding.”

High Flood Extent 2013



Flood Zone

- Zone A - 100-Year Floodplain
- Zone B - 500-Year Floodplain
- High Flood Extent
- Evans City Limits

CITY OF EVANS, COLORADO

ORDINANCE NO. 572-13

**AN EMERGENCY ORDINANCE AUTHORIZING AND DIRECTING THE REMOVAL
AND DISPOSAL OF DEBRIS CAUSED BY THE SEPTEMBER 2013 FLOODING
FROM PRIVATE AND PUBLIC PROPERTIES**

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, the City Council is authorized to perform or direct all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, Section 1.3 of the Evans City Charter grants the City all the powers which are necessary, requisite or proper for government and administration of its local and municipal matters, and all powers which are granted to Home Rule Cities by the Constitution of the State of Colorado; and

WHEREAS, heavy rains and flooding have occurred throughout Weld County, including Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damage to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown; and

WHEREAS, the Weld County Department of Public Health and Environment has stated that flooding can lead to many potential health hazards including transfer of disease carrying materials, bacteria, parasites, and viruses; and

WHEREAS, such flooding has caused the movement and accumulation of debris on and in public and private property; and

WHEREAS, such debris contains numerous materials and substances that create an immediate health and safety threat to the general public, including but not limited to animal waste, human sewage and waste, contaminated water, hazardous materials, oil, fuel, and petroleum products; and

WHEREAS, as a result of the mixing of the flooding and contaminated waters throughout the flooded areas, the City is unable to determine which parts of the flooded areas, if any, do not contain contaminated debris, and therefore the City must treat all debris as contaminated, and

WHEREAS, it is essential that the debris caused by the flooding is removed and disposed in a manner that protects the health, safety and welfare of the public and ensures the City will be reimbursed to maximum extent permitted by law for its removal and disposal efforts.

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

1. The City of Evans, acting through its City Manager or other duly authorized designee shall promulgate regulations for the removal and disposal of all debris in the flooded area, as depicted on Exhibit A, attached hereto and incorporated by reference, regardless of whether the debris is located on or in public or private property.
2. No person shall remove or dispose of any debris from property located in the area depicted on Exhibit A, in any manner other than that set forth in the City's regulations.
3. The City of Evans Police and the City of Evans Code Enforcement Officer are hereby authorized to take such actions as necessary to enforce the City's regulations regarding removal and disposal of debris from the area depicted on Exhibit A.
4. Any person found to be in violation of this Ordinance or the regulations promulgated to implement this ordinance will be subject to penalties set forth in Chapter 1.16 of the Evans Code.
5. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
6. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.
7. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17th DAY OF SEPTEMBER, 2013.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

BY: _____
Lyle E. Achziger, Mayor

COUNCIL COMMUNICATION

DATE: September 17, 2013

AGENDA ITEM: 7.F

SUBJECT: Emergency Ordinance No. 573-13 — Authorizing the Chief of Police or Duly Authorized Official to Prohibit Access to Public and/or Private Areas Damaged by the September 2013 Flood and Deemed to be Unsafe

PRESENTED BY: Scott Krob, City Attorney / Rick Brandt, Police Chief

AGENDA ITEM DESCRIPTION:

The Ordinance authorizes the Chief of Police or duly authorized official to prohibit access to public and/or private areas damaged by the September 2013 flood and deemed to be unsafe. Specifically, the Ordinance provides that:

- the Police Chief or other designated official of the City may enforce such actions by constructing or causing the construction of fences and other barriers around public and/or private property until the determination has been made that the property can be accessed safely;
- no person shall access or attempt to access property to which access has been prohibited under the provisions this Ordinance;
- any person found to be in violation of this Ordinance will be subject to penalties set forth in Chapter 1.16 of the Evans Code; and
- the restrictions imposed by this Ordinance shall not apply to emergency personnel or other persons duly authorized by the City.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

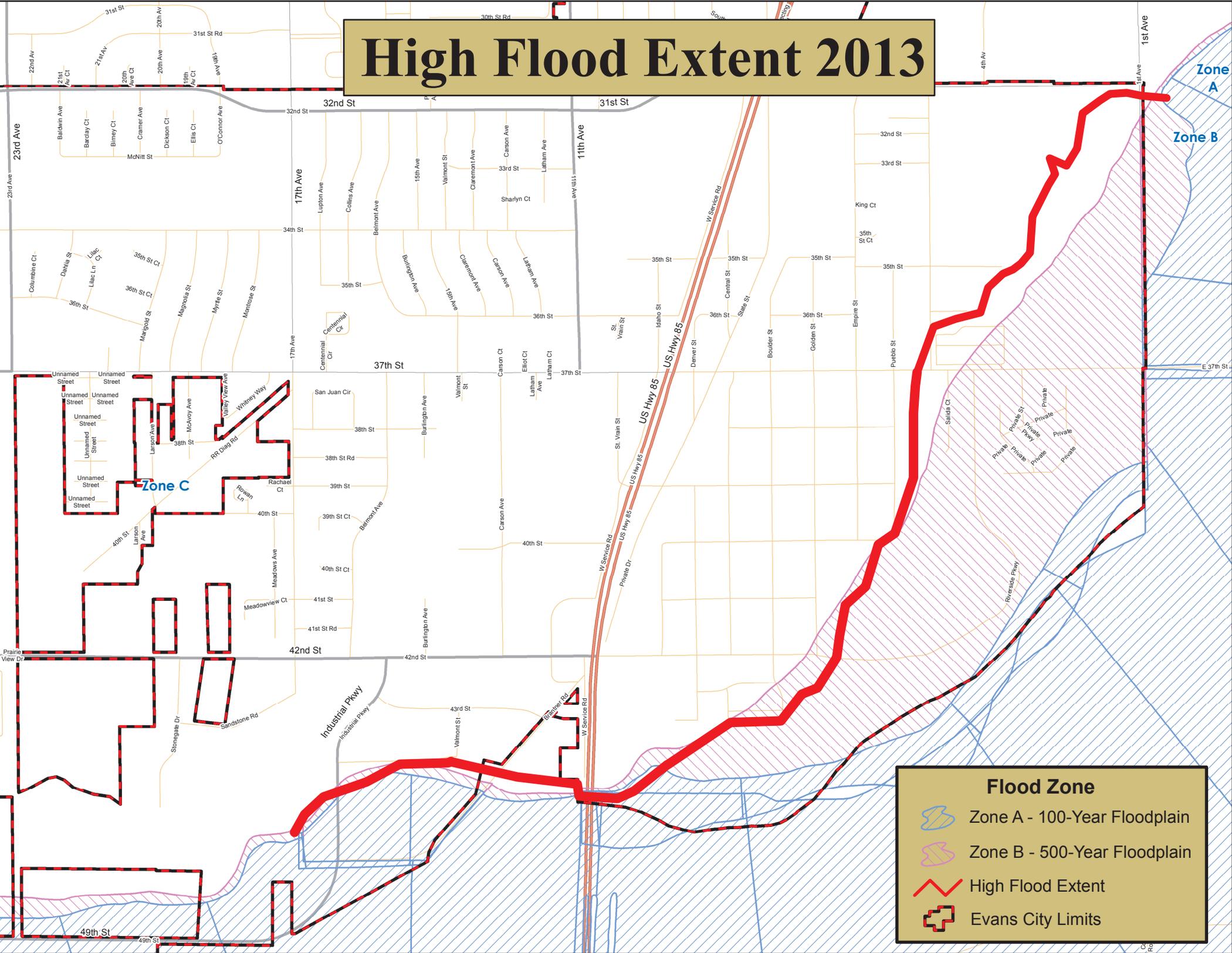
Staff recommends approval of the Ordinance to authorize the Chief of Police or duly authorized official to prohibit access to public and/or private areas damaged by the September 2013 flood and deemed to be unsafe.

SUGGESTED MOTIONS:

“I move to approve Ordinance 573-13 to authorize the Chief of Police or duly authorized official to prohibit access to public and/or private areas damaged by the September 2013 flood and deemed to be unsafe.”

“I move to deny Ordinance 573-13 to authorize the Chief of Police or duly authorized official to prohibit access to public and/or private areas damaged by the September 2013 flood and deemed to be unsafe.”

High Flood Extent 2013



Flood Zone

- Zone A - 100-Year Floodplain
- Zone B - 500-Year Floodplain
- High Flood Extent
- Evans City Limits

CITY OF EVANS, COLORADO

ORDINANCE NO. 573-13

**AN EMERGENCY ORDINANCE AUTHORIZING THE CHIEF OF POLICE
OR DULY AUTHORIZED OFFICIAL TO PROHIBIT ACCESS TO PUBLIC
AND/OR PRIVATE AREAS DAMAGED BY THE SEPTEMBER 2013 FLOOD
AND DEEMED TO BE UNSAFE**

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado; and

WHEREAS, pursuant to § 31-15-401, C.R.S., the City of Evans is empowered to regulate the police of the municipality and to pass and enforce all necessary police ordinances, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, Section 1.3 of the Evans City Charter grants the City all the powers which are necessary, requisite or proper for government and administration of its local and municipal matters, and all powers which are granted to Home Rule Cities by the Constitution of the State of Colorado; and

WHEREAS, Section 3.17 of the Evans City Charter grants the Council the ability to constitute the Board of Health of the City and delegates all the powers, privileges and immunities granted to boards of health by statutes; and

WHEREAS, heavy rains and flooding have occurred throughout Weld County, including Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damage to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown, and

WHEREAS, the Weld County Department of Public Health and Environment has stated that flooding can lead to many potential health hazards including transfer of disease carrying materials, bacteria, parasites, and viruses; and

WHEREAS, such flooding has caused damage to public and private structures rendering them unsafe to inhabit or occupy.

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

1. The City of Evans Police Chief or other designated Official of the City may prohibit access to public and/or private areas damaged by the flood and deemed to be unsafe for access or whose safety cannot be reasonably ascertained.

2. The Police Chief or other designated Official of the City may enforce such actions by constructing or causing the construction of fences and other barriers around public and/or private property until the determination has been made that the property can be accessed safely.
3. No person shall access or attempt to access property to which access has been prohibited under the provisions this Ordinance.
4. Any person found to be in violation of this Ordinance will be subject to penalties set forth in Chapter 1.16 of the Evans Code.
5. The restrictions imposed by this Ordinance shall not apply to emergency personnel or other persons duly authorized by the City.
6. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.
7. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.
8. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17th DAY OF SEPTEMBER, 2013.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

BY: _____
Lyle E. Achziger, Mayor

COUNCIL COMMUNICATION

DATE: September 17, 2013

AGENDA ITEM: 7.G

SUBJECT: Emergency Ordinance No. 574-13 — Imposing a Curfew within the Area Evacuated due to the September 2013 Flood

PRESENTED BY: Scott Krob, City Attorney / Rick Brandt, Police Chief

AGENDA ITEM DESCRIPTION:

The Ordinance imposes a curfew on all persons within the evacuation area of the City evacuated, as depicted on Exhibit A, between the hours of 10 p.m. and 6 a.m. The Ordinance also provides that:

- this curfew does not apply to emergency personnel or other persons duly authorized by the City of Evans or its designee;
- the evacuation area may be revised periodically at the direction of the Evans Police Chief; and
- any person found to be in violation of this curfew will be subject to penalties set forth in Chapter 1.16 of the Evans Code.

FINANCIAL SUMMARY:

N/A

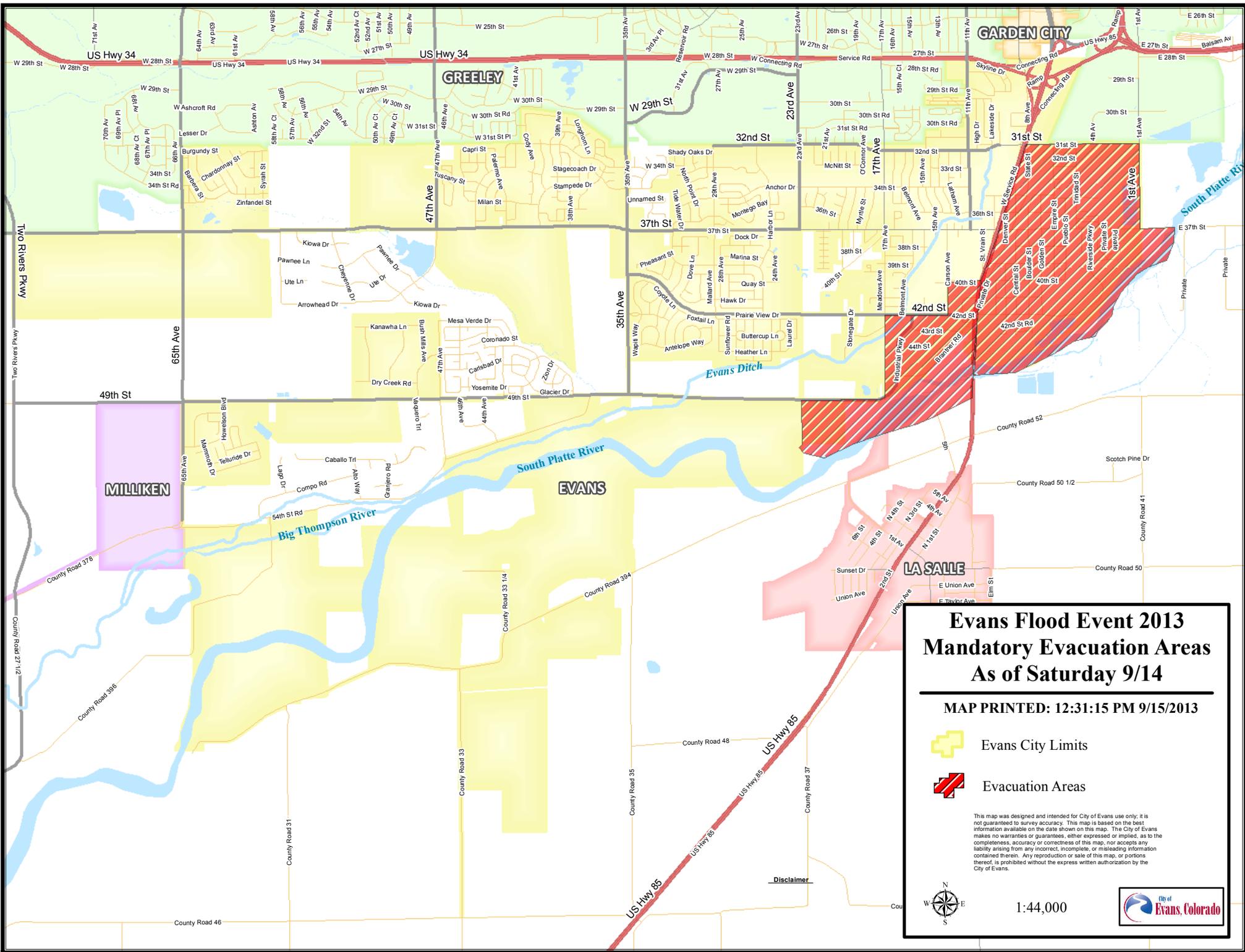
RECOMMENDATION:

Staff recommends approval of the Ordinance imposing a curfew within the area of the City evacuated due to the September 2013 flood.

SUGGESTED MOTIONS:

“I move to approve Ordinance 574-13 to impose a curfew within the area of the City evacuated due to the September 2013 flood.

“I move to deny Ordinance 574-13 to impose a curfew within the area of the City evacuated due to the September 2013 flood.



Evans Flood Event 2013 Mandatory Evacuation Areas As of Saturday 9/14

MAP PRINTED: 12:31:15 PM 9/15/2013

-  Evans City Limits
-  Evacuation Areas

This map was designed and intended for City of Evans use only; it is not guaranteed to survey accuracy. This map is based on the best information available on the date shown on this map. The City of Evans makes no warranties or guarantees, either expressed or implied, as to the completeness, accuracy or correctness of this map, nor accepts any liability arising from any incorrect, incomplete, or misleading information contained therein. Any reproduction or sale of this map, or portions thereof, is prohibited without the express written authorization by the City of Evans.



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Disclaimer

CITY OF EVANS, COLORADO

ORDINANCE NO. 574-13

**AN EMERGENCY ORDINANCE IMPOSING A CURFEW WITHIN
THE AREA EVACUATED DUE TO THE SEPTEMBER 2013 FLOOD**

WHEREAS, the City Council of the City of Evans, Colorado, pursuant to Colorado statute and the Evans City Charter, is vested with the authority of administering the affairs of the City of Evans, Colorado: and

WHEREAS, pursuant to § 31-15-401, C.R.S., the City of Evans is empowered to prevent and suppress riots, noises, disturbances, and all disorderly conduct in any public or private place, and to do all acts and make all regulations which may be necessary or expedient for the promotion of health or the suppression of disease; and

WHEREAS, Section 1.3 of the Evans City Charter grants the City all the powers which are necessary, requisite or proper for government and administration of its local and municipal matters, and all powers which are granted to Home Rule Cities by the Constitution of the State of Colorado; and

WHEREAS, heavy rains and flooding have occurred throughout Weld County, including Evans and various other municipalities on September 9, 2013 through September 13, 2013, causing substantial damages to private and public properties (including, but not limited to, buildings owned and maintained by the City of Evans), power outages, and closures of City roads due to flooding and standing water, with the extent of such damages being at present unknown; and

WHEREAS, the Weld County Department of Public Health and Environment has stated that flooding can lead to many potential health hazards including transfer of disease carrying materials, bacteria, parasites, and viruses; and

WHEREAS, the proper authorities have ordered the evacuation of portions of the City of Evans due to such flooding, and

WHEREAS, it is in the interest of the public health, safety and welfare to impose a curfew on unauthorized personnel being in the evacuated areas during the non-daylight hours.

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

1. A curfew is hereby imposed excluding all persons from the evacuation area, as depicted on Exhibit A, attached hereto and incorporated herein by reference, between the hours of 10 p.m. and 6 a.m. This curfew does not apply to emergency personnel or other persons duly authorized by the City of Evans or its designee. The evacuation area may be revised periodically at the direction of the Evans Police Chief.
2. Any person found to be in violation of this curfew will be subject to penalties set forth in Chapter 1.16 of the Evans Code.

3. Severability. If any article, section, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid for any reason such decision shall not affect the validity or constitutionality of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

4. Repeal. Existing ordinances or parts of ordinances covering the same matters embraced in this ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effect date of this ordinance.

5. Publication and Effective Date. This Ordinance is necessary for the immediate protection and preservation of the public health, safety, and welfare of the citizens of the City of Evans for the reasons described above, and therefore, shall become effective immediately as an emergency ordinance upon adoption by the City Council.

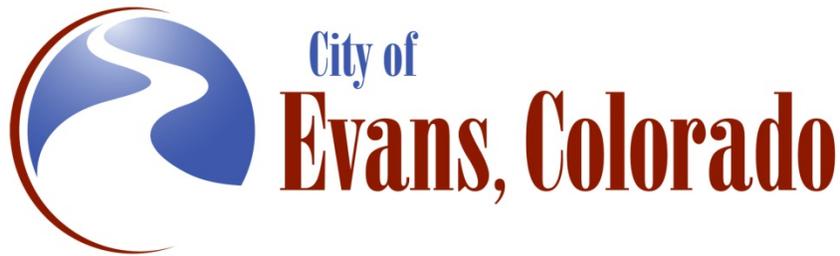
PASSED AND ADOPTED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 17th DAY OF SEPTEMBER, 2013.

ATTEST:

CITY OF EVANS, COLORADO

City Clerk

BY: _____
Lyle E. Achziger, Mayor



City Manager Monitoring Report September 17, 2013

Below is a compellation of updates and projects that are either new or have changed since the last City Council meeting

- **Save the Date**

The City Of Evans is a proud sponsor of the Education Summit hosted on October 3rd. If you are interested in attending please let Jess S. know by September 20th. See information below for details.



Save the Date!
Education Summit

Join the Greeley Chamber of Commerce and its partners in attending the 2013 Education Summit. Nationally recognized expert on education reform and finance, Alberto Carvalho, and HUMANeX Ventures CEO Brad Black are among the speakers. Banner/NCMC CEO Rick Sutton will also share his organization's perspective on community support to education. Learn more about the vital role education plays in our community's health and economic development. Get involved in working together on behalf of our schools. Register now for this community-changing event.

When
Wednesday, October 2, 2013

Where
Union Colony Civic Center
701 10th Avenue

\$25 ticket includes continental breakfast and luncheon
Register at <http://tiny.cc/EducationSummit2013> or call 970-352-3566

Event Partners



Greeley
Chamber of Commerce



City of
Greeley



City of
Evans, Colorado



Community
Foundation
GREELEY AND WELD COUNTY



highplains
Library District



THE
SUCCESS
FOUNDATION
Serving Greeley-Evans Schools



LIVE UNITED
United Way
United Way of Weld County
UnitedWay.org



UPSTATE COLORADO
ECONOMIC DEVELOPMENT
Supporting and Expanding in Greeley & Weld County Communities



**Citizens are invited to participate
in the semi-annual
National Prescription Drug
Take Back Initiative
&
Shred-a-thon**

Saturday—October 26, 2013

10:00am—2:00pm

Sam's Club

(parking lot 3247 23rd Avenue)



**Evans Police Officers and Evans Fire Fighters have partnered
with Sam's Club and Absolute Shredding, LLC
to host the semi-annual drug safety & fraud prevention event.**



**Citizens are invited to bring their unwanted personal documents to the
event for FREE personal document shredding services AND
Citizens may also bring personal computer hard drives for destruction***

**** Hard drive destruction is limited to 2 personal computer hard drives per household
& the hard drive must be removed from the computer by the citizen.***



**Citizens are encouraged to participate in the
National Prescription Drug Take Back Initiative.**

**This program provides an opportunity for the public to surrender
expired, unwanted, or unused pharmaceuticals and other medications
to law enforcement officers for destruction.**

**** The following will not be accepted: Needles, sharps, mercury, oxygen containers,
chemotherapy/radioactive substances, pressurized canisters, and illicit drugs.***



COUNCIL COMMUNICATION

DATE: September 17, 2013
AGENDA ITEM: 10.A
SUBJECT: Adjournment to Executive Session

AGENDA ITEM DESCRIPTION:

Pursuant to 24-6-402(4)(e), City Council will adjourn into an Executive Session for the discussion of matters subject to negotiations.

FINANCIAL SUMMARY:

N/A

RECOMMENDATION:

N/A

SUGGESTED MOTIONS:

“Pursuant to CRS 24-6-402(4)(e), I move to go into Executive Session for the discussion of matters subject to negotiations.”

SEPTEMBER 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
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	1	2	3	4	5

OCTOBER 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
		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		

NOVEMBER 2013

Sun	Mon	Tue	Wed	Thu	Fri	Sat
					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

September	Event	Location	Time
17	Regular City Council Meeting	Evans City Complex	Begins at 6:30 PM
20	CDOT Regional Recovery Meeting	Weld County Admin Building	Begins at 8:00 AM

October	Event	Location	Time
1	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
2	Education Summit	Union Colony Civic Center	7:30 AM—3:00 PM
3	NFRMPO October Meeting	Loveland Council Chambers 400 E. Third Street	6:00 PM - 8:30 PM
3	CML District 2 Event	Estes Park	4:00 PM - 8:30 PM
7	Bullseye Mayors Group	Evans City Complex	Begins at 6:30 PM
15	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
17	Government Agencies Meeting	Aims Community College	Begins at 7:00 AM
26	Drug Take- Back & Shred Event	Evans Sams Club 3247 23rd Avenue	10:00 AM - 2:00 PM

November	Event	Location	Time
5	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
7	NFRMPO November Meeting	Greeley Family Fun Plex 1501 65th Ave.	6:00 PM - 8:30 PM
11	Veterans Day	City Offices Closed	
19	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
28th-29th	Thanksgiving	City Offices Closed	