



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

February 16, 2016 - 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](http://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. Americanism Day-Evans VFW Post #6624

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, this is the time set on the agenda for you to do so. When you are recognized, please step to the podium, state your name and address then address City Council. Your comments will be limited to two (2) minutes. The City Council may not respond to your comments this evening, rather they may take your comments and suggestions under advisement and your questions may be directed to the appropriate staff person for follow-up. Thank you!*

6. APPROVAL OF AGENDA

7. CONSENT AGENDA

A. Approval of Minutes of the Regular Meeting of February 2, 2016

B. Ordinance No. 646-16 – Amending the Evans Home Rule Charter, Amending Section 3.14 of the Home Rule Charter, and Submitting the Questions to the Registered Electors at the Regular Municipal Election Held on April 5, 2016 (Second Reading)

8. OLD BUSINESS

- A. Ordinance No. 647-16 – Amending Section 7.10 of the Evans Home Rule Charter and Submitting the Question to the Registered Electors at the Regular Municipal Election Held on April 5, 2016 (Second Reading)

9. NEW BUSINESS

- A. Resolution No. 14-2016 – Amendment of Resolution No. 10-2016 to Include Work on the Lower Latham Ditch Company’s Diversion Structure in the CDBG-DR Grant
- B. Ordinance No. 648-16 – Approving an Oil and Gas Lease of Certain City of Evans’ Property with Mineral Resources, Inc. (First Reading)

10. REPORTS

- A. City Manager
- B. City Attorney

11. AUDIENCE PARTICIPATION (general comments)

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

12. EXECUTIVE SESSION

- A. To Determine Positions Relative to Matters that May be Subject to Negotiations, Developing Strategy for Negotiations, and Instructing Negotiators, Pursuant to C.R.S. 24-6-402(4)(e)

13. ADJOURNMENT

**CITY OF EVANS – MISSION STATEMENT**

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

# PROCLAMATION

## PROCLAIMING MARCH 20, 2016 AS "AMERICANISM DAY" IN THE CITY OF EVANS, COLORADO

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

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

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

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

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

NOW THEREFORE, I, John Morris, Mayor of the City of Evans do hereby proclaim March 20, 2016 as Americanism Day in the City of Evans.

IN WITNESS WHEREOF, I have hereunto set my hand and caused to be affixed the official seal of the City of Evans this 16<sup>th</sup> day of February, 2016.

ATTEST:

CITY OF EVANS, COLORADO

\_\_\_\_\_  
City Clerk

By \_\_\_\_\_  
Mayor

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## **COUNCIL COMMUNICATION**

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**DATE:** February 16, 2016  
**AGENDA ITEM:** 7.A  
**SUBJECT:** Approval of the Minutes February 2<sup>nd</sup> City Council Meeting  
**PRESENTED BY:** City Clerk

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**AGENDA ITEM DESCRIPTION:**

Approval of minutes.

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**FINANCIAL SUMMARY:**

N/A

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**RECOMMENDATION:**

N/A

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**SUGGESTED MOTIONS:**

*"I move to approve the minutes as presented."*

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**MINUTES**  
**EVANS CITY COUNCIL**  
February 2, 2016

**CALL TO ORDER**

**PLEDGE**

**ROLL CALL**

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

Absent: Council Member Rudy

**AUDIENCE PARTICIPATION**

There was no audience participation.

**APPROVAL OF AGENDA**

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

**CONSENT AGENDA**

**A. Approval of Minutes of the Regular Meeting of January 19, 2016**

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

**SPECIAL BUSINESS**

**A. Resolution No. 11-2016 – Supporting the Weld County Bright Futures Program**

Aden Hogan, City Manager, presented Resolution No. 11-2016, which supports the Bright Futures Program. Mr. Hogan explained the Bright Futures Grant Program was created by the Weld County Commissioners to provide financial assistance to Weld County students and veterans in pursuing their post-high school or post GED education. The program offers up to \$3,000 per year, up to four years, to be used at any accredited educational institution or training program located in the United States. Mr. Hogan explained that the Resolution contributed \$21,000 from the City of Evans to provide funding for seven students in 2016.

Mr. Hogan introduced Weld County Commissioners Cozad and Conway and thanked Weld County for their work creating the program.

Mayor Pro-Tem Schaffer explained that he was an employee of the University of Northern Colorado, and asked legal counsel to clarify that there was no conflict of interest to support the Resolution.

Mr. Krob, City Attorney, clarified that there was no conflict with Mayor Pro-Tem Schaffer supporting the resolution.

Mayor Morris thanked the County Commissioners for attending the meeting and asked if they had any additional comments.

Commissioners Conway and Cozad thanked the City Council for their contribution to the program. Commissioner Conway stated that the City of Evans was the first municipality in Weld County to contribute.

Mayor Morris discussed his support for the program and explained that the City's contribution would support seven grants to Evans residents for 2016.

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Homann, to adopt Resolution No. 11-2016 – supporting the Weld County Bright Futures Program. The motion passed with all voting in favor thereof.

**Resolution No. 12-2016 – Adopting the 2016 Weld County Multi-jurisdictional Hazard Mitigation Plan**

Mr. Hogan presented Resolution No. 12-2016, which adopts the 2016 Weld County, Colorado Multi-jurisdictional Hazard Mitigation Plan. According to Mr. Hogan, the adoption of this plan satisfies the requirements of the Federal Emergency Management Agency (FEMA) according to 44 C.F.R. 201.6 and maintains the City's eligibility for specific federal hazard mitigation or disaster loss reduction programs. This plan is the product of a planning process undertaken by the Weld County Office of Emergency Management and local Emergency Managers throughout Weld County with both the Evans Fire Protection District and Public Works Department participating several revisions to this plan.

Mayor Morris voiced his support for the Resolution.

Council Member Clark, made the motion, seconded by Council Member Brown, to adopt Resolution No. 12-2016 – Adopting the 2016 Weld County Multi-jurisdictional Hazard Mitigation Plan. The motion passed with all voting in favor thereof.

**NEW BUSINESS**

**A. Ordinance No. 646-16 – Amending the Evans Home Rule Charter, Amending Section 3.14 of the Home Rule Charter, and Submitting the Questions to the Registered Electors at the Regular Municipal Election Held on April 5, 2016**

Raegan Robb, City Clerk, presented the Ordinance, which would amend the Home Rule Charter to include labels for each subsection, conform the language of the Charter to be gender neutral, and Amend Section 3.14 the Evans Home Rule Charter. Mr. Robb explained that, if approved, the Ordinance would refer the following questions to the registered electors at the Municipal Election which will be held on April 5, 2016:

- *Shall the City of Evans Home Rule Charter be amended to make the language of the Charter gender neutral and include labels for each subsection?*
- *Shall Section 3.14, Special City Council Meetings, be amended to allow special meetings of the Council to be called by the Clerk by electronic correspondence, by telephone, in writing served personally, or delivered to a Council Member's usual place of residence?*

The Council Members discussed their support for the Ordinance.

Council Member Homann made the motion, seconded by Council Member Brown, to adopt Ordinance No. 646-16 on first reading.

The motion passed with all voting in favor thereof.

**B. Ordinance No. 647-16 – Amending Section 7.10 of the Evans Home Rule Charter and Submitting the Question to the Registered Electors at the Regular Municipal Election Held on April 5, 2016**

Mr. Robb presented the Ordinance, which would amend the Home Rule Charter to amend Section 7.10 of the Home Rule Charter to align the maximum municipal fine with the amount allowed under state law. Mr. Robb explained that, if approved, the Ordinance would refer the following questions to the registered electors at the Municipal Election which will be held on April 5, 2016:

- *Shall Section 7.10, Penalties for Violation of Ordinances, be amended to clarify that the fine for municipal court shall not exceed the amount allowed under state law as established by city ordinance?*

Mayor Pro-Tem Schaffer spoke about the need to remove \$1,000 limit from the Charter language.

Mayor Morris also discussed his support for the change to the Home Rule Charter.

Council Member Clark discussed his opposition to the charter amendment. He explained that the \$1,000 limit for municipal fines should remain in the charter.

Mayor Pro-Tem Schaffer made the motion, seconded by Council Member Brown to adopt Ordinance No. 647-16 on first reading.

The motion passed 5-1-1 with Council Member Clark opposed and Council Member Rudy absent.

**C. Resolution No. 13-2016 – Approving the Grant of a Non-Exclusive Easement by the City of Evans to Saddle Butte Rockies Midstream, LLC for Construction, Installation and Maintenance of a Pipeline to Transmit Oil, Gas and Water Across and Beneath Certain Real Property Belonging to the City**

Fred Starr, Public Works Director, presented the resolution, to grant a non-exclusive easement 30ft wide by 1,157 ft. long over and across property which is owned by the City of Evans. According to Mr. Starr, the easement will be granted to Saddle Butte Rockies Midstream, LLC for construction, installation and maintenance of a pipeline to transmit oil, gas, and water from property associated with the Synergy Oil Well site. Additionally the easement will allow Synergy Oil and Gas Company to transport some of the oil produced on their site through the pipeline which will reduce the truck volume and save City streets. Lastly, the City will also receive \$17,355.00 in compensation for easement, according to Mr. Starr.

Mr. Starr discussed the location of the easement and talked about some of the improvements to the City's property.

Mayor Morris clarified that this is a not a 30 foot pipe, but rather an easement for a smaller pipe.

Fred Starr confirmed the easement will consist of a 70' wide "construction easement" to accommodate the activity associated with the initial placement of the pipeline; then a 30' wide non-exclusive easement.

Council Member Homann asked if the easement would reduce truck traffic from the Synergy site.

Mr. Starr explained that the easement would reduce truck traffic by allowing Synergy Oil and Gas Company to transport some of the oil produced on their site through the

pipeline which will reduce the truck volume on 35<sup>th</sup> Avenue.

Mayor Morris discussed his support for the project.

Council Member Clark made the motion, seconded by Council Member Brown, to adopt Resolution No. 13-2016 – Approving the Grant of a Non-Exclusive Easement by the City of Evans to Saddle Butte Rockies Midstream, LLC for Construction, Installation and Maintenance of a Pipeline to Transmit Oil, Gas and Water Across and Beneath Certain Real Property Belonging to the City. The motion passed with all voting in favor thereof.

**D. Approval of a Preliminary Budget Revision for the Match on an Energy and Mineral Impact Grant from the Colorado Department of Local Affairs**

Jessica Gonifas, Deputy City Manager, made a presentation to the City Council concerning Preliminary Budget Revision for the Match on an Energy and Mineral Impact Grant from the Colorado Department of Local Affairs (DOLA). According to Ms. Gonifas, on November 17, 2016, City Council a DOLA grant intended to supplement funding for permanent repairs to Brantner Road, 49<sup>th</sup> Street, and Industrial Parkway, which were heavily damaged by both the 2013 and 2015 floods.

After review of the grant application which showed \$0 match for the resurfacing of 49<sup>th</sup> Street from the flood damaged section west to 35<sup>th</sup> Avenue at a cost of \$600,000. DOLA has suggested that the application would be strengthened if the City included a local match of at least \$100,000, but the grant funding would cover over 83 percent of the cost of this much needed street improvement project. Lastly, she explained that funding for the local match would come from the Capital Project - Streets fund, which is projected to have a 2016 ending fund balance of \$567,968.

The Council Members voiced their support for the project and the match funding.

Council Member Clark made the motion, seconded by Council Member Homann, to approve a preliminary budget revision in the amount of \$100,000 within the Capital Projects - Streets Fund for the local match on the Energy and Mineral Impact Grant for 49<sup>th</sup> Street. The motion passed with all voting in favor thereof.

**REPORTS**

**A. City Manager**

Aden Hogan, City Manager, referred the Council Members to the issues

summarized in the monitoring report. He also discussed methods for residents to report pot holes and some emergency preparedness training by staff.

Lastly, he explained that the he City had become a Weather Ambassador for the National Weather Service through NOAA. Mr. Hogan explained that this was one of four action items the City needed for its Hazard Mitigation Plan.

Mayor Morris praised staff for participating in a recent emergency preparedness exercise.

#### **B. City Attorney**

Mr. Krob explained that the executive session was scheduled for discussing a pending lawsuit concerning the warehouse located at 600 31<sup>st</sup> Street in Evans, but the executive session was not necessary at this time

#### **AUDIENCE PARTICIPATION**

There was no audience participation.

#### **EXECUTIVE SESSION**

**~~A. To Determine Positions Relative to Matters that may be Subject to Negotiations, Developing Strategy for Negations, and Instructing Negotiators, Pursuant to C.R.S. 24-6-402(4)(e)~~**

#### **ADJOURNMENT**

The meeting adjourned at 8:14 p.m.

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## CITY COUNCIL COMMUNICATION

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**DATE:** February 16, 2016

**AGENDA ITEM:** 7.B

**SUBJECT:** Ordinance No. 646-16 - Amends Section 3.14 the Evans Home Rule Charter, amends the Home Rule Charter to include labels for each subsection and conform the language of the Charter to be gender neutral, and referring the question for adoption be submitted to the registered electors at the Municipal Election which will be held on April 5, 2016.

**PRESENTED BY:** Scott Krob, City Attorney and Raegan Robb, City Clerk

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### **AGENDA ITEM DESCRIPTION:**

The attached ordinance provides for the following ballot questions to be submitted to the registered electors at the April 5, 2016 municipal election:

1. Shall the City of Evans Home Rule Charter be amended to make the language of the Charter gender neutral and include labels for each subsection?
2. Shall Section 3.14, Special City Council Meetings, be amended to allow special meetings of the Council to be called by the Clerk by electronic correspondence, by telephone, in writing served personally, or delivered to a Council Member's usual place of residence?

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### **RECOMMENDATION:**

City staff recommends the approval of the Ordinance.

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### **SUGGESTED MOTIONS:**

*"I move to approve Ordinance No. 646-16 on second reading."*

*"I move to deny adoption of Ordinance No. 646-16."*

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CITY OF EVANS, COLORADO

ORDINANCE NO. 646-16

AN ORDINANCE TO AMEND THE HOME RULE CHARTER OF THE CITY OF EVANS, COLORADO, TO AMEND SECTION 3.14 OF THE CHARTER, AND FURTHER PROVIDING THAT THE QUESTION FOR ADOPTION OF SUCH AMENDMENTS BE SUBMITTED TO THE REGISTERED ELECTORS AT THE REGULAR MUNICIPAL ELECTION WHICH WILL BE HELD ON APRIL 5, 2016

**WHEREAS**, the City of Evans is a home rule city duly organized and existing under the Constitution of the State of Colorado and the Home Rule Charter of the City; and

**WHEREAS**, pursuant to Section 1.5 of the Home Rule Charter, amendments to the charter must be submitted to the electors of the City of Evans; and

**WHEREAS**, an election shall be held on Tuesday, April 5, 2016, at which election there shall be submitted to the eligible electors of the City these amendments to the Home Rule Charter; and

**WHEREAS**, the language in the Charter is not gender neutral; and

**WHEREAS**, the Charter has several subsections that are not labeled; and

**WHEREAS**, City Council and staff have recommended that Chapter 3.14, concerning Special Meetings, should be amended to allow for more modern means of providing notice of a Special Meeting to the City Council Members.

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

Section 1. Proposed Amendments. The Evans Home Rule Charter shall be amended to make the language of the Charter gender neutral and include labels for each subsection; and

Section 3.14, of the Home Rule Charter of the City of Evans, Colorado, shall be amended to read as follows:

**3.14 SPECIAL MEETINGS.** Special meetings of the Council shall be called by the Clerk on a written request of the Mayor, or by any three members of the Council on at least twenty-four hours ~~written~~ notice to each member of the Council. ~~Notice by the Clerk may be provided by electronic correspondence, by telephone, in writing~~ served personally, or ~~left at~~ delivered to ~~his a~~ Council Member's usual place of residence; ~~but a~~ special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing- ~~or through electronic correspondence with the Clerk.~~

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By: \_\_\_\_\_  
Raegan Robb, City Clerk                      John Morris, Mayor

CITY OF EVANS, COLORADO

ORDINANCE NO. 646-16

AN ORDINANCE TO AMEND THE HOME RULE CHARTER OF THE CITY OF EVANS, COLORADO, TO AMEND SECTION 3.14 OF THE CHARTER, AND FURTHER PROVIDING THAT THE QUESTION FOR ADOPTION OF SUCH AMENDMENTS BE SUBMITTED TO THE REGISTERED ELECTORS AT THE REGULAR MUNICIPAL ELECTION WHICH WILL BE HELD ON APRIL 5, 2016

**WHEREAS**, the City of Evans is a home rule city duly organized and existing under the Constitution of the State of Colorado and the Home Rule Charter of the City; and

**WHEREAS**, pursuant to Section 1.5 of the Home Rule Charter, amendments to the charter must be submitted to the electors of the City of Evans; and

**WHEREAS**, an election shall be held on Tuesday, April 5, 2016, at which election there shall be submitted to the eligible electors of the City these amendments to the Home Rule Charter; and

**WHEREAS**, the language in the Charter is not gender neutral; and

**WHEREAS**, the Charter has several subsections that are not labeled; and

**WHEREAS**, City Council and staff have recommended that Chapter 3.14, concerning Special Meetings, should be amended to allow for more modern means of providing notice of a Special Meeting to the City Council Members.

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

Section 1. Proposed Amendments. The Evans Home Rule Charter shall be amended to make the language of the Charter gender neutral and include labels for each subsection; and

Section 3.14, of the Home Rule Charter of the City of Evans, Colorado, shall be amended to read as follows:

**3.14 SPECIAL MEETINGS.** Special meetings of the Council shall be called by the Clerk on a written request of the Mayor, or by any three members of the Council on at least twenty-four hours ~~written~~ notice to each member of the Council. Notice by the Clerk may be provided by electronic correspondence, by telephone, in writing served personally, or delivered to ~~his~~ a Council Member's usual place of residence; ~~but~~ A special meeting may be held on shorter notice if all members of the Council are present or have waived notice thereof in writing or through electronic correspondence with the Clerk.

Section 2. Election. The question of whether the City of Evans Home Rule Charter shall be amended as set forth above in Section 1 shall be submitted to the registered electors of the City of Evans at a regular municipal election to be held on April 5, 2016.

Section 3. Ballot Titles. The ballot titles setting forth the questions to be voted on shall be as follows:

1. Shall the City of Evans Home Rule Charter be amended to make the language of the Charter gender neutral and include labels for each subsection?
2. Shall Section 3.14, Special City Council Meetings, be amended to include more modern means of providing notice of a Special Meeting to the City Council Members?

Section 4. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. The effective date of this Ordinance shall be April 5, 2016, provided there is approval by a majority of registered electors voting thereon as to each of the questions submitted to the voters as provided in Section 3 above. In the event that some, but not all, of the questions submitted to the voters have approval of the majority of the registered electors voting thereon, then, in that event, this Ordinance shall be amended to remove those proposed amendments in Section 1 above that do not receive a majority approval of the registered electors.

PASSED, AND APPROVED at a regular meeting of the City Council of the City of Evans on this 2<sup>nd</sup> day of February, 2016.

CITY OF EVANS, COLORADO

ATTEST:

\_\_\_\_\_  
Raegan Robb, City Clerk

By: \_\_\_\_\_  
John Morris, Mayor

PASSED, APPROVED, AND ADOPTED ON SECOND READING THIS 16<sup>th</sup> day of February, 2016.

CITY OF EVANS, COLORADO

ATTEST:

\_\_\_\_\_  
Raegan Robb, City Clerk

By: \_\_\_\_\_  
John Morris, Mayor

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## CITY COUNCIL COMMUNICATION

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**DATE:** February 16, 2016

**AGENDA ITEM:** 8.A

**SUBJECT:** Ordinance No. 647-16 - Amending Section 7.10 of the Evans Home Rule Charter and Submitting the Question to the Registered Electors at the Regular Municipal Election Held on April 5, 2016

**PRESENTED BY:** Scott Krob, City Attorney and Raegan Robb, City Clerk

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### **AGENDA ITEM DESCRIPTION:**

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This amendment was discussed by the City Council at the Work Session on January 19, 2016.

The attached ordinance provides for the following ballot question to be submitted to the registered electors at the April 5, 2016 regular municipal election:

1. Shall Section 7.10, Penalties for Violation of Ordinances, be amended to clarify that the fine for municipal court shall not exceed the amount allowed under state law as established by city ordinance?

The question of amending Section 7.10 to align the maximum fine with the amount allowed under state law was previously defeated by the Evans voters at the November 4, 2014 General Election (**Evans ballot question 2C**) by the margins shown below:

<b>Evans 2C</b>		
	Total	
Number of Precincts	7	
Precincts Reporting	0	0.0 %
Vote For	1	
Total Votes	4080	
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YES	1780	43.63%
NO	2300	56.37%

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### **RECOMMENDATION:**

Staff is presenting this issue for Council's consideration with no recommendation.

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### **SUGGESTED MOTIONS:**

*“I move to approve Ordinance No. 647-16 on second reading.”*

*“I move to deny adoption of Ordinance No. 647-16 on second reading.”*

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CITY OF EVANS, COLORADO

ORDINANCE NO. 647-16

AN ORDINANCE TO AMEND SECTION 7.10 OF THE HOME RULE CHARTER OF THE CITY OF EVANS, COLORADO AND FURTHER PROVIDING THAT THE QUESTION FOR ADOPTION OF SUCH AMENDMENT BE SUBMITTED TO THE REGISTERED ELECTORS AT THE REGULAR MUNICIPAL ELECTION WHICH WILL BE HELD ON APRIL 5, 2016

**WHEREAS**, the City of Evans is a home rule city duly organized and existing under the Constitution of the State of Colorado and the Home Rule Charter of the City; and

**WHEREAS**, pursuant to Section 1.5 of the Home Rule Charter, amendments to the charter must be submitted to the electors of the City of Evans; and

**WHEREAS**, an election shall be held on Tuesday, April 5, 2016, at which election there shall be submitted to the eligible electors of the City these amendments to the Home Rule Charter; and

**WHEREAS**, City Council and staff have recommended that Chapter 7.10, concerning Penalties for Violation of Ordinances, should be amended to state that the fine shall not exceed the amount provided by state law, as set forth by ordinance; and

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

Section 1. Proposed Amendments. Sections 7.10, of the Home Rule Charter of the City of Evans, Colorado, shall be amended to read as follows:

7.10 PENALTIES FOR VIOLATION OF ORDINANCES. Any ordinance may provide for the punishment of those who violate its provisions. The punishment for the violation of any ordinance shall be at the discretion of the Municipal Judge, but shall not exceed ~~a fine of one the maximum amount for fines and punishment as provided under state law, thousand dollars (\$1,000), or imprisonment, or both, which may be allowed by law.~~

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Section 2. Election. The question of whether the City of Evans Home Rule Charter shall be amended as set forth above in Section 1 shall be submitted to the registered electors of the City of Evans at a regular municipal election to be held on April 5, 2016.

Section 3. Ballot Titles. The ballot titles setting forth the questions to be voted on shall be as follows:



CITY OF EVANS, COLORADO

ORDINANCE NO. 647-16

AN ORDINANCE TO AMEND SECTION 7.10 OF THE HOME RULE CHARTER OF THE CITY OF EVANS, COLORADO AND FURTHER PROVIDING THAT THE QUESTION FOR ADOPTION OF SUCH AMENDMENT BE SUBMITTED TO THE REGISTERED ELECTORS AT THE REGULAR MUNICIPAL ELECTION WHICH WILL BE HELD ON APRIL 5, 2016

**WHEREAS**, the City of Evans is a home rule city duly organized and existing under the Constitution of the State of Colorado and the Home Rule Charter of the City; and

**WHEREAS**, pursuant to Section 1.5 of the Home Rule Charter, amendments to the charter must be submitted to the electors of the City of Evans; and

**WHEREAS**, an election shall be held on Tuesday, April 5, 2016, at which election there shall be submitted to the eligible electors of the City these amendments to the Home Rule Charter; and

**WHEREAS**, City Council and staff have recommended that Chapter 7.10, concerning Penalties for Violation of Ordinances, should be amended to state that the fine shall not exceed the amount provided by state law, as set forth by ordinance; and

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

Section 1. Proposed Amendments. Sections 7.10, of the Home Rule Charter of the City of Evans, Colorado, shall be amended to read as follows:

7.10 PENALTIES FOR VIOLATION OF ORDINANCES. Any ordinance may provide for the punishment of those who violate its provisions. The punishment for the violation of any ordinance shall be at the discretion of the Municipal Judge, but shall not exceed the maximum amount for fines and punishment as provided under state law.

Section 2. Election. The question of whether the City of Evans Home Rule Charter shall be amended as set forth above in Section 1 shall be submitted to the registered electors of the City of Evans at a regular municipal election to be held on April 5, 2016.

Section 3. Ballot Titles. The ballot titles setting forth the questions to be voted on shall be as follows:

Shall Section 7.10, Penalties for Violation of Ordinances, be amended to state that the fine for violating a city ordinance shall not exceed the amount allowed under state law?

Section 4. Publication and Effective Date. This Ordinance, after its passage on final reading, shall be numbered, recorded, published, and posted as required by the City Charter and the adoption, posting, and publication shall be authenticated by the signature of the Mayor and City Clerk, and by the Certificate of Publication. The effective date of this Ordinance shall be April 5, 2016, provided there is approval by a majority of registered electors voting thereon as to each of the questions submitted to the voters as provided in Section 3 above.

PASSED, AND APPROVED at a regular meeting of the City Council of the City of Evans on this 2<sup>nd</sup> day of February, 2016.

CITY OF EVANS, COLORADO

ATTEST:

\_\_\_\_\_  
Raegan Robb, City Clerk

By: \_\_\_\_\_  
John Morris, Mayor

PASSED, APPROVED, AND ADOPTED ON SECOND READING THIS 16<sup>th</sup> day of February, 2016.

CITY OF EVANS, COLORADO

ATTEST:

\_\_\_\_\_  
Raegan Robb, City Clerk

By: \_\_\_\_\_  
John Morris, Mayor

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## COUNCIL COMMUNICATION

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**DATE:** February 16, 2016

**AGENDA ITEM:** 9.A

**SUBJECT:** ORDINANCE NO. 468-16 AN ORDINANCE APPROVING AN OIL AND GAS LEASE OF THE CITY OF EVANS' PROPERTY WITH MINERAL RESOURCES, INC.

**PRESENTED BY:** Scott Krob, City Attorney

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**AGENDA ITEM DESCRIPTION:**

As you may recall, in 2015, the City entered into a lease agreement with Mineral Resources for oil and gas beneath certain properties owned by the City, including the cemetery and park. This ordinance approves a lease of the City of Evans oil and gas interest beneath an additional 27 acres of property owned by the City.

Recently the City received a proposal asking to lease oil and gas beneath the additional 27 acres of City owned lands. However, before the matter could be brought to Council, Mineral Resources sent notices withdrawing their previous offer due to the drop in oil prices and said they would only offer \$800 per acre as a signing bonus and 15% royalty.

As I explained in connection with last year's lease agreement, if the City does not enter into a lease agreement for its oil and gas interest or develop those interests on its own, the City will likely be forced into a pooling agreement. In that event there is no signing bonus and the City would receive a royalty of 12%.

Upon receiving the notices from Mineral Resources withdrawing their previous offer, I called Jack Sattler and discussed the matter with him. As a result of those discussions, Jack agreed on behalf of Mineral Resources to offer the same proposal to the City for the new lease, as in the City's 2015 lease, specifically \$2500 per acre signing bonus plus 16% royalty. Those are the terms reflected in the lease being presented to the City Council this evening.

No drilling will be done on the City's property. The well that will access the oil and gas beneath the ERA's property will actually be a directional well drilled from other property.

---

**FINANCIAL SUMMARY:**

It is anticipated that the signing bonus will result in an up front payment in the amount of \$68,221. The royalty will be paid if and when a producing well is drilled.

---

**RECOMMENDATION:**

It is staff's recommendation that the City enter into the oil and gas lease agreement with Mineral Resources, Inc. as provided in the ordinance.

---

**SUGGESTED MOTIONS:**

*“I move to approve Ordinance No. 468-16 on first reading.”*

*“I move to deny Ordinance No. 468-16.”*

---

**CITY OF EVANS, COLORADO**

**ORDINANCE NO. 648-16**

**AN ORDINANCE APPROVING AN OIL AND GAS LEASE OF CERTAIN CITY OF EVANS' PROPERTY WITH MINERAL RESOURCES, INC.**

**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 form of the lease has been approved by the City Attorney and the content of the lease has been approved by the City Manager; and

**WHEREAS**, the City Council finds it is in the best interest of the citizens of the City of Evans to enter into this lease.

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

1. The lease of the City of Evans' oil and gas interest in the property beneath the City's property as set forth in the attached oil and gas lease between the City and Mineral Resources, Inc. is hereby approved.
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 16<sup>TH</sup> DAY OF FEBRUARY, 2016.**

**ATTEST:**

**CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor

**PASSED AND ADOPTED ON A SECOND READING THIS 1<sup>ST</sup> DAY OF MARCH, 2016.**

**ATTEST:**

**CITY OF EVANS, COLORADO**

\_\_\_\_\_  
Raegan Robb, City Clerk

BY: \_\_\_\_\_  
John L. Morris, Mayor



**MINERAL RESOURCES, INC.**

**Mail: P.O. Box 328 Greeley, Colorado 80632 \* Phone: 970.352.9446 \* Fax: 970.339.8321**

February 11, 2016

Record: 76501

City Of Evans  
1100 37th Street  
Evans, CO 80620-2036

RE: TOWNSHIP 5 NORTH, RANGE 65 WEST, 6TH P.M.  
Section 20: described below  
Containing 27.2884 acres, more or less

Dear City Of Evans:

Mineral Resources, Inc., a Greeley based oil and gas exploration company, is developing an oil and gas directional drilling program. A search of public records indicates that you are the mineral owner of property that is within our area of interest. We hope you will consider entering into an Oil and Gas Lease which will cover the lands described below:

All that part of the East Half of the Southeast Quarter of Section 20, Township 5 North, Range 65 West, being Lots 3 thru 10 and the closed 80' street West of and adjacent to said lots, all located in the County of Weld, State of Colorado, also known as 3323 1st Avenue, Evans, Colorado  
Containing 27.2884 acres, more or less.

The terms of the lease we are offering are as follows:

Signing Bonus: \$68,221.00  
Royalty Rate: 16%  
Primary Term: 5 years

If you grant a lease, once the wells are drilled and producing you will receive monthly royalty payments in proportion to your mineral ownership. Please note that our intention is to drill the multiple oil and gas wells that are part of this project from a pad site strategically chosen for its location. This allows for minimal impact on the day-to-day lives of residents. **NO OPERATIONS OR CONSTRUCTION OF ANY KIND WILL TAKE PLACE ON YOUR PROPERTY.**

If you are interested in selling your minerals we will buy them from you for a one-time payment of \$81,865.20. In order to accept this offer, contact our office at 970-352-9446 and we will send you the proposed Quit Claim Deed.

Should you have any questions please contact us at 970-352-9446 or stop by our office located at 5200 W. 20<sup>th</sup> Street, Greeley, CO 80634.

Sincerely,

Amy Boyd  
970-590-7443

Jack Sattler  
970-475-6112

# OIL AND GAS LEASE

Form #MRIP88a

This Oil and Gas Lease ("Lease") is made this 11th day of February, 2016 by and between **City Of Evans** whose address is **1100 37th Street Evans, CO 80620**, ("Lessor", whether one or more) and **MINERAL RESOURCES, INC.**, whose address is **P.O. BOX 328, GREELEY, COLORADO 80632** ("Lessee").

WITNESSETH, For and in Consideration of TEN DOLLARS, the covenants and agreements contained herein, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, Lessor does hereby grant, demise, lease and let exclusively unto said Lessee, with the exclusive rights for the purposes of mining, exploring by geophysical and other methods and operating for and producing therefrom oil and all gas of whatsoever nature or kind (including coalbed gas), and laying pipelines, telephone and telegraph lines, building tanks, plants, power stations, roadways and structures thereon to produce, save and take care of said products (including dewatering of coalbed gas wells), and the exclusive surface or subsurface rights and privileges related in any manner to any and all such operations, and any and all other rights and privileges necessary, incident to, or convenient for the operation alone or jointly with neighboring land for such purposes, all that certain tract or tracts of land situated in Weld County, Colorado, described to wit:

TOWNSHIP 5 NORTH, RANGE 65 WEST, 6TH P.M.

SECTION 20: PART OF THE SE/4 BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: ALL THAT PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 20, TOWNSHIP 5 NORTH, RANGE 65 WEST, BEING LOTS 3 THRU 10 AND THE CLOSED 80' STREET WEST OF AND ADJACENT TO SAID LOTS, ALL LOCATED IN THE COUNTY OF WELD, STATE OF COLORADO, ALSO KNOWN AS 3323 1ST AVENUE, EVANS, COLORADO INCLUDING ALL STRIPS AND PARCELS OF LAND CONTIGUOUS THERETO OR IN SAID SECTION NOW OWNED OR ACQUIRED IN THE FUTURE. CONTAINING 27.2884 ACRES, MORE OR LESS (the "Premises")

Notwithstanding anything to the contrary herein contained, this lease is a "No Surface Occupancy" Oil and Gas Lease. It is agreed and understood that Lessee its successors or assigns shall not conduct any operations or locate any facilities on the surface of the leased lands. It is understood that Lessee, its successors or assigns shall not be allowed any access to the surface of the leased lands without written consent of Lessor. It is further agreed that Lessee shall have the right to drill and operate directional wells through and under said land irrespective of the bottom hole locations of said wells. To this end, Lessor hereby grants to Lessee a subsurface easement for all purposes associated with such directional wells.

1. It is agreed that this Lease shall remain in full force for a term of five (5) years from this date ("Primary Term") and as long thereafter as oil or gas of whatsoever nature or kind is produced from the Premises or on acreage pooled or unitized therewith, or operations are continued as hereinafter provided. At any time during the Primary Term of this Lease, Lessee, at its option may make tender to Lessor payment in the amount of \$100 per net mineral acre, thereby extending the Primary Term of this Lease by an additional five (5) years. If, at the expiration of the Primary Term, oil or gas is not being produced from the Premises or on acreage pooled or unitized therewith but Lessee is then engaged in drilling, reworking or dewatering operations thereon, then this Lease shall continue in force so long as such operations are being continuously prosecuted. Operations shall be considered to be continuously prosecuted if not more than ninety (90) days shall elapse between the completion or abandonment of one well and the beginning of operations for the drilling of a subsequent well. If after discovery of oil or gas on the Premises or on acreage pooled or unitized therewith, the production thereof should cease from any cause after the primary term, this Lease shall not terminate if Lessee commences additional drilling, reworking or dewatering operations within ninety (90) days from date of cessation of production or from date of completion of a dry hole. If oil or gas shall be discovered and produced as a result of such operations at or after the expiration of the Primary Term, this Lease shall continue in force so long as oil or gas is produced from the Premises or on acreage pooled or unitized therewith.

2. This is a PAID-UP LEASE. In consideration of the payment made herewith, Lessor agrees that Lessee shall not be obligated, except as otherwise provided herein, to commence or continue any operations during the primary term. Lessee may at any time or times during or after the Primary Term surrender this Lease as to all or any portion of the Premises and as to any strata or stratum, by delivering to Lessor or by filing for record a release or releases, and be relieved of all obligations thereafter accruing as to the acreage surrendered.

3. The royalties to be paid by Lessee are: (a) on oil and other liquid hydrocarbons, 16% of that produced and saved from said land, the same to be delivered at the wells, or to the credit of Lessor into the pipeline to which the wells may be connected; Lessee may from time to time purchase any royalty oil in its possession, paying the market price therefore prevailing for the field where produced on the date of purchase; (b) on gas and the constituents thereof produced from said land and sold or used off the premises or in the manufacture of products therefrom, the market value at the well of 16% of the product sold or used. On product sold at the well, the royalty shall be 16% of the net proceeds realized from such sale. All royalties paid on gas sold or used off the premises or in the manufacture of products therefrom will be paid after deducting from such royalty Lessor's proportionate amount of all post-production costs, including but not limited to gross production and severance taxes, gathering and transportation costs from the wellhead to the point of sale, treating, compression, and processing. On product sold at the well, the royalty shall be 16% of the net proceeds realized from such sale, after deducting from such royalty Lessor's proportionate amount of all of the above post-production costs and expenses, if any.

4. Where gas from a well capable of producing gas (or from a well in which dewatering operations have commenced), is not sold or used after the expiration of the Primary Term, Lessee shall pay or tender as royalty to Lessor at the address set forth above One Dollar (\$1.00) per year per net mineral acre, such payment or tender to be made on or before the anniversary date of this Lease next ensuing after the expiration of ninety (90) days from the date such well is shut in or dewatering operations are commenced and thereafter on or before the anniversary date of this Lease during the period such well is shut in or dewatering operations are being conducted.

5. If Lessor owns a lesser interest in the Premises than the entire and undivided fee simple estate therein, then the royalties (including any shut-in gas royalty) herein provided for shall be paid Lessor only in the proportion which Lessor's interest bears to the whole and undivided fee.

6. Lessee shall have the right to use, free of cost, gas, oil and water produced on the Premises for Lessee's operations thereon, except water from the wells of Lessor.

7. When requested by Lessor, Lessee shall bury Lessee's pipeline below plow depth.

8. No well shall be drilled nearer than 200 feet to the house or barn now on the Premises without written consent of Lessor.

9. Lessee shall pay for damages caused by Lessee's operations to growing crops on the Premises.

10. Lessee shall have the right at any time to remove all machinery and fixtures (including casing) Lessee has placed on the Premises.

11. The rights of the Lessor and Lessee hereunder may be assigned in whole or part. No change in ownership of Lessor's interest (by assignment or otherwise) shall be binding on Lessee until Lessee has been furnished with notice, consisting of certified copies of all recorded instruments or documents and other information necessary to establish a complete chain of record title from Lessor, and then only with respect to payments thereafter made. No other kind of notice, whether actual or constructive, shall be binding on Lessee. No present or future division of Lessor's ownership as to different portions or parcels of the Premises shall operate to enlarge the obligations or diminish the rights of Lessee, and all Lessee's operations may be conducted without regard to any such division. If all or any part of this Lease is assigned, no leasehold owner shall be liable for any act or omission of any other leasehold owner.

12. Lessee, at its option, is hereby given the right and power at any time and from time to time as a recurring right, either before or after production, as to all or any part of the Premises and as to any one or more of the formations thereunder, to pool or unitize the leasehold estate and the mineral estate covered by this Lease with other land, lease or leases in the immediate vicinity for the production of oil and gas, or separately for the



production of either, when in Lessee's judgment it is necessary or advisable to do so, and irrespective of whether authority similar to this exists with respect to such other land, lease or leases. Likewise units previously formed to include formations not producing oil or gas may be reformed to exclude such non-producing formations. The forming or reforming of any unit shall be accomplished by Lessee executing and filing of record a declaration of such unitization or reformation, which declaration shall describe the unit. Any unit may include land upon which a well has theretofore been completed or upon which operations for drilling have theretofore been commenced. Production, drilling, reworking or dewatering operations or a well shut in for want of a market anywhere on a unit which includes all or a part of this Lease shall be treated as if it were production, drilling, reworking or dewatering operations or a well shut in for want of a market under this Lease. In lieu of the royalties elsewhere herein specified, including shut-in gas royalties, Lessor shall receive royalties on production from such unit only on the portion of such production allocated to this Lease; such allocation shall be that proportion of the unit production that the total number of surface acres covered by this Lease and included in the Unit bears to the total number of surface acres in such Unit. In addition to the foregoing, Lessee shall have the right to unitize, pool, or combine all or any part of the Premises as to one or more of the formations thereunder with other lands in the same general area by entering into a cooperative or unit plan of development or operation approved by any governmental authority and, from time to time, with like approval, to modify, change or terminate any such plan or agreement and, in such event, the terms, conditions and provisions of this Lease shall be deemed modified to conform to the terms, conditions, and provisions of such approved cooperative or unit plan of development or operation and, particularly, all drilling and development requirements of this Lease, express or implied, shall be satisfied by compliance with the drilling and development requirements of such plan or agreement, and this Lease shall not terminate or expire during the life of such plan or agreement. In the event that the Premises or any part thereof, shall hereafter be operated under any such cooperative or unit plan of development or operation whereby the production therefrom is allocated to different portions of the land covered by said plan, then the production allocated to any particular tract of land shall, for the purpose of computing the royalties to be paid hereunder to Lessor, be regarded as having been produced from the particular tract of land to which it is allocated and not to any other tract of land; and royalty payments to be made hereunder to Lessor shall be based upon production only as so allocated. Lessor shall formally express Lessor's consent to any cooperative or unit plan of development or operation adopted by Lessee and approved by any governmental agency by executing the same upon request of Lessee.

13. All express or implied covenants of this Lease shall be subject to all Federal and State Laws, Executive Orders, Rules or Regulations, and this Lease shall not be terminated, in whole or in part, nor Lessee held liable in damages, for failure to comply therewith if compliance is prevented by, or if such failure is the result of, any such Law, Order, Rule or Regulation. Any delay or interruption caused by storm, flood, act of God or other event of force majeure shall not be counted against Lessee. If, due to the above causes or any cause whatsoever beyond the control of Lessee, Lessee is prevented from conducting operations hereunder, such time shall not be counted against Lessee, and this Lease shall be extended for a period of time equal to the time Lessee was so prevented, anything in this Lease to the contrary notwithstanding.

14. Lessor hereby agrees that the Lessee shall have the right at any time to redeem for Lessor by payment any mortgages, taxes or other liens on the above described lands, in the event of default of payment by Lessor, and be subrogated to the rights of the holder thereof, and the undersigned Lessors, for themselves and their heirs, successors and assigns, hereby surrender and release all right of dower and homestead in the Premises, insofar as said right of dower and homestead may in any way affect the purposes for which this Lease is made, as recited herein.

15. Should any one or more the parties named as Lessor herein fail to execute this Lease, it shall nevertheless be binding upon all such parties who do execute it as Lessor. The word "Lessor", as used in this Lease, shall mean any one or more or all of the parties who execute this Lease as Lessor. All the provisions of this Lease shall be binding on the heirs, successors and assigns of Lessor and Lessee.

16. In the event that Lessor, or any successor, assigns its rights under the lease to two or more persons or entities, those persons or entities shall designate one entity or person to receive all royalty payments and to execute all division orders.

17. If at any time within the primary term of this lease and while the same remains in force and effect, Lessor receives any bona fide offer, acceptable to Lessor, to grant an additional lease (top lease) covering all or part of the aforescribed lands, lessee shall have the continuing option by meeting any such offer to acquire such top lease. Any offer must be in writing, and must set forth the proposed Lessee's name, bonus consideration and royalty consideration to be paid for such lease, and include a copy of the lease form to be utilized which form should reflect all pertinent and relevant terms and conditions of the top lease. Lessee shall have fifteen (15) days after receipt, from Lessor, of a complete copy of any such offer to advise Lessor in writing of its election to enter into an oil and gas lease with Lessor on equivalent terms and conditions. If Lessee fails to notify Lessor within the aforesaid fifteen (15) day period of its election to meet any such bona fide offer, Lessor shall have the right to accept said offer.

18. This Lease covers not only such interests in the leased premises as the lessor presently owns therein but also such additional interest as Lessor may acquire in the future by operation of the law or otherwise, and upon Lessor notifying Lessee of such additional interest, Lessee shall make addition royalty and bonus payments in accordance with the proportional increase in interest.

19. The Lease may be executed in two or more counterparts, each of which shall be deemed an original instrument, and all of which together shall constitute one and the same instrument. The parties agree that electronic and facsimile signatures are binding.

IN WITNESS WHEREOF, this instrument is executed as of the date first above written.

\_\_\_\_\_  
 City Of Evans  
 \_\_\_\_\_

\_\_\_\_\_  
 \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS.  
 COUNTY OF \_\_\_\_\_ )

BEFORE ME, the undersigned, a Notary Public, in and for said County and State, on this \_\_\_\_\_ day of \_\_\_\_\_ 2016 , personally appeared \_\_\_\_\_ as the \_\_\_\_\_ of City Of Evans, to me known to be the identical persons described in and who executed the within and foregoing instrument of writing, acknowledged to me that they duly executed the same as their free and voluntary act and deed for the uses and purposes therein set forth.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

My Commission Expires \_\_\_\_\_

\_\_\_\_\_  
 Notary Public.

**When recorded return to:**  
 Mineral Resources, Inc.  
 P.O. Box 328  
 Greeley, CO 80632



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## CITY COUNCIL COMMUNICATION

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**DATE:** February 16, 2016

**AGENDA ITEM:** **9.B**

**SUBJECT:** Resolution No. 14-2016 Amending of Resolution No. 10-2016 Authorizing the Application for a planning Grant from the Colorado Department of Local Affairs to assist with flood mitigation work at the Highway 85 and Highway 60 Bridges to include implementation work at the Lower Latham Diversion

**PRESENTED BY:** Kacey Blum, Watershed Coordinator/Chad Reischl City Planner

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### **PROJECT DESCRIPTION:**

The Middle South Platte River Alliance (MSPRA) is asking to amend the grant application submitted to the Department of Local Affairs' CDBG-DR program. The amendment seeks to add physical improvements at the Lower Latham Diversion Structure to the scope of work of the grant. Improvements at the diversion structure will help decrease flood risk in the immediate vicinity of the structure, improve the ecological function of the river, and increase safety for recreational users of the river. This work will also help to resolve sedimentation issues now occurring at the Highway 85 Bridge where work will also be performed as part of this grant.

The total cost for the grant will be revised to include an additional \$400,000 for this work. The new total for the grants applied for under resolution 10-2016 would be \$1,273,000. The Alliance and the City of Evans will be fully reimbursed for this project and no matching funds are required.

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### **BACKGROUND:**

On January 19, 2016, Resolution No. 10-2016 was presented and approved by City Council to support a grant application to the Colorado Department of Local Affairs' CDBG-DR Grant Program to assist with flood mitigation work at the Highway 85 and Highway 60 bridges.

After application, it came to our attention there was a miscommunication between the Lower Latham Ditch Company, the State of Colorado, and the board/staff members of the Middle South Platte River Alliance regarding implementation of high-priority flood mitigation work at the Lower Latham Ditch Company's diversion structure. Prior to the grant application it was understood that the Lower Latham Ditch Company did not want to participate in the program and, therefore, that scope of work was left out of the grant application. After application the State of Colorado, who had expected to see the diversion structure work in the grant application, inquired about the reason for its absence. After further discussion, the misunderstanding was uncovered and the Lower Latham Ditch Company and the State are now requesting a revised

grant application from us. A letter from the Lower Latham to the State of Colorado is attached to this staff report.

The State has indicated that it is highly unlikely to support the previous scope of work as it only goes part way in reducing flood impacts in the area south of Evans. It would, however, support a more holistic project that includes reworking the Lower Latham Diversion. This work includes structural changes to the Lower Latham Ditch Diversion structure to provide flood relief, enhanced ecological function and safety for recreational users of the river.

In order to achieve this scope of work, we are asking for an additional \$400,000 from the CDBG-DR program. This would bring the total requested funds to \$1,273,000.

If the amendment is approved by the council, we will revise our application to include this new scope of work. If not approved we will leave the grant application as is, and run the risk that the grant will not be accepted.

**FINANCIAL:**

While the cost of this project will be fully reimbursed by the CDBG-DR grant it is expected that the city will incur some minor in-kind expense as a small portion of staff time may be needed to coordinate financial and grant management of the project with the Alliance.

**STAFF RECOMMENDATION:**

The City of Evans staff recommends that the City Council approve Resolution No. 14-2016 amending Resolution No. 10-2016 thus adding scope of work to the previously approved grant application.

---

**SUGGESTED MOTIONS:**

*“I move to approve Resolution No. 14-2016.”*

*“I move to deny the adoption of Resolution No. 14-2016.”*

LOWER LATHAM DITCH COMPANY  
8209 W, 20TH ST.  
GREELEY, CO 80634

KC McFerson, Watershed Program Manager  
Colorado Department of Local Affairs  
1313 Sherman Street, Room 521  
Denver, CO 80203

Dear Ms. McFerson:

It has just come to the attention of the Lower Latham Ditch Company (LLDC) Board and the Middle South Platte Watershed Alliance Board that there has been a miscommunication between the Boards and the Interim Coordinator of the Alliance who has recently submitted a Community Development Block Grant - Disaster Relief Implementation grant on our behalf. The LLDC Board would support a \$1 million implementation grant for structure improvements of the LLDC diversion and associated structures upstream of the Highway 85 bridge in a collaborative effort between the Ditch company, the coalition, CDOT and the Town of Evans to develop a holistic and comprehensive solution to sediment deposition and flooding in this area. That support would require that such modifications do not impact the ability of the LLDC to divert any waters legally available to them, that they can continue to measure and bypass other river flows that they and other entities are bound by agreement to perform and that such modifications are financially feasible to the LLDC and the associated entities.

The LLDC will work with the Alliance through a planning grant to develop possible alternatives that maintain such objectives while eliminating obstructions to flow during high water and expanding floodplain capacity. The LLDC will not be bound to any concept not approved by their Board of Directors, but in the event that an agreed upon design is developed and is economically feasible, the LLDC would support a funding application that provides funds to construct the project.

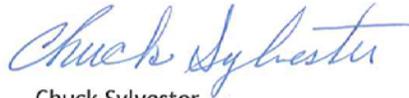
Unfortunately, this message was not clear to the grant writer and he proceeded with the idea that we were not in favor of an implementation grant. We only tried to relay the message that we would not construct a project that we did not approve. We request an opportunity to revise the scope and budget accordingly.

We appreciate the effort made on the part of the State to support watershed restoration efforts along the South Platte River and recognize that this funding source may not pass through here again. Please consider granting us the opportunity to revise our application. We can do it quickly. Thank you for the consideration.

Respectfully Yours,



James Park  
President, Latham Ditch Company



Chuck Sylvester  
President, Middle South Platte  
Watershed Alliance

CITY OF EVANS, COLORADO

RESOLUTION 14-2016

A RESOLUTION AMENDING RESOLUTION 10-2016 TO ADD ADDITIONAL SCOPE OF WORK TO THE CDBG-DR GRANT FOR HIGHWAY 85 AND HIGHWAY 60 TO INCLUDE ADDITIONAL WORK ON THE LOWER LATHAM DIVERSION STRUCTURE

**WHEREAS**, the City Council adopted Resolution No. 10-2016 supporting a grant application to the Colorado Department of Local Affairs' CDBG-DR grant program to assist with flood mitigation work at the Highway 85 and Highway 60 bridges, and

**WHEREAS**, prior to application there was a miscommunication between the Lower Latham Ditch Company and the board and staff of the Middle South Platte River Alliance whereby high-priority project scope at the Lower Latham Ditch was omitted from the application,

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

Resolution No. 10-2016 is hereby amended by adding additional scope of work to include structural changes to the Lower Latham diversion structure, to provide flood relief, enhanced ecological function and safety for recreational users of the river. As such the grant amount will be amended from \$800,000 to \$1,200,000.

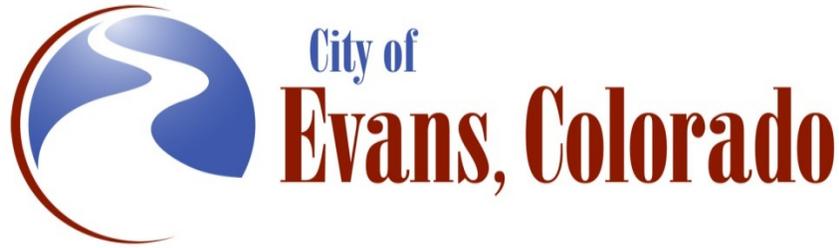
PASSED AND APPROVED at a regular meeting of the City Council of the City of Evans on this 16<sup>th</sup> day of February, 2016.

ATTEST:

CITY OF EVANS, COLORADO

\_\_\_\_\_  
City Clerk

By: \_\_\_\_\_  
Mayor



## City Manager - Monitoring Report

February 16, 2016

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

➤ **Community Development**

### Non-Residential Construction Projects In Progress

	<b>Project</b>	<b>Type</b>	<b>Location</b>	<b>Description</b>	<b>Stage</b>
A	America's Best Value Inn	Remodel	800 31 <sup>st</sup> St.	Remodeling Bar/Restaurant area into 8 hotel rooms	Under construction
B	Evans VFW	Building Addition	3501 State Street	1200 Sq. Ft. Shed	Under construction
C	Harvest Time Tabernacle Inc	Building Addition	3040 11 <sup>th</sup> Avenue	Adding on an additional room	Under construction
D	Evans Fast Break	Remodel	1100 42 <sup>nd</sup> Street	Storage Room Renovation	Under construction
E	Hi Crush	Commercial Development	7300 47 <sup>th</sup> Avenue	Pit foundation, scale, and scale house	Under construction
F	Heritage Inn	Building Addition	3301 West Service Rd	Upgrade commercial fire alarm system	Complete
G	Humane Society of Weld County	Remodel	1620 42 <sup>nd</sup> Street	Office area remodel	Complete

## Building Department Construction Activity Comparative Analysis

		January 2016	January 2015
<b>New Single Family Dwelling Units</b>	<b># of Permits Valuation</b>	1 137,133	1 149,283
<b>Single Family Footing &amp; Foundation Only</b>	<b># of Permits</b>	0	0
<b>New Multi-Family Dwellings Units</b>	<b># of Permits Valuation</b>	0	0
<b>Multi-Family Footing &amp; Foundation Only</b>	<b># of Permits Valuation</b>	0	0
<b>Residential Additions and Remodels</b>	<b># of Permits Valuation</b>	5 21,256	7 132,837
<b>New Commercial Projects</b>	<b># of Permits Valuation</b>	0	0
<b>Commercial Footing &amp; Foundation Only</b>	<b># of Permits Valuation</b>	0	0
<b>Commercial Additions and Remodels</b>	<b># of Permits Valuation</b>	2 36,063	5 380,365
<b>Miscellaneous Permits</b>	<b># of Permits Valuation</b>	15 39,585	13 64,801
<b>Mobile Home Permits</b>	<b># of Permits</b>	3	0
<b>TOTALS</b>	<b># of Permits Valuation</b>	26 234,037	26 727,286

### ➤ Finance

Weld County has changed the timing of the tax distribution, therefore, as we receive information, we will be issuing a final sales tax report that includes motor vehicle tax.

**Please find the Final November sales tax update below.**

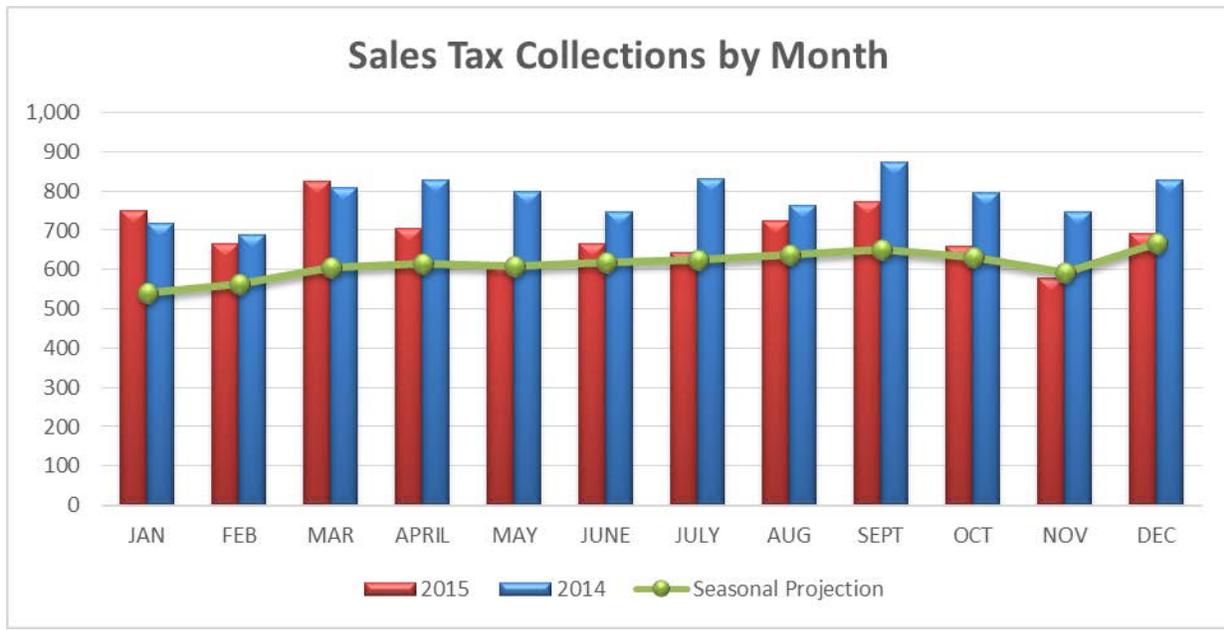
<b>November 2015 - Final</b>			
<b>Category</b>	<b>2014 YTD</b>	<b>2015 YTD</b>	<b>% Change</b>
<b>Base</b>	2,137,392	2,305,403	8%
<b>Commercial</b>	1,797,054	1,756,605	-2%
<b>Industrial</b>	2,588,694	1,647,001	-36%
<b>Utilities</b>	670,114	656,098	-2%
<b>Motor Vehicle</b>	1,405,918	1,242,076	-12%
<b>Total</b>	<b>8,599,172</b>	<b>7,607,184</b>	<b>-12%</b>
<b>November 2015 - Final</b>			
<b>Lodging</b>	91,818	92,412	1%

**Preliminary December sales tax update is shown below.**

Year-to-date Actual vs. Budget, we are \$939,710 ahead.

As far as the monthly projection goes, we are \$23,833 ahead of what we needed to collect this month to meet our annual budget. This does not include motor vehicle tax.

<b>December 2015 - Preliminary</b>			
<b>Category</b>	<b>2014 YTD</b>	<b>2015 YTD</b>	<b>% Change</b>
<b>Base</b>	2,404,013	2,635,074	10%
<b>Commercial</b>	1,976,098	1,932,842	-2%
<b>Industrial</b>	2,807,173	1,772,373	-37%
<b>Utilities</b>	720,536	716,130	-1%
<b>December 2015 - Preliminary</b>			
<b>Lodging</b>	99,130	98,838	0%



➤ **Economic Development**

**Highway 85 Corridor**

The improving economy has brought lots of interest to the Highway 85 Corridor. At this point, the new major developments include Kum & Go (at 31<sup>st</sup> and 85 – the Western Sizzlin site) and Rush Trucking (north of the existing Double Clutch Café). There has been some interest in the Randy’s Diner site. Our next major series of investments will be the right of way improvements necessary to close the access roads on the east and west of the 31<sup>st</sup> and 85 intersection. You will also see the closure of those access points at 37<sup>th</sup> and 85 later this year.

**The Junction at Evans**

With the new development interest in the Corridor, we continue to actively market and promote our land (known as the Junction at Evans). We market to brokers, developers and potential tenants. Unfortunately, our demographics and traffic counts are just not where they need to be to attract significant retail type tenants at this point.

## Farmer's Market

We will have the same Manager for our Market as in 2015, and she is working on improving various aspects of the Market such as signage, marketing and promotion, and specific events in conjunction with the market. We'll run at the same day/time/location, likely from mid- June through the end of September. IF you have any questions or feedback, just email Shelby directly at [shelbymarketmanager@gmail.com](mailto:shelbymarketmanager@gmail.com). Or let Anne or me know!

## Code Update

This is an ongoing process and is generally about 25% complete.

## Strategic Planning

The City continues to focus on strategic planning as a core principle of government. We create a report every quarter for Council to update them on the current status across all departments. That report is then published on our website.

## Business Ombudsman

You have seen the final report, which will be at the Council work session on March 1<sup>st</sup> for any follow up or direction to staff.

## Shop Local

It is our goal to have 50 Evans businesses participate in Shop Local this year. We will kick off that process in May, with an event in June and final selection in July so that we can begin the promotion process.



## Business Spotlight

This year the annual awards dinner will be on March 30<sup>th</sup> as part of an overall tri-Chamber Business after Hours.



Riverside Library & Cultural Center      03.30.2016  
4:00 pm - 7:30 pm



## Master Plan Update

Evans Colorado Long Range Planning Projects - Master Timeline																		
	2015	2016					2017					2018						
		J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M
Riverside Park																		
Evans Riverside Master Plan																		
Waste Water Treatment Facility																		
Middle South Platte River Restoration Master Plan																		
South Platte River Recreation Corridor Plan																		
Stormwater Master Plan																		
South Platte River Project Feasibility Study																		
Water Master Plan																		

Legend	
<span style="background-color: #4F81BD; color: white; padding: 2px;"> </span>	Planning
<span style="background-color: #D9D9D9; color: black; padding: 2px;"> </span>	Design/Construction Docs.
<span style="background-color: #FF9933; color: black; padding: 2px;"> </span>	Construction
<span style="background-color: #CC0000; color: white; padding: 2px;"> </span>	Completed

Please see attached information about our long range planning efforts!

## Landscaping in Corridor

From our Public Works Staff:

- The City has put in the lease agreement with UPRR. We are waiting on any response from them. I have called and left messages but no response yet.
- CDI has applied for an “expedited” ROW work permit but according to them, nothing produced from UPRR yet.
- In the CDOT ROW, CDI has started work locating the gate valves that need to be replaced as well as locating the bore lines under 42<sup>nd</sup>.
- I have granted CDI a no cost change order to extend the timeframe of the project completion date. It has now been extended to 4/11/2016.

This week I’m planning to follow up again on our lease agreement as well as see what is taking UPRR so long to process the expedited ROW work permit.

No matter what, it does not help that the ground has been frozen solid at about 2 ft under our feet plus all the snow!

## Development Update

### Evans Development Review, Project Status Updates - 01.15.16

PROJECT (NAME / TYPE)	LOCATION	DATE ACCEPTED	STATUS	STAFF ASSIGNED	COMMENTS DUE	PLANNING COMMISSION / ZONING BOARD	CITY COUNCIL
ARB Transload Facility Subdivision Plat	Former GWE Site, CR #33	9.17.15	Applicant provided Signed Plat 01.07.16	Fred, Sean, Dawn	Ready for City Approval	Not Required	February 2016.
ARB Transload Facility Site Plan	Former GWE Site, CR #33	Various	Architectural Standards for Indust. Zone, & landscape water info. required. With that, SP ready to approve.	Fred, Sean, Dawn, Scott S., Ron, Ditesco	Applicant stated on 01.07.16 they will provide the remaining items.  Building Permits under review.	N/A	N/A
Bella Vista MHP PUD PUD & Site Plan Review	333 37 <sup>th</sup> St.	09.08.15	11.13.15	Fred, Sean, Dawn, Ron, Scott S.	Review Complete Preparing for Hearings	02.23.16	03.08.16
Driftwood Plaza Site Plan & Amended Plat	2485 37 <sup>th</sup> St	10.06.15	Staff DRT 10.28.15 Applicant DRT 11.04.15	Fred, Sean, Dawn, Scott S., Ron, Ditesco	Comments Provided 10.30.15 Awaiting reply from Applicant	N/A	TBD

PROJECT (Name / Type)	LOCATION	DATE ACCEPTED	STATUS	STAFF ASSIGNED	COMMENTS DUE	PLANNING COMMISSION / ZONING BOARD	CITY COUNCIL
Synergy Evans Wells Use by Special Review, Site Plan, Subdivision Plat	Tuscany 3rd Filing	05.15.15	Hearings Complete 11.03.15 Site Plan Review in Process DRT Meeting with Applicant on 01.20.16	Fred, Sean, Dawn, Ron, Scott S., Scott K., Ditesco	N/A	N/A	N/A
Rumsey- Werning- Camenisch PUD Amendment	PUD South of River	12.14	Draft PUD Amendment sent 02.15 Staff advised of a legal challenge to annexation.	Fred, Scott K., Sean	Awaiting direction from Legal Staff, Applicant's advised.	N/A	N/A

**COLOR KEY:**

	<b>Current Application, Active File</b>
	<b>Project Approved / Under Construction</b>
	<b>Pending Review – Anticipate Submittal or Application Update.</b>

**US HIGHWAY 85 CORRIDOR PROJECTS**

<b>PROJECT (Name / Type)</b>	<b>LOCATION</b>	<b>DATE ACCEPTED</b>	<b>STATUS</b>	<b>STAFF ASSIGNED</b>	<b>COMMENTS DUE</b>	<b>PLANNING COMMISSION / ZONING BOARD</b>	<b>CITY COUNCIL</b>
Kum & Go Site Plan	3051 31 <sup>st</sup> St. (West side 31 <sup>st</sup> Street & Highway 85)	09.08.15	Staff DRT Review: 09.29.15 Applicant DRT 10.06.15	Fred, Sean, Dawn, Scott S., Ron	Comments Sent 10.02.15, K&G to provide update to Site Plan 01.16	N/A	N/A
Rush Truck Center Subdivision Plat	625 31 <sup>st</sup> Street (East side 31 <sup>st</sup> Street & Highway 85)	07.09.15	Plat Approved, Recorded 12.10.16	Fred, Sean, Dawn	N/A	N/A	N/A
Rush Truck Center Site Plan	625 31 <sup>st</sup> Street (East side 31 <sup>st</sup> Street & Highway 85)	10.02.15 (Updated Application)  10.27.15 (Final SP Item Provided.)	Applicant advised on 10.23.15 of final SP requirements. Provided on 10.27.15	Fred, Sean, Dawn, Scott S., Ron	SP Approved. Applicant to provide final paint scheme info. Approved to apply for building permits.	N/A	N/A

**Business License Update**

<b>New Business Name</b>	<b>Contact Name</b>	<b>Address</b>	<b>Contact Phone</b>
Abundant Naturals Enterprise LLC	Betty Woodard	2621 Montego Bay, Evans, CO 80620	970-590-1079
De Lage Landen Financial Services Inc	Denise Torres	1111 Old Eagle School Rd, Wayne, PA 19087	610-386-5000
Emkay Inc	Lee Jacquart	805 W Thordale Ave, Itasca, IL 60143	630-250-7400
Project Fi by Google	Andy Liao	1600 Amphitheatre Parkway, Mountain View, CA 94043	650-253-0000
Tortilleria Y Miselanea La Esperanza	Victor Reza	3601 11th Ave, Evans, CO 80620	970-534-9001
Miss Kenzee's Childcare	McKenzee Diekman	3406 Claremont Ave, Evans, CO 80620	970-405-4840
McCody Inc	Luis Holguin	2619 Canton Court, Fort Collins, CO 80525	970-416-6901
Qwik Plumb LLC		6300 S Jericho Ct, Centennial, CO 80016	720-580-3080
Hawk Industries LLC	Tyler Hawk	7352 Greenridge Rd, Windsor, CO 80550	303-210-9111

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## COUNCIL COMMUNICATION

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**DATE:** February 16, 2016  
**AGENDA ITEM:** 12.A  
**SUBJECT:** Adjournment to Executive Session

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**AGENDA ITEM DESCRIPTION:**

The City Council will adjourn into an executive session to determine positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, pursuant to C.R.S. 24-6-402(4)(e).

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**FINANCIAL SUMMARY:**

N/A

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**RECOMMENDATION:**

N/A

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**SUGGESTED MOTIONS:**

*“I move to go into Executive Session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and instructing negotiators, pursuant to C.R.S. 24-6-402(4)(e).”*

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# February 2016

February 2016							March 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
7	8	9	10	11	12	13	6	7	8	9	10	11	12
14	15	16	17	18	19	20	13	14	15	16	17	18	19
21	22	23	24	25	26	27	20	21	22	23	24	25	26
28	29						27	28	29	30	31		

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Jan 31	Feb 1	2 6:00pm Work Session Regular City Council Meeting	3	4 7:15am Weekly Mayor's Breakfast 6:00pm NFRMPO Monthly Meeting 4800 Goodman Street Timnath CO	5	6
7	8 6:30pm Rescheduled-Mayors Group 140 S Main Street, Keenesburg, CO	9	10	11 7:15am Weekly Mayor's Breakfast CML Legislative Workshop (ALL DAY)	12	13
14	15	16 6:00pm Work Session Regular City Council Meeting	17	18 7:15am Weekly Mayor's Breakfast 6:30pm 85 Coalition Monthly Meeting	19	20
21	22	23	24	25 7:15am Weekly Mayor's Breakfast	26	27
28	29	Mar 1 6:00pm Work Session Regular City Council Meeting	2	3 7:15am Weekly Mayor's Breakfast 6:00pm NFRMPO Monthly Meeting 200 West Oak Street Fort Collins Colorado	4	5 5:30pm Evans Chamber's Annual Dinner/Awards Evans Moose Lodge

# March 2016

March 2016							April 2016						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
6	7	1	2	3	4	5	3	4	5	6	7	1	2
13	14	8	9	10	11	12	10	11	12	13	14	15	16
20	21	15	16	17	18	19	17	18	19	20	21	22	23
27	28	22	23	24	25	26	24	25	26	27	28	29	30

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
Feb 28	29	Mar 1 6:00pm Work Session Regular City Council Meeting	2	3 7:15am Weekly Mayor's Breakfast 6:00pm NFRMPO Monthly Meeting 200 West Oak Street Fort Collins Colorado	4	5 5:30pm Evans Chamber's Annual Dinner/Awards Evans Moose Lodge
6	7	8	9	10 7:15am Weekly Mayor's Breakfast 4:30pm UpstateColorado Annual Meeting	11	12
13	14	15 6:00pm Work Session Regular City Council Meeting	16	17 7:15am Weekly Mayor's Breakfast 6:30pm 85 Coalition Monthly Meeting	18	19
20 2:00pm VFW Americanism Program VFW Auxiliary Post #6624	21	22	23	24 7:15am Weekly Mayor's Breakfast	25	26
27	28	29	30 5:30pm Evans Business to Business Dinner/Awards at Riverside Library	31 7:15am Weekly Mayor's Breakfast	Apr 1	2