



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.

AGENDA

Regular Meeting

May 19, 2015 - 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:	John Morris
Mayor Pro-Tem:	Jay Schaffer
Council:	Laura Brown
	Mark Clark
	Sherri Finn
	Lance Homann
	Brian Rudy

4. PROCLAMATION

- A. Rocky Mountain National Park
- B. Public Works Week
- C. Memorial Day

5. AUDIENCE PARTICIPATION

The City Council welcomes you here and thanks you for your time and concerns. If you wish to address the City Council concerning issues not on the agenda, this is the time 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

- A. Approval of Minutes of the Regular Meeting of May 5, 2015

8. OLD BUSINESS

- A. Rumsey-Werning-Camenisch Annexation Agreement Amendment – (Continued from November 18, 2014 City Council Hearing)
- B. Ordinance No. 622-15 Changes to City Code Banning E-cigarettes (2nd Reading)

9. NEW BUSINESS

- A. Ordinance No. 623-15 Amending the Zoning Code to Make Oil & Gas Related Uses a Use By Special Review In Specific Zoning Districts (1st Reading)
- B. Resolution No. 15-2015 Authorizing the City to Accept Funds for Two Emergency Generators from the State Hazard Mitigation Grant Program
- C. The Award of Bid – Evans Wastewater Treatment Facility Repairs
- D. The Award of Bid – 2015 Concrete Replacement Contract

10. REPORTS

- A. City Manager
- B. City Attorney

11. AUDIENCE PARTICIPATION (general comments)

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

12. ADJOURNMENT

CITY OF EVANS – MISSION STATEMENT

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

PROCLAMATION

Celebrating the 100th Anniversary of Rocky Mountain National Park

WHEREAS, Evans, Colorado and Rocky Mountain National Park have a proud history of local connections and providing mutual benefits to each other, and;

WHEREAS, Enos Mills, known as the “Father” of Rocky Mountain National Park, visited and stayed in the Evans area at the age of 14 in 1884, prior to moving to the mountains and working to establish the designation as a national park, and;

WHEREAS, beginning in 1890 the Grand Ditch and its waters from the Colorado River have flowed through Rocky Mountain National Park to provide water resources to farmers and ranchers including those in Weld County and the Evans area, and;

WHEREAS, Rocky Mountain National Park was designated by the United States Congress and President Woodrow Wilson as a national park on January 26, 1915, and;

WHEREAS, multiple generations of families from Evans have visited and revisited Rocky Mountain National Park since its designation in 1915, and;

WHEREAS, we recognize that our national parks are vitally important to establishing and maintaining the quality of life in our country, ensuring the health of all citizens, and contributing to the economic and environmental well-being of neighboring communities and the region, and;

WHEREAS, Rocky Mountain National Park ensures the preservation of ecological beauty and provides a place to connect with natural beauty, flora and fauna, and to appreciate and enjoy the outdoors, and;

WHEREAS, many of Evans’s youth have participated in Rocky Mountain National Park’s Junior Ranger Program over the past decades to become stewards of the park for the next 100 years.

NOW THEREFORE, BE IT PROCLAIMED BY I, Jay Schaffer, Mayor Pro-Tem, of the City of Evans, Colorado that Evans heartily congratulates Rocky Mountain National Park on its 100th Anniversary and encourages all citizens to celebrate by visiting the park to hike, bike, photograph, enjoy its splendor of natural beauty and wilderness, observe wildlife abundance, and to be awe-struck by our majestic Rocky Mountains from plains to peaks.

ATTEST:

CITY OF EVANS:

By: _____
City Clerk

By: _____
Mayor Pro-Tem

National Public Works Week 2015 Proclamation

PROCLAIMING THE WEEK OF MAY 17TH THROUGH MAY 23RD, 2015 AS "NATIONAL PUBLIC WORKS WEEK" IN THE CITY OF EVANS, COLORADO

WHEREAS, public works infrastructure, facilities and services are of vital importance to sustainable communities and to the health, safety and well-being of the people of the City of Evans; and

WHEREAS, such facilities and services could not be provided without the dedicated efforts of public works professionals, engineers, managers and employees from state and local units of government and the private sector, who are responsible for and must plan, design, build, operate, and maintain the transportation, water supply, sewage and refuse disposal systems, public buildings, and other structures and facilities essential to serve our citizens; and

WHEREAS, it is in the public interest for the citizens, civic leaders and children in the United States of America to gain knowledge of and to maintain a progressive interest and understand the importance of public works and public works programs in their respective communities; and

WHEREAS, the year 2015 marks the 55TH annual National Public Works Week sponsored by the American Public Works Association;

NOW THEREFORE, I, Jay Schaffer, Mayor Pro-Tem of Evans, Colorado, do hereby proclaim May 17TH through May 23RD, 2015 as

National Public Works Week

in the City of Evans, Colorado and urge all citizens to thank and support the efforts of public works employees for their contributions to society for current and future generations.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Evans this 19TH day of May, 2015.

ATTEST:

CITY OF EVANS, COLORADO:

By: _____
City Clerk

By: _____
Mayor Pro-Tem

THE CITY OF EVANS, COLORADO, AS A GOVERNING BODY, A COMMUNITY, AND A FAMILY, OWES A GREAT DEBT TO THE MEN AND WOMEN OF OUR MILITARY, WHO HAVE PROUDLY SERVED, VALIANTLY FOUGHT, AND HONORABLY DIED, IN SERVICE TO THE NATION OF THE UNITED STATES OF AMERICA, BY REFUSING TO STAND UNOPPOSED TO THE THREAT OF TYRANTS, SO THAT WE, THE CHILDREN OF LIBERTY, MAY REMAIN UNSHACKLED BY THE WILL OF SMALL-MINDED MEN, FREE TO LIVE, UNRESTRICTED IN POTENTIAL, AND SOVEREIGN IN OUR OWN RIGHT. FOR THESE MEN AND WOMEN, I CAN ONLY OFFER MY EVERLASTING GRATITUDE AND UNDYING RESPECT. FOR THEIR FAMILIES, MY HEART BLEEDS, YOUR LOSS IS TREMENDOUS, BUT STAND PROUD AND LOOK AROUND; EVERYTHING YOU SEE AND EVERYTHING YOU DO HAS BEEN MADE POSSIBLE BY THE SACRIFICES OF MOTHERS AND FATHERS, SISTERS, BROTHERS, COUSINS, SONS, AND DAUGHTERS, JUST LIKE YOURS.

NOW, THEREFORE, I, JAY SCHAFFER, AS MAYOR PRO-TEM OF THE CITY OF EVANS, COLORADO, WITH IMMENSE PRIDE, DO HEREBY RECOGNIZE THE FINAL MONDAY OF MAY AS:

MEMORIAL DAY

IN THE CITY OF EVANS, COLORADO, AS A GRATEFUL POPULATION OF THE UNITED STATES OF AMERICA.

FURTHER, I URGE EVERY RESIDENT OF THE CITY OF EVANS, COLORADO TO EXPRESS THEIR GRATITUDE TO THE ACTIVE MEMBERS OF THE MILITARY, SURVIVING VETERANS, AND THE FAMILIES OF ACTIVE AND VETERAN SOLDIERS AS A SIGN OF RESPECT TO THE MEN AND WOMEN WHO ARE NOT HERE TODAY, SO THAT WE CAN BE.

IN WITNESS WHEREOF, I HAVE HEREUNTO SET MY HAND AND CAUSED TO BE AFFIXED THE OFFICIAL SEAL OF THE CITY OF EVANS, COLORADO THIS 19TH DAY OF MAY, 2015.

ATTEST:

CITY OF EVANS:

CITY CLERK

BY _____
MAYOR PRO-TEM

COUNCIL COMMUNICATION

DATE: May 19, 2015

AGENDA ITEM:

SUBJECT: Approval of the Minutes of May 5th City Council Meeting

PRESENTED BY: City Clerk

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 MEETING
May 5, 2015

CALL TO ORDER

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

PLEDGE

ROLL CALL

Present: Mayor Morris, Mayor Pro-Tem Schaffer, Council Members Brown, Clark, Finn, Homann, and Rudy

PROCLAMATIONS

A. Building Safety Month – May 2015

Mayor Morris read the Proclamation for Building Safety Month and presented it to Zach Ratkai, City Community Development Manager

RECOGNITIONS

A. May Yard of the Month

Mayor Morris and Kyle Fehr, City Code Enforcement Officer, presented Yard of the Month to Mr. Dennis Walkowiak from 2107 36th St Ct., Evans.

B. Recognizing Commander Jason Phipps, Evans Police Department

Chief Rick Brandt, Evans Police Department, talked about the annual academy hosted by the Federal Bureau of Investigations. Chief Brandt discussed the difficult curriculum of the academy and presented a plaque to Commander Jason Phipps, Evans Police Department, to recognize Commander Phipps for graduating from the 2015 academy.

AUDIENCE PARTICIPATION

Dean Snyder, 1613 San Juan Circle, Evans, spoke to City Council about his concerns related to homes in the local housing market not being inspected before they are sold. Mr. Snyder spoke about his career as a building and electrical inspector in the State of Washington. Lastly, he spoke about an expensive City fee for the installation of a fireplace in his home.

Raegan Robb, Evans City Clerk, explained that Fred Neal, from 1614 38th Street, submitted two letters to City Council, which will be inserted into the record (Attachment A).

APPROVAL OF AGENDA

Raegan Robb, Evans City Clerk, explained that an item added under New Business concerning City Park Impact Fees should have been titled to address equivalent residential units (EQRs). He explained that the item concerning EQRs would be the fourth item under New Business.

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Rudy, to adopt the Agenda, as amended.

The motion passed with all voting in favor thereof.

CONSENT AGENDA

- A. Approval of Minutes of the Regular Meeting of April 21, 2015**
- B. Ordinance No. 621-15 1st Quarter Budget Revision (2nd Reading)**
- C. Acceptance of the 2014 Audited Financial Statements**

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Clark, to adopt the Consent Agenda. The motion passed with all voting in favor thereof.

NEW BUSINESS

- A. Ordinance No. 622-15 Changes to City Code Banning E-cigarettes (1st Reading)**

Raegan Robb, Evans City Clerk, presented Ordinance No. 622-15 that amends Chapter 8.18 of the Evans City Code which Controls Smoking in the City and addresses all forms of electronic smoking devices.

Mr. Robb explained that Electronic smoking devices, are also known as “e-cigarettes” or “ESDs” have emerged as an alternative to tobacco smoking. These smoking devices have come under intense scrutiny by a number of health organizations which point to studies that demonstrate that these devices still represent a significant health concern with their emissions and we are seeing a trend where these devices are being banned in Colorado communities.

He explained that this issue was considered by the Greeley City Council in early 2015 and subsequently, members of the Evans City Council and staff requested an educational presentation at the February 3rd Work Session from Rachel Freeman, from the Tobacco Control Program Coordinator, under the Weld County Department of Public Health and Environment; and Megan Blaser, from the Community Health Education Coordinator, from Centennial Area Health Education Center.

Mr. Robb stated that “Rachel and Megan presented information from other Colorado communities who have regulated smoking to varying degrees, along with articles of support, and other communications. The material presented by Rachel and Megan was attached to this report and they are available for questions.

Following the February 3rd Work Session, the Evans City Council requested more information, and staff followed-up with City Council at the Work Session on February 17th where the Council Members asked the Tobacco-Free Coalition to draft an ordinance to be considered at a regular City Council meeting.”

He discussed the currently provisions of Chapter 8.18 of the Evans Municipal Code, which provides for the “Controlling of Smoking” by specifically prohibiting smoking in certain areas in the City, but also provides exceptions to these restrictions to specify where smoking can take place; and outlines the types of businesses that do not apply to the current smoking restrictions in the City.

He reminded Council that the Ordinance is not targeting the sale of “electronic smoking devices” or attempting to shut down smoke shops or businesses that sell tobacco products that are already allowed to exist according to SubSection 30 of Chapter 8.18.

Mr. Robb listed the proposed code changes by Ordinance No. 622-15, including:

- adds definition for “electronic smoking devices in Chapter 8.18;
- creates a new SubSection 45 that prohibits the use of electronic smoking device at all locations where smoking is already prohibited under SubSection 30, which includes “any indoor area or specified outdoor recreation areas;
- amends SubSection 50 to allow an owner to post signs prohibiting the use of electronic smoking devices or designate areas where the use of e-cigarettes are and are not permitted; and
- modifies SubSection 60(c), to allow for citations and prosecution in municipal court for any violations of Chapter 18.

He explained that the Ordinance does not have a direct fiscal impact on the City of Evans, and that staff does not have a recommendation on this issue.

The Council City did receive some advance communications supporting the Ordinance from LungColorado.Org and the Colorado Tobacco Free Alliance, which were entered into the record (Attachment B).

Mayor Morris asked for any testimony in support of this issue.

Rachel Freeman, the Tobacco Control Program Coordinator, under the Weld County Department of Public Health and Environment discussed the toxins and carcinogens found in e-cigarettes, the negative health impacts of e-cigarettes and asked the City Council for their support banning e-cigarettes in the City of Evans.

Megan Blaser, from the Community Health Education Coordinator, from Centennial Area Health Education Center, talked about the role of her Coalition for education, prevention, and commitment to the health of the community in Weld County.

Ms. Blaser talked about the negative impacts of smoking and importance of keeping cigarettes away from minors in Weld County. Lastly, she talked about the problem of e-cigarettes being more accessible to minors, the rising issues with kids being poisoned due to access to liquid nicotine, and urged the Council to support the Ordinance.

Council Member Finn asked Ms. Blaser if they have tracked an increase in minors using e-cigarettes.

Ms. Blaser explained that the use of e-cigarettes has tripled according to the CDC.

Council Member Finn talked about current tobacco law prohibiting the sale of tobacco to minors and whether e-cigarettes should be legislated at the state level.

Council Member Clark asked why municipalities needed to adopt exempting e-cigarettes when it could be legislated at the state level.

Ms. Blaser discussed frustrations with achieving a state-wide policy banning e-cigarettes in public places, and explained that her coalition was currently attacking the issues on a local level.

Mayor Morris asked for any testimony opposing the Ordinance—there was none.

Mayor Morris voiced his support for the issue and the importance of keeping all forms of tobacco out of public places. He talked about the adoption of the Colorado Clean Air Act in 2006, when e-cigarettes did not exist. Lastly, he talked about the need to prohibit the use of e-cigarettes at the local level, ahead of state policy.

Council Member Finn disagreed and spoke about revisions to the Clean Air Act to prohibit smoking in casinos, and later to address marijuana.

Council Members Clark and Finn talked about supporting businesses who want to prohibit e-cigarettes on a case-by-case basis.

Council Member Homann explained why he was opposed to the Ordinance.

Council discussion ensued on the matter.

Mr. Robb addressed questions about the provisions in the Ordinance concerning optional prohibition.

Mayor Morris asked about other neighboring Cities.

Rachel Freeman referred to the list of municipalities that have banned e-cigarettes and added that Arvada banned.

Mayor Morris listed the cities in Colorado that have taken action against e-cigarettes.

Council Member Finn talked about the need for a level playing when it comes to banning substances and not a patchwork of bans according to each municipality.

Mayor Morris thanked the Council Members for their comments, and spoke about his support for the Ordinance.

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Rudy, to approve Ordinance 622-15 to amend City Code to prohibit e-cigarettes. The motion passed 4-3 on a roll-call vote.

B. Resolution No. 14-2015 Approving Asset Disposals

Mr. Robb presented the Resolution, explaining that City Council adopted Resolution 10-2015 on April 7, 2015, to provide an asset disposal policy for the disposal of surplus/abandoned property from City departments that have accumulated and will continue to accumulate property that is damaged, out modeled, or no longer useful to the City which is considered “surplus property” according adopted policy.

Mr. Robb explained that under the asset disposal policy, property with an original cost of more than \$5,000 may be declared surplus property to be sold if the Evans City Council authorizes the sale of such property through the adoption of a resolution. He explained that staff anticipates this will only be necessary one or two times per year, typically for items such as vehicles. Lastly, Mr. Robb stated that the replacement of these vehicles is in the 2015 budget as asset management items and that revenue collected from the sale of surplus property will be receipted into the same fund in which the property was originally purchased.

Mayor Morris asked about how surplus property will be sold.

Mr. Robb summarized the asset disposal property.

Jessica Gonifas, Deputy City Manager explained that the vehicles would be traded in for the market value, if not bids are received.

Council Member Clark made the motion, seconded by Council Member Rudy, to adopt Resolution No. 14-2015. The motion passed with all voting in favor thereof.

C. The Award of Bid for the 37th Street Storm Sewer Project – Phase II

Dawn Anderson, City Engineer, discussed the details of the 37th Storm Sewer Project and explained that the project was advertised according to the City purchasing policy. According to Ms. Anderson, the City received eight complete base bids amounts, and selected Coyote Construction for the bid award.

Mayor Pro-tem asked about the dollar amount.

Ms. Anderson confirmed that the total amount was not to exceed \$790,921.

Mayor Morris asked about the project fixing drainage along 37th near the rail road tracks.

Ms. Anderson confirmed that the project would also address drainage.

Council Member Clark made the motion, seconded by Council Member Homann, to award the 37th Street Storm Drain Project – Phase II to Coyote Ridge Construction, and to authorize the Mayor’s signature on an agreement in the amount of \$790,921.00.

The motion passed with all voting in favor thereof.

D. Development EQRs

Aden Hogan, City Manager, asking approval for the Mayor to sign a letter to Marc-Andre Levesque concerning a development in the City and the applicants request to reconfigure the EQR calculation for the development. Mr. Hogan discussed the current formula for EQR calculation and the possible need for a future resolution to recalculate EQR requirements for domestic water usage. He explained that the current project was requesting to development 1200 units, and the agreement would allow for the construction on non-potable infrastructure in the development.

Mayor Morris asked about the proper wording of the motion.

Mr. Hogan clarified the motion should authorize the Mayor to sign the letter to the developer to calculate domestic water volume at .06 EQR/dwelling unit.

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Clark, to authorize the Mayor to sign the letter to the developer. The motion passed with all voting in favor thereof.

REPORTS

A. City Manager

Mr. Hogan, had nothing to report.

B. City Attorney

Scott Krob, City Attorney, updated the Council about the funds received from Mineral Resources for the mineral rights leased from City property.

AUDIENCE PARTICIPATION

There was no audience participation.

EXECUTIVE SESSION

A. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. Section 24-6-402(4)(e)

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Clark, to adjourn into 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, under C.R.S. Section 24-6-402(4)(e). The motion passed with all voting in favor thereof.

City Council adjourned into executive session at 8:38 p.m.

The executive session concluded at 9:03 p.m.

Scott Krob, City Attorney, entered into the record that the reason for the executive session was satisfied according to the referenced state law and covered under

attorney client privilege.

ADJOURNMENT

The regular meeting adjourned at 9:03 p.m.


Raegan Robb, City Clerk

DRAFT

1614-38th ST
Evans, Co 80620-2417
10 January 2015
970-475-0731

To the Editor:

Sharon Dunn and the Greeley rag are continuing their legacy of yellow journalism. The 7 January 2015 front page "article" and pictures about a police shooting in Evans are a clear case of yellow journalism. COMMON SENSE will tell you that the total number of EVIDENCE MARKERS does not equal the total number of shots fired. Dunn claims "bullet spray spanning the entire front portion of the large billiard hall and restaurant" and "officers fired more than 30 shots". Where? The entire length of the cinder block building to the super market entrance shows no bullet spray damage. The only damage is to the main glass entrance depicted by the Greeley rag's front page pictures taken by Jim Rydbom. Dunn says it was "domestic violence call", the police say "call about a man outside with a gun". The investigation will show to which of these dangerous situations the officers thought they were responding.

Is Sharon Dunn attempting to create a Ferguson, Missouri situation hoping to bask in the national attention?

Thankfully, the MAJOR regional newspapers (Denver Post, Loveland Reporter Herald, Fort Collins Coloradoan, Longmont Times-Call, and Boulder Daily Camera) chose to apply common sense maintaining their journalistic integrity. All these newspapers will await the results of the investigations knowing, unfortunately, that every question of family and friends can never be fully answered.

Almost twenty years ago, I remember how devastated a Greeley State Patrol Captain was when forced to draw his weapon for the first time and kill my friend Scott who had just killed my friend Sharlene and wounded another person. My question is still "How could I have prevented both my friends deaths from Alamosa"?

It is not as easy as some people think to draw and fire in the line of duty.

Sincerely,



Fred Neal

Full disclosure: I am currently serving as a volunteer on the Evans Flood Recovery & Redevelopment Task Force and the Evans Citizens Police Advisory Board. Nine years ago, I would not have written this letter. Chief Brandt has earned my respect by improvements made to police service. Although we see each other only at city functions, I consider Chief Brandt a friend-a title not lightly bestowed nor abandoned by me. Please contact me if additional information is needed at my home number above.

Open letter to the Evans City Council

The Evans Police force has been portrayed in a very negative light by the media in recent events. Chief Brandt's ninety minute interview with 48 hours was cut down to a few disquieting sound bits designed to suggest mismanagement of the department. In 2007 I met with Chief Brandt, very hesitantly and suspiciously, regarding possible secret files and recordings being kept on me by former and then current police staff. (This information was given to me during the recall.) Chief Brandt told me he planned to maintain a transparent and accessible police department. He soon called me and provided copies of the recordings and all other information. I believe Chief Brandt has tried to maintain a transparent and accessible police department subject to the limitations imposed by our court system. Just as city council members and staff can not speak about information provided in executive session, neither can the police speak about ongoing investigations, trials, and other litigation pertaining to the department/city.

Remember the Greeley tribune's 7 January 2015 blatant lies (see attached letter) about the number of shots that were fired based on the number of evidence markers on scene? How this stupid misinformation "reported" by Sharon Dunn, former City Editor, inflamed the people who read this garbage as fact.

Now we have the 48 hours "documentary". Hopefully, the city council will not perform a rush to condemn based on this report. Unfortunately, we will have to wait for the trial before all the facts in this case are known.

Since I can not see me helping a relative cover up a murder, covering up a murder committed by an employee or friend is totally out of the question. I believe that most people think the same way including Chief Brandt and the Evans officers involved in this case.

Again, I would ask that the city council not allow the media to convict the police department of misconduct before all the facts are known.

Sincerely yours,



Fred Neal
1614-38th ST

COLORADO TOBACCO FREE ALLIANCE

ATTACHMENT B

**American for
Nonsmokers' Rights**

April 27, 2015



We represent the Colorado Tobacco Free Alliance, a coalition of statewide health organizations that include American's for Nonsmokers' Rights, American Cancer Society: Cancer Action Network, American Lung Association in Colorado, Campaign for Tobacco Free Kids, and Colorado Tobacco Education and Prevention Alliance that have been working on smoke-free policy in Colorado for several decades. We appreciate, and support, your consideration of adding aerosol emissions from electronic smoking devices to your smoke-free ordinance. We hope the following is helpful for your council deliberations

**American Cancer
Society: Cancer Action
Network**



As you know, earlier this year Greeley became one of the latest Colorado communities to add the use of electronic smoking devices to their smoke-free law. Greeley's action requires all indoor places to be smoke-free and vapor free which protects everyone from the toxic chemicals in the vapors. We now have 11 communities in the state that have taken similar action and more than 275 nationwide. Local smoke-free policies have been incredibly popular and successful in Colorado over the last 15 years. In addition to protecting everyone from the dangerous chemicals in tobacco smoke, local smoke-free laws in Colorado have produced many health benefits, including a 2011 study that found heart attack admissions in Greeley dropped 27% during the 2 ½ years following the smoke-free law passage in 2003.

**American Heart
Association**



The science is clear. Smoke-free policies have been proven to protect the health of workers and others, help reduce youth and adult tobacco use, and do not cause negative economic harm to a community. Comprehensive smoke-free laws not only protect everyone and provide the maximum health benefit – they provide a level playing field for all businesses and facilitate enforcement by removing any confusion as to who is supposed to comply with the law. Protecting people from the toxic chemicals in electronic smoking devices supports the smoke-free, healthy community standard.

**American Lung
Association in Colorado**



The latest information on aerosol emissions:

Adding vaporization to your smoke-free law does not impact the sale of vapor products. E-cigarettes and vaporization devices are not approved smoking cessation devices. These vapor products remain unregulated; manufacturers are not required to disclose what is in them or in their emissions. Nicotine and other toxic substances have been found in exhaled e-cigarette aerosol. And we know some products also can contain tobacco and conceal marijuana use. We have attached several facts sheets regarding the dangerous chemicals in the vapors and potential impact to users and non-users.

**Campaign for Tobacco
Free Kids**



**Colorado Tobacco
Education and
Prevention Alliance**

In Colorado, local communities have led the way on addressing tobacco use. We hope Evans will become the latest community to establish an aerosol free standard

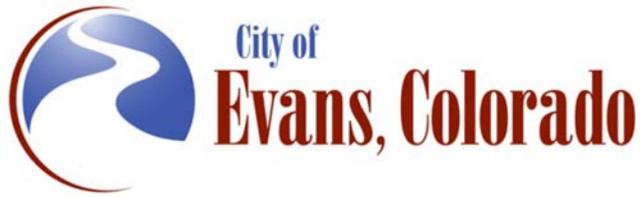


Respectfully,

Cindy Liverance
Chair, Colorado Tobacco Free Alliance
(303) 847-0267

**Group to Alleviate
Smoking Pollution**





CITY COUNCIL COMMUNICATION

DATE: May 19, 2015 (Tabled from November 18, 2014)

AGENDA ITEM: 8.A

SUBJECT: Rumsey-Werning-Camenisch PUD Plan Approval
- Continuation (Werning Parcels)

ACTION: Consideration by City Council

STAFF CONTACT: Sean Wheeler, City Planner

APPROVED BY: Zach Ratkai, Community Development Manager

PLANNING COMMISSION: August 27, 2014

BACKGROUND INFORMATION		
Location:	23822 WCR #331/4; Off both sides of CR# 394 and CR# 331/4 (See Attached Map)	
Applicant:	Glenn and Kathy Warning	
Existing Land Use:	Agricultural	
Proposed Land Use:	PUD: Zoning for Agricultural and Related Uses, plus Rural Residential Uses	
Surrounding Land Use:	North	Agricultural, Weld County Undeveloped
	South	I-2 Industrial, Agricultural
	East	PUD, Undeveloped
	West	Weld County Agricultural
Existing Zoning:	PUD: Undefined	
Proposed Zoning:	PUD: Agricultural, Rural Residential	
Surrounding Zoning:	North	PUD / Undeveloped Wildlife Habitat
	South	I-2 Industrial / Weld County, Undeveloped, Agricultural
	East	PUD (Undefined)
	West	PUD (Undefined)
Future Land Use Designation:	Agricultural uses with possible agricultural related uses, also limited residential development.	

PROJECT UPDATE:

1. Following the October hearing, Staff met internally (and with the applicant) to discuss a course of action for this request. As a result it was determined that the applicants and the owners of the Rumsey parcels are responsible for all improvements for this PUD, based on based on the language in the Annexation Agreement. The cost for these improvements is considerable and includes the extension of 35th Street, construction of a bridge, etc.. Clearly, this proposition is not feasible for the land owner nor would the City likely wish to make this a requirement for approval to modify the PUD Plan.

2. For that reason Planning and Public Works staff seek approval for additional time to work with the applicant and the City Attorney to determine a solution that works for all parties. Our recommendation is to table the request to a date uncertain, but for no more than for six months. This will allow time to draft a new annexation agreement and PUD Plan, along with providing time for review by the applicant’s attorney. The intent is to bring this back to Council for consideration as quickly as possible.

3. For reference, the below chart provides a time-line for the Rumsey-Werning-Camenisch Annexation and PUD approvals from 2003 to the present. (Please note, in the chart RWC stands for Rumsey Werning Camenisch and CR for County Road.)

ITEM #	DATE	ORD., RES., MOU OR AGREEMENT	ACTION
1.	NOV 18, 2003	RES: 67-2003	Approval of the Rumsey and Werning Annexation Agreement (Not Camenisch)
2.	FEB 03, 2004	RES: 06-2004	Finding of Substantial Compliance for Rumsey Annexation; 710.79 acres
3.	FEB 03, 2004	RES: 07-2004	Finding of Substantial Compliance for Werning Annexation; 195.57 acres
4.	FEB 03, 2004	RES: 08-2004	Finding of Substantial Compliance for Camenisch Annexation; 435.81 acres
5.	Total for above three resolutions: 1342.17 acres		
6.	MAR 16, 2004	RES: 20-2004	Findings of Fact & Conclusions, RWC and CR Annexations
7.	APR 06, 2004	RES: 25-2004	Memo of Understanding with Weld CO. Road Maintenance Agreement for the County Road, to be signed if the City approves future Gravel Mining for the RWC PUD. Blank agreement form recorded as an exhibit to apply if Council approves a gravel pit Use by Special Review.
8.	APR 06, 2004	ORD: 259-04	Annexation Approval for the RWC Parcels 1-13, plus portions of CR#394 1-8 and CR#29 ½.

ITEM #	DATE	ORD., RES., MOU OR AGREEMENT	ACTION
9.	APR 06, 2004	ORD: 260-04	<p>Established Zoning for properties known as the RWC Annexations #1-13 and CR# 394 1-8 and a portion of CR#29. A total of 1345.62 acres rezoned from County Agricultural and Estate to PUD, but PUD Undefined.</p> <p>NOTE 01: This ordinance includes “Camenisch” in the ordinance title. However, a representative for the Camenisch interests did not sign the annexation agreement that City Council approved 10 days later, unless one of the other owners had power of attorney. The case file has no clarifying information. (See #11 Below)</p> <p>NOTE 02: This ordinance describes 1345.62 total acres, being 3.45 acres more than the acreage described in the combined “substantial compliance” resolutions signed in February 2004. This could be a surveying error, but nothing in the case file provides clarification.</p>
10.	APR 06, 2004	RES: 26-2004	Authorized City to provide fire protection and exclude annexed lands from LaSalle and Milliken FPD’s.
11.	APR 16, 2004	Annexation Agreement	Rumsey-Werning ONLY. This agreement does not include Camenisch as a named party (or include a signature block for Camenisch) yet it includes lands described as owned by them as part of the legal exhibit. Case file has no clarifying information regarding this.
12.	OCT 3, 2006	RES: 52-2006	Approval of the “Consolidated Service Plan” for the North Suburban Metropolitan District Nos. 1-4. Related to construction of 35 th Avenue Bridge, as part of the RWC PUD.
13.	JUN 5, 2007	RES: 22-2007	Approval a subordination agreement with Rumsey Land Company and Pueblo Bank and Trust.
14.	DEC 8, 2007	RES: 79-2007	Approval of an Amendment to Resolution 52-2006, (item #12) and approval of the “Consolidated Service Plan” for the North Suburban Metropolitan District 1-4. Related to construction of 35 th Avenue Bridge, as part of the RWC PUD.
15.	DEC 18, 2007	RES: 72-2007	Authorized a petition to exclude address 14689 CR#394 (RWC Annexation #12) from the Platteville/Gilcrest FPD.

ITEM #	DATE	ORD., RES., MOU OR AGREEMENT	ACTION
16.	APR 15, 2008	RES: 15-2008	Approval of an Intergovernmental Agreement with the North Suburban Metropolitan Districts Nos. 1-4. Related to construction of 35 th Avenue Bridge, as part of the RWC PUD.
17.	Luther Annexation and PUD: Items 19 through 23 below relate to the Luther annexation. They are included as it was described as being “attached” to RWC PUD Plan, according to the minutes from the JUL 15, 2008 City Council hearing. In addition, Ordinance #448-08 (approving the annexation) describes 249.59 acres while Ordinance #449-08 (establishing zoning) describes 6.33 acres. The reason for this difference is unclear in the case file.		
18.	JUL 15, 2008	RES: 36-2008	Approval of Luther Annexation Agreement
19.	JUL 15, 2008	RES: 37-2008	Findings of Fact & Conclusions, Luther Resolution
20.	JUL 15, 2008	ORD: 448-08	Approval of Luther Annexation (Legal describes 249.59 acres)
21.	JUL 29, 2008	ORD: 449-08	Established zoning for Luther Annexation (Legal describes 6.33 acres)
22.	TO BE DETERMINED	ORD: 606-14	Approving an amendment to the Werning property, to be known as the RWC PUD Plan.
No further public hearings or approvals identified in case files.			

STAFF RECOMMENDATION:

Staff recommends tabling the Rumsey-Werning-Camenisch Planned Unit Development Plan modification request to a date uncertain, but not beyond September, 2015.

RECOMMENDED MOTIONS:

“Mr. Mayor, on the issue of the modified Rumsey-Werning-Camenisch Planned Unit Development Plan, I move that the City Council table consideration of the request to a date uncertain but not beyond September, 2015, to allow time for Staff and the Applicant to formalize a revised PUD Plan and Annexation Agreement.”

“Mr. Mayor, I move to recommend denial of the proposed PUD Plan for the Rumsey-Werning-Camenisch Planned Unit Development (Werning Parcels) as approval is not in the best interest of the citizens of the City of Evans.”

CITY COUNCIL COMMUNICATION

DATE: May 19, 2015

AGENDA ITEM: **8.B**

SUBJECT: Ordinance No. 622-15 Amending Chapter 8.18 of the Evans City Code Regarding Control of Smoking to Address All Forms of Electronic Smoking Devices in Addition to Traditional Tobacco Smoking Devices (2nd Reading)

PRESENTED BY: Raegan Robb, City Clerk

PROJECT DESCRIPTION:

The issue of prohibiting “electronic smoking devices” in the City of Evans was presented to City Council at the February 3, 2015 by Rachel Freeman, Tobacco Control Program Coordinator, Weld County Department of Public Health and Environment, and Megan Blaser, Community Health Education Coordinator, Centennial Area Health Education Center

Electronic smoking devices, also known as “e-cigarettes” have emerged as an alternative to tobacco smoking; these devices typically contain nicotine and are not lit by flame but operated by battery and simulate smoking instruments. These smoking devices have come under intense scrutiny by a number of health organizations which point to studies that demonstrate that these devices still represent a significant health concern with their emissions and many communities have banned their use.

These advocates presented information from other Colorado communities who have regulated smoking to varying degrees, along with articles of support, and other communications. The material presented by the advocates is attached to this report.

The Evans City Council requested more information after this presentation and staff followed-up with City Council at the Work Session on February 17, 2015 where the Council Members asked the advocacy organizations to draft an ordinance for the Council to consider at a regular City Council meeting.

Current City Code Controlling Smoking.

[Chapter 8.18](#) of the Evans Municipal Code currently provides for the “Controlling of Smoking” and specifically prohibits smoking in the City of Evans, but also provides exceptions to these restrictions to specify where smoking can take place and outlines the types of business operations that do not apply to the current smoking restrictions in the City of Evans.

This section of code was implemented by Ordinance 1075-97 and amended in 2006 and 2008 following the adoption of the Colorado Clean Indoor Air Act under House Bill 06-1175.

Following the passage of House Bill 06-1175, this Chapter of City Code was repealed and re-enacted with the following legislative declaration introducing this Chapter of Code, which provides the intent of the City's current smoking prohibition:

“The City hereby finds and determines that it is in the best interest of the people of this City to protect nonsmokers from involuntary exposure to environmental tobacco smoke in most indoor areas open to the public, public meetings, food service establishments, places of employment, and certain outdoor recreation areas. The City further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco products in certain designated public areas and in private places. Therefore, the City hereby declares that the purpose of this Chapter is to preserve and improve the health, comfort and environment of the people of this City by limiting exposure to tobacco smoke.” (Ord. 427-08; Ord. 374-06; Ord. 1075-97)

Proposed Code Changes By Ordinance No. 622-15.

Ordinance [No. 622-15](#) amends Chapter 8.18 to prohibit the use of an electronic smoking device at any location where smoking is already prohibited under this Chapter, unless such use is subject to the exemptions listed in Section 8.18.040.

Specifically, the Ordinance provides the following definition for an electronic smoking device:

(3.5) “Electronic smoking device” means any electronically actuated device which in operation causes the user to exhale any smoke, vapor, or other substance resulting in chemically altered human exhalation. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vaporizer, a vape pen, or under any similar product name or descriptor. The term "electronic smoking device" does not include any asthma inhaler

or other device that has been specifically approved by the United States Food and Drug Administration.

The Ordinance creates Section 8.18.045 that prohibits electronic smoking device at all locations where smoking is already prohibited under Section 8.18.030, which includes “any indoor area or specified outdoor recreation areas, including, but not limited to:

- (a) Public meeting places;
- (b) Elevators;
- (c) Government-owned and or operated means of mass transportation, including, but not limited to, buses, vans, and trains;
- (d) Taxicabs and limousines;
- (e) Grocery stores;
- (f) Gymnasiums;
- (g) Jury waiting and deliberation rooms;
- (h) Courtrooms;
- (i) Child day care facilities;
- (j) Health care facilities including hospitals, health care clinics, doctor’s offices, and other health care related facilities;
- (k) (I) Any place of employment that is not exempted.

(II) In the case of employers who own facilities otherwise exempted from this Chapter, such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.
- (l) Food service establishments;
- (m) Bars;
- (n) Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;
- (o) Indoor sports arenas;
- (p) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
- (q) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests;

- (r) Bowling alleys;
- (s) Billiard or pool halls;
- (t) Facilities in which games of chance are conducted;
- (u) The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;
- (v) Public buildings;
- (w) Auditoria;
- (x) Theaters;
- (y) Museums;
- (z) Libraries;
- (aa) To the extent not otherwise provided in Section 25-14-103.5, C.R.S., public and non-public schools;
- (bb) Other educational and vocational institutions;
- (cc) The entryways of all buildings and facilities listed in paragraphs (a) to (bb) of this subsection (1); and
- (dd) Within the entire fenced area of the Riverside Park Ball Fields.”

The Ordinance also includes “electronic smoking devices” into the current code for optional prohibition under Section 8.18.050, to read as follows:

“To allow the owner or manager of any place not specifically listed in Section 8.18.030, including a place otherwise exempted under Section 8.18.040, may post signs prohibiting smoking **and the use of electronic smoking devices.** **Such owner or manager may post signs** ~~or~~ providing smoking and non-smoking areas **as well as areas where use of electronic smoking devices are permitted and areas where the use of electronic smoking devices are not permitted.** Such posting shall have the effect of including such place, or the designated non-smoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Chapter.”

Lastly, the Ordinance also provides an enforcement mechanism by modifying Section 8.18.060(c) to refer back to the general penalty provisions in Chapter 1.16 for any violations of Municipal Code.

Current Exceptions To Smoking Restrictions.

Ordinance No. 622-2015 is not targeting the sale of “electronic smoking devices” but only their use in the areas outlined in Section 8.18.030. Chapter 8.18.040 of the Evans Municipal Code specifies where smoking can take place and outlines the types of business operations, like a tobacco business or cigar bar, where these smoking restrictions in the City of Evans do not apply. Listed below are the exemptions listed under 8.18.040 of City Code:

- A. Private homes, private residences and private automobiles; except that this Chapter shall apply if any such home, residence or vehicle is being used for child care or day care or if any private vehicle is being used for the public transportation of children or as part of health care or day care transportation;
- B. Limousines under private hire;
- C. A hotel or motel room rented to one (1) or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent (25%);
- D. Any retail tobacco business;
- E. A cigar-tobacco bar;
- F. An airport smoking concession;
- G. The outdoor area of any business;
- H. A place of employment that is not open to the public and that is under the control of an employer that employs three (3) or fewer employees;
- I. A private, nonresidential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars (\$500,000.00).

FINANCIAL:

The Ordinance does not have a direct fiscal impact on the City of Evans.

STAFF RECOMMENDATION:

Staff recommends continuing the Ordinance to the regular City Council meeting on June 2, 2015.

RECOMMENDED MOTIONS:

“Mr. Mayor Pro-Tem, on the issue of second reading and final adoption of Ordinance No. 622-15, concerning amending Chapter 8.18 of the Evans City Code Regarding Control of Smoking

to, I move that the City Council continue the Ordinance to the regular meeting on June 2, 2015, to allow the entire City Council to cast a final vote on second reading and final adoption.

Citizen proposed replacement ordinance options by opponents to allow electronic smoking in retail outlets
Additional Documentation/Citizen Handouts from the January 6, 2015 Council Meeting and subsequent submitted communications

Local Colorado communities that provide **ADDITIONAL** protections from secondhand tobacco smoke and vapor

Smoking prohibited in the outdoor seating or serving areas of restaurants or bars.

- Arvada
- Avon
- Boulder
- Eagle County
- Edgewater
- Firestone
- Louisville
- Superior
- Timnath

Smoking prohibited at Parks, Trails, Playgrounds and Outdoor Rec facilities:

- Arvada (*city-owned parks, trails, outdoor recreation areas,*)
- Avon (*outdoor recreation facilities*)
- Boulder (*public park shelters*)
- Brighton (*within 100' of organized sporting events held at public parks/sports complexes*)
- Commerce City (*parks and trails*)
- Durango (*city owned parks, playgrounds, picnic pavilions, rec facilities and ball fields, the Animas River Trail and adjacent greenway*)
- Eagle County (*outdoor recreational facilities*)
- Edgewater (*sporting events, and parks*)
- Golden (*parks and playgrounds*)
- Greeley (*public ball fields*)
- Lakewood (*playgrounds and gathering areas of recreation areas*)
- Las Animas
- Snowmass
- Steamboat Springs (*sporting events, parks, playgrounds*)
- Timnath (*sporting areas, tennis courts, swimming pools, and sports fields during organized events*)
- Wellington
- Wheatridge
- Winter Park (*parks, playfields, and trails*)

Smoking Prohibited in Outdoor Transit Facilities:

- Boulder (bus shelters)
- Durango (bus stops/waiting areas)
- Fort Collins (Transfort's public transit facilities, benches, and platforms)
- Lakewood (transit stops [light rail and bus])

Smoking prohibited in tobacco retail stores (includes tobacco shops and hookah lounges):

- Arvada
- Avon
- Dillon
- Edgewater
- Golden
- Greeley
- Louisville
- Snowmass Village
- Timnath

Smoking prohibited in all bars and restaurants (including cigar bars):

- Arvada
- Avon
- Boulder County
- Breckenridge
- Dillon
- Eagle County
- Edgewater
- Fort Collins
- Frisco
- Greeley
- Longmont
- Louisville
- Pueblo
- San Luis
- Silverthorne
- Snowmass Village
- Steamboat Springs
- Summit County
- Timnath

To the City Council Members of Evans,

The American Lung Association in Colorado supports the inclusion of electronic cigarettes and vaping devices in Evans' smoke free ordinance to protect the health and well-being of its citizens.

Currently, no e-cigarettes or vaping devices are under the FDA's authority. The health consequences of the use of e-cigarettes and the vapor that they give off are unknown. There is currently no scientific evidence establishing the safety of e-cigarettes and no brand of e-cigarettes has been submitted to the FDA for evaluation of their safety.

For the first time ever, a national study found e-cigarette use among teens exceeds traditional cigarette smoking. The study, "Monitoring the Future", found that e-cigarette use among 8th and 10th graders was double that of traditional cigarette smoking.

The findings, which come from the University of Michigan's Survey for Research Center and is funded by the National Institute on Drug Abuse, asked approximately 50,000 8th, 10th and 12th graders if they had used either an e-cigarette or a traditional cigarette in the past 30 days. The survey found 9 percent of 8th graders, 16 percent of 10th graders and 17 percent of 12th graders used e-cigarettes. Four percent of 8th graders, 7 percent among 10th graders and 14 percent of 12th graders reported using a traditional cigarette during that time period.

Additional and on-going research is needed to understand the full public health impact of e-cigarettes, including their impact on youth initiation, and whether current smokers are switching to these products instead of quitting or are using them in conjunction with regular cigarettes.

Furthermore, in initial lab tests conducted in 2009, FDA found detectable levels of toxic cancer-causing chemicals, including an ingredient used in anti-freeze, in two leading brands of e-cigarettes and 18 various cartridges. The lab tests also found that cartridges labeled as nicotine-free had traceable levels of nicotine.

There is also no evidence that shows the aerosol emitted by e-cigarettes is safe for non-users to inhale. In fact, two initial studies have found formaldehyde, benzene and tobacco-specific nitrosamines (a carcinogen) coming from the secondhand emissions from e-cigarettes.

The inclusion of electronic cigarettes and vaping devices in Evans' smoke free ordinance would send the message that the City of Evans continues to be a leader in protecting its citizens from the harms associated with the exposure to the vapors emitted by these devices.

Sincerely,



Keith Cooper
Tobacco Programs Manager
kcooper@Lungs.org



**Tobacco - Free
Coalition of Weld County**

Tobacco-Free Coalition of Weld County

www.tfcweldcounty.com

To empower the citizens of Weld County to promote a tobacco-free environment through prevention, education and commitment to the community.

May 14th, 2015

Dear Mayor John Morris and Evans City Council Members,

The Tobacco Free Coalition of Weld County would like to thank you for your careful consideration of the amendment to 8.18 of Evans' city code which would ban the use of Electronic Smoking Devices wherever conventional tobacco is banned in the city. We wanted to provide some supplemental information to clarify a few points that were brought up during testimony on May 5th, 2015.

As you know, the Colorado Clean Indoor Air Act went into effect in 2006, limiting smoking in most work and public places – including restaurants and bars. Since then, we've come a long way in protecting the health of people statewide. And today over 100,000 fewer people smoke cigarettes. In Colorado, this effort started with just five local municipalities, before the state took action. Passing a state law was truly a grassroots effort! We support amending this ordinance at the local level in order to protect the general public and the workforce. No one should have to choose between a paycheck and their health. Current scientific literature has revealed that the aerosol emitted from these devices cannot be considered harmless water vapor.

Additionally, many studies have shown evidence that strong clean indoor air policies aid in the decreasing youth tobacco use. Youth access to tobacco is another issue the Tobacco-Free Coalition is actively working on. Please see the articles contained in the "Policy Outcomes" document which were published and written by local youth.

The Coalition would like to thank you for your proactive efforts in addressing this public health issue that, quite frankly, affects us all. Again, we thank you for the opportunity to present the facts to council and help assist you with carrying out your mission, "To deliver sustainable, citizen-driven services for the health, safety, and welfare of the community." We are pleased to see that you have put health first in your mission statement.

Sincerely,

Megan Blaser

President, Weld County Tobacco Free Coalition



Tobacco - Free Coalition of Weld County

Tobacco-Free Coalition of Weld County

www.tfcweldcounty.com

To empower the citizens of Weld County to promote a tobacco-free environment through prevention, education and commitment to the community.

Listed below are policy outcomes Evans City Council can expect as a result of amending chapter 8.18 of the Evans municipal code to include “Electronic Smoking Devices” under the definition of “tobacco product”

Amending Evans's Smoke-Free Law to include Electronic Smoking Devices **WILL:**

- Protect **everyone’s right** to breathe clean air in workplaces and public places.
 - Smoking is not vaping. However, vaping IS NOT harmless.
- Send a strong message to youth and will **NOT** re-normalize smoking indoors.
 - From a distance, vaping has the appearance of smoking.
 - Youth perceive these products as attractive and are using them at alarming rates. See Attachment A & B for youth e-cigarette data and local youth editorials.
 - Although laws prohibiting the sale of e-cigarette to minors are important, that alone will not reduce the amount of youth using the products. See Attachment C for data showing the impact of smoke-free laws on youth tobacco use.
- Create an easier enforcement process.
 - The marijuana vaping industry openly promotes its ability to allow people to discreetly use marijuana in public settings as marijuana is odorless when vaporized. E-cigarettes can look similar to marijuana vaporizers or can be converted into vaping devices for marijuana, tobacco, and other drugs. City enforcement staff and business owners would not necessarily know what someone is vaporizing in their business. See Attachment D for an example of an individual using their vaporizer to smoke marijuana in an Evans, CO bar.
 - Establishing 100% smoke-free and vapor-free indoor air laws is the most effective way to enforce the law. It is also easier for the public and businesses to understand.

Amending Evans's Smoke-Free Law to include Electronic Smoking Devices **WILL NOT:**

- Will not prohibit individuals from using the devices for cessation purposes.
 - Although there is very limited research on the efficacy of using e-cigarettes for quitting the use of tobacco, inclusion of these products in clean indoor air laws will not limit an individual's ability to use these products; it will **ONLY** limit their ability to use them in indoor environments that are open to the public (as defined in current city code).
- Will not prohibit the retail sale of e-cigarettes and e-liquid.
 - Vape shops, tobacco shops, and convenience stores will still have the ability to sell e-cigarettes and e-liquid.

Attachment A

non-Hispanic blacks, cigars were used most commonly. Current use of any tobacco and ≥ 2 tobacco products among middle school students was 7.7% and 3.1%, respectively. E-cigarettes (3.9%) were the tobacco product used most commonly by middle school students, followed by hookahs (2.5%), cigarettes (2.5%), cigars (1.9%), smokeless tobacco (1.6%), pipes (0.6%), bidis (0.5%), snus (0.5%), and dissolvables (0.3%).

From 2011 to 2014, statistically significant nonlinear increases were observed among high school students for current e-cigarette (1.5% to 13.4%) and hookah (4.1% to 9.4%) use (Figure 1). Statistically significant linear decreases were observed for current cigarette (15.8% to 9.2%) and snus (2.9% to 1.9%) use. Statistically significant nonlinear decreases were observed for current cigar (11.6% to 8.2%), pipe (4.0% to 1.5%), and bidi (2.0% to 0.9%) use. Current use of any tobacco product (24.2% to 24.6%) and use of ≥ 2 tobacco products (12.5% to 12.7%) did not change significantly from 2011 to 2014. Among middle school students, similar trends were observed during 2011–2014 (Figure 2). A statistically significant linear decrease was observed only in middle school students currently using ≥ 2 tobacco products (3.8% to 3.1%).

In 2014, an estimated 4.6 million middle and high school students currently used any tobacco product, of which an estimated 2.2 million students currently used ≥ 2 tobacco products. Of current tobacco users, 2.4 million used e-cigarettes and 1.6 million used hookahs. The largest increase in current e-cigarette use occurred from 2013 to 2014. Current e-cigarette use tripled from 2013 (660,000 [4.5%]) to 2014 (2 million [13.4%]) among high school students (Figure 1); and among middle school students, prevalence increased by a similar magnitude, from 1.1% (120,000) to 3.9% (450,000) (Figure 2). From 2013 to 2014, substantial increases also were observed for current hookah use, with prevalence almost doubling for high school students from 5.2% (770,000) to 9.4% (1.3 million) and for middle school students from 1.1% (120,000) to 2.5% (280,000) over this period.

Discussion

From 2011 to 2014, substantial increases were observed in current e-cigarette and hookah use among middle and high school students, resulting in an overall estimated total of 2.4 million e-cigarette youth users and an estimated 1.6 million hookah youth users in 2014. Statistically significant decreases occurred in the use of cigarettes, cigars, tobacco pipes, bidis, and snus. The increases in current use of e-cigarettes and hookahs offset the decreases in current use of other tobacco products, resulting in no change in overall current tobacco use among middle and high school students. In 2014, one in four high school students and one in 13 middle school students used one or more tobacco products in the last 30 days. In 2014, for the first time in NYTS, current e-cigarette use surpassed current use of every other tobacco product, including cigarettes.

These findings are subject to at least three limitations. First, data were collected only from youths who attended either public or private schools and might not be generalizable to all middle and high school-aged youth. Second, current tobacco use was estimated by including students who reported using at least one of the nine tobacco products asked in the survey but might have had missing responses to any of the other eight tobacco products; missing responses were considered as nonuse, which might have resulted in underestimated results. Finally, changes between 2013 and 2014 in the wording and placement of questions about the use of e-cigarettes, hookahs, and tobacco pipes might have had an impact on reported use of these products. Despite these limitations, overall prevalence estimates are similar to the findings of other nationally representative youth surveys (6,7).

Tobacco prevention and control strategies, including increasing tobacco product prices, adopting comprehensive smoke-free laws, and implementation of national public education media campaigns, might have influenced the reduction of cigarette smoking in youths (2). However, the lack of decline in overall tobacco use from 2011 to 2014 is concerning and indicates that an estimated 4.6 million youths continue to be exposed to harmful constituents, including nicotine, present in tobacco products (Table). Youth use of tobacco in any form, whether it be combustible, noncombustible, or electronic, is unsafe (1); regardless of mode of delivery, nicotine exposure during adolescence, a critical time for brain development, might have lasting adverse consequences for brain development (1), causes addiction (3), and might lead to sustained use of tobacco products. Rapid changes in use of traditional and emerging tobacco products among youths underscore the importance of enhanced surveillance of all tobacco use.

Sustained efforts to implement proven tobacco control policies and strategies are necessary to prevent youth use of all tobacco products. In April 2014, FDA issued a proposed rule to deem all products made or derived from tobacco subject to FDA jurisdiction, and the agency is reviewing public comments on the proposed rule (8). Regulation of the manufacturing, distribution, and marketing of tobacco products coupled with full implementation of comprehensive tobacco control and prevention strategies at CDC-recommended funding levels could reduce youth tobacco use and initiation (1,2,9). Because use of emerging tobacco products (e-cigarettes and hookahs) is increasing among middle and high school students, it is critical that comprehensive tobacco control and prevention strategies for youths should address all tobacco products and not just cigarettes.



OIL AND GAS PULLBACK

Recently, we've seen the first hard numbers that give us a clue about what the decline in oil prices will mean for Weld County. See what we think Wednesday.

A6 » TUESDAY, FEBRUARY 24, 2015 » THE TRIBUNE

«Voices

NATE A. MILLER, section editor | (970) 392-4445 | nmiller@greeleytribune.com

TEEN TOBACCO USE

Quick action needed to stem tide

Teens in today's society don't view smoking as a harmful habit, and most teens don't even know the real facts about cigarette smoking.

Instead, every day we are exposed to photos of our "idols" smoking through social media. They look cool, and the fact that they are successful makes us believe that smoking is acceptable. The tobacco industry even manages to target us through Internet sites like Tumblr, Facebook and Instagram.

Every day as we scroll through our social media newsfeed, we see images

of attractive models with structured jaws, slim bodies and flawless faces smoking, so we are conditioned to believe it is OK to smoke.

The tobacco industry is also using cool new technology like e-cigarettes and hookah pens to attract our interest. In my community, I witness this every day. Teens fawn over images of an attractive



Helen Orozco
GUEST COLUMNIST

person smoking. Electronic cigs and hookah pens have made a rapid appearance on school grounds. I see at least 10 pens every day.

Kyler Mitchell, a senior at Northridge High School, states "In my fifth block, I have literally seen kids smoking their pens they hide it in their jacket pockets or backpack, and since it evaporates the teachers don't catch them. I used to know a guy that chewed during class and the teachers didn't even care."

Every day, almost 3,900 adolescents under 18 years of age try their

first cigarette. More than 950 of them will become daily smokers. About 30 percent of today's teens will eventually die of smoking-related disease. Fortunately, only 9 percent of teens today smoke and that rate can be lowered.

Taking immediate action is necessary to prevent tobacco addiction and use.

Helen Orozco is a junior at Greeley Central High School and is a member of the advocacy group P.A.C.T. (Preventing Addiction Caused by Tobacco).

She plans to travel to Europe in the summer 2015.

December 24, 2014

Mailbox for Dec. 25

E-cigarettes need to be banned

I am a 17-year-old student at a Greeley High School and want to share my experiences with the public.

E-cigarettes do not help people quit smoking, because they still contain nicotine. Actually, E-cigarettes could potentially cause more youth to get addicted to nicotine. The exterior sell of the E-cigarettes look very modern and sleek, as if they were the newest electronic product, which is enticing.

The E-cigarettes also have hundreds of flavors such as vanilla, grape, chocolate-covered strawberry, cherry, and cola. The flavors sound very enticing to youth since they sound more like a sweet candy treat, instead of a very addictive product. They can also be smoked indoors because there is no current ban on them for indoor smoking. Youth look at the people who smoke them and think it is perfectly normal to smoke E-cigarettes. It is also easy for students to smoke E-cigarettes at school and even during class. I have personally seen some of my peers smoking E-cigarettes behind the teachers back, during class, and blowing smoke rings just to see how long they can get away with it before the teacher turns around. They just slip the E-cigarettes into their sleeve, or into a pocket in their binder. E-cigarettes are much easier to get a hold of by youth because they are displayed in cases right in front of the door or on the counter in gas stations. I have seen high school students from other schools with E-cigarettes, and they claim that it was "so easy" to swipe them off the counters while an attendant had their back turned. These, and more circumstances are the reason why I support banning e-cigarettes by adding them to Greeley's Smoke-free laws. I do not want any more young people or adults to be enticed and addicted.

Brandon Gelatt, Greeley



NIH Public Access

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Arch Pediatr Adolesc Med. 2008 May ; 162(5): 477–483. doi:10.1001/archpedi.162.5.477.

Local Restaurant Smoking Regulations and the Adolescent Smoking Initiation Process:

Results of a Multilevel Contextual Analysis Among Massachusetts Youth

Michael Siegel, MD, MPH, Alison B. Albers, PhD, Debbie M. Cheng, ScD, William L. Hamilton, PhD, and Lois Biener, PhD

Departments of Social and Behavioral Sciences (Drs Siegel and Albers) and Biostatistics (Dr Cheng), Boston University School of Public Health, Boston; CNU Associates, Lincoln (Dr Hamilton); and Center for Survey Research, University of Massachusetts, Boston (Dr Biener), Massachusetts.

Abstract

Objective—To assess whether smoke-free restaurant laws influence the progression from (1) never smoking to early experimentation and (2) early experimentation to established smoking.

Design—A longitudinal, 4-year, 3-wave study of a representative sample of Massachusetts youth.

Setting—A total of 301 Massachusetts communities.

Participants—Study participants were 3834 Massachusetts youths aged 12 to 17 years at baseline, from January 2, 2001, to June 18, 2002, of whom 2791 (72.8%) were reinterviewed after 2 years (from January 30, 2003, to July 31, 2004) and 2217 (57.8%) were reinterviewed after 4 years (from February 16, 2005, to March 26, 2006). Wave 3 respondents were recruited from both those who responded at wave 2 and those who did not.

Main Exposure—The primary predictor of interest is the strength of the local restaurant smoking regulation in the respondents' town of residence at the baseline of each transition period.

Main Outcome Measures—(1) Overall progression to established smoking (having smoked ≥ 100 cigarettes in one's lifetime), (2) transition from nonsmoking (never having puffed a cigarette) to experimentation, and (3) transition from experimentation to established smoking.

Results—Youths living in towns with a strong restaurant smoking regulation at baseline had significantly lower odds of progressing to established smoking (odds ratio, 0.60; 95% confidence interval, 0.42–0.85) compared with those living in towns with weak regulations. The observed association between strong restaurant smoking regulations and impeded progression to established smoking was entirely due to an effect on the transition from experimentation to established smoking (odds ratio, 0.53; 95% confidence interval, 0.33–0.86).

Conclusion—Local smoke-free restaurant laws may significantly lower youth smoking initiation by impeding the progression from cigarette experimentation to established smoking.

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Correspondence: Michael Siegel, MD, MPH, Departments of Social and Behavioral Sciences, Boston University School of Public Health, 715 Albany St, TW2, Boston, MA 02118 (mbsiegel@bu.edu).

Author Contributions: Dr Siegel had full access to all of the data in the study and takes responsibility for the integrity of the data and the accuracy of the data analysis. *Study concept and design:* Siegel and Biener. *Acquisition of data:* Hamilton. *Analysis and interpretation of data:* Siegel, Albers, and Cheng. *Drafting of the manuscript:* Siegel. *Critical revision of the manuscript for important intellectual content:* Siegel, Albers, Cheng, Hamilton, and Biener. *Statistical analysis:* Siegel, Albers, Cheng, and Hamilton. *Obtained funding:* Siegel and Biener. *Administrative, technical, or material support:* Biener. *Study supervision:* Siegel.

Financial Disclosure: None reported.

Attachment D

Allison Dyer Bluemel
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March 1, 2014

Hash oil new wrinkle for bar owners dealing with e-cigarettes in Weld County



Bars across Greeley have been weighing their options on whether to ban e-cigarettes. Many restaurant and bar owners feel that despite being mostly odorless and smokeless, the water vapor given off by the e-cigarettes is disruptive to other customers.

Many restaurants and bars in Weld County have banned the use of e-cigarettes, owners say, because despite being mostly odorless and smokeless, the water vapor given off by the e-cigarettes is disruptive to other customers.

“Just because they’re smokeless doesn’t mean they don’t affect the people around you,” said Deb Nelson, owner of the Lit’L Bit Bar and Grill in Evans.

But bothering other customers was only one reason Lit’L Bit Bar and Grill placed a ban on e-cigarettes recently.

A customer was caught using an e-cigarette to smoke hash oil by installing a hash oil cartridge into the device. The bar owner found out about it after another customer informed the staff of a marijuana-like smell coming from a customer using a vapor cigarette, Nelson said.

“It just took once” for her to decide to ban vapor cigarettes inside, she said.

“I find it amazing that people just assume it is OK to pull out and begin to smoke their e-cigs without even asking, but the minute we see them we just ask them to take it outside.
— Toni Patrick, owner of The Tavern at St. Michael’s

“Having a liquor license means you are responsible for everyone,” Nelson said.

Smoking e-cigarettes with hash oil cartridges in public continues to be illegal in Colorado under legal marijuana use laws which prohibit the consumption of marijuana in public, Marijuana Enforcement Division Public Information Officer Julie Postlethwait said.

Since enacting the ban, Nelson said customers have been understanding of the decision and that she has not received complaints about requiring e-cigarette smokers to go out back with tobacco smokers.

While the bar does not actively check for hash oil use in vapor cigarettes, Nelson said customers caught smoking them outside are escorted off of the premises.

“It’s the safest thing to do to protect themselves and others,” said Mike Johnson, who was told he could not smoke his e-cigarette inside the Lit’L Bit while visiting from Salt Lake City.

For other restaurants and bars in Weld, e-cigarette policies vary depending on the business owner’s experience with the customers who use them.

Existing policies range from no policy to strict bans of vapor cigarettes indoors.

The Crvsh Room in Greeley is among the bars that do not have a ban against vapor cigarettes due to the small number of customers that actively use them, managing partner Nate Giska said.

Other Weld restaurants and bars adopted bans to avoid discriminating against traditional tobacco smokers who are not allowed to smoke inside the businesses.

“I find it amazing that people just assume it is OK to pull out and begin to smoke their e-cigs without even asking, but the minute we see them we just ask them to take it outside,” said Toni Patrick, owner of The Tavern at St. Michael’s Square.

While many smokers use vapor cigarettes as an aid to quit tobacco, nearly all models of vapor cigarettes can be adapted to smoke hash oil or cannabis with little to no visible modification, said head grower Tucker Eldridge of Nature’s Herb and Wellness dispensary in Garden City.

Hash oil cartridges used in e-cigarettes are popular among medicinal users because they do not have the smell, waste or odor associated with other methods of smoking marijuana, Eldridge said.

Additionally, hash oil use in e-cigarettes is more popular with medicinal users than it is with recreational users due to the lower THC dosage.

E-cigarette smokers can also purchase cartridges that allow them to smoke marijuana sold in dispensaries, he said.

But Colorado law still prohibits their use in public.

“The marijuana law is very tricky,” Nelson said.

CITY OF EVANS, COLORADO

ORDINANCE NO. 622-15

AN ORDINANCE AMENDING CHAPTER 8.18 OF THE EVANS CITY CODE REGARDING CONTROL OF SMOKING TO ADDRESS ALL FORMS OF ELECTRONIC SMOKING DEVICES IN ADDITION TO TRADITIONAL TOBACCO SMOKING

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 finds it is in the best interest of the citizens of the City to protect nonsmokers from the exposure to tobacco and marijuana smoke and other forms of electronic smoking devices; and

WHEREAS, the City Council has previously adopted regulations regarding smoking, but with the legalization of marijuana and popularization of electronic cigarettes (e-cigarettes), the Council finds it necessary to amend its existing ordinance regarding control of smoking.

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

1. Chapter 8.18 is amended to read as follows:

CONTROL OF SMOKING - Chapter 8.18

8.18.010 Legislative Declaration. The City of Evans hereby finds and determines that it is in the best interest of the people of this City to protect nonsmokers from involuntary exposure to environmental tobacco smoke **and electronic smoking devices** in most indoor areas open to the public, public meetings, food service establishments, places of employment, and certain outdoor recreation areas. The City further finds and determines that a balance should be struck between the health concerns of nonconsumers of tobacco **and nicotine** products and the need to minimize unwarranted governmental intrusion into, and regulation of, private spheres of conduct and choice with respect to the use or nonuse of tobacco **and nicotine** products in certain designated public areas and in private places. Therefore, the City hereby declares that the purpose of this Chapter is to preserve and improve the health, comfort, and environment of the people of this City by limiting exposure to tobacco smoke **and vapor created from the use of electronic smoking devices**. (Ord. 427-08: Ord. 374-06: Ord. 1075-97)

8.18.020 Definitions. As used in this Chapter, unless the context otherwise requires:

(1) “Auditorium” means the part of a public building where an audience gathers to attend a performance, and includes any corridors, hallways, or lobbies adjacent thereto.

(2) “Bar” means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

(3) “Cigar-tobacco bar” means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the one-site sale of tobacco products and the rental of on-site humidors shall not be defined as a “cigar-tobacco bar” and shall not thereafter be included in the definition regardless of sales figures.

(3.5) “Electronic smoking device means any electronically actuated device which in operation causes the user to exhale any smoke, vapor, or other substance resulting in chemically altered human exhalation. "Electronic smoking device" includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vaporizer, a vape pen, or under any similar product name or descriptor. The term "electronic smoking device" does not include any asthma inhaler or other device that has been specifically approved by the United States Food and Drug Administration.

(4) (a) “Employee” means any person who:

(I) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

(II) Provides uncompensated work or services to a business or nonprofit entity.

(5) “Employee” includes every person described in paragraph (a) of this subsection (5), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

(6) “Employer means any person, partnership, association, corporation, or nonprofit entity that employs one or more persons. “Employer” includes, without limitation, the legislative, executive, and judicial branches of state government; any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, special district, authority, commission, or agency; or any other separate corporate instrumentality or unit of state or local government.

(7) “Entryway” means the outside of the front or main doorway leading into a building or facility that is not exempted from this Section 8.18.040. “Entryway” also includes the area of public or

private property within a specified radius outside of the doorway. The specified radius shall be fifteen feet.

(8) “Environmental tobacco smoke,” “ETS,” or “secondhand smoke” means the complex mixture formed from the escaping smoke or a burning tobacco product, also known as “sidestream smoke,” and smoke exhaled by the smoker.

(9) “Food service establishment” means any indoor area or portion thereof in which the principal business is the sale of food for on-premises consumption. The terms includes, without limitation, restaurants, cafeterias, coffee shops, diners, sandwich shops, and short-order cafes.

(10) “Indoor area” means any enclosed area or portion thereof. The opening of windows or doors, or the temporary removal of wall panels, does not convert an indoor area into an outdoor area.

(11) “Place of employment” means any indoor area or portion thereof under the control of an employer in which employees of the employer perform services for, or on behalf of, the employer.

(12) “Public building” means any building owned or operated by:

(a) The state, including the legislative, executive, and judicial branches of state government;

(b) Any county, city and county, city, or town, or instrumentality thereof, or any other political subdivision of the state, a special district, an authority, a commission, or an agency; or

(c) Any other separate corporate instrumentality or unit of states or local government.

(13) “Public meeting” means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other law.

(14) “Smoke-free working area” means an indoor area in a place of employment where smoking is prohibited under this Chapter.

(15) “Smoking” means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

(16) “Tobacco” means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. “Tobacco” also includes cloves and any other plant matter or product that is packaged for smoking.

(17) “Tobacco business” means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco

products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

(18) “Work area” means an area in a place of employment where one or more employees are routinely assigned and perform services for or on behalf of their employer. (Ord. 427-08: Ord. 374-06: Ord. 1075-97)

8.18.030 General Smoking Restrictions.

A. Except as provided in Section 8.18.040, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area or specified outdoor recreation areas, including, but not limited to:

(a) Public meeting places;

(b) Elevators;

(c) Government-owned and or operated means of mass transportation, including, but not limited to, buses, vans, and trains;

(d) Taxicabs and limousines;

(e) Grocery stores;

(f) Gymnasiums;

(g) Jury waiting and deliberation rooms;

(h) Courtrooms;

(i) Child day care facilities;

(j) Health care facilities including hospitals, health care clinics, doctor’s offices, and other health care related facilities;

(k) (I) Any place of employment that is not exempted.

(II) In the case of employers who own facilities otherwise exempted from this Chapter, such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.

(l) Food service establishments;

(m) Bars;

(n) Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;

(o) Indoor sports arenas;

(p) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;

(q) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests;

(r) Bowling alleys;

(s) Billiard or pool halls;

(t) Facilities in which games of chance are conducted;

(u) The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;

(v) Public buildings;

(w) Auditoria;

(x) Theaters;

(y) Museums;

(z) Libraries;

(aa) To the extent not otherwise provided in Section 25-14-103.5, C.R.S., public and non-public schools;

(bb) Other educational and vocational institutions;

(cc) The entryways of all buildings and facilities listed in paragraphs (a) to (bb) of this subsection (1); and

(dd) Within the entire fenced area of the Riverside Park Ball Fields.

B. A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as of December 31, 2005. A cigar-tobacco bar shall display signage in at least one conspicuous place and at least four inches by six inches in size stating: "Smoking allowed. Children under eighteen years of age must be accompanied by a parent or guardian." (Ord. 374-06)

8.18.040 Exceptions to Smoking Restrictions. This Chapter shall not apply to:

- (1) Private homes, private residences, and private automobiles; except that this Chapter shall apply if any such home, residence, or vehicle is being used for child care or day care or if any private vehicle is being used for the public transportation of children or as part of health care or day care transportation;
- (2) Limousines under private hire;
- (3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent;
- (4) Any retail tobacco business;
- (5) A cigar-tobacco bar;
- (6) An airport smoking concession;
- (7) The outdoor area of any business;
- (8) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees;
- (9) A private, non-residential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars. (Ord. 374-06)

8.18.045 Restrictions on Use of Electronic Smoking Devices

The use of an electronic smoking device shall not be permitted and no person shall use an electronic smoking device at any location where smoking is prohibited in Section 8.18.030, subject to the exempted locations provided at Section 8.18.040.

8.18.050 Optional Prohibitions.

A. The owner or manager of any place not specifically listed in Section 8.18.030, including a place otherwise exempted under Section 8.18.040, may post signs prohibiting smoking **and the use of electronic smoking devices. Such owner or manager may post signs** ~~or~~ providing smoking and non-smoking areas **as well as areas where use of electronic smoking devices are permitted and areas where the use of electronic smoking devices are not permitted.** Such posting shall have the effect of including such place, or the designated non-smoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Chapter.

B. If the owner or manager of a place not specifically listed in Section 8.18.030, including a place otherwise exempted under Section 8.18.040, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Section 8.18.030(1)(k)(I), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (1) of this section. (Ord. 374-06)

8.18.060 Unlawful Acts – Penalty – Disposition of Fines and Surcharges.

A. It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premises subject to this Chapter to violate any provision of this Chapter.

B. It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Chapter.

C. Any person who violates any of the provisions of this Chapter is guilty of a violation of this Chapter and shall be punished as provided in Chapter 1.16 of this Code. (Ord. 374-06: Ord. 1075-97: Ord. 622-15)

2. 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.

3. 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 effective date of this ordinance.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 5th DAY OF MAY, 2015.

ATTEST:

CITY OF EVANS, COLORADO

Raegan Robb, City Clerk

BY: _____
John L. Morris, Mayor

PASSED AND ADOPTED ON A SECOND READING THIS 19th DAY OF MAY, 2015.

ATTEST:

CITY OF EVANS, COLORADO

Raegan Robb, City Clerk

BY: _____
John L. Morris, Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 622-15

AN ORDINANCE AMENDING CHAPTER 8.18 OF THE EVANS CITY CODE
REGARDING CONTROL OF SMOKING TO ADDRESS ALL FORMS OF ELECTRONIC
SMOKING DEVICES IN ADDITION TO TRADITIONAL TOBACCO SMOKING DEVICES

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 finds it is in the best interest of the citizens of the City to protect nonsmokers from the exposure to tobacco and marijuana smoke and other forms of electronic smoking devices; and

WHEREAS, the City Council has previously adopted regulations regarding smoking, but with the legalization of marijuana and popularization of electronic cigarettes (e-cigarettes), the Council finds it necessary to amend its existing ordinance regarding control of smoking.

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

1. Chapter 8.18 is amended to read as follows:

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(2) “Bar” means any indoor area that is operated and licensed under Article 47 of Title 12, C.R.S., primarily for the sale and service of alcohol beverages for on-premises consumption and where the service of food is secondary to the consumption of such beverages.

(3) “Cigar-tobacco bar” means a bar that, in the calendar year ending December 31, 2005, generated at least five percent or more of its total annual gross income or fifty thousand dollars in annual sales from the on-site sale of tobacco products and the rental of on-site humidors, not including any sales from vending machines. In any calendar year after December 31, 2005, a bar that fails to generate at least five percent of its total annual gross income or fifty thousand dollars in annual sales from the one-site sale of tobacco products and the rental of on-site humidors shall not be defined as a “cigar-tobacco bar” and shall not thereafter be included in the definition regardless of sales figures.

(3.5) “Electronic smoking device” means any electronically actuated device which in operation causes the user to exhale any smoke, vapor, or other substance resulting in chemically altered human exhalation. “Electronic smoking device” includes any such device, whether manufactured, distributed, marketed, or sold as an electronic cigarette, an electronic cigar, an electronic cigarillo, an electronic pipe, an electronic hookah, a vaporizer, a vape pen, or under any similar product name or descriptor. The term “electronic smoking device” does not include any asthma inhaler or other device that has been specifically approved by the United States Food and Drug Administration.

(4) (a) “Employee” means any person who:

(I) Performs any type of work for benefit of another in consideration of direct or indirect wages or profit; or

(II) Provides uncompensated work or services to a business or nonprofit entity.

(5) “Employee” includes every person described in paragraph (a) of this subsection (5), regardless of whether such person is referred to as an employee, contractor, independent contractor, or volunteer or by any other designation or title.

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(7) “Entryway” means the outside of the front or main doorway leading into a building or facility that is not exempted from this Section 8.18.040. “Entryway” also includes the area of public or private property within a specified radius outside of the doorway. The specified radius shall be fifteen feet.

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(12) “Public building” means any building owned or operated by:

(a) The state, including the legislative, executive, and judicial branches of state government;

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(c) Any other separate corporate instrumentality or unit of states or local government.

(13) “Public meeting” means any meeting open to the public pursuant to Part 4 of Article 6 of Title 24, C.R.S., or any other law.

(14) “Smoke-free working area” means an indoor area in a place of employment where smoking is prohibited under this Chapter.

(15) “Smoking” means the burning of a lighted cigarette, cigar, pipe, or any other matter or substance that contains tobacco.

(16) “Tobacco” means cigarettes, cigars, cheroots, stogies, and periques; granulated, plug cut, crimp cut, ready rubbed, and other smoking tobacco; snuff and snuff flour; cavendish; plug and twist tobacco; fine-cut and other chewing tobacco; shorts, refuse scraps, clippings, cuttings, and sweepings of tobacco; and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or for smoking in a cigarette, pipe, or otherwise, or both for chewing and smoking. “Tobacco” also includes cloves and any other plant matter or product that is packaged for smoking.

(17) “Tobacco business” means a sole proprietorship, corporation, partnership, or other enterprise engaged primarily in the sale, manufacture, or promotion of tobacco, tobacco products, or smoking devices or accessories, either at wholesale or retail, and in which the sale, manufacture, or promotion of other products is merely incidental.

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8.18.030 General Smoking Restrictions.

A. Except as provided in Section 8.18.040, and in order to reduce the levels of exposure to environmental tobacco smoke, smoking shall not be permitted and no person shall smoke in any indoor area or specified outdoor recreation areas, including, but not limited to:

(a) Public meeting places;

(b) Elevators;

(c) Government-owned and or operated means of mass transportation, including, but not limited to, buses, vans, and trains;

(d) Taxicabs and limousines;

(e) Grocery stores;

(f) Gymnasiums;

(g) Jury waiting and deliberation rooms;

(h) Courtrooms;

(i) Child day care facilities;

(j) Health care facilities including hospitals, health care clinics, doctor's offices, and other health care related facilities;

(k) (I) Any place of employment that is not exempted.

(II) In the case of employers who own facilities otherwise exempted from this Chapter, such employer shall provide a smoke-free work area for each employee requesting not to have to breathe environmental tobacco smoke. Every employee shall have a right to work in an area free of environmental tobacco smoke.

(l) Food service establishments;

(m) Bars;

(n) Limited gaming facilities and any other facilities in which any gaming or gambling activity is conducted;

- (o) Indoor sports arenas;
- (p) Restrooms, lobbies, hallways, and other common areas in public and private buildings, condominiums, and other multiple-unit residential facilities;
- (q) Restrooms, lobbies, hallways, and other common areas in hotels and motels, and in at least seventy-five percent of the sleeping quarters within a hotel or motel that are rented to guests;
- (r) Bowling alleys;
- (s) Billiard or pool halls;
- (t) Facilities in which games of chance are conducted;
- (u) The common areas of retirement facilities, publicly owned housing facilities, and nursing homes, not including any resident's private residential quarters;
- (v) Public buildings;
- (w) Auditoria;
- (x) Theaters;
- (y) Museums;
- (z) Libraries;
- (aa) To the extent not otherwise provided in Section 25-14-103.5, C.R.S., public and non-public schools;
- (bb) Other educational and vocational institutions;
- (cc) The entryways of all buildings and facilities listed in paragraphs (a) to (bb) of this subsection (1); and
- (dd) Within the entire fenced area of the Riverside Park Ball Fields.

B. A cigar-tobacco bar shall not expand its size or change its location from the size and location in which it existed as of December 31, 2005. A cigar-tobacco bar shall display signage in at least one conspicuous place and at least four inches by six inches in size stating: "Smoking allowed. Children under eighteen years of age must be accompanied by a parent or guardian." (Ord. 374-06)

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- (1) Private homes, private residences, and private automobiles; except that this Chapter shall apply if any such home, residence, or vehicle is being used for child care or day care or if any

private vehicle is being used for the public transportation of children or as part of health care or day care transportation;

(2) Limousines under private hire;

(3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed twenty-five percent;

(4) Any retail tobacco business;

(5) A cigar-tobacco bar;

(6) An airport smoking concession;

(7) The outdoor area of any business;

(8) A place of employment that is not open to the public and that is under the control of an employer that employs three or fewer employees;

(9) A private, non-residential building on a farm or ranch, as defined in Section 39-1-102, C.R.S., that has annual gross income of less than five hundred thousand dollars. (Ord. 374-06)

8.18.045 Restrictions on Use of Electronic Smoking Devices.

The use of an electronic smoking device shall not be permitted and no person shall use an electronic smoking device at any location where smoking is prohibited in Section 8.18.030, subject to the exempted locations provided at Section 8.18.040.

8.18.050 Optional Prohibitions.

A. The owner or manager of any place not specifically listed in Section 8.18.030, including a place otherwise exempted under Section 8.18.040, may post signs prohibiting smoking and the use of electronic smoking devices. Such owner or manager may post signs providing smoking and non-smoking areas as well as areas where use of electronic smoking devices are permitted and areas where the use of electronic smoking devices are not permitted. Such posting shall have the effect of including such place, or the designated non-smoking portion thereof, in the places where smoking is prohibited or restricted pursuant to this Chapter.

B. If the owner or manager of a place not specifically listed in Section 8.18.030, including a place otherwise exempted under Section 8.18.040, is an employer and receives a request from an employee to create a smoke-free work area as contemplated by Section 8.18.030(1)(k)(I), the owner or manager shall post a sign or signs in the smoke-free work area as provided in subsection (1) of this section. (Ord. 374-06)

8.18.060 Unlawful Acts – Penalty – Disposition of Fines and Surcharges.

A. It is unlawful for a person who owns, manages, operates, or otherwise controls the use of a premises subject to this Chapter to violate any provision of this Chapter.

B. It is unlawful for a person to smoke in an area where smoking is prohibited pursuant to this Chapter.

C. Any person who violates any of the provisions of this Chapter is guilty of a violation of this Chapter and shall be punished as provided in Chapter 1.16 of this Code. (Ord. 374-06: Ord. 1075-97: Ord. 622-15)

2. 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.

3. 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 effective date of this ordinance.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 5th DAY OF MAY, 2015.

ATTEST:

CITY OF EVANS, COLORADO

Raegan Robb, City Clerk

BY: _____
John L. Morris, Mayor

PASSED AND ADOPTED ON A SECOND READING THIS 19th DAY OF MAY, 2015.

ATTEST:

CITY OF EVANS, COLORADO

Raegan Robb, City Clerk

BY: _____
John L. Morris, Mayor

COUNCIL COMMUNICATION

DATE: May 19, 2015

AGENDA ITEM: 9.A

SUBJECT: ORDINANCE NO. 623-15 AN ORDINANCE AMENDING THE ZONING CODE TO MAKE OIL AND GAS RELATED USES A USE BY SPECIAL REVIEW IN SPECIFIC ZONING DISTRICTS.

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

AGENDA ITEM DESCRIPTION:

The existing City Code appears to limit oil and gas related land uses to Industrial Zone Districts. At the request of City Council and in conjunction with staff's discussions with representatives of the oil and gas industry, staff has prepared this ordinance to allow oil and gas operations in most areas of the City as a use by special review. They are still not permitted in the Highway 85 zone districts.

FINANCIAL SUMMARY:

Adoption of this ordinance does not require any financial commitment by the City. It is anticipated that allowing oil and gas operations in most areas within the City will result in economic growth.

RECOMMENDATION:

Staff recommends adoption of the ordinance as drafted.

SUGGESTED MOTIONS:

"I move to approve Ordinance No. 623-15."

"I move to deny Ordinance No. 623-15."

CITY OF EVANS, COLORADO

ORDINANCE NO. 623-15

AN ORDINANCE AMENDING CHAPTER 19.15 OF THE EVANS CITY CODE TO CLARIFY THE USE OF LAND FOR OIL AND GAS RELATED USES AS A USE BY SPECIAL REVIEW IN SPECIFIC ZONING DISTRICTS

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 use of land within the City of Evans is governed, in large part by Chapter 19 of the Evans City Code, also referred to as the zoning code; and

WHEREAS, the City Council previously expressed its interest in supporting the oil and gas industry as reflected in various sections of the Evans City Code, including but not limited to Chapter 16.28 – Oil and Gas Exploration and Development; and

WHEREAS, the City Council wishes to clarify the City’s regulations regarding where land may be used for oil and gas related uses and the regulations governing such use; and

WHEREAS, the City Council recognizes the need to balance the rights of the owners or possessors of oil and gas interests in and beneath properties within the City against potential adverse impacts of oil and gas regulations on adjacent and nearby properties if adequate protective measures are not required, and

WHEREAS, the City Council has concluded that it can achieve this balance by permitting oil and gas related uses throughout the City of Evans except in the Highway 85 zone districts, provided they are approved through the use by special review process set forth in Section 19.44 – Approval of Special Uses, and further provided that they remain subject to the provisions of Chapter 16.28 – Oil and Gas Exploration and Development.

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

1. **Section 19.15.030 Districts designated, table of uses allowed**, is hereby amended by adding “oil and gas related uses” as a Special Use, to each of the following tables contained in such Section:

- Commercial Zone Districts – Use Standards
- Industrial Zone Districts – Use Standards
- Public Facilities Zone District – Use Standards
- Residential Zone Districts – Use Standards

Agricultural Zone Districts – Use Standards

2. Except as specifically amended, all other provisions of Section 19.15.030 shall remain in full force and effect.

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 effective date of this ordinance.

INTRODUCED AND PASSED AT A REGULAR MEETING OF THE CITY COUNCIL OF THE CITY OF EVANS ON THIS 19th DAY OF MAY, 2015.

ATTEST:

CITY OF EVANS, COLORADO

BY: _____
City Clerk

BY: _____
Mayor Pro-Tem

PASSED AND ADOPTED ON A SECOND READING THIS 2nd DAY OF JUNE, 2015.

ATTEST:

CITY OF EVANS, COLORADO

BY: _____
City Clerk

BY: _____
Mayor

CITY COUNCIL COMMUNICATION

DATE: May 19, 2015

AGENDA ITEM: 9.B

SUBJECT: Approval of Resolution No. 15-2015 authorizing the City of Evans to accept the grant award for two generators from the Hazard Mitigation Grant Program.

PRESENTED BY: Dave Burns, Emergency Management Coordinator

PROJECT DESCRIPTION:

The City of Evans was successful in the HMPG grant process and has received a contract to purchase two emergency generators. One emergency generator will be used for the emergency operation center located within the Public Works operation building. The second emergency generator is for Evans Fire Station Number 2; the City of Evans applied for this generator on behalf of Evans Fire Protection District.

BACKGROUND:

During a disaster, the Public Works Operations building serves as the backup emergency operation center for the city. By having an emergency generators at the emergency operation center, the facility can continue to operate normally during power outages. Thanks to this grant we will be able to purchase a 150kw, auto start, auto transfer generator that will energize the entire building.

The second generator that the City of Evans is receiving funding for will go to the Evans Fire Protection District. The generator will replace their temporary emergency generator. This is a major addition for the fire station as the current emergency generator has to be manually started and only energizes one office inside the station. The new generator is a 200kw, auto start, auto switch, and will energize the entire fire station.

FINANCIAL:

The HMGP will cover 75% of cost of the generators. State of Colorado will cover 12.5% of the remainder of the costs. The City of Evans was also successful in the CDMG-DR process and is receiving to an additional 12.5% to cover or local match. Therefore the City will not incur any expenses related to this project.

STAFF RECOMMENDATION:

Staff recommends that the City Council approves Resolution 15-2015.

SUGGESTED MOTIONS:

“I move to approve Resolution No. 15-2015.”

“I move to deny the adoption of Resolution No. 15-2015”

CITY OF EVANS, COLORADO

RESOLUTION NO. 15-2015

A RESOLUTION AUTHORIZING THE CITY TO ACCEPT THE FUNDS FOR TWO EMERGENCY GENERATORS FROM THE HAZARD MITIAGTION GRANT PROGRAM THROUGH THE STATE OF COLORADO

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 Hazard Mitigation Grant Program (HMGP) administered by the State of Colorado is providing funds for the purchase of an emergency generator for Public Works operation building and for Evans Fire Protection District, station number two, and;

WHEREAS, a City HMGP application requires that the City name a designated agent for the purpose of the HMGP management;

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

- A. The City Council hereby authorizes City approved the HMGP grant contacted presented by the state of Colorado.
- B. The City Council hereby designates Emergency Management Coordinator, David Burns as the designated agent for HMGP project and authorizes the Mayor to sign the attached designation document.

PASSED and APPROVED at a regular meeting of the City Council of the City of Evans on this 19th day of May, 2015.

CITY OF EVANS, COLORADO

By: _____

Mayor Pro-Tem

ATTEST:

City Clerk

COUNCIL COMMUNICATION

DATE: May 19, 2015

AGENDA ITEM: 9.C

SUBJECT: Award of Bid – Evans Wastewater Treatment Facility Repairs

PRESENTED BY: Fred Starr, Director of Public Works

AGENDA ITEM DESCRIPTION:

This project will consist of repairs to the Evans Wastewater Treatment Facility as outlined in the FEMA PW 1081. This work encompasses repairs to the Office/Lab Building, Chlorination Building, Headwork, aeration system electrical system, aerators, site grading, and debris and sediment removal from the Lagoons caused by the September 2013 Flooding.

As per the City's purchasing policies this project was advertised in the Greeley Tribune, on the City of Evans website and Rocky Mountain Bid System. Bids were opened on April 29, 2015 with results as follows:

Contractor	Base Bid Amount
Landmark Builders, Inc	\$ 1,568,443.05

FINANCIAL SUMMARY:

The 2015 Wastewater- Fund currently has \$809,000 revenue and expense budgeted for this project, which will be reimbursed from FEMA and CDPHE. We have indication from FEMA that the PW associated with these repairs can be increased to accommodate the increase in repair costs. We have secured grant funding to pay for our 12.5% match on the FEMA grant. Unfortunately, this match amount cannot be increased and we will have to pay the match portion of the contract increase from excess fund balance in the Wastewater fund. In order to complete the project, an increase in revenue of \$665,000 and expense of \$760,000 will be necessary as a preliminary budget revision.

RECOMMENDATION:

Staff recommends that City Council award the Evans Wastewater Treatment Facility Repairs to Landmark Builders, Inc. in the amount of \$ 1,568,443.05 and approve a preliminary budget revision in the amount of \$760,000 expense and \$665,000 of associated revenue.

SUGGESTED MOTIONS:

“I move to award the Evans Wastewater Treatment Facility Repairs to Landmark Builders, Inc., and to authorize the Mayor’s signature on an agreement in the amount of \$1,568,443.05 and approve a preliminary budget revision in the amount of \$760,000 expense and \$665,000 of associated revenue.”

“I move to deny award of the Evans Wastewater Treatment Facility Repairs and preliminary budget revision”

May 19, 2015

Jessica Gonifas
City of Evans
1100 37th Street
Evans, CO 80620

Re: Evans Wastewater Treatment Facility Repairs - 2015
Evans, Colorado
OA Project No. 015-0295

Dear Ms. Gonifas,

Bids were opened on the Evans Wastewater Treatment Facility Repairs project on April 29th, 2015. There was only one (1) bid received for the project. The bidder and bid is as follows:

Landmark Builders, Inc.
Base Bid Section - \$1,568,441.93

A math error was found on volume of debris from quantity. The FEMA project work sheet has the debris removal at 14 tons and it should have 224 tons this was then carries thought to the project and the Bid Form and bid out as such. After discussion with City staff, the decision was made to negotiate with the bidder to update the debris removal quantity and unit for the debris removal (pay item number 52). We have worked through those discussions with Landmark Builders. The debris removal pay item has been updated as follows:

- Debris removal from the lagoon was updated from a quantity of 14 tons to a quantity of 224 tons and the pay item has been updated from \$66,410.00 to \$4,150.63 per ton.
- Revised the project completion to October 15, 2015 due to the increase in quantities and delay in bid award.

The original bid form submitted by Landmark Builders, Inc. for the project has been modified to include the negotiated changes in quantities and changes to the debris removal pay item. Attached are two signed copies of the bid form and a letter from Landmark Builders noting the negotiated change. Overall this has the overall bid price increased the bid price from \$1,568,441.93 to 1,568,443.05 a difference of \$1.12.

After discussions with City staff it is our recommendation to award the Base Bid Section to Landmark Builders, Inc.

If you have any questions or comments, please do not hesitate to call.

Sincerely,

A handwritten signature in blue ink that reads "Carlos Medina". The signature is written in a cursive style with a large, sweeping initial "C" and a distinct flourish at the end.

Carlos Medina, PE

May 15, 2015

Jessica Gonifas
City of Evans
1100 37th Street
Evans, CO 80620

Re: Evans Wastewater Treatment Facility Repairs - 2015
Evans, Colorado

Dear Ms. Gonifas,

After the bid opening of the above referenced project, Landmark Builders, Inc. worked with Olsson Associates to update an error in quantities found in the original Bid form for project. The revised bid quantities are as follows:

The quantities for the debris removals (Bid Item #52) was listed as 14 tons of materials that needed to be removed from the Lagoons. It was determined that the Bid form contained a math error: the correct amount of debris to be removed from the Lagoons is 224 tons.

Attached are two signed copies of the updated bid form, which reflect the revision to the updated bid quantity for the amount of debris to be removed from the lagoons and its associated unit price. Overall this had no effect on the total bid amount for the project.

If you have any questions or comments, please do not hesitate to contact me directly.

Sincerely,



LANDMARK BUILDERS, Inc.
David J. R. Grigsby

cc: Carlos Medina, P.E. – Olsson Assoc., job file
encl

EVANS WASTEWATER TREATMENT FACILITY REPAIRS

Item	Description	Quantity	Units	Unit Cost	Total
EVANS WASTEWATER TREATMENT FACILITY REPAIRS					
1	Mobilization/Demobilization	1	LS	88,547.00	88,547.00
2	Clean 60-inch by 60-inch Slide Gate	2	EA	1,195.00	2,390.00
3	Replace Exhaust Duct	1	EA	1,450.00	1,450.00
4	Replace Garage Door Opener	1	EA	7,784.00	7,784.00
5	Replace Insulated Metal Door	7	EA	2,031.00	14,217.00
6	Replace Gas Monitor	1	EA	6,431.00	6,431.00
7	Replace 18-inch Square Vent	1	EA	765.00	765.00
8	Replace Heat Trace	1	LS	4,456.00	4,456.00
9	Clean Control Room Junction Box	1	EA	875.00	875.00
10	Seal Joints between Building and Sidewalk	20	LF	8.50	170.00
11	Install Wooden Steps	1	EA	1,182.00	1,182.00
12	Clean 30-inch Knife Gate	2	EA	1,755.00	3,510.00
13	Clean Generator Housing	1	LS	4,205.00	4,205.00
14	Remove and Replace Wire from Conduits	1	LS	50,250.00	50,250.00
15	Replace Office/Lab Building Exterior Sheeting	1	LS	54,807.00	54,807.00
16	Replace Carpet	82	SY	42.45	3,480.90
17	Replacement of Interior Gypsum Board	2,405	SF	5.42	13,035.10
18	Paint Interior Wall	4,480	SF	4.62	20,697.60
19	Replace 4-inch Vinyl Base Board	554	LF	3.09	1,711.86
20	Replace R13 fiberglass Backed Insulation	881	SF	5.76	5,074.56
21	Replace 2-foot by 4-foot by 3/4-inch Acoustical Ceiling Tile	1,689	SF	3.66	6,181.74
22	Replace 12-inch Square Vinyl Floor Tile	1,026	SF	3.80	3,898.80
23	Replace Steel Cabinets	1	LS	34,759.00	34,759.00
24	Replace Laboratory Counter Top	62	LF	176.00	10,912.00
25	Replace Steel Lockers	6	EA	278.00	1,668.00
26	Replace 12-inch Square Vinyl Floor Tile Button Pattern	55	SF	4.35	239.25
27	Replace Bathroom Cabinets, Sink, and Counter Top	1	LS	3,447.00	3,447.00
28	Replace Bathroom Shower Floor and Wall Tile	225	SF	21.97	4,943.25
29	Clean Floor Drain	14	EA	251.00	3,514.00
30	Paint Enamel Floor	3,242	SF	0.91	2,950.22
31	Replace Gas Fire Furnace Unit	1	EA	3,127.00	3,127.00
32	Replace Air Conditioning Unit	1	EA	4,943.00	4,943.00
33	Replace Hot Water Heater	1	EA	2,110.00	2,110.00
34	Replace Breaker Box	1	LS	4,247.00	4,247.00
35	Clean Conduits in Mechanical Room	1	LS	10,537.00	10,537.00
36	Repair Gas Service Entry	1	LS	700.00	700.00
37	Replace R13 Fiberglass Plastic Backed Insulation	1,296	SF	3.08	3,991.68

38	Replace 12-Foot Wide Overhead Door Panel	5	EA	764.00	3,820.00
39	Replace 14-Foot Wide Overhead Door Panel	1	EA	703.00	703.00
40	Clean Chlorination Building	1	LS	1,598.00	1,598.00
41	Replace Six (6) Inch Thick Concrete Drive	93	SF	33.55	3,120.15
42	Replace Four (4) Inch Thick Concrete Sidewalk	84	SF	11.25	945.00
43	Replace Six (6) Foot Long Base Board Heater	2	EA	1,130.00	2,260.00
44	Replace 1/4 hp Exhaust Fan	1	EA	800.00	800.00
45	Wood Framed Garden Shed	1	EA	12,951.00	12,951.00
46	Repair Erosion	402	CY	78.85	31,697.70
47	Gravel Surfacing	348	CY	59.94	20,859.12
48	Repair Entrance Sign	1	LS	4,972.00	4,972.00
49	Repair Lift Station Pump	1	LS	8,628.00	8,628.00
50	Place Erosion Control Blanket	6,240	SF	0.87	5,428.80
51	Seeding	6,240	SF	0.63	3,931.20
52	Remove Debris From Lagoons	224	TN	4,150.63	929,741.12
53	Replace Aerator Underground Conductors	1	LS	80,210.00	80,210.00
54	Install Lagoon Aerator	2	EA	23,560.00	47,120.00
55	Replace Bathroom Fixtures (Men's & Women's)	1	LS	22,180.00	22,180.00

Grand Total

1,568,443.05

Notes:

- Prebid meeting is **mandatory**.
- All materials shall be delivered to the address below:
City of Evans Wastewater Treatment Facility
3323 1st Avenue
Evans, Colorado 80620
- All materials shall be inspected upon arrival and any damage prior to delivery will be the responsibility of the manufacturer/seller.
- All works shall be in conformance with the current City adopted codes (International Building Code 2012, International Plumbing Code 2012, International Mechanical Code 2012, International Fire Code 2012, and the National electrical Code 2011)

Base Bid – Grand Total:

\$1,568,443.05

The undersigned, if awarded the Contract, at the prices shown in the bid, agrees that the Work will be substantially complete on or before **September 30, 2015** and completed and ready for final payment on or before **October 15, 2015**.

Date 5/6/2015

Official Address:
3812 Carson Ave
Evans CO 80620

Landmark Builders, Inc
Company

David Engstly
Signature

General Manager
Title

COUNCIL COMMUNICATION

DATE: May 19, 2015

AGENDA ITEM: 9.D

SUBJECT: Award of Bid - 2015 Concrete Replacement Contract

PRESENTED BY: Fred Starr, Director of Public Works

AGENDA ITEM DESCRIPTION:

The 2015 Capital Improvement Program (CIP) Budget includes funding for concrete replacement of various areas within the community. The areas identified for maintenance under this program are recommended by the City staff and prioritized on a safety basis.

As per the City's purchasing policies this project was advertised in the Greeley Tribune, on the city website and the Rocky Mountain Bid System. Bids were opened on May 13, 2015, with results as follows:

<u>Contractor</u>	<u>Bid Amount</u>
Can-Do Concrete Construction, Inc.	\$ 77,132.00
Mountain Construction, Inc.	\$ 107,804.00

FINANCIAL SUMMARY:

The 2015 CIP budget includes \$75,000 (34-83-8036-8603) for concrete replacement.

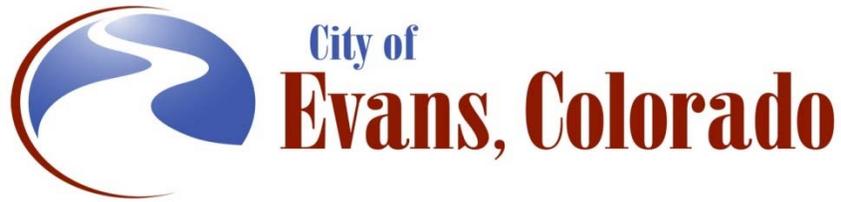
RECOMMENDATION:

The total bid by Can-Do Concrete Construction, Inc. is just over the concrete replacement budget. Staff recommends that, due to the price quoted in the bid, the project be awarded on a not to exceed amount. Staff recommends that City Council award the 2015 Concrete Replacement Contract to Can-Do Concrete Construction, Inc. and authorize the Mayor's signature on a contract not to exceed the amount of \$75,000.00.

SUGGESTED MOTIONS:

"I move to award the 2015 Concrete Replacement Contract to Can-Do Concrete Construction, Inc. and to authorize the Mayor's signature on an agreement in the amount not to exceed \$75,000.00."

"I move to deny award of the 2015 Concrete Replacement Contract."



**City Manager
Monitoring Report
May 19, 2015**

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

➤ **Police**

We have exhausted our eligibility list for police officer and have offered jobs to two candidates. Two remaining are in the background process. We will be opening another hiring process in about a week.

Two new police vehicles are scheduled to be delivered on the 23rd. It will take about 6 weeks to get them outfitted and ready for patrol. Both are SUV's.

We have completed our policy updates and have requested an onsite review by the Colorado Association of Chiefs of Police Accreditation team.

The County has embarked on purchasing a new CAD/RMS system for police, fire, and EMS dispatching. We have assigned Commander Phipps to be a part of the review committed to represent the needs of Evans PD in the process.

City Council Calendar

May 2015

MAY 2015

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						

May	Event	Location	Time
5	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:00 PM
7	NFRMPO Monthly Meeting	LaSalle Town Hall, 128 N. 2nd Street LaSalle Colorado	6:00 PM - 8:30 PM
14	85 Coalition Meeting	TBA	Begins at 6:30 PM
18	CML Spring Outreach Meeting	Fort Collins Senior Center 1200 Raintree Drive Prairie Sage Room Fort Collins, CO	Noon - 1:30 PM
19	City Council Work Session & Regular City Council Meeting	Evans City Complex	Begins at 6:30 PM
20	JOINT Open House Riverside Neighborhood Master Plan & South Platte River Restoration Master Plan	Riverside Library and Cultural Center	6:00 PM - 8:00 PM
25	Memorial Day Service	City Offices Closed	All Day
25	Memorial Day Service by Evans VFW Post 6624	Evans Cemetery	Begins at 11:00 AM

