



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 18, 2012**

#### **Proclamations and Presentations**

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

- A. Proclamation Declaring January 2013 as "Narconon Colorado - a Life Worth Saving 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. 22)
- Citizen opportunity to pull Consent Calendar items.  
(will be considered under Item. No. 29)

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 18. 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. 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 as part of the MAX BRT Project, and therefore will be funded by CSU. This Ordinance, unanimously adopted on First Reading on December 4, 2012, appropriates the identified funds of \$806,380 to construct the improvements concurrently with the BRT project.

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

This Ordinance, unanimously adopted on First Reading on December 4, 2012, adopts the 2013 Pay Plan, which 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.

8. Second 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. This Ordinance, unanimously adopted on First Reading on December 4, 2012, clarifies that emergency work will be exempt only from advance submittal requirements, but not requirements for measures to prevent and control erosion.

9. Second Reading of Ordinance No. 141, 2012, Amending Ordinance No. 117, 2012, to Correct the List of Properties That Are Subject to the Special Fee Imposed by Said Ordinance.

This Ordinance, unanimously adopted on First Reading on December 4, 2012, amends Ordinance No. 117, 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.

10. Second Reading of Ordinance No. 146, 2012, Amending Section 2-596 of the City Code and Setting the Salary of the City Manager.

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 at \$207,063.

11. Second Reading of Ordinance No. 147, 2012, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.

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 at \$170,662.

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

City Council met in executive session on November 13, 2012, to conduct the performance review of Municipal Judge Kathleen Lane. Ordinance No. 148, 2012, unanimously adopted on First Reading on December 4, 2012, establishes the 2013 salary of the Municipal Judge at \$99,253.

13. First Reading of Ordinance No. 150, 2012, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Property Interests Necessary to Construct Public Improvements Related to the Mason Corridor Bus Rapid Transit Project.

Mason Corridor Bus Rapid Transit (MAX BRT) Project staff has identified two additional real estate acquisition interests which are necessary to construct the MAX BRT Project. As with prior acquisitions/acquisition phases, City Council authorization for eminent domain (if necessary) is the first step in the acquisitions process.

As a federally funded transportation project, acquisitions will conform to the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Public Law 91-646). In accordance with this act, property owners must be informed about the possible use of eminent domain and their rights pursuant to Colorado State Statute in the official Notice-of-Interest Letter. Authorization from City Council is needed prior to sending this information to property owners. This letter is the first official step in the acquisition process, which must occur prior to the appraisals. Given the construction schedule for the Project and the fact that acquisitions must be conducted under procedures for federally funded projects, timely acquisition of the required property interests is necessary. Therefore, City staff requests authorization to utilize eminent domain for the MAX Project, if necessary, and only if good faith negotiations break down.

The acquisitions that are the subject of this Ordinance concern two sets of property interests (more specifically, two signboard easements, leasehold interests and improvements) located within the alignment of planned BRT Project improvements on Burlington Northern Santa Fe Railway (the "BNSF") property. *(Note: As background, on November 6, City Council upheld an appeal to an August 9, 2012 Zoning Board of Appeals (ZBA) decision, thereby disallowing a ZBA variance that would have permitted the relocation of one of the off-premise signboards which is the subject of this Ordinance).*

14. Items Relating to the 2012 Streets and Stormwater Site Development Initiatives.

- A. First Reading of Ordinance No. 151, 2012, Adopting an Update to Appendix C of the Larimer County Urban Area Street Standards Pertaining to "Streetscape Standards" for the City of Fort Collins.
- B. First Reading of Ordinance No. 152, 2012, Amending Chapter 26 of the City Code and the Fort Collins Stormwater Criteria Manual to Incorporate Provisions Implementing Low Impact Development Principles.

Ordinance No. 151, 2012 replaces the City of Fort Collins Streetscape Design Standards & Guidelines document with a new version entitled "City of Fort Collins Streetscape Standards". Ordinance No. 152, 2012 updates the City's Low Impact Development Criteria and Policy regarding the control and treatment of stormwater runoff from streets and site development.

The Streetscape Standards relate to the treatment of parkway strips (between the curb and sidewalk), medians, intersections, roundabouts, and key gateway intersections. The update primarily involves raising the bar for the quality of streetscape development in arterial medians and at key gateway intersections.

The City's Low Impact Development (LID) Criteria and Policy addresses the City's requirements and incentives for more distributed stormwater runoff management and control which relies mainly on filtration and infiltration to treat and manage the stormwater runoff. This approach will apply to private site development projects as well as to public street projects.

15. Resolution 2012-118 Approving Fee Agreements Between the City and Certain Property Owners in the Community Activity Center Adjacent to the Interchange at the Interstate 25 and State Highway 392.

On November 6, 2012, Council adopted Ordinance No. 117, 2012, establishing a special fee to be paid by the owners of certain properties located west of Interstate 25 and within close proximity to the reconstructed interchange at the intersection of Interstate 25 and State Highway 392. This ordinance included the option for the property owners to elect to enter into a settlement agreement with the City and the Town of Windsor as outlined in the attached draft agreements. The ordinance also required the property owners electing to enter into such agreement to notify the City Manager in writing of their desire to do so on or before November 30, 2012, and that the agreements need to be approved by the City Council on or before December 31, 2012.

To date, the City has received written notice from all of the properties within the City's jurisdiction electing to pay the fee pursuant to the terms and conditions of a written agreement with the City. This resolution authorizes the City Manager to sign said agreements with the property owners.

16. Resolution 2012-119 Adopting an Updated City Investment Policy.

The purpose of the Interagency Loan Program is to support City services, missions, and values by making loans to outside entities such as the Urban Renewal Authority and the Downtown Development Authority while maintaining an adequate rate or return for the City.

The 2012 Updated Investment Policy includes the following significant changes:

1. A Purpose Statement was added to the Inter-agency Loan Program
2. The name changed from Inter-fund Borrowing Program to Inter-agency Loan Program
3. The loan must be evidenced by a promissory note
4. The interest rate is the higher of Municipal Bonds or Treasury Bill rate plus 0.5%
5. A nexus is not required for utility funds
6. Approval from oversight board is required
7. Maximum loan term is 25 years
8. Restrictions on total loans made to Governmental and Enterprise funds.

17. Resolution 2012-120 Making Appointments to Various Boards, Commissions, and Authorities of the City of Fort Collins.

Vacancies currently exist on various boards, commissions, and authorities due to resignations of boardmembers and the expiration of terms of current members. Applications were solicited during September, and Council teams interviewed applicants during October, November, and December. This Resolution appoints members to fill current vacancies and term expirations.

18. Resolution 2012-121 Excusing the Absence of Councilmember Aislinn Kottwitz From Attendance at Meetings of the City Council During the Period From November 8, 2012 Through January 15, 2013.

Under the City Charter, a Council seat is considered vacant if the Councilmember misses regular and special meetings for 60 consecutive days, unless excused by resolution of the Council. Due to illness, Councilmember Aislinn Kottwitz was last able to attend meetings of the City Council on November 6, 2012, and will be unavailable to resume such attendance until at least January 15, 2013.

**END CONSENT**

19. Consent Calendar Follow-up.

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

- 20. Staff Reports.
  - a. Presentation of the Starburst Award to the City from Great Outdoors Colorado.
  - b. Update on the Turnberry Project.
- 21. Councilmember Reports.
- 22. 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.

- 23. Second 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: Laurie Kadrach; 2 minute staff presentation; 5 minute discussion)

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. This Ordinance, adopted on First Reading on December 4, 2012 by a vote of 4-1 (Nays: Ohlson; Weitkumat recused; Kottwitz absent) amends 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.

- 24. Second 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. (staff: Laurie Kadrach, Dan Weinheimer; 10 minute staff presentation; 1 hour discussion)

On December 4, 2012, Council considered regulation of oil and gas exploration and production and unanimously voted to impose a six-month moratorium on the submission, acceptance, consideration

and approval of any all applications for City licenses, permits and other approvals related in any way to oil and gas uses within the City. The moratorium will allow staff and Council time to further investigate the extent of the City's authority to regulate such uses. In order to give the newly seated Council time to consider the regulations to be developed during the moratorium, staff is recommending that the moratorium be extended on Second Recording to seven months rather than six.

25. First Reading of Ordinance No. 153, 2012, Designating the Whitcomb Street Historic District as a Fort Collins Landmark District, Pursuant to Chapter 14 of the City Code. (staff: Karen McWilliams; 10 minute staff presentation; 45 minute discussion)

The Whitcomb Street Historic District contains 14 properties, which, together, form a cohesive entity associated historically, architecturally, and developmentally with the 100 block of South Whitcomb Street. The proposed district is generally bound on the north by Mountain Avenue, on the south by Oak Street, and by alleys on the east and west sides. It consists of the twelve properties that comprise the 100 Block of South Whitcomb Street and two properties historically associated with the 100 Block of South Whitcomb Street, now addressed as 601 West Mountain Avenue and 612 West Oak Street. The period of significance dates from the oldest construction in 1889, to 1940, when the newest of the historic dwellings was built on the last subdivided lot, seventy-two years ago.

Owners of ten of the fourteen properties have consented in writing to establishment of the Whitcomb Street Historic District, desiring to protect their investments from redevelopment activities and to become eligible for financial programs available to historic properties. Owners of four properties are in opposition to the district, preferring to not have additional restrictions placed on their properties, including review of exterior alterations or demolitions.

26. First Reading of Ordinance No. 154, 2012, Amending Article IV of Chapter 15 of the City Code relating to Door-to-Door Solicitation. (staff: Jessica Ping-Small, Jim Szakmeister; 10 minute staff presentation; 30 minute discussion)

City Council adopted Ordinance No. 060, 2011, which took effect on May 27, 2011. It established a permit system regulating residential door-to-door solicitation. The City's goal in regulating door-to-door solicitation was to help protect the safety and privacy of residents in their dwellings. Since implementing the permit system, staff has identified certain changes that they recommend be made to the provisions to ensure that the permit system is working properly and effectively, and also to allow staff to respond quickly and efficiently to violations of the Ordinance.

27. First Reading of Ordinance No. 155, 2012, Amending Section 2-483 of the City Code So as to Make the Conflict of Interest Provisions Contained in Article IV, Section 9 of the City Charter Applicable to the Members of the Board of Commissioners of the Fort Collins Urban Renewal Authority. (staff: Steve Roy; 5 minute staff presentation; 15 minute discussion)

This Ordinance would amend the City Code so that the ethical rules that apply to the City Council will also apply to the URA Board of Commissioners. The City Council Ethics Review Board has recommended this change since, in Fort Collins, the URA Board consists of the members of the City Council itself.

28. Resolution 2012-122 Accepting Advisory Opinion and Recommendation No. 2012-3 of the Ethics Review Board. (staff: Steve Roy; 5 minute staff presentation; 15 minute discussion)

Under City Code Section 2-569, City Councilmembers may present to the Council Ethics Review Board inquiries regarding the application of state or local ethical rules to actual or hypothetical situations involving potential conflicts of interest. On December 7, 2012, the Ethics Review Board met for the purpose of responding to an inquiry submitted to the Board by Mayor Weitkunat and Councilmember Manvel. The question submitted is whether, in the Board's opinion, either of them has a conflict of interest in participating in upcoming decisions of the City Council regarding the possible redevelopment of the Link-n-Greens property by Woodward, Inc. The Mayor and Councilmember Manvel presented the question because of the proximity of their respective businesses to the redevelopment site. As required by the Code, the Board has forwarded its opinion and recommendation to the full Council for its consideration. The Board opinion indicates that neither Mayor Weitkunat or Councilmember Manvel has a conflict of interest in this situation. Adoption of the

Resolution would indicate that the majority of the Council agrees with the Board's opinion and recommendation.

29. Consideration of Citizen-Pulled Consent Items.
30. Other Business.
31. 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.