



116 S. Main Street
Fountain
CO
80817
719-322-2000
FAX: 719-322-2001

**CITY COUNCIL AGENDA
JUNE 8, 2010 – 6:00 P.M.
116 SOUTH MAIN STREET**

- 1) **Call to Order**
- 2) **Pledge of Allegiance**
- 3) **Roll Call**
- 4) **Special Presentations & Declarations:** Pikes Peak Range Riders and Girls of the West
Proclamation Declaring Juneteenth and National Caribbean American Heritage Month
- 5) **Public to be Heard**

Citizens may address the Council on items that are not on the agenda. Please sign up with the City Clerk prior to the meeting. Council may not be able to provide an immediate answer, but will direct staff to follow-up. Out of respect for the Council and others in attendance, please limit your comments to three (3) minutes or less.
- 6) **Consent Agenda**

Note: All items listed under the Consent Agenda are considered to be routine and will be approved with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which case the item may be removed from the Consent Agenda and considered separately, at the discretion of Council.

 - A. Approval of the May 18, 2010 Joint Park and Recreation Advisory Board/Planning Commission/Council Meeting Minutes.
 - B. Approval of the May 19, City Council Budget Worksession Meeting Minutes.
 - C. Resolution 10-031, A Resolution Approving MEAN Amendment No. 3.
- 7) **Old Business**
 - A. Second Reading of Ordinance No. 1496, An Ordinance Amending Ordinance No. 1463 Relating to the Appropriation of Additional Funds in Excess of the 2010 Budget. (Finance Director)
 - B. Reconsideration of First Reading of Ordinance No. 1494, An Ordinance Amending Title 5 (Business Tax, Licenses and Regulations) of the Fountain Municipal Code by the Addition of a New Chapter 5.32 Entitled "Medical Marijuana Licensing Ordinance" Establishing Procedures for Licensing and Regulating Medical Marijuana and Amending Article IV (Special Use Requirements and Development Opportunities) of Title 17 (Zoning) of the Fountain Municipal Code by Adding a New Chapter 17.42 (Medical Marijuana Centers, Optional Premises for Medical Marijuana Cultivation and Medical Marijuana-Infused Products Manufacturing) and Amending Chapter 17.22 (Zoning Districts) of Article II (District Regulations) of the Fountain Municipal Code Relating to Zoning and Locations for Medical Marijuana. (City Attorney)

Continued on Next Page

8) **New Business**

- A. Consideration of Items Removed From the Consent Agenda
- B. First Reading of Ordinance No. 1500, An Ordinance Establishing a Moratorium Through November 23, 2010 on the Submission, Acceptance, Processing or Approval by the City of Fountain of any Applications to the City of Fountain for any Permit License, Plan Approval or Other Type of Action Relating to the Sale of Medical Marijuana, the Operation of Medical Marijuana Dispensaries also Known as Medical Marijuana Centers, the Manufacture or Sale of Medical Marijuana-Infused Products and Prohibiting Medical Marijuana Cultivation Operations Within the City Limits of the City of Fountain, Colorado Except to the Extent Permitted by Section 14 Of Article XVIII of the Colorado Constitution. (City Attorney)
- C. **Public Hearing** and Resolution 10-032, A Resolution Approving a Conditional Use to Allow a Recreational Use Which Involves the Assembly of More than Two-Hundred (200) Persons Together in One Recreational Area in the Parks and Open Space District (POS), for Property in Cross Creek Park, Generally Located South and East of Cross Creek Avenue and Park Glen Drive. (Planning Director)
- D. **Public Hearing** and First Reading of Ordinance No. 1501, an Ordinance Approveing a Change in Zoning from Park and Open Space District (POS) to Multi-Family Residential District (MF) for a Portion of Fountain Creek Regional Park (also known as Tract A and Lot 2, Caretaker Subdivision), Generally Located on the North Side of Duckwood Road and West of State Highway 85, and Hereinafter More Specifically Described in Exhibits "A" and "B". (Planning Director)
- E. **Public Hearing** and First Reading of Ordinance No. 1502, An Ordinance Amending the Official Zoning Map of the City of Fountain, Colorado to Parks and Open Space District (POS) for the Area Sometimes Known as Jimmy Camp Creek Confluence Open Space, Generally Located South of Lilac Lane and East of the Burlington Northern/Santa Fe Railroad Right-of-Way, and Hereinafter More Specifically Described in Exhibit "A" and Exhibit "B"
- F. **Public Hearing** and First Reading of Ordinance No. 1503, an Ordinance Approving the Crescent Canyon Overall Development Plan Amendment No. 1, Generally Located on the Southeast Corner of Mesa Road and State Highway 85, and Hereinafter More Specifically Described in Exhibit "A" and Exhibit "B". (Planning Director)
- G. Review Intergovernmental Agreement with the 911 Authority Board. (City Manager)
- H. First Reading of Ordinance No. 1503 An Ordinance Approving and Adopting a Temporary Credit to Provide of Twenty-five Percent (25%) Reduction of the Two Percent (2%) Use Tax Imposed and Paid to the City upon Residential Construction Including Residential Improvements for a Period of Twelve Months for the Purpose of Encouraging Economic Development Within the City of Fountain, Colorado
- I. First Reading of Ordinance No. 1504 An Ordinance Approving and Adopting the Temporary Elimination, Reduction, or Deferring of Certain Fees for a Period of Twelve Months Including the Service (Building) Expansion Fee, the Water Acquisition Fee, the School Impact Fee, the Park Impact Fee, the Plot Plan Review Fee, the Construction Study Surcharge, the Commercial Site Development Plan Fee, and Other Fees Relation to Development, and Making Necessary changes to the Fountain Municipal Code for the Purpose of Encouraging Economic Development Within the City of Fountain

9) Correspondence, Comments and Ex-Officio Reports

10) Announcement of Executive Sessions

In accordance with the City Charter and the Colorado Open Meetings Act, the City Council open session is to determine whether it will hold a Closed Executive Session. A Closed Executive Session may be held upon an affirmative vote of two-thirds of the quorum present. If consent to the closed Executive Session is not given, the items may be discussed in open session or withdrawn from consideration.

11) Adjourn

A (Administrative Action)

QJ (Quasi-Judicial Action)

L (Legislative Action)

**NEXT REGULAR COUNCIL MEETING
JUNE 22, 2010**

Posting Date:

City of Fountain

CONSENT
JUNE 8, 2010

ITEM #6A

TITLE: Approval of the May 18, 2010 Joint Council/Planning Commission/Park and Recreation Advisory Board Meeting Minutes

INITIATOR: Deputy City Clerk

STAFF'S RECOMMENDATION: Approve the May 18, 2010 Joint Council/Planning Commission/Park and Recreation Advisory Board Meeting Minutes

BACKGROUND INFORMATION:

The attached minutes were compiled as the result of the May 18, 2010 Joint Council/Planning Commission/Park and Recreation Advisory Board Meeting Minutes

Attachment: May 18, 2010 Joint Meeting Minutes

Reviewed by Legal Counsel: N/A

Reviewed by: Janet E. Ross (Deputy City Clerk)

Approved by: Scott Swain (City Manager)

City of Fountain

CONSENT
JUNE 8, 2010

ITEM #6B

TITLE: Approval of the May 19, 2010 City Council Budget Worksession Meeting Minutes

INITIATOR: Deputy City Clerk

STAFF'S RECOMMENDATION: Approve the May 19, 2010 City Council Budget Worksession Meeting Minutes

BACKGROUND INFORMATION:

The attached minutes were compiled as the result of the May 19, 2010 City Council Budget Worksession Meeting Minutes.

Attachment: May 19, 2010 City Council Budget Worksession Meeting Minutes

Reviewed by Legal Counsel: N/A

Reviewed by: *Silvia M. Pascarella* (Deputy City Clerk)

Approved by: *Scott Weaver* (City Manager)

City of Fountain

CONSENT

JUNE 8, 2010

ITEM # 6 C

TITLE: Resolution 10-031, A Resolution Approving an Extension of a Purchasing and Scheduling Contract With the Municipal Energy Agency of Nebraska.

INITIATOR: Curtis Mitchell, Acting Utilities Director

STAFF'S RECOMMENDATION: Approve Resolution 10-031, A Resolution Approving an Extension of a Purchasing and Scheduling Contract with the Municipal Energy Agency of Nebraska.

BACKGROUND INFORMATION: In February 2010, Fountain extended its power supply contract with the Municipal Energy Agency of Nebraska ("MEAN") for an additional five years commencing on July 1, 2010. The previous contract included a provision that allowed MEAN to serve as the City's purchasing and scheduling agent for Fountain's Western Area Power Administration federal hydropower contract. It is our desire to continue these services under the extended power supply contract with MEAN. The purchasing and scheduling services are of substantial benefit to the Electric Department and are included in the price MEAN charges the City for wholesale power.

Staff recommends to Council that the attached Resolution 10-031 approving Amendment No. 3 be approved.

Attachment A: Resolution 10-031

Attachment B: MEAN Amendment No. 3

Reviewed by Legal Counsel: Yes

Reviewed by: /s/ Curtis Mitchell (Acting Utilities Director)

Approved by:  (City Manager)

City of Fountain

OLD BUSINESS

JUNE 8, 2010

ITEM: 7A

TITLE: Second Reading of Ordinance No. 1496, An Ordinance Amending Ordinance No. 1463 Relating to the Appropriation of Additional Funds in Excess of the 2010 Budget.

INITIATOR: Finance Director

NATURE OF ACTION REQUESTED FROM COUNCIL:

For Council Action

For Council Information

As Report to Council

RECOMMENDED MOTION: Approve Ordinance No. 1496 on second reading.

BACKGROUND INFORMATION:

On August 24, 2007, Fort Collins on behalf of the Project Partners, Fountain and Longmont, submitted to the United States Department of Energy (DOE) a detailed grant application seeking DOE funding for the research and development of advanced meter infrastructure and grid automation projects.

In August 2009 the City of Fountain through the City of Fort Collins was awarded \$2,123,500 by the U.S. Department of Energy for a Smart Grid Investment Grant. This is a 50% matching grant with the project completion date May 28, 2013. The total cost of the project is \$4,247,000. A supplemental appropriation for the 2010 Electric Fund budget in the amount of \$1,499,000 is requested to cover the project costs.

There have been no changes to this ordinance since first reading.

This ordinance stands ready for consideration by the City Council on second reading.

Attachments: Ordinance No. 1496

Individual(s) who will attend the Council meeting and speak on the item: **Finance Director.**

Reviewed by Legal Counsel: yes

Reviewed by: Rathy Ruberka

Approved by: Scott J. [Signature] (City Manager)

City of Fountain

OLD BUSINESS

June 8, 2010

AGENDA ITEM #7B

ITEM TITLE: Reconsideration of First Reading of Ordinance No. 1494, An Ordinance Amending Title 5 (Business Tax, Licenses and Regulations) of the Fountain Municipal Code by the Addition of a New Chapter 5.32 Entitled "Medical Marijuana Licensing Ordinance" Establishing Procedures for Licensing and Regulating Medical Marijuana and Amending Article IV (Special Use Requirements and Development Opportunities) of Title 17 (Zoning) of the Fountain Municipal Code by Adding a New Chapter 17.42 (Medical Marijuana Centers, Optional Premises for Medical Marijuana Cultivation and Medical Marijuana-Infused Products Manufacturing) and Amending Chapter 17.22 (Zoning Districts) of Article II (District Regulations) of the Fountain Municipal Code Relating to Zoning and Locations for Medical Marijuana

INITIATOR: Planning Director

NATURE OF ACTION REQUESTED FROM COUNCIL:

- For Council Action**
 For Council Information
 As Report to Council

RECOMMENDED MOTION: Approve Ordinance No. 1494 on first reading

BACKGROUND INFORMATION: This proposed Ordinance has been prepared and revised based upon discussion at the work session of the City Council on March 30, 2010 pertaining to medical marijuana and direction provided by the City Council at the April 13, 2010 Council meeting and based on At the April 13 meeting, Council directed that the Ordinance be changed as follows: (1) allow growers in the LLR Zoning District; (2) change the distance from 500 feet to 1,000 feet from a medical marijuana facility to any school, seminary, or licensed child care facility which would include licensed family child care homes; (3) owners of dispensaries (medical marijuana centers) must be at least 21 years of age; (4) minors under 18 years of age may be allowed in a dispensary (medical marijuana center) only if accompanied by a parent. At the May 11th Council meeting the motion to reconsider the ordinance included a proposed amendment changing the distance of a medical marijuana facility from 1000 feet to 500 feet. This change is included as well as the others are included in the proposed Ordinance. The Ordinance also includes clarification changes and revisions based on House Bill #1284. The Ordinance is provided in an underlined and strikethrough version showing the changes from the Ordinance submitted at the May 11th Council meeting and a "clean" version of the Ordinance incorporating all of the proposed changes.

As mentioned at previous public meetings, this Ordinance deals with medical marijuana licensing and regulation. The Ordinance also deals with zoning matters relating to medical marijuana facilities. While the Colorado Legislature has approved House Bill #1284 regulating medical marijuana, this bill has not, at this time, been acted upon by the Governor. As proposed, most of the substantive provisions of the bill will not take effect until July 1, 2010. Once the final bill is effective and rules have been established by the Colorado Department of Revenue, the City may need to amend this Ordinance in accordance with the provisions of state law.

As noted in the presentation on March 30, 2010, the current version of House Bill 1284 has a "time out" provision for the establishment of any new medical marijuana facilities with the State between July 1, 2010 and July 1, 2011. Any centers that are operating by July 1, 2010 or have submitted application for a medical marijuana facility by July 1, 2010 will be allowed to continue to operate as long as they submit an application and pay a fee to the Colorado Department of Revenue by August 1, 2010 (a previous version of the bill specified September 1). However, there are different interpretations of this section of the Bill concerning whether local governments can allow new medical marijuana centers between the period of July 1, 2010 and July 1, 2011. The Bill defines a medical marijuana center, formerly a medical marijuana dispensary, as a "business that sells or otherwise distributes marijuana through one or more primary caregivers to six (6) or more patients for medical use along with any cultivation of marijuana associated with its sale or distribution."

The Ordinance defines medical marijuana-infused product as a product that includes medical marijuana that is designed to be used other than by smoking such as edible products, ointments and tinctures. The Ordinance uses the term "optional premises" as the premises upon which medical marijuana is grown to follow the definition in House Bill #1284. Following House Bill 1284, an optional premises license may only be issued in conjunction with a license for a medical marijuana center. This Ordinance to the extent practical follows the provisions from House Bill 1284.

Highlights of the proposed Ordinance include:

- Five hundred (500) foot spacing from a medical marijuana facility to any public or private school, kindergarten through grade twelve, seminary, public or private licensed pre-school, licensed child care center, or any licensed family child care home..
- Based upon the last version of House Bill #1284 there has been added to the spacing requirement, a residential child care facility and alcohol/drug treatment facility.
- No public hearing required for application for a medical marijuana facility license, but a right of appeal is provided for denial of a license.
- No restrictions on the size of the facility, but the applicant must submit a diagram of the proposed premises.
- Five hundred (500) foot spacing between medical marijuana centers.
- Security requirements includes surveillance cameras, surveillance footage, burglar alarm system, panic alarm system, safes/vaults, secure product display areas, window sizes and locations, interior lighting and exterior lighting.
- Background investigation. The Ordinance authorizes a background investigation of the applicant. Such investigation includes any person or the holder of 10% of the stock in any corporation or company, or 10% of the interest in any partnership or association, or the manager of any proposed medical marijuana facility. The City Clerk may consider any rehabilitation of the person as authorized by Colorado statutes.
- The Ordinance provides that any person applying for a medical marijuana facilities license or any person holding more than ten percent (10%) of the stock in a corporation or company or ten percent (10%) of any interest or association or the manager proposed medical marijuana facility must be twenty-one (21) years of age.
- In accordance with provisions to House Bill 1284, a license is prohibited from being issued to any person who has been discharged from a sentence for a conviction of a felony within the last five (5) years or at any time for any felony that is related to possession or use of a prohibited controlled substance subject to rehabilitation as allowed under Section 24-5-101 C.R.S.
- Zoning. The Ordinance specifically lists the zones in which medical marijuana facilities

are permitted, Centers are allowed in zones in which retail business operations are permitted. Optional cultivation premises are allowed in a business park, small office/warehouse district planned industrial district and industrial areas within a planned unit development district (PUD) with an overall improved development plan. The Ordinance has been amended to allow optional cultivation premises within the LLR zone. Medical marijuana-infused products will be allowed only within the business park district, planned industrial district, and industrial areas within a planned new development district (PUD) with an overall improved development plan.

- Age for admission to the premises. Any person entering the premises of a marijuana facility must be at least eighteen (18) years of age or accompanied by a parent, legal guardian or legal custodian.
- Duration of license. The Ordinance provides that the license issued will terminate at the end of following periods whichever is the shortest: One year after the date of issuance, July 1, 2011, or when the State adopts regulations that supersede a provision of the Ordinance or requires that the City amend the provisions of the Ordinance.
- Two-year residency requirement. House Bill 1284 adds a two (2) year residency requirement as a condition for issuance of a license. The Ordinance includes this requirement.

In addition, the Ordinance sets forth the following: 1) procedures for application for a license; 2) authorization for an application fee; 3) establishment of standards for the issuance and denial of a license; 4) imposition of additional conditions by the City Clerk on the license; 5) procedures for appealing the denial or conditional approval of a license; 6) duration of the license and renewal of the license; 7) suspension and revocation of the license; 8) prohibition of on-site consumption of products; 9) authorization for medical marijuana paraphernalia to be sold at a medical marijuana center; 10) unlawful acts; 11) right of entry provisions; 12) ventilation requirements; 13) Payment of fees to the state by August 1, 2010 or within thirty (30) days after a license is issued,)14 a requirement that on or before September 1, 2010 a medical marijuana facility shall certify that it is cultivating at least seventy percent of the medical marijuana necessary for its operation. for compliance with any applicable provisions of state law;)15 requirements for compliance with any provisions of state law.

Attachment A: Ordinance No. 1494 (Redlined Version)

Attachment B: Ordinance No. 1494 (Clean Version)

Individual(s) who will attend the Council meeting and speak on the item: Planning Director and City Attorney

Reviewed by Legal Counsel: Yes

Reviewed by: _____ (Planning Director)

Approved by: Scott S. [Signature] (City Manager)

City of Fountain

NEW BUSINESS

JUNE 8, 2010

ITEM: #8A

TITLE: Consideration of Items Removed From the Consent Agenda

INITIATOR: Deputy City Clerk

NATURE OF ACTION REQUESTED FROM COUNCIL:

For Council Action

For Council Information

As Report to Council

RECOMMENDED MOTION:

BACKGROUND INFORMATION:

Any items removed from the Consent Agenda will be considered under this item

Individual(s) who will attend the Council meeting and speak on the item:

Reviewed by Legal Counsel: N/A

Reviewed by:  (Deputy City Clerk)

Approved by:  (City Manager)

City of Fountain

NEW BUSINESS

June 8, 2010

AGENDA ITEM # 8B

ITEM TITLE: An Ordinance Establishing a Moratorium Through November 23, 2010 on the Submission, Acceptance, Processing or Approval by the City of Fountain of Any Applications to the City of Fountain for Any Permit, License, Plan Approval or Other Type of Action Relating to the Sale of Medical Marijuana, the Operation of Medical Marijuana Dispensaries Also Known as Medical Marijuana Centers, the Manufacture or Sale of Medical Marijuana-Infused Products and Prohibiting Medical Marijuana Cultivation Operations Within the city Limits of the City of Fountain, Colorado Except to the Extent Permitted by Section 14 of Article XVIII of the Colorado Constitution

INITIATOR: A Majority of City Council

NATURE OF ACTION REQUESTED FROM COUNCIL:

- For Council Action
 For Council Information
 As Report to Council

RECOMMENDED MOTION: None

BACKGROUND INFORMATION: At the City Council meeting on April 13, 2010, the City Council approved, on second reading, Ordinance No. 1493 extending and clarifying a moratorium related to the acceptance, processing or approval of permits, licenses and such for medical marijuana dispensaries and extending the moratorium until June 7, 2010.

At the May 25, 2010 City Council meeting, a majority of Council directed that a medical marijuana moratorium ordinance be brought before City Council to establish a moratorium until the voters of the City of Fountain could determine whether medical marijuana facilities should continue to operate in the City. Medical marijuana facilities include medical marijuana centers, also known as medical marijuana dispensaries, an optional premises cultivation operations, and a medical marijuana-infused product manufacturer. House Bill No. 1284 establishes a new Article 43.3 of Title 12 of C.R.S. which is known as the Colorado Medical Marijuana Code. ("Article 43.3"). House Bill 1284, while approved by the Colorado legislature, has not yet become law. Assuming that it becomes law, most provisions of the Bill will be effective on July 1, 2010.

Section 12-43-106 C.R.S. (Local Option), provides: "The operation of this Article (Article 43.3) shall be statewide unless a municipality, county, city, or city and county, by either a majority of the registered electors of the municipality, county, city or city and county voting at a regular election or a special election called in accordance with the "Colorado Municipal Election Code of 1965," Article 10 of title 31, C.R.S. or the "Uniform Election Code of 1992," Articles 1 to 13 of title 1 C.R.S. as applicable or a majority of the members of the governing board for the municipality, county, city, or city and county, vote to prohibit the operation of medical marijuana centers, optional premises cultivation operations, and medical marijuana-infused products manufacturer's licenses."

The proposed medical marijuana moratorium Ordinance provides that it does not apply to medical

marijuana facilities that have applied for a license prior to the effective date of the Ordinance. The proposed moratorium ordinance does not apply to care-givers and patients as allowed by Section 14 of Article XVIII of the Colorado constitution and implementing statutes and regulations. If the Ordinance is approved on first reading at the June 8, 2010 Council meeting, approved on second reading on June 22, 2010 and is published in the Fountain Valley News in accordance with the City's normal publication schedule on June 30, 2010, the Ordinance will become effective five (5) days after publication on July 5, 2010.

Council will need to make a separate determination whether to submit prohibition as authorized under the local option to the voters at the November 2, 2010 coordinated election. It is not appropriate for Council to make such determination until this section 12-43-106 C.R.S. until the Colorado Medical Marijuana Code becomes law and is effect.

Staff Recommendation: None

Attachment: Ordinance No. 1500

Individual(s) who will attend the Council meeting and speak on the item:

Reviewed by Legal Counsel: Yes

Reviewed by: _____

Approved by: Scott Jones (City Manager)

City of Fountain

NEW BUSINESS

JUNE 8, 2010

ITEM: 8C (QJ)

TITLE: Public Hearing and Resolution 10-032, A Resolution Approving a Conditional Use to Allow a Recreational Use Which Involves the Assembly of More than Two-Hundred (200) Persons Together in One Recreational Area in the Parks and Open Space District (POS), for Property in Cross Creek Park Generally Located South and East of Cross Creek Avenue and Park Glen Drive

INITIATOR: Planning Director

NATURE OF ACTION REQUESTED FROM COUNCIL:

For Council Action
 For Council Information
 As Report to Council

RECOMMENDED MOTION: Approve Resolution 10-032.

BACKGROUND INFORMATION: This is a request for approval of a conditional use to allow a recreational use which involves the assembly of more than 200 persons together in one recreational area in the POS District. The proposed recreational use is Cross Creek Park, including the Nearon Trail. Although the number of persons who will utilize the park at one time is unknown, it is anticipated that more than 200 people may be in attendance at one time with the opening of the soccer fields.

Should the City choose not to approve the conditional use, then maximum capacity and use of the park will have to be monitored to ensure the area never exceeds the assembly of more than 200 persons.

The grand opening for the soccer fields is scheduled for June 2010.

Surrounding Zoning & Land Uses:

North	Single-family Residential	Planned Unit Development (PUD) District
South	Single-family Residential	Planned Unit Development (PUD) District
West	Single-family Residential	Planned Unit Development (PUD) District
East	Single-family Residential	Planned Unit Development (PUD) District Large Lot Agricultural/Residential (LLR) District

Access: Access to the park and the parking lot is taken from Park Glen Drive.

Floodplain: No portion of this lot is located within a designated 100-year floodplain.

Agency Comments: All agency comments have been addressed. The only agency comment

that remain relevant and is for information only is:

FOUNTAIN POLICE DEPARTMENT

On street parking along Cross Creek Avenue adjacent to the Park is not permitted. That area is a travel lane and parking of vehicles is not permitted.

Comprehensive Plan: The future land use plan shows Single Family Residential and Parks and Open Space for this property. The request is generally consistent with the Future Land Use Plan. The Large Lot Residential desired attributes and uses include: Lots comprised primarily of open lands and domesticated farm or ranch animals are permitted.

Public Notice: At least fifteen (15) days prior to the City Council public hearing, the property was posted, property owners of record within four hundred feet (400') were notified and a public notice was published in the El Paso County Advertiser and News.

Staff Finding: Staff finds that the conditional use request is substantially consistent with the review criteria set forth in Section 17.562 of the Zoning Ordinance and outlined in Attachment C.

Staff Recommendation: Staff recommends approval of the Conditional Use to allow the assembly of more than 200 persons together in one recreational area in the Parks and Open Space District (POS) and Resolution 10-032.

Planning Commission Recommendation: On May 5, 2010, the City Planning Commission voted 4 to 0 to recommend approval of the Conditional Use request.

Attachment A: Vicinity Map

Attachment B: Site Plan

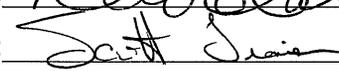
Attachment C: Review Criteria for Approving Conditional Uses

Attachment D: Resolution 10-032

Individual(s) who will attend the Council meeting and speak on the item: Planning Director

Reviewed by Legal Counsel: N/A

Reviewed by:  (Planning Director)

Approved by:  (City Manager)

City of Fountain

NEW BUSINESS

JUNE 8, 2010

ITEM: 8D (QJ)

TITLE: Public Hearing and First Reading of Ordinance No. 1501, An Ordinance Approving a Change in Zoning from Park and Open Space District (POS) to Multi-Family Residential District (MF) for a portion of Fountain Creek Regional Park (also known as Tract A and Lot 2, Caretaker Subdivision), Generally Located on the North Side of Duckwood Road and West of State Highway 85, and Hereinafter More Specifically Described in Exhibits "A" and "B"

INITIATOR: Planning Director

NATURE OF ACTION REQUESTED FROM COUNCIL:

- For Council Action**
 For Council Information
 As Report to Council

RECOMMENDED MOTION: Approve Ordinance No. 1501 on first reading.

BACKGROUND INFORMATION: This is a rezoning request for a portion of the existing Fountain Creek Regional Park located on the north side of Duckwood Road. The County has submitted a subdivision plat to create two lots in this area. The northerly lot (Lot 1), where the existing maintenance building is located, will remain under POS zoning. The southerly lot (Lot 2) and tract, where the existing caretaker's residence and well are located, will be rezoned to MF. The County is subdividing the land in order to sell off the caretaker's residence.

Surrounding Land Uses:

North	Undeveloped (Independence Place)	MF
South	Fountain Creek Regional Park	POS
East	Undeveloped	PI
West	Fountain Creek Regional Park	POS

Access: This existing parcel takes access from Duckwood Road which connects to State Highway 85. The two proposed lots will maintain the existing access. Future development of the caretaker's residence may require additional upgrades to Duckwood Road and/or other street connections.

Services: Water is currently provided by an on-site well. There is currently no City of Fountain water system in this area to serve these parcels or the park. Upon the extension of water service to this area, the property owners could connect to the City's water supply system. Wastewater is currently handled by a shared on-site septic system. This shared treatment facility will be allowed to continue until either lot develops or seeks an additional building permit. At that time, the property owners will need to petition for inclusion in the Fountain Sanitation District and connect to the FSD wastewater system. Fire, Police and Electric services for the subdivision and park are provided by the City of Fountain.

Comprehensive Plan: The Land Use Plan within the *Fountain Comprehensive Development Plan* recommends Small Office/Warehouse (SO) and Park & Open Space for this property. Although the request is not consistent with the Plan staff is supportive of the deviation. First, the area to the north was previously rezoned to multi-family in order to accommodate the development of an apartment complex. Secondly, residential uses make good planning sense adjacent to the existing Fountain Creek Regional Park. Finally, the land was already being utilized as residential for a caretaker's residence and not truly park land.

Public Notice: At least fifteen (15) days prior to the City Council public hearing, the property was posted, property owners of record within four hundred feet (400') were notified and a public notice was published in the El Paso County Advertiser & News.

Staff Findings: Staff finds that the MF rezoning request for Tract A and Lot 2, Caretaker Subdivision is generally consistent with the review criteria 2 and 3 as set forth in Section 17.584 E of the Zoning Ordinance, which criteria are outlined in this staff report below.

1. The request is consistent with the overall development plan of the property, if applicable, and the *Fountain Comprehensive Development Plan*.
2. The request is compatible with the surrounding zoning and land uses.
3. There has been a material change in the character or conditions of the neighborhood or in the city generally, such that the request would be in the public interest and consistent with the change.
4. The property was previously zoned in error.

Staff Recommendation: Approve Ordinance No. 1501 on first reading.

Planning Commission Recommendation: On May 5, 2010, the City Planning Commission voted 4 to 0 to recommend approval of the MF rezoning request.

Attachment A: Vicinity Map and Letter of Intent

Attachment B: Ordinance No. 1501

Individual(s) who will attend the Council meeting and speak on the item: Planning Director

Reviewed by Legal Counsel: N/A

Reviewed by:  (Planning Director)

Approved by:  (City Manager)

City of Fountain

NEW BUSINESS

JUNE 8, 2010

ITEM: 8E (QJ)

TITLE: Public Hearing and First Reading of Ordinance No. 1502, An Ordinance Amending the Official Zoning Map of the City of Fountain, Colorado to Parks and Open Space District (POS) for the Area Sometimes Known as Jimmy Camp Creek Confluence Open Space, Generally Located South of Lilac Lane and East of the Burlington Northern/Santa Fe Railroad Right-of-Way, and Hereinafter More Specifically Described in Exhibit "A" and Exhibit "B"

INITIATOR: Planning Director

NATURE OF ACTION REQUESTED FROM COUNCIL:

For Council Action
 For Council Information
 As Report to Council

RECOMMENDED MOTION: Approve Ordinance No. 1502 on first reading.

BACKGROUND INFORMATION: This is a request to zone 7.9 acres to the Parks and Open Space (POS) District. The property is located south of Lilac Lane and east of the Burlington Northern/Santa Fe Railroad right-of-way. This property was annexed to the City in 1888 as part of the Santa Fe Addition; however, due to clerical mapping errors the parcel was never zoned in the City. This error was recently discovered during an update to the City's official zoning map. Staff researched ordinances, maps, files and other documents in an attempt to find the original zoning designation for the property.

The City purchased this property in 2008, as part of the Jimmy Camp Creek Confluence Open Space, which is owned and maintained by the City of Fountain. The proposed zoning of POS is based on the following: 1) The current use of the property; and 2) The Fountain Comprehensive Development Plan recommendations.

Surrounding Zoning & Land Uses:

North	Vacant Undeveloped Land	RMU (Residential Mixed Use) District
South	Petroleum Gas Tanks Industrial Property	PI (Planned Industrial) District
East	Adams Open Space	POS (Park and Open Space) District
West	Chancellor Mobile Home Park Burlington Northern/Santa Fe Railway	MHP (Mobile Home Park) District

Comprehensive Plan: The Land Use Plan within the *Fountain Comprehensive Development Plan* recommends Parks and Open Space (POS) for this property. The initial zoning request to POS as proposed is substantially consistent with the *Comprehensive Development Plan*.

Public Notice: At least fifteen (15) days prior to the City Council public hearing, the property was posted, property owners of record within four hundred feet (400') were notified and a public notice was published in the El Paso County Advertiser & News.

Staff Findings: Staff finds that the POS zoning request for the Jimmy Camp Creek Confluence Open Space is substantially consistent with review criteria 1, 2 and 4 as set forth in Section 17.584 E of the Zoning Ordinance, which criteria are outlined in this staff report below.

1. The request is consistent with the overall development plan of the property, if applicable, and the *Fountain Comprehensive Development Plan*.
2. The request is compatible with the surrounding zoning and land uses.
3. There has been a material change in the character or conditions of the neighborhood or in the city generally, such that the request would be in the public interest and consistent with the change.
4. The property was previously zoned in error.

Staff Recommendation: Approval of the POS zoning and Ordinance No. 1502 on first reading.

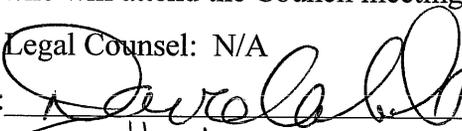
Planning Commission Recommendation: On May 5, 2010, the City Planning Commission voted 4 to 0 to recommend approval of the POS zoning request.

Attachment A: Vicinity Map

Attachment B: Ordinance No. 1502

Individual(s) who will attend the Council meeting and speak on the item: Planning Director

Reviewed by Legal Counsel: N/A

Reviewed by:  (Planning Director)

Approved by:  (City Manager)

City of Fountain

NEW BUSINESS

JUNE 8, 2010

ITEM: 8F (QJ)

TITLE: Public Hearing and First Reading of Ordinance No. 1503, An Ordinance Approving the Crescent Canyon the Overall Development Plan Amendment No. 1, Generally Located Southeast of Mesa Road and State Highway 85, and Hereinafter More Specifically Described in Exhibit "A" and Exhibit "B"

INITIATOR: Planning Director

NATURE OF ACTION REQUESTED FROM COUNCIL:

- For Council Action**
 For Council Information
 As Report to Council

RECOMMENDED MOTION: Approve Ordinance No. 1503 on first reading.

BACKGROUND INFORMATION: This is a request for approval of a major amendment to the Crescent Canyon Overall Development Plan (ODP). The ODP covers 158 acres and was originally approved as a residential development in 2006. Since that time, the property owner and the City have worked together to incorporate the proposed Duckwood Road extension from State Highway 85 (SH 85) to C&S Road internal to this development. The new road has triggered changes to internal roadways and land use classifications.

Surrounding Land Uses:

North	Undeveloped	Regional Commercial (RC) District
South	Cheyenne Ridge	Planned Unit Development (PUD) District
	Electric substation/Residential	Planned Industrial (PI) District
East	Mesa Ridge Subdivision	Planned Unit Development (PUD) District
	Conley Subdivision	Single-Family Residential Small Lot (R1) District
	Schramek's Subdivision	Residential Agricultural (RA) District
West	Railroad (BNSF & UP) & SH 85	Small/Office Warehouse (SO) District

HISTORY: The Crescent Canyon ODP was approved by the City Council on August 8, 2006. The original ODP proposed a maximum of 650 single-family residential units within the boundary of this property. The units consisted of 169 single-family attached (townhome) housing units on 13 acres, and 595 single-family detached housing units on 117.8 acres. The total that could be built based upon densities proposed within each parcel would total 764 dwelling units; however, a dwelling unit cap of 650 dwelling units was placed on the ODP.

Below are the four different housing products, lot sizes and densities approved in 2006:

R 3.5	SF Detached	3.5 du/acre
R 3.5 - 5.5	SF Detached	4.5 du/acre
R 7	SF Detached	7 du/acre
R 10-15	SF Attached	10-15 du/acre

The amount of open space shown on the approved ODP was 17%, which did not meet the minimum required 25% in a PUD Zone District. City Council approved amenities in lieu of the full required open space. The ODP provided a two acre open space area adjacent to the existing park in the Conley subdivision, two parks, internal pocket parks and a detention pond/open space area on the northwest corner of the parcel. In addition, a 100 foot wide trail was shown along the Fry Ark Water Line easement and a buffer area was provided along the railroad right-of-way.

The only access to the development was from Mesa Road. It was unknown at the time of ODP review if the Burlington Northern/Santa Fe (BNSF) and Union Pacific (UP) railways would be petitioning to the PUC to close the Mesa Road crossing and thus the Mesa Road intersection with SH 85. At that time, Staff and the Developer were researching improvement alternatives for the Mesa Road and SH 85 intersection. It was assumed at the time of ODP review that the intersection would remain open, but be limited to a $\frac{3}{4}$ movement at best. Staff and the Developer indicated to the Planning Commission and City Council that they would continue to work on the intersection design, which would also dictate the design of the Mesa Road and Syracuse connection. The other issue that was discussed was southerly access to the development. An access to Rustique Drive was shown on the ODP and was to be further investigated upon development of the southerly half of the project.

After the ODP was approved by City Council, the applicant submitted a preliminary plat for the northerly third of the property. In general, the Planning Commission did not have any major concerns with the layout of the subdivision; however, they were very concerned with the pending possibility that the Mesa Road intersection with SH 85 might be closed. Due to the approved design for the State Highway 16 (SH 16) interchange, it became clear that the SH 85 and Mesa Road intersection would, at best, only be a right-in/right-out due to a lack of stacking for the southbound left turn lane (it would interfere with the northbound left turn lane for Rice Lane to the north, which has been approved and designed as a full movement intersection in the SH 16 design). During the preliminary plat meetings, it was still unclear whether the intersection would actually be closed. The Planning Commission directed Staff to advocate for keeping the Mesa Road intersection open and to find an alternative roadway connection to the east to alleviate traffic concerns at the Syracuse Road and Mesa Ridge Parkway and Fountain Mesa Road and Mesa Road intersections. The City Engineer provided an alternative design concept that would site a new intersection at SH 85 and Duckwood, south of Mesa Road. This intersection was the current entrance to the Fountain Creek Regional Park. This east-west road would then connect to C&S Road to the east, or Metropolitan Avenue to the north. The new intersection at SH 85 and the railroad crossing would have to be approved by CDOT, the railroad companies and the PUC. The Planning Commission voted to approve the Preliminary Plat, subject to the following conditions:

- a) The developer try to continue with all the improvements at the Mesa Road/State Highway 85 crossing;
- b) The developer pursue the Duckwood Road railroad crossing (should the crossing at Mesa Road be closed);
- c) The preliminary plat be modified to maintain the option for an 80' right-of-way for Metropolitan; and
- d) That there must be an access to State Highway 85.

The Planning Commission's intent with their motion was to have the Developer/City move forward with improvements to the SH 85/Mesa Road intersection since there was no definite closure pending, only indications of possible closure from CDOT and railroad representatives. The Planning Commission wanted to have the City fight for the intersection. Should the recommendations come back that the intersection be closed, then the Developer/City should

move forward with the request to move the railroad crossing from Mesa Road to Duckwood Road. Ultimately, the decision was made by the Railroads to petition to close Mesa Road and the City began moving forward with designing the Duckwood Road railroad crossing and SH 85 intersection. The City requested that the developer submit a revised ODP accommodating the new Duckwood Road and revise the land uses as necessary.

NEW ODP:

Residential Elements: The revised ODP as proposed would allow a maximum of 850 residential units within the boundary of this property, an increase of 200 dwelling units over the previous maximum of 650. The dwelling units consist of a possible 283 single-family attached (townhome) housing units on 23.6 acres, 349 single-family detached units on 72 acres and 272 multi-family housing units on 17 acres. The total that could be built based upon densities proposed within each parcel would be 904 dwelling units; however, a dwelling unit cap of 850 has been placed on the ODP.

The development is proposed for four different housing products, lot sizes and densities:

R 3.5	SF Detached	Min. Lot Size: 6,000 sq. ft.
R 3.5 - 5.5	SF Detached	Min. Lot Size: 5,000 sq. ft.
R 5-8	SF Detached	Min. Lot Size: 3,500 sq. ft.
R 8-12	SF Detached/Attached	Min. Lot Size: N/A
R 16	SF Attached/MF	Min. Lot Size: N/A

The R 3.5 product is located on the northeasterly boundary of the ODP, adjacent to existing residential subdivisions. This area is proposed for the largest lots within this development and is of similar density to the adjacent existing subdivisions. The R 3.5 product is also shown on the easterly edge of the property near Conley Park and central to the development. The R 5-8 product is located along Mesa Road in the center of the development and adjacent to the electric substation on the south side of the parcel. The R 8-12 and R 16 products have been placed near the higher traffic areas along the future C&S collector road.

Commercial Element: New to this ODP is 21.5 acres of commercial. This land use was added on the north and south side of Duckwood Road between the railroad right-of-way and the proposed roundabout. The commercial land use makes sense in this area due to the anticipated traffic volumes on this section of roadway, as well as use as a buffer between the traffic and adjacent residential uses.

Open Space Elements:

Commercial: 12.5 acres x 15% = 3.23 acres
Residential: 136.5 acres x 25% = 34.13 acres
Total Required Open Space = 37.36

The open space proposed for this development includes an eight acre City-owned and maintained park, two pockets parks totaling one acre, 1.87 acres for the railroad buffer, 3.2 acres for trails, and two acres for open space. The full 8 acres of the park cannot be used in the open space calculation since a portion of the 8 acres is proposed as a detention facility. Only 5% of the required 25%, or in this case less than 2 acres, can be in the form of water bodies, detention facilities or floodplain. The proposed open space totals 14 acres at a total percentage of 10%. This amount falls short of meeting the required 25% open space within a PUD which would total 39.62 acres required for this development.

As with the previous ODP, the developer is offering amenities in lieu of the full land dedication. A copy of the proposed cost estimate showing the amenities in lieu calculation is

attached to this report. According to this cost estimate, the value of 23.31 acres at \$35,000 per acre totals \$815,850. This is the estimated cost to the City to purchase 23.31 acres of undeveloped open space. The developer is proposing to construct and improve the provided 14 acres of open space and park land at an estimated cost of \$1,289,687, which adequately offsets the difference between that provided and that required. The previous ODP did not include a cost estimate.

The developer drafted a conceptual plan for the proposed 8 acre City park. This concept plan was presented to the City's Park and Recreation Advisory Board (Park Board) at its January and May meetings. The consensus of the Park Board was to approve the park concept plan as submitted with a provision that the park design would be further reviewed at the time of final plat and development of the park.

Access: Access to this development is now proposed from SH 85 by way of the new Duckwood Road. Duckwood will intersect a future collector road within the Crescent Canyon development that will eventually tie into C&S Road. Three additional access points have been shown onto Mesa Road. Traffic will be funneled to SH 85, Fountain Mesa Road, and Mesa Ridge Parkway by virtue of these accesses.

Drainage: The property is located in the Fountain Creek drainage basin. According to the Master Development Drainage Plan, the entire site currently drains in a southwesterly direction into the existing "natural" drainage channel that runs parallel and east of the railroad right-of-way. A portion of the channel flows outfall under the railroad roughly 820 feet south of Mesa Road. The other flows continue south and drain into a swale that carries the stormwater over the southern property line. The ODP shows the location of three proposed detention facilities along the railroad right-of-way to handle the stormwater.

Services: City of Fountain will provide water, electric, fire and police services to the property. Fountain Sanitation District will provide sanitary sewer service. Natural gas will be provided by Black Hills and phone service by Qwest.

Comprehensive Plan: The Future Land Use Plan within the *Fountain Comprehensive Development Plan* recommends Single Family Residential for this property. The proposed Overall Development Plan for this property is generally consistent with the *Comprehensive Development Plan*.

Public Notice: At least fifteen (15) days prior to the City Council public hearing, the property was posted, property owners of recorded within four hundred feet (400') were notified and a public notice was published in the Fountain Valley News.

Staff Finding: Staff finds that Crescent Canyon Overall Development Plan Amendment No. 1 is substantially consistent with the review criteria set forth in Section 17.532 E of the Zoning Ordinance which review criteria are provided in Attachment B.

Planning Commission Recommendation: On May 5, 2010, the Planning Commission voted 4-0 to recommend approval of the Overall Development Plan amendment.

Staff Recommendation: Staff recommends approval of the Overall Development Plan and Ordinance No. 1503 subject to the following conditions which have been incorporated into the ordinance:

1. Should the Public Utilities Commission not approve the application to relocate the Mesa Road railroad crossing to the Duckwood Road location, the Overall

- Development Plan shall be brought before the City Council for reconsideration.
2. Site amenities in lieu of the full twenty-five percent (25%) requirement for open space within the Crescent Canyon Overall Development Plan Amendment No. 1 and the Planned Unit Development (PUD) District shall be provided by the owner-developer for all park, trail and open space areas.

Attachment A: Vicinity Map and Letter of Intent

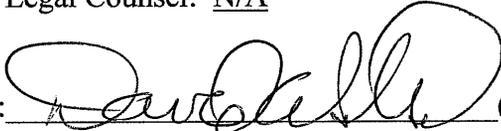
Attachment B: Overall Development Plan Review Criteria

Attachment C: Park Conceptual Plan & Cost Estimate

Attachment C: Ordinance No. 1503

Individual(s) who will attend the Council meeting and speak on the item:

Reviewed by Legal Counsel: N/A

Reviewed by:  (Planning Director)

Approved by:  (City Manager)

City of Fountain

NEW BUSINESS

June 8, 2010

ITEM: 8G

TITLE: Review Intergovernmental Agreement with the 911 Authority Board

INITIATOR: City Manager

NATURE OF ACTION REQUESTED FROM COUNCIL:

For Council Action
 For Council Information
 As Report to Council

RECOMMENDED MOTION:

"I move to approve the Intergovernmental Agreement for Quality Assurance Review with the 911 Authority Board"

BACKGROUND INFORMATION:

The City of Fountain's Emergency Communications Center currently maintains an accreditation with the National Academies of Emergency Dispatch ("NAED"), which measures the quality and accuracy of service that dispatchers provide to our community.

The 911 Authority Board provides the training and licensing for NAED protocols and, in some instances, also provides quality assurance reviews. To date, Fountain Communications has provided that quality assurance review internally, however, to ensure objectivity in quality assurance and to assist with the Department's increasing workload, the 911 Authority has agreed to take on the role of quality assurance for the Center.

There are no financial obligations associated with this Agreement.

Attachment: Intergovernmental Agreement

Individual(s) who will attend the Council meeting and speak on the item:

City Manager
Communications Center Manager

Reviewed by Legal Counsel: Yes

Reviewed by: _____

Approved by:  (City Manager)

City of Fountain

NEW BUSINESS

June 8, 2010

ITEM: 8H

TITLE: FIRST READING OF ORDINANCE NO. 1503 AN ORDINANCE APPROVING AND ADOPTING A TEMPORARY CREDIT TO PROVIDE OF TWENTY-FIVE PERCENT (25%) REDUCTION OF THE TWO PERCENT (2%) USE TAX IMPOSED AND PAID TO THE CITY UPON RESIDENTIAL CONSTRUCTION INCLUDING RESIDENTIAL IMPROVEMENTS FOR A PERIOD OF TWELVE MONTHS FOR THE PURPOSE OF ENCOURAGING ECONOMIC DEVELOPMENT WITHIN THE CITY OF FOUNTAIN, COLORADO

INITIATOR: City Manager

NATURE OF ACTION REQUESTED FROM COUNCIL:

For Council Action
 For Council Information
 As Report to Council

RECOMMENDED MOTION:

“I move to approve Ordinance # 1503, on first reading”

This ordinance only applies to the Use Tax. A separate ordinance regarding fees will be handled separately on the agenda.

BACKGROUND INFORMATION:

As of the end of April, the Regional Building Department had issued 25 new home building permits year to date for Fountain. When compared with 2009’s number of 43, this is a decrease of 41.9%. When compared with 2008’s number of 79, it is a decrease of 68.4%.

As the Council understands, the City’s revenue stream is largely based on sales tax revenues that are generated from commercial retail. However, as we work to attract new retail development, we are finding that the quality commercial developers are interested in 1.) More rooftops, with an indication of continued growth, 2.) Greater traffic counts generated by those rooftops, and 3.) Income levels that support the business models of the retailers that these developers work with.

However, while the retailers desire those items mentioned above, many of the homebuilders in our area are focused on other areas of the Pikes Peak region due to 1.) The large number of platted, buildable lots that has led to a corresponding decrease in land costs in some areas to the north, and 2.) The perceived high cost of building and developing in Fountain. While those builders, in conversations with members of the HBA, understand that these costs are based on good numbers it still does not help them as they seek to find places to build. Additionally, we have close to 900 platted lots that are not on the market due to ongoing legal or other property transactions.

Consequently, in order to encourage a boost in building in the Fountain community, the City

should seriously consider some ways to decrease – temporarily– those building and development costs that are being assessed on new growth in our area. The goal of this strategy would be to encourage more residential building, which would send a solid signal to commercial developers and retailers that Fountain is a growing, vibrant community with increasing income levels. This would then lead to increased interest from the development and retail community, thereby attracting those retailers that would then increase our long-term sales tax revenues.

To that end, I am recommending that the Council consider the list of proposals identified below as a good step to inject some energy into our economic development model.

BUILDING FEES

Expansion Fee

The purpose of the expansion fee, when adopted in the late 1980's was to capture revenues from new homes in the community during the first year that services were being provided when, generally, no taxes were being paid. These fees are restricted to Police, Fire, and Planning services. This fee equates to \$0.25/ft², or approximately \$625 for a typical 2500ft² home.

Proposal: Eliminate expansion fee for 12 months

School Impact Fee

The purpose of this impact fee is to assist school districts in keeping up with the capital needs of a growing population. Typically, in large developments, the developer provides land for the future school needs. This impact fee is assessed against homes in small developments that do not donate land. The current fee is \$1,381 per home. Staff is currently working on resolution changes that would decrease the current fee to \$1,354 per single family unit and \$558 per multi-family unit.

Proposal: In addition to the 60% decrease for multi-family housing and the 2% decrease for single family, I would propose an additional, short-term (12 month) decrease of 50% to the single family housing fee, bringing the fee to \$677.

Parks Impact Fee

The purpose of this impact fee is to pay for property and capital costs associated with maintaining a standard of 6 acres of developed Community Park land per 1,000 new residents. In many developments, this park land is dedicated and improved thus the in-lieu fees are adjusted down. The current Community Park in-lieu fee is \$1,863 per home for those developments where no land is dedicated and improved. In order to have a park system that has a sustainable level of maintenance, staff is looking at decreasing the Community Park Land dedication requirements down to 2.5 acres per 1,000 new residents, thus decreasing the Park fee and associated requirements. However, until that is achieved, the short-term proposal is as follows:

In addition the City also requires the dedication and development of subdivision Neighborhood Parks at the level of 2 acres per 1,000 new residents. No in-lieu fee has yet been established for Neighborhood Parks. Staff is looking at increasing this standard up to 3 acres per 1,000 new residents when the aforementioned reduction in Community Parks is implemented. Thus the Total Park development standard would be reduced from 8 acres down to 5.5 acres per 1,000 residents.

Proposal: 50% decrease in Community Park in-lieu fee from current level of \$1,863 for 12

months. Additionally, to eliminate all parks fees for Commercial development.

Water Acquisition Fee

The purpose of this fee is to provide funding necessary to acquire water rights for new growth. The current fee is \$6,500/home. We are currently developing a prototype, in cooperation with homebuilders, that would model a low water use house. This would allow the City to purchase less water rights to meet the same growth needs, consequently lowering this fee.

Proposal: Continue in efforts with NES and HBA to develop and refine this model. Additionally, provide a 10% reduction in the acquisition fee for a 12 month period. Since the purpose of these reductions is to increase sales tax revenues, we would track the impact of the reduction over the 12 month period and re-pay that amount with increased sales tax revenues from new businesses that come in during that same period. Because the acquisition fee is based on actual cost of needed new water rights, it is important that we provide a structure to keep this revenue stream whole.

Use Tax

This is a 2% tax that is collected on all building materials that are used in the construction of a home. These funds go into the General Fund. An average home in Fountain pays approximately \$1,700 in use taxes when constructed.

Proposal: 25% decrease/rebate of use tax on new residential construction (approximately \$400-\$425/home) for 12 months.

Plot Plan Review Fee

This is a small fee (\$60/home) that is collected for the purpose of reviewing the plot plan.

Proposal: Eliminate this fee for 12 months

Construction Study Surcharge

This is a small fee (\$50/home) that is collected for the purpose of re-paying the City for a comprehensive review of construction costs in our region.

Proposal: Eliminate this fee for 12 months

Fee Deferral

Currently, all fees are collected at the time of building permit issuance.

Proposal: Defer collection of all City fees, with the exception of the Use Tax until such time as the Certificate of Occupancy is requested. This would be a positive cash flow step for builders.

Commercial Site Plan Review

The purpose of this fee is to pay the staff time costs in reviewing commercial site development plans. For a site that is 3,000ft² or greater the fee is \$2,400.

Proposal: 50% decrease for 12 months

DEVELOPMENT/RELATED FEES

Development related fees include all of those fees that are collected as a potential development goes through the annexation, zoning, and development review processes. Typical fees include: pre-application fees, annexation fees, development agreements, zoning

changes, overall development plans, plat reviews, recording fees, etc. These fees all go towards publishing costs and costs associated with the planning and engineering functions of development.

Proposal: 20% decrease on following fees for 12 months

Pre-Application Meeting

Annexation

Development Agreements

Zone Changes

Overall Development Plans

Preliminary/Final Plat

Concept Plans

Landscape Plans

Conditional Use

Construction Plan & Profiles Review

Report Reviews (Traffic Impact Analysis, Geotechnical, Utility, etc.)

In discussions with developers and homebuilders, the general consensus is that these development-related fees might not spur a great deal of growth due to the current over-supply of buildable lots in our area. However, they did agree that there might be some limited positive outgrowth of this and feel that it also sends a positive message to the development/homebuilding community.

The City of Fountain currently has supported a policy requiring development to pay its own way. That policy is still appropriate and this measure does not intend to change that overarching direction.

However, in order to spur the growth that is necessary to attract quality commercial development (thereby increasing overall revenues), it is important that the Council consider temporary decreases to the City's fee schedule, as indicated above. If the Council reviews and agrees that the above decreases are necessary for the short term, staff will bring back an actionable proposal that will achieve these decreases.

Attachment: Ordinance No.1503

Individual(s) who will attend the Council meeting and speak on the item:

City Manager

Reviewed by Legal Counsel: Yes

Reviewed by: _____

Approved by:  (City Manager)

City of Fountain

NEW BUSINESS

June 8, 2010

ITEM: 8I

TITLE: FIRST READING OF ORDINANCE NO. 1504 AN ORDINANCE APPROVING AND ADOPTING THE TEMPORARY ELIMINATION, REDUCTION, OR DEFERING OF CERTAIN FEES THE FOR A PERIOD OF TWELVE MONTHS INCLUDING THE SERVICE (BUILDING) EXPANSION FEE, THE WATER ACQUISITION FEE, THE SCHOOL IMPACT FEE, THE PARKS IMPACT FEE, THE PLOT PLAN REVIEW FEE, THE CONSTRUCTION STUDY SURCHARGE, THE COMMERCIAL SITE DEVELOPMENT PLAN FEE, AND OTHER FEES RELATING TO DEVELOPMENT, AND MAKING NECESSARY CHANGES TO THE FOUNTAIN MUNICIPAL CODE FOR THE PURPOSE OF ENCOURAGING ECONOMIC DEVELOPMENT WITHIN THE CITY OF FOUNTAIN, COLORADO

INITIATOR: City Manager

NATURE OF ACTION REQUESTED FROM COUNCIL:

For Council Action
 For Council Information
 As Report to Council

RECOMMENDED MOTION:

"I move to approve Ordinance #1504, on first reading"

This ordinance only applies to the reduction of Development Fees.

BACKGROUND INFORMATION:

This action item is in conjunction with item 8H. That report applies to this item as well.

Attachment: Ordinance No.1504
Exhibit A: Development Fee Adjustment Schedule

Individual(s) who will attend the Council meeting and speak on the item:

City Manager

Reviewed by Legal Counsel: Yes

Reviewed by: _____

Approved by: Scott J. J... (City Manager)