

March 20, 2012

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting - 6:00 p.m.

A regular meeting of the Council of the City of Fort Collins was held on Tuesday, March 20, 2012, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll call was answered by the following Councilmembers: Horak, Kottwitz, Manvel, Ohlson, Poppaw, and Weikunat.

Councilmembers Absent: Troxell

Staff Members Present: Atteberry, Gonzales, Roy.

Agenda Review

City Manager Atteberry withdrew the Ordinance No. 025, 2012, *Temporarily Suspending the Deadline for Hearing Two Pending Appeals to the City Council Under Chapter 2 of the City Code to Allow for a Review and Possible Amendment of the Process For Determinations of Eligibility Under Chapter 14 of the City Code* that had been added under Other Business after the Council Agenda had been published.

Citizen Participation

James Lesco, Human Relations Commission, announced the Human Relations Commission annual awards breakfast to be held May 1, 2012, at the Northside Atzlan Center.

Deb James, SOSHughes.org, discussed the idea of making CSU a community-supported university and opposed the construction of an on-campus stadium.

Doug Brobst, 1625 Independence Road, stated the citizens of Fort Collins need to be heard with regard to the proposed on-campus stadium.

Anne Colwell, Fort Collins resident, supported an more open and honest process at CSU regarding the proposed on-campus stadium.

Bryce Hach, 1202 Bennett Road, Homeward 2020 Director, announced Project Homeless Connect, a one-day event to provide support to the community's homeless, to be held on April 20, 2012.

Cheryl Distaso, 135 South Sunset, Fort Collins Community Action Network, provided an update on the displaced Bender Mobile Home Park residents. She requested an update regarding the Advance Planning Relocation Plan and suggested naming it a Low Income Housing Plan.

March 20, 2012

Citizen Participation Follow-up

Deputy City Manager Jones stated she had passed along Council's concerns regarding a lack of public input at subcommittee meetings, and received a response that the Stadium Advisory Committee meeting, though not required to be open to the public, does allow public attendance, and does have a public comment section. There have been ten Center for Public Deliberation meetings during which input has been gathered and posted on the website. A great deal of on-line input has been received as well.

Councilmember Horak asked if the subcommittees communicate with each other between general meetings. Deputy City Manager Jones replied she has not seen any communication between subcommittees.

Councilmember Horak asked if information from the subcommittee meeting could be shared. Deputy City Manager Jones replied the information will be reported out at the general Advisory Committee meeting, based on the outlined process.

City Manager Atteberry suggested Deputy City Manager Jones let her subcommittee know Council will be requesting the information, unless it is confidential.

Councilmember Poppaw asked who set up the process for the subcommittees. City Manager Atteberry replied Tony Frank, CSU President, Amy Parsons, CSU Vice-President of Operations, and Jack Graham, CSU Athletic Director, have all had a role in leading the process.

Karen Cumbo, Director of Planning, Development, and Transportation Services, stated the relocation plan is on the Advance Planning work plan for this year, and will be expanded to address issues raised at a forum held by Representative Kefalas. Work on the plan has not officially begun.

Mayor Pro Tem Ohlson asked about the timetable for any Council actions regarding the relocation plan. Cumbo replied it will be within the next year and she will provide an exact copy of the timeline to Council.

Councilmember Poppaw noted Ms. Distaso's point regarding the plan being not only related to relocation, but to the retention of affordable housing in the community.

CONSENT CALENDAR

6. **Consideration and Approval of the Minutes of the February 21, 2012, Regular Meeting and the February 27, 2012, Special Meeting.**
7. **Second Reading of Ordinance No. 018, 2012, Establishing Rental Rates and Delivery Charges for the City's Raw Water for the 2012 Irrigation Season.**

This Ordinance, unanimously adopted on First Reading on March 6, 2012, approves rates for the rental and delivery of the City's raw water supplies. The Water Utility uses these

rates to assess charges for agricultural use, for various contractual raw water obligations and for raw water deliveries to other City departments. The proposed rate for each type of water is based on several factors including market conditions and assessments charged by irrigation companies.

8. Second Reading of Ordinance No. 019, 2012, Amending Chapter 26 of the City Code to Revise the Manner in Which Carriage Houses May Obtain Water and Sewer Service.

The City's Land Use Code allows carriage houses to be constructed at the rear of lots in certain zoning districts. The City Code currently requires that such buildings have separate water and sewer services connecting to City water mains and sanitary sewers. This requirement frequently stops the carriage house projects due to construction constraints and cost considerations. This Ordinance, unanimously adopted on First Reading on March 6, 2012, provides an option to connect the water and sewer services to the primary residence at the front of the lot with certain limitations.

9. Second Reading of Ordinance No. 020, 2012, Authorizing the Conveyance of City Property to PS Poudre River, LLC.

In 2005, the City constructed the Oxbow Levee on the Cache la Poudre River to reduce flooding risk and damage to a section of the City north and east of the River. The City has been pursuing inclusion of the Levee into the United States Army Corps of Engineers (USACE) levee maintenance program. As part of its review of the Levee, the USACE has determined that the City should acquire an access and maintenance easement for the benefit of the Levee from the adjacent property owner, PS Poudre River, LLC. During discussions regarding the needed easement, PS Poudre River, LLC voiced concerns regarding granting the maintenance and access easement since this reduces the developable portion of its property. In an effort to reach a mutually satisfactory solution, the property owner proposed the City grant a small remnant parcel located adjacent to and east of the Oxbow Levee in exchange for the needed access and maintenance easement. The Stormwater Master Planning and Floodplain Administration Division has identified that the proposed remnant parcel is no longer needed for flood control purposes. The property owner has agreed to a provision that the City remnant parcel property will be conveyed subject to a deed restriction limiting the property to natural landscape or trail uses only. This Ordinance, unanimously adopted on First Reading on March 6, 2012, authorizes the conveyance of a .224 acre parcel of City-owned land that is adjacent to PS Poudre River, LLC's land, and in exchange it will grant the access and maintenance easement to the City and pay the City \$2,500.

10. Second Reading of Ordinance No. 021, 2012, Authorizing the Lease of City-Owned Property at 1506B West Horsetooth Road for Up to Five Years.

The City acquired the property located at 1506 West Horsetooth Road as part of the Affordable Housing Land Bank Program in 2003. Total acreage of this property is 8.3 acres of development land. Currently, this site has one single-family residence, one building with an efficiency apartment and garage, and horse facilities. This Ordinance, unanimously

adopted on First Reading on March 6, 2012, authorizes a lease for the efficiency apartment at 1506B Horsetooth.

11. First Reading of Ordinance No. 023, 2012, Amending Chapter 7 of the City Code Relating to Redistricting.

The City Charter requires the method used to adjust City Council district boundaries be based upon the number of people residing in each district. The City Code requires the City Clerk to recommend any district boundary changes necessary to ensure there is no more than a ten percent deviation between the most populous and least populous District no less than one year after the official decennial publication of the United States Census concerning the population of Fort Collins. The timing of the City Clerk's recommendation has proved problematic as City staff has recently received information evidencing significant revisions to county voting precincts so that some City Council districts no longer consist of contiguous, undivided general election precincts as required by the City Charter. The City Clerk's office and other City staff have found it difficult to meet the one year time frame, due to these revisions to county precincts. This Ordinance will amend the redistricting provisions to require the City Clerk to *begin* the process to determine if District boundary adjustments may be needed, rather than to make a recommendation to Council, within eighteen months following publication of the census data.

12. Items Relating to the Archery Range Natural Area.

- A. First Reading of Ordinance No. 024, 2012, Authorizing the Conveyance of a Non-Exclusive Easement on Portions of Archery Range Natural Area to Boxelder Sanitation District.
- B. Resolution 2012-016 Authorizing a Revocable Permit to Boxelder Sanitation District on the Archery Range Natural Area to Repair Flood Damage to the Riverbank.

Boxelder Sanitation District is seeking a non-exclusive permanent easement and a revocable permit to access and install rock rip rap armoring along the north bank of the Cache la Poudre River within the Archery Range Natural Area. The river bank armoring is being installed to protect the Boxelder Wastewater Treatment Facility from further flood damage.

13. Resolution 2012-017 Finding Substantial Compliance and Initiating Annexation Proceedings for the Wild Plum Farm Annexation No. 1.

The applicant, Shane L. Beckers, the property owner, has submitted a written petition requesting annexation of 0.64 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed and is in the FA - Farming District in Larimer County. The requested zoning for this annexation is UE - Urban Estate. The surrounding properties are currently zoned FA - Farming in the Larimer County to the north, west and south; and, UE - Urban Estate in the City (Lincoln Junior High School) to the east.

14. Resolution 2012-018 Finding Substantial Compliance and Initiating Annexation Proceedings for the Wild Plum Farm Annexation No. 2.

The applicant, Shane L. Beckers, the property owner, has submitted a written petition requesting annexation of 3.82 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed and is in the FA - Farming District in Larimer County. The requested zoning for this annexation is UE – Urban Estate. The surrounding properties are currently zoned FA – Farming in the Larimer County to the north, west and south; and UE – Urban Estate in the City (Lincoln Junior High School) to the east.

15. Resolution 2012-019 Further Extending the Deadline for the City of Fort Collins and the Town of Windsor to Take Certain Actions Required by the Parties' Intergovernmental Agreement Pertaining to the Development of the Interstate 25/State Highway 392 Interchange.

On December 21, 2010, the City Council approved an intergovernmental agreement with the Town of Windsor pertaining to the development of the I-25 interchange at the intersection of State Highway 392. Staff for the City of Fort Collins and Town of Windsor are exploring options to implement actions required by the intergovernmental agreement but require an extension to continue public outreach, incorporate any input from the outreach, and to draft necessary documents for consideration by Council. The staff of both municipalities have recommended that the April 3, 2012 deadline be extended to August 21, 2012, in order to complete the public outreach, draft necessary documents, and make their recommendations.

*****END CONSENT*****

Ordinances on Second Reading were read by title by Acting Clerk Gonzales.

7. Second Reading of Ordinance No. 018, 2012, Establishing Rental Rates and Delivery Charges for the City's Raw Water for the 2012 Irrigation Season.
8. Second Reading of Ordinance No. 019, 2012, Amending Chapter 26 of the City Code to Revise the Manner in Which Carriage Houses May Obtain Water and Sewer Service.
9. Second Reading of Ordinance No. 020, 2012, Authorizing the Conveyance of City Property to PS Poudre River, LLC.
10. Second Reading of Ordinance No. 021, 2012, Authorizing the Lease of City-Owned Property at 1506B West Horsetooth Road for Up to Five Years.

Ordinances on First Reading were read by title by Interim City Clerk Harris.

11. First Reading of Ordinance No. 023, 2012, Amending Chapter 7 of the City Code Relating to Redistricting.

March 20, 2012

12. First Reading of Ordinance No. 024, 2012, Authorizing the Conveyance of a Non-Exclusive Easement on Portions of Archery Range Natural Area to Boxelder Sanitation District.
22. First Reading of Ordinance No. 025, 2012, Temporarily Suspending the Deadline or Hearing Two Pending Appeals to the City Council Under Chapter 2 of the City Code to Allow for a Review and Possible Amendment of the Process for Determinations of Eligibility Under Chapter 14 of the City Code.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt and approve all items on the Consent Calendar. Yeas: Weitkunat, Manvel, Kottwitz, Poppaw, Ohlson and Horak. Nays: none.

THE MOTION CARRIED.

Staff Reports

Kraig Bader, Utilities Standards Engineering Manager, stated the deployment of the Advance Meter Fort Collins project has begun within a test area. City Manager Atteberry noted regular updates will be provided to Council. Brian Janonis, Utility Services Executive Director, stated a letter has gone out to customers regarding the initial deployment area.

Councilmember Kottwitz requested information regarding meter replacement for Fort Collins Loveland Water District (FCLWD) customers. Bader replied FCLWD customers have already received new meters from their provider and those customers will only be receiving new electric meters as part of this process.

Councilmember Reports

Councilmember Horak reported on the National League of Cities meeting in Washington, D.C. He stated the Colorado delegation at the meeting was able to visit with several individuals, including Cass Sunstein, Administrator of the White House Office of Information and Regulatory Affairs. Councilmember Horak and Mayor Weitkunat asked Mr. Sunstein to examine the issue of trains loudly blowing whistles as they cross intersections in towns.

Councilmember Horak stated the Sustainability Institute now falls under the National League of Cities, and will provide an outlet for cities' best practices.

Mayor Weitkunat stated she spoke with HUD representatives at the National League of Cities meeting. HUD is beginning a sustainability initiative and is working with the Environmental Protection Agency and the Department of Transportation to encourage sustainability practices.

March 20, 2012

Resolution 2012-020
Accepting the Advisory Opinion and Recommendation
No. 2012-1 of the Ethics Review Board, Adopted

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

On January 13, 2012, Mr. David Bell filed a written complaint with the City questioning the propriety of Gino Campana's participation as a member of the Planning and Zoning Board in discussions pertaining to a proposed Land Use Code change regarding buffer zones along rivers (the “LUC Amendment”). Mr. Bell alleges that Mr. Campana should have recused himself since he is a land developer, and was negotiating the purchase of land for a development along the Poudre River.

Section 2-569(d)(1) provides that:

- (d) Complaints and inquiries shall be submitted to the Review Board only according to the following procedures:*
 - (1) Complaints.*
 - a. any person who believes that a Councilmember or board and commission member has violated any provision of state law or the Charter or Code pertaining to ethical conduct may file a complaint with the Mayor, who shall immediately notify the chairperson of the Review Board. The complaint shall be placed on the agenda for the next special or regular City Council meeting for review and possible action by the City Council.*
 - b. Upon receipt of any such complaint, the City Council shall decide by majority vote whether to submit the complaint to the Review Board for an advisory opinion as to whether the violation alleged in the complaint has occurred and, if so, the action, if any, that should be taken with regard to such violation. In the event that such complaint is not submitted to the Review Board, the City Council may decide what, if any, other action pertaining to the same is appropriate.*

Pursuant to this provision, the Council referred the complaint to the Ethics Review Board for an advisory opinion. The Board met on February 23 and February 27, 2012 and received information pertaining to this matter from several persons including the complainant, City staff, Mr. Campana and his attorney, several local engineers, and current and former members of the Planning and Zoning Board. After receiving that information and conferring with the City Attorney, the Board discussed the application of the City Charter conflict of interest rules to the information presented at the meetings and rendered an opinion that Mr. Campana did not violate the conflict of interest

March 20, 2012

rules by participating in discussions about the proposed Land Use Code amendment. However, the Board has recommended that additional training be provided to members of the Planning and Zoning Board and other City boards that handle both quasi-judicial matters and policy recommendations to the Council to clarify the way in which the ethical and legal requirements related to both kinds of matters should be interpreted and applied.

Code Section 2-569(e) provides that all opinions and recommendations of the Board be submitted to the full Council for review and approval. By adoption of Resolution 2012-020, the Council would adopt the opinion and recommendation of the Board.”

City Attorney Roy stated this Resolution will adopt an opinion and recommendation of the City Council Ethics Review Board. The Ethics Review Board consists of Councilmembers Kottwitz, Manvel, and Poppaw, with Councilmember Troxell as an alternate member. In this case, Councilmember Troxell took the place of Councilmember Kottwitz.

The Ethics Review Board received information from a number of individuals relating to the complaint and ultimately rendered an opinion that Mr. Campana did not violate the conflict of interest rules by participating in discussions about the proposed Land Use Code amendment.

Eric Sutherland, 3520 Golden Currant, stated many other ethics breaches have occurred relating to the City's land use development review process. Additionally, the Board has recommended that additional training be provided to members of the Planning and Zoning Board and other City boards that handle both quasi-judicial matters and policy recommendations to the Council to clarify the way in which the ethical and legal requirements related to both kinds of matters should be interpreted and applied.

Councilmember Poppaw commended the review process as being thorough.

Councilmember Manvel stated the Ethics Review Board spent much time examining the details of property ownership and timing, buffer rules, and input from affected parties, and ultimately came to the conclusion that the issue did not rise to the level of direct and substantial benefit for Mr. Campana.

Mayor Weitkunat noted the Planning and Zoning Board, as well as other City boards, will receive additional training relating to ethical and legal requirements related to quasi-judicial matters and policy recommendations.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2012-020.

Councilmember Horak suggested the training sessions be available online.

City Attorney Roy noted all board and commission members are currently required to review a DVD and written manual.

March 20, 2012

The vote on the motion was as follows: Yeas: Weitkunat, Manvel, Kottwitz, Ohlson, Poppaw and Horak. Nays: none.

THE MOTION CARRIED.

Other Business

Mayor Pro Tem Ohlson asked when Council would be receiving information regarding oil and gas drilling and fracking. City Manager Atteberry replied Karen Cumbo, Director of Planning, Development, and Transportation Services, is leading a multi-pronged approach within the City organization and recently prepared a draft white paper. The item will soon be scheduled for a work session.

Adjournment

The meeting adjourned at 7:05 p.m.


Mayor

ATTEST:


Interim City Clerk

