

**February 5, 2008**

**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, February 5, 2008, 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, Poppaw, Roy, and Troxell.

Councilmembers Absent: Ohlson

Staff Members Present: Atteberry, Krajicek, Roy.

**Citizen Participation**

Chuck Hagemeister, 1812 Welch Street, thanked Council for confirming the Museum/Discovery Science Center partnership. This partnership will broaden Fort Collins' cultural environment.

Chad Jones, 1927 Mesaview Lane, President of the Museum Foundation Board of Directors, expressed support for the Museum/Discovery Science Center partnership on behalf of the Board and thanked Council for its support.

Kevin Jones, 1010 West Mountain Avenue, expressed his appreciation for the public-private partnership developed for the Museum/Discovery Science Center.

Joe Kissell, 913 West Oak, urged Council to adopt a resolution calling for the removal of U.S. troops from the war in Iraq.

Kirk Patterson, 2901 Middlesborough Court, stated his concerns with snow removal from sidewalks, called "connectors," that connect cul-de-sacs to outside streets. One connector he uses on a regular basis is not shoveled and no one seems to be responsible for the snow removal.

Cheryl Distaso, 135 Sunset, urged Council to adopt a resolution calling for the removal of U.S. troops from the war in Iraq. She stated the exterior maintenance property code changes that Council will be considering at a later date would place an undue burden of costs on people who cannot afford to maintain their properties. When the new code changes are adopted, she wanted a trial period to encourage citizens to help their neighbors comply with the new requirements before any fines were enforced.

Bruce Lockhart, 2500 East Harmony Road, stated Council should have gathered more information regarding uranium mining before it passed a resolution opposing uranium mining in Northern Colorado and should reconsider the issue.

Steve VanderMeer, 1712 Westview Road, President of Discovery Science Center Board of Directors, expressed his thanks for the partnership being formed by the Museum and the Discovery Science Center and stated his belief that the partnership will strengthen both entities..

Martina Wilkinson, 3405 Harbor Way, Vice-President of Discovery Science Center Board of Directors, stated her appreciation for the partnership between the Discovery Science Center and the Museum and thanked Council for approving this partnership.

Andrew Warnock, 600 Monte Vista Lane, member of the Discovery Science Center Board of Directors, stated the partnership of the Museum and the Discovery Science Center will be of great benefit to the community and the location chosen for the new building will help bring families together while learning about science and culture.

Nancy York, 130 South Whitcomb, urged Council to adopt a resolution calling for the removal of U.S. troops from the war in Iraq.

Moselle Bernal, 3719 Brumley Drive, member of the Discovery Science Center Board of Directors, stated the public-private partnership of the Museum and Discovery Science Center would expand their impact on young people throughout the region. She expressed her appreciation for the approval of this partnership.

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

Councilmember Poppaw asked who was responsible for snow removal from “connector” sidewalks and she asked if Council action was needed to assign the snow removal responsibility. City Attorney Roy stated City Code does not address “connector” sidewalks. When a connector, which is a right-of-way, is not dedicated to the City at the time of the development, which is the case of the connector sidewalk mentioned by Mr. Patterson, the duty of maintenance does not fall on the City. The Code provision that does impose a duty upon adjacent property owners to keep sidewalks clear does not apply to this situation, as this is not a sidewalk within the definition of the Code. Staff can examine the issue of whether this is a responsibility that should be assumed by the City or imposed on adjacent property owners. City Manager Atteberry stated consideration must be given as to whether or not this should be a responsibility of the City or should be the responsibility of homeowner associations. The “connector” mentioned by Mr. Patterson is a path at the end of a cul-de-sac and there are two properties that are adjacent to the path. The property owner of the sidewalk is a bank in California. He did not feel snow removal from “connectors” across the community was a responsibility the City should simply accept. “Connectors” are typically maintained by homeowner associations.

Councilmember Manvel stated much hard work was done by community members to bring the Museum/Discovery Science Center partnership to fruition and he thanked the citizens who had devoted much time to development of the Discovery Science Center.

Councilmember Manvel stated adoption of the resolution opposing uranium mining in Northern Colorado was not a vote against nuclear power. He opposed uranium mining based on the history of mining in the country and the economic damage done when the mining stops. A uranium mine

located ten miles from downtown Fort Collins would not be good for the economic success of the community. Council did not want to expend a great deal of staff time and resources on a detailed analysis of uranium mining, but wanted to express its opposition.

Councilmember Troxell stated the resolution opposing uranium mining in Northern Colorado was passed with little regard for data or understanding of the issue and he did not feel this approach was in the best interests of the citizens. He believed Council should give greater care and attention to the critical issues to be addressed in coming months, such as transportation and water storage issues.

Councilmember Roy stated he did oppose uranium mining in Northern Colorado and considered the adoption of the resolution as a vote against nuclear energy. He did not believe Council had passed the resolution opposing uranium mining lightly or with little regard for data.

Councilmember Poppaw stated the resolution opposing uranium mining was adopted to send a message regarding the potential serious negative economic and environmental impacts to the citizens of Fort Collins.

### **Agenda Review**

City Manager Atteberry stated there were no changes to the published Agenda. He noted Council has enabled the partnership of the Museum and Discovery Science Center to happen. He thanked staff for its time and energy to help create this partnership.

### **CONSENT CALENDAR**

6. Consideration and Approval of the Minutes of the January 15, 2008 Regular Meeting and the January 22, 2008 Special Meeting.

7. Second Reading of Ordinance No. 001, 2008, Appropriating Unanticipated Grant Revenue in the General Fund for the Fort Collins Police Services Victim Services Team.

The City has received a grant in the amount of \$33,150 from the Eighth Judicial District Victims Assistance and Law Enforcement (V.A.L.E.) Board to help fund victim services activities. This Ordinance, unanimously adopted on First Reading on January 15, 2008, appropriates these grant funds.

8. Second Reading of Ordinance No. 002, 2008, Appropriating Unanticipated Revenue in the Street Oversizing Fund for Transfer to the Capital Projects Fund - Harmony Road and Ziegler Road Improvements - Front Range Village Development Capital Project and Authorizing the Transfer of Appropriations Between Funds to Construct Sidewalk Improvements on the North Side of Harmony Road from Ziegler Road to Lady Moon Drive.

This Ordinance, unanimously adopted on First Reading on January 15, 2008, appropriates funding to be used to install an eight foot wide sidewalk on the north side of Harmony, from Ziegler Road to Lady Moon Drive to provide pedestrian access to bus stops and businesses on the Harmony transit route.

9. Second Reading of Ordinance No. 003, 2008, Amending Chapter 2, Division 3 of the City Code Pertaining to Appeals to the City Council.

This Ordinance authorizes Councilmembers to inspect the site of development project plans or other proposals that are the subject of a Council appeal and prescribes the terms and conditions under which such site inspections may occur.

On First Reading, this Ordinance presented two proposed amendments to the Council. The first of those amendments would have limited the parties-in-interest who are considered to have a legally protected interest under the Code for the purposes of seeking judicial review of the Council's determination of an appeal. The motion to approve that proposed amendment failed to gain majority support. Accordingly, the Ordinance presents on second reading only the second part of the original Ordinance, which was unanimously adopted on First Reading on January 15, 2008.

10. Second Reading of Ordinance No. 004, 2008, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements and Widen West Harmony Road from South College Avenue to Seneca Street.

Improvements to Harmony Road between College Avenue and Seneca Street have been prioritized by the City of Fort Collins. To meet the proposed construction schedule for the Project, timely acquisition of the property interests along West Harmony Road is necessary. This Ordinance, unanimously adopted on First Reading on January 15, 2008, authorizes the approval to use eminent domain to acquire necessary property interests, if needed.

11. Second Reading of Ordinance No. 005, 2008, Authorizing Conveyance of an Easement for Two Pedestrian Bridges to Poudre Valley Health Care, Inc., d/b/a Poudre Valley Health Systems ("PVH").

PVH has a project development plan known as "Poudre Valley Hospital Parking Structure and Medical Office Building" ("the Project"), approved by the Planning and Zoning Board on September 20, 2007. This plan includes the construction of a new employee parking structure and a new medical office building. Also as part of the plan, PVH desires to construct two pedestrian bridges. One of the proposed bridges will span Garfield Street and the proposed second bridge will span Lemay Avenue. This Ordinance, unanimously adopted on First Reading on January 15, 2008, authorizes the conveyance of the easement area needed to construct the pedestrian bridges.

12. First Reading of Ordinance No. 007, 2008, Appropriating Unanticipated Grant Revenue in the Form of Grant Proceeds From the National Park Service in the Cultural Services and Facilities Fund - Trail of Northern Colorado Grant Project.

The City was awarded a \$100,000 grant from the National Park Service. This Ordinance appropriates that grant money in the Museum's Trails of Northern Colorado grant project.

13. First Reading of Ordinance No. 008, 2008, Appropriating Unanticipated Grant Revenue in the General Fund Continuation of the Restorative Justice *Restore* Program.

This Ordinance appropriates funds received from a grant in the amount of \$20,000 from the Bohemian Foundation for salaries associated with the continued operation of the *Restore* Program.

14. First Reading of Ordinance No. 009, 2008, Appropriating Prior Years Reserves in the Downtown Development Authority Fund for Expenditure on Projects in Accordance with the Downtown Plan of Development.

This Ordinance will appropriate unanticipated revenue from interest earnings in the amount of \$754,374 and reappropriate \$713,667 from project savings from prior years appropriations. The DDA board has authorized the expenditure on various projects and programs.

15. First Reading of Ordinance No. 010, 2008, Appropriating Prior Year Reserves in the General Fund to Purchase a Parcel of Land on Cherry Street Adjacent to Martinez Park

The new Museum/Discovery Science Center (“the Project”) is planned to be built on a portion of the property known as Martinez Park at its eastern boundary. The main access for the Project will be from Mason Street. The facility to be constructed is planned to be a two-story building with a parking lot. This Ordinance would appropriate the funds necessary to acquire a parcel of land located on Cherry Street adjacent to the site of the Project. The property is planned to be used as a visual gateway to the Project. In order to complete this transaction, staff is requesting Council approve the appropriation of funds necessary to acquire the property and pay associated expenses for the purchase.

16. First Reading of Ordinance No. 011, 2008, Calling a Special Municipal Election on June 10, 2008 for the Purpose of Submitting to the Registered Electors a Citizen-Initiated Charter Amendment That Would Authorize Collective Bargaining and Binding Arbitration for City Employees.

On January 22, 2008, the City Clerk’s Office received an initiative petition to amend the City Charter relating to collective bargaining. The Clerk’s Office has until February 12 to complete its review of the petition to determine if the petition contains a sufficient number of signatures to place the initiated measure on a special election ballot. Pursuant to C.R.S. 31-2-210(4), if the petition is certified as sufficient by the City Clerk, the City Clerk must publish notice of an election upon the proposed Charter amendment within 30 days of the filing of the petition, or no later than February 22, 2008. In order to meet the notice requirement, second reading of the Ordinance calling the election, as well as a resolution submitting the proposed Charter amendment to the registered electors of the City and setting the ballot language, must be considered on February 19, 2008.

If the petition is found to be insufficient upon completion of the examination, the second reading of this Ordinance, as well as the accompanying resolution setting the ballot language,

may need to be postponed until the petition circulators have an opportunity to withdraw the petition and file an amended petition (which must be done no later than 15 days after the Clerk determines the petition is insufficient). If an amended petition is filed, second reading of this Ordinance and the accompanying resolution will be scheduled for the next meeting following examination of the amended petition. At that time, it may be necessary to change the date of the election to facilitate compliance with all statutory requirements for holding an election on a proposed Charter amendment.

17. First Reading of Ordinance No. 012, 2008, Authorizing the Purchasing Agent to Enter into an Agreement to Finance Equipment by Lease-Purchase.

This an implementation action from a City technical energy audit done in 2006. This Ordinance authorizes the Purchasing Agent to enter into a lease-purchase financing agreement with Koch Financial Corporation at 3.75% interest rate. The agreement is for an original term from the execution date of the agreement to the end of the current fiscal year. The agreement provides for renewable one-year terms thereafter, to a total term of five (5) years, subject to annual appropriation of funds needed for lease payments. The total lease terms, including the original and all renewal terms, will not exceed the useful life of the property. This lease-purchase financing is consistent with the financial policies of the City of Fort Collins.

All equipment shall be purchased following the City's purchasing ordinances and procedures to ensure that the City realizes all cost savings.

18. Items Relating to the Fort Collins Museum/Discovery Science Center Project.

- A. Resolution 2008-008 Approving an Operating Agreement Between the City and the Discovery Science Center, Authorizing the New Museum/Discovery Science Center Project to Proceed, and Enhancing the Scope of the Project To Include New Exhibits.
- B. Ordinance No. 013, 2008, Authorizing the Conveyance of an Ownership Interest in the New Museum/Discovery Science Center Facility to the Discovery Science Center.

Adoption of the Resolution forms a true partnership between the City and the Discovery Science Center to build and jointly operate a new museum/science center together in order to provide visitors with an exceptional and unique experience combining science, history, nature and culture in a new and very exciting way. The agreement provides for the construction and joint ownership and operation of the new facility, including the land. The project will be constructed on land owned by the City on the east end of Lee Martinez Park.

Adoption of the Resolution fulfills a requirement in the BOB ordinance that Council provide authorization for the project to proceed after receiving a report from the City Manager and the City's Financial Officer verifying the DSC has the financial ability to fund no less than \$3.6 million of the project costs. The Resolution also clarifies that the scope of the project includes new exhibits.

Adoption of the Ordinance conveys to the DSC an ownership interest in the new Museum/Discovery Science Center facility, including the land. The ownership interest cannot be conveyed or encumbered without the City's consent. Likewise, the City's ownership interest cannot be conveyed or encumbered without the DSC's consent. Each Party's ownership interest will be equal to its financial contribution to the project. Consequently, the City's interest will include the value of the park land.

The new Museum/Discovery Science Center is scheduled to open in the first half of 2011. The City and the DSC will continue fund-raising efforts through 2008 and will begin designing the facility later this year. Construction will begin in late 2009.

19. First Reading of Ordinance No. 006, 2008, Designating Grandview Cemetery, 1900 West Mountain Avenue, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

The owner of the property, the City of Fort Collins, is initiating this request for Fort Collins Landmark designation for the property. The cemetery property contains one historic building, and several historic structures, objects, and features, including historic bridgework, entryway features, statuary, grave markers and monuments, and a historic segment of the New Mercer Canal. All of these historic resources contribute to the architectural and historical significance of the cemetery. The property also contains two non-historic, metal workshop/garage buildings, one non-historic circa 1970s residential dwelling, a non-historic pumphouse, and two other small storage sheds of recent vintage. These buildings are non-contributing elements of the cemetery property. While all cemetery lots are owned by the City of Fort Collins, individual grave markers belong to the families of the deceased, who have the legal right to remove, modify or replace the markers. The City's Master Plan for Grandview Cemetery, once developed, will be used in conjunction with the criteria in Section 14-48 of the Municipal Code to determine compliance with historic preservation standards. In the event of a conflict between the Master Plan and the Code, the Code will control.

20. First Reading of Ordinance No. 014, 2008, Designating the Saint Joseph Catholic Church and Church Parish Center, 300 West Mountain Avenue, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

The owner of St. Joseph Catholic Church, the St. Joseph Parish, Archdiocese of Denver, is initiating this request for Fort Collins Landmark designation for the property, located at 300 West Mountain Avenue.

21. Resolution 2008-009 Appointing Two Councilmembers to the Library Trustee Selection Committee.

The IGA between the City, the Library District and the County provides for a committee of two Councilmembers and two County Commissioners to make recommendations for Library District Trustee appointments. Selected Trustees must be approved by a two-thirds majority of the Council and of the Commissioners. Adoption of the Resolution appoints two Councilmembers to the Library Trustee Selection Committee.

22. Resolution 2008-010 Appointing Brian Janonis to the Platte River Power Authority Board of Directors.

The Platte River Board of Directors is comprised of two representatives from each of the four member cities. The Mayor (or Mayor's designate) fills one slot and the second representative is appointed by the Council. Utilities General Manager Mike Smith served as the City's representative from 1998 until his resignation in July 2007. City Manager Darin Atteberry was appointed to fill the remainder Mr. Smith's term, or until another appointment is made. Brian Janonis was appointed as the Utilities Executive Director on December 12, 2007. City Manager Atteberry has requested that Mr. Janonis replace him as a City representative.

This Resolution appoints Brian Janonis to replace Darin Atteberry for the term which expires December 31, 2008, or until such appointment is changed by the Council.

23. Resolution 2008-011 Making Amendments to the Boards and Commissions Manual.

The 2008 Boards and Commissions Manual has been revised to clarify procedures and deadlines regarding various responsibilities of boards and commissions. Certain procedures have changed especially related to website postings of public information and quorum requirements.

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

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

7. Second Reading of Ordinance No. 001, 2008, Appropriating Unanticipated Grant Revenue in the General Fund for the Fort Collins Police Services Victim Services Team.
8. Second Reading of Ordinance No. 002, 2008, Appropriating Unanticipated Revenue in the Street Oversizing Fund for Transfer to the Capital Projects Fund - Harmony Road and Ziegler Road Improvements - Front Range Village Development Capital Project and Authorizing the Transfer of Appropriations Between Funds to Construct Sidewalk Improvements on the North Side of Harmony Road from Ziegler Road to Lady Moon Drive.
9. Second Reading of Ordinance No. 003, 2008, Amending Chapter 2, Division 3 of the City Code Pertaining to Appeals to the City Council.
10. Second Reading of Ordinance No. 004, 2008, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements and Widen West Harmony Road from South College Avenue to Seneca Street.
11. Second Reading of Ordinance No. 005, 2008, Authorizing Conveyance of an Easement for Two Pedestrian Bridges to Poudre Valley Health Care, Inc., d/b/a Poudre Valley Health Systems ("PVH").



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

12. First Reading of Ordinance No. 007, 2008, Appropriating Unanticipated Grant Revenue in the Form of Grant Proceeds From the National Park Service in the Cultural Services and Facilities Fund - Trail of Northern Colorado Grant Project.
13. First Reading of Ordinance No. 008, 2008, Appropriating Unanticipated Grant Revenue in the General Fund Continuation of the Restorative Justice *Restore* Program.
14. First Reading of Ordinance No. 009, 2008, Appropriating Prior Years Reserves in the Downtown Development Authority Fund for Expenditure on Projects in Accordance with the Downtown Plan of Development.
15. First Reading of Ordinance No. 010, 2008, Appropriating Prior Year Reserves in the General Fund to Purchase a Parcel of Land on Cherry Street Adjacent to Martinez Park
16. First Reading of Ordinance No. 011, 2008, Calling a Special Municipal Election on June 10, 2008 for the Purpose of Submitting to the Registered Electors a Citizen-Initiated Charter Amendment That Would Authorize Collective Bargaining and Binding Arbitration for City Employees.
17. First Reading of Ordinance No. 012, 2008, Authorizing the Purchasing Agent to Enter into an Agreement to Finance Equipment by Lease-Purchase.
18. Ordinance No. 013, 2008, Authorizing the Conveyance of an Ownership Interest in the New Museum/Discovery Science Center Facility to the Discovery Science Center.
19. First Reading of Ordinance No. 006, 2008, Designating Grandview Cemetery, 1900 West Mountain Avenue, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.
20. First Reading of Ordinance No. 014, 2008, Designating the Saint Joseph Catholic Church and Church Parish Center, 300 West Mountain Avenue, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

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

THE MOTION CARRIED.

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

Mayor Hutchinson stated the Museum/Discovery Science Center partnership will be of great benefit to the City and he thanked staff and community members for the hard work done to create this partnership.

Councilmember Poppaw stated the partnership between the Museum and the Discovery Science Center is a visionary move for the community and she thanked those who worked on the creation of the partnership.

Councilmember Roy stated Item #12 *First Reading of Ordinance No. 007, 2008, Appropriating Unanticipated Grant Revenue in the Form of Grant Proceeds From the National Park Service in the Cultural Services and Facilities Fund - Trail of Northern Colorado Grant Project* might provide an opportunity to partner with CSU students who have done much work on tourism ideas in recent years and that work would fit with the project being funded by these grant funds. He noted Item #19 *First Reading of Ordinance No. 006, 2008, Designating Grandview Cemetery, 1900 West Mountain Avenue, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code* was a wonderful recognition of the history of the Cemetery. He thanked Councilmembers Poppaw and Manvel for accepting the responsibility of being on the Library Trustee Selection Committee. He noted Item #15 *First Reading of Ordinance No. 010, 2008, Appropriating Prior Year Reserves in the General Fund to Purchase a Parcel of Land on Cherry Street Adjacent to Martinez Park* will purchase land to provide a viewshed for the new Museum/Discovery Science Center.

#### Staff Reports

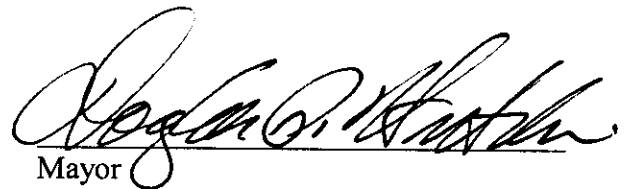
City Manager Atteberry introduced Jeff Scheick, the new Planning, Development and Transportation Director.

#### Councilmember Reports

Councilmember Brown noted Saturday, February 9, 2008 would be Stanford 20/20 Cricket Day at the Northside Aztlan Community Center. He pointed out this was an opportunity for families to learn more about cricket.

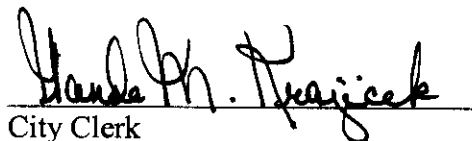
#### Adjournment

The meeting adjourned at 6:50 p.m.



Mayor

ATTEST:



Paula M. Trajcek  
City Clerk