

Doug Hutchinson, Mayor
Kelly Ohlson, District 5, Mayor Pro Tem
Ben Manvel, District 1
Lisa Poppaw, District 2
Diggs Brown, District 3
Wade Troxell, District 4
David Roy, District 6

City Council Chambers
City Hall West
300 LaPorte Avenue
Fort Collins, Colorado

Cablecast on City Cable Channel 14
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REGULAR MEETING

December 16, 2008

Proclamations and Presentations
5:30 p.m.

none.

Regular Meeting
6:00 p.m.

PLEDGE OF ALLEGIANCE

1. CALL MEETING TO ORDER.
2. ROLL CALL.

****American Planning Association Presentation of two awards and a banner for the Plan Van and Development Review Guide.**

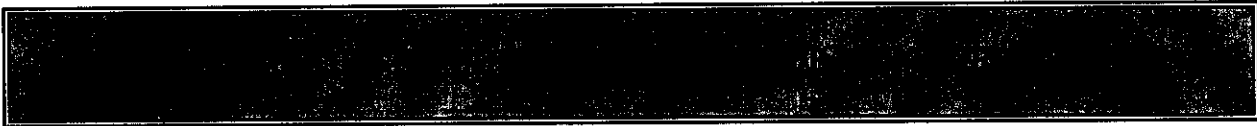
3. CITIZEN PARTICIPATION (limited to 30 minutes)

Individuals who wish to make comments regarding items scheduled on the Consent Calendar or wish to address the Council on items not specifically scheduled on the agenda must first be recognized by the Mayor or Mayor Pro Tem. **Before speaking, please sign in at the table in the back of the room.** The timer will buzz once when there are 30 seconds left and the light will turn yellow. The timer will buzz again at the end of the speaker's time. Each speaker is allowed 5 minutes. If there are more than 6 individuals who wish to speak, the Mayor may reduce the time allowed for each individual.

- State your name and address for the record
- Applause, outbursts or other demonstrations by the audience is not allowed
- Keep comments brief; if available, provide a written copy of statement to City Clerk

4. CITIZEN PARTICIPATION FOLLOW-UP:

This is an opportunity for the Mayor or Councilmembers to follow-up on issues raised during Citizen Participation.



*****RECONVENE REGULAR MEETING*****

5. AGENDA REVIEW: CITY MANAGER

Consent Calendar

The Consent Calendar consists of Items 6 through 20 This Calendar is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Anyone may request an item on this calendar to be "pulled" off the Consent Calendar and considered separately. Agenda items pulled from the Consent Calendar will be considered separately under Item No. 30 Pulled Consent Items. The Consent Calendar consists of:

- Ordinances on First Reading that are routine;
- Ordinances on Second Reading that are routine;
- Those of no perceived controversy;
- Routine administrative actions.

6. Second Reading of Ordinance No. 143, 2008, Appropriating Unanticipated Grant Revenue in the Recreation Fund for General Operating Support of the Adaptive Recreation Opportunities Passport Project Program.

The City was awarded an \$88,811 grant from the Department of Education via a sub-award from Colorado State University. This Ordinance, unanimously adopted on First Reading on December 2, 2008, appropriates that grant money in the *Passport Project* Program.

7. Second Reading of Ordinance No. 144, 2008, Authorizing the Appropriation of 2009 Fiscal Year Operating and Capital Improvement Funds for the Fort Collins-Loveland Municipal Airport.

The 2009 annual operating budget for the Airport totals \$722,700 and will be funded from Airport operating revenues, contributions from the Cities of Fort Collins and Loveland (\$85,000 from each city), and interest earnings. This Ordinance, unanimously adopted on First Reading on December 2, 2008, appropriates the City of Fort Collins' contribution, which is a 50% share of the 2009 Airport budget and totals \$361,350. This Ordinance also appropriates the City of Fort Collins' 50% share of capital funds, totaling \$791,115 for the Airport from federal and state grants, passenger charges, contributions from Fort Collins and Loveland and the Airport General Fund.

8. Second Reading of Ordinance No. 145, 2008, Appropriating Unanticipated Grant Revenue From the Office of National Drug Control Policy and the Office of Community Oriented Policing Methamphetamine Initiative in the General Fund for the Larimer County Drug Task Force.

The City has received two grants for the Larimer County Drug Task Force. The first is from the Office of National Drug Control Policy for January 1-December 31, 2009 in the amount of \$105,000. The second is from the Office of Community Oriented Policing Methamphetamine Initiative in the amount of \$133,280. This Ordinance, unanimously adopted on First Reading on December 2, 2008, appropriates the funds from the two grants.

9. Second Reading of Ordinance No. 146, 2008, Appropriating Unanticipated Grant Revenue in the General Fund and Authorizing the Transfer of Appropriated Amounts Between Accounts and Projects for Police Services.

Police Services received federal funding to apply to the purchase an armored rescue vehicle for the use of the Police Services SWAT Team. After the initial grant award notifications were received, an additional \$30,302 was awarded from the 2005 State Homeland Security Program. This Ordinance, unanimously adopted on First Reading on December 2, 2008, appropriates the unanticipated \$30,302 for this purchase.

10. Items Relating to the Issuance of City of Fort Collins Downtown Development Authority Taxable Subordinate Tax Increment Revenue Bonds, Series 2008A.

- A. Second Reading of Ordinance No. 147, 2008, Authorizing the Issuance of City of Fort Collins, Colorado, Downtown Development Authority Taxable Subordinate Tax Increment Revenue Bonds, Series 2008A, Dated Their Delivery Date, in the Aggregate Principal Amount of \$10,488,043, for the Purpose of Financing Certain Capital Improvements, Capital Projects and Development Projects Within the Downtown Development Authority Area; Providing for the Pledge of Certain Incremental Ad Valorem Tax Revenues to Pay the Principal of and Interest on the Bonds; Approving Documents in Connection Therewith; and Ratifying Action Previously Taken and Appertaining Thereto.

- B. Second Reading of Ordinance No. 148, 2008, Appropriating Proceeds from the Issuance of City of Fort Collins, Colorado, Downtown Development Authority Taxable Subordinate Tax Increment Revenue Bonds, Series 2008A, for the Purpose of Making Certain Capital Improvements, Capital Projects and Development Projects Within the Downtown Area of Fort Collins, Authorizing the Transfer of Appropriations Between Funds and Appropriating Expenditures from the DDA Debt Service Fund to Make the 2008 Payment on the Bonds.

These Ordinances, unanimously adopted on First Reading on December 2, 2008, authorize the issuance of \$10,488,043 in Tax Increment Bonds and the appropriation of the proceeds of the issuance to be used for projects and programs such as initiating a green building TIF facade/grant program, the 2009 funding for Beet Street and additional improvements to the downtown area.

11. Second Reading of Ordinance No. 149, 2008, Amending Section 2-575 of the City Code Relating to Councilmember Compensation.

Article II, Section 3 of the City Charter directs that the compensation of Councilmembers shall be adjusted annually for inflation in accordance with the Denver/Boulder Consumer Price Index. In 2008, Councilmembers were compensated \$650 per month, and the Mayor received \$970 per month.

This Ordinance, unanimously adopted on First Reading on December 2, 2008, amends Section 2-575 of the City Code to set the 2009 compensation of Councilmembers at \$675 per month and the compensation of the Mayor at \$1,005 per month, as required by the City Charter.

12. Second Reading of Ordinance No. 150, 2008, Authorizing a Revocable Permit to the Fort Collins Fire Museum Foundation for Access to City-Owned Property at 330 North Howes Street for up to Five Years.

The property at 330 North Howes Street (the "Car Barn") currently houses Poudre Fire Authority ("PFA") and City Museum antique fire fighting equipment. This Ordinance, unanimously adopted on First Reading on December 2, 2008, authorizes a permit that allows the Fort Collins Fire Museum Foundation continued access to the restoration equipment stored in the Car Barn.

13. Hearing and First Reading of Ordinance No. 160, 2008, Amending Chapter 9 of the City Code and Adopting by Reference the 2006 International Fire Code, with Amendments.

The City of Fort Collins has historically adopted the Uniform Fire Code (UFC) as a model for the identification, correction and prevention of fire safety hazards. Currently, the City is administering the 1999 Edition. Adoption of the 2006 International Fire Code would replace the now outdated 1999 UFC currently in use.

14. First Reading of Ordinance No. 161, 2008, Amending the City Code to Establish Marking Requirements.

Markings can have a negative and lasting (up to several months) impact on the aesthetics of a given area especially on decorative surfaces. This Ordinance is proposed as an addition to Chapter 23, Article V of the City Code requiring the use of chalk-based paint in the Old Town Area and on decorative surfaces throughout the city, except under certain conditions. Markings are defined in the proposed ordinance to include any mark to show the location of underground facilities or to mark other design or construction-related specifications, features or limits. Markings made with water-based paint must be properly removed within forty-five days of the request, except under certain conditions. In a situation that requires markings to be made utilizing water-based paint, the person making the request through the Colorado notification association will be responsible for their removal. If the person making the request is unknown, such as when an engineering company contracts directly with a locate company instead of through the notification association, then the person causing the marking to be made will be responsible for removing the marking.

15. Resolution 2008-127 Making Findings of Fact and Conclusions Pertaining to the Appeal by Randy Whitman of the July 17, 2008, Determination of the Planning and Zoning Board to Deny the Whitman Storage Facility - Request for a Modification of Standard.

On August 19, 2008, an appeal of the July 17, 2008 decision of the Planning and Zoning Board to deny the Whitman Storage Facility – Modification of Standard was filed by the Appellant Randy Whitman.

On December 2, 2008, City Council voted to uphold the decision of the Planning and Zoning Board. In order to complete the record regarding this appeal, the Council should adopt a Resolution making findings of fact and finalizing its decision on the appeal.

16. Resolution 2008-128 Making Findings of Fact and Conclusions Pertaining to the Appeal by Randy Whitman of the October 16, 2008, Determination of the Planning and Zoning Board to Deny the Whitman Storage Facility – Addition of Permitted Use.

On November 5, 2008, an appeal of the October 16, 2008 decision of the Planning and Zoning Board to deny the Whitman Storage Facility – Addition of Permitted Use was filed by the Appellant Randy Whitman.

On December 2, 2008, City Council voted to uphold the decision of the Planning and Zoning Board. In order to complete the record regarding this appeal, the Council should adopt a Resolution making findings of fact and finalizing its decision on the appeal.

17. Resolution 2008-129 Agreeing to Act as a Reviewing Entity for Commercial, Non-profit, and Income-producing Residential Properties for the State Income Tax Credit Program for Qualifying Rehabilitation Projects.

This Resolution states the City's intent to act as a reviewing entity for State Tax Credit projects involving commercial, non-profit and income-producing residential properties within the city limits. The provisions of the State Tax Credit legislation require that each

Certified Local Government (CLG) adopt a resolution stating whether the CLG will act as a reviewing entity, which remains in effect until it decides otherwise.

18. Resolution 2008-130 Adopting the Seventh Amendment to the City of Fort Collins General Employees' Retirement Plan as Amended and Restated December 31, 2001.

By adoption of this Resolution, Council would incorporate mandatory technical tax law changes from the final Treasury Regulations under Internal Revenue Code Section 415, effective January 1, 2008 into the General Employees' Retirement Plan ("Plan").

The General Employees Retirement Committee ("GERC") met on November 13, 2008 and held a discussion on this item. The GERC recommends that the City Council approve the Seventh Amendment to the Plan.

19. Resolution 2008-131 Making Appointments to Various Boards, Commissions, and Authorities of the City of Fort Collins.

Vacancies currently exist on various boards, commissions, and authorities due to resignations of board members and the expiration of terms of members. Applications were solicited during September. Council received copies of the applications and Council teams interviewed applicants during October and November.

Section 1 of this Resolution makes 17 appointments to 14 boards and commissions to fill current vacancies with terms to begin immediately. Names of those individuals recommended to fill current vacancies have been inserted in the Resolution with the expiration date following the names.

Section 2 of this Resolution makes 45 appointments to 24 boards and commissions to fill expired terms to begin on January 1, 2009. Names of those individuals recommended to fill expired terms have been inserted in the Resolution with the expiration date following the names.

END CONSENT

20. Consent Calendar Follow-up.

a. This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.

21. Staff Reports.

22. Councilmember Reports.

Discussion Items

The method of debate for discussion items is as follows:

- Mayor introduces the item number, and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests citizen comment on the item (five minute limit for each citizen)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. **Please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

23. Second Reading of Ordinance No. 157, 2008, Amending Section 2-606 of the City Code and Setting the Salary of the Municipal Judge. (staff: Janet Miller; 5 minute discussion)

City Council met in Executive Session on November 18 and November 25, 2008 to conduct the performance appraisal of Municipal Judge Kathleen M. Lane. Ordinance No. 157, 2008, adopted on First Reading on December 2, 2008 by a vote of 5-1 (Nays: Poppaw), establishes the 2009 salary of the Municipal Judge at \$93,045.

24. Items Relating to the Contract and Compensation of the City Attorney. (staff: Janet Miller; 5 minute discussion)

- A. Second Reading of Ordinance No. 158, 2008, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.
- B. Resolution 2008-125 Approving the Seventh Addendum to the City Attorney's Employment Agreement.

City Council met in Executive Session on November 18 and November 25, 2008 to conduct the performance review of City Attorney Steve Roy. Ordinance No. 158, 2008, adopted on First Reading on December 2, 2008 by a vote of 5-1 (Nays: Poppaw), establishes the 2009 salary of the City Attorney at \$161,650.

Resolution 2008-125 would approve certain changes to the City Attorney's employment contract.

- 25 Second Reading of Ordinance 159, 2008, Amending Section 2-596 of the City Code and Setting the Salary of the City Manager. (staff: Janet Miller; 5 minute discussion)

City Council met in Executive Session on November 18 and November 25, 2008 to conduct the performance appraisal of City Manager Darin Atteberry. Ordinance No. 159, 2008, adopted on First Reading on December 2, 2008 by a vote of 5-1 (Nays: Poppaw), establishes the salary of the City Manager at \$190,571.

- 26 Consideration of the Appeal to City Council of the Water Board's August 28, 2008 Denial of the Floodplain Variance for a School in the Poudre River 500-year Floodplain. (staff: Jim Hibbard, Bob Smith, Marsha Hilmes-Robinson; staff presentation - 15 minutes; 1 hour discussion)

On August 28, 2008, the Water Board considered an application for a variance from the City Code to allow the change of use in the Poudre River 500-year floodplain for an existing structure, located at 720 East Vine Drive, to a critical facility (a charter school) and to allow the same structure to be expanded in the future on 720 East Vine Drive and onto 724 and 750 East Vine for the same use. The Water Board unanimously denied the variance request.

The Appellants, representing the Nature School, filed an amended Notice of Appeal with the City Clerk's Office on September 30, 2008, seeking redress of the action of the Water Board which is the subject of this appeal.

- 27 Resolution 2008-132 Documenting City Council's Comments on the North I-25 Draft Environmental Impact Statement. (staff: Kathleen Bracke, Mark Jackson; CDOT staff presentation - 20 minutes; 30 minute discussion)

The Colorado Department of Transportation (CDOT) is conducting the North I-25 Environmental Impact Statement for the Interstate 25 corridor from Northern Colorado to the Denver Metropolitan area. CDOT released the draft North I-25 EIS (DEIS) document for public comment on October 31, 2008 for a 60-day review period. Public comments can be submitted to CDOT on the DEIS through December 30, 2008. City staff from multiple departments has reviewed the DEIS document and provides the enclosed comments. Staff is requesting comments from City Council on December 16th to share with CDOT as part of the formal comment process on the DEIS.

City staff will continue to work with CDOT during 2009 to provide additional input and comments as part of Final EIS document process. In addition, City staff will conduct thorough outreach to City Boards and Commissions in 2009 to gather additional input and comments from the Fort Collins community representatives. This on-going information and input from staff, City Boards, Commissions, and Council will be forwarded to CDOT as part of the City of Fort Collins' overall comments on the North I-25 EIS document, including recommendations for preferred improvements.

Staff is not asking City Council to make a formal recommendation for a preferred alternative at this time. Once staff has received input from the City Boards and Commission, they will bring this item back to City Council in early 2009 for a formal action on the preferred

alternative. There will be another round of formal comment period for the Final EIS document, which is anticipated to be released by CDOT in mid-2009.

28. Items Relating to the Gateway First, Second and Third Annexations. (staff: Ken Waido; staff presentation - 5 minutes; 5 minute discussion)

Gateway First Annexation

- A. Resolution 2008-133 Rescinding Resolution No. 2008-111.
- B. Resolution 2008-134 Setting Forth Findings of Fact and Determinations Regarding the Gateway First Annexation.
- C. Hearing and Second Reading of Ordinance No. 151, 2008, Annexing Property Known as the Gateway First Annexation to the City of Fort Collins, Colorado.
- D. Hearing and Second Reading of Ordinance No. 152, 2008, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Gateway First Annexation to the City of Fort Collins, Colorado.

Gateway Second Annexation

- A. Resolution 2008-135 Rescinding Resolution No. 2008-112.
- B. Resolution 2008-136 Setting Forth Findings of Fact and Determinations Regarding the Gateway Second Annexation.
- C. Hearing and Second Reading of Ordinance No. 153, 2008, Annexing Property Known as the Gateway Second Annexation to the City of Fort Collins, Colorado.
- D. Hearing and Second Reading of Ordinance No. 154, 2008, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Gateway Second Annexation to the City of Fort Collins, Colorado.

Gateway Third Annexation

- A. Resolution 2008-137 Rescinding Resolution No. 2008-113.
- B. Resolution 2008-138 Setting Forth Findings of Fact and Determinations Regarding the Gateway Third Annexation.
- C. Hearing and Second Reading of Ordinance No. 155, 2008, Annexing Property Known as the Gateway Third Annexation to the City of Fort Collins, Colorado.
- D. Hearing and Second Reading of Ordinance No. 156, 2008, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Gateway Third Annexation to the City of Fort Collins, Colorado.

Resolutions 2008-111, 2008-112, and 2008-113 make findings that the petition for annexation for the Gateway Annexation, containing a total of approximately 256.3 acres, substantially complies with the Municipal Annexation Act, the City of Fort Collins Comprehensive Plan (*City Plan*), the Larimer County and City of Fort Collins Intergovernmental Agreements, the City of Fort Collins *Land Use Code*, and the *Harmony Corridor Plan*; that notice was duly given; and that a hearing was held regarding the annexation in accordance with the Act.

These Resolutions were prematurely presented to, and adopted by, the Council on December 2, 2008, before the public hearing on the annexations had actually been held. For that reason, staff recommends that Council rescind those Resolutions, hold the statutorily required hearing on the annexations, and then consider new Resolutions making findings and determinations with regard to each of the annexations.

The Ordinances, adopted unanimously on First Reading on December 2, 2008, will annex the property into the City limits and place the property into the POL-Public Open Lands Zoning District.

29. Pulled Consent Items.

30. Other Business.

31. Adjournment.

Every Council meeting will end no later than 10:30 p.m., except that: (1) any item of business commenced before 10:30 p.m. may be concluded before the meeting is adjourned and (2) the City Council may, by majority vote, extend a meeting until no later than 12:00 a.m. for the purpose of considering additional items of business. Any matter which has been commenced and is still pending at the conclusion of the Council meeting, and all matters scheduled for consideration at the meeting which have not yet been considered by the Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.

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Darin Atteberry, City Manager
Steve Roy, City Attorney
Wanda Krajicek, City Clerk

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WORK SESSION

December 16, 2008

1. Call Meeting to Order.
2. Transportation Update: Successes, Opportunities and Challenges Ahead. (1 1/2 hour discussion)

This is the first of three scheduled transportation-related conversations with City Council over the course of 2008 and 2009. The intent of these presentations is to:

- Highlight the importance of transportation to the community.
- Celebrate completed projects and key milestone accomplishments.
- Acknowledge upcoming opportunities for 2009.
- Share information with the City Council and community about transportation trends and issues in the country, state, region, and city.
- Share information about the conditions of the city's existing transportation infrastructure and discuss needs for additional funding in transportation.

3. Economic Health/Financial Issues Update. (1 1/2 hour discussion)

Staff will discuss economic and financial highlights from 2008 and discuss 2009 challenges and opportunities and will answer questions and discussion suggestions from City Council.

4. Other Business.

5. Adjournment.

Doug Hutchinson, President
Kelly Ohlson, District 5, Vice-President
Ben Manvel, District 1
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MEETING

December 16, 2008

1. Call Meeting to Order.
2. Roll Call.
3. First Reading of Ordinance No. 003, Authorizing the Issuance of City of Fort Collins, Colorado, Wastewater Utility Enterprise, Subordinate Sewer Revenue Bonds, Series 2009A, in the Maximum Aggregate Principal Amount of \$34,000,000.

After the passage of Amendment 1 (the TABOR Amendment) by the Colorado voters in 1992, the City established the Wastewater Utility Enterprise by an amendment to the City Charter. This amendment authorizes the City Council to establish enterprises to issue its own revenue bonds on behalf of the City. By doing so, the Enterprise is exempt from the requirements of the TABOR Amendment.

Ordinance No. 003 authorizes the issuance of maximum aggregate principal amount of \$34 million of Sewer Revenue Bonds. The bonds will be used to make improvements at the Mulberry treatment plant. In late 2006, a study by MWH Consulting Engineers was commissioned to determine the best solution for the long-term use of the Mulberry plant. Upgrading the plant's secondary treatment processes by removing the trickling filter and its associated facilities and installing a new aeration basin and associated facilities is the most cost effective solution. Because the trickling filter is already recommended for replacement,

odor control improvements will also take place. Upgrading the facility will also allow the Utilities to prepare for future regulation based improvements. The improvements, including design and construction are projected to cost \$31.8 million.

4. Other Business.
5. Adjournment.