

**ENGLEWOOD CITY COUNCIL
ENGLEWOOD, ARAPAHOE COUNTY, COLORADO**

Regular Session

June 21, 2010

1. Call to Order

The regular meeting of the Englewood City Council was called to order by Mayor Woodward at 7:39 p.m.

2. Invocation

The invocation was given by Council Member McCaslin.

3. Pledge of Allegiance

The Pledge of Allegiance was led by Council Member McCaslin.

4. Roll Call

Present: Council Members Jefferson, Olson, Penn, Gillit, McCaslin, Wilson,
Woodward

Absent: None

A quorum was present.

Also present: City Manager Sears
City Attorney Brotzman
Deputy City Manager Flaherty
City Clerk Ellis
Deputy City Clerk Bush
Director Gryglewicz, Finance and Administrative Services
Senior Planner Langon, Community Development
Housing Specialist Grimmert, Community Development
Senior Planner Stitt, Community Development
Planner Voboril, Community Development
Director Eaton, Human Resources
Police Chief Vandermee

5. Consideration of Minutes of Previous Session

(a) **COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER JEFFERSON SECONDED, TO APPROVE THE MINUTES OF THE REGULAR CITY COUNCIL MEETING OF JUNE 7, 2010.**

Mayor Woodward asked if there were any corrections or modifications. There were none.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit

Nays: None

Motion carried.

6. Recognition of Scheduled Public Comment

(a) Rodney Lontine, Museum of Outdoor Arts Chief Operating Officer, and Cynthia Madden Leitner, President, will address Council regarding possible development of a Projects Linking Arts, Communities, and

Environment (PLACE) project in Englewood. Ms. Leitner said hi, welcome. We wanted to come here this evening to update you a little bit about what the Museum of Outdoor Arts is working on, in cooperation with the non-profit development group, called PLACE, out of Minneapolis. For those of you who have not seen the exhibition we're currently showing at the Museum across the hall, I'd encourage you to do so. It might give you a little better understanding of what our Museum of Outdoor Arts is focusing on. In the spirit of creating environment, we recognize that environment, even though we are an arts organization, it is not just about the fine arts, it is also about the quality of architecture and how people live. And as a museum, we feel we're progressive in going into the future. We believe that sustainable environment, along with intentional community, is going to be very important to communities at large. This is not just because, for instance, we baby boomers are going to be retiring and we all want to find a different way of lifestyle and something that maybe is more cost effective. It also is conscientious of the environment and how cities are going to be formed and how do you retain the sense of quality community within that type of environment? So, a few months ago, you know, this has been a long term study from the museum's point of view and we've even done classes on architecture. And a few months ago, we had the opportunity to meet with PLACE in Minneapolis to discuss the potential of them coming to Englewood and potentially doing a feasibility study of the Denver Metro area, specifically Englewood, because this is our headquartered hometown, so to speak. We like to feel that the museum's contributed to the quality of life in Englewood. We are very vested in the City and we feel the City has shown how they are vested in us. So, we just were researching, you know, the opportunity to do something with them to at least explore this community and see if the museum could participate from an arts point of view, knowing that this non-profit development company has specialized in communities that are founded on artists living in those communities; i.e., there is a development that they just completed in Ventura, California with the City of Ventura, called WAV...it's an acronym...I can't be tested on what it means, but it means something...oh...Working Artists Ventura. Ventura...The City of Ventura, which is about 100,000 people, didn't want to lose their artist community. They knew their artist community brought, not just creativity, but education to the schools. All of the things all of you already know what the arts do, obviously. I mean, you've been very, very...set a great example of how you feel about the arts...the City has...the City of Englewood. In doing so, they formed a community with PLACE that artists would qualify to live in artist/studios. In return, they would create performance art, exhibitions, work with the other people that lived in the community, because it isn't just based on artists living in the community, but they are the heart and soul of it. I did get to tour that...the whole environment, the whole set-up and the economic development...the head of the City was there and Ventura has benefitted greatly, even though this has just opened in the past year. They have all different kinds of housing, from housing for people who had recently lost their homes to housing for artists at the studios to high end condominiums that help support the project. Rodney will tell you a little bit more what they do. I know our time is limited. I would encourage you to come over to the museum and see...we worked with two architect artists from back east in developing an off-the-grid home that we're showing at the museum. It is also aesthetically well done and we're hoping we get to build the prototype. It may not necessarily be part of the community that might happen in the Denver Metro area. That PLACE, after they do a feasibility study next week, might say oh yes, we'd like to be invited to go ahead and become part of discovering a community in this area. It would give you an idea of where our hearts have been in working toward something of the highest standards...of environmental standards that there are. So, in that case, we are very kindred with PLACE and our belief system. And I've heard that the City of Englewood also is very much looking at sustainable housing and what that brings a community. But I'll let Rodney tell you a little bit more about PLACE.

Mr. Lontine said in a nutshell, just to let you know what we are doing, the museum has funded a feasibility study that's going to happen next week. It's going to be starting on the 28th. We are going to do site visits on the 28th, three...four of them in Englewood. One of the locations that we are very interested in is the Flood old Middle School site. We'll do site visits and after the site visits, we are going to have focus groups the following day. There's a leadership group. There's a financial group. There's a housing and environment group. An artist group and that will be followed by a public forum. The public forum will be here in Englewood and that's designed specifically to get...I guess not so much buy in, but really to uncover any people that are either a) against it, for it, support, there might be business people in the audience that say hey, I'm really interested in being involved in this type of community or there might be other developers or people who don't even want...the City may not be interested in it. So, that's the whole purpose of next week is the funded study to see how we go forward and hopefully bring a sustainable, developed artist community, hopefully, in the City of Englewood and

the Flood Middle School site is the one that we're most...as far as the museum is, most interested in; that's the site that we are looking at.

Mayor Woodward said okay. Thank you. I'm looking forward to talking a little bit about this at the end, because having gone and looked at the websites and some of the information it's really of interest...as far as everything from the art park to the housing...the affordable housing to high end housing. Mr. Lontine said and the E generation part of it is...it's not necessarily a must have, but it is also very interesting how this actual community can be self sustaining from a power grid standpoint. Ms. Leitner said that's PLACE's goal is to make itself sustaining from the power grid standpoint and the E generation would be manufactured on-site and if that would happen, it would be the first development of its kind in the world, that we know of. So, that would be exciting to them. Mr. Lontine asked if there were any questions. Mayor Woodward said not at this time. Thank you. Several Council members said thank you. Mr. Lontine said hopefully...I know a lot of you were invited and hopefully we'll see you at the leadership study next...the 29th. Thank you. Several Council members said thank you.

7. Recognition of Unscheduled Public Comment

(a) Kim Love, a Littleton resident, said good evening Honorable Mayor and City Council. As you know, I am president of Englewood Unleashed. I apologize. I am getting slightly over a cold, so I'm a little hoarse today. I wanted to tell you about our chili cook-off event. It was a record breaker this year. We anticipated about a 25%-30% increase and that's exactly what we got. We had a record attendance and we did very, very well. So we appreciate the City's help and participation. To those who were judges, thank you again. We did very well and it was, again, our biggest fundraiser. We plan on doing...many more to come. So, thank you again, especially for the banners. We had two banners up this year and we felt that really helped. The second thing I'd like to talk about is that I want to remind City Council that this Thursday, June 24th at 6:30 at the Canine Corral is our annual meeting and BBQ. It is for the whole, entire community. Everyone in the room is invited. So, please come for hamburgers, hot dogs, brats...it's a nice affair. You may remember last year, I think, we got rained out and we had to move it. We all stood under a tent while it rained. But this year I'm assured by the doggie gods that we're going to have very good weather. It's at 6:30. I know some of you are going to be at a conference and won't be available, but I hope the rest of you can come. Again, this Thursday at 6:30 at the Canine Corral. We would like to also recommend...ask...I think it's our second request to put in an additional light in the parking lot at the Canine Corral. Councilman Gillit knows by riding along with the police...that they went in the Corral and it was a very dark place. We get a lot of use after dark, especially in the spring and the fall. So, we would like to add another light in the parking lot. And Englewood Unleashed, because of the funds we've raised, it would be possible with the new board coming in, in July, to donate funds toward that as well, so if we could get a quick resolution to that by City Council...I believe the costs...Parks and Rec told me from Xcel Energy was about \$1800.00, and we can cover part of that cost. So, we're hoping that would be a good thing, because there are a lot of single women that use that...the Canine Corral and are a little timid because of the dark parking lot. So we'd like to remedy that as quickly as possible. The last thing I'd like to tell City Council that the Jason Park, with the new rules started in March, have done very well...have gone very well. It took us a few weeks to kind of educate everybody about the new hours and that's 6 a.m. to 11 a.m. and then again 6 p.m. to 11 p.m. That's really worked really well. Pretty much everyone is following that. There are obviously a few people who come in from somewhere else and don't know. We try to let them know. But for the most part, everyone is really following the rules and it's gone very well. We would like to possibly ask you, for the future, to extend that to a different time. I know that my time is up, so I'll wrap up. So, thank you very much for your help, participation and everything. Again Thursday is the BBQ.

Mayor Woodward said thank you Kim.

(b) Colleen Mello, an Englewood resident, said I'm here tonight on behalf of a Code violation. Recently I was given a notice that I am not able to park a boat in front of my driveway, in front of my home. I have been parking the boat there in front for approximately three years, from the end of May to the middle of August. I have never had a citation in the three years until recently. My home has a one car attached garage that would not fit a car, let alone a boat to store it. In the alley we are not able to back it into the yard without either taking out my garage or a fence, due to the restrictions of the area in the back alley way. I have two boys

that take the boat out, usually three to four times in the morning, per week. They leave about 6:30 and return about 10:00, so that way they are able to go to work. They also take it in the afternoon whenever possible. We checked out the storage unit. They do not open until 8 a.m., which would leave us not able to use the boat in early mornings. Looking on my block, I was able to find two to three homes that would be able to meet the Code requirements, if they had a boat. These are homes that have no attached garages. They are just a single dwelling. I know we are able to park an RV in our yard year-round without a carport. And I was just wondering if there was a way to get a permit or a variance to where I could keep the boat throughout the summer months before I put it back in storage in August. We had called and talked to the Code Enforcement about the situation. The last Code Enforcement we had said we had a lack of space to meet the Code, so he just let it slide for us. The new Code manager, who is Margie, said that I needed to bring this to City Council to see what kind of variance or what we can try to work out. This was called in as a complaint...this was not called in as a complaint from our neighbors. She was doing a complaint on weed control in the alleys when she cited us for the boat.

Mayor Woodward said thank you.

(c) Doug Cohn, an Englewood resident, said good evening. I wanted to talk a bit about green energy. Last summer when you guys were talking about the power, you were talking about 10 kilowatt units. And I thought I would demonstrate how much 10 kilowatts was. 10 kilowatts would be two of these, two of these and two of these. [Clerk's note: Mr. Cohn brought in a small coffeemaker, a hand-held hair dryer and an electric skillet.] That's 10 kilowatts. I guess my point is 10 kilowatts is not very much light to a City. And I just found out this evening, in some of the buildings that you are looking at 40 to 80 kilowatts, which is quite a bit more. So, in the 40 kilowatt building, you can have four of each of these. Six...eight of each of these. I recommend that you look really carefully at this solar thing. I would recommend talking with the Ameresco guys about two things: one is the 8.8 cents price. At my hobby store we pay 5.1 so the price they are offering you is about 50% higher than what I pay at my commercial space. The other point...right now on their website, the units they are offering for installation are about 15% efficient. A standard is about 30% efficient. Instead of...for the same size space you get 20 kilowatts instead of 10. Cutting edge is about 45% efficient. You get three times as much electricity in the same amount of space. I'd recommend having a talk with them guys and getting the good stuff. And talk to them about the price too. Thank you.

Mayor Woodward said thank you.

(d) Jerry Furman, an Englewood resident, said the State of Colorado, in 1963, put a bill into place for people with developmental disabilities to afford them to come and see how the City is run and talk to them about the new buildings that they are putting up. I think the City of Englewood should adopt this program to get us...more people into knowing about our City. That's it.

The Mayor and several Council members said thank you.

(e) Elaine Hults, an Englewood resident, said you'll have to excuse me, I just threw my back out. Before I make a comment, I would like you to keep in mind that these concerns are nothing to laugh at. With an anticipated current loss of approximately \$450,000.00 to date, from what I understand, and going into the year with a 2.5 million deficit...now you're speaking about this as if it happened now. I was notified about this deficit going into this year months ago. Your insistence on spending without input from the residents you supposedly represent, I find unconscionable. You know nothing and I quote "is a real bargain" unquote when funds are lacking. And by the way, what has been going on since 2007? I understand you were recycling sales taxes from Cherry Hills and Greenwood Village...up to 2007. Have these funds been repaid or are we facing another court case? And the foolish decision, the changing the Zoning Code...has negatively affected, not only homeowners, but the business community as well. Haven't we had enough legal issues? But I am sure that you carried what they call negligent bonds, which means that not only do the citizens not have a say in your decisions or influence you in any way, but then they have to pay to protect your rights to be negligent. It must be nice to be receiving an income with all of the perks, exempt from the consequences of your actions. I am sure the population does not know about your seminars, your cost of your gasoline, your meals, your lodging and your twice a month meals that you have before these meetings. I'd like to know also...what determines

whether a property is considered conforming or non-conforming? And the lady that spoke before about her boat, that gives you an example of where you are with zoning. Nothing to laugh about. Thank you.

Mayor Woodward said thank you. Just for the record, whenever we approve a budget every year, there is a public hearing. Every year. Well, I'm sorry you can't hear...I'm telling you that every year that a budget is approved, there is a public hearing. And at that public hearing, nobody showed up. There are also Study Sessions that are open to the public and there are meetings right here where you and anybody else can come in and address Council regarding the budget. And so, to say that we are putting together a budget that nobody is aware of...is incorrect. They are posted. They are on-line. They go through the Herald. And, as far as some of the other information, I think you are dealing with half truths, information that...I guess I'm just going to say it...flat out lies and uninformed information. So Elaine, some of the stuff that you have brought forward, I don't think a) you understand or b)...well, just that...you don't understand it and... Ms. Hults said Mayor... Mayor Woodward said I am talking, this is your feedback. Ms. Hults I didn't come here to be chastised...I didn't come here to be chastised...thank you. Mayor Woodward said nor did I.

8. Communications, Proclamations and Appointments

(a) Proclamation honoring Englewood resident Eva Romero as she celebrates her 105th birthday was considered.

COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER PENN SECONDED, TO APPROVE A PROCLAMATION HONORING ENGLEWOOD RESIDENT EVA ROMERO AS SHE CELEBRATES HER 105TH BIRTHDAY.

Mayor Woodward asked if there was any discussion. There was none.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

Mayor Woodward read the proclamation in full. He read "Whereas, Eva Romero has been an active Englewood citizen since 1968, and is a very special member of our community; and Whereas, Mrs. Romero celebrated her 105th birthday on June 15, 2010; and Whereas, to the best of the City of Englewood's knowledge, Mrs. Romero is Englewood's oldest living resident; and Whereas, the City Council of Englewood wishes to recognize and honor Mrs. Romero on the occasion of this notable birthday; and Whereas, Mrs. Romero has been involved over the years at the Malley Senior Recreation Center and in her church; and Whereas, Mrs. Romero has raised 11 children and is a proud Grandmother of 51 grandchildren, 138 great-grandchildren, 72 great great-grandchildren, and later this year will become a Great Great Great Grandmother; Now, therefore, we, the City Council members of the City of Englewood, Colorado hereby congratulate Eva Romero on the occasion of her 105th birthday, offering our warmest birthday wishes and our sincere thanks for her contributions to the City of Englewood." There was applause.

Mayor Woodward said I don't believe Mrs. Romero is here, however is there anybody here...any of her daughters here to accept the proclamation? Okay, not seeing anybody, we will make sure that this is delivered to her. Unfortunately, she had a scheduled party at Jason Park on the 12th of June, and if you remember the 12th of June, it was raining pretty hard, so I think they had that celebration at her church.

9. Consent Agenda

(a) Approval of Ordinances on First Reading

There were no additional items submitted for approval on first reading. (See Agenda Item 11.)

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE CONSENT AGENDA ITEMS 9 (b) (i), (ii), and (iii).

(b) Approval of Ordinances on Second Reading

(i) ORDINANCE NO. 17, SERIES OF 2010 (COUNCIL BILL NO. 14, INTRODUCED BY COUNCIL MEMBER McCASLIN)

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) ENTITLED "LICENSE AGREEMENT" BETWEEN THE COLORADO DEPARTMENT OF LABOR AND EMPLOYMENT AND THE CITY OF ENGLEWOOD, COLORADO IN SUPPORT OF THE CITY'S USE OF STATE WAGE AND EMPLOYMENT DATA.

(ii) ORDINANCE NO. 18, SERIES OF 2010 (COUNCIL BILL NO. 15, INTRODUCED BY COUNCIL MEMBER GILLIT)

AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT ENTITLED "MEMORANDUM OF UNDERSTANDING FOR THE 18TH JUDICIAL DISTRICT JUVENILE ASSESSMENT CENTER" ESTABLISHING THE METHOD IN WHICH THE PARTICIPATING GOVERNMENTAL ENTITIES ARE ASSESSED FEES FOR THE USE OF THE JUVENILE ASSESSMENT CENTER.

(iii) ORDINANCE NO. 19, SERIES OF 2010 (COUNCIL BILL NO. 16, INTRODUCED BY COUNCIL MEMBER WILSON)

AN ORDINANCE AUTHORIZING THE ACCEPTANCE OF A VICTIM ASSISTANCE LAW ENFORCEMENT (VALE) GRANT FROM THE VICTIM ASSISTANCE LAW ENFORCEMENT BOARD OF THE 18TH JUDICIAL DISTRICT.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit
Nays: None

Motion carried.

(c) Resolutions and Motions

There were no additional resolutions or motions submitted for approval. (See Agenda Item 11.)

10. Public Hearing Items

No public hearing was scheduled before Council.

11. Ordinances, Resolution and Motions

(a) Approval of Ordinances on First Reading

(i) Director Gryglewicz presented a recommendation by the Finance and Administrative Services Department to adopt a bill for an ordinance extending the Limited Waiver of the Waste Transfer Surcharge until December 31, 2013. He said this is a bill for an ordinance that extends the Limited Waiver of the 20 cents per cubic yard that we charge persons for using the Waste Transfer station. This limited waiver is extended to the citizens of Englewood, Sheridan and Littleton until December 31, 2013, for the months of May, June, July, August and September. What this does is help with those cities clean ups and helps, hopefully, maintain the appearance of their neighborhoods. We have done this...I think...since, at least as long as I've been here, since 1993. The total cost is estimated at about \$1,000.00, which would be 5,000 cubic yards or so.

Mayor Woodward asked if there were any questions for Frank.

Council Member Gillit said Frank, what is that average cost per home? Mr. Gryglewicz said pardon me? Mr. Gillit said what is the average cost per homeowner for that? That 1000...I mean, is that 1000 is for all three cities? Director Gryglewicz said that would be for all three cities. Council Member Gillit said okay. Director Gryglewicz said so it does save the citizens some money when they would go to the waste transfer station. If they had 10 cubic yards, it would save them a couple of dollars. Mayor Woodward said and we are talking about the Waste Management transfer station? Director Gryglewicz said yes. Mayor Woodward said okay.

COUNCIL MEMBER McCASLIN MOVED, AND COUNCIL MEMBER PENN SECONDED, TO APPROVE AGENDA ITEM 11 (a) (i) - COUNCIL BILL NO. 17.

COUNCIL BILL NO. 17, INTRODUCED BY COUNCIL MEMBER McCASLIN

A BILL FOR AN ORDINANCE AMENDING TITLE 4, CHAPTER 7, SUBSECTION 11, OF THE ENGLEWOOD MUNICIPAL CODE 2000, PERTAINING TO THE EXTENSION OF THE LIMITED WAIVER OF THE WASTE TRANSFER SURCHARGE.

Mayor Woodward asked if there was any discussion.

Council Member Olson said I'm all for keeping neighborhoods beautiful. It's a small price to pay.

Council Member Penn said I agree. If this will get people to get their trash there, I think that's an excellent idea.

Council Member McCaslin said I agree.

Mayor Woodward said I agree. Waste Management has been a good partner of ours by providing the certificates for Englewood's Good Neighbor Day, which are available now I believe for citizens to get money off on their dump fees when they take stuff over to the transfer.

Council Member Penn said Frank, are they aware that they're getting that 25 cents off for five cubic yards? Director Gryglewicz said you know, I think that really this is...I know the city that uses this every year is Littleton. They do an organized clean-up. They actually called me to make sure that the limited waiver has been extended. The rest of the cities, I am really not aware of how much is used, but I do know that Littleton uses it.

Council Member Penn said now, if a citizen goes in there, would they even know that they are saving this money at all? Director Gryglewicz said I am really not sure at the point of where they do the tipping, if they know that. But I know that when Littleton does the clean-ups, they are well aware.

Mayor Woodward asked if there were any other comments. There were none.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

Director Gryglewicz said thank you.

(ii) Chief of Police Vandermee presented a recommendation by the Police Department to adopt a bill for an ordinance authorizing an Intergovernmental Agreement (Memorandum of Understanding) with the Denver Police Department for the sharing of mug shot data. He said good evening Mayor and Members of Council. Tonight I'm asking...the Police Department is recommending that Council adopt a bill for an ordinance approving an Intergovernmental Agreement with the Denver Police Department to partner in a mug shot repository. In essence, a system that the Police Department was able to acquire, with some funds left over from

the 2009 Stimulus Grant...we purchased a mug shot system. What the MOU does is gives us the wherewithal to interface with Denver's electronic mug shot system, so that we can use their database to help us prepare photo lineups for suspects and any number of other investigative things that we just can't do now with the existing system. This MOU has no cost attached to it...it is a no cost agreement with the City of Denver.

Mayor Woodward asked if there were any questions for Chief Vandermee.

Council Member Penn asked yes Chief, is Denver the only one that has that...that we can reciprocate with? Or are there other police districts that we can also do this?..Chief Vandermee said Greenwood Village interfaces with Denver's system as well and I think eventually we'll be able to interface with Greenwood Village. Council Member Penn said okay.

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER GILLIT SECONDED, TO APPROVE AGENDA ITEM 11 (a) (ii) - COUNCIL BILL NO. 18.

COUNCIL BILL NO. 18, INTRODUCED BY COUNCIL MEMBER WILSON

A BILL FOR AN ORDINANCE AUTHORIZING AN INTERGOVERNMENTAL AGREEMENT ENTITLED "MEMORANDUM OF UNDERSTANDING BETWEEN THE DENVER POLICE DEPARTMENT AND THE ENGLEWOOD POLICE DEPARTMENT FOR THE SHARING OF DATA" FORMALIZING THE SHARING OF MUG SHOT DATA.

Mayor Woodward asked if there were any questions. There were none.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

Chief Vandermee said thank you.

(iii) Housing Finance Specialist Grimmert presented a recommendation by the Community Development Department to adopt a bill for an ordinance authorizing an Intergovernmental Subgrantee Agreement with Arapahoe County for the 2010 Arapahoe County Community Development Block Grant Program. She said good evening. I'm here this evening to request Council to approve a bill for an ordinance authorizing the execution of an Intergovernmental Subgrantee Agreement for the 2010 Arapahoe County Community Development Block Grant Program, with the County Board of Supervisors...Commissioners, excuse me, and the City of Englewood. The Council approved our application for the 2010 program last fall. And we received a notice of award and the issuing of the Intergovernmental Agreement. This particular agreement will fund \$22,500.00 to assist the House of Hope homeless shelter, here in Englewood, with their staffing costs through this next fiscal year. The program will begin as soon as the agreement is executed and will end May 31, 2011. Council has approved using the Community Development Block Grant program to support the House of Hope shelter since...at least for about 10 years...it escapes me exactly...the shelter opened in the year 2000 and I believe we were supporting the staffing requirements annually since that time. So, staff requests that Council approve this bill for an ordinance. Are there any questions?

COUNCIL MEMBER PENN MOVED, AND COUNCIL MEMBER OLSON SECONDED, TO APPROVE AGENDA ITEM 11 (a) (iii) - COUNCIL BILL NO. 19.

COUNCIL BILL NO. 19, INTRODUCED BY COUNCIL MEMBER PENN

A BILL FOR AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF AN INTERGOVERNMENTAL SUBGRANTEE AGREEMENT (CDBG) FOR THE YEAR 2010 BETWEEN THE ARAPAHOE BOARD OF COUNTY COMMISSIONERS AND THE CITY OF ENGLEWOOD, COLORADO.

Mayor Woodward asked if there was any discussion.

Council Member Penn said the House of Hope is just a tremendous resource for some of our citizens in Englewood and I think they do a tremendous job over there.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit
Nays: None

Motion carried.

Ms. Grimmatt said thank you.

(b) Approval of Ordinances on Second Reading

(i) Council Bill No. 11, amending Title 16, Chapter 5, Subsection 1.1, and Chapter 11, Subsections 1 and 2, of the Englewood Municipal Code 2000, to permit buy-back, second-hand, thrift and consignment uses as uses-by-right in the MU-B-1 Zone District was considered.

COUNCIL MEMBER GILLIT MOVED, AND COUNCIL MEMBER WILSON SECONDED, TO APPROVE AGENDA ITEM 11 (b) (i) - ORDINANCE NO. 20, SERIES OF 2010.

ORDINANCE NO. 20, SERIES OF 2010 (COUNCIL BILL NO. 11, INTRODUCED BY COUNCIL MEMBER GILLIT/WILSON)

AN ORDINANCE AMENDING TITLE 16, CHAPTER 5, SUBSECTION 1.1, AND CHAPTER 11, SUBSECTIONS 1 AND 2, OF THE ENGLEWOOD MUNICIPAL CODE 2000, TO PERMIT BUY-BACK, SECOND-HAND, THRIFT AND CONSIGNMENT USES AS USES-BY-RIGHT IN THE MU-B-1 ZONE DISTRICT.

Mayor Woodward asked if there was any discussion.

Council Member McCaslin said yes, I would like to say a few things. I just wanted to go on the record that my grandchildren attend Denver Christian School, which had no influence on the way I voted for thrifts. The reason I voted yes, or am going to vote yes on this are for the following reasons: Number 1, Planning and Zoning Commission voted that all four usages should be allowed in the MU-B-1 District, number 2, from a recent survey, nine surrounding front range cities did not separate or distinguish the four areas in their cities, number 3, there are approximately eight vacancies within a two block area of downtown, number 4, the Business Improvement District had no objections to the usage as a group, number 5, there was support from other businesses in the two block area for thrift stores. I also spent two to three hours myself going to various thrift stores and consignment shops and saw no reasons not to allow thrift stores in the MU-B-1 district. Thank you.

Mayor Woodward said I just want to make a couple of comments too. I think at the very first reading I think we had mentioned that this might get modified and extended into a second first reading and then this second reading, which happened. And one of the things that I think that I've learned is that when we are trying to do something and do it quick for businesses, citizens or whatever, sometimes just sending it off to Planning and Zoning without having a Study Session first, is...may not be the best idea. And I think some of these issues...specifically finding that the group of four different uses were there, would have come out in that Study Session and we could have dealt with it and directed P & Z on what we were looking for there. The change that we did make with regard to small and large. is why I will be voting for this. I did check with the CFO of ARC stores this week...I happened to be talking to him. He happens to be a Council member in the City of Littleton. I asked him what is the average size store that you would look at? ARC. Theirs is 30,000 square feet. So, I feel real comfortable about what we did in that area. That's my comment.

Council Member Gillit said Mr. Mayor, I want to thank you for a period to talk about this. I will be voting yes. I would like to echo some of the exact reasons that Mr. McCaslin did. But I also feel that we are following a trend of our society. People are trying to find ways to save money. We are helping possibly some underprivileged who may not be able to go to a brand new store. I like the idea. I also like that this Council has taken their time and we've not rushed to a decision on this and I feel really good about the decision that we are making tonight and I will be voting yes on it. Thank you very much.

Council Member Penn said I will also be voting yes with a few concerns and I still have those same concerns on storage and preparation area and also how they are going to keep their store clean in the back area...the stores back there. I am in total support of new business here in Englewood, but I still have some concerns on it, but I will still support it.

Mayor Woodward asked anything else.

Council Member Olson said I also will be voting yes on this and I think I stated last time that I have some major concerns, but I think they have been allayed mostly, because of the small square footage. But I also wanted to disclose that I have a number of friends that popped up the night of the hearing that I didn't know were connected with the Denver Christian Schools. And that made it a little bit more cumbersome, because some of them thought that this was all about that particular place or that particular entity wanting to do thrift or consignment and that wasn't what it was about, for me. It's about the concept of whether or not we want a thrift, consignment sort of opportunity in that small business area and that was really what it is about for me, not who it's going to be, but what...or are we allowing there. I feel very good about the smaller. Smaller is beautiful. I'm still concerned about the language in the Code that reads non-profit or what...the descriptions that came up...I would like to see that, at some point, removed, because I don't think it is accurate and I think it is a bit offensive. And I too am still concerned about storage and prep and I hope we haven't put undo pressure on Code Enforcement to try and keep that clean, but I have to trust that our business owners will do their best at trying to be collegial in helping one another maintain a beautiful area, because it impacts their business in the long run. So I have to trust their abilities to do that. I will probably be one of the first shopping at these places, so it's definitely in my family system to shop at such places. That's never been the issue. It's whether or not that district should warrant that style of retail. So, I will be voting yes.

Mayor Woodward said if there are no other comments, please vote.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

(ii) Council Bill No. 13, approving an Intergovernmental Agreement between the Denver Regional Council of Governments and the City of Englewood regarding the licensing of the 2010 Denver Regional Aerial Photography Project was considered.

COUNCIL MEMBER PENN MOVED, AND COUNCIL MEMBER OLSON SECONDED, TO APPROVE AGENDA ITEM 11 (b) (ii) - ORDINANCE NO. 21, SERIES OF 2010.

ORDINANCE NO. 21, SERIES OF 2010 (COUNCIL BILL NO. 13, INTRODUCED BY COUNCIL MEMBER PENN)

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) ENTITLED "LICENSING AGREEMENT REGARDING DENVER REGIONAL AERIAL PHOTOGRAPHY PROJECT" BETWEEN THE DENVER REGIONAL COUNCIL OF GOVERNMENTS AND THE CITY OF ENGLEWOOD, COLORADO FOR THE CITY'S PARTICIPATION IN THE DENVER REGIONAL AERIAL PHOTOGRAPHY PROJECT (DRAPP).

Mayor Woodward asked if there was any discussion.

Council Member Penn said I just think the costs far exceed...is far exceeded the opportunities and the usefulness of this program.

Council Member Gillit said Mr. Mayor, I will be voting no, the same as I did last time. Same concerns I have...number 1, they said that they can continue doing business as usual without it. We do have one that was recently done. There are some folks who also have a problem with wondering why the government or government entities are taking pictures of their neighborhood. I understand that there are issues for that. But right now, with budget constraints, and had he...the presenter not said that they could do business as usual without it, I would have probably thought different. But, I will be voting no for that reason.

Mayor Woodward said okay, thank you.

Mayor Woodward said any other comments?

Mayor Woodward said I just want to clarify one thing that maybe that I had said last time...was with regard to Code and Zoning and Building. It is not just that as a Code Enforcement type of tool, so to speak. But, for example, the McLellan properties, which aren't in the City of Englewood, but are included in this, were all aerial photographed and certainly are different now than they were two years ago. Majorly different. And I think any sites that development type and with things that are going on, as far as development and real estate, I think there are definitely advantages. I've seen it ...certainly in the Community Development Department, those areas and stuff. So, I will be voting yes.

Mayor Woodward said if there are no other comments, please vote.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson
Nays: Council Member Gillit

Motion carried.

(c) Resolutions and Motions

(i) Director Eaton presented a recommendation from the Human Resources Department to adopt a resolution amending Articles 8, 11 and 21 of the 2010-2011 Collective Bargaining Agreement between the Englewood Employees Association and the City of Englewood. She said good evening Mayor, Council. The City and the EEA, the Englewood Employee Association, entered into negotiations in May to re-open their contract regarding wages and certain other benefits. The members of the EEA, ratified by majority vote, our agreement in that matter, which allows for no wage increases or merit pay for 2011, unless the total General Fund revenues reach the level that they reached in October 2008. Similarly, no personal leave cash-out will be paid for unused personal leave in 2011, unless the General Fund revenues reach the levels that they reached in 2008. I am here tonight to ask Council's approval of these changes to their contract.

Mayor Woodward asked if there were any questions for Sue.

Mayor Woodward said Sue, I have a question. In our set-up, with, not only the EEA, but our other two unions and all of the rest of the employees within the City, is it...we have a personal leave situation that some of it can be utilized for...stated in the bargaining agreement...sick leave or vacation or there may be somebody sick or death in the family or something like that. And that's all grouped together, is that correct? Ms. Eaton said they are actually individual types of leave, but there are...there's personal leave and vacation are similar in that they can be used for the employees own choices of use. Mayor Woodward said okay, so our personal leave is the employees own illness, injury; illness, injury of employees family or to attend to personal business is what it says in here. 48 hours of personal leave. Okay. Have we deleted that? Have we removed that from a benefit? Ms. Eaton said no. Mayor Woodward said did we remove it last year as a benefit? Ms. Eaton said for the EEA, no.

For...and not permanently, just for the year. We did it for the Police Association. She said I'm sorry...that was this year, 2010. Mayor Woodward said okay. That's all I have.

Mayor Woodward said is there a...sorry.

Council Member Penn said Sue, on the insurance part, if we realize a savings, who knows if we ever will, is that passed on just to the City or also to the employees. Ms. Eaton said that's passed on to the employee. We pay a percentage and they pay a percentage of the total premium. Council Member Penn said okay, so they would get the benefit if we do find...if they do have a better...okay. Ms. Eaton said correct. Mr. Penn said okay...thank you.

Mayor Woodward asked if there were any other questions for Sue. There were none.

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE AGENDA ITEM 11 (c) (i) - RESOLUTION NO. 38, SERIES OF 2010.

RESOLUTION NO. 38, SERIES OF 2010

A RESOLUTION AMENDING THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE ENGLEWOOD EMPLOYEES ASSOCIATION AND THE CITY OF ENGLEWOOD FOR THE PERIOD OF JANUARY 1, 2010 THROUGH DECEMBER 31, 2011.

Mayor Woodward asked if there was any discussion.

Council Member Gillit said I'd like to tell Sue, and the staff that worked on this, how much I appreciate...this was a very sensitive time. We're talking about people's income and their pay and their quality of life. It breaks my heart to know that we can't give an increase, but I also understand the situation we're in and we're trying to keep their jobs right now as well. I just want to thank you and the staff for what you did and the negotiations...I know we have been working on this for a while, so I just want to tell you, I appreciate it.

Council Member Jefferson said and also to the members of the EEA for, you know, be willing to re-open this and give these concessions.

Mayor Woodward said I would like to also compliment EEA on being the first to come forward with the re-opener and come to agreement immediately. It just really says a lot about our employees and their commitment to the City and their jobs. I want to thank you Sue and Mike for all of the work that you have put into this.

Director Eaton said thank you. I'll pass that along to the employees.

Council Member Wilson said I, too, appreciate all of the work and the employees and all their dedication, so thank you...and Mike.

Mayor Woodward asked if there was any further discussion. There was none.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

Director Eaton said thank you.

(ii) Director Eaton presented a recommendation from the Human Resources Department to adopt a resolution approving a Collective Bargaining Agreement between the Englewood Police Benefit Association and the City of Englewood for the years 2011 and 2012. She said just as we entered into

negotiations in May with the EEA, we also began negotiations with the EPBA. And their entire contract was to be negotiated this year. After negotiations with our Police Officers, the significant changes to their contract are that they will receive a market adjustment in 2011, based on the salary survey that we conduct in the fall of this year. The wages for the following year, 2012, will be negotiated next year at this same time. Another change to their contract was their maximum merit pay for first class officers who are the eligible employees for that benefit, will increase from \$900.00 to \$1,000.00 a year. And although they will still be eligible to receive their personal leave cash-out, they will be encouraged to use that so no cash-out is payable by the City. That incentive was some additional time off. I believe that those were the only significant changes to the contract.

Mayor Woodward asked if there were any questions for Sue.

Council Member Wilson said just to thank you for all of the work that you did on this and with the police. And thank them.

COUNCIL MEMBER OLSON MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE AGENDA ITEM 11 (c) (ii) - RESOLUTION NO. 39, SERIES OF 2010.

RESOLUTION NO. 39, SERIES OF 2010

A RESOLUTION AUTHORIZING THE PROVISIONS OF THE COLLECTIVE BARGAINING CONTRACT BETWEEN THE ENGLEWOOD POLICE BENEFIT ASSOCIATION AND THE CITY OF ENGLEWOOD FOR THE YEARS 2011 AND 2012.

Mayor Woodward asked if there was any further discussion.

Council Member Olson said one of the other things that I wanted to thank you for is just the creativity in coming up with some combinations that were workable for people that maybe would not have been thought of ten years ago.

Director Eaton said the Police Officers played a role in that too.

Council Member Gillit said and I just want to thank our Police Department and again, the employees...great employees of our City for working together with us on this.

Mayor Woodward said I'll second Rick's comments. Thank you to you...the City negotiators and the Police for coming forward and working with us on this, so we could get it completed for the benefit of the City and the citizens of Englewood.

Mayor Woodward asked if there were any other comments. There were none.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

Director Eaton said thank you.

(iii) Deputy City Manager Flaherty presented a recommendation by the City Manager's Office to adopt a resolution supporting the lease agreement between Englewood McLellan Reservoir Foundation and TT of Denver. He said I am a director of the Englewood McLellan Reservoir Foundation. Our president, Stu Fonda, is out on medical leave so I am substituting tonight for Stu. Last October, City Council supported a resolution for a lease agreement with TT of Denver. It is an auto dealer. Part of that agreement allowed for a due diligence period that ended on June 1st of this year. During that due diligence period, the primary owner of TT of Denver discovered through his consultants, some significant soil conditions that were not

evident at the time of the initial lease. We provided this information to City Council at the Executive Session last week. Contingent upon TT of Denver going forward with the lease was a request for concessions...certain concessions on the lease terms. The cost of remediation of soil and other conditions necessary for the project to go forward was approximately a million dollars for basically two sites...or two buildings that would be planned on the site. One, which would be under construction, as soon as next month. The other had a date to be determined. As you recall from the discussion last week, the concessions were to allow for a reduction in rent of \$100,000.00 a year for a ten year term...excuse me...\$50,000.00 a year for a ten year term for the first site, which will be under construction shortly, and an additional \$40,000.00 per year for the second site, if and when that site is developed. Over the 30 year term, it is actually a 20 year term, with a 10 year option...the rental prior to the amendment is \$16,700,000.00 for the term. This would reduce the 30 year rental from \$16,700,000.00 to \$15,800,000.00. Again, in order for the TT of Denver to go forward, they have asked for these concessions and we have recommended those and we're asking for Council's support to go forward with the lease amendment.

Mayor Woodward asked if there were any questions for Mike. There were none.

**COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER OLSON SECONDED, TO APPROVE
AGENDA ITEM 11 (c) (iii) - RESOLUTION NO. 40, SERIES OF 2010.**

RESOLUTION NO. 40, SERIES OF 2010

**A RESOLUTION SUPPORTING A RENT CONCESSION TO THE LEASE AGREEMENT BETWEEN THE
ENGLEWOOD/MCLELLAN RESERVOIR FOUNDATION (EMRF) AND TT OF DENVER, INC.**

Mayor Woodward asked if there was any discussion. There was none.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Jefferson,
Olson, Gillit
Nays: None

Motion carried.

(iv) Deputy City Manager Flaherty presented a recommendation by the City Manager's Office to adopt a motion approving an Energy Performance Agreement with Ameresco. He said in 2008, at the request of City Council, the City entered into a Memorandum of Understanding with the Colorado Governor's Energy Office for the purposes of conducting an initial assessment of the City's energy use and the possibility of reducing energy use through an Energy Performance Contract. In May of 2009 City Council approved the selection of Ameresco as the City's energy service Company. And in June of 2009 City Council approved an agreement with Ameresco for performance of a Technical Energy Audit. The Technical Energy Audit was completed in December by Ameresco...the draft was. Ameresco worked with City staff to make adjustments to that to meet our specific needs and desires for energy efficiency and also for certain capital projects that related to energy usage that we felt were critical to the City. And we actually completed those discussions in early March. However, we have had some delay due to financing issues raised by the prospect of a constitutional amendment that might...that is on the ballot for November. However, our Finance Director has worked on that with our bond attorney...and, actually, is still working on that with our bond attorney and hopes to have the financing completed in the next week or two. The energy audit will result in total savings of 13.2% of current electrical energy and 15.8% of current natural gas usage. For a total of 12 energy conservation measures. It includes all City buildings, except those that are under the authority of the Utilities Department Enterprise Funds, which the Utilities Department is looking at other means of addressing their electrical energy usage. And actually has an agreement right now with Xcel Energy for an additional study. The total cost of the proposed project for these 12 energy conservation measures throughout the City system is 1.4 million dollars, which will be funded entirely through electrical and gas savings over the 15 year term of the agreement. And by terms of the Energy Performance Contract, Ameresco guarantees these energy savings. That is...if we do not achieve these energy savings sufficient to pay off the bonds...Ameresco will cover those costs. There are also a number of grants and rebates that we have utilized to reduce costs, through the efforts of Ameresco and we also were fortunate in receiving an allocation of Qualified Energy Conservation Bonds through the State of

Colorado, which basically will reduce our effective interest rate. And we are requesting Council to approve a motion for the agreement with Ameresco and the Energy Performance Contract.

Mayor Woodward said are there any questions for Mike?

Council Member McCaslin said I know there was some concern tonight about some usage and money and whatever. I'm sure Ameresco is very open and would be more than willing to answer those questions. Is that correct? Deputy City Manager Flaherty said Holly Green, Account Executive for Ameresco, is here to answer any questions you might have for Holly, related to Ameresco. And, Mayor Woodward said, really, that is the next one that's coming up. Council Member Jefferson said yes, that is more related to the PV Systems, I think. Mayor Woodward said it's the next... Mr. McCaslin said okay. I just wanted to get it on the Agenda somehow. Mayor Woodward said okay.

Mayor Woodward said are there any other questions for Mike? Is there a motion for approval of 11 (c) (iv)?

COUNCIL MEMBER WILSON MOVED, AND COUNCIL MEMBER McCASLIN SECONDED, TO APPROVE AGENDA ITEM 11 (c) (iv) - APPROVAL OF AN ENERGY PERFORMANCE AGREEMENT WITH AMERESCO.

Mayor Woodward asked if there was any discussion.

Mayor Woodward said I would like to say, I would really want to thank you Mike, for all the work you have put into this over the last couple of years. I know it has been a lot of work. Just the agreement is a lot of work. And I think this is right thing to do. And talking to numerous other city elected officials that have done it and stuff, it's made perfect sense to them and it has been something that they would certainly do again. So, thank you.

Deputy City Manager Flaherty said a number of jurisdictions are in process right now and a couple have completed their Energy Performance Contracts. We consulted with the City of Lafayette, who completed theirs about a year ahead of us and basically got a lot of information from them and their satisfaction with the project that they were able to achieve through the Governor's Office program. I will mention that the contract, actually, is the contract that the Governor's Energy Office mandates for both the City and for Ameresco.

Council Member Olson said I want to ask a couple of other questions. I think this is just a typo...but on the back side of the front page...where it is talking about utilizing grants and rebates that will reduce the cost of the program by \$125,741.00 and there is a comma there...so it looks like...just... Mr. Flaherty said 125 million...it's not that much, unfortunately. Ms. Olson said just for the record I would love that to be true...I just wanted to make sure... Mr. Flaherty said a slip of the finger on that one, I'm afraid. Ms. Olson said that's a fun slip in our favor only. On page 6, the comment under the Energy and Cost Savings Guarantee..."contractor has structured the Guaranteed Energy Savings to be sufficient to equal or exceed any and all annual payments required the City in connection with the acquisition of Equipment to be installed by Contractor". So it's all annual payments that are required. Mr. Flaherty said correct. In fact, the pro forma that Ameresco has done will actually have some initial savings above and beyond the payment of the bond payment. Not a large amount, but over time...over the 15 year term...it will be rather a significant amount.

Council Member Olson said and then the independent monitoring on the next page...is that fairly normal for this kind of a thing? Deputy City Manager Flaherty said that is required by the GEO. Ms. Olson said okay.

Council Member Olson said and then the last question...sorry. On page 16, under the Upgrade or Alteration of Equipment...it would be in Ameresco's best interest...wouldn't it...to do this? I mean...to be updating when needed... Mr. Flaherty said...and ours as well. Ms. Olson said and ours as well...but, ultimately, people are motivated by saving some dollars, so it would be in their best interest to be... Mr. Flaherty said that's part of what the monitoring and verification will point out...is that if we are not maintaining the equipment...so it's running in its most effective manner...then Ameresco will certainly let us know that. Ms. Olson said okay. And then work on getting something... Mr. Flaherty said yes. Ms. Olson said okay...good. Thank you. It's very comprehensive.

Council Member Gillit said I would like to thank you again for this. I wasn't here when...one of you guys originally started this...but, these are the kind of ideas I like. I love looking at things and saying how can we save money long term, what kind of resources can we put together? I really appreciate...I know we talked a lot about this and I have done a lot of reading about that. It just makes sense to do this. This is the kind of thing that I'm glad that we are doing...and I will be voting yes in support and I appreciate us taking this step.

Deputy City Manager Flaherty said I wanted to mention...on energy conservation...in terms of energy savings...that's really where the most dollars are...is in conservation. Certainly...and we'll be talking about other forms of energy with the next Agenda item, but the real dollars there to be saved...in your home or in your business or within the City...are through energy conservation measures.

Council Member Gillit said I, myself personally, I took out a perfectly good heater from the house and put in a high efficiency heater. Just because it just makes sense long term. But I like these kind of ideas.

Council Member Jefferson said I too am glad to sort of see it come to fruition. It has been kind of a long process, but, again, I think it makes sense from a financial standpoint, but also from just a responsible energy consumption standpoint.

Council Member Wilson said I just want to say thank you for all the work you've done and this has been something that has been close to my heart, as far as energy savings and I look forward to working with Ameresco and having this move forward. It's been the last two years that this started with the Governor's Office and I remember our first meeting and it was just...it's exciting. It's exciting that we are doing it, it's exciting that we're able to accomplish that even as a small City. So, thank you for all your hard work.

Mayor Woodward said if there are no further comments, please vote.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

(v) Deputy City Manager Flaherty presented a recommendation by the City Manager's Office to adopt a motion approving a Power Purchase Agreement for Photo Voltaic Solar with Ameresco. He said this is basically an off-shoot of the initial work that we did with the Technical Energy Audit. One of the aspects that we requested Ameresco to look at uses of alternative energy. And through the work of Ameresco, it was determined that although we could work with some alternative energy approaches that the pay back for the City was not adequate to be covered...effectively, at least...in an Energy Performance Contract. Part of the reason for that is that the tax benefits from alternative energy technologies, is not something we can take advantage of as a non-profit entity. So, during the Technical Energy Audit conversations, we talked about the approach of entering into a Power Purchase Agreement. In November of last year, Council approved an amendment to the Technical Energy contract to provide for investigation, design, development and implementation of a Photo Voltaic Solar System...a PV system and we discussed that with Council at the...initially...at the March 8th City Council Study Session. Holly Green presented to Council. And then also we talked about it at last week's Study Session as well. Or on June 7th, excuse me. To give a little bit of information on the Power Purchase Agreement...under the terms of this Power Purchase Agreement...Ameresco would provide the PV system at the Civic Center, the Malley Senior Center, the Police and Fire Admin building, formerly known as Safety Services, and the ServiCenter. The PV system proposed will provide renewable energy for 4.7% of the total electricity that the City currently uses and 10.3% of the electrical energy usage at those selected buildings. Ameresco will design, build, own and operate and maintain the PV system for the term of the agreement, which is a 20 year term with, basically, renewal periods for up to 30 years. Ameresco...excuse me...the City will receive electrical output from the system to replace purchases from Xcel Energy. And there is a buy-out provision at the end of the term. A couple of things to mention is that the cost of the system to Ameresco is a little over a million and a half dollars. The City's purchase price for electricity is set

at 8.8 cents per kilowatt hour, which includes the demand charge. Mr. Cohn mentioned that he pays 5.5 cents per kilowatt hour for usage...so do we...before the demand rate is applied. The average effective kilowatt hour rate, for the selected City buildings, is just slightly over 9 cents a kilowatt hour. So, the 8.8 cent charge is slightly less than we are paying now. Also, we have an escalation rate of 2% per year. That's a flat escalation rate, regardless of what Xcel Energy does, our rate with Ameresco for the power we purchase from them...and again, this is only 10% of the power for the affected buildings...will be based on that initial rate with a 2% escalation. For purposes of the pro forma, Ameresco has used a 3% escalation rate for Xcel Energy, however the average rate of Xcel's increases for electricity, in the recent past, has been 3.4% and, quite honestly, we believe that that escalation rate will increase dramatically. For one thing, Xcel is looking at bringing a new plant on-line and when that plant comes on-line the increase for that year will be 5.7%. In addition, I think you may be aware...but all of the power companies that are producing electricity with coal, have long term agreements with coal companies...they have locked in prices for coal. At some point, in the very near future, those current price locks are going to expire and they are going to have to renegotiate with coal companies. If you have read anything about what that's going to do to our electrical rates, you know that the rates are going to go up, because the coal rates are going to continue to increase and the rates that Xcel is paying now to purchase coal...will be much less than it will be in the future. At this point...again...this is a small portion of the electrical usage that the City has, even for the buildings being proposed for installation. And I will mention also, that we do have some structural work to do...Ameresco has some structural work to do...investigation...before we can determine fully whether or not all of our buildings can support the weight loads. That's particularly true of the Civic Center, but that will be...provisions in the contract that if the structural conditions cannot be met for the application of the panels, then either party has the ability to withdraw that building from the program. However, I don't believe that either party wants to withdraw all the buildings from the program for the loss of one...in the event that one of our buildings doesn't have the structural integrity to maintain those panels. At this point I will entertain questions. And again, Ms. Green is here as well.

Council Member Gillit said I know I have a bunch of questions. And you are probably going to need to be up here...your Ameresco representative.

Deputy City Manager Flaherty said I will mention...I also included in the packet, the e-mail response to your question from last Study Session...Rick...when you asked about the technology. So, you should have that in your packet.

City Attorney Brotzman said if I could make one quick note on here. We got a little carried away with the confidential sticker. It shows up...the agreement itself is not confidential. It's a public document. Their concern was trade secrets. On page 36 we negotiated language on those exhibits relating to trade secrets. So, those items are confidential and they are not being disclosed. The agreement itself is obviously a public document.

Council Member Gillit said you know right now it seems like green is the fun thing to do and the reality of it is solar panels are not made in a green process. It is a very nasty, very dirty...if you are looking for a product that comes to us in a good, natural way...we have to admit that a solar panel is a very dirty, nasty way of getting to us. It's lots of chemicals...arsenic...lots of...if you...and I'm speaking from talking to engineers in the industry, that I have talked to as recent as today. The energy used to make a solar panel is huge. So, the problem...and the point I am getting to is...if we are looking for a green product, a solar panel is not a green product. It produces, afterwards, but the way of getting to us is very dirty. And I want to make sure that we understand that. We are not just, you know, putting something on a building that just woke up one day and there it was. I'm concerned on the process of solar panels. I'm also concerned about the type of panels you are going to be putting on the building. We have not determined the efficiency of those panels. Like semi conductors, they wear out...they are not as effective. Your output that you talk about is peak performance output...when the sun is always on there and they are clean and everything is perfect. We all know that that is not a perfect world. And to stay on that, here's a couple of my questions and I hope that you...I don't know if you can answer these or not. I'm not asking to be re-engineered...but have you looked at the figures closely and have you looked at what the variance of those figures are based on your good day/bad day...? Ms. Green said productivity of the system? Mr. Gillit said productivity of the system. And what percentage efficiency of the system are you looking for the City? Ms. Green said I do not have that information with me. What I can tell you is the team that builds, designs, develops these systems and that we are committed to this system for the next 20 years. We would

only put something in that we really, truly want to back. Because it is our investment in the system over that period of time and it is our commitment to it. What those percentages are, those are excellent, very detailed questions...I don't have those with me. I was not prepared in that manner.

Council Member Gillit said the reason I ask is that is what we are going to be stuck with after 20 years. Right? Because after 20 years it becomes our issue to worry about. Is it a 20 year contract? Or after 20 years are you taking these things away? Ms. Green said that is an option to be negotiated at the end. Mr. Gillit said...so we haven't determined that yet.

Council Member Jefferson said what happens if we don't execute that option though? I guess that would be a good question while we are at that topic. Ms. Green said then it is for us to remove. Mr. Flaherty said yes...if we don't exercise the option. We can basically can...we can purchase the system at any time for market value. At the end of the term we can purchase it for a dollar. And it is up to us then to determine if we want to maintain that system or not maintain the system. To give you an example...we have got a hot water system...a solar hot water system...at the Recreation Center, that has been in place since it was constructed in the 1987. They are still operational. Ameresco looked at those. Although there certainly is a difference between a PV system and a hot water system, the technology in 1987 certainly isn't the technology we have today. And those are still functioning, still producing a small percentage of the hot water needs for the Recreation Center. Will these be effective in 25 years and to what extent will they be effective? They will still be effective...I'm not sure...will they be operating at 100% efficiency...certainly not.

Council Member Jefferson said sure and we hope that it will make sense for us to maintain it at that point. I guess my question is, if we don't exercise that option...Ameresco will then remove the equipment and make sure that our buildings are in functionable shape...the roofs and whatnot? Ms. Green said correct. Mr. Flaherty said I will just mention one other thing. Excuse me. There is no building penetrations. So, basically, this is a weighted system that is put on the roof system, so that you are not taking something out of, out of the roof system itself. You are taking it off the roof. And that would be our responsibility or our choice at that point. Council Member Jefferson so removal would be on us? Mr. Flaherty said it would be our choice. And, Ms. Green said, it would be, it would be...conceptually, it would be in Ameresco's best interest to make sure that those panels produce the most output possible, because we need to generate a revenue off of those panels by selling that power, as well, to pay off that system. I don't know what the answer is specifically to what you are asking, but I can certainly find that out. But we would completely be at risk if we built a system that didn't... Mr. Gillit said we understand that Ameresco's doing this to make money. You are not doing this out of just, you know...and I am all for people making money. I just want to make sure it makes sense for the City.

Council Member Gillit said another question I have is what is the intended or estimated energy offset for each facility? I guess I'm looking for the system...and I guess you are going to have to design one uniquely for each facility. Is that correct? Ms. Green said, generally, yes.

Council Member Gillit said I love Mr. Cohn's example tonight. 10,000 watts is not a lot of energy. A perfect example...you know, 10,000 watts is like an 80 amp service. You couldn't even run a home on 80 amps. And that is what we are talking about peak. So, my question is, why are we looking into something that is going to get us such little...and if everything's perfect and everything's optimal...so little return? I don't see us paying extra for it or top dollar for the energy, to really get nothing back, to say that we've got the appearance of being green...but some of this stuff just doesn't make sense to me. Ms. Green said I would say it's a step in the right direction. It's what you can do now. It's a way to get on the wagon and move in that direction and do the right thing. At least you are, you are securing about 10% of your consumption at 8.8%, at a very low escalation rate, as opposed to about a blended rate of about 8 cents, going up probably 6% on the average. And Mike's numbers are really good currently, but nationwide they go up a lot more. Like 6% that will escalate. So, at least 10% of your consumption at those sites will be kept here, as opposed to continually being here.

Council Member Gillit said, again, like I spoke last time, we know and it is already documented that in the next years we are going to be getting a much more efficient, much higher output energy system. Why would it not be in the City's benefit to wait for a much better product, then to take a far less product now, just for show? Ms. Green said one of the reasons that we selected this particular type of a panel, this technology... Mr. Gillit said

could you tell me what that panel is? Ms. Green said it's a polycrystalline PV panel...is basically what it is. It's not bleeding edge, it's just a proven technology. For Ameresco, and any company, generally, to invest in a particular technology they would like to have something that is proven, as opposed to something that is bleeding edge. So, to wait a few more years...and to wait for that technology for a few more years beyond that to see how that technology plays itself out, just leaves you at a point where you are never moving forward. Council Member Gillit said to me that sounds like you are trying to sell me a car that I really don't want. You know what I am saying? Ms. Green said it's a very...I agree...I mean maybe that's what that is, but in all fairness to the investigation of the opportunity...we do have the cost of the commodity at a reasonable rate. It is a renewable source. It allows you to move forward.

Council Member Gillit said I just don't hear you saying we are getting the best. Ms. Green said it is the best. It is the best application for your particular facilities, under these circumstances. And at this point in time, you also benefit from the rebates that are available, that are quickly diminishing. Which is another... Mr. Gillit said, well we are not getting the rebates, you are. Ms. Green said but you get the benefit of the cost of the commodity, because this partnership allowed us for the rebates. And the rebates are quickly diminishing. Even 6 months ago we had an opportunity, if we would have brought this forward, to have the cost of that commodity even lower than the 8 cents. But we are losing that opportunity, because the utility companies are meeting that expectation. They are meeting their renewable sources. They are filling that capacity. When they fill that capacity for that renewable source, they are going to stop giving rebates...I project. I do not know, I can only assume, unless something else bad comes up. All I've seen over the last years is it is not getting better. We're losing those opportunities to get those grants to buy down the cost of that PV project.

Deputy City Manager Flaherty said I will just remind Council of one other point. This agreement we're paying for power, we are not paying for solar panels, we are not installing solar panels, we are not owning solar panels. Ameresco is taking the risk. We are paying a rate that is comparable to Xcel Energy rate escalating at 2% a year.

Mayor Woodward said I just want to mention that I asked specifically your question to the National Research Energy Lab, or NREL, regarding why shouldn't we wait, or why shouldn't I wait...while I was doing it. And they made it very clear...do not wait. Because you will gain nothing by waiting and what you have spent in energy...and yes, there is new technologies, but the technology is not moving as fast as one may think, compared to the price. And...pardon me? Mr. Gillit said I would disagree. I would love to take you to a solar plant up in Longmont and show you what they are doing and that cutting edge that is coming up very soon. I will disagree with that. Well, Mayor Woodward said, with the Xcel Energy rebates...and, as you have mentioned...as they go away...I got in at the top, top end of those...and, you know, there was the Federal Tax Credit, which means as much to the City as it meant to me. You have to have an income to have a tax credit. And on our horrendous City salary doesn't impact, it's all written off anyway...so, it doesn't get up to the point of taxes. But I'm telling you that is what the people from NREL and I'm saying they are the cutting edge of energy.

Council Member Gillit said what about the inverters? Who is responsible for the inverters during this time? Ms. Green said I'm sorry, pardon me? Mr. Gillit said the inverters. I guess there is a five year warranty on the inverters. Ms. Green said Ameresco is design, build, own and operate...so we are responsible. Council Member Gillit said so we have no, no responsibility to any of the equipment at all? Ms. Green said no.

Council Member Gillit said has any...and I guess, I guess where I am going with this...I would like to table this until we get a few things answered. This Council is very good at making sure that when we go forward, we go forward with all the answers. There's still some...even in your contract...the event that the provider determines its sole discretion of the results of the inspection obtained...the provider is unable to install the system...and then it goes on...basically, if you're not sure it can happen, it's not going to happen. Why don't we do this when we can make sure it's going to happen? Why are we wasting time going through this...when we're not even sure that it can happen? Deputy City Manager Flaherty said I think I can answer that...and basically, the structural analysis costs money. And neither the City, nor Ameresco is willing to put that money forward...and Ameresco is willing to do that once we have signed a contract. But the cost of the structural analysis is a significant number. Mr. Gillit said can we separate that out from this? Mr. Flaherty said...I'm sorry? Mr. Gillit said we have two separate issues...to find out number one...is this really working for us? And that if it's...then

let's...because you are not separating it out, you are asking for the whole thing voted on tonight. But, Mr. Flaherty said, either party can cancel the contract if the structural integrity of the building won't permit the usage.

Council Member Gillit said that doesn't answer the question. Council Member Olson said I think it does answer the question. I think what he's....I want to make sure I understand what you just said, in light of what...I think you asked an important question...but if you separated them out, it wouldn't be rolled into this whole thing. Council Member Jefferson said somebody has to come up with the money. Ms. Olson said someone has to come up with the money. Mr. Flaherty said somebody would have to pay for it. So, Ms. Olson said, you move forward in good faith that it's going to work out with the option to pull out at any time, when either party feels like it's not working...right? So, there's really no cash output until its clear...is what we are going forward with...right? And you take the risk. Ms. Green said there has actually been a considerable amount of cash out put on Ameresco's part... Ms. Olson said...on your part. Ms. Green said...to investigate to this point in time. That next chunk for the structural engineering firm to be in and do that analysis...pretty cost intensive. So, we just want to make sure that there is a commitment by this organization for this agreement, before we commit additional funds to that. So, should one site...and I think there is really only one site that's really in question...should the one site really be above and beyond what we expect structural changes to be made to it, then we would have the option to back out and you, as well.

Council Member Gillit said just for my final clarity and this will be the last I ask. Just to make it clear...this is no gain for the City. In other words, we are not gaining anything out of this, other than we get to say...you get to sell us electricity by the panels you put on our buildings...you get to make the money...and we get to say...ooh, look at us. Is that kind of, kind of how...that is kind of how it feels. Ms. Green said for 10% of the consumption at those four sites...an approximate 10% of the consumption at those four sites, you get to keep the cost of the commodity low over the next 20 years. You are not at the mercy of the utility company for their increases.

Council Member Jefferson said I think that really frames the issue a little bit...what we really need to focus on this evening...is the idea of locking in the rate of this commodity over a long period of time...make sense for us? I think we have got to, you know, assume in good faith that Ameresco is capable and knowledgeable about maintaining and installing and removing this type of equipment. So, I guess I just want to try to refocus the conversation around, around the price of the commodity and whether that is acceptable and whether we think that that, going forward, is in the best interest of the community or whether that is a determination we can't make tonight.

Well, Council Member Wilson said, the other thing though...wasn't...with the Energy Office we were given choices of different companies to work with...Ameresco being one of them. So, they had to be approved by the Energy Office. So, I mean, I look at that being, you know, a positive, that someone else besides us was saying this is a company you need to use. Correct...Mike? Deputy City Manager Flaherty said yes. Ameresco is one of twelve approved businesses.

Mayor Woodward said I wonder if we can get a motion on the table...maybe...so we can have this discussion.

Council Member Olson said and then can I ask a question after that? Because I... Mayor Woodward said well if you haven't asked a question... Ms. Olson said maybe others of us do too. Mayor Woodward said I mean...direct question or we'll get it in discussion. Ms. Olson said no I have a question...an informational question. On page 18, there is a comment under Adjustments to Contract Price...provider will promptly submit to customer a written notice setting forth a description of the change in applicable law. This is about possible laws that might change some of the costs. Can you give an example of when that has...what kinds of things happen that might change the cost here for the applicable law? Maybe I'm asking something too specific. Ms. Green said no, that is too specific for me. Quite honestly, I'm not prepared to give a long history of what those changes have been. Ms. Olson said okay. Council Member Jefferson said...a tax increase or something like that. Ms. Olson said yeh...is it something that would be like a tax law change or something... Mr. Jefferson said for an example...do you think like a fee increase from Xcel or, you know, for piping or...? Deputy City Manager Flaherty said I don't have that quotation, but basically, I believe what you are referring to is any law that would affect the price of...any law that would affect the price of the commodity, which would also affect the price of the commodity for Xcel Energy. Council Member Olson said that's what I was looking for, just clarity on

that. Ms. Green said I think it is a protection clause. Council Member Olson said yes. Ms. Green said in case something comes down. Council Member Olson said when you would adjust the contract price. Ms. Green said no one has alerted me of that. Mr. Flaherty said I will mention one other thing...the City of Arvada entered into an agreement in 2007 with Sun Electric and the Power Purchase Agreement is virtually identical to the Purchase Power Agreement that we are entering into with Ameresco.

Council Member Olson said I think the other one has already been answered. Let me check it for a minute. Yes, I think that was it...so, now somebody else had question...

Council Member Jefferson said just a quick question for my...just, I guess, a procedure issue. What...we talked a little bit about this at our previous meeting...is there a timing issue here? Why wasn't this brought forward at a Study Session rather than being brought here tonight? Is there a timing issue with some of these..? Deputy City Manager Flaherty said there is on the rebate side. Mr. Jefferson said on the rebates...I guess that was what I was asking. Mr. Flaherty said Xcel Energy has a certain amount of dollars they have set aside for rebates and as those are used, the percentage that they will pay in rebates declines. And, as Holly mentioned, at one point the rebate was in the...I think in the 11% range...and now it's a 9% range or something to that effect.

Council Member Jefferson said is that constantly fluctuating or is that something that they say there is a particular date for or? Mr. Flaherty said, as I understand it, and correct me if I am wrong, they have a...Excel Energy set aside a pot of money for PV rebates and as they spend those dollars down, the percentage that they pay to any particular customer...declines. Council Member Jefferson said...I mean...does it drop off significantly at particular points...like every year or every few months or is it just...you know...constantly fluctuating? Ms. Green said is it constantly fluctuates down. Mr. Flaherty said down...it goes down. It doesn't fluctuate. Ms. Green said it doesn't go in our favor. Mr. Jefferson said that's the trend. Ms. Olson said that's like our budget. Mr. Jefferson said so, that's why you guys brought it forward today, because you think there is some time urgency? Mr. Flaherty said well, we also...the rebate was applied for in January and there was a 9 month window for that rebate application.

Ms. Green said you have to have this system built early September...have the appropriate paperwork in...to get the rebate. Ameresco is at... Mr. Jefferson said...but now it is going away? I'm sorry, just to be clear. Ms. Green said pardon me? And the rebate will go away. Mr. Jefferson said after September? Ms. Green said yes. We can...we seriously can build the system...if there are equipment delays or other problems like that...out of our control...and we don't have it built until October...there is no rebate for Ameresco.

Council Member McCaslin said I agree with you, because I'm doing that energy audit through Xcel and you have to use the rebates by the end of July or something...or you are going to lose them and as they use them up, they become less and less. So, she is absolutely right. It's happening in the industry right now.

Council Member Jefferson said that helps me understand why we are bringing it forward now.

Well, Council Member Wilson said, we have been discussing this for 2 years. Council Member Gillit said we haven't. Council Member Jefferson said I don't know...

Mayor Woodward said I think the other thing...and correct me Mike...is the financing part of it. Where we were...have problems 6 weeks ago, right now we have an opportunity that we are seeing to move forward with it.

Deputy City Manager Flaherty said I did not want to go forward with the Power Purchase Agreement without the Energy Performance Contract. I felt that they needed to go forward in unison. And we were delayed, and are still delayed to a lesser extent, by the issue of the amendment that is on the ballot in November. So, yes, part of the delay in Power Purchase Agreement, has been our delay with the Energy Performance Contract, caused by the financing issue.

Council Member Gillit said Mr. Mayor...is there a reason we could not have had a Study Session on this before? I have a list of questions that, you know, I feel I am being forced to vote no on something I should probably should vote yes...because we are in this real rush to do something that we normally take good time and good discussion on. I don't want to make a decision based on hurry up, you know, this offer won't last if you walk out. It needs to be something that we have gone to the residents and we can say we have looked at this, it makes sense...all of the questions are answered...all of the i's are dotted...t's are crossed...this is a great thing for our City. And I just don't feel we have done that. We have not done that due diligence.

Deputy City Manager Flaherty said, just to remind Council, we discussed this at Study Session on June 7th. Council Member Gillit said we discussed the audit, we did not discuss solar panels...because that was supposed to come back. Mr. Flaherty said we discussed both contracts. Council Member McCaslin said yes you did.

Ms. Green said I apologize for not being able to be the technical person that can give you better information...specifically on the technology. I had not anticipated that it would be such a concern, because I expected the concern to be about the cost of the commodity and its escalation rate over 20 years. Ameresco is motivated to put the best technology up, that produces the most power efficiently and effectively, to sell to the City. So, the question about the technology...for me...is a little off from where I expected the questions to be. We're motivated to put up the best technology for you...to sell to you...have power and provide the best rate for you and, also, to secure those rebates. We put all the paperwork in to Xcel already to secure all those rebates and we're hitting the deadline. This is really our decision making point. It is not a threat to this organization at all...that is just truly where we are at.

Council Member Gillit said okay...then let me ask you a question then. The reason that's important...if you can give me a product that is...3...4 times better...you can give me a better rate. And I don't feel you have told us...you have given us the best product so our rate could be lower. I don't like that rate. I think that rates too high. Ms. Green said we would only be motivated to give you the best product, with the best output...because that would provide the best business analysis and strategy for both parties. But, Council Member Gillit said, it sounds like you are trying to match a rebate time versus the best product and the best price. Ms. Green said let me add to my...repeat one thing, just so that you know where we stand. I always tell people we can engineer 'till the cows come home, but if there is no money, it doesn't matter what we engineer for. Ameresco has to secure the funding to build this million and a half dollar project. They are not just taking it out of their reserves...they are borrowing money. This technology has to be...this project has to be financeable...always. This technology is believed by Ameresco...to bring us the best business case and to be financeable at the same time. We can wait...you can see...rebates might be there...might not be there...the technology might be there...but, if technology comes up 3 to 4 times the output...I would think Ameresco would run the numbers and take the panels down and put the new system in, that economic feasibility would be there.

Council Member Penn said...Mayor Woodward... Council Member Wilson said I would like to call for a vote.

Council Member Jefferson said sure...but we wouldn't necessarily get the benefit of the...

COUNCIL MEMBER PENN MOVED, AND COUNCIL MEMBER OLSON SECONDED, TO APPROVE AGENDA ITEM 11 (c) (v) - APPROVAL OF A POWER PURCHASE AGREEMENT FOR PHOTOVOLTAIC SOLAR WITH AMERESCO.

Mayor Woodward said okay. Further discussion.

Council Member Jefferson said, again, I would just like to get comments on the rate of the commodity as proposed in the contract and the rate of escalation and get other Council members opinions on if that makes sense for us. I noticed that, I guess, the rate is slightly lower than what our current rate is. You know, I guess I generally believe that the escalation rate will be outpaced by the free market...but, you know, I just wanted to get other opinions.

Mayor Woodward said I believe the rate will be much higher...certainly 2% and probably higher than 3%. In that...I think, as was mentioned with coal...coal is going to go through a bunch of regulatory stuff that is going to change the price. We're already seeing the price of residential changed to a tiered level. Housing Authority has done a similar type of thing and they are looking at solar too and they locked in at a 3%...on the escalation...but I don't know what their base number was on that. I know my own experience with the system that I have...which is totally different than this system...and... Mike, when you figure 10% of our electricity need and use here...is this just for buildings or is this what we use for the City of the 3 million dollars, which pays for street lights, etc.? Deputy City Manager Flaherty said the 10% is for the 4 buildings. It's 4.7% of the total City usage. Mayor Woodward said okay.

Mayor Woodward said...and I think...one of the things that I looked at, when I did my own, was I certainly didn't look at trying to provide enough solar to pay for my whole electric bill and spin my meter backwards and get paid by the electric company. And one of the things that was pointed out is...as we become more energy efficient in what we are utilizing...and that is lighting and all the other things...we will see our usage needs go down. And I know, just based on mine, mine has gone down two-thirds. And I have 13 or 14 months of backup on that particular system.

Council Member Olson said one of the comments I wanted to make was I appreciate your feeling like the green is something that's cool or the right thing...not the right thing...but just the trend thing to do right now. I think it doesn't do this good service in terms of the amount of time that's been put in, the number of years that we have been working on this...that the City, I think, has been considering this. I don't see this as trend at all. I see this as being very careful about thinking about our future. And just the same as with financial planning...diversifying is the way to go and I think when it comes to energy it's the same thing. I don't think we can bet a lot of what different things are going to turn out to be. I mean...who expected the oil leak with BP and what that's going to do. No one can quite figure out what's going to happen with that. But, I do think that we, as a City, need to be thinking about...all the time...how to pay down what our future debts might be and find some stability. With the 10%...is a very small piece to be doing on this. That buys us some security in one small piece, it makes a lot of sense at this point in time and thinking about what we think might happen. So, for me it...you know...could it be more? Yes...I would have liked to have seen it be lower. But I do think that the US is way behind in what costs are and at some point it is going to hit us and we are going to be like the rest of the world in having to pay out quite a bit more. We have been protected quite a bit and I think the government itself is going to have to...we are going to have to really figure this out. So, I would like to see us go forward on this. I think that solar technology...yes...is always changing. There is always something new. The people that I know who work in this field...say, oh, there is this new technology that is going to come in the next couple of years and it takes even longer...every minute that we wait every year, that we wait...I don't think that we are buying anything better that we couldn't have made up in the savings within that amount of time. And with 10% only...it's not a huge risk...Ameresco is taking the risk and they are really reputable...well, I think well resourced organization to trust that they want this to work well. So, some of the technical questions would be great to have. I can totally understand why you wouldn't have thought that would be coming up tonight...because those questions should have been asked in June...with the folks that were there.

Council Member Jefferson said I have one question...is this system close to our capacity? Does anybody know? There was some question out there. I mean...I mean we could...at some point in the future...if this new technology comes out...implement a new Power Purchase Agreement and purchase an additional 10 or 15%...correct? Does anybody know the answer to that?

Deputy City Manager Flaherty said I think, to a certain extent, you could. It depends on the amount of surface area. We are looking at applying the panels to roofs. We have a finite amount of roof space. However, there are other opportunities, in some locations perhaps, to utilize solar panels other than on roofs. Council Member Jefferson said on those 4 buildings...would you say that this Power Purchase Agreement, and what this would cover, would put us near capacity...as far as what type of square footage is available on the roof and it works with these panels? Mr. Flaherty said you know I have got a diagram of the...and I can't say that it's...that it's 100% coverage. I think the math that Ameresco utilized to come up with the amount of...the number of panels...was based on a number of factors. They obviously had to do a cost formula that would allow them to recover their costs, as well. But to answer your initial question is...could we enter into a future Power Purchase

Agreement for additional solar panels at other locations or at, possibly, the same locations? We would have to investigate that to see if that would be workable. But, Mr. Jefferson said, it sounds like right now we are using as much of the square footage on the top of these buildings as is feasible at this time. Mr. Flaherty said I can't say that for sure, but if...on the diagrams that I've...basically you have to have the... Mr. Jefferson said I mean some of these are showing a lot of coverage...again...I just don't know the technology...if you change...you can stack them...I don't know...you know what I mean...I guess I'm just trying to... Mr. Flaherty said you have got to have the right orientation...and things of that nature too, to catch the sunshine. There were several inaudible comments. Mr. Jefferson said thank you, sorry...I would have thought of that...I would have tried to think about that, but I didn't think about that until we started talking about some of these things. Ms. Green said that's all right. What I know about...what the process they went through is they certainly did maximize the space...the square footage. There were obstacles in the way...they had to move around those. And I think that there are some feature opportunities...we couldn't do the Rec Center, because of the condition...for example. If new technologies come out...maybe we can apply those. But understand, as well, part of the beautiful part of this...is Ameresco will be your long-term partner in the energy conservation facility upgrade program that you just approved earlier. We will be here, at least annually, to walk the sites and to continually look for new opportunities. So, this initial Power Purchase Agreement...if you find it effective...does not limit you from moving forward, because we will continue to use our expertise to recommend new technologies, new applications, new locations for it...those types of things...as your energy partner. Council Member Jefferson said thank you...those comments are helpful.

Council Member Wilson said...so, are we ready to vote? Mayor Woodward said are you ready to a...? Ms. Wilson said I think Randy...did you? Council Member Penn said we already made the motion. Ms. Wilson said okay. The motion is made.

Mayor Woodward said okay...are there any other comments?

Council Member Jefferson said I don't know...I still would like to discuss it a little bit further. I mean...Rick...you don't think the rates good? Council Member Gillit said no, I don't think the rate is good at all. I think Ameresco saw what it was today and they said let's charge. We have no...we have no second opinion. We have no third opinion. I'm not saying...they could be the best in the world, but we don't know that. Council Member Wilson said we've called the vote...oh, Randy...call the vote.

Council Member Penn said...we call for a vote, please.

Council Member Jefferson said I don't know why we don't want to have a...I feel like the discussion is still being productive. Council Member Wilson said well we've discussed it for two years...one. Two...we brought this up on June 7th...we discussed it. So, this has gone...I mean...and I trust staff...that they are giving us the best product that we can have at this time. And there will always be new technologies.

Council Member McCaslin said why weren't these concerns brought up in June?

Council Member Wilson said I feel like this is kind of like stonewalling.

Council Member Jefferson said...wait a second... Council Member Gillit said we did not talk in this detail in June, so that's not even... Mr. Jefferson said I understand we brought this up... Mr. Gillit said no, we didn't have this information... Mr. Jefferson said we certainly didn't have this discussion amongst Council on this. Mr. Gillit said that is right...exactly.

Council Member Wilson said it was in Study Session...we would have discussed it. Mayor Woodward said we had a presentation... Council Member Jefferson said it got moved...it got moved...right? Am I remembering this correctly? Is this what we are talking about? Mayor Woodward said we had a presentation and a power point. Mr. Gillit said that presentation was all about what we voted on just a minute ago. Her exact comments were...if I remember correctly...you can go back to the record and look...that it didn't appear that it was feasible at the time, because of the rebates. That's the part of the conversation I remember. We never got into detail. Mr. Jefferson said...no price quotes. Mr. Gillit said...exactly...no price quotes...nothing. We have no idea

whether Ameresco...again, I want them to make money, because I want them to stay in business...but are we getting the best rate? I'm not going to sit here and say...because one person gives me a rate and we have not done our due diligence to see if it could be better by anybody else.

Council Member Wilson said but...we have been...this company has been approved by the Governor's Office... Mr. Gillit said I don't care who they have been approved by... Ms. Wilson said and you're talking... Mr. Gillit said we need another source to verify that what they have given us is good. Ms. Wilson said but they have...we signed a contract...I mean, they have been working for us this whole two years. And you're talking about one company in Longmont that no one...or Lafayette or wherever it is...no one knows anything about...just someone told you something. Mr. Gillit said we are totally off the subject of equipment. Now we're talking price. We do not know whether or not we are getting best price. Ms. Wilson said you don't know. Mr. Gillit said I don't know...you are exactly right. We are taking and trusting a comment... Mayor Woodward said wait...wait...we put this out to bid and Ameresco won the bid. So, it's not like we have just been... Mr. Gillit said let me clarify that...they won the bid on the energy audit. They were asked to include this...we never put that...the solar panel...out for bid. If you did...please show me the documentation for it. Council Member Jefferson said I think that is correct. Mr. Gillit said never. So, that...that's my point of protest.

Council Member Jefferson said yes...and I don't think...you know, Rick or I are saying we wouldn't eventually move forward with this. We're just saying...you know, why not have a Study Session on this and delve a little bit deeper into the...you know, we are obviously making some sort of speculative move, by locking in a rate for a commodity going forward...for 20 years. And while I think...my personal opinion I guess is...right now...it looks good to me. But I am not...I don't know...I'm not all that knowledgeable in the energy markets and things of that nature and so I would feel more comfortable with additional information coming forward. That is just my personal opinion.

Mayor Woodward said any other comments?

Council Member Jefferson said...but nobody's open to doing that. Is that correct? Council Member Wilson said I'm not. Mayor Woodward said that is correct. Mr. Jefferson said okay, okay...

Council Member Gillit said we, we don't want multiple bids on something we are going go into a payment for years. Are we clear?

Mayor Woodward said...so, you do have more comments? Council Member Gillit said yes...exactly. I am not through with this. Mayor Woodward said so you are going to filibuster here... Mr. Gillit said if you want to call it a filibuster...I want to say...let's take the time to do this right. We just spent months about a thrift store. How about something we are going to have pay for...for years. Take the time for it. We're not taking the time...and I protest against that.

Mayor Woodward said I guess I disagree that we haven't...a) taken the time and...b) that we are paying for something for years. Council Member Gillit said 5 years minimum. We have a 5 year contract...is that what we are talking about? Someone said 20. Mr. Gillit said well 20...we can change that to 5 years. We can back out in 5...right? Mayor Woodward said we can start backing out there, but we are not paying anything. Their paying. Mr. Gillit said yes, but for 5 years we are going to be stuck in a rate that we don't know whether or not we got the best rate or not. Mayor Woodward said the worst we can do is break even. Mr. Gillit said we could do even better maybe. We don't know. We have not put this out to bid. Period.

Council Member Olson said I didn't see this as something that we would put out to bid, because of the way we went about it. Contracting with someone...creating a contract with Ameresco to do this...how would we go out for bid at this point...when they done all the work? They would have to share everything with another company...I think...in order for them to come... Council Member Wilson said I don't think they are going to do that. Council Member McCaslin said we would have to put it through the bid process three or four times...when you've got 3 different bids, you have to go through 3 different proposals. The whole thing...I mean...I don't know. Council Member Olson said...Mike...would that have even been...I think the public could get very confused by this...otherwise. Deputy City Manager Flaherty said the previous Council action is described in the

first paragraph of the Council Communication. Basically, City Council approved by a motion, an agreement between the City and Ameresco for the provision of a Technical Energy Audit and in November of 2009 Council approved an amendment to the TEA to provide for investigation, design, development and implementation of a solar system by Ameresco. And it basically...my comment to Council, back in November, was that it was more difficult to bring in a third party at that point in time, when we were working on...in conjunction with Ameresco on the overall Energy Performance Contract issues. You know, at that point Council agreed...if at this point you are not agreeing...then you'll vote no...I guess. But, in November of last year...brought it to Council and Council agreed to the amendment...Ameresco would be the sole source...sole source company for the investigation, design, development and implementation...it's up to you now whether or not you want to approve the contract.

Council Member Jefferson said thank you for the comments and, again, I just want to be clear...and my position is that...not that I don't think this is the world's greatest thing...I just would feel more comfortable with more information before we move forward on the contract.

Mayor Woodward said okay. Then I guess I would encourage you to vote no. And...in just verifying...Randy made the motion...for Agenda item 11 (c) (v)...he's also called the vote at this time...and so let's vote.

Council Member Jefferson said I have no further comments.

Vote results:

Ayes: Council Members Penn, McCaslin, Wilson, Woodward, Olson
Nays: Council Members Jefferson, Gillit

Motion carried.

Mayor Woodward said thank you Mike. Council Member Jefferson said thank you Mike. Thank you for coming tonight. Mayor Woodward said yes...thank you.

12. General Discussion

(a) Mayor's Choice

(i) Mayor Woodward said I want to just mention a couple of things coming up. The Sounds of Summer, coming up this week, is The Runaway Express, Roots and Folk Rock; July 1st, The Joe Peterson Dance Orchestra and July 8th, Black Water. That's Thursday, right out here in the piazza. Last Thursday night, on the 17th, there was really a large crowd for the 10th Army Band...the 101st Army Band. Very amazing. I was really surprised.

(ii) Mayor Woodward said I would also like to mention Kid Stage Family Nights. All of these are free shows. July 6th, Sven Jorgensen, who is an amazing juggler; July 13th, Jim Jackson, magic and comedy. And this is at the CityCenter Amphitheater also, Tuesdays at 7 p.m. Sounds of Summer are Thursdays at 6:30 p.m.

(iii) Mayor Woodward said I wanted to mention what Rodney had brought forward, and Cynthia, regarding MOA and the PLACE event that they have going on here at Hampden Hall. In looking at some of that material for the WAV at Ventura, California, it has, in addition to these art parks, it is mixed use with residential that is affordable, as low as California numbers, \$400.00 a month for an apartment, up to for sale at \$600,000.00, so there's a pretty wide range and its walkable and very...I mean it was really impressive looking at that. I think they also have something going on in London.

(iv) Mayor Woodward said last, I think it was Thursday or Friday...Mike...that we had the Stapleton Foundation here, with RTD looking at our site here and out walking and looking at what they are doing with their...going to do with their TOD, although it isn't in the middle of Stapleton, so it isn't...they've got some planning to do. And I think, based upon the feedback and the emails that I received from some of them and their board president and stuff, I think we really gave them a complete presentation and they are very

impressed. They were really impressed with the art that is out here. Some of them haven't been here since Cinderella City. It was really nice to see those folks.

(v) Mayor Woodward said also regarding the boats and the Code on that. I saw a...it was a Council request a while ago... Council Member Jefferson said yeah, I put it in. Mayor Woodward said okay...regarding that. I'm going back to I believe the fall of last year and there is another Council request, where I think, it talks about how we had stopped or put a hold on enforcement during these times. I know we had a number of problems last year with boats and stuff and maybe that is something that we should take a look at. But I would like go back and see that Council request from last fall. It seems like we had suggested a moratorium on some of the enforcement of that. Now if it is hanging out in the street or hanging out in the sidewalk or right-of-way, obviously that's different.

Council Member Jefferson said mind if I interject? I really appreciate those comments. I feel like I've been getting...hearing from a lot of my constituents about these...particularly this boat issue. I feel like this is something that we have been kind of putting on the back burner for awhile and I think we really need to, you know, enact the moratorium or re-evaluate what our rules are on that, particularly with people with no alley access, things of that nature, so I'd really like to take another look at that. I just forwarded that request on just to make Council aware that that issue keeps...seems to keep popping up and thank you Colleen for coming down tonight to point it out again. But I think it is something that we need to set aside some time to reevaluate the policy. Mayor Woodward said okay.

Council Member Olson said could I add something to that or do you want me to wait? RV's also fall into that same realm, especially now that's its summer. Council Member Jefferson said agreed, but RV's are not nearly as big of an issue, just because people are able to... Mayor Woodward said RV's aren't under the Code. Boats are. Council Member Jefferson said they are able to get them into their...in their drive. Council Member McCaslin said some of them are. Council Member Penn said some sizes of RV's. Council Member Olson said not everybody...so...not everybody. I've had calls on it.

(b) Council Members' Choice

(i) Council Member Penn:

1. He said I will again go along with Joe, I think Joe championed this a few times with the boat and recreational equipment, I would like to see some form of summer variance on this...so they could have like some variance on that during the summer. I think that is something that we can look at. I agree Joe, I think we need to bring it up. I would help you champion that myself.

2. He said for Jerry Furman, on the Awareness Day for individuals. It was on February 17th, so possibly we could keep an eye on this next year and possibly go along with this so we can do that.

3. He said I attended a class, the KEB class on composting on Saturday at the Community Garden. It was an excellent class. If you don't know anything about composting, they did a great job on that class and hopefully someone will get that back to KEB for me. Council Member Wilson said I will. Council Member Penn said it was excellent and I had a good time with that so...I actually learned a few things about composting in my yard.

4. He said I hate to, because I'm doing the garden at Bishop now and I know they are looking at doing more gardens at Hay and Clayton. I'd hate to think that Bishop would be left out of some of the money that they have already kind of started that kind of process and to upgrade...to possibly upgrade and make the community garden at Bishop larger. I think that would be something that we could look at also. I don't know if anybody is looking at that.

5. He said and then my meeting for District 3 is Wednesday, the 23rd at Cherrelyn Elementary, at 6 o'clock, District 3. Everybody is invited. That's all. Thank you Mayor.

Mayor Woodward said thank you Randy.

(ii) Council Member Wilson:

1. She said I have a couple of things. I want to say congratulations to Bob Spada about the program that he had, we got the information on from the kids' program for our golf. I thought I brought that in. It is the largest in the country. And so I think kudos to Bob and all of the people who work at the Golf Course. Please let them know.
2. She said also congratulations to Rick and his staff for retrofitting the diesel powered vehicle and being one of three municipalities in the State that have completed that task.
3. She said about the place called PLACE that MOA came and talked to us about. I think that seems very, very exciting. I think it's something to, you know, that...Flood may...I know that they are looking at Flood and maybe that would be a good place for something to do with that property. I just thought it sounded very, very interesting. I'm very impressive with that and that they would think of Englewood.
4. She said also, about the lights with Englewood Unleashed, if we can...or if Parks and Rec can get together with Kim and find out what portion of money they are willing to kick in and see how that works out.
5. She said thank you again to staff and the police for their...oh gosh, I've just gone brain dead. Council Member Olson said...the grants? Council Member Wilson said not...well, the grants, but also that they have come together... Council Member Jefferson said...the employee contract? Council Member Wilson said with their contract...thank you. Okay, it's late. I'm sure I could keep talking.
6. She said I also wanted to say that I was at the Freedom Dog graduation and Joe from Jimano's had pizza there that he was donating and he has turned into like just a little, you know, great asset to this City and he keeps on donating and being right there and very much into the community. And I appreciate that.

Council Member Jefferson said I will mentioned he has also volunteered on the...to be on the committee for the Chamber for the Young Professionals event. Council Member Wilson said oh good. Mr. Jefferson said he is all over the place. Council Member Wilson said you wait your turn. Council Member Jefferson said sorry. There was laughter.

7. She said I also would be glad to revisit the boat thing for Colleen and see if we can get something going for that for people, you know, so that they don't have to pay right now...in such hard times...for a place to put their boat and have it accessible. And I think that is it.

Mayor Woodward said okay, thank you.

(iii) Council Member Gillit:

1. He said thank you Mr. Mayor. A couple of comments tonight. First, Colleen...thank you for coming. I have a concern, not just about boats, but we have utility trailers that people are getting tickets for as well. In the spirit of having a summer variance...there are people who load up their trailers with dirt and rocks and stuff and they leave it in their driveway for awhile until they can get to it, to do their yard. Technically, those are code violations, but the residents are trying to improve their property. I would like us to be able to look...not just at boats, but utility trailers that people are using and some other things. And hopefully, we can take some time to look at that and make sure it makes sense for not only, you know, the Code, but for our residents.
2. He said again...thanks Doug for coming and giving that demonstration.
3. He said and Jerry Furman for bringing his items to attention.
4. He said I want to address Elaine Hults. I have a couple comments. One is...as elected officials, it is our job to listen to our constituents, whether we agree with them or not. Elaine said some things tonight that she was

accused of lying about. I'm concerned about some things. Number 1...we kind of do get some perks. We get to go to the Rec Center for free. Council Member Wilson said I don't. Council Member McCaslin said no we don't...no we don't...no we don't. Council Member Jefferson said I was going to say...do you have a Rec card? I have a Rec card. Council Member Gillit said okay...that is not a perk. Council Member McCaslin said that is not a perk...see...so that is a lie right there. I tried it and I had to pay. Mr. Gillit said regarding the issue of trips, that's true. This Council takes trips paid for by the City. I'm not here to defend what she said. I'm here to clarify some things. This Council does get meals prepared for them before Council. She said twice a month. It is actually four times a month. Gas, I don't know where she got that, unless it was part of the trips. I guess my concern is and I've had people disagree with me, believe it or not...we should always maintain decorum. We should never, in my opinion, ever call a constituent a liar, especially from this bench. I think if we have a disagreement with them, it is our responsibility to contact them. I am a little disappointed on how that ended tonight. I am not proud of how that situation went. Whether Elaine was correct in her presentation or not, we still have a responsibility, as elected officials, to hold decorum and hold some respect. They are our bosses. I would never talk to my boss that way.

5. He said the last thing I have is...I guess I'm just...I'm perplexed at...I feel there was a ramrod tonight. And I hope that we don't go through this again. There was legitimate concern...that...it just seems we were hell bent on a vote and I'm disappointed at...and I think there are going to be people in my District...because I will let them know what happened, because they should know what happened. That we...that there were things...from my perspective, that I think that we didn't do right for them. I hope we can do a better job. I hope we can take the time, especially with sincere questions. Thank you for letting me talk. I'll pass it on.

Mayor Woodward said thank you.

(iv) Council Member Olson:

1. She said I wasn't going to say anything, but now I think I will. I would like to strongly encourage us to follow the protocol of not responding to any citizens when they are up here. I understand what happened to you tonight. I have been very tempted to do the same thing and you probably remember the nights. So, I just think...I didn't use to like that about Council. It bothered me to be someone like Colleen up here...and saying something and having to wait until the very end, but I think it gives some time for the dust to settle if we are upset about something or we've been attacked personally, which has happened to me on a number of occasions up here. And I just...I think it can help us, if we can just stay true to that, I think that will help us in the long run. When things are said that are really disturbing and personal, sometimes and professional even. So, that is what I encourage.

2. She said second thing is tonight this packet was incredible and I had this dropped off on Thursday. For those of you that don't know, this is what we all got on Thursday. But...oh my goodness. I am just so impressed with our staff. I know we said a lot of thanks tonight and I don't want it to sound like we are just kind of going over and over, but my goodness, our attorney had to read through all of this too to make sure it was all up to speed. And it's partly...it's mostly because of that Rick...that I found no difficulty voting for Ameresco tonight, barring the technical questions. And so I hope that you can also come to some place where it is okay to disagree up here and not have a hundred percent vote all of the time. In that, there are some times where the rest of us are really ready to move ahead and vote yes and it's enough and I don't want to hold it up. As a matter of fact, I think it would be detrimental to hold it up. So, I think we have to agree to disagree up here and know that we all aren't always going to get seven yeses on everything.

Council Member Gillit asked since she responded to me, do I have permission to respond back? Mayor Woodward said actually, no, because I didn't respond to you. I was... Council Member McCaslin said no, then everybody wants to respond. Council Member Wilson said talk afterwards. Mr. McCaslin said just call her on the phone.

Council Member Olson said that's it. [Clerk's note: Ms. Olson said to Mr. Gillit...I'd be glad to talk.]

(v) Council Member Jefferson:

1. He said okay. I just wanted to thank everyone who came out tonight and spoke.
2. He said Kim, hopefully we can get that light looked at over at the park. I, too, have seen over at Jason Park how most people are complying and things are working really well over there. You know, I think I heard Kim ask for some sort of, you know, extended hours or something and my response would probably be that earlier on...before we had out daylight savings, it was probably tough, but now that daylight savings is in full effect, got some light until almost 9 p.m., that things are working really well over there.
3. He said I just want to thank Colleen again for bringing up the boats issue...hopefully...I appreciate everyone's comments tonight about that issue. Hopefully, we can move forward on that.
4. He said Doug, thank you for bringing forward your presentation.
5. He said Jerry...hopefully we can look at that State program for disabled folks and do a similar proclamation in the future.
6. He said as far as guest speakers and responding to them, you know, I hate to say no interaction between the guests, because it's nice sometimes to be able to get information or to clarify an issue or you know, just give a very quick response. So, maybe that's something we need to discuss a little bit further going forward.
7. He said I wanted to thank the Ameresco representative for being here tonight. I appreciate you dealing with all of our difficult questions. I'm sure she probably didn't anticipate that, but thank you for doing that. And hopefully we can be good partners going forward.
8. He said and I generally agree. We are going to disagree sometimes up here and I have no problem with that and I hope nobody else does either. That's all I have this evening.

Mayor Woodward said thank you Joe.

13. City Manager's Report

(a) City Manager Sears said I just...two things. One, I know that you had a specific question...Colleen did...Tom Vandermee may be able to, at least, answer that question while we take a look at a process for reviewing that. So, you know, for a specific employee, perhaps she could talk to me for a couple of seconds afterwards...in terms of process.

(b) City Manager Sears said secondly, there are a number of issues that are being addressed up at the CML and I will be attending from a staffing point. A couple other staff will be there. So, I will be gone part of this week. That's all that I have.

Mayor Woodward said okay. Thank you.

14. City Attorney's Report

(a) City Attorney Brotzman presented a request regarding settlement of Case No. 10CV911 — Wolhurst Adult Community, et al v. Department of Transportation, State of Colorado — condemnation action. The State has agreed to all of Englewood's construction issues for the temporary City Ditch easement. He said I too have several issues. The first is a condemnation action brought by the State against Wolhurst Adult Community. The City was named because the City Ditch runs through there. Utilities staff sat down with DOT. They have worked out all of the construction issues. They've agreed to all of the issues that the City wants and so I'm requesting a motion to settle that case.

Council Member Jefferson said we were all wondering what that picture was. City Attorney Brotzman said that's actually the next one. Council Member Jefferson said that's just what we figured out. There was laughter. Mayor Woodward said this has been in the attorney information monthly report.

MAYOR WOODWARD MOVED, AND COUNCIL MEMBER PENN SECONDED, TO APPROVE THE SETTLEMENT OF CASE NO. 10CV911 - WOLHURST ADULT COMMUNITY ET AL V. DEPARTMENT OF TRANSPORTATION, STATE OF COLORADO - CONDEMNATION ACTION.

Mayor Woodward asked if there were any discussion or questions. There were none.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

(b) City Attorney Brotzman presented a request to submit a final offer as part of the ongoing good faith negotiations and if necessary to condemn property for sewer/storm sewer easements for the Littleton/Englewood Plant as recommended by the Supervisory Committee. He said the second matter is actually a request. First of all, to submit a final offer in good faith negotiations. In all honesty, I think that's going to resolve it. The opposing party has indicated, as we were bringing this forward tonight, to Council...talking about the second issue, which is condemnation...they have said they will in all likelihood, if you approve a final offer and condemnation...will settle with us...for what the Supervisory Committee has recommended. This is an 84 inch sewer line. Goes straight to the plant. Next is a storm sewer that has been there for years, but we are getting an easement for both. If you look, it's in the hatched area and it's enough...the discussions have always been with this property, not as to the dollar value, but this owner from California wanted to maintain the right to build over an 84 inch storm sewer line. That is just simply unacceptable and it just doesn't work. And if you look at the property, it's impossible. You can't build anything there, but that's been the holdup...is they always wanted to maintain that right to build over the storm sewer line. So, that's really what we are talking about. The recommendation from the Supervisory Committee was for \$60,004.00 for both easements. So, at this time, I'm requesting most importantly, to make a final offer and good faith negotiations and secondarily, if that...for some reason...our negotiations break down again...to condemn the property.

Council Member Jefferson said I'm sorry. Just to clarify your statement. You had suggested that the other party suggested that they would take this offer. Is that what you're saying there? City Attorney Brotzman said yes. Council Member Jefferson said okay. Because I always figured that the condemnation issue might come back to us or no? City Attorney Brotzman said what I'm asking for is authority to begin the condemnation action and then if there is a further settlement in that condemnation action...we'd bring that settlement back. In all likelihood, we'll never see that when we make our...if you authorize condemnation, they're going to settle for the \$60,004.00. Council Member Olson said because they don't... Council Member Jefferson said so...yes...there were two real questions here. One is authorizing condemnation... City Attorney Brotzman said correct. Council Member Jefferson said and then the other one is to make an offer of \$60,000.00... Mayor Woodward said make the offer of \$60,000.00 and if that is not accepted, then the City Attorney would move forward on preparing condemnation. Mr. Jefferson said okay. Ms. Olson said and you are reporting that they said that if we go through with both of those pieces...that they are going to settle with us as we... Mr. Brotzman said yes. Ms. Olson said why not just settle then? I mean it's like ... Council Member Jefferson said because we break out both the carrot and the stick, is that... City Attorney Brotzman said in all honesty, it has been a very, very long negotiation that Mr. Kahm has had on behalf of Bi-City. And I think what we have is an owner that wants to make sure that he's got everything and he hasn't left anything on the table, up to the point of making us...the last thing that we want to do is...we'd rather...the Supervisory Committee has worked diligently not to have...be forced to condemn property. We don't want to do that. That's not something that we want to ever get to. We're there because he wants to make sure... Council Member Jefferson said until we... Council Member Olson said that's where we are. City Attorney Brotzman said right. Mayor Woodward said Dan, this is split with Littleton or... City Attorney Brotzman said yes it is...the amount is, yes. Mayor Woodward said okay so it's really \$30,002.00 to Englewood, \$30,002.00 to Littleton.

MAYOR WOODWARD MOVED, AND COUNCIL MEMBER GILLIT SECONDED, TO MOVE FORWARD WITH AN OFFER FOR \$60,004.00 TO SETTLE THIS AS FAR AS AN EASEMENT GOES AND IF THAT IS NOT ACCEPTED, TO MOVE FORWARD WITH PREPARING CONDEMNATION DOCUMENTATION AS REQUIRED.

Council Member Wilson said so when you say preparing condemnation does that mean, you're just going to do it? Council Member Jefferson said I guess that's what I was trying to figure out. I would prefer that they come back... Council Member Wilson said or you are just preparing the papers to let them know that that could be the next step? City Attorney Brotzman said no, the answer is proceeding with the condemnation. Council Member Wilson said and I realize that it is an 84 inch sewer, which was like the one at Santa Fe and Oxford? Was that...the one that broke... City Manager Sears said that was a storm sewer. That was a storm sewer. This is actually... Council Member Wilson said but it was 84 inches. City Manager Sears said this is actually a sewer, but it is over a storm sewer. City Attorney Brotzman said let me help with one piece. Council Member Wilson said okay. Mr. Brotzman said I make a final offer of \$60,004.00. If they say no, it's not file the paperwork immediately. What happens is, we have to offer them...show them our appraisal, offer them an appraisal and then there is a process to get the appraisers together and if that doesn't work, at that point we can actually proceed to filing a court...to take the property. Mayor Woodward said so the condemnation proceedings go through a process... City Attorney Brotzman said a process before you ever actually file the documents. Council Member Penn said Dan, I'm sorry. I must not have listened at the first part. Did you say that they will not be able to put the parking spaces back over? City Attorney Brotzman said parking spaces, yes...a building, no. Council Member Penn said oh, okay. So they could put their parking back on. City Attorney Brotzman said absolutely. Mr. Penn said would they have to repurchase that property from us? City Attorney Brotzman said no, no, no. All we're... Mr. Penn said all we're going to do is go underneath their property? City Attorney Brotzman said if we do...if we proceed with the agreement, we would just simply take an easement. We don't have to own it in fee. In condemnation, you would actually own it. Council Member Jefferson said and so I guess all I'm asking...I'll support this generally...I guess I just ask that if they do reject it, that we get notification on it. City Attorney Brotzman said absolutely. Council Member Wilson said I'm good with that.

Mayor Woodward asked if there was any further discussion. There was none.

Vote results:

Ayes:	Council Members Penn, McCaslin, Wilson, Woodward, Jefferson, Olson, Gillit
Nays:	None

Motion carried.

(c) City Attorney Brotzman said I am actually going to take a vacation day, a personal day tomorrow, to play golf in Breckenridge and then I'll be attending the CML seminar after that.

15. Adjournment

MAYOR WOODWARD MOVED TO ADJOURN. The meeting adjourned at 10:09 p.m.

City Clerk