



Karen Weitkunat, Mayor  
Kelly Ohlson, District 5, Mayor Pro Tem  
Ben Manvel, District 1  
Lisa Poppaw, District 2  
Aislinn Kottwitz, District 3  
Wade Troxell, District 4  
Gerry Horak, District 6

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**

### **October 2, 2012**

### **Proclamations and Presentations**

#### **5:30 p.m.**

- A. Proclamation Declaring October 7-13, 2012 as Public Power Week.
- B. Proclamation Declaring October as Conflict Resolution Month.
- C. Proclamation Declaring October 11, 2012 as Day of the Girl.
- D. Proclamation Declaring October as National Chiropractic Health Month.
- E. Proclamation Declaring October as Arts and Humanities Month.

### **Regular Meeting**

#### **6:00 p.m.**

#### PLEDGE OF ALLEGIANCE

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

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. 18)
- Citizen opportunity to pull Consent Calendar items.  
(will be considered under Item. No. 24)

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.

- State your name and address for the record.
- Applause, outbursts or other demonstrations by the audience are not allowed
- Keep comments brief; if available, provide a written copy of statement to City Clerk

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 14. 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. Second Reading of Ordinance No. 099, 2012, Amending the City Code and Adopting the First Amendment to the City of Fort Collins General Employees' Retirement Plan as Amended and Restated January 1, 2012, to Change the Make-up of the General Employees Retirement Committee.

The existing structure of the General Employees' Retirement Committee (GERC) has 6 positions and must include at least 3 active employee members and only 1 retiree receiving a benefit. This Ordinance, unanimously adopted on First Reading on September 18, 2012, changes those 4 positions to be any of the following: an active employee, a former employee that is vested but not yet receiving a benefit, or a retiree receiving a benefit.

7. Second Reading of Ordinance No. 100, 2012, Appropriating Unanticipated Grant Revenue in the Transportation Services Fund for the State Fiscal Year 2012-2013 Safe Routes to School Program.

The City of Fort Collins Transportation Planning Office has received a \$27,500 federal grant through the Colorado Department of Transportation for the FY 2012–13 Safe Routes to School program. This Ordinance, unanimously adopted on First Reading on September 18, 2012, appropriates the funding. The grant allows the City's Safe Routes to School Program, administered and staffed by Transportation Planning, to enhance its pedestrian and bicycle safety education programs.

8. Second Reading of Ordinance No. 101, 2012, Adjusting the Terms of the Youth Advisory Board to Coincide with the School Year.

At the request of the Youth Advisory Board, and at the direction of Council, this Ordinance, unanimously adopted on First Reading on September 18, 2012, amends the terms of members of the Youth Advisory Board so that terms begin June 1 and expire May 31. This change will allow newly appointed members to include Youth Advisory Board meetings and activities when planning for the upcoming school year. The Youth Advisory Board does not meet during the summer months.

The terms of all City boards and commissions expire on December 31 as required by Ordinance No. 070, 2000. This Ordinance provides that the next time the Boards and Commissions Manual is updated, the term expiration dates of the City Boards and Commissions will be addressed in the Manual.

9. Second Reading of Ordinance No. 102, 2012, Authorizing and Approving the Execution and Delivery by the City of a Site and Improvement Lease and a Lease Purchase Agreement and Related Documents, Concerning the Leasing by the City of Open Space and Natural Areas, a Deicing Materials Storage Facility and a Centralized Police Services Building, to Refinance the City's 2004 Lease Agreement at a Lower Interest Rate; Ratifying Action Previously Taken; and Providing Other Matters Related Thereto.

This Ordinance, unanimously adopted on First Reading on September 18, 2012, authorizes the refinancing of the 2004 Certificates of Participation (COPs). Bank of America has proposed terms for the new debt that result in a net present value savings of \$4.8 million and equates to 13.4% of the refunded principal. The 2012 debt will mature in the same time frames as before: Police through 2026, Natural Areas through 2019, and Transportation through 2024.

10. First Reading of Ordinance No. 103, 2012, Appropriating Prior Year Reserves and Unanticipated Revenue in Various City Funds.

The annual Clean-up Ordinance allows for the appropriation of expenses related to unanticipated revenue, grants and unforeseen costs that had not previously been budgeted. The details of these clean-up requests were reviewed by the Council Finance Committee on September 17, 2012. At that meeting it was requested that all use of prior year reserves be highlighted, as well as any changes not seen by the Committee. A table with the use of prior year reserves appears at the end of the Agenda Item Summary. The only items included in this Clean-up Ordinance that were not reviewed by the Council Finance Committee is a request for \$28,277 of unanticipated revenue in Forestry and \$200,000 for a tandem dump truck in the Water Fund.

The purpose of this annual Clean-Up Ordinance is to combine dedicated revenues or reserves that need to be appropriated before the end of the year to cover the related expenses that were not

anticipated and, therefore, not included in the 2012 budget appropriation. The unanticipated revenue is primarily from fees, charges, rents, contributions and grants that have been paid to City departments to offset specific expenses. Prior year reserves are primarily being appropriated for unanticipated operation expenses from reserves that are set aside for that purpose. This Ordinance appropriates prior year reserves and unanticipated revenue in various City funds. The City Charter permits the City Council to provide by ordinance for payment of any expense from prior year reserves. The Charter also permits the City Council to appropriate unanticipated revenue received as a result of rate or fee increases or new revenue sources. If these appropriations are not approved, the City will have to reduce expenditures even though revenue and reimbursements have been received to cover those expenditures.

11. First Reading of Ordinance No. 104, 2012, Authorizing the Purchasing Agent to Enter into an Agreement for the Financing by Lease-Purchase of Equipment.

The City of Fort Collins is lease-purchasing desktop computers and laptops for various City departments. The cost of the items to be lease-purchased is \$294,000. Payments at the 2.28% interest rate will not exceed \$15,596 in 2013. Money for 2013 lease-purchase payments is included in the 2013 budget requests. The effect of the debt position for the purpose of financial rating of the City will be to raise the total City debt by 0.21%. A competitive process was used to select Pinnacle Public Finance for this lease. Staff believes acceptance of this lease rate is in the City's best interest.

12. First Reading of Ordinance No. 105, 2012, Amending Chapter 7 of the City Code Relating to Redistricting.

This Ordinance will amend Section 7-87(b) of the City Code to enact language that is consistent with the original intent that the City Clerk, within 18 months after the decennial publication of the U.S. Census, recommend district boundary changes necessary to ensure that, to the extent reasonably possible, there is no more than a 10% deviation between the most populous and the least populous Council district.

13. First Reading of Ordinance No. 106, 2012, Vacating the City's Interest in the Streets Known as Daisy Street and Columbine Street.

Daisy Street and Columbine Street have existed since 1956. The City has not found any record that would indicate that the street right-of-way has been dedicated to the City by plat or separate document, but the City believes that under the doctrine of "common law dedication" it is the legitimate owner of the streets. The roads are improved with curb, sidewalk and asphalt and have been maintained by the City. All lots adjacent to these two short street stubs have been included within the District at Campus West development proposal that was approved by administrative hearing on May 7, 2012 and upheld on July 17, 2012 after an appeal to overturn the approval of the administrative hearing of said project was heard at City Council. The property owner of the adjacent lots (the District at Campus West developer) has requested that Daisy Street and Columbine Streets be vacated to allow the parcels and the streets to be replatted to accommodate the multifamily development.

Vacations of public right-of-way are governed by City Code Section 23-115, which provides for an application and review process prior to submission to the City Council for formal consideration. The process includes review by potentially affected utility agencies, City staff, emergency service providers, and affected property owners in the vicinity of the right-of-way proposed to be vacated. This review process was followed in connection with this proposal, and based on comments received; the City Engineer has recommended that the vacation be approved.

All public and private utilities have been notified of the proposed vacation and they report no objections to the vacation.

14. Routine Easement.

Easement for construction and maintenance of public utilities from S. Edward and Phyllis Stoner, to install a telecommunication equipment for water meter readings for the Advanced meter Fort Collins Project.

## END CONSENT

15. Consent Calendar Follow-up.

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

16. Staff Reports.

17. Councilmember Reports.

18. 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.

19. Second Reading of Ordinance No. 078, 2012, Amending Article XII of Chapter 23 of the City Code relating to Art in Public Places. (staff: Ellen Martin; 5 minute staff presentation; 30 minute discussion)

This Ordinance was unanimously adopted on First Reading on August 21, 2012. At that time, Council provided direction to staff and the Art in Public Places (APP) Board to reexamine the modification included in the Ordinance that caps the total annual contribution to APP from each Utility Fund (Water, Waste Water, Stormwater, and Light & Power) at \$100,000. A revised Ordinance is being presented for Second Reading that includes a revised cap option for Council consideration and approval.

20. Resolution 2012-092 Supporting an Amendment to the United States Constitution That Would Limit Constitutional Rights to Natural Persons and Would State That Political Contributions and Expenditures Are Not Constitutionally Protected Speech. (staff: Dan Weinheimer, Bruce Hendee, Steve Roy; 5 minute staff presentation; 1 hour discussion)

City Council has directed staff to present a resolution urging the City's representatives in the U.S. Congress to propose an amendment to the U.S. Constitution stating that: (1) only human beings, not corporations, are entitled to constitutional rights; and (2) money is not speech, and therefore regulating political contributions and expenditures is not equivalent to limiting political speech. In a U.S. Supreme Court decision, *Citizens United v. Federal Election Commission*, the court held that those portions of the Bipartisan Campaign Reform Act of 2002 that prohibited expenditures on "electioneering communications" by corporations were an unconstitutional infringement on the First

Amendment rights of corporations. In response to the *Citizens United* decision, some cities, states and individual lawmakers have proposed amending the U.S. Constitution in the manner described above.

21. Public Hearing on the 2013-2014 Recommended Biennial Budget for the City of Fort Collins. (staff: Darin Atteberry, Mike Beckstead; 60 minutes)

This is the second official public hearing on the City Manager's 2013-2014 Recommended Biennial Budget for the City of Fort Collins. The purpose of this public hearing is to gather public input on the 2013-2014 Budget. Public input will also be taken during the budget adoption meetings on Tuesday, October 16 and Tuesday, November 20, 2012 at 6:00 p.m. in the Council Chambers.

The City Manager's 2013-2014 Recommended Budget can be reviewed at the Main Library, the Harmony Branch Library, Council Tree Library, or the City Clerk's Office. The recommended budget can also be viewed online at [www.fcgov.com/budget](http://www.fcgov.com/budget).

22. Resolution 2012-093 Adopting "The Parking Plan: Downtown and Surrounding Neighborhoods" as an Element of the City's Comprehensive Plan and Adopting Related Changes to the Transportation Master Plan. (staff: Timothy Wilder, Randy Hensley; 10 minute staff presentation; 1 hour discussion)

The Parking Plan: Downtown and Surrounding Neighborhoods (the Plan) updates City parking policies contained in the adopted 2004 *Downtown Strategic Plan*. The Plan provides a vision for a comprehensive and integrated parking program, evaluates existing conditions, identifies key parking issues, and proposes principles, policies and action items on a variety of parking topics. The Plan will serve as a guide for addressing long-term parking issues by City staff, City Council, and the community.

23. Consideration of an Appeal of the Planning and Zoning Board's July 19, 2012 Decision to Approve Regency Lakeview Addition of a Permitted Use for Multi-family Dwellings at Christ Center Community Church and Project Development Plan. (staff: Ted Shepard; 10 minute staff presentation; 2 hour discussion)

In April 2012, Regency Residential Partners submitted a request for an Addition of a Permitted Use for *Multi-Family Dwellings* in the Low Density Residential (R-L) zone district and Project Development Plan for an 11-acre parcel located on the east side of the Christ Center Community Church. The parcel is located at the southeast corner of Drake Road and Lemay Avenue. As proposed, the project consists of 175 dwelling units divided among eight buildings plus a clubhouse.

On July 19, 2012, the Planning and Zoning Board conducted a public hearing regarding an application for an Addition of a Permitted Use and for approval of the Regency Lakeview P.D.P. After receiving testimony from the applicant, the public and staff, and after deliberation, the Board voted 4 – 2 to approve the request for an Addition of a Permitted Use for *Multi-Family Dwellings*, and then voted 5 – 1 to approve the Regency Lakeview Project Development Plan.

On August 2, 2012, Andrew Lewis et. al., filed a Notice of Appeal alleging that the Planning and Zoning Board (1.) failed to properly interpret and apply relevant provisions of the Land Use Code and (2.) failed to conduct a fair hearing.

24. Consideration of Citizen-Pulled Consent Items.

25. Other Business.

26. 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.