

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

ITEM NUMBER: 24 A-B

DATE: December 16, 2008

STAFF: Janet Miller

### SUBJECT

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Items Relating to the Contract and Compensation of the City Attorney.

### STAFF RECOMMENDATION

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Not applicable.

### EXECUTIVE SUMMARY

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- A. Second Reading of Ordinance No. 158, 2008, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.
- B. Resolution 2008-125 Approving the Seventh Addendum to the City Attorney's Employment Agreement.

City Council met in Executive Session on November 18 and November 25, 2008 to conduct the performance review of City Attorney Steve Roy. Ordinance No. 158, 2008, adopted on First Reading on December 2, 2008 by a vote of 5-1 (Nays: Poppaw), establishes the 2009 salary of the City Attorney at \$161,650.

Resolution 2008-125 would approve certain changes to the City Attorney's employment contract.

### BACKGROUND

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This item presents for City Council consideration on Second Reading, Ordinance No. 158, 2008, fixing the City Attorney's 2009 salary, as well as Resolution 2008-125, which would amend the City Attorney's employment contract as follows:

- decrease the City Attorney's annual vacation leave to 32.5 days per year; and
- state that the City Attorney's rate of vacation accrual will be pro-rated on a bi-weekly basis in accordance with the number of pay periods in each year (without increasing the amount of annual vacation leave).

Resolution 2008-125 would approve these changes.

**ATTACHMENTS**

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1. Comparison of 2008 and 2009 Total Compensation.
2. Copy of First Reading Agenda Item Summary - December 2, 2008  
(w/o original attachments)

**City Attorney**

**2008**

<u>Monetary</u>	
Base Salary	152,500.00
Medical Insurance	9,240.00
Dental Insurance	600.00
Life Insurance	440.64
Long Term Disability	1,204.75
ICMA 457	4,575.00
ICMA 401	15,250.00
<b>Total All Benefits</b>	<b>31,310</b>
<u>Non-Monetary</u>	
Vacation	35 days
Holiday	11 days

Total Compensation 183,810.39

**2009 Projected - 7%**

<u>Monetary</u>	
Base Salary	163,175.00
Medical Insurance	9,240.00
Dental Insurance	600.00
Life Insurance	472.32
Long Term Disability	1,289.28
ICMA 457	4,895.25
ICMA 401	16,317.50
<b>Total All Benefits</b>	<b>32,814.35</b>
<u>Non-Monetary</u>	
Vacation	30 days
Holiday	11 days

Total Compensation 195,989.35

OR 163175

9240  
600  
472  
1289  
4895  
16318

195,989

ATTACHMENT 1

**AGENDA ITEM SUMMARY**  
**FORT COLLINS CITY COUNCIL**

ITEM NUMBER: 37

DATE: December 2, 2008

STAFF: Janet Miller

**COPY**

**SUBJECT**

First Reading of Ordinance No. 158, 2008, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.

**STAFF RECOMMENDATION**

Not applicable.

**EXECUTIVE SUMMARY**

City Council met in Executive Session on November 18 and November 25, 2008 to conduct the performance review of City Attorney Steve Roy. Ordinance No. 158, 2008, establishes the 2009 salary of the City Attorney.

**COPY**

**BACKGROUND**

City Council is committed to compensating employees in a manner which is fair, competitive and understandable. The goal as an employer is to attract and retain quality employees and to recognize and reward quality performance.

In order to accomplish this goal the City Council and the City Attorney meet twice a year to discuss performance and set goals for the coming year.

In 2008, the total compensation paid to the City Attorney included the following:

**COPY**

2008 SALARY AND BENEFITS	ANNUAL	NON-MONETARY BENEFITS
Salary	\$ 152,500	Vacation (35 days per year)
Medical Insurance	8,240	Holidays (11 days per year)
Dental Insurance	60	
Life Insurance	441	
Long Term Disability	1,205	
ICMA (457)	4,575	
ICMA (401)	15,250	
<b>Total Monetary Compensation</b>	<b>\$ 183,810</b>	

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The resolution establishing the process for evaluating the performance of the City Manager, City Attorney, and Municipal Judge states that any change in compensation for the City Manager, City Attorney and Municipal Judge will be adopted by the Council by ordinance in sufficient time for the change in compensation to take effect as of the first full pay period of the ensuing year.

Ordinance No. 158, 2008, establishes the 2009 salary of the City Attorney.

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ORDINANCE NO. 158, 2008  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 2-581 OF THE CODE  
OF THE CITY OF FORT COLLINS AND  
SETTING THE SALARY OF THE CITY ATTORNEY

WHEREAS, pursuant to Article VI, Section 1 of the City Charter, the City Council (the "Council") is responsible for fixing the compensation of the City Attorney; and

WHEREAS, the City is committed to compensating its employees in a manner which is fair, competitive and understandable; and

WHEREAS, the City's pay philosophy is based on total compensation, which includes not only base salary but also deferred compensation payments, vacation and holiday leave, and amounts paid by the City for medical, dental, life and long-term disability insurance; and

WHEREAS, the Council has determined that the base salary of the City Attorney should be established at the amount of \$161,650 effective as of the first pay period in January 2009 which begins on January 12, 2009, so that the total compensation paid to the City Attorney in 2009 will be in the amount of \$194,249.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That Section 2-581 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 2-581. Salary of the City Attorney.**

The base salary to be paid the City Attorney shall be one hundred sixty-one thousand six hundred fifty dollars (\$161,650.) per annum, payable in biweekly installments. Sixty (60) percent of such sum shall be charged to general government expense, twenty (20) percent to the city water utility and twenty (20) percent to the city electric utility.

Section 2. That the effective date of the salary adjustment referred to in Section 1 above shall be January 12, 2009.

Introduced, considered favorably on first reading, and ordered published this 2nd day of December, A.D. 2008, and to be presented for final passage on the 16th day of December, A.D. 2008.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading this 16th day of December, A.D. 2008.

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Mayor

ATTEST:

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City Clerk

RESOLUTION 2008-125  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
APPROVING THE SEVENTH ADDENDUM TO THE CITY ATTORNEY'S  
EMPLOYMENT AGREEMENT

WHEREAS, Stephen J. Roy has been employed by the City Council as City Attorney since June, 1988 and has served the City well in that capacity; and

WHEREAS, the City and Mr. Roy have previously entered into that certain revised Employment Agreement dated December 17, 1991 ("Employment Agreement"), and have also entered into six previous addenda to the Employment Agreement which are dated January 19, 1995, March 8, 1996, January 9, 2001, December 11, 2003, December 7, 2004, and December 5, 2006, respectively; and

WHEREAS, the Council and Mr. Roy have agreed to revise the Employment Agreement to decrease Mr. Roy's annual vacation leave to 32.5 days per year and to state that the rate of accrual of this vacation leave will be pro-rated on a bi-weekly basis in accordance with the number of pay periods in each year.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF FORT COLLINS that the Seventh Addendum to the City Attorney's Employment Agreement, attached hereto as Exhibit "A" and incorporated herein by this reference, is hereby approved by the City Council, and the Mayor is hereby authorized to execute the Seventh Addendum substantially in the form shown on Exhibit "A" with such modifications, if any, as the Mayor may, upon consultation with the City Manager and Mayor Pro Tem, consider to be in the best interests of the City.

Passed and adopted at a regular meeting of the Council of the City of Fort Collins this 16th day of December A.D. 2008.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk



SEVENTH ADDENDUM TO THE  
CITY ATTORNEY'S EMPLOYMENT AGREEMENT

THIS SEVENTH ADDENDUM is made and entered into this \_\_\_\_ day of December, 2008, by and between the City of Fort Collins, Colorado, a municipal corporation (hereinafter referred to as the "City") and Stephen J. Roy (hereinafter referred to as "the Employee").

**WITNESSETH:**

WHEREAS, the City and the Employee have previously entered into that certain Agreement dated December 17, 1991 (hereinafter referred to as the "Employment Agreement"), and have also entered into six previous addenda to the Employment Agreement which are dated January 19, 1995, March 8, 1996, January 9, 2001, December 11, 2003, December 7, 2004, and December 5, 2006, respectively; and

WHEREAS, the City Council and the Employee have agreed upon certain modifications to the Employment Agreement which they wish to set forth in this Seventh Addendum to the Employment Agreement.

NOW, THEREFORE, in consideration of the mutual promises and benefits contained herein and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree to amend the terms and conditions of the Employment Agreement as follows:

Section 1. That Subsection 6.A. of the Employment Agreement, pertaining to Vacation and Sick Leave, is hereby amended so as to read in its entirety as follows:

**SECTION 6. VACATION AND SICK LEAVE**

A. The Employee shall be granted ~~thirty five (35)~~ **thirty-two and one-half (32.5)** days of annual vacation leave, commencing as of the first pay period in January, 2005. Five (5) days of such vacation leave shall be credited to the Employee as of the first full pay period of each year. The remaining balance of thirty (30) days of annual vacation leave shall accrue throughout the remainder of each such calendar year ~~at the bi-weekly accrual rate of 9.23 hours~~ **pro-rated on a biweekly basis**. Notwithstanding any City policy to the contrary, vacation leave accrued and unused by the Employee shall be subject to the following terms and conditions:

(1) At any time during the term of this Agreement, but not more than twice annually, the Employee may elect to receive the cash equivalent of a portion of his accrued, unused vacation, based upon his then current rate of pay; provided, however, that no more than one hundred twenty (120) hours of accrued, unused vacation leave may be converted to a cash payment in any given calendar year. The amount of said payment shall be based upon the Employee's current rate of pay at the time of conversion.

(2) At the end of each calendar year, the balance of the Employee's accrued, unused vacation leave remaining after any such cash conversion shall be carried over to subsequent years, up to a maximum accrual of 780 hours. Any balance in excess of 780 hours that exists as of the last day of the final pay period of the calendar year shall be forfeited by the Employee. For the purpose of this provision, the "final pay period of the calendar year" shall mean the last pay period that begins in such year.

(3) Upon the cessation of the Employee's employment with the City, whether by termination, death, disability, resignation or otherwise, the Employee shall be compensated by cash payment for the total amount of her accrued, unused vacation leave balance. The amount of said payment shall be based upon the Employee's then current rate of pay. Any payment made to the Employee by the City under this provision shall be in addition to any amounts previously paid for accrued, unused vacation leave under subparagraph (2) above and any other amounts payable to the Employee under this Agreement.

Section 2. Except as expressly amended by this First Addendum, all other terms and conditions of the Employment Agreement shall remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have caused this Seventh Addendum to the City Attorney's Employment Agreement to be executed as of the day and year first above written.

THE CITY OF FORT COLLINS, COLORADO  
A Municipal Corporation

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

EMPLOYEE:

\_\_\_\_\_  
Stephen J. Roy