

Doug Hutchinson, Mayor
Kelly Ohlson, District 5, Mayor Pro Tem
Ben Manvel, District 1
Lisa Poppaw, District 2
Aislinn Kottwitz, 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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Darin Atteberry, City Manager
Steve Roy, City Attorney
Wanda Krajicek, City Clerk

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REGULAR MEETING

November 3, 2009

Proclamations and Presentations 5:30 p.m.

- A. Proclamation Declaring Patience as the Character Focus for November 2009 and Recognition of the "Character in Action."
- B. Proclamation Declaring November as Native American Awareness Month.

Regular Meeting 6:00 p.m.

PLEDGE OF ALLEGIANCE

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

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
- Address your comments to Council, not the audience.

4. CITIZEN PARTICIPATION FOLLOW-UP:

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

5. AGENDA REVIEW: CITY MANAGER

Consent Calendar

The Consent Calendar consists of Items 6 through 25. 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. 32, 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.

CONSENT NON-BUDGET ITEMS

6. Second Reading of Ordinance No. 101, 2009, Appropriating Unanticipated Revenue in the Cultural Services Fund to be Used for the Construction of the New Museum/Discovery Science Center Joint Facility.

The City has received a donation of \$88,966 from the Isabelle (Judy) Arnold Trust designated for the Fort Collins Museum. This Ordinance, unanimously adopted on First Reading on October 20, 2009, appropriates that donation in the Building on Basics (BOB) Fort Collins Museum/Discovery Science Center Joint Facility Project.

7. Second Reading of Ordinance No. 102, 2009, Appropriating Unanticipated Revenue from the American Recovery and Reinvestment Act to the Transit Fund.

This Ordinance, unanimously adopted on First Reading on October 20, 2009, appropriates funds received from the American Recovery and Investment Act of 2009 (ARRA) to purchase six NABI 40-foot Low Floor Compressed Natural Gas (CNG) replacement buses and several Proximity Card Readers in 2009.

8. Second Reading of Ordinance No. 103, 2009, Appropriating Unanticipated Grant Revenue From the Office of the National Drug Control Policy and the U.S. Department of Justice in the General Fund for the Northern Colorado Drug Task Force.

The City has received three grants for the Northern Colorado Drug Task Force. The first is from the Office of National Drug Control Policy for January 1-December 31, 2010, in the amount of \$84,124. The second is from the Office of National Drug Control Policy in the amount of \$24,703. The third is from the U.S. Department of Justice in the amount of \$108,275 for fiscal year 2009. This Ordinance, unanimously adopted on First Reading on October 20, 2009 appropriates these funds.

9. Second Reading of Ordinance No. 104, 2009, Appropriating Unanticipated Grant Revenues in the General Fund for Police Services and for the Transfer of Matching Funds Previously Appropriated in the Police Services Operating Budget.

This Ordinance, unanimously adopted on First Reading on October 20, 2009, appropriates funds from a grant in the amount of \$30,000 received from the Colorado Division of Criminal Justice, Juvenile Accountability Block Grant, for the continuation of Restorative Justice Services, which includes The RESTORE program for shoplifting offenses and Restorative Justice Conferencing Program (RJCP) for all other offenses.

10. Second Reading of Ordinance No. 105, 2009, Appropriating Prior Year Reserves and Unanticipated Revenue in Various City Funds and Authorizing the Transfer of Appropriated Amounts Between Funds or Projects.

The purpose of this annual "clean-up" Ordinance is to combine dedicated revenues or reserves that need to be appropriated before the end of the year to cover the related expenses that were not anticipated and, therefore, not included in the 2009 budget. The unanticipated revenue is primarily from fees, charges; rents, contributions and grants that have been paid to City departments to offset specific expenses. Prior year reserves are primarily being appropriated for unanticipated operation expenses from reserves that are set aside for that purpose. This Ordinance was unanimously adopted on First Reading on October 27, 2009.

11. Second Reading of Ordinance No. 106, 2009, Amending Section 25-123(c) of the City Code Relating to the Vendor Fee for Collecting and Remitting Sales Tax.

This Ordinance, unanimously adopted on First Reading on October 20, 2009, eliminates the City's current vendor fee for sales and use tax licensees. The proposed modification will result in \$300,000 of ongoing additional revenue being available for General Fund uses. This change will not increase taxes or fees charged, but rather eliminates the amount of City sales and use taxes that vendors are allowed to retain in exchange for the service they provide in collecting City taxes. Currently, vendors are allowed to retain 1% of sales and use taxes collected, up to a maximum of \$45 per reporting period.

12. Second Reading of Ordinance No. 108, 2009, Amending Chapter 14 of the City Code Relating to the Landmark Rehabilitation Loan Program.

This Ordinance, unanimously adopted on First Reading on October 20, 2009, amends the Landmark Rehabilitation Loan Program to increase the loan funding amounts from a maximum of \$5,000 to a maximum of \$7,500. It also removes provisions related to the application review schedule to allow for a more flexible, semi-annual competitive application review process.

13. Second Reading of Ordinance No. 109, 2009, Authorizing the Conveyance of a Non-Exclusive Drainage Easement on the Gustav Swanson Natural Area to Urban Development Partners, LLC.

Urban Development Partners, LLC (the "Developer") is proposing to build an industrial/office development which is commonly known as the Inverness Innovation Park (the "Project"), located on East Vine Drive and north of the City's Gustav Swanson Natural Area (the "Natural Area"). This Ordinance, unanimously adopted on First Reading on October 20, 2009, authorizes the conveyance of a drainage easement across the Natural Area to allow for stormwater flows in case of storm events larger than a 100-year flood event.

14. Second Reading of Ordinance No. 110, 2009, Authorizing the Conveyance of a Utility Easement on a Portion of the Larimer County Landfill to Poudre Valley Rural Electric Association, Inc.

Larimer County has entered into a Landfill Gas Purchase Agreement with Timberline Energy, LLC for the County's Landfill Gas Project. The goal of this project is to create a complete landfill gas recovery system for the Landfill. Under this Agreement, Timberline will operate a facility at the Landfill to collect the methane gas. Once collected, Timberline will sell the gas, to be used to generate electricity, and carbon credits to a commercial user in the area. Timberline needs electric service for its landfill gas facility, to be provided by Poudre Valley Rural Electric Association, Inc. This Ordinance, unanimously adopted on First Reading on October 20, 2009, authorizes the conveyance of an easement to REA to lay an electrical line underground at the Larimer County Landfill.

15. First Reading of Ordinance No. 120, 2009, Appropriating Unanticipated Revenue in the General Fund for the Natural Resources Energy Efficiency Community Block Grant.

This Ordinance appropriates \$1,307,900, received by the City under a Energy Efficiency and Conservation Block Grant (EECBG) Program.

16. Public Hearing and First Reading of Ordinance No. 121, 2009, Amending Chapter 26 Article XII of the City Code Relating to Utility Billing Errors.

This Ordinance codifies the Utilities' current administrative policy which addresses utility billing errors. When a customer is overcharged, the Utilities will refund the customer the overcharge for a period not to exceed six years from the time the error is discovered. If a customer is undercharged for services received, the Utility will back bill the customer only if the undercharges occurred less than six years before the date the error is discovered and either the undercharges are for a minimal amount or the customer could not have discovered the error with reasonable inquiry. No interest will be paid or collected.

17. First Reading of Ordinance No. 122, 2009, Repealing Ordinance No. 007, 1975, Relating to the Security of Buildings and Businesses in the City.

This Ordinance repeals Ordinance No. 007, 1975, which is now obsolete. Ordinance No. 007, 1975, required the Police Department to maintain a register of all commercial buildings and businesses in the city, including emergency contact information for a designated representative for each business and building, and compelled property and business owners to cooperate by providing information. Currently, such information is gathered and maintained by the Poudre Fire Authority as a part of its building inspection program.

18. First Reading of Ordinance No. 123, 2009, Adopting a Fee Schedule for Grandview and Roselawn Cemeteries and Amending the Rules and Regulations Governing Grandview and Roselawn Cemeteries to Add the Fee Schedule.

This Ordinance amends the Rules and Regulations Governing Grandview and Roselawn Cemeteries to add a list of the amounts of fees for 2010 and 2011, and to specify that in future years fees will be increased based on the Denver-Boulder-Greeley Consumer Price Index for all Urban Consumers (CPI-U). If in any year the CPI-U does not increase, fees will remain unchanged for the year.

Cemetery fees include not just the cost to purchase a right of interment and the perpetual care fees, but also charges for such services as opening and closing graves, and setting memorials or plaques. The Cemetery Rules and Regulations state that the perpetual care fee and cemetery service charges will be set by the City Council. Rather than bring a resolution to the City Council each time a change in fees is desired, staff would like to have the Council amend the Cemetery Rules and Regulations to state the amounts of all fees and charges, and then have those amounts automatically increase annually based on the CPI-U. In the past the fees were increased based on a survey taken by the Cemetery. The data was derived from cemeteries along the Front Range, including private and municipal.

19. First Reading of Ordinance No. 124, 2009, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Real Property Known as the *Mountain Vista Subarea Plan Rezoning*.

This Ordinance is a follow-up implementation action to the September 15, 2009 City Council Hearing adopting the 2009 update of the *Mountain Vista Subarea Plan (Plan)*. In conjunction with this proposed rezoning, the *Neighborhood Sign District* map is being amended.

Concurrent with the adoption of the update to the Plan on September 15, an amendment to the *City Structure Plan* was adopted to reflect the recommendations from the Plan. The proposed rezoning changes will be consistent with the *City Structure Plan*. The rezoning involves six areas within the subarea. These involve adjustments to the size and location of Industrial, Employment, Community Commercial, Medium Density Mixed-Use Neighborhoods, Low Density Mixed-Use Neighborhoods, and Transition Zone Districts.

The total combined proposed rezoning acreage within the subarea is less than 640 acres, which requires this quasi-judicial hearing process as defined in the Land Use Code.

20. Resolution 2009-099 Finding Substantial Compliance and Initiating Annexation Proceedings for the Fossil Creek 392 Annexation.

The applicant, Larry Gilleland, for the property owners, VPD 392 LLC and Peter Prato, has submitted a written petition requesting annexation of 28.9 acres located on the south side of Carpenter Road (County Road 32), at the southwest corner of Interstate 25 & Carpenter Road. The property is undeveloped and is in the AP - Airport District in Larimer County. The requested zoning for this annexation is C - Commercial. The surrounding properties are currently zoned POL – Public Open Lands in the City to the north, C – Commercial and T – Tourist in Larimer County to the north, AP - Airport in Larimer County to the west and south, and C - Commercial in the Town of Windsor to the east.

21. Resolution 2009-100 Adopting the City's 2010 Legislative Policy Agenda.

Each year the Legislative Review Committee (LRC) develops a legislative agenda to assist in the analysis of pending legislation. The Legislative Policy Agenda is used as a guide by Council members and staff to determine positions on pending legislation and as a general reference for our state legislators and congressional delegation.

CONSENT BUDGET ITEMS

22. Second Reading of Ordinance No. 111, 2009, Appropriating Downtown Development Authority Operating Funds, Debt Service Funds and Fixing the Mill Levy for Fiscal Year 2010.

This Ordinance, unanimously adopted on First Reading on October 20, 2009, adopts the 2010 Budget for the Downtown Development Authority (DDA) and sets the amount of \$7,577,054 to be appropriated for fiscal year 2010. This Ordinance also sets the 2010 mill levy for the Downtown Development Authority at five mills, unchanged since 2002.

23. Items Relating to Utility Rates and Charges for 2010.

- A. Second Reading of Ordinance No. 113, 2009, Amending Chapter 26, Article III, Division 4 of the City Code Relating to User Rates and Charges for Water.
- B. Second Reading of Ordinance No. 114, 2009 Amending Chapter 26 of the City Code Relating to Wastewater Rates and Charges.
- C. Second Reading of Ordinance No. 116, 2009, Amending Chapter 26 of the City Code to Revise Water Plant Investment Fees.
- D. Second Reading of Ordinance No. 117, 2009, Amending Chapter 26 of the City Code to Revise Sewer Plant Investment Fees.
- E. Second Reading of Ordinance No. 118, 2009, Amending Chapter 26 of the City Code to Revise Electric Development Fees and Charges.
- F. Second Reading of Ordinance No. 119, 2009, Amending Chapter 26 of the City Code to Revise Stormwater Plant Investment Fees.

Ordinance No. 113 and 114, 2009 establish monthly water and wastewater rates. Ordinances No. 116 through No. 119, 2009, adopt revised water, sewer and stormwater plant investment fees and electric development fees. The fees are one-time charges paid by developers or builders for the cost of the utility infrastructure needed to serve new development. Per Council direction, plant investment fees are reviewed on an annual basis and revised during the biennial budget cycle. Plant investment fees (PIFs) for water, wastewater and stormwater were last updated with the 2008-2009 budget. Electric development fees and charges are updated annually. These Ordinances were unanimously adopted on First Reading on October 20, 2009.

24. First Reading of Ordinance No. 125, 2009, Authorizing the Appropriation of 2010 Fiscal Year Operating and Capital Improvement Funds for the Fort Collins-Loveland Municipal Airport.

The 2010 annual operating budget for the Airport totals \$711,600, 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 appropriates the City of Fort Collins' contribution, which is a 50% share of the 2010 Airport budget and totals \$355,800.

This Ordinance also appropriates the City of Fort Collins' 50% share of capital funds, totaling \$608,500 for the Airport from federal and state grants; contributions from Fort Collins and Loveland; and the Airport General Fund. The 2010 Airport capital funds, totaling \$1,217,000, will be used to continue runway improvements.

25. Resolution 2009-101 Adopting a Revenue Allocation Formula to Define the City of Fort Collins' Contribution to the Poudre Fire Authority Budget for the Year 2010 for Operations and Maintenance.

This Resolution establishes a Revenue Allocation Formula between the City of Fort Collins and the Poudre Fire Authority to contribute funding for maintenance and operating costs of Poudre Fire Authority.

END CONSENT

26. Consent Calendar Follow-up.

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

27. Staff Reports.

28. 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.

29. Second Reading of Ordinance No. 112, 2009, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for the Fiscal Year 2010; Adopting the Budget for the Fiscal Years Beginning January 1, 2010, and Ending December 31, 2011; and Fixing the Mill Levy for Fiscal Year 2010. (staff: Darin Atteberry, Mike Freeman; 15 minute staff presentation; 1 hour discussion)

The Annual Appropriation Ordinance, unanimously adopted on First Reading is presented for Second Reading. This Ordinance sets the City Budget for the two-year period of 2010–2011. The approved budget becomes the City's Council financial plan for the next two fiscal years.

30. Hearing and Second Reading of Ordinance No. 115, 2009 Amending Chapter 26 of the City Code to Revise Electric Rates, Fees and Charges. (staff: Brian Janonis, Ellen Switzer; 10 minute staff presentation; 30 minute discussion)

This Ordinance adopts monthly electric rates effective for all billings on or after January 1, 2010. Based on the direction received from City Council at First Reading of the Ordinance on October 20, 2009, two options are presented for Council's consideration on Second Reading.

Option A is the Ordinance as approved on First Reading. It increases electric rates for all customer classes by 9.5%. The 9.5% increase is based on increased costs for purchase power, renewable energy, and enhanced energy services to meet Energy Policy and Climate goals. Also included in the 9.5% is 2.08% to fund Light and Power's portion of the Advanced Metering Infrastructure (AMI) capital project. With this option, a typical single family residence's electric bill would increase \$4.82 from \$50.66 to \$55.48.

Option B raises electric rates by 7.42% for all customer classes. The increase related to AMI funding has been eliminated. The 7.42% increase continues to fund purchase power, renewable energy and enhanced energy services. A typical single family residential electric bill would increase \$3.77 from \$50.66 to \$54.43 with Option B.

31. Pulled Consent Items.

32. Other Business.

33. Adjournment.

- a. Motion to adjourn to 6 p.m, Tuesday, November 10, 2009, to consider adjourning into Executive Session to conduct the annual performance reviews of the City Manager, City Attorney and Municipal Judge.

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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MEETING

November 3, 2009

1. Call Meeting to Order.
2. Roll Call.
3. Second Reading of Ordinance No. 057, Determining and Fixing the Mill Levy for the General Improvement District No. 1 for the Fiscal Year 2010; Directing the Secretary of the District to Certify Such Levy to the Board of County Commissioners of Larimer County; and Making the Fiscal Year 2010 Annual Appropriation. (staff: Chuck Seest; no staff presentation; 5 minute discussion)

This Ordinance, unanimously adopted on First Reading on October 27, 2009, includes the annual appropriation for 2010 at \$670,902. This item also sets the General Improvement District (the "GID") No. 1 mill levy, which will generate about \$237,000 at 4.924 mills for fiscal year 2010. Additional 2010 revenue for the GID No. 1 include auto specific ownership taxes, ad valorem taxes, and interest which are projected to be \$15,000 in 2010. The remaining \$418,900 will be funded from reserves, which totaled \$1,051,212 as of December 31, 2008, the most recent fiscal year that was audited.

4. Other Business.
5. Adjournment.