



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

December 4, 2012

Proclamations and Presentations

5:30 p.m.

- A. Proclamation Declaring December 10, 2012, as "International Human Rights Day".

Regular Meeting

6:00 p.m.

PLEDGE OF ALLEGIANCE - Flag Ceremony presented by Cub Scouts from Den 3 Pack 11 Webelos

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. 24)
- Citizen opportunity to pull Consent Calendar items.
(will be considered under Item. No. 30)

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 20. 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 November 8 and November 13, 2012 Adjourned Meetings and the November 20, 2012 Regular Meeting.

7. Second Reading of Ordinance No. 131, 2012, Authorizing the Transfer of Appropriations Between Program Years in the Community Development Block Grant Fund.

Ordinance No. 131, 2012, unanimously adopted on First Reading on November 20, 2012, reappropriates Community Development Block Grant (CDBG) funds that have been returned to the program for allocation in the fall 2012 Competitive Process.

8. Second Reading of Ordinance No. 132, 2012, Amending Section 2-237 of the City Code Relating to Membership of the Golf Board.

The Golf Board currently consists of nine members appointed by the City Council. At the end of 2012, the terms of three members will expire. Two of those members are eligible for reappointment but did not reapply for reappointment. One member did apply for reappointment. This provides an opportunity for Council to consider changes to the size of the Board without negatively impacting any current members. This opportunity was presented to the Board by staff, and the Board voted to recommend that the Council reduce the size from nine to seven members. This Ordinance, unanimously adopted on First Reading on November 20, 2012, amends the City Code to reduce the size of the Board to seven members.

9. Second Reading of Ordinance No. 133, 2012, Amending Section 2-500 of the City Code Pertaining to a City Service Area.

The City's Charter provides that service areas are provided by ordinance upon the recommendation of the City Manager. This Ordinance, unanimously adopted on First Reading on November 20, 2012 amends the City Code, per the City Manager's recommendation, to create a Planning, Development, and Transportation Service Area, reflecting changes in roles and reporting relationships.

10. Second Reading of Ordinance No. 134, 2012, Amending Various Provisions of the Fort Collins Traffic Code.

The Colorado General Assembly amended certain statutory provisions this legislative session relating to state traffic laws. This Ordinance, unanimously adopted on First Reading on November 20, 2012, ensures that the Fort Collins Traffic Code is consistent with state traffic laws.

11. Items Relating to the Kechter Crossing Annexation.

A. Second Reading of Ordinance No. 135, 2012, Annexing Property Known as the Kechter Crossing Annexation.

B. Second Reading of Ordinance No. 136, 2012, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Kechter Crossing Annexation.

These Ordinances, unanimously adopted on First Reading on November 20, 2012, annex and zone 28.9 acres located on the south side of Kechter Road, approximately 900 feet east of the intersection of South Timberline Road and Kechter Road. The proposed zoning for this annexation is Low Density Mixed-Use Neighborhood District (L-M-N). This annexation is not associated with the proposed Kechter Farm development, which is located southeast of the Kechter Crossing Annexation.

12. Second Reading of Ordinance No. 137, 2012, Authorizing the Appropriation of 2013 Fiscal Year Operating and Capital Improvement Funds for the Fort Collins-Loveland Municipal Airport.

The 2013 annual operating budget for the Airport totals \$693,100, and will be funded from Airport operating revenues, contributions from the Cities of Fort Collins and Loveland (\$177,500 from each City), and interest earnings. This amount for each city is \$92,500 greater than the previous year contributions of \$85,000. For the City of Fort Collins the original \$85,000 is funded from General

Fund ongoing revenue, while the one-time increase of \$92,500 will be funded from General Fund reserves.

This Ordinance, unanimously adopted on First Reading on November 20, 2012, authorizes the appropriation of the City of Fort Collins portion of the Airport's annual operating budget in the amount of \$346,550. This is 50% of the entire Airport annual operating budget of \$693,100.

This Ordinance also appropriates the City's 50% share of capital funds, totaling \$1,100,000 for the Airport from federal and state grants; contributions from Fort Collins and Loveland; and the Airport General Fund. Most of the 2013 Airport capital funds, totaling \$2,200,000, will be used to complete major Airport improvements, such as taxiway and apron rehabilitation and some funds are slated for utility master planning and design engineering to accommodate Airport business development.

13. First Reading of Ordinance No. 138, 2012, Appropriating Unanticipated Revenue in the Capital Projects Fund, Mason Corridor Project.

The design of the MAX Bus Rapid Transit (BRT) Project included enhancements to the University Station at the request of Colorado State University (CSU), including decorative fencing, enhanced landscaped plaza, walkway lighting, spare conduit installation, and upsizing of the storm drainage system to accept CSU storm water runoff. These items are not eligible for reimbursement from the Federal Transit Administration (FTA) as part of the MAX BRT Project, and therefore will be funded by CSU. This ordinance appropriates the identified funds of \$806,380 to construct the improvements concurrently with the BRT project.

14. First Reading of Ordinance No. 139, 2012, Adopting the 2013 Classified Employees' Pay Plan.

The City of Fort Collins 2013 Pay Plan establishes a pay range structure for employee compensation. It is the framework that sets the minimum and maximum pay for City positions. The methodology used by the City is based on compensation best practices. The 2013 Pay Plan uses average actual salary data collected from public and private sector markets for benchmark positions to determine pay range midpoints within occupational groups. Ranges for non-benchmark jobs are established using a point factor system that is calibrated against the benchmark jobs.

15. First Reading of Ordinance No. 140, 2012, Amending the Fort Collins Stormwater Criteria Manual To Modify the Requirements for Emergency Work.

A recent review of specific permit elements included in the City of Fort Collins' Stormwater Management Program identified an inconsistency with state interpretation of the requirements. This inconsistency is due to the Fort Collins Design Criteria Manual allowing emergency work to be exempted from the sediment and erosion control Best Management Practices (BMPs) requirements of the Manual. Except for emergency firefighting activities, the Municipal Separate Storm Sewer System (MS4) permit does not allow exemptions from the requirements. The proposed amendment will clarify that emergency work will be exempt only from advance submittal requirements, but not requirements for measures to prevent and control erosion.

16. First Reading of Ordinance No. 141, 2012, Amending Ordinance No. 117, 2012, to Correct the List of Properties Contained in Such Ordinance That Are Subject to the Special Fee Imposed by Such Ordinance.

This Ordinance amends Ordinance No. 117, 2012, adopted on Second Reading on November 6, 2012, that established a special fee to be paid by the owners of property within close proximity to the reconstructed interchange at the intersection of Interstate 25 and State Highway 392. The spreadsheet mistakenly included a parcel of property in Zone A that is actually located within the Town of Windsor. This property should not have been shown as being subject to the Fort Collins Fee Ordinance.

This Ordinance removes that parcel of property and slightly adjusts the area of the property owned by Terry and Mary Van Cleave to more accurately reflect the actual property size.

17. Resolution 2012-113 Adopting the 2012 Update to the Transportation Capital Improvement Plan, Appendix F of the City of Fort Collins 2011 Transportation Master Plan.

The Transportation Capital Improvement Plan (CIP) is an inventory of all multi-modal transportation needs throughout the City and is an appendix to Transportation Master Plan (TMP). The focus of the 2012 update was to ensure that the CIP is accurate, up-to-date, and more user-friendly. The update also supports the action steps specified in the 2011 TMP/CIP. This is an administrative update to the CIP. Adoption of a revised version requires City Council approval because the CIP is an appendix to the Transportation Master Plan.

18. Resolution 2012-114 Adopting the 2012 Update to the Three-Mile Plan for the City of Fort Collins.

This is the 2012 update to the Three-Mile Plan for the City of Fort Collins (Three-Mile Plan). The Three-Mile Plan is a State-required long-range “plan” that outlines the existing plans, policies, maps, and other documents that have been adopted by the City Council which generally describe the proposed location, character and extent of infrastructure and land uses. In addition, there are some plans and policies that are listed in the Three-Mile Plan that were adopted by Larimer County, Colorado State University or adjoining municipalities, as these are also located within the boundaries of the Three-Mile Plan. There are very few changes from the 2011 update.

19. Resolution 2012-115 Adopting the Annual Revenue Allocation Formula to Define the City of Fort Collins’ Contribution to the Poudre Fire Authority Budget for the Year 2013 for Operations and Maintenance.

This Resolution establishes a Revenue Allocation Formula between the City of Fort Collins and the Poudre Fire Authority to contribute funding for operating and maintenance of the Poudre Fire Authority.

20. Postponement of the Public Hearing on Authorizing the Use of Eminent Domain by the Fort Collins Urban Renewal Authority to January 15, 2013.

Notice was previously mailed to property owners in the Midtown Urban Renewal Area of a City Council hearing that had been planned for Tuesday, December 4th. The hearing was for consideration of the authorization in the Midtown Plan of the use of eminent domain by the Urban Renewal Authority. Because the Council will be conducting a hearing on January 15th regarding the Midtown Urban Renewal Plan and other related issues, the hearing that had been planned for December 4th will be postponed and will instead take place as part of the January 15th hearing. Notice of the January hearing will be published and mailed within the next couple of weeks.

END CONSENT

21. Consent Calendar Follow-up.

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

22. Staff Reports.

23. Councilmember Reports.

24. 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.

25. Items Relating to Medical Marijuana. (staff: Ginny Sawyer, Peter Barnes; 5 minute staff presentation; 30 minute discussion)
- A. First Reading of Ordinance No. 142, 2012, Repealing and Reenacting Chapter 15, Article XVI of the City Code in Accordance with a Voter Approved Citizen-Initiated Ordinance Governing the Licensing, Number, Location and Operation of Medical Marijuana Businesses.
 - B. First Reading of Ordinance No.143, 2012, Amending the Land Use Code to Add All References to Medical Marijuana Businesses That Were Previously Deleted in Accordance with a Voter Approved Citizen-initiated Ordinance Governing the Licensing, Number, Location and Operation of Medical Marijuana Businesses.

The Ordinances presented address actions needed as a result of the passage of a citizen- initiated measure, Measure 301, on November 6, 2012. The stated purpose of Measure 301 is to strictly regulate, control, and permit a limited number of state-authorized medical marijuana businesses within the City of Fort Collins.

Ordinance No. 142, 2012, repeals the sections of Chapter 15 of the City Code that were enacted to ban such businesses and replaces those sections with Measure 301.

Ordinance No. 143, 2012, addresses changes specific to the Land Use Code that are also necessary to implement Measure 301. On February 21, 2012, the City Council adopted Ordinance No. 010, 2012, which deleted all references in the Land Use Code (LUC) to medical marijuana businesses, disallowing any medical marijuana businesses in any zone district within the city limits. In order to fully implement Measure 301, it is necessary to put the previous references to such businesses back into the Land Use Code, thereby once again allowing those businesses in certain zone districts.

26. Items Relating to Oil and Gas Exploration and Production Regulations. (staff: Laurie Kadrich, Dan Weinheimer; 30 minute staff presentation; 2 hour discussion)

A. First Reading of Ordinance No. 144, 2012, Amending the Land Use Code Pertaining to Oil and Gas Exploration and Production Regulations (Option A or B).

AND/OR

B. First Reading of Ordinance No. 145, 2012, Establishing a Moratorium on the Acceptance or Processing of Land Use Applications, Permit Applications, and Other Applications Seeking Approval to Conduct Oil and Gas Extraction or Related Operations Within the City of Fort Collins (Option C).

City Council directed staff to evaluate methods by which the City may regulate oil and gas exploration and production. Since oil and gas operations are governed primarily by the state and federal governments, staff will provide an overview of what regulations exist and where the City may be effective in both filling existing regulatory “gaps” and strengthening existing regulations in order to better protect the health and safety of residents. Discussion includes development review criteria, water and air quality, environmental protections, and emergency services. Staff also presents information on non-regulatory ways to respond to residents’ concerns including options such as surface-use and operator agreements, legislative advocacy, regional cooperation, and active participation in related state and federal rulemaking processes.

Staff is providing three options for Council’s consideration:

- Option A: Dual-track development review process
- Option B: Single-track development review process
- Option C: Moratorium

27. First Reading of Ordinance No. 146, 2012, Amending Section 2-596 of the City Code and Setting the Salary of the City Manager. (staff: Janet Miller, Amy Sharkey; 2 minute staff presentation; 15 minute discussion)

City Council met in executive session on November 13, 2012, to conduct the performance review of City Manager Darin Atteberry. Ordinance No. 146, 2012, establishes the salary of the City Manager.

28. First Reading of Ordinance No. 147, 2012, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney. (staff: Janet Miller, Amy Sharkey; 2 minute staff presentation; 15 minute discussion)

City Council met in Executive Session on November 13, 2012 to conduct the performance review of City Attorney Steve Roy. Ordinance No. 147, 2012, establishes the 2013 salary of the City Attorney.

29. Items Relating to the Employment of the Municipal Judge. (staff: Janet Miller, Amy Sharkey; 2 minute staff presentation; 15 minute discussion)

A. First Reading of Ordinance No. 148, 2012, Amending Section 2-606 of the City Code and Setting the Salary of the Municipal Judge.

B. Resolution 2012-116 Reappointing Kathleen M. Lane as Municipal Judge and Authorizing the Tenth Addendum to the Judge’s Employment Agreement.

City Council met in executive session on November 13, 2012, to conduct the performance review of Municipal Judge Kathleen Lane. Ordinance No. 148, 2012, establishes the 2013 salary of the Municipal Judge.

Resolution 2012-116 reappoints Judge Lane for another two-year term to expire December 31, 2014 and authorizes the Mayor to execute an addendum to the Judge’s employment agreement to reflect the change in term.

30. Consideration of Citizen-Pulled Consent Items.

31. Other Business.

- a. First Reading of Ordinance No. 149, 2012, Amending Division 2 of the Land Use Code to Allow for the Processing of Applications for the Development of Property Not Yet under the Full Ownership and Control of the Applicant or Developer. (staff: Karen Cumbo, Laurie Kadrich)

The Land Use Code (LUC) presently requires that all submittal requirements must be met before an application can be processed. One of those submittal requirements is that the applicant must own or control all of the property that is the subject of the application. Staff recommends that the City Council amend the LUC to give the Director discretion to allow applications to proceed through the review process under certain circumstances even if not all of the subject property is yet controlled by the applicant. The applicant would have to show that, at the time of application, the applicant has ownership of, or the legal right to use and control, the majority of the property to be developed. The Director would then have to determine that reviewing the application would not be contrary to the public interest, and the applicant would need to agree not to record any documents related to the processing of the application until the applicant had gained control of the entire property. The applicant would also be required to indemnify the City against any third party claims related to the processing of the application.

32. 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.