

Doug Hutchinson, Mayor
Kelly Ohlson, District 5, Mayor Pro Tem
Ben Marvel, District 1
Lisa Poppaw, District 2
Aislinn Kottwitz, District 3
Wade Troxell, District 4
David Roy, District 6

Council Chambers
City Hall West
300 LaPorte Avenue

Cablecast on City Cable Channel 14
on the Comcast cable system

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

The City of Fort Collins will make reasonable accommodations for access to City services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (TDD 224-6001) for assistance.

REGULAR MEETING

December 21, 2010

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.

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 beep once when there are 30 seconds left and the light will turn yellow. The timer will beep 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 are 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.

5. AGENDA REVIEW: CITY MANAGER

CONSENT CALENDAR

The Consent Calendar consists of Items 6 through 19. 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 be "pulled" off the Consent Calendar and considered separately. Agenda items pulled from the Consent Calendar will be considered separately under Item No. 26, Pulled Consent Items. The Consent Calendar consists of:

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

6. Withdrawal of Ordinance No. 120, 2010, Authorizing an Option to Lease, and a Subsequent Lease of, City-Owned Property at Southridge Greens Golf Course to New Cingular Wireless PCS, LLC for the Installation of a Telecommunication Monopine Tower and Related Equipment, and the Grant of Associated Easements.

New Cingular Wireless PSC, LLC (AT&T) has withdrawn its application for an option to lease, and a subsequent lease of, City-owned property at Southridge Greens Golf Course. AT&T will be looking for a new site in this area.

7. Withdrawal of Ordinance No. 121, 2010, Authorizing an Option to Lease, and a Subsequent Lease of, City-Owned Property at City Park Ball Fields to Open Range Communications, Inc. to Collocate an Antenna on an Existing Monopole and Install Related Equipment, and the Grant of Associated Easements.

Open Range Communications, Inc. has informed staff that it is looking to bring a total of 14 cell towers to various locations in Fort Collins, eight of which it is currently working on. However, the requested site on City-owned property at City Park Ball Fields is not included as one of the eight. Open Range will not be working on the City Park Ball Fields site until 2011. For this reason, staff requests this item be withdrawn from consideration.

8. Second Reading of Ordinance No. 122, 2010, Appropriating Funds from the City's General Fund Reserves for Transfer to the Fort Collins Urban Renewal Authority for the Purpose of Providing a Loan for the Jax, Inc. Building Expansion Project.

This Ordinance, unanimously adopted on First Reading on December 7, 2010, authorizes a loan from the City to the Urban Renewal Authority (URA) to reimburse Jax, Inc. ("Jax") for the local street obligations for College Avenue, Jerome Street and the street oversizing fees associated with the Jax Building Expansion Project (the "Project"). Offsetting these costs allowed the expansion of the Jax retail site at 1200 North College Avenue to be economically feasible. The total cost of this Project was \$172,758. The requested loan amount from the City of Fort Collins General Fund Reserves to the URA will be \$172,758. The URA will utilize the City's Interfund Borrowing program that was formally added to the City's investment policies in 2008. This program enables the City to use a portion of its investment portfolio to assist City Departments and related entities (e.g., the Downtown Development Authority and the URA) to access funds at a competitive interest rate while still providing a market based yield to the City investment portfolio.

9. Second Reading of Ordinance No. 123, 2010, Appropriating Funds from the City's Stormwater Reserves for Transfer to the Fort Collins Urban Renewal Authority for the Purpose of Providing a Loan for the Northeast College Corridor Outfall Project.

The first step in the development of the Northeast College Corridor Outfall (NECCO) project was the acquisition of an approximately 10-acre parcel for the regional detention pond, designed to accept regional stormwater flows as well as stormwater from development adjacent to the pond. The project is part of the Stormwater Master Plan and the Storm Drainage Fund and the Urban Renewal Authority are proposing to fund the project. The Stormwater Utility had budgeted \$896,462 to purchase the pond and required easements to manage regional stormwater flows. The total purchase price of the parcel and an additional easement for both regional and adjacent stormwater flows, based on a City funded appraisal and less an easement being reserved by the property owner, was \$1,222,934. This left a project budget shortfall of \$326,472, which relates specifically to the cost associated with the land necessary to detain stormwater from adjacent development. This Ordinance, unanimously adopted on First Reading on December 7, 2010, authorizes a loan to the Fort Collins Urban Renewal Authority (URA) from the City's Storm Drainage Fund Reserves to close the acquisition cost gap.

On December 7, 2010, the Urban Renewal Authority Board voted unanimously to postpone consideration of the Loan Agreement pertaining to the Northeast College Corridor Outfall project. The primary reason for postponement was the desire to understand the project more fully, especially environmental impacts, impacts from proposed changes to the floodplain regulations, and the financial capacity of the plan area. The URA Board elected to appropriate the funds necessary to pay for the debt service associated with the Loan Agreement, indicating it anticipates moving forward with the project. Staff plans to bring the item back to the URA Board next year as the City Council calendar permits.

10. Second Reading of Ordinance No. 124, 2010, 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 2010, Councilmembers were compensated \$675 per month, and the Mayor received \$1005 per month. The 2011 compensation of Councilmembers will be \$680 per month and the compensation of the Mayor will be \$1,015 per month.

This Ordinance, unanimously adopted on First Reading on December 7, 2010, amends Section 2-575 of the City Code to accurately reflect the compensation of the Council for calendar year 2011, as adjusted pursuant to the requirement of the City Charter.

11. Second Reading of Ordinance No. 125, 2010, Amending the City Code to Increase the Amounts of the Capital Improvement Expansion Fees Contained in Chapter 7.5 of the Code so as to Reflect Inflation in Associated Costs of Services.

The City Code requires annual adjustments to the City's impact fees. The Capital Improvement Expansion fees and Neighborhood Parkland fee are to follow the changes in the Denver-Boulder-Greeley Consumer Price Index (CPI). Street Oversizing fees are adjusted by the changes posted in the Engineering News Record (ENR). Since the last adjustment in 2009 the CPI has increased 1.1% and the ENR has increased 5.48%. This Ordinance was unanimously adopted on First Reading on December 7, 2010.

12. Second Reading of Ordinance No. 126, 2010, Amending Section 25-75(a) of the City Code to Increase the Rate of Tax By Eighty-Five Hundredths Percent (0.85%) Effective January 1, 2011, in Accordance with the Ballot Measure Approved by the Registered Electors on November 2, 2010.

A Special Municipal Election was held in conjunction with the November 2, 2010, Larimer County General Election for a 0.85% increase in the sales and use tax rate with an effective date of January 1, 2011. The qualified electors of the city approved the imposition of such additional tax. This Ordinance, unanimously adopted on First Reading on December 7, 2010, codifies the increase in the rate of sales tax.

13. Second Reading of Ordinance No. 127, 2010, Amending Section 27-38 of the City Code Relating to the Licensing of Arborists.

This Ordinance, unanimously adopted on First Reading on December 7, 2010, amends City Code to set the renewal date for all arborist licenses as January 31st of each year.

14. Items Relating to the Linden Street Streetscaping Project.

A. Second Reading of Ordinance No. 128, 2010, Appropriating Unanticipated Grant Funds and Downtown Development Authority Funds for the Linden Street Streetscape Project.

B. Second Reading of Ordinance No. 129, 2010, Authorizing Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements in Connection with the Linden Street Streetscape Project.

The Linden Street Streetscape project will add curb, gutter, sidewalk, on-street parking, bike lanes, urban design, historic interpretive features and landscaping to Linden Street, between Jefferson Street and the Poudre River. Utility improvements are planned to precede the street improvements as a part of a City of Fort Collins Utilities project. Construction is planned for summer 2011. Ordinance No. 128, 2010, appropriates federal grant funds and transfers additional DDA funds to the project. Ordinance No. 129, 2010, authorizes the City to use eminent domain for acquisition of property, if necessary. Staff anticipates that only temporary easements will be required for the

construction of this project. The authorization from Council to use eminent domain is a requirement of the federal funding. Eminent domain is considered a last course of action and is only to be used when deemed necessary. Both Ordinances were unanimously adopted on First Reading on December 7, 2010.

15. Items Relating to the McMurry Natural Area Annexation and Zoning.

- A. Second Reading of Ordinance No. 130, 2010, Annexing Property Known as the McMurry Natural Area Annexation to the City.
- B. Second Reading of Ordinance No. 131, 2010, Amending the Zoning Map of the City and Classifying for Zoning Purposes the Property Included in the McMurry Natural Area Annexation to the City.

These Ordinances, unanimously adopted on First Reading on December 7, 2010, annex and zone the City-owned McMurry Natural Area. The parcel is 48.79 acres in size and located north of the Poudre River and east of North Shields Street. The recommended zoning is P-O-L, Public Open Lands.

16. Second Reading of Ordinance No. 132, 2010, Approving the Terms of the City's Lease of Office Space for Police District One at 144 North Mason Street.

The Police District One Office moved from Old Town Square to 144 North Mason, Suites 1, 2, and a portion of 3 in 2010. This Ordinance, unanimously adopted on First Reading on December 7, 2010, approves the terms of the lease dated May 1, 2010, for the new space.

17. Resolution 2010-076 Authorizing the City Manager to Submit to the U.S. Department of Housing and Urban Development an Application for the Section 108 Loan Guarantee Program.

Staff has prepared an application requesting a \$5 million loan pool from the Section 108 Loan Guarantee Program offered by the U.S. Department of Housing and Urban Development (HUD). Section 108 is the loan provision of the Community Development Block Grant (CDBG) Program, and allows communities to leverage their annual CDBG entitlement grant and provide loans for local economic and community development projects. Eligible projects must meet one of HUD's national objectives, and must be an eligible activity as defined by CDBG Program regulations. The \$5 million loan pool allows the City to provide smaller loans to eligible projects on a case-by-case basis. Loans are anticipated to be at least \$1 million per project.

18. Items Relating to the I-25/SH392 Interchange Project.

- A. Resolution 2010-077 Approving an Intergovernmental Agreement Between the City of Fort Collins and the Town of Windsor Pertaining to the Development of the Interstate I25/State Highway 392 Interchange, Including Provisions for Cost and Revenue Sharing, Annexation and Land Use Development.
- B. Resolution 2010-078 Approving a Contract With the Colorado Department of Transportation (CDOT) and the Town of Windsor Concerning The Funding, Construction and Maintenance of Improvements to the I-25/State Highway 392 Interchange.

The City and the Town of Windsor have collaborated to plan and design the I-25/SH-392 Interchange Project (the "Project"). The final design is complete and funds have been identified for construction. Staff from the City and Windsor have been working to develop an intergovernmental agreement between the City and the Town of Windsor, as well as negotiate contract language with CDOT regarding construction, maintenance and ownership of the interchange. The intergovernmental agreement between the City and Windsor defines the process for review of development and redevelopment proposals, sets out cost sharing, puts in place reimbursement and maintenance through fees, and establishes revenue sharing.

Resolution 2010-077 approves an Intergovernmental Agreement between the City of Fort Collins and the Town of Windsor and defines the review of development and redevelopment proposals, cost sharing and reimbursement through development impact fees and establishes revenue sharing between the two communities.

Resolution 2010-078 approves a contract between CDOT, the City of Fort Collins, and the Town of Windsor defining construction, maintenance, and ownership, identifying construction and right of way funding responsibilities, and outlining maintenance responsibilities.

19. Resolution 2010-079 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 current members. Applications were solicited during September and Council teams interviewed applicants during November and December. This Resolution appoints boardmembers to fill current vacancies and term expirations.

END CONSENT

20. Consent Calendar Follow-up.

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

21. Staff Reports.

a. Report on Towing Company RFP For Police Services - staff: Jim Szakmeister, Hal Dean

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 beep when there are 30 seconds left and the light will turn yellow. It will beep again at the end of the speaker's time.

23. Second Reading of Ordinance No. 134, 2010, Amending Ordinance No. 111, 2010, Relating to the Annual Appropriations for the Fiscal Year 2011; Adopting the Budget for the Fiscal Years Beginning January 1, 2011, and Ending December 31, 2012; and Fixing the Mill Levy for Fiscal Year 2011 (staff: Darin Atteberry, Mike Freeman; 5 minute staff presentation; 15 minute discussion)

The revised Annual Appropriation Ordinance, unanimously adopted on First Reading, is presented for Second Reading. This Ordinance sets the City Budget for the two year period (2011–2012). The approved Budget becomes the City's financial plan for the next two fiscal years. This revised Annual Appropriation Ordinance includes the additional recommendations that were discussed by Council at a special Budget work session on December 11, 2010.

On First Reading, the Ordinance was amended to add \$5,000 to Economic Action Plan Update / Economic Competitiveness Study in 2011 and the Economic Action Plan Project Initiatives in 2012. To accomplish this within available funding sources, the Radon Mitigation Behavioral Study was moved from 2B-Other Community Priority, to be funded out of the General Fund. Additionally, Lincoln Center Facility Staff and Marketing Budget – Restore Prior Year Reductions, has been reduced from \$100,000 to \$95,000 in 2011 and 2012. There is also a correction to reflect the money for the Lincoln Center of \$95,000 that was omitted on First Reading. Accordingly, the net changes to the appropriation ordinance are:

\$95,000 increase to the Cultural Services Fund
\$ 5,000 increase to the General Fund.

24. Consideration of the Appeal by Windtrail on Spring Creek, HOA of the October 21, 2010 Determination of the Planning and Zoning Board to: (1) approve the CSURF Center for Advanced Technology, Amended Overall Development Plan; (2) approve the Request for Modification of Standard in Section 3.2.2(L) Parking Stall Dimensions of the Land Use Code; and, (3) approve the Request for Modification of Standard in Section 3.5.2(D)(2) Setbacks from Nonarterial Streets of the Land Use Code. (staff: Steve Olt; 5 minute staff presentation; 2 hour discussion)

On October 21, 2010, the Planning and Zoning Board conducted a public hearing considering the proposed CSURF Center for Advanced Technology, Amended Overall Development Plan (ODP); Request for Modification of Standard in Section 3.2.2(L) of the Land Use Code; and, Request for Modification of Standard in Section 3.5.2(D)(2) of the Land Use Code. The Board considered testimony from the applicant, the public and staff. The Amended ODP and requests for two (2) modifications of standards were approved. Windtrail on Spring Creek HOA and Hillpond on Spring Creek have appealed the Board's decisions. The allegations set forth in the Amended Notice of Appeal dated November 24, 2010, are that the Planning and Zoning Board did not properly interpret and apply relevant portions of the Code and Charter, and failed to conduct a fair hearing because it ignored previously established rules of procedure, considered evidence relevant to its finds which was grossly misleading, and failed to receive all relevant evidence offered by the appellant.

25. Resolution 2010-080 Making an Appointment to the Water Board. (Wanda Krajicek; no staff presentation; 10 minute discussion)

A vacancy currently exists on the Water Board due to the expiration of term of David Pillard who did not reapply. Councilmembers David Roy and Wade Troxell conducted interviews but did not agree on a recommendation for the Water Board. The Council interview team wishes to submit two names (Lori Brunswig and Steve Malers) for Council's consideration for that position.

26. Pulled Consent Items.

27. Other Business.

28. 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 Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.