

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 9

DATE: July 15, 2008

**STAFF: Steve Roy
Wanda Krajcek**

SUBJECT

Second Reading of Ordinance No. 077, 2008, Amending Sections 2-30, 2-32 and 2-34 of the City Code Pertaining to Notice of Public Meetings of the City Council and City Council Committees.

RECOMMENDATION

Staff recommends adoption of this Ordinance on Second Reading.

EXECUTIVE SUMMARY

This Ordinance, unanimously adopted on First Reading on July 1, 2008, makes several amendments to the provisions of the City Code dealing with the public notice requirements for regular and special meetings of the City Council.

The ordinance as presented on Second Reading contains an additional change. Subsection 2-33 (a), pertaining to minutes, is being amended to clarify that minutes must be maintained only of regular and special meetings of the City Council at which formal action may occur and not of other, informal meetings such as work sessions or site visits.

ATTACHMENTS

1. Copy of First Reading Agenda Item Summary - July 1, 2008.
(w/o original attachments)

AGENDA ITEM SUMMARY

FORT COLLINS CITY COUNCIL

ITEM NUMBER: 23

DATE: July 1, 2008

STAFF: Steve Roy
Wanda Krajicek

SUBJECT

First Reading of Ordinance No. 077, 2008, Amending Sections 2-30, 2-32 and 2-34 of the City Code Pertaining to Notice of Public Meetings of the City Council and City Council Committees.

RECOMMENDATION

Staff recommends adoption of the Ordinance on First Reading.

BACKGROUND

This ordinance makes several amendments to the provisions of the City Code dealing with the public notice requirements for regular and special meetings of the City Council. The purposes of the changes are as follows:

- (1) To reflect the City's existing practice of posting agenda materials for each regular Council meeting on the City's website no later than the Thursday preceding the meeting, and to add a requirement that, if additional items become known at least 24 hours prior to the meeting, public notice be given of those additional topics;
- (2) To add a requirement that 24-hour notice be given to the public of any special Council meetings, together with information about the topics to be discussed at the meeting, when available;
- (3) To add a requirement that formal action not be taken by the Council on an item at either a regular or special meeting unless: (a) notice of the item has been given prior to the meeting; or (b) the Council finds by majority vote that postponing the item would be contrary to the public interest;
- (4) To add a statement that notice of a particular topic to be considered by the Council will be considered sufficient to authorize any action of the Council related to the topic; and
- (5) To add a requirement that 24-hour notice be given of agenda information for Council committee meetings where formal action may occur, if such information is available.

These changes were precipitated by a recent Colorado Supreme Court decision dealing with the meaning of the "full and timely notice" provisions of the Colorado Open Meetings Law. While the meetings of the Fort Collins City Council are governed by the provisions of the City Code rather than the state law, the City Code provisions are very similar to the state law, and the City Attorney has recommended the changes described above to clarify some of the Code's notice provisions and to conform the City's practices to the ruling of the Court in the *Town of Marble* case.

ORDINANCE NO. 077, 2008
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTIONS 2-30, 2-32 AND 2-34 OF THE CODE OF THE CITY
OF FORT COLLINS, PERTAINING TO NOTICE OF PUBLIC MEETINGS
OF THE CITY COUNCIL AND CITY COUNCIL COMMITTEES

WHEREAS, the City Council has determined that the provisions contained in Sections 2-30, 2-32 and 2-34 of the Code of the City should be amended to provide more clarity as to the notice requirements that govern the Council in conducting meetings at which formal action can occur; and

WHEREAS, in view of the fact that the Council recognizes and places high value upon conducting its business in public and with full and timely notice, the Council has determined that the amendments accomplished by this Ordinance are in the best interests of the City.

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

Section 1. That Sections ~~2-30~~ 2-27 through 2-30 of the Code of the City of Fort Collins is hereby amended to read as shown below:

Sec. 2-27. Official meetings.

No formal action of the City Council shall be taken except at a regular or special meeting called and held in accordance with the provisions of this Division.

Sec. 2-28. Regular meetings.

(a) Regular meetings of the City Council shall be held on the first and third Tuesdays of each month unless any such regularly scheduled meeting is canceled by a majority vote of the City Council. If any such meeting date is a national holiday, the regular meeting shall be on the preceding Monday. Such meeting shall commence at 6:00 p.m. The City Council may adjourn any regular meeting to a later date by majority vote of its members.

(b) The place of such meeting shall be the Council Chambers of the City Hall unless the City Council, by majority action of a quorum of its members, directs that a meeting be held elsewhere.

Sec. 2-29. Special meetings.

(a) Special meetings of the City Council may be held at any time on call of the Mayor or a majority of the City Council. Notice of such call of meeting shall be given by the City Clerk in writing to each member of the City Council at least twenty-four (24) hours before the time scheduled for the meeting. Such notice shall set forth the time and place of the meeting and the purpose in calling such meeting.

Such notice shall be delivered to the members of the City Council in person, by mail, by fax or by electronic mail.

(b) If any member of the City Council has given written or verbal notice to the City that such member will be out of town on the date of any special meeting called, then notice of such special meeting need not be delivered to such City Councilmember.

(c) Notwithstanding the foregoing provisions, no additional notice of any special meeting shall be required to be given to any member of the City Council who is present at a regular meeting of the City Council when such special meeting was scheduled by the City Council.

(d) If notice of a special meeting is delivered to the members of the City Council in a manner other than in person as provided in Subsection (a) above, the City Clerk shall request each Councilmember to acknowledge receipt of such notice within a specified period of time. If the City Clerk does not receive acknowledgment of receipt from an individual Councilmember within the period of time specified by the City Clerk, then the City Clerk shall deliver another notice of such meeting to said Councilmember, in person, no less than twenty-four (24) hours before the time scheduled for the meeting.

Sec. 2-30. Meeting agenda.

(a) The City Manager shall, in consultation with the Mayor and the Mayor Pro Tem, prepare the agenda for all regular and special meetings of the City Council. The agenda shall include all items requiring City Council action. Whenever possible, there shall be submitted with the agenda all facts necessary for the City Council to properly study the item and make a decision. To this end, the City Manager may include his or her recommendation on items to be considered.

(b) The agenda for all regular Council meetings shall be posted on the City's website no later than the Thursday immediately preceding the meeting. Any additional topics that may be the subject of formal action at a regular Council meeting shall be posted as provided in § 2-34 no less than twenty-four (24) hours before the meeting at which formal action may be taken. When available, agenda information for special Council meetings shall also be so posted.

(c) The agenda for City Council meetings may include a consent calendar. Matters of a noncontroversial nature requiring City Council action, including ordinances, may be placed on the consent calendar portion of the agenda, provided that the title of any ordinance placed on the consent calendar shall be read prior to action by the City Council on the consent calendar. Any City Councilmember, the City administration, any citizen or any interested party may request at any time prior to action by the City Council on the consent calendar that an item be removed and considered as a separate item by the City Council. Prior to action by the City Council

on the consent calendar, the presiding officer of the City Council shall advise persons present of the right to request removal of any item for separate consideration. If a request is made to remove an item from the consent calendar, the item shall be removed and the presiding officer shall place such item on the agenda for that meeting at an appropriate place for separate action. After removal of all items for which a request was made for removal, the City Council shall consider the remaining items on the consent calendar by one (1) motion. The vote of each City Councilmember on the motion shall be considered that City Councilmember's vote on each individual item on the consent calendar.

Section 2. That Section 2-32 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-32. Open meetings/notice of meetings.

(a) Except as otherwise provided in § 2-31, all meetings of the City Council and all meetings of City Council committees shall be open to the public.

(b) Any meeting of the City Council at which any formal action could occur or at which a majority or quorum is in attendance, or is expected to be in attendance, shall be held only after full and timely notice to the public. For purposes of this subparagraph (a), full and timely notice of regular and special Council meetings shall be accomplished by compliance with the provisions contained in §§ 2-28(a), 2-30(b) and 2-34, as applicable.

(c) Meetings of City Council committees at which any formal action could occur shall be held only after full and timely notice to the public. For the purpose of these provisions, adopting a regular meeting date and filing a statement with the City Clerk shall be considered full and timely notice. In the case of meetings held on call or irregularly or in the event of any change to a regular meeting date on file with the City Clerk, the posting of a notice of the meeting pursuant to § 2-34 at least twenty-four (24) hours before the time of such meeting shall be full and timely notice.

(d) No ordinance, resolution, rule, regulation or other formal action of the City Council, and no formal action of a City Council committee, shall be valid unless taken or made at a meeting that meets the requirements of Subsections (a) and (b) above and unless public notice of the item acted upon has been provided as required in Section 2-30(b). Notwithstanding the foregoing and notwithstanding the notice requirements of Section 2-30(b), final action may be taken on an item for which no public notice has been given if the City Council first finds, by majority vote, that postponing the item to a subsequent meeting would be contrary to the public interest. For the purposes of this provision, notice of a particular topic to be considered by the City Council shall be sufficient to authorize any action of the City Council reasonably related to that topic.

Section 3. That Subsection 2-33(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-33. Minutes of meetings.

(a) Except as provided below with regard to executive sessions, minutes shall be maintained of all regular and special meetings of the City Council held pursuant to Section 2-28 or 2-29 and of all meetings of Council committees, and such minutes shall be open to public inspection. The minutes of meetings at which executive sessions are held shall reflect the topic of discussion at the executive session.

Section 34. That Section 2-34 of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 2-34. Place of posting.

The vestibule at the south entrance of City Hall West, 300 LaPorte Avenue, is designated as the proper place for the posting of public notice of:

- (a) any agenda items for regular City Council meetings that were not included in the published agendas for such meetings,
- (b) special meetings of the City Council and agenda information for such meetings when available, and
- (c) meetings of City Council committees for which public notice is required to be given pursuant to § 2-32(c), and agenda information for such meetings when available. When possible, all such notices should also be posted on the City's website.

Introduced, considered favorably on first reading, and ordered published this 1st day of July, A.D. 2008, and to be presented for final passage on the 15th day of July, A.D. 2008.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 15th day of July, A.D. 2008.

Mayor

ATTEST:

City Clerk