

LONGMONT WATER BOARD AGENDA

Monday, December 16, 2019

Service Center
1100 South Sherman Street
Longmont, CO 80501

3:00 pm – Water Conference Room

MEETING CALLED TO ORDER

1. ROLL CALL
2. APPROVAL OF PREVIOUS MONTH'S MINUTES
 - a. November 18, 2019 – Water Board Regular Meeting
3. WATER STATUS REPORT
4. PUBLIC INVITED TO BE HEARD AND SPECIAL PRESENTATIONS
5. AGENDA REVISIONS AND SUBMISSION OF DOCUMENTS
6. DEVELOPMENT ACTIVITY
 - a. Development Activity Requiring Water Board Action
 - i) None
 - b. Development Activity Submitted for Water Board Information Only
 - i) None
7. GENERAL BUSINESS
 - a. Cash-In-Lieu Review (The Board will review the current fee for cash in lieu of water rights for possible adjustment) Staff Contact: Wes Lowrie 303-651-8814, wes.lowrie@longmontcolorado.gov

- b. Recommendation to City Council concerning a proposed change to the Raw Water Requirement Policy (Staff will ask for a recommendation to Council on this proposed code change) Staff Contact: Ken Huson 303-651-8340, ken.huson@longmontcolorado.gov

8. ITEMS FROM STAFF

- a. Water Resources Engineering Projects Report (Staff will provide a verbal update regarding recent and on-going projects) Staff Contact: Jason Elkins 303-651-8310, jason.elkins@longmontcolorado.gov

9. ITEMS FROM BOARD

- a. Review of Major Project Listing and Items Tentatively Scheduled for Future Board Meetings.

10. INFORMATIONAL ITEMS AND WATER BOARD CORRESPONDENCE

11. ITEMS TENTATIVELY SCHEDULED FOR FUTURE BOARD MEETINGS

- Cash-in-Lieu Review (March, June, September, December)

12. ADJOURN

If you need special assistance to participate in a Water Board meeting, please contact Heather McIntyre at 303-651-8817 in advance of the meeting to make arrangements.

WATER BOARD MINUTES

November 18, 2019

Service Center Conference Room
1100 S. Sherman Street
Longmont, CO 80501

REGULAR MEETING

The November 18, 2019 meeting of the Longmont Water Board was called to order by Chair Todd Williams at 3:00 pm at the Service Center Water Conference Room.

ROLL CALL

Board Members Present: Todd Williams, Renee Davis, John Caldwell, and Roger Lange

Board Members Excused: Kathy Peterson

City Staff Members Present: Ken Huson, Nelson Tipton, Kevin Boden, David Bell, Josh Tarin, and Heather McIntyre

Public in Attendance: Gaythia Weis

1. DETERMINATION OF A QUORUM

There was a quorum present with four board members in attendance.

2. APPROVAL OF PREVIOUS MONTH'S MINUTES

Chair Williams asked if there were any questions or comments on the October 21, 2019 meeting minutes. Board member Caldwell noted that the date for November's meeting was incorrectly recorded in the last sentence of the minutes and should be amended to reflect the correct date of November 18, 2019. **A motion was made by Board member Caldwell to approve Water Board's October 21, 2019 minutes as amended; the motion was seconded by Board member Lange. The motion passed 4-0.**

3. WATER STATUS REPORT

Staff member Tipton gave the current water status report. The flow of the St. Vrain at the Lyons gage at 9 am today was 25 cfs, with an historical average of 24 cfs for this date.

Ralph Price Reservoir at Button Rock Preserve is currently at an elevation of 6,397.6 feet, equaling 15,670 acre-feet, down approximately 525 acre-feet from full. Currently there is 25 cfs being released from Ralph Price Reservoir.

Union Reservoir is at an elevation of 22.7 feet, equaling 9,129 acre-feet, down approx. 3,600 acre-feet, and currently releasing 21 cfs.

The call on the St. Vrain Creek is Pleasant Valley Reservoir via (Rough & Ready Ditch), Admin #7882, with a priority date of 6/1/1871. The call on the Main Stem of the South Platte River affecting District 5 is North Sterling, Admin #26302, with a priority date of 1/5/1922; and it is a free river below North Sterling Headgate.

At the end of October, District 5 reservoirs were at approximately 72% full.

Though it is early in the season, Staff member Tipton provided current snowpack information from October's snowstorms. The South Platte River Basin snowpack is at 109% of average and the Colorado River Basin snowpack is at 92% of average.

4. PUBLIC INVITED TO BE HEARD AND SPECIAL PRESENTATIONS

Josh Tarin, Public Works & Natural Resources Customer Service Center Representative, introduced himself to the Board and stated that he was in the meeting to learn information to relay to the Customer Service team that might be helpful during conversations with resident callers.

Longmont resident Gaythia Weis circulated an article from the Water Education's *Colorado Headwaters* magazine, which had a graphic of the Colorado River storage Powell Reservoir and Lake Mead. She expressed her support for off-watershed storage such as Chimney Hollow Reservoir, but has concerns about the dissenting discussion about Longmont's participation levels in the Windy Gap FIRMING Project. She supports participation in the project at whatever level can be agreed upon.

5. AGENDA REVISIONS AND SUBMISSION OF DOCUMENTS

Chair Williams requested to move Items 7A & 7B to the end of the meeting after Item 11. Both items concern agreements with Northern Water Conservancy District, from which he will recuse himself due to conflicts of interest. The Board agreed to this agenda revision.

6. DEVELOPMENT ACTIVITY

A. 9th & Pace Subdivision Final Plat

9th & Pace Subdivision Final Plat is a 12.654 acre parcel located east of Pace Street and north of 9th Avenue. There were no historic water rights at the time of annexation. Water Board approved a recommendation that 9th & Pace Subdivision Final Plat will be in compliance with the City's Raw Water Requirement Policy upon satisfaction of the 34.728 acre foot raw water deficit at time of final plat approval.

The motion was made by Board member Lange to approve and was seconded by Board member Davis. The motion passed 4-0.

B. Mountain Crest Subdivision Final Plat

Mountain Crest Subdivision Final Plat includes 3.642 acres and is generally located one mile south of Nelson Road and ½ mile west of Airport Road. All historic water rights were transferred at annexation. Mountain Crest Subdivision Final Plat is presently in compliance with the Raw Water Requirement Policy and required no action from the Board.

8. ITEMS FROM STAFF

A. Windy Gap Firing Project Update

Staff member Huson reported again that bids had come back a little higher than the engineers' estimate, though not significantly. It is hoped to let a contract next spring. Potential start dates of either May 4, 2020, or sometime in the fall have been identified, depending on when the federal lawsuit wraps up.

In the State Water Court Case, the last substantive objector's property was purchased from the objector, which resolved that portion of the case. There are two remaining objectors, whose interests are in how the language will be set for the connectivity channel. Staff member Huson stated that the case is getting close to resolution, and could conclude by the end of 2019.

Discussion among the Board and Staff ensued.

9. ITEMS FROM BOARD

A. Review of Major Project Listing

A review of major project listing was provided in the agenda packet.

Chair Williams reminded the Board of the quarterly cash-in-lieu discussion that will be revisited in December. He confirmed with staff that the last estimate used to set the current cash-in-lieu rate, along with new bid information received on the Windy Gap Project, would be included in next month's packet to take into consideration for that discussion.

B. Memo to City Council Regarding Future Water Supply Development

Chair Williams summarized Water Board's previous thoughts on providing City Council with considerations of potential ramifications if they re-opened discussion on reducing Longmont's Windy Gap participation level from 8,000 acre-feet to 6,000 acre-feet. The First Reading for the 8,000 acre-foot participation level was approved at Council's regular session meeting at the end of October, with the Second Reading scheduled for their December 3, 2019 regular session meeting.

It is not likely that additional packet materials will be included for the Second Reading of this item, thus the Board should decide how to get a recommendation to the Council ahead of that meeting if it is agreed that one needs to be sent.

Chair Williams stated that the draft memo from the Board, which was included in the agenda packet for this meeting, was composed in collaboration with Board member Davis after meeting with Staff members Huson and Lowrie to make sure the information in the memo was factual. They then had a separate, subsequent meeting with Deputy City Manager Dale Rademacher to talk through the memo before the Board. Discussion among the Board ensued.

Staff member Huson noted that the 6,000 acre-foot minimum was updated to 6,500 acre-feet, after the Water Demand Evaluation was presented to Council in May 2019. He suggested the memo be amended to use 6,500 acre-feet as the minimum rather than 6,000 acre-feet.

After further discussion, **Board member Caldwell made a motion to forward the memo recommendation to Council as amended with the 6,500 acre-foot minimum. Board member Davis seconded the motion; the motion passed 4-0.**

10. INFORMATIONAL ITEMS AND WATER BOARD CORRESPONDENCE

A. 2020 Water Legislation

Staff member Huson reported that there are six proposed bills coming forward in the 2020 State Legislative Session. Proposed language for those bills was included in the Water Board packet.

11. ITEMS TENTATIVELY SCHEDULED FOR FUTURE BOARD MEETINGS

The next cash-in-lieu review is scheduled for December's meeting.

Chair Williams recused himself from the next two items and excused himself from the meeting at 4:03 pm. Board member Davis assumed moderation of the meeting as Vice Chair of the Board.

7. GENERAL BUSINESS

A. An IGA with Northern Water for Participation in the Southern Water Supply Project Eastern Pump Station Project

Staff member Huson reviewed the proposed intergovernmental agreement between the City and Northern Water for the Southern Water Supply Project (SWSP) Eastern Pump Station. In 1994, the southern water supply pipeline was built to deliver water from Carter Lake to Boulder County, of which Longmont purchased 13 cfs capacity. The City participated in an expansion of the pipeline capacity and increased our capacity to 24

cfs in 2001, and as a participant agreed to future funding for constructing an eastern pump station when capacity needs increased in the pipeline.

In 2006, Longmont entered into a first interim contract for construction on the eastern pump station. Design for it has now been completed, and the currently proposed agreement is the last phase of this effort to increase the capacity of the SWSP. For Longmont to continue participation at the 24.3 cfs capacity, which is important to our long-term raw water delivery system, we are required to participate in the eastern pump station construction. Further discussion ensued.

A motion was made by Board member Caldwell to recommend that City Council approve the IGA with Northern Water in substantially the form as presented. Board member Lange seconded the motion; the motion passed 3-0.

B. An IGA with Northern Water Concerning the Fifth Amendment to the Fifth Interim Allotment Contract for the Windy Gap Firming Project

Staff member Huson reviewed the proposed intergovernmental agreement between the City and Northern Water to continue work on the Windy Gap Firming Project. He stated that the proposed amendment is a one-year extension on the funding for Windy Gap, which will allow the City to continue participation in this important regional water storage project. Further discussion on the project ensued.

A motion was made by Board member Lange to recommend that City Council approve the IGA with Northern Water for the Fifth Amendment to the Fifth Interim Allotment Contract for the Windy Gap Firming Project. Board member Caldwell seconded the motion; the motion passed 3-0.

12. ADJOURN

There being no further business to come before Water Board, Vice Chair Davis adjourned the meeting at 4:17 pm.

The next regular meeting of the Longmont Water Board will be held on December 16, 2019, at 3:00 pm at the Service Center, 1100 South Sherman Street, Longmont, CO 80501.

Todd Williams, Water Board Chair

Date

Heather McIntyre, Recording Secretary

Date



Water Board

longmontcolorado.gov

Meeting Date: December 16, 2019

Item Number: 6

Type of Item: Development Activity

From: Wes Lowrie, Water Resources Analyst, 303-651-8814
wes.lowrie@longmontcolorado.gov

As the Board will recall, City Council approved Ordinance O-2012-73 on October 23, 2012, which requires Water Board action during annexation review and when further raw water deficit satisfaction is required pursuant to a particular development activity. Listed below are two development activity categories: Development Activity Requiring Water Board Action and Development Activity Submitted for Water Board Information Only.

- 6a Development Activity Requiring Water Board Action
 - i) None

- 6b Development Activity Submitted for Water Board Information Only
 - i) None



Water Board

longmontcolorado.gov

Meeting Date: December 16, 2019

Item Number: 7a

Subject: Cash-in-Lieu Valuation

Type of Item: General Business

From: Ken Huson, Water Resources Manager (303-651-8340)
ken.huson@longmontcolorado.gov
Wes Lowrie, Water Resources Analyst (303-651-8314)
wes.lowrie@longmontcolorado.gov

Suggested Action: Review and if necessary make recommendation to City Council regarding adjusting the current fee for cash-in-lieu of water rights received.

As Water Board will recall, on August 13, 2019, City Council approved Resolution R-2019-78 establishing the fee for cash-in-lieu of water right received at the current \$16,840.00 per acre-foot.

Chapter 14.05.070 of the Longmont Municipal Code reads in part "...The per acre-foot fee for cash-in-lieu of water rights transfers will be reviewed by the Water Board at least quarterly at its meetings in March, June, September, and December. The basis for the Water Board recommendation shall include the current cost of new water supply projects identified in the City of Longmont's Raw Water Master Plan, the current market value associated with the purchase of units of Colorado-Big Thompson water, and the current market value of non-historical native basin water rights identified in section 14.05.060. Recommendations to adjust the fee will be forwarded to city council if the need for such adjustment is indicated..."

A summary of the cash-in-lieu review criteria follows:

Criteria	Details (1)	Cost/AF (2)
1. Native Basin Water Rights Transactions (based upon credited average yield)	Lake McIntosh: \$13,208/AF Highland Ditch: \$11,221/AF	\$ 13,208
2. Construction Cost for New Water Supply	Water Conservation: \$10,600/AF Windy Gap Firming Project: \$17,683/AF Union Enlargement & Pumpback Pipeline: \$13,142/AF Button Rock Enlargement: \$15,748/AF	\$14,293 <i>(\$13,624)</i> <i>Weighted Average</i>
3. C-BT allotment unit transfer costs	September – 139 units @ average \$61,080/AF October – 7 units @ average \$71,278/AF November – TBD units @ average \$TBD/AF	\$61,569

- (1) Lake McIntosh credit yield is 0.53 AF/share
Highland Ditch credit yield is 24.07 AF/share

Water Conservation cost savings were updated using information provided by CH2M and the Water Efficiency Master Plan.

Windy Gap Firming Project cost was updated using estimates which include an increase for escalation and owner's contingency. Union Enlargement & Pumpback Pipeline and the Button Rock Enlargement construction cost estimates were updated using the Bureau of Reclamation Construction Cost Index.

C-BT cost is calculated by taking the average unit purchase price and dividing by 0.76 which is the credit for which Longmont gives towards the transfer of 1 unit of C-BT.

- (2) This amount represents the arithmetic average AF cost for each respective criteria group. The weighted average construction cost for new water supply is based on their respective dry yields.

As part of the most recent Water Board and City Council action regarding setting the fee for cash-in-lieu of water rights dedication, the above three criteria were evaluated. At that time it was determined that because the City was not actively in the market to purchase native basin water rights, as the majority of those which Longmont would accept already reside within the Longmont Planning Area and will be transferred to the City at time of annexation or development pursuant to the Raw Water Requirement Policy, this criteria would continue to be monitored but would not play a significant role in the setting of the cash-in-lieu fee.

Likewise the C-BT allotment unit transfer costs criteria would also continue to be monitored but would not play a significant role in the setting of the cash-in-lieu fee until that time when Longmont determined that purchase of these rights were being planned.

It was therefore determined that the construction cost for new water supply criteria would be the leading criteria used in setting the cash-in-lieu fee. The evaluation of this quarter's fee includes updated adjustments for the Bureau of Reclamation Construction Cost Index.



**Northern Colorado Water Conservancy District Water Transactions
(September 2019 Activity)**

Buyer	Seller	Previous Contract	New Contract	Units Purchased	Price Per Unit
Little Thompson Water District	Irrigator	Class D	Class C	3	N/A
Little Thompson Water District	Irrigator	Class D	Class C	3	\$55,000
Little Thompson Water District	Irrigator	Class D	Class C	2	N/A
Developer	Irrigator	Class D	Class B	2	N/A
Developer	Irrigator	Class D	Class B	100	\$48,000
Developer	Irrigator	Class D	Class B	1	\$49,500
North Weld County Water District	Irrigator	Class D	Class C	4	\$49,500
Left Hand Water District	Irrigator	Class D	Class C	31	\$40,000

Note: Information will be periodically updated as it becomes available

**Northern Colorado Water Conservancy District Water Transactions
(October 2019 Activity)**

Buyer	Seller	Previous Contract	New Contract	Units Purchased	Price Per Unit
Longs Peak Water District	Irrigator	Class D	Class C	2	\$42,000
Longs Peak Water District	Irrigator	Class D	Class C	2	N/A

Sekich Auction Transfers

Developer	Irrigator	Inactive Account	Class B	1	\$62,400
Little Thompson Water District	Irrigator	Inactive Account	Class C	3	\$57,200
Irrigator	Irrigator	Inactive Account	Class D	1	\$57,200
Little Thompson Water District	Irrigator	Inactive Account	Class C	25	\$54,912

Note: Information will be periodically updated as it becomes available



Water Board

longmontcolorado.gov

Meeting Date: December 16, 2019

Item Number: 7b

Subject: Recommendation to City Council concerning a proposed change to the Raw Water Requirement Policy

Type of Item: General Business

From: Ken Huson, Water Resources Manager, 303-651-8340,
(Ken.huson@longmontcolorado.gov)

Wes Lowrie, Water Resources Analyst, 303-651-8814,
(Wes.lowrie@longmontcolorado.gov)

Suggested Action: Provide a recommendation to City Council to accept the attached revisions to the Raw Water Requirement Policy located at Chapter 14.09 of the Longmont Municipal Code in substantially the form as presented to Water Board

As part of the Future Water Demand Evaluation process, an economic development set-aside of 1,200 acre-feet of water was established. To formalize that set-aside, the following changes to the Raw Water Requirement Policy are necessary. Please see the attached draft council communication for more information.

Attachments:

- Proposed raw water requirement policy code language changes
- Table 22 of the 2019 Water Demand Evaluation Update
- City Council Communication

CHAPTER 14.05. - RAW WATER REQUIREMENT POLICY

14.05.010. - Findings and purpose.

The Longmont City Council finds that:

- A. It is necessary to adopt, revise and continually update a raw water master plan to maintain an adequate water supply.
- B. It is the intent of this chapter to encourage the retention of historical water rights on the agricultural properties within the St. Vrain Basin by requiring the transfer of such water rights to city ownership as a condition of annexation and by requiring the payment of an equivalent cash amount or the transfer of equivalent water rights in the absence of such historical water rights.
- C. This chapter provides the method whereby the city will acquire water rights in such quantity and of such quality as to provide a safe and reliable water supply for present and future water users under a wide range of hydrological conditions by requiring the transfer to city ownership of not less than three acre-feet of water per acre of land, which quantity has been determined by engineering analysis to be sufficient.
- D. This chapter also provides the method whereby the owner(s) of properties with historical water rights insufficient to provide three acre-feet of water per acre of land may satisfy the city's raw water requirements by allowing the transfer of selected nonhistorical water rights and/or the payment of cash in lieu of water rights transfers.
- E. It is in the interest of the health, safety and welfare of the citizens of Longmont to dedicate a specified amount of water supply to be used as an economic incentive to encourage the construction of affordable housing and spur certain types of economic development.

(Code 1993, § 14.05.010; Ord. No. O-2004-15, § 2; Ord. No. O-2005-99, § 1; Ord. No. O-2012-73, § 2, 10-23-2012)

14.05.020. - Definitions.

Whenever the following terms or words are used in this chapter, they shall have the following meanings ascribed to them:

Acre-foot means 43,560 cubic feet and any volume of water based on the assumption that a flow rate of one cubic foot of water per second of time (cfs) will equal two acre-feet in 24 hours. An acre-foot equals approximately 325,850 gallons.

Annexation means the bringing of land into the territorial jurisdiction of the City of Longmont.

Beneficial use means the application of water by an individual user for either direct or indirect human benefit.

Cash in lieu of water rights means cash that is paid to the city in lieu of dedicating nonhistorical water rights to the city. Cash in lieu is not acceptable for dedication in lieu of historical water rights.

Colorado-Big Thompson water or *C-BT water* means water diverted from the Colorado River drainage by the USBR Colorado-Big Thompson diversion project and allocated as a supplemental supply by the Northern Colorado Water Conservancy District.

Development activity means any activity requiring a major, minor or administrative development application, as defined in section 15.02.020.

Direct flow right or direct flow water means the right to use water which is diverted for use without interruption between diversion and use except for purposes incidental to the use and the water diverted under such a right.

Dry-up agreement means a restrictive covenant running with a particular parcel of land whereby upon removal of the historical water rights from that parcel (for transfer to the city), agricultural irrigation and any consumptive use of irrigation water will cease.

Economic Development Opportunity means a sole proprietorship, partnership or corporation that locates a new business within the city limits of Longmont at a location that has not previously been final platted, and has provided information satisfactory to the city's chief financial officer that the business will generate annual sales and use tax revenue of at least \$2,500,000.00.

Historical water rights means those water rights associated with a particular parcel of land at the time of annexation and which have been applied to beneficial use on that land.

Nonhistorical water rights means those water rights which have not been regularly applied to beneficial use on a parcel of land proposed for development activity.

Statement of beneficial use means a signed affidavit which provides historical information concerning the beneficial use of a water right proposed for transfer to city ownership.

Storage right or storage water means the right to use water which is interrupted in its natural flow and detained for later beneficial use and the water diverted under such a right.

Unit of C-BT or acre-foot unit means, as defined by the Northern Colorado Water Conservancy District, as being 1/310,000 of the annual supply of Colorado-Big Thompson water apportioned for distribution to holders of allotment contracts.

Water right means a property right to use in accordance with its priority a certain portion of the waters of the State of Colorado by reason of the appropriation of the same.

Windy Gap water means water diverted from the Colorado River drainage by the Windy Gap (Six Cities) project and delivered through the C-BT delivery system for use by participants within the boundaries of the Municipal Subdistrict-Northern Colorado Water Conservancy District.

(Code 1993, § 14.05.020; Ord. No. O-2004-15, § 2; Ord. No. O-2005-99, § 1; Ord. No. O-2012-73, § 2, 10-23-2012; Ord. No. O-2015-17, § 4, 3-17-2015; Ord. No. [O-2018-31](#), § 9, 8-14-2018)

14.05.040. - Statement of requirement.

A. *Annexation.*

1. As a condition of annexation of land to the city, there will be transferred to the city ownership all historical water rights associated with the land. Land annexed as enclaves must meet this requirement as set forth in subsection B.1 of this section. All historical water rights will be credited on a pro-rata basis over the entire land being annexed, less those areas exempted in subsection C of this section.
2. Historical water rights acceptable for satisfaction of the requirements of this chapter shall be transferred to city ownership upon meeting all other conditions necessary for finalization of annexation.

B. *Other development activity.*

1. As a condition of development activity (other than annexation) on lands annexed to the City of Longmont, including land annexed as enclaves, there shall be transferred to the city all historical water rights not previously dedicated at time of annexation. If the historical water rights are insufficient to provide at least three acre-feet of water for each acre of such lands, then, except as otherwise provided for in subsection D of this section, sufficient nonhistorical water rights, or cash in lieu of water rights, to yield at least three acre-feet of water must be

transferred to the city. Not less than one acre-foot of water per acre of land shall be supplied by storage water rights. The remaining requirement will be supplied by the transfer of direct flow or storage water rights. Credit for water rights transferred at annexation pursuant to this policy will be applied toward satisfaction of this requirement.

2. Satisfaction of the full raw water requirement applicable to a particular land development activity may be accomplished at any time subsequent to finalization of the associated annexation ordinance; however, said satisfaction shall be due and payable prior to any development activity and prior to the provision of any water service from the city.

C. *Exceptions.*

1. For land which annexed prior to creation of the water board on June 25, 1963, raw water requirements will not be imposed in connection with development activity on said land unless raw water requirements have been previously specified in a written agreement relative to the original annexation.
2. For the purposes of calculating the full raw water requirement applicable to any development activity, the areas occupied by railroad, state or county rights-of-way in existence at the time of annexation will be exempt from such requirements. For those areas which are owned and used for municipal purposes by the city, the transfer of historical water rights shall satisfy the raw water requirements. All public rights-of-way created by platting shall require full satisfaction of this policy.
3. For any parcel of property meeting the requirements of this subsection that involves annexation of a body of water larger
4. Conveyance plats

- D. *Additional water requirement.* The city reserves the right to require the transfer of additional water, in excess of three acre-feet per acre, for users whose projected water demands exceed three acre-feet per acre. The amount of additional water, timing of transfer to the city, and method of satisfaction, shall be established by the city. The intent of this subsection is to provide the method whereby the city will acquire water rights in such quantity and of such quality as to provide a safe and reliable water supply. The city further reserves the right to monitor the user's water demand and require the transfer of additional water should the user's water demand exceed the original projected level.

(Code 1993, § 14.05.040; Ord. No. O-2004-15, § 2; Ord. No. O-2005-99, § 1; Ord. No. O-2007-25, § 2; Ord. No. O-2012-41, § 5, 7-10-2012; Ord. No. O-2012-73, § 2, 10-23-2012)

14.05.070. - Cash in lieu of nonhistorical water rights transfers.

- A. *Per acre-foot fee.* The per acre-foot fee for cash in lieu of water rights transfers shall be as set from time to time by resolution of the city council based on water board recommendation. The per acre-foot fee for cash in lieu of water rights transfers will be reviewed by the water board at least quarterly at its meetings in March, June, September and December. The basis for the water board recommendation shall include the current cost of new water supply projects identified in the City of Longmont's Raw Water Master Plan, the current market value associated with the purchase of units of Colorado-Big Thompson water, and the current market value of nonhistorical native basin water rights identified in section 14.05.060. Recommendations to adjust the fee will be forwarded to city council if the need for such adjustment is indicated.

B. *Payment of fee.*

1. The actual cash amount to be paid in lieu of water rights transfers will be calculated by water resources staff. The amount so determined shall be due and payable prior to final city approval of the development activity requiring such transfers or payment. Said cash amount, which will

be calculated as the product of the acre-foot raw water deficit multiplied by the per acre-foot fee in effect at that time, will be fixed for a period of 30 days after notification to the landowner. After expiration of the 30-day period the amount due will be adjusted by water resources staff to reflect the per acre-foot fee in effect on the day that payment is made.

2. For any raw water deficits to be satisfied by cash payments there will be no deferral of payment nor will installment payments be allowed.
3. Notwithstanding the above, the city council may, by ordinance, in its sole discretion agree to rebate some or all of the cash in lieu of nonhistorical water rights transfers fee for an economic development opportunity if it finds, in its sole discretion, that such rebate is in the interest of the health, safety and welfare of the citizens of Longmont and serves vital and important public purposes. The rebate provided above may, if granted by the city council, be part of an economic incentive/development agreement with the economic development opportunity approved by city council, and shall be subject to such terms and conditions as will, in the judgment of the city council, ensure that the eligibility criteria and other pertinent development conditions will be performed and satisfied. If any such terms or conditions are not performed or satisfied, the economic incentive/development agreement shall terminate and the parties to that agreement shall not be eligible for any further incentive payments.

(Code 1993, § 14.05.070; Ord. No. O-2004-15, § 2; Ord. No. O-2005-99, § 1; Ord. No. O-2012-73, § 2, 10-23-2012; Ord. No. O-2013-31, § 2, 7-23-2013)

CITY COUNCIL COMMUNICATION



MEETING DATE: January 14, 2020 **ITEM NUMBER:** <ITEM_OUTLINE>

SECOND READING: January 28, 2020

TYPE OF ITEM: Consent

PRESENTED BY: Dale Rademacher, Deputy City Manager, (303) 651-8355
Ken Huson, Water Resources Manager, (303) 651-8340

SUBJECT/AGENDA TITLE: A BILL FOR AN ORDINANCE AMENDING CHAPTER 14.05 OF THE LONGMONT MUNICIPAL CODE REGARDING THE RAW WATER REQUIREMENT POLICY

EXECUTIVE SUMMARY:

The purpose of this Council item is to ask for City Council's approval of an Ordinance amending the Raw Water Requirement Policy by including language allowing for an economic development opportunity by establishing a rebate program for the Cash in Lieu of water rights fee and to make a minor modification to the extraterritorial water service language in the code.

Staff is asking City Council to approve the attached Ordinance authorizing these code changes. These code changes will provide necessary code changes to the Raw Water Requirement Policy to allow for an economic incentive for affordable housing and economic development proposals. Please see the background section for more detail on the specific proposals this code change will apply to.

Water Board reviewed this proposed ordinance at its December 16, 2019, board meeting. At that board meeting Water Board recommended City Council approve the proposed code revisions. Excerpts from the December Water Board meeting are enclosed in the Background section of this communication.

This item is not explicitly included in City Council's 2018/19 Work Plan. However, it supports the following visions in that work plan:

- Goal A2 incentivizes housing to end homelessness, an adequate water supply is a prerequisite for that housing and this code change enables an economic incentive to construct affordable housing.
- Goal B1 incentivizes a diverse housing stock with higher densities, which will require a dependable water supply to support. This code change will provide an economic incentive to bolster the affordable housing segment of that diverse housing stock.
- Goal B3 includes a Main St. Corridor Plan, redevelopment of the sugar mill and fairgrounds and support for a convention center/hotel and bus/rail TOD; all of which will require a dependable water supply to support. It is possible this code change will incentivize this goal by providing an economic incentive to do so.



COUNCIL OPTIONS:

1. Approve the ordinance as presented.
2. Amend the ordinance and approve the amended ordinance.
3. Do not approve the ordinance.

RECOMMENDED OPTIONS: Option #1 – Approve the ordinance as presented.

FISCAL IMPACT & FUND SOURCE FOR RECOMMENDED ACTION:

Approval of this ordinance will result in an unknown future loss of funding to the city's water rights acquisition fund. While it is not known to what extent this economic development incentive will be used, if the maximum proposed use occurs (1,200 AF) at the current Cash in Lieu fee rate of \$16,840, the ultimate fiscal impact would be \$20,208,000.00.

BACKGROUND AND ISSUE ANALYSIS:

When the City of Longmont completed its first Future Water Demand Evaluation in 2012, a portion of the future water supply was set aside for economic development opportunities. That amount was 1,200 acre feet of water. During a more recent update of that master plan, that future water supply set-aside was revised to reserve 400 acre feet of the total for affordability incentives, leaving 800 acre feet still available for economic development opportunities while still maintaining the total water supply set-aside at 1,200 acre feet. Please see the attached Table 22 from the Water Demand Evaluation Update for additional information.

To allow for a formal process to use this set-aside water supply the Raw Water Requirement Policy section of the municipal code needs to be amended to reflect this concept. The Raw water Requirement Policy section is located at 14.05 of the city code.

Attached is a copy of this section of the code with the required language changes to enact this concept.

Water Board reviewed these proposed code changes at their December 16, 2019 board meeting. At that meeting they voted to recommend city council _____.

ATTACHMENTS:

- Ordinance
- Water Demand Evaluation Update Variability Table

Table 22 - Summary of Variable Assumptions for Adjusted Total Water Demand Forecast (Annual Average)

1a. Redevelopment (non-residential)	-0.004	(4)	1.3	1,415	1.3	1,415
1b. Redevelopment (residential)			0.1	124	0.1	124
2. Partially Developed or Occupied	0.4	447		0		0
3a. New Development (non-residential)	-0.3	(291)	1.0	1,067	1.0	1,067
3b. New Development (residential)			0.2	180	0.2	180
4. High Water Industrial Users (5% of parcels)	1.1	1,200	1.1	1,200	1.1	1,200
5. Primary Employment conversion to Mixed Use	0.0	0	0.1	146	0.1	146
6. Additional Water Loss	0.0	0	0.5	562	0.4	449
7. Adjust to Average Trend	0.4	449		0		0
8a. Climate Variability	1.8	1,968	1.6	1,766	1.4	1,553
8b. City Raw Water Irrigation			-0.1	(112)	-0.1	(112)
9. Dry Year Adjustment	1.3	1,445	2.3	2,584	2.0	2,247
10. Future Water Conservation	-1.6	(1,750)	-0.8	(928)	0.0	0
11a. Factor of Safety / Contingency (5%)	1.1	1,230	0.9	1,011	0.7	786
11.b Airport Redevelopment				150		150
12. Distribution system water loss from variability assumptions	0.0	0	0.0	0	0.0	0
Subtotal Treated Water Demand Variabilities		4,724		9,163		9,205
13. Climate variability impact on Raw Water Supply		541		489		433
14. Climate variability impact on raw water irrigation demand by city		136		136		136
15. Raw Water Supply and Treatment Plant losses for Variability factors		236		641		644
16. Colorado River Compact Call				0		0
17. Add 8b back in for raw water supply				112		112
Subtotal Raw Water Demand Variability		913	0.0	1,379	0.0	1,326
Total Water Demand Variability to be applied to Reference Forecast		5,637		10,542		10,530



Water Board

longmontcolorado.gov

Item Number: 9a

Subject: Review of Major Projects Listing and Items Tentatively Scheduled for Future Board Meetings

Type of Item: Informational

From: Water Board

Suggested Action: N/A

Attached is a copy of the most recent Water Board project status report. Please note the report now includes expected future review date information for each item.

WATER BOARD PROJECT STATUS REPORT

	<u>ITEM</u>	<u>MOST RECENT WATER BOARD REVIEW DATE</u>	<u>PROJECTED NEXT WATER BOARD REVIEW DATE</u>	<u>MOST RECENT ACTION TAKEN AND/OR PROPOSED FUTURE ACTION</u>
1	Union Reservoir Enlargement Land Acquisition Program	February 25, 2019	February 24, 2020	Annual update was presented to Water Board February 25, 2019.
2	Water Supply and Drought Management Plan	April 15, 2019	April 14, 2020	2019 Plan presented to Water Board in April 2019 with recommendation to City Council to remain at a Sustainable Conservation Level.
3	Windy Gap Firming Project	November 18, 2019	December 16, 2019	Review of Longmont's 5th Interim Agreement.
4	Water Legislation & Guiding Water Principles	May 20, 2019	January 27, 2020	Review of current legislation.
5	Cash-In-Lieu Review	September 16, 2019	December 16, 2019	Currently at \$16,840 per Acre-Foot. Resolution R-2019-78.
6	Button Rock Preserve & Forest Stewardship	May 20, 2019	January 27, 2020	Review the Button Rock Preserve visitation policy.
7	Longmont Water System Yield	July 15, 2019	TBD	Ongoing discussion of future water projects and projected future water yields.

Tentative Future Event Schedule	
Event	Date
Water Board Monthly Meeting	January 27, 2019
Water Board Monthly Meeting	February 24, 2019
Water Board Monthly Meeting	March 16, 2019

Water Board Member Terms

John Caldwell - 2020
 Kathy Peterson - 2021
 Todd Williams - 2022
 Roger Lange - 2023
 Renee Davis - 2024

Updated: December 2019