

RESOLUTION 2002-082
OF THE COUNCIL OF THE CITY OF FORT COLLINS
ADOPTING GUIDELINES FOR EXECUTIVE SESSIONS

WHEREAS, the City Charter and City Code authorize the City Council and boards and commissions of the City to discuss certain kinds of confidential matters in executive session; and

WHEREAS, the City Code specifies in Sections 2-31 and 2-71 the purposes for which such executive sessions may be held and sets forth additional rules regarding executive sessions; and

WHEREAS, the City Council Governance Committee has recently reviewed certain proposed policies and procedures governing the holding of executive sessions, together with other forms that it believes would help ensure that executive sessions held by the City Council and boards and commissions of the City properly conform to all relevant legal requirements, and has recommended such policies and forms to the City Council for adoption; and

WHEREAS, the City Council believes it to be in the best interests of the City to adopt the same.

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

Section 1. That the policies, procedures and forms pertaining to executive sessions, which are attached hereto as Exhibits "A" through "D" and incorporated herein by this reference, are hereby approved by the City Council for use by the City Council and all boards and commissions of the City when executive sessions are held by such bodies.

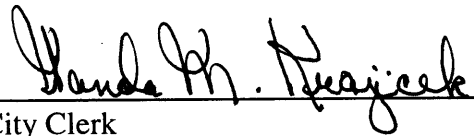
Section 2. That the City Clerk is hereby directed to distribute the above-referenced forms to all boards and commissions of the City, as well as to the City Council, for its use.

Passed and adopted at a regular meeting of the City Council held this 20th day of August, A.D. 2002.



Mayor

ATTEST:



City Clerk

**CITY OF FORT COLLINS, COLORADO
POLICIES AND PROCEDURES
GOVERNING THE HOLDING OF EXECUTIVE SESSIONS**

The following policy and procedures are based upon the provisions of Sections 2-31 and 2-33 of the Fort Collins City Code and C.R.S. §24-6-402(4).

1. An executive session may not be held unless affirmatively approved by two thirds (2/3) of the quorum present.

2. The motion to go into executive session must include specific reference to the particular section of the City Code that authorizes the session and must identify the particular matter to be discussed in as much detail as possible without compromising the purpose for which the session is authorized.

3. Each executive session shall be recorded by portable tape recorder except as set forth herein. If the tape recorder is unavailable or is not operating, minutes shall be taken and kept by the City Clerk, if present, or by the presiding officer if the City Clerk is not present. The tape recorder shall be tested before going into executive session to make sure it is operating and the tape shall be labeled with the name of the City Council and the date of the recording.

4. The tape shall stand as the minutes of the executive session without the need for further approval. If written minutes are taken, due to the tape recorder not operating, the written minutes shall be approved at a future executive session. Upon completion of the executive session, the label on the tape recording shall be initialed or signed by the presiding officer.

5. The City Clerk shall maintain possession of the recorded tape of the executive session for ninety (90) days after the date of the executive session. The tape, or the contents thereof, shall not be disclosed to any person except as permitted or required by law.

6. The recorded tape must reflect the specific legal citation authorizing the executive session and the actual contents of the discussion during the session. If written minutes are taken, the minutes must include a signed statement from the presiding officer attesting that the minutes substantially reflect the substance of the discussion during the session.

7. If the executive session (or a portion of it) constitutes a privileged attorney-client communication in the City Attorney's opinion, and the City Attorney so states on the record, no further record shall be maintained of that communication. If written minutes are kept, those minutes must include: (a) a signed statement from the attorney attesting that the unrecorded session (or portion) constituted a privileged attorney-client communication in the attorney's opinion, and (b) a signed statement from the presiding officer attesting that the unrecorded session (or portion) was confined to the topic authorized for discussion in an executive session.

EXECUTIVE SESSION MOTION FORM

I MOVE TO GO INTO EXECUTIVE SESSION:

- _____ For discussion of a personnel matter under Sec. 2-31 of the City Code
 - _____ involving the hiring, appointment, dismissal, demotion, promotion, assignment or discipline of City personnel;
 - _____ involving the review and discussion of the performance and proposed compensation and benefits of the City Manager, City Attorney and/or Municipal Judge;
 - _____ involving the consideration of complaints or charges against individual City personnel, since the individual concerned has not requested that this matter be considered in open session;
 - _____ involving the consideration of actual or hypothetical situations involving potential conflicts of interest with individual Councilmembers or City board or commission members;
 - _____ involving the consideration and discussion of strategy matters related to negotiations with employee groups.
- _____ To confer with the City Attorney regarding litigation or potential litigation involving the City and/or the manner in which particular policies, practices or regulations of the City may be affected by existing or proposed revisions of federal, state or local law.
- _____ To consider a water or real property acquisition and sale by the City, restricted to the consideration of appraisals and other value estimates and the consideration of strategy for the acquisition or sale of such property.
- _____ To consider electric utility matters pertaining to issues of competition in the electric utility industry.

The following additional details are provided for identification purposes: _____

D R A F T

ANNOUNCEMENT NO. 1

TO BE MADE BY PRESIDING OFFICER AT THE BEGINNING OF THE EXECUTIVE SESSION (MAKE SURE THE TAPE RECORDER IS TURNED ON; DO NOT TURN IT OFF DURING THE EXECUTIVE SESSION UNLESS SO ADVISED BY THE CITY ATTORNEY)

It's _____ (date), and the time is _____ .m. For the record, I am the presiding officer, _____. As required by the Open Meetings Law, this executive session is being electronically recorded.

Also present at this executive session are the following persons: _____

This is an executive session for the following purpose:

(repeat the language of the motion, including the statutory citation)

I caution each participant to confine all discussion to the stated purpose of the executive session, and that no final legislative action may occur in the executive session.

If at any point in the executive session any participant believes that the discussion is going outside the proper scope of the executive session, please interrupt the discussion and make an objection.

ANNOUNCEMENT NO. 2
TO BE MADE BY PRESIDING OFFICER BEFORE CONCLUDING THE
EXECUTIVE SESSION(WHILE THE TAPE RECORDER IS STILL TURNED ON)

The time is now _____.m. We now conclude the executive session and will return to the open meeting. The participants in the executive session were: _____

For the record, if any person who participated in the executive session believes that any substantial discussion of any matters not included in the motion to go into the executive session occurred during the executive session, or that any improper action occurred during the executive session in violation of the City Code or state law, I would ask that you state your concerns for the record.

Hearing none, the Council will return to the open meeting.