

# AGENDA ITEM SUMMARY

## FORT COLLINS CITY COUNCIL

ITEM NUMBER: 18

DATE: June 3, 2008

STAFF: Sheri Langenberger

### SUBJECT

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First Reading of Ordinance No. 065, 2008, Amending Section 24-95 of the City Code Concerning the Obligation for Construction of Streets.

### RECOMMENDATION

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Staff recommends adoption of this Ordinance on First Reading.

### EXECUTIVE SUMMARY

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This Ordinance clarifies that developers need to dedicate to the City the street rights-of-way for the local portion of street adjacent their developments and clarifies that when the City constructs a street, it has a right to seek reimbursement from nearby benefitted properties (adjacent properties) as well as properties that abut the street constructed by the City.

### BACKGROUND

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Section 24-905 of the City Code contains an obligation that developers construct the local portion of a public street adjacent to their developments. The Section was unclear as to whether the developers also needed to dedicate the right-of-way for such streets and one of the purposes of the Ordinance is to clarify that the dedication goes in tandem with the construction. The ordinance has also been drafted with a view toward clarifying that street construction includes not only curb, gutter, pavement and sidewalks, but also includes intersections and other related appurtenances.

More importantly, when the City constructs the local portion of a public street adjacent to undeveloped property, it should be reimbursed by other benefitted adjacent property owners when those properties are developed. This ordinance clarifies that not only the adjoining property but also the nearby benefitted properties have an obligation to reimburse the City for its costs. The ordinance also defines the conferring of a benefit to include, among other things, any such improvement but for which the adjacent property could not be developed in accordance with the level of service standards for traffic as contained in the Land Use Code.

Finally, since Section 24-95 already contains a provision for recalculation in case of inflation, staff believes there should be a recalculation made to accommodate deflation.

ORDINANCE NO. 065, 2008  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING SECTION 24-95 OF THE CITY CODE  
CONCERNING THE OBLIGATION FOR CONSTRUCTION OF STREETS

WHEREAS, Section 24-95 of the Code of the City pertains to the obligation of developers to provide local streets adjacent to development; and

WHEREAS, the Council has determined that it is in the best interest of the City to clarify in Section 24-95 that the construction also includes the obligation to dedicate rights-of-way for such streets and also includes the provision of necessary appurtenances related to the street such as curb, gutter, pavement, intersections and sidewalks, among other things; and

WHEREAS, the Council has further determined that when the City constructs the local portion of a public street adjacent to undeveloped property, the City should be entitled to reimbursement from benefitted adjacent property owners at the time their properties are developed and that the Code should be amended to clarify the circumstances under which the City would be entitled to such reimbursement.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 24-95 of the Code of the City be amended to read as follows:

**Sec. 24-95. Obligation for construction.**

(a) The **dedication of all required right-of-way and the** construction of the local **access** portion of a public street **or other related improvement adjacent to undeveloped real property** is hereby declared to be the obligation of the owner of the adjacent property at the time such property is developed or redeveloped. The timing of **and payment for** the **design and** construction shall be as specified in the development agreement for such property or, if not specified, it shall be required at the time of issuance of the first building permit upon such property.

(b) The local **access** portion of such street shall include, without limitation, the construction of curb, gutter, pavement, **intersections, and** sidewalks **and any other appurtenances related to the street**. All such construction shall conform to the "Larimer County Urban Area Street Standards" as adopted by the City Council by ordinance or resolution.

(c) If the City has constructed such local portion of a public street adjacent to undeveloped property or property that may be redeveloped, the City may require, at or before the time of issuance of any building permit for new development or change of use, that the owner of **such any benefitted** adjacent property repay to the City its cost in acquiring the necessary right-of-way and constructing such local portion of such street **or other related improvements. For the purpose of this provision, benefit**

to the adjacent property may include, among other things, the construction of improvements that will allow the adjacent property to be developed in accordance with the requirements of Section 3.6.4 of the Land Use Code, where in the absence of the improvements, such development would not be allowed to proceed. The amount of reimbursement to be paid to the City under this Subsection shall be no less than the original cost of the right-of-way and improvements plus any mutually agreed upon amount to reflect the effects of inflation, if any. These adjustments may be based on the construction cost index for Denver, Colorado, as published monthly by the Engineering News Record. (If said index shows deflation, the adjustment shall be made accordingly, but not below the original cost as submitted by the Installing Developer and approved by the City Engineer.) The original cost of the right-of-way and improvements shall mean the cost of right-of-way acquisition, financing, engineering, construction and any other costs actually incurred by the City which are directly attributable to the improvements.

Introduced and considered favorably on first reading and ordered published this 3rd day of June, A.D. 2008, and to be presented for final passage on the 1st day of July, A.D. 2008.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading this 1st day of July, A.D. 2008.

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Mayor

ATTEST:

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City Clerk