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December 7, 2016

Town of Erie, Colorado

Via Certified U.S. Mail/Regular U.S. Mail

Town of Erie Board of Trustees

Town of Erie, Town Clerk
645 Holbrook Street
PO Box 750
Erie, CO 80516

Re: Renewed Motion to Reconsider Erie Gateway South Annexations

Dear Sir or Madam:

By my letter to you dated October 6, 2016, I requested on behalf of the City of Lafayette, Colorado, that you reconsider your approval of six ordinances designated as "Erie Gateway South Annexation No. 1 through No. 6," and which were apparently designated with numbers 16-358 (#1) – (#6). My October 6, 2016 letter is attached.

The Erie Board of Trustees enacted these Ordinances on October 25, 2016, and the publication of the enactment appears to have occurred on November 2, 2016. By my calculation, the Ordinances became effective on December 2, 2016.

Given that it appears the effective date of the Ordinance has just occurred, the City of Lafayette again requests that you reconsider the enactment of these Ordinances for the reasons stated in my October 6, 2016 letter. The City of Lafayette reserves its right to pursue judicial review as allowed by Section 31-12-116, C.R.S.

Yours very truly,



David S. Williamson

DSW/jr

cc: Town of Erie, Manager, A. J. Krieger
Town of Erie Attorney, Mark Shapiro (via hand delivery)

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Telephone: 303-443-3100
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October 6, 2016

Town of Erie, Colorado

Via Hand Delivery and U.S. Mail

Town of Erie Board of Trustees

Town of Erie, Town Clerk
645 Holbrook Street
PO Box 750
Erie, CO 80516

Re: Motion to Reconsider Erie Gateway South Annexations

Dear Sir or Madam:

This office acts as general counsel to the City of Lafayette, Colorado. This letter is written on behalf of the City of Lafayette, Colorado, pursuant to Section 31-12-116 (2)(a) (II), C.R.S., to request that the Town of Erie reconsider its approval of six (6) ordinances that were on the Town of Erie Board of Trustees' Agenda at its September 27, 2016 Trustee Meeting. The annexation ordinances that are the subject of this request are designated as "Erie Gateway South Annexation No. 1 through No. 6" and appeared to be ordinance numbers 16 – 358 (#1) – (#6). The City of Lafayette, Colorado, is located within one mile of the area proposed for annexation and is aggrieved by the acts of the Town of Erie Board of Trustees in approving such annexations.

The City of Lafayette, Colorado, requests that the Board of Trustees reconsider the annexations based upon the following grounds, upon which the City of Lafayette reserves its right to seek judicial review:

1. Annexations Nos. 1 and 2 violate Section 31-12-105 (1) (a), C.R.S. That section provides that when annexing property, "no land held in identical ownership ... shall be divided into separate parcels without the written consent of the landowners thereof ..." Both Annexation Nos. 1 and 2 indicate that a portion of the property to be annexed is owned by the BNSF Railway. Your staff report confirms that BNSF is an owner of the property to be annexed. BNSF Railway is not a party to the annexation petitions and there is no indication that they have consented to the annexations. The result of Annexation Nos. 1 and 2 would be to divide the BNSF Railway property into separate parcels, some of which are in Erie and some of which are in unincorporated Boulder County.
2. Annexation Nos. 2 and 6 rely upon the validity of Annexation No. 1 to provide the required one-sixth contiguity. Because Annexation No. 1 does not comply with the Colorado Municipal

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Annexation Act, the contiguity required for Annexation Nos. 2 and 6 is not met. (Sec. 31-12-104 (1) (a), C.R.S.)

3. Annexation Nos. 3, 4 and 5 rely upon the validity of Annexation No. 2 to achieve the required one-sixth contiguity. Because Annexation No. 2 does not meet the requirements of the Colorado Municipal Annexation Act, Annexation Nos. 3, 4 and 5, do not meet the necessary contiguity requirements. (Sec. 31-12-104 (1) (a), C.R.S.)
4. Annexation Nos. 5 and 6 consist largely of the annexation of right-of-way that does not "connect" to a parcel of property subject to annexation (i.e., a flagpole annexation without the "flag"). Under such circumstances the requirements of Section 31-12-104 (1) (b), C.R.S., are not met in that the right-of-way cannot be characterized as an area that is "urban" or "will be urbanized in the near future."

The City of Lafayette moves that the Town of Erie Board of Trustees reconsider all of the "Gateway South Annexations," as described herein, and reserves its right to pursue judicial review as allowed by Section 31-12-116, C.R.S.

Yours very truly,



David S. Williamson

DSW/jr

cc: Town of Erie, Manager, A. J. Krieger
Town of Erie Attorney, Mark Shapiro by DSW