

**December 18, 2007**

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting - 6:00 p.m.**

A regular meeting of the Council of the City of Fort Collins was held on Tuesday, December 18, 2007, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll Call was answered by the following Councilmembers: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy, and Troxell.

Staff Members Present: Atteberry, Krajicek, Roy.

**Citizen Participation**

Gail Zirtzlaff, 2048 Manchester Drive, stated her support for the occupancy limits of 3 unrelated persons in rental housing and did not want the issue reopened.

Joe Kissell, 913 West Oak, thanked Council for its adoption of a Resolution expressing its opposition to uranium mining in Nunn, Colorado. He urged Council to adopt a Resolution calling for the withdrawal of U.S. troops from the war in Iraq.

John Gilbreth, 325 East Mulberry, Thrifty Nickel Publisher, expressed his concerns about the proposed Code changes regarding newsracks. He stated the proposed changes would cut the distribution of his paper in downtown locations by 30% and he felt the changes were in violation of the First Amendment.

Jerry Rigney, Fort Collins resident and City of Fort Collins employee, stated the raise granted to the City Manager was not fair to other City employees and the 4% raise granted to employees was not a sufficient compensation.

Eric Sutherland, 631 LaPorte Avenue, stated the Resolution passed by Council opposing uranium mining in Northern Colorado was not strong enough and he was disappointed there was no staff recommendation with the Resolution. He urged Council to direct staff to research the issue further and bring back an even stronger Resolution along with a staff recommendation.

Michael Mockler, 1124 North Overland Trail, Publisher of *Scene* magazine, stated the proposed Code changes regarding newsracks would cause him to lose 40% of his distribution racks in the Old Town area. He and other publishers were working towards a solution that would regulate themselves without a Code change.

Kyle Villers, 2391 Cotswold Court, stated the newsracks in the downtown area need a face life, but were essential to businesses for advertising and provided valuable information to consumers. Self-regulation from the industry itself seems a much better solution than regulating it with laws.

Ordinance No. 116, 2007, appropriates funds for 2008 DDA debt service payments from the tax increment received by the City.

Ordinance No. 117, 2007, authorizes the transfer of appropriations of \$1,000,000 from the City of Fort Collins Museum project to the funding of Beet Street for 2008.

These Ordinances were unanimously adopted on First Reading on October 16, 2007.

8. Items relating to Utility Rates and Charges for 2008.

- A. Second Reading of Ordinance No. 119, 2007, Amending Chapter 26 of the City Code to Revise Water Plant Investment Fees and Raw Water Requirements.
- B. Second Reading of Ordinance No. 120, 2007 Amending Chapter 26 of the City Code Relating to Wastewater Rates and Charges.
- C. Second Reading of Ordinance No. 121, 2007, Amending Chapter 26 of the City Code to Revise Sewer Plant Investment Fees.
- D. Second Reading of Ordinance No. 122, 2007 Amending Chapter 26 of the City Code Relating to Electric Rates and Charges.
- E. Second Reading of Ordinance No. 123, 2007, Amending Chapter 26 of the City Code to Revise Electric Development Fees and Charges.
- F. Second Reading of Ordinance No. 124, 2007, Amending Chapter 26 of the City Code to Revise Stormwater Plant Investment Fees.
- G. Second Reading of Ordinance No. 125, 2007, Amending Chapter 26 of the City Code Relating to Utility Connection Fees and Miscellaneous Charges.

Ordinance No. 120, 2007 and Ordinance No. 122, 2007, establish monthly wastewater and electric rates for 2008. The electric rate Ordinance also includes a housekeeping change to the power adjustment clause.

Ordinance No. 125, 2007, updates utility connection fees and miscellaneous charges for returned items and turn-off notices to recover the cost of these services.

Ordinances Nos. 119, 121, 123, and 124, 2007, adopt revised water, sewer and stormwater plant investment fees and electric development fees. The fees are one-time charges paid by developers or builders for the cost of the utility infrastructure needed to serve new development. Per Council direction, plant investment fees are reviewed on an annual basis and revised during the biennial budget cycle. Plant investment fees (PIFs) for water, wastewater and stormwater were updated with the 2006-2007 budget. Electric development fees and charges are updated annually.

These Ordinances were unanimously adopted on First Reading on October 16, 2007.

9. Second Reading of Ordinance No. 129, 2007, Appropriating Unanticipated Grant Revenue in the General Fund for the Operation of the Colorado Welcome Center.

This Ordinance, unanimously adopted on First Reading on November 6, 2007, appropriates grant funds received from the Colorado Tourism Office in the amount of \$75,726 for the operation of the Colorado Welcome Center. The City has contracted with the Fort Collins Convention and Visitors Bureau to operate this program. Neither City General Funds nor Lodging Tax revenue are included in this project.

10. Second Reading of Ordinance No. 131, 2007, Amending the City Code Regarding Nuisance Abatement Collections and Liens.

The City Code currently permits imposing tax liens on properties for unpaid abatement assessments in three separate sections of the Code. This Ordinance, unanimously adopted on First Reading on November 6, 2007, clarifies the process and make each section consistent with the others. The changes to the Code regarding the procedures for recouping the City's costs of abating nuisances, sidewalk snow removal, and forestry encroachments will provide the City with an efficient mechanism with which to place liens on properties for unpaid and delinquent abatement charges.

11. Items Relating to Real Property Conveyances for the Benefit of the Willow Street Loft Project.

- A. Second Reading of Ordinance No. 132, 2007, Authorizing the Conveyance of Certain Real Property at the Northside Aztlan Community Center to Lagunitas Giddings, Inc.
- B. Second Reading of Ordinance No. 133, 2007, Authorizing the Conveyance of a Sidewalk Easement, Landscape Easement, Drainage Easement and a Temporary Construction Easement at the Northside Aztlan Community Center to Lagunitas Giddings, Inc.
- C. Second Reading of Ordinance No. 134, 2007, Authorizing the Conveyance of a Utility Easement at the Northside Aztlan Community Center to Comcast of California/Colorado LLC and to Qwest Corporation.

Lagunitas Giddings, Inc. ("LGI") has been in the planning process for some time for the Willow Street Loft Project ("WSLP"). In order for LGI to design the project to the design of its choice, LGI needed to acquire one-half of a vacated alley on City-owned property and also needed to acquire the above described easements. All these property interests are on City-owned property known as the Northside Aztlan Community Center ("NACC"). These

Ordinances, unanimously adopted on First Reading on November 6, 2007, authorize the conveyance of the easements needed by LGI.

12. Second Reading of Ordinance No. 135, 2007, Authorizing the Conveyance of a Portion of Lot 30 in Golding-Dwyer Subdivision of Block 275, in the City of Fort Collins.

A local real estate broker is attempting to sell the house and lot at 525 North Whitcomb Street, being Lot 31, in Golding-Dwyer Subdivision, of Block 275. Lot 31 is adjacent to the City-owned Lot 30. A two-car garage that is attached to the house on Lot 31 is located on and encroaches upon a portion of City-owned Lot 30. The broker wants to sell Lot 31 and the encroachment area on Lot 30 together, in order for the purchaser to have both house and attached garage on two lots. This Ordinance, unanimously adopted on First Reading on November 6, 2007, conveys the portion of Lot 30 that contains the encroachment area.

13. Second Reading of Ordinance No. 136, 2007, Assessing the Cost of Improvements in the Timberline and Prospect Special Improvement District No. 94 in the City of Fort Collins, Colorado, and Providing for the Payment and Collection Thereof.

In October 2005, Council established the Timberline and Prospect Special Improvement District #94 (the "District"). The City has completed the improvements and is now prepared to assess the District. This Ordinance, unanimously adopted on First Reading on November 6, 2007, assesses the District costs to the property owners benefitted by the improvements.

14. First Reading of Ordinance No. 137, 2007, Appropriating Unanticipated Revenue in the Natural Areas Fund and the Capital Projects Fund - Soapstone Prairie Public Improvements Capital Project to Be Used for the Design and Construction of Public Improvements at Soapstone Prairie Natural Area.

Soapstone Prairie Natural Area will be opened for public recreation in June 2009 in accordance with the recently adopted management plan. Prior to opening, the construction of public improvements is required. The improvements include: 9.5 miles of gravel access road; an entrance station; two gravel parking areas; interpretive features; picnic shelters and vault toilets; and over 30 miles of soft trails.

Construction of the access road started in October and will be completed by spring 2008. Construction of the remaining improvements will start in the spring and be completed prior to June 2009.

15. First Reading of Ordinance No.138, 2007, Authorizing the Appropriation of 2008 Fiscal Year Operating and Capital Improvement Funds of the Fort Collins-Loveland Municipal Airport.

The 2008 annual operating budget for the Airport totals \$648,310, and will be funded from Airport operating revenues, contributions from the Cities of Fort Collins and Loveland, and

December 18, 2007

Cheryl Distaso, 135 South Sunset, urged Council to adopt a Resolution calling for the withdrawal of U.S. troops from the war in Iraq.

Vivian Armendariz, 135 South Sunset, encouraged the community to shovel their sidewalks and help their neighbors and to shovel past the curb cut in sidewalks. Seniors and disabled people have difficulty navigating sidewalks when snow and ice is not removed. She urged the City to clear curb cuts when plowing.

Sadie Moore, 316 West Mountain Avenue, owner and publisher of the *Rocky Mountain Chronicle*, stated newsracks in the downtown area do look cluttered but the proposed changes are much too restrictive. The bottom bins in the proposed condominiums do not hold papers the size of her paper. She believed the industry could regulate itself and reach a solution that is acceptable to the Downtown Business Association.

Josh Johnson, 320 East Elizabeth, Associate Editor of the *Rocky Mountain Chronicle*, stated proliferation of publications being distributed in Old Town represents a free market of ideas and is a sign of a healthy democracy. The proposed changes would cut the papers distribution points in half and would limit reader access. He urged Council to allow the industry to regulate itself.

Jeff Evans, Fort Collins resident, expressed concerns regarding plowing of streets after a snowstorm and stated the plows dumped snow back on his sidewalk after he had already shoveled and cleared them.

#### **Citizen Participation Follow-up**

Councilmember Roy stated staff had prepared the Resolution opposing uranium mining in Northern Colorado at Council's request and was not given time or direction to do in-depth research in order to formulate a recommendation. He noted the City Manager's raise would help bring his salary in line with other City Managers in cities of comparable size and Council was unanimous in this decision.

Councilmember Troxell stated the proposal from the publishing industry to regulate themselves is a solution Council should consider and would be in the best interest of a free society. He noted Council did receive a letter from Powertech regarding the Resolution opposing uranium mining in Northern Colorado that provided its view and he requested the letter be included with the records kept regarding the Resolution.

Councilmember Ohlson stated the City was moving towards competitive salaries and benefits at all levels with an emphasis on fairness to both the taxpayer and the employee. The Council ranked City Manager Atteberry exceedingly high in his performance and the raise was well-earned. He believed he had enough information to make an informed decision regarding uranium mining and he did not want staff to spend more time on research. He requested information on snow plowing and why plows would put snow back on sidewalks that had already been shoveled.

**Agenda Review**

City Manager Atteberry stated there were no changes to the published Agenda.

**CONSENT CALENDAR**

6. Consideration and Approval of the Minutes of the November 6, 2007 Regular Meeting and the November 13, 2007 Adjourned Meeting.

7. Second Reading of Ordinance No. 140, 2007, Appropriating Prior Year Reserves in the General Fund and Authorizing Transfer Between Funds for Asset Replacement.

This Ordinance, unanimously adopted on First Reading on December 4, 2007, provides appropriations from General Fund reserves to the Fleet Fund and Communications Fund to implement the new asset replacement programs for vehicles, facilities, and Information Technology needs. The funds are recommended to be appropriated from General Fund reserves. These funds were created through prior year budget savings and are intended to be used for Asset Replacement needs. It is recommended that \$2,350,000 be appropriated to the Fleet Fund and \$1,500,000 be appropriated to the Communications Fund.

8. Second Reading of Ordinance No. 141, 2007, Appropriating Unanticipated Revenue in the City Sales and Use Tax Fund and Authorizing the Transfer of Appropriated Amounts Between Funds.

This Ordinance, unanimously adopted on First Reading on December 4, 2007, increases total City 2007 appropriations by \$2,667,000. Of that amount, this Ordinance increases General Fund 2007 estimated revenues by \$2,000,000. This Ordinance also increases the estimated revenues for the Capital Projects Fund (\$222,333), the Natural Areas Fund (\$222,333), and the Transportation Fund (\$222,334) due to greater than projected collections of the following dedicated sales and use taxes: 0.25 Building on Basics, 0.25 Open Space Yes, and 0.25 City Street Maintenance sales and use tax, respectively. This Ordinance only appropriates the transfer of the additional sales and use taxes from the Sales Tax Fund to the above funds. It does not increase appropriations within those related funds. These additional revenues will increase the reserves in the related funds as of year-end 2007. Appropriations for expenditure from the various fund balance reserves will be presented to City Council during the first quarter of 2008.

9. Second Reading of Ordinance No. 142, 2007, Authorizing Leases of City Property at 200 West Mountain Avenue, Suite C, For Up To Five Years As Part of the Fort Collins Technology Incubator Program.

This Ordinance, unanimously adopted on First Reading on December 4, 2007, leases 200 West Mountain Avenue, Suite C, to the FCTI and its client companies. The Fort Collins Technology Incubator (FCTI) nurtures high potential innovation-based companies in their

formative stages to increase the probability they will survive and make a sustainable contribution to the economic health of the community. One of the services they offer to accomplish this goal is residence in an incubator facility which gives participants access to shared services, synergy with other startup businesses and below market lease rates. The City currently offers two facilities for this purpose at 200 West Mountain Avenue and 321 Maple Street. The currently defined FCTI residence program is a three-year lease with increasing lease rates each year. Due to the fact that not all companies reach the desired self-sustaining status within this three year window, FCTI would like to add the option of offering up to two additional 12-month extensions at the end of the initial three year period.

10. Second Reading of Ordinance No. 143, 2007, Approving the Terms of the City's Lease of 612 South College Avenue, Suite 22, Fort Collins, Colorado.

This Ordinance, unanimously adopted on First Reading on December 4, 2007, approves the lease extension on approximately 388 square feet of office space located at 612 South College Avenue, Suite 22, for the office of Dr. Dan Dworkin, Police Services psychologist. Both Dr. Dworkin and Police Services desire to continue leasing this office space.

11. Second Reading of Ordinance No. 144, 2007, Authorizing the Lease of City-Owned Property at 212 LaPorte Avenue, Along with Related Parking Rights at 222 LaPorte Avenue, for up to Five Years.

This Ordinance, unanimously adopted on First Reading on December 4, 2007, authorizes the lease at 212 LaPorte Avenue at current market rates, no less than \$5.00 per sq ft annually, for a period of up to five years to offset maintenance expenses and generate revenue.

12. Second Reading of Ordinance No. 145, 2007, Amending Section 2-575 of the City Code Relating to Councilmember Compensation.

Article II, Section 3 of the City Charter provides that the compensation of Councilmembers shall be adjusted annually for inflation in accordance with the Denver/Boulder Consumer Price Index. In 2007, Councilmembers were compensated \$630 per month, and the Mayor received \$945 per month.

This Ordinance which was unanimously adopted on First Reading on December 4, 2007, amends Section 2-575 of the City Code to set the 2008 compensation of Councilmembers at \$650 per month and the compensation of the Mayor at \$970 per month, as required by the City Charter.

13. Second Reading of Ordinance No. 147, 2007, Amending Section 2-606 of the City Code and Setting the Salary of the Municipal Judge.

City Council met in Executive Session on November 13 and November 27, 2007 to conduct the performance appraisal of Municipal Judge Kathleen M. Lane. Ordinance No. 147, 2007,

unanimously adopted on First Reading on December 4, 2007, establishes the 2008 salary of the Municipal Judge at \$86,958.

14. Second Reading of Ordinance No. 148, 2007, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.

City Council met in Executive Session on November 13 and November 27, 2007 to conduct the performance review of City Attorney Steve Roy. Ordinance No. 148, 2007, unanimously adopted on First Reading on December 4, 2007, establishes the 2008 salary of the City Attorney at \$152,500.

15. Second Reading of Ordinance No. 149, 2007, Amending Section 2-596 of the City Code and Setting the Salary of the City Manager.

City Council met in Executive Session on November 13 and November 27, 2007 to conduct the performance appraisal of City Manager Darin Atteberry. Ordinance No. 149, 2007, unanimously adopted on First Reading on December 4, 2007, establishes the salary of the City Manager at \$176,455.

16. Second Reading of Ordinance No. 150, 2007, Adopting the 2008 Classified Employees Pay Plan.

The 2008 Pay Plan incorporates the new pay philosophy of establishing pay ranges by using the average actual salary data for benchmark positions to set the pay range mid-point. Data from the public and private sectors was used to determine the prevailing market rates for approximately 100 benchmark jobs. This Ordinance, unanimously adopted on First Reading on December 4, 2007, sets pay ranges, not specific salaries of individual employees.

17. Items Relating to the Recycled Bike Project.

- A. Resolution 2007-109 Authorizing the Lease of a Portion of the City-owned Property at 222 Laporte Avenue to Friends of the Fort Collins Bike Program, Inc., for up to Two Years as Part of the Recycled Bike Project.
- B. First Reading of Ordinance No. 151, 2007, Amending City Code Sections 23-127 and 23-130 Pertaining to Disposition of Stolen, Found or Abandoned Personal Property.

The Recycled Bike Project enables the partnership between the City of Fort Collins and the FC Bike Co-op to collect, store, and repair found, abandoned/donated bicycles, and to place these refurbished bicycles back into the community, rather than being shipped to California for auction. Refurbished bicycles will be used in an Earn-a-Bike program, the future Bike Library, and/or given to those who qualify as financially challenged or "at risk." Bicycle frames and parts that cannot be repaired or reused will be recycled. This Code change is needed to permit the processing of the abandoned/donated bicycles. The Resolution authorizing the lease agreement is intended to permit a two year lease to the FC Bike Co-op



to occupy 222 Laporte Avenue (old Poudre Valley Creamery building) in order to conduct these community services.

18. First Reading of Ordinance No. 152, 2007, Authorizing the Lease of a Residence on City-Owned Property at Reservoir Ridge Natural Area to the Facility Attendant for Up to Five Years.

Primrose Studio, consisting of a house and 21 acres of land, is now a part of Reservoir Ridge Natural Area. It was donated to the Natural Areas Program with the condition that it be used as a nature education classroom and as a low cost meeting space for non-profit groups. The studio has recently been remodeled and is now available for use. As part of this effort, a Facility Attendant was hired to manage the studio and as a condition of employment, is required to reside in and occupy the house located on site.

The Facility Attendant will pay rent monthly at the rate of three hundred and fifty dollars (\$350) per month. This rental rate is a 50% reduction from the fair market value rental rate and is provided due to the requirement that the Facility Attendant must reside in and occupy the Premises. Also, the Facility Attendant will be required to perform job duties that may at times interrupt off-duty personal activities.

In addition to rent, the Facility Attendant will be responsible for payment of all utilities, including but not limited to electricity, personal telephone, water, trash, and cable television. The Facility Attendant will be required to vacate the premises if he/she is no longer in this designated position.

19. First Reading of Ordinance No. 153, 2007, Designating the Hoel House, 616 Locust Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

The owners of the property, Ellen Richey and Douglas Simons, are initiating this request for Landmark designation. The residence has individual significance to Fort Collins under Landmark Preservation Standard (2), for its association with its prominent designer, Montezuma Fuller, and for its owner, Dr. George L. Hoel; and under Standard (3), as a very good representation of Fuller's trademark eclectic combination of architectural styles.

20. Resolution 2007-110 Authorizing the Lease of City-Owned Property at 208 North Howes Street For Up to Two Years.

As a result of the construction of the new Police Facility, Police will be relocating and consolidating a number of Police functions that previously took place in various City buildings to Police's new location on Timberline. One impact of this relocation/consolidation will be the availability of the Poudre Feeds building located at 208 North Howes Street for other City uses. At present, the City does not have an immediate use for the space, and therefore staff recommends that the space be leased at current market rates, no less than \$5 per sq ft, for a period of up to two years to offset maintenance expenses and generate revenue.

21. Resolution 2007-111 Agreeing to Act as a Reviewing Entity for Commercial Properties for the State Income Tax Credit Program for Qualifying Rehabilitation Projects.

This Resolution states the City's intent to act as a reviewing entity for State Tax Credit projects involving commercial properties within the city limits. The provisions of the State Tax Credit legislation require that each Certified Local Government adopt annually a resolution stating whether the Certified Local Government will act as a reviewing entity during the following twelve (12) months.

22. Resolution 2007-112 Adopting Revisions to the Master Street Plan.

The Master Street Plan is a map-based plan identifying the major transportation network within the Growth Management Area. The Plan was developed using the City Structure Plan as the basic urban form projected to the year 2025. The Structure Plan projects density, transit service, activity centers, and mixed-use corridors. This information is used to predict travel behavior and the demand for transportation infrastructure. The Master Street Plan is the map of that infrastructure. The Master Street Plan was last amended on March 2, 2004 with the adoption of the Transportation Master Plan. A recent staff assessment of the Master Street Plan has determined that there are numerous "Clean Up" items that need to be amended through the Minor Amendment process.

23. Resolution 2007-113 Adopting Certain Amendments to the Downtown Development Authority Bylaws.

This Resolution will amend the Bylaws of the Downtown Development Authority:

- to include a member of the Larimer County Commissioners on the DDA Board of Directors.
- to authorize the DDA Executive Director to approve and execute contracts up to \$5,000 so long as the funds have been budgeted and appropriated, and to authorize the Director to approve and execute contracts greater than \$5,000 but not more than \$50,000, so long as the funds have been budgeted and appropriated and provided that approval for such contract has been given by the DDA Executive Committee. Employment contracts are not included.

24. Resolution 2007-114 Making Appointments to Various Boards, Commissions, and Authorities of the City of Fort Collins.

Vacancies currently exist on various boards, commissions, and authorities due to resignations of board members and the expiration of terms of members. Applications were solicited during September. Council received copies of the applications and Council teams interviewed applicants during October and November.

Section 1 of this Resolution makes 12 appointments to 8 boards and commissions to fill current vacancies with terms to begin immediately. Names of those individuals recommended to fill current vacancies have been inserted in the Resolution with the expiration date following the names.

Section 2 of this Resolution makes 53 appointments to 22 boards and commissions to fill expired terms to begin on January 1, 2008. Names of those individuals recommended to fill expired terms have been inserted in the Resolution with the expiration date following the names.

25. Routine Easement.

- A. Easement for construction and maintenance of public utilities, to underground electric service, located at 112 Peterson. Monetary consideration: \$10.

**\*\*\*END CONSENT\*\*\***

Ordinances on Second Reading were read by title by City Clerk Krajicek.

7. Second Reading of Ordinance No. 140, 2007, Appropriating Prior Year Reserves in the General Fund and Authorizing Transfer Between Funds for Asset Replacement.
8. Second Reading of Ordinance No. 141, 2007, Appropriating Unanticipated Revenue in the City Sales and Use Tax Fund and Authorizing the Transfer of Appropriated Amounts Between Funds.
9. Second Reading of Ordinance No. 142, 2007, Authorizing Leases of City Property at 200 West Mountain Avenue, Suite C, For Up To Five Years As Part of the Fort Collins Technology Incubator Program.
10. Second Reading of Ordinance No. 143, 2007, Approving the Terms of the City's Lease of 612 South College Avenue, Suite 22, Fort Collins, Colorado.
11. Second Reading of Ordinance No. 144, 2007, Authorizing the Lease of City-Owned Property at 212 LaPorte Avenue, Along with Related Parking Rights at 222 LaPorte Avenue, for up to Five Years.
12. Second Reading of Ordinance No. 145, 2007, Amending Section 2-575 of the City Code Relating to Councilmember Compensation.
13. Second Reading of Ordinance No. 147, 2007, Amending Section 2-606 of the City Code and Setting the Salary of the Municipal Judge.
14. Second Reading of Ordinance No. 148, 2007, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.

December 18, 2007

15. Second Reading of Ordinance No. 149, 2007, Amending Section 2-596 of the City Code and Setting the Salary of the City Manager.
16. Second Reading of Ordinance No. 150, 2007, Adopting the 2008 Classified Employees Pay Plan.

Ordinances on First Reading were read by title by City Clerk Krajicek.

17. First Reading of Ordinance No. 151, 2007, Amending City Code Sections 23-127 and 23-130 Pertaining to Disposition of Stolen, Found or Abandoned Personal Property.
18. First Reading of Ordinance No. 152, 2007, Authorizing the Lease of a Residence on City-Owned Property at Reservoir Ridge Natural Area to the Facility Attendant for Up to Five Years.
19. First Reading of Ordinance No. 153, 2007, Designating the Hoel House, 616 Locust Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.
29. Hearing and First Reading of Ordinance No. 146, 2007, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the East Skyway Rezoning.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt the items on the Consent Calendar. Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none

THE MOTION CARRIED.

#### **Consent Calendar Follow-up**

Mayor Hutchinson stated Council policy is to establish a market pay range for all City employees using the market-average actual salary data. The goal is fairness to employees and taxpayers. Market-based pay begins in 2008 and Council believes it should also apply to the three employees who work directly for Council.

Councilmember Ohlson stated 65 citizens have been appointed to boards and commissions to advise Council and he thanked all the citizens who applied.

#### **Councilmember Reports**

Councilmember Manvel met with the Regional Air Quality Council in Denver which continues working on solutions to the ozone problem, particularly short term efforts that will occur next summer. A cost-effective solution to reduce ozone is for people to replace their old lawnmowers.

December 18, 2007

Councilmember Poppaw stated Shepardson Elementary students are participating in the "O" Ambassador's Program, a joint project of Oprah's Angel Network and Free the Children. The students learning about global issues and making a tangible difference in the lives of their peers in the developing world.

Councilmember Ohlson stated Comcast has added a basic package for customers at a price of \$11. It is difficult to find any information about this package on Comcast's website and Comcast does not advertise that this package is available. He requested a way be found to inform citizens that a basic package of cable programming is available.

### **Items Relating to the East Skyway Rezoning, Adopted on First Reading**

The following is staff's memorandum on this item.

#### **"EXECUTIVE SUMMARY**

- A. *Resolution 2007-107 Amending the City's Structure Plan Map Pertaining to Land along Skyway Drive East of College Avenue.*
- B. *Hearing and First Reading of Ordinance No. 146, 2007, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the East Skyway Rezoning.*

*This area was annexed into the City as part of Phase I of the Southwest Enclave Annexation in April, 2007, under a Structure Plan designation of Urban Estate (U-E). The original intent of designating U-E for these properties was to acknowledge the existing large-lot County parcels zoned Farming in the County; U-E is the City's zoning that is most similar to the County's zoning.*

*Staff has since considered the situation along this part of East Skyway in much more detail, in extensive discussions with owners, neighbors, and the County. These discussions have been prompted by issues related to an existing business at 209 East Skyway and by the recent annexation process in 2007. Staff finds that the properties along Skyway do not reflect the character of the Farming or Urban Estate designations, but bear closer resemblance to both the commercial uses in the area and the existing residential neighborhood (which is more dense than Urban Estate) to the north and east.*

*As a result of the long history of discussions centering on 209 East Skyway, staff is recommending Council consider these changes now, rather than delay a decision further and include this item as part of the South College Corridor Plan process (Planning and Zoning Board recommendation), anticipated to be completed at the end of 2008.*

#### **BACKGROUND**

*The City of Fort Collins Structure Plan Map amendment will change the existing Structure Plan designation for two properties located at 209 and 225 on East Skyway Drive, Claire Court, one*

December 18, 2007

property on Clair Court, and a City owned parcel. The first property (209 East Skyway) is a proposed/recommended change from Urban Estate to a combination of Commercial and Low Density Mixed Use Neighborhood. The second property (225 East Skyway) will change from Urban Estate to Low Density Mixed-Use Neighborhood. Claire Court, a cul-de-sac which extends south off of Skyway Drive, will change from Urban Estate to Low Density Mixed Use Neighborhood. The City owned parcel east of Claire Court will change from Urban Estate to Open Lands, Parks and Stream Corridor designation.

The corresponding proposed/recommended rezoning changes are as follows:

- (1) The first property is located at 209 East Skyway Drive. Existing zoning is Urban Estate. Proposed zoning is a combination of Commercial on the west 2/3 of the property and Low Density Residential on the east 1/3 of the property.
- (2) The second property, at 225 East Skyway Drive, abuts the first property on the east, with existing zoning of Urban Estate. The proposed zoning is a combination of Low Density Residential on the northern 1/3 of the property and retention of Urban Estate on the remaining southern 2/3 of the property. No such zoning amendment is needed for Claire Court, with an existing zoning of Low Density Residential.
- (3) The third property is adjacent and east of Claire Court and is City-owned (part of Prairie Dog Meadow) with an existing zoning of Low Density Residential. The proposed zoning is Public Open Lands, representing a housekeeping action.

### **Site Description**

The site consists of two properties located at 209 and 225 East Skyway Drive, as well as Claire Court with its 9 fronting houses. The two properties along Skyway were recently annexed and zoned Urban Estate to match the County's zoning in April 2007 in Phase I of Southwest Annexation. Claire Court was already in City Limits. The first property at 209 East Skyway Drive, is 3.6 acres and includes a single-family detached home with a home occupation business and separate metal warehouse used for personal storage. The existing business is a small engine repair operation.

The second property located at 225 East Skyway Drive, is 4.8 acres and includes an existing private Montessori School with a horse pasture extending behind the school.

Claire Court includes 9 parcels. The City-owned property east of Claire Court is a vacant parcel of 1.5 acres.

The surrounding land uses/zoning are as follows:

- N: R-L; Existing single-family detached residential (Lynn Acres Subdivision)  
S: U-E; Existing vacant lots  
E: P-O-L; City Natural Area (Prairie Dog Meadow)  
W: C; Existing commercial businesses (South College Ave corridor)

**Structure Plan Amendment**

*The City Structure Plan, a part of the City's Comprehensive Plan (City Plan), is a map that sets forth a basic framework which shows how Fort Collins should grow and evolve over the next 20 years. City Plan allows for amendments through a Minor Amendment process as outlined in Appendix C. The two review criteria are:*

- A. The City Plan and/or any related element thereof is in need of the proposed amendment; and*
- B. The proposed plan amendment will promote the public welfare and will be consistent with the vision, goals, principles and policies of City Plan and the elements thereof.*

*This area was annexed into the City as part of Phase I of the Southwest Enclave Annexation in April, 2007, under a Structure Plan designation of Urban Estate (U-E). The original intent of designating U-E for these properties was to acknowledge and match as closely as possible the existing large-lot County parcels zoned Farming in the County; U-E being similar to the County's zoning.*

*Staff has since considered the situation along this part of East Skyway in much more detail, in extensive discussions with owners, neighbors, and the County over several years. These discussions have been prompted by issues related to an existing business at 209 East Skyway, and also by the recent annexation process in 2007. Staff finds that the properties along Skyway do not reflect the character of the Farming or Urban Estate designations, but are more in character with both the commercial uses in the area, and the existing residential neighborhood to the north and east. At 209 East Skyway, staff is recommending a Commercial designation on the west 2/3 of the property, with a designation of Low Density Residential on the east 1/3 of the property to provide a transition to the neighborhood (Attachments 1 and 2).*

*This proposed Commercial designation is the substantive aspect of the proposed changes. It reflects the transitional, mixed character of the area: a U-haul truck facility in the Kelmar Strip commercial corridor is abutting to the west; the sides of single family homes are across Skyway; a Montessori school is abutting to the east; and two vacant 3-acre lots abut the property to the south. These two vacant lots appear to be candidates for future rezoning, but will be considered as part of the upcoming South College Corridor Plan process because the issues have not been considered as thoroughly as at 209 and 225 East Skyway. South and southeast of the two vacant lots, land uses include a permanent City Natural Area, Humane Society headquarters, City bus facility, and a range of "city-edge" residential lots ranging from about 1/4 acre to over an acre in the Lynn Acres County subdivision, all well within view of the subject property.*

*The existing small business on the subject property and any future new commercial uses on the subject property can form a transition from existing U-Haul and other commercial uses adjacent to the west, now and in the future. Further commercial changes to the subject property appear likely and would both trigger improvements (e.g., landscaping, sidewalk, and changes to the existing 6-foot chain link fence) to meet Land Use Code development standards, and would improve the street frontage and appearance on East Skyway.*

*The changes involving Low Density Residential are much less substantive. The Low Density Residential designation for the remaining eastern portion of 209 and northern portion of 225 East Skyway is more appropriate than the current Urban Estate based on existing development and density of houses and the school. It also provides a more logical land use pattern with a transition in intensity from College Avenue eastward.*

*A cul-de-sac of houses called Claire Court, abutting 225 East Skyway, is also included in the recommended Low Density Residential designation because it simply fits that designation rather than its current UE designation (which allows a maximum of two dwelling units per acre). Staff considers the Low Density Residential portion of the proposed changes to be minor editing of the Structure Plan map, to create a more logical and orderly land use pattern along Skyway and fitting existing development to the right designation.*

*A final proposed amendment includes the property adjacent to and east of Claire Court, a City owned parcel which is part of a larger open lands acquisition in 2003 (Prairie Dog Meadow). The existing land use designation is Urban Estate and the proposed designation is Open Lands, Parks and Stream Corridors.*

***Request for C and R-L Zoning – Section 2.9.4(H)***

*Staff is recommending that the Plan Amendment be approved and Commercial (C), Low Density Residential (R-L), and Public Open Lands (POL) zoning be implemented as a related action. The request to rezone the two parcels from U-E to C and R-L, and one parcel from U-E to POL (Attachments 3 and 4). This change is considered quasi-judicial (versus legislative) since the parcels are less than 640 acres. There are five standards that may be used in evaluating a request for a quasi-judicial rezoning. These standards, and how the request complies, are summarized below:*

*1. Mandatory requirements:*

- A. Any amendment to the Zoning Map shall be recommended for approval only if the proposed amendment is consistent with the City's Comprehensive Plan:*

*The request for the C, R-L, and POL zoning districts is consistent with the City Structure Plan as amended in the proposed prior action. The Commercial zoning change would be compatible with the existing commercial to the west along the Kelmar Strip and the other mixed-uses in the area, provide a transition between the College Avenue commercial and*



*residential use to the east, and provide a transition between the College Avenue Kelmar Strip commercial and residential use to the east.*

*The change from Urban Estate to Low Density Residential is more compatible with the existing residential neighborhood to the north and east. The change from Low Density Residential to Public Open Lands is compatible with the existing residential neighborhood to the west and north and existing open lands owned by the City.*

*B. Any amendment to the Zoning Map shall be recommended for approval only if the proposed amendment is warranted by changed conditions within the neighborhood surrounding and including the subject property.*

*Changed conditions in the area are largely a result of what has developed on and around these two parcels since the time of County Zoning of FA- Farming in the early 1960's. The area now reflects a more "mixed urban fringe" character than farming or rural residential character. Staff finds that a change to Commercial zoning on part of 209 East Skyway is warranted given the situation on the 3.6-acre property and the mix of uses in the area. The proposed Low Density Residential is appropriate to reflect the residential and school development which has occurred along East Skyway.*

*The City-owned property purchased in 2003 warranted a map change then, but was missed at the time. This rezoning represents a house keeping action to update the zoning map based on previous decisions.*

*2. Additional, Optional Considerations:*

*C. Whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land, and is the appropriate zone district for the land.*

*As stated above, staff has determined that the current Urban Estate is not the most appropriate zoning in between existing commercial and low density residential uses.*

*Staff finds the proposed amendment for 209 East Skyway to be compatible with the existing commercial area to the west, the existing residential to the north, and the various uses that make up a mixed character to the south and east. The change to 225 East Skyway would better reflect the existing residential character across the street to the north and east.*

*D. Whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment, including but not limited to, water, air, noise, storm water management, wildlife, vegetation, wetlands and the natural functioning of the environment.*

*Staff finds no adverse environmental impacts.*

- E. *Whether and the extent to which the proposed amendment would result in a logical and orderly development pattern.*

*The proposed amendment results in a logical and orderly development pattern by allowing a modest, transitional amount of additional commercial use on a portion of 209 East Skyway adjacent to existing commercial use to the west and north of the property. The change from U-E to R-L simply reflects the existing residential development on and around the subject properties. This is essentially a "house keeping" change to create a more logical and orderly pattern than the current pattern, which includes U-E on properties, that better fit the R-L designation. The R-L clearly fits the existing residential uses and any potential future residential development that could occur on the east part of 209 East Skyway. The initial zoning of U-E as part of the South College enclave annexation and zoning was close to reflecting the existing uses, but based on further review by staff, a recommendation to change to Low Density Residential zoning provides a more logical and orderly development pattern and transition to surrounding uses in the area.*

### ***Neighborhood Meeting Summary***

*A neighborhood meeting was held on August 30, 2007. A more detailed summary is attached. The number of property owners in attendance was six. The following main points are as follows:*

- Of the six property owners in attendance, five supported the proposed plan amendment and rezoning. A general response included support for the existing small engine repair business and other planned commercial uses requested by the owner of 209 East Skyway and changes to 225 East Skyway.*
- One owner did not support the proposed plan amendment and rezoning. The comments focused on history of previous County decisions, compatibility concerns, and a general opposition to commercial zoning for this location.*

### ***FINDINGS OF FACT/CONCLUSION:***

*In evaluating the request for a Structure Plan Amendment and rezoning, staff makes the following findings of fact:*

- A. The proposed amendment meets the criteria outlined in Appendix C of City Plan through a Minor Amendment process including a need for the change and promoting the public welfare, and will be consistent with the vision, goals, principles and policies of City Plan.*
- B. The proposed rezoning is consistent with City Plan and more specifically the City Structure Plan Map, since the two actions are being done as a unified package.*
- C. The proposed rezoning amendment is compatible with existing and proposed uses surrounding the subject land and is the appropriate zone district for the land.*

- D. *The proposed rezoning amendment would not result in significantly adverse impacts on the natural environment.*
- E. *The proposed amendment would result in a logical and orderly development pattern.*

**RECOMMENDATION**

*Staff recommends approval of the East Skyway Plan Amendment and Rezoning.*

*On October 18, 2007, the Planning and Zoning Board voted (5-0) to recommend Council not approve the East Skyway Plan Amendment and Rezoning, with an added comment to consider this request as part of the South College Corridor Plan effort. The rationale for this recommendation is based on looking at the larger context of adjoining properties and if there is any other changes warranted with additional analysis as part of the corridor planning process.*

Pete Wray, Senior City Planner, stated the four properties under consideration are east of South College Avenue and the Kel-Mar Strip, and south of Skyway Drive. The current land use designation for these properties is Urban Estate. The existing zoning along East Skyway Drive is a combination of Urban Estate, and Low-Density Residential. The property at 209 Skyway Drive was purchased in 1998 and had a small engine repair business in the garage, which is attached to the house. The owner later added a detached warehouse. This use was allowed in the County FA-Farming zoning as a home occupation use with no outside storage. Since 1999, the owner has requested Commercial zoning from the County. Staff has had numerous discussions with the owner regarding requests for Commercial zoning and zoning violations before and after annexation. The request for rezoning of the adjacent properties to the east are related but less substantial in nature. This rezoning would change the designation of the properties from Urban Estate to Low Density Residential and Public Open Lands along with the corresponding zoning. At its October 18, 2007 meeting, the Planning and Zoning Board recommended Council not approve this item as it supported inclusion of this item in the South College Corridor Plan process which is projected to be reviewed in the next year. The Board felt Council should look at the larger context of the area and consider that the Urban Estate designation does work now and could act as a transition between other uses. Staff's recommendation differs from the Planning and Zoning Board's recommendation as it believes a decision needs to be made now. This property has been in review for nine years and staff does not believe the decision regarding the property will be different if it is delayed until the South College Corridor Plan is reviewed. The owners of 209 East Skyway need to know the status of their property now so they can assess future dealings with their businesses and uses of their property.

Criteria for structure plan amendments include whether there is a need for a change and whether the change is consistent with *City Plan*. Staff believes there is a need for a change in zoning. The intent of the Urban Estate designation was to acknowledge the existing large-lot County parcels zoned Farming in the County and the properties along Skyway Drive do not reflect the character of farming or the Urban Estate designation. The properties are more in character with the commercial uses along the Kel-Mar Strip and the existing residential neighborhoods to the north and east. The use of the property at 209 East Skyway reflects a transitional mixed-use character of the area with the

December 18, 2007

existing businesses along College Avenue and existing family homes along Skyway Drive. Located south of the property is a City Natural Area, the Humane Society, Transfort facility and other large-lot residential properties. The existing small engine repair business and large warehouse building and any future new commercial uses could create a transition from the commercial along College Avenue and the existing neighborhoods to the north and east. The future commercial changes appear likely and would trigger improvements to the property with a proposed new use and project submittal.

Other properties included in this rezoning request are (1) 225 East Skyway, which would change from Urban Estate to Low Density Mixed-Use Neighborhood; (2) Claire Court, a cul-de-sac which extends south off of Skyway Drive, which would change from Urban Estate to Low Density Mixed Use Neighborhood, and; (3) the City-owned parcel east of Claire Court, which would change from Urban Estate to Open Lands, Parks and Stream Corridor designation. These are minor Structure Plan changes that would more accurately reflect the uses of the properties.

Staff believes these changes are consistent with *City Plan* in the areas of compatibility, maintaining the character of the area, protecting existing neighborhoods, and assisting small businesses. The properties along Skyway Drive are identified for potential change in the Growth Management Policy of Compatible Infill and Redevelopment. The proposed changes are warranted by changed conditions in the area, largely as a result of the general transition and development on South College Avenue and East Skyway and reflects the mixed-use, urban fringe character of the area as opposed to the Urban Estate designation. The proposed Structure Plan amendment is compatible with existing and proposed uses, does not result in significant, adverse impacts on the natural environment, and does provide a logical and orderly development pattern.

Brian Schumm, 5807 Bellina Court, urged Council not to adopt the rezoning change as he did not believe Commercial zoning should extend east of the Kel-Mar Strip. He owns two properties that would be adversely affected by the rezoning. The City-owned open space and Claire Court do not need to be rezoned at this time. 209 East Skyway is currently a residence with a home business and a large steel building for personal storage. This property has been the subject of much discussion over the past 11 years. The County has not allowed commercial use of this property for many years. When the property was annexed, it was zoned U-E. The South College Corridor Plan should be reviewed before any rezoning request is considered.

Randy Whitman, 209 East Skyway, stated he runs a small business on the Kel-Mar Strip. His property was included with the first phase of the Southwest Annexation, which was annexing all the commercial property on the Kel-Mar Strip. His property is surrounded by commercial properties and should be zoned commercial. He requested Council approve the rezoning change.

Andrea Whitman, 209 East Skyway, stated the business at 209 East Skyway has grown through the years and cannot grow further without the zoning change. She urged Council to rezone this property.

City Attorney Roy stated the decision before Council is a quasi-judicial decision. Small area rezonings and Council appeals of particular proposed land uses do not entail the making of law but

the application of law. When Council makes laws, it acts in a legislative capacity and takes into consideration many things that should not be considered when it is applying the laws to a particular situation. Council should make its decision based on its consideration of the criteria listed in City Code. Deputy City Attorney Eckman stated the Structure Plan amendment criteria are (1) whether or not any part of the Plan is in need of an amendment and (2) whether the Plan amendment will promote the public welfare and be consistent with the vision, goals, principles and policies of *City Plan*. The Structure Plan amendment must be adopted first as one of the two criteria for amending the Zoning Map is that “any amendment to the Zoning Map shall be recommended for approval only if the proposed amendment is consistent with the City’s Comprehensive Plan.” Without the amendment, the rezoning would not be consistent with *City Plan*. The other criteria is whether the change is justified based on a change of conditions in the area. Council does not need to find both criteria are met to adopt the rezoning change. Other optional criteria are (1) whether and the extent to which the proposed amendment is compatible with existing and proposed uses surrounding the subject land and is the amendment appropriate for the land; (2) whether and the extent to which the proposed amendment would result in significantly adverse impacts on the natural environment; and (3) whether and the extent to which the proposed amendment would result in a logical and orderly development pattern. Council can consider the optional criteria, but it is not mandatory for the proposal to meet them.

Councilmember Ohlson requested further information about the Structure Plan comparison. Wray stated the current Structure Plan map lists the zoning of the subject properties as Urban Estate. The proposed change would change the zoning of western two-thirds of the property at 209 East Skyway to commercial and the other one-third would be zoned Low Density Residential. The property located at 225 East Skyway is a large property containing a Montessori school and a horse pasture. Staff believes 225 East Skyway and the lots located on Claire Court would more accurately reflect the character of the area with a Low Density Residential zoning.

Councilmember Ohlson asked whether the rezoning was warranted based on changes in uses in the surrounding properties, including the subject property. He stated rezoning based on changes of use of the subject property would be allowing a zoning change based on previous use that was incompatible with the current zoning and rewarding those who ignored zoning code. Joe Frank, Advance Planning Director, stated staff recommended the zoning change based on the uses of the surrounding area and not the current use of the property. Deputy City Attorney Eckman stated the Code was written in an attempt to generally cover many different situations. If the property was considered a “non-conforming” use, then the use of the subject property should be taken into account when rezoning is requested. Frank noted properties have been annexed into the City that are zoned Farming by the County, but are more compatible with the Commercial zoning designation from the City. The subject property use is only one reason among many given by staff to support a rezoning recommendation.

Councilmember Ohlson asked if the property at 209 East Skyway was in compliance with City Code. Peter Barnes, Zoning Supervisor, stated the property does have a long history of zoning issues. At the time the property was annexed into the City, the only uses allowed on the property were those uses allowed by the County. According to the Code, when a multi-parcel annexation occurs such

*December 18, 2007*

as the Southwest Annexation, any property that has illegal uses must be brought into compliance with City Code within a certain amount of time. The County allowed home occupation consisting of a small engine repair business with no outdoor storage. A court action in 2005 ordered all outdoor storage of non-personal items to cease. Compliance of the property was achieved after several visits by County employees. When the property was annexed into the City, items were being stored outdoors on the property. Mr. Whitman was notified compliance was necessary within a certain date. The Code states when an illegal use occurs that was not the subject of a County court order or was the subject of any enforcement action by the County, the property owner has two years from the date of annexation to bring the property into compliance. If the County-initiated enforcement action resulted from a complaint from a citizen, as was the case with the subject property, upon annexation into the City, and it was determined the complaint was bona fide, the property must be brought into compliance in 90 days, with a possible 180 day extension. A deadline in June was established for compliance with certain conditions, such as removal of outdoor storage of non-personal items. Complete compliance was required by September 30, which meant the large, detached building could be used only for non-personal items. In October, staff noticed non-personal items were still being stored outdoors. A summons was issued to Mr. Whitman who was assessed a fine for non-compliance. At this time, outdoor storage of non-personal items has ceased. The City will continue to enforce its Code. If the rezoning is allowed, the only way for Mr. Whitman's business to become legal, with outdoor storage and RV storage would be to go through a development review process. His business would be called a workshop and custom small industry, not a home occupation. He could have outdoor storage with screening by a solid fence. The RV storage would be in a building and be considered enclosed mini-storage. Both uses are allowed in the proposed zoning. Improvements to the site would also be required, including landscaping, and potential sidewalks.

Councilmember Ohlson asked if the staff recommendation to approve the rezoning could change after the review of the South College Corridor Plan. Frank stated the property does meet the criteria for a rezoning and it does make sense to rezone the property. The Whitmans have been restricted in running their business by the court order and the current zoning. A decision is needed so the Whitmans can make plans for their business either at the current location or to move it to a different location. Staff believed it was not logical to continue discussion about rezoning this property for another year until the South College Corridor Plan review was completed and the recommendation would not be changed.

Councilmember Brown asked if the outdoor storage issue would be enforced. Wray stated the proposed Commercial zoning does not allow outdoor storage and Mr. Whitman would need to go through the development process to be allowed outdoor storage on the property.

Councilmember Manvel asked if the Whitmans could continue their business with the Urban Estate zoning currently in place. Frank stated he was unsure the Whitmans could continue their business for another year until the South College Corridor Plan review is completed. It would be an economic hardship for them to wait for a decision as they are currently turning business away and they have a desire to expand.

December 18, 2007

Mayor Hutchinson asked if Council should consider the Whitmans' ability to continue business in its deliberation of this issue. City Attorney Roy stated Council's consideration should be based on land use, land use patterns, compatibility and not economic impact on particular land owners.

Councilmember Roy made a motion, seconded by Councilmember Ohlson, to adopt Resolution 2007-107.

Councilmember Ohlson stated it made sense to proceed with the rezoning as this issue has been around for a long time and the likely outcome would not be any different if it is postponed for a year. He hoped the property would remain in compliance with the Code.

Councilmember Brown stated the property owners deserved an answer regarding rezoning the property so they could make future business plans.

Mayor Hutchinson stated while the Planning and Zoning Board recommended waiting to make the decision regarding this rezoning, the issue needs to be resolved now. Waiting will not change any factors under consideration in this issue.

The vote on the motion was as follows: Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

Councilmember Ohlson made a motion, seconded by Councilmember Roy, to adopt Ordinance No. 146, 2007 on First Reading. Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

### **Other Business**

Councilmember Ohlson made a motion, seconded by Councilmember Manvel, to cancel the regular meeting scheduled for January 1, 2008. Yeas: Brown, Hutchinson, Manvel, Ohlson, Poppaw, Roy and Troxell. Nays: none.

THE MOTION CARRIED.

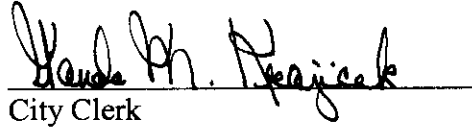
December 18, 2007

**Adjournment**

The meeting adjourned at 7:45 p.m.

  
Mayor

ATTEST:

  
City Clerk