

Karen Weitkunat, Mayor  
Gerry Horak, District 6, Mayor Pro Tem  
Bob Overbeck, District 1  
Lisa Poppaw, District 2  
Gino Campana, District 3  
Wade Troxell, District 4  
Ross Cunniff, District 5

Council Chambers  
City Hall West  
300 LaPorte Avenue

Cablecast on City Cable Channel 14  
on the Comcast cable system

Darin Atteberry, City Manager  
Steve Roy, City Attorney  
Wanda Nelson, City Clerk

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## **REGULAR MEETING**

**May 21, 2013**

### **Proclamations and Presentations**

**5:30 p.m.**

- A. Proclamation Declaring May 2013 as Mental Health Month.
- B. Friends of Preservation awards.

### **Regular Meeting**

**6:00 p.m.**

#### **PLEDGE OF ALLEGIANCE**

- 1. CALL MEETING TO ORDER.
- 2. ROLL CALL.

**Recognition of the Cityworks 101 Class.**

3. AGENDA REVIEW:

- City Manager Review of Agenda.
- Consent Calendar Review.

This Review provides an opportunity for Council and citizens to pull items from the Consent Calendar. Anyone may request an item on this Calendar be "pulled" off the Consent Calendar and considered separately.

- Council opportunity to pull Consent Calendar items.  
(will be considered under Item No. 25)
- Citizen opportunity to pull Consent Calendar items.  
(will be considered under Item. No. 28)

4. CITIZEN PARTICIPATION

Individuals who wish to make comments regarding items remaining on the Consent Calendar or wish to address the Council on items not specifically scheduled on the agenda must first be recognized by the Mayor or Mayor Pro Tem. **Before speaking, please sign in at the table in the back of the room.** The timer will buzz once when there are 30 seconds left and the light will turn yellow. The timer will buzz again at the end of the speaker's time. Each speaker is allowed 5 minutes. If there are more than 6 individuals who wish to speak, the Mayor may reduce the time allowed for each individual.

Speakers are asked to:

- State your name and address for the record.
- Keep comments brief; if available, provide a written copy of statement to City Clerk.
- Address your comments to Council, not the audience.
- Promptly cease your comments when the allotted time expires.
- You may not yield part or all of your time to another and another speaker will not be credited with time requested but not used by you.
- Applause, outbursts or other demonstrations by the audience are not allowed.

5. CITIZEN PARTICIPATION FOLLOW-UP

This is an opportunity for the Mayor or Councilmembers to follow-up on issues raised during Citizen Participation.

## CONSENT CALENDAR

The Consent Calendar consists of Items 6 through 21. This Calendar is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. The Consent Calendar consists of:

- Ordinances on First Reading that are routine
- Ordinances on Second Reading that are routine
- Those of no perceived controversy
- Routine administrative actions.

6. Consideration and Approval of the Minutes of the April 29 Adjourned Meeting.
7. Second Reading of Ordinance No. 066, 2013, Appropriating Prior Year Reserves and Unanticipated Revenue in the General Fund for Cultural Development and Programming Activities, Tourism Programming, and the Fort Collins Convention and Visitors Bureau.

This Ordinance, unanimously adopted on First Reading on May 7, 2013, appropriates \$139,465, of which \$57,571 is for 2013 Cultural Development and Programming Activities (Fort Fund), \$9,842 for 2013 Tourism Programming (Fort Fund), and \$72,052 for 2013 Fort Collins Convention and Visitors Bureau (CVB) from Unanticipated Revenue (Lodging Tax) and Prior Year Reserves (unspent appropriations) in the General Fund Lodging Tax Reserves. Lodging Taxes for 2012 were estimated at \$815,000; actual Lodging Tax revenues collected equaled \$1,011,840 (\$196,840 over estimate). In 2013, the Fort Collins CVB is due to receive \$740,552 based on 2012 Lodging tax collections and prior year reserves. However, the CVB has already received \$65,736 of the unanticipated \$137,788 Lodging tax revenue in 2012 so only \$72,052 is needed to be appropriated to the Fort Collins CVB.

8. Second Reading of Ordinance No. 067, 2013 Amending Resolution 2013-001, Ordinance No. 006, 2013, and Ordinance No. 007, 2013, to Correct an Error in the Naming of the Annexation as "Hansen Annexation" by Renaming the Annexation "Hansen Farm Annexation."

In January and February of this year, the City Council adopted Resolution 2013-001, Ordinance No. 006, 2013 and Ordinance No. 007, 2013, all pertaining to the what was called the "Hansen Annexation." This reference to the "Hansen Annexation" was in error because the reference should have been to "Hansen Farm" Annexation. The purpose of this Ordinance, unanimously adopted on First Reading on May 7, 2013, is to correct that error.

9. First Reading of Ordinance No. 069, 2013, Appropriating Prior Year Reserves in the Keep Fort Collins Great Fund to Support the Landmark Rehabilitation Loan Program for 2013.

This is a request for an appropriation of \$33,000 to support the City's Landmark Rehabilitation Loan Program from prior years in the Keep Fort Collins Great Fund (KFCG). The Landmark Rehabilitation Loan Program is a highly successful financial incentive program for encouraging the sustainable revitalization of historic residential and commercial structures. The Program was funded with Keep Fort Collins Great funds in the amount of \$25,000 each year for 2013-2014. However, this year alone, the popular program received over \$65,000 in loan funding requests from 12 applicants for 24 projects costing over \$206,200 in materials and services. Without Rehabilitation Loan Program funding, many of these projects could not proceed.

The request is for the use of KFCG Other Community Priority prior year reserves created by the 2012 unspent Design Assistance Program (DAP) budget. Both the Loan Program and the DAP were funded in 2012 from KFCG - Other Community Priorities. These two incentive programs are closely linked sub-programs of the Historic Preservation Program, and provide a continuum of financial support for qualified historic preservation projects.

10. First Reading of Ordinance No. 076, 2013, Appropriating General Fund Reserves for the Platte River Power Authority Transmission Line Relocation Project Located on the Woodward Property.

Council approved the Woodward incentive package in April 2013. As a part of that agreement, Woodward agreed to advance funds to support the relocation of the Platte River Power Authority (PRPA) Transmission Line. This Ordinance appropriates \$1,297,080 from the General Fund Reserves for the relocation of the PRPA transmission line. Immediate appropriation is needed to allow the transmission line relocation to move forward so that Woodward's building site plans may remain on schedule. Delay in authorizing the appropriation may necessitate the need for PRPA to construct and remove a temporary transmission line as well as design and construct the relocated permanent transmission line. This effort would require that PRPA incur additional costs.

11. First Reading of Ordinance No. 070, 2013, Amending Section 4-196 of the City Code so as to Change the Violation of Interference with Animal Control Officers from a Civil Infraction to a Criminal Misdemeanor Offense.

On February 19, 2013, City Council adopted Ordinance No. 021, 2013, amending Chapter 4 of the City Code decriminalizing certain offenses related to the care and keeping of animals. This change was intended to include all animal offenses that constitute neighborhood nuisances. After further deliberation, Animal Control recommends keeping the section pertaining to interference with an animal control officer as a criminal misdemeanor. Staff recommends changing this Code section from a civil infraction to a criminal misdemeanor.

12. First Reading of Ordinance No. 071, 2013, Amending Section 19-65 of the City Code Related to the Service of a Civil Citation.

In an effort to correct an inadvertent change that occurred with a previous Code change, this amendment will provide the ability for a civil citation to be issued immediately for repeated civil infractions. This will apply to a second or subsequent violation within a twelve (12) month period for the same violation. This process already applies for Land Use Code Section 3.8.16 pertaining to occupancy limits, so this change would make the process consistent for civil infractions. Additionally, this Code change specifies that a civil citation may be issued immediately for animal code violations.

13. First Reading of Ordinance No. 072, 2013, Amending Sections 19-36 and 19-41 of the City Code Pertaining to Municipal Court Referees.

This Ordinance makes two minor changes to the Code provisions relating to Municipal Court Referees. First, it removes the residency requirement for such Referees from Section 19-36 so that the Assistant Municipal Judges, who lives outside the City limits, can serve as a back-up Referee, especially on animal infraction cases. Second, it revises Section 19-41 so that all Referees have the same authority to reduce or waive penalties and assessments when appropriate. It removes the previous distinction between the authority of the Parking Referee and the Civil Infraction Referee, which was creating some confusion.

14. First Reading of Ordinance No. 073, 2013, Amending the City Code to Grant Revocable Permits to Non-City Utilities in Annexed Areas and Correct Internal References.

This Ordinance eliminates the requirement that a non-City utility provider apply for a permit to continue providing electric service to properties annexed into the city. A revocable permit would automatically be granted at annexation and revoked upon transfer of service.

The second proposed Code change would allow the Utilities Executive Director to adopt minor technical revisions that clarify an existing standard or improve conformity toward best engineering practices.

15. First Reading of Ordinance No. 074, 2013, Amending the City Code to Authorize Administrative Adoption of Minor Rule Revisions, Clarifications, and Interconnection Project Standards.

This item grants the Utilities Executive Director authority to approve temporary exemptions or technical modifications to the City's various electric utility regulations for the purpose of supporting City-managed special pilot projects, equipment testing or research partnerships.

This authority will not be extended to allow exemptions of such regulations and standards to on going operations or services provided to Utility customers not participating in testing or research projects.

16. First Reading of Ordinance No. 075, 2013, Authorizing the Purchasing Agent to Enter into Standard Power Purchase Program Agreements with Solar Photovoltaic System Owners for up to 20 Years.

Fort Collins Utilities' Solar Power Purchase Program (FCSP3) encourages the installation of new local solar systems on behalf of all Utilities customers in support of Fort Collins renewable energy commitments under the Colorado Renewable Energy Standard (RES). The basis of the FCSP3 is a fixed-price, 20-year Power Purchase Agreement (PPA) between Fort Collins Utilities and photovoltaic

system owners for solar energy generation. Program funding was approved through the budget process. This action is necessary to authorize the required long-term (20 year) purchase power agreements.

17. Resolution 2013-046 Making Findings of Fact and Conclusions Regarding the Appeal of the February 25, 2013 Administrative Hearing Officer Approval of the 621 South Meldrum Street Project Development Plan.

On February 13, 2013, an Administrative Hearing was held to consider approval of the 621 South Meldrum Street Project Development Plan and Modification of Standard to Section 3.2.2(J). The Hearing Officer issued a written decision on February 25, 2013 to approve the proposed Project Development Plan and Modification of Standard, with two conditions. On March 19, 2013, an Amended Notice of Appeal was filed by Alan, Eric and Walter Skowron.

On May 7, 2013, City Council voted 7 - 0 to uphold the decision of the Hearing Officer, concluding that the evidence presented did not indicate the Hearing Officer failed to conduct a fair hearing either by considering evidence relevant to the Hearing Officer's findings which was substantially false or grossly misleading or by failing to receive all relevant evidence offered by the Appellants.

In order to complete the record regarding this appeal, Council should adopt a Resolution making findings of fact and finalizing its decision on the Appeal.

18. Resolution 2013-047 Adopting the Recommendations of the Cultural Resources Board Regarding Fort Fund Disbursements.

The Cultural Development and Programming and Tourism Programming accounts (Fort Fund) provide grants to fund community events. This Resolution will adopt the recommendations from the Cultural Resources Board to disburse these funds.

19. Resolution 2013-048 Authorizing the Lease of City-owned Property at 906 East Stuart Street to Fort Collins Waldorf Education Association, Inc. for up to Two Years.

Since August 2006, the City has leased 906 East Stuart to Fort Collins Waldorf Education Association, Inc., known as River Song Waldorf School. River Song Waldorf School continues to meet the national Community Development Block Grant Funding ("CDBG") criteria by serving a majority (51% or more) of low-moderate income clients below 80% of the Area Median Income. This Resolution authorizes the lease of the property to River Song Waldorf School for an additional two years.

20. Resolution 2013-049 Authorizing the Execution of the First Amendment to the Intergovernmental Agreement Establishing the Boxelder Basin Regional Stormwater Authority.

The Boxelder Basin Regional Stormwater Authority (BBRSA) was established by an intergovernmental agreement (IGA) between the City of Fort Collins, Larimer County and the Town of Timnath to fund and implement regional stormwater improvements.

Staff recommends approval of the first amendment to the IGA in order to:

- Obtain approval of the member governments for the BBRSA to accept a loan from the Colorado Water Conservation Board (CWCB) to fund the design and construction of the remaining projects;
- Authorize the BBRSA to determine and make minor revisions to properties within the Service Area of the BBRSA by designating areas as "non-tributary areas", and to grant fee credits to other areas within the Service Area; and
- Establish a sunset provision such that upon completion of the Projects, payment of all debt incurred by the Authority for the construction of the Projects, and agreement among the Members as to any continuing obligation for operation and maintenance of any Authority projects, the BBRSA can be terminated.

21. Resolution 2013-050 Nominating Mayor Karen Weitkunat as a Candidate for Re-election to the Executive Board of the Colorado Municipal League.

This Resolution formally endorses the nomination of Mayor Karen Weitkunat as a candidate to the Executive Board of the Colorado Municipal League. Mayor Weitkunat is an active participant and continues to represent the City well as a member of the Colorado Municipal League Executive Board.

## END CONSENT

22. Consent Calendar Follow-up.

This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.

23. Staff Reports.

A. PFA Wildland Fire Update.

24. Councilmember Reports.

25. Consideration of Council-Pulled Consent Items.

## DISCUSSION ITEMS

The method of debate for discussion items is as follows:

- Mayor introduces the item number and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests citizen comment on the item (five-minute limit for each citizen)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

**Note:** Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. **Please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

26. Consideration of an Appeal of the Planning and Zoning Board's March 21, 2013 Decision to Approve the Carriage House Apartments, Project Development Plan. (staff: Courtney Levingston, Joe Olson; 10 minute staff presentation; 2 hour discussion)

On March 21, 2013, the Planning and Zoning Board considered and unanimously approved the application for the Carriage House Apartments, Project Development Plan. The application consisted of a request to demolish two existing single family homes at 1305 and 1319 South Shields Street and in their place, construct five, three story multi-family buildings, with a total of 57 units divided among one, two and three-bedroom apartments for a total of 97 bedrooms. The project is located in the Neighborhood Conservation Buffer (N-C-B) Zone District and is within the Transit-Oriented Development (TOD) Overlay District.

On April 4, 2013, Joel Rovnak (Appellant) filed a Notice of Appeal, alleging that the Planning and Zoning Board failed to conduct a fair hearing because it allegedly considered evidence that was substantially false and grossly misleading when approving the Project Development Plan application.

27. Items Relating to the Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC. (Continued from April 23, 2013). (staff: Laurie Kadrich, Lindsay Ex, Dan Weinheimer; 15 minute staff presentation; 2-3 hour discussion)

(Highlighted text indicates changes made to this Agenda Item Summary since 12 p.m., Monday, May 20)

- A. Resolution 2013-036 Approving an Amendment to the Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC (Options 1, 2 and 3).
- B. Second Reading of Ordinance No. 057, 2013 Terminating the Moratorium Imposed by Ordinance No. 145, 2012 with Respect to Oil and Gas Operations Conducted under an Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC and Exempting Such Operations from the Prohibitions Contained in Section 12-135 of the City Code (Options 1, 2 and 3).

On March 19, 2013, Council approved an Operator's Agreement with Prospect Energy to conduct oil and gas operation in the city limits. The terms of the Agreement ensure stringent public health and safety measures are in place through Best Management Practices (BMPs), which generally exceed current requirements mandated by the Colorado Oil and Gas Conservation Commission (COGCC), and provide strict controls on the release of methane gases and other volatile organic compounds (VOCs). The Council also adopted on First Reading, Ordinance No. 057, 2013, by a vote of 5-1 (nays: Ohlson, absent: Poppaw), removing the Moratorium imposed by Ordinance No. 145, 2012, with respect to an Oil and Gas Operator Agreement with Prospect Energy.

- Option #1- Amended Operator Agreement Resolution 2013-036

Resolution 2013-036 will further amend the Operator's Agreement with Prospect Energy to clarify that (1) no new drilling will occur in any plugged or abandoned well in the Fort Collins Field and that (2) all Colorado Oil and Gas Conservation Commission rules to be effective August 1, 2013 will apply to any exploration and drilling activities in the Undeveloped Acreage (UDA), and (3) along the west and southern boundaries of the UDA, a 1,000 foot set-back shall be required from any residential area in accordance with COGCC standards of measurement, and (4) the Amended Agreement must be approved by Council and in effect on or before ~~executed by both parties on or before~~ June 1, 2013.

- Option #2 – Amended Operator Agreement Resolution 2013-036

Limit the Agreement to the Fort Collins Field by removing UDA from the Operator Agreement and prohibit re-entry into plugged and abandoned wells.

While the Whereas clauses for Options #1 and #2 have changed substantially, the substance of the Operator Agreement in Options #1 and #2 is the same, with the exception that the Agreement needs to be executed by June 1 instead of June 15.

- Option #3 – Amended Operator Agreement Resolution 2013-036

Resolution 2013-036 will further amend the Operator's Agreement with Prospect Energy to include ~~some~~ ~~options suggested in~~ Option #1 plus the following (1) certain portions of the Agreement apply to existing wells within the City limits of the Fort Collins Field, and that (2) will insure any wells drilled in the UDA from the initial drilling phase through completion will be required to have a \$10,000,000 per occurrence policy that covers Pollution and Cleanup, and General Liability, ~~and~~ that (3) increased setbacks will be required in certain areas of the UDA, and that (4) the Amended Agreement must be approved by Council and take effect on or before June 1, 2013.

28. Consideration of Citizen-Pulled Consent Items.



29. Other Business.

30. Adjournment.

Every Council meeting will end no later than 10:30 p.m., except that: (1) any item of business commenced before 10:30 p.m. may be concluded before the meeting is adjourned and (2) the City Council may, by majority vote, extend a meeting until no later than 12:00 a.m. for the purpose of considering additional items of business. Any matter which has been commenced and is still pending at the conclusion of the Council meeting, and all matters scheduled for consideration at the meeting which have not yet been considered by Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.