

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 11

DATE: August 19, 2003

FROM: Tom McLellan

SUBJECT:

Second Reading of Ordinance No. 099, 2003, Appropriating Prior Year Reserves in the General Fund for Police Seizure Activity.

RECOMMENDATION:

Staff recommends adoption of the Ordinance on Second Reading.

EXECUTIVE SUMMARY:

This Ordinance, which was unanimously adopted on First Reading on July 15, 2003, appropriates prior year reserves into the Police Services budget. This amount represents money awarded by the courts in 2002 and held in a General Fund restricted reserve account awaiting appropriation.

ORDINANCE NO. 099, 2003
OF THE COUNCIL OF THE CITY OF FORT COLLINS
APPROPRIATING PRIOR YEAR RESERVES
IN THE GENERAL FUND FOR POLICE SEIZURE ACTIVITY

WHEREAS, Fort Collins Police Services, in accordance with state law, has seized illegal contraband used in or gained from criminal activities through civil forfeiture proceedings; and

WHEREAS, funds from police seizure activities in 2002 and prior years, in the amount of \$30,750, are in a restricted reserve account in the General Fund for such funds; and

WHEREAS, police seizure funds, pursuant to state statute, are to be expended for law enforcement purposes other than those constituting ongoing operating expenses of Police Services; and

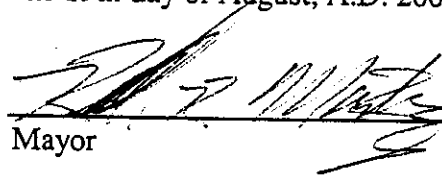
WHEREAS, some of the funds will be used by Police Services for special purchases of training, services, and commodities to enhance the quality of customer service, and some of the funds will be used in partnership with a variety of community groups to fund prevention programs for youth, anti-violence, and diversity issues; and

WHEREAS, the local Forfeiture Committee, consisting of the Mayor, District Attorney and Chief of Police, has approved the 2003 seizure budget; and

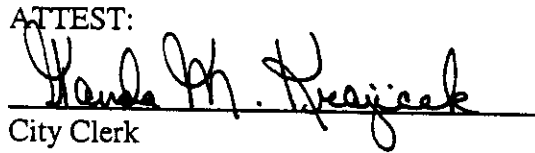
WHEREAS, Article V, Section 9, of the Charter of the City of Fort Collins permits the City Council to appropriate by ordinance at any time during the fiscal year such funds for expenditure as may be available from reserves accumulated in prior years, notwithstanding that such reserves were not previously appropriated.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that there is hereby appropriated for expenditure from prior year reserves in the General Fund the total sum of THIRTY THOUSAND SEVEN HUNDRED FIFTY DOLLARS (\$30,750) for Police Services' expenditures which are consistent with its functions and duties, but distinct from its normal operating needs, as shown on Exhibit "A", attached hereto, provided, however, that the Chief of Police is hereby authorized to change the amounts allocated to any of the individual recipients or purposes shown on Exhibit "A", within the total amount appropriated herein.

Introduced, considered favorably on first reading, and ordered published this 15th day of July, A.D. 2003, and to be presented for final passage on the 19th day of August, A.D. 2003.



Mayor

ATTEST:


City Clerk

Passed and adopted on final reading this 19th day of August, A.D. 2003

Mayor

ATTEST:

City Clerk

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 13

DATE: July 15, 2003

STAFF: Tom McLellan

SUBJECT:

First Reading of Ordinance No. 099, 2003, Appropriating Prior Year Reserves in the General Fund for Police Seizure Activity.

RECOMMENDATION:

Staff and the statutory Forfeiture Committee recommend adoption of the Ordinance on First Reading.

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FINANCIAL IMPACT:

This Ordinance appropriates \$30,750 into the Police Services budget. This amount represents money awarded by the courts in 2002 and held in a General Fund restricted reserve account awaiting appropriation.

Some of the funds will be used by Police Services for special purchases of training, services, and commodities to enhance the quality of customer service. The remainder will be used in partnership with a variety of community groups to fund prevention programs for youth, anti-violence, and diversity issues.

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EXECUTIVE SUMMARY:

Nearly 100 years ago, Colorado law created a process for the seizure of illegal contraband used in or gained from criminal activity. The intent is to deter crime and to have criminals help defray the costs of policing.

State statutes specify that the proceeds from such seizures are to be used for law enforcement purposes, and require that the governing body (City Council) of the seizing agency (Police Services) appropriate these proceeds to supplement the seizing agency's budget or forfeit the proceeds to the general fund of the State of Colorado. The Colorado Supreme Court and United States Supreme Court have consistently upheld the constitutionality of these statutes.

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Checks and Balances:

Colorado statutes also create a Forfeiture Committee consisting of the Mayor, District Attorney and Chief of Police. The Committee oversees and approves the seizure budget and spending decisions made by the Chief of Police. The local Forfeiture Committee met on March 7, 2003 and approved the 2003 Seizure Fund budget.

All seizures are approved in advance by the Commander of the Investigations Division. Seizures are based upon articulated probable cause, not mere suspicion. They are reviewed by the District Attorney's asset forfeiture specialist, and are always accompanied by criminal charges.

A judge approves each filing as demonstrating probable cause and being in compliance with the seizure statute. The defendant is served with a written notice, including an affidavit detailing the probable cause and a clear advisement of legal rights and procedures for exercising due process. The defendant is entitled to both a preliminary hearing on the criminal charges and a civil trial concerning the seizure and forfeiture action.

Police Services maintains a detailed written directive concerning seizures, which requires close tracking and careful documentation. The Chief of Police is the only Fort Collins Police Services Officer with authority to spend the seizure funds, and actions by the Chief of Police are approved by the Forfeiture Committee.

Staff is confident that it demonstrates exceptional care, responsibility, and fairness in these matters. The Larimer County District Courts have consistently upheld the activities of Fort Collins Police Services in seizing crime-related property whenever such seizures have been challenged in civil court proceedings.

Two documents are attached. The first is the "2003 Annual Seizure Fund Report," outlining the 2002 seizure fund expenditures and income. The second document shows the 2003 budget, which has been approved by the Forfeiture Committee. This document shows a breakdown of anticipated expenditures for 2003, if the appropriation is approved by Council.

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