

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

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REGULAR MEETING

March 15, 2011

Proclamations and Presentations

5:30 p.m.

- A. Proclamation Declaring March 15, 2011 as Brain Injury Awareness Day.
- B. Proclamation Declaring March 28-31 as Cesar Chavez Celebration Days.
- C. Proclamation Declaring April as Local Music Appreciation 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 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 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 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. Consideration and Approval of the Minutes of the February 1, February 15, and March 1, 2011 Regular Meetings and the February 22, 2011 Adjourned Meeting.

7. Second Reading of Ordinance No. 021, 2011, Appropriating Unanticipated Grant Revenue in the General Fund for the Police Services Victim Services Team.

The City has received a grant in the amount of \$40,000 from the Eighth Judicial District Victim Assistance and Law Enforcement Board to help fund victim services activities. This Ordinance, unanimously adopted on First Reading on March 1, 2011, appropriates the grant funds. No cash match is required.

8. Second Reading of Ordinance No. 022, 2011, Establishing Rental Rates and Delivery Charges for the City's Raw Water for the 2011 Irrigation Season.

This Ordinance, unanimously adopted on First Reading on March 1, 2011, approves rates for the rental and delivery of the City's raw water supplies. The Water Utility uses these rates to assess charges for agricultural use, for various contractual raw water obligations and for raw water deliveries to other City departments. The proposed rate for each type of water is based on several factors, including market conditions and assessments charged by irrigation companies.

9. Second Reading of Ordinance No. 023, 2011, Authorizing the Purchasing Agent to Enter into an Agreement for the Lease-Purchase Financing of Vehicles and Equipment and Appropriating the Amount Needed for Such Purpose.

This Ordinance, unanimously adopted on First Reading on March 1, 2011, authorizes the Purchasing Agent to enter into a lease-purchase financing agreement for vehicles and equipment with Pinnacle Public Finance at 2.60 percent interest rate. The cost of the items to be lease-purchased is \$1,405,001. Payments at the 2.60% interest rate will not exceed \$225,429 in 2011. Money for 2011 lease-purchase payments is included in the 2011 budget. The effect of this transaction position for the purpose of financial rating of the City will be to raise the total City debt by 2.5%. A competitive process was used to select Pinnacle Public Finance for this lease.

10. Second Reading of Ordinance No. 025, 2011, Authorizing the Conveyance of a Non-Exclusive Permanent Easement on Fossil Creek Regional Open Space to the Colorado Department of Transportation.

The Colorado Department of Transportation (CDOT) has requested a permanent non-exclusive easement on a portion of the Fossil Creek Regional Open Space as part of the I-25/SH392 Interchange Project. This Ordinance, unanimously adopted on First Reading on March 1, 2011, authorizes the conveyance of an easement that consists of 3,558 square feet located within the wetland north of Highway 392. The easement will be used to construct box culverts for stormwater control purposes and to maintain the existing wetland connection under the highway.

11. Second Reading of Ordinance No.026, 2011, Authorizing the Lease of City-owned Property at 222, 224, and 226 West Mountain Avenue for Up to Five Years.

The City has been the owner of the properties located at 222, 224 and 226 West Mountain Avenue since 1985. Moe Kamandy of the Mountain Café has been leasing this space since 1991. This Ordinance, unanimously adopted on First Reading on March 1, 2011, authorizes the lease of this space to Mr. Kamandy for one year with automatic renewal for up to four successive one-year terms.

12. Second Reading of Ordinance No. 027, 2011, Authorizing the Lease of City-Owned Property Located at 2313 Kechter Road for Up to Five Years.

The City acquired the property located at 2313 Kechter Road as part of the Affordable Housing Land Bank Program in January 2006. Located on the 15.9 acre property is a single family house and three outbuildings. Ordinance No. 027, 2011, unanimously adopted on First Reading on March 1, 2011, authorizes the lease of this property.

13. Second Reading of Ordinance No. 028, 2011, Vacating Right-of-way as Dedicated On the Plat of the Griffin Plaza Subdivision.

In 1977, the Griffin Plaza Subdivision, located south of Prospect Road and west of College Avenue, platted several lots and a public street extending into the site named Tamasag Drive. Although development did occur on the two lots adjacent to Prospect Road, Tamasag Drive was never

constructed as anything more than a driveway. This Ordinance, unanimously adopted on First Reading on March 1, 2011, authorizes the vacation of Tamasag Drive as requested by the property owner.

14. First Reading of Ordinance No. 038, 2011, Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Providing Natural Areas Programming Not Included in the 2011 Adopted City Budget.

Prior to 2004, the Natural Areas Program was housed within the Capital Projects Fund and therefore funds did not lapse from year to year. During 2004, in order to comply with the Governmental Accounting Standards Board, Natural Areas appropriations and funding sources were all moved into the Natural Areas Fund, a lapsing fund. Therefore, unspent funds need to be re-appropriated into the following year's budget. The purpose of the previously appropriated funds remains the same: land conservation, construction of public improvements, restoration of wildlife habitat and other natural area program needs to benefit the citizens of Fort Collins.

15. First Reading of Ordinance No. 039, 2011, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary to Construct Public Improvements Related to the Mason Corridor Bus Rapid Transit Project, Phase IV.

Right-of-way acquisition continues for the Mason Express Bus Rapid Transit Project (the BRT Project). City Council, in prior ordinances, has authorized previous phases (Phase I, II, III, and III-A) of acquisition work, which account for approximately 70% of the necessary real estate interests for the Project. The remaining 30% (approximate) has been on hold, waiting for the design to progress.

This Ordinance pertains to the next acquisition phase (Phase IV) of the BRT Project and is comprised of seven (7) separate properties ready for the acquisition stage. (For areas of the Project that still require further design, at least one additional phase will be required). The City Council authorization specified by this Ordinance begins the first step of the City's acquisition process for the property interests within this phase.

As a federally funded transportation project, acquisitions will conform to the provisions of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, as amended (Public Law 91-646). In accordance with this act, property owners must be informed about the possible use of eminent domain and their rights pursuant to Colorado State Statute in the official Notice-of-Interest Letter. Authorization from City Council is needed prior to sending this information to property owners. This letter is the first official step in the acquisition phase, which must occur prior to the appraisals. Given the recommended construction schedule for the Project and the fact that acquisitions must be conducted under procedures for federally funded projects, timely acquisition of the required property interests is necessary. Therefore, City staff requests authorization to utilize eminent domain for the MAX Project, if necessary, and only if good faith negotiations break down.

16. Items Relating to the FC Bikes Program.

- A. Resolution 2011-024 Authorizing the Mayor to Enter into an Intergovernmental Agreement with the State of Colorado Department of Transportation for the Purpose of Supporting the City's FC Bikes Program for the Fiscal Year 2011 Funding Period Utilizing Congestion Mitigation and Air Quality Funds.
- B. First Reading of Ordinance No. 040, 2011, Appropriating Unanticipated Grant Revenue in the Transportation Services Fund to be Used for the 2011 Fort Collins Bike Program.

The City of Fort Collins' FC Bikes Program was awarded Congestion Mitigation & Air Quality grant funding from the North Front Range Metropolitan Planning Organization and Colorado Department

of Transportation for years 2010– 2011. The Colorado Department of Transportation (CDOT) has amended the FC Bikes funding contract with the City of Fort Collins for 2011. The City's FC Bikes program will use these FY 2011 federal funds to take a comprehensive approach to operating and refining the City's bicycle program. The refinement and expansion of the FC Bikes program includes improving community outreach and operational practices to increase bicycling while integrating safety education components in a comprehensive manner throughout all of the programmatic activities. The FC Bikes scope of work is congruent with the newly adopted Bicycle Safety Education Plan.

Resolution 2011-024 authorizes the City to enter into the contract with the Colorado Department of Transportation in order to receive the federal funds for implementing the City's FC Bikes program in 2011. These federal funds will be used to staff and operate the FC Bikes program through implementation of the services and projects. Ordinance No. 040, 2011, appropriates the \$150,000 in Federal Congestion Mitigation & Air Quality (CMAQ) funds awarded to the City for the FC Bikes program for fiscal year (FY) 2011.

17. Resolution 2011-025 Authorizing the Mayor to Enter into an Intergovernmental Agreement with the State of Colorado Department of Transportation for the Purpose of Obtaining a Congestion Mitigation and Air Quality Grant in Support of the FC Bike Library Program.

The Fort Collins Bike Library Program (FCBL) has been awarded Congestion Mitigation & Air Quality grant funding from the North Front Range Metropolitan Planning Organization and the Colorado Department of Transportation for work to be completed FY 2011. The City of Fort Collins contracts with Bike Fort Collins, a local non-profit cycling organization, to manage and operate the FCBL. The FCBL program continues to improve, refine, and expand the Bicycle Library program and services. These activities include improving marketing and operational practices. Expansion includes incorporating additional bicycles and check-out stations into the FCBL program and incorporating additional community partners such as schools, businesses, and non-profit organizations.

18. Resolution 2011-026 Extending the Deadline for the City and Town of Windsor to Take Certain Actions Required by the Intergovernmental Agreement Pertaining to the Development of the Interstate 25/State Highway 392 Interchange.

On December 21, 2010, the City Council approved an intergovernmental agreement with the Town of Windsor (the "IGA") pertaining to the development of the I-25 interchange at the intersection of State Highway 392 (the "Interchange"). The IGA states that, by March 31, 2011, the City and Windsor will take certain actions to implement the IGA. Staff has recommended that this deadline be extended for sixty days to allow more time for additional staff work and public outreach. Resolution 2011-026 authorizes that extension. The Windsor Town Council is scheduled to consider a similar resolution on March 14, 2011.

19. Resolution 2011-027 Approving Expenditures from the Art in Public Places Reserve Account in the Storm Drainage Utility Fund to Commission an Artist to Create Water Quality Boxes.

This Resolution approves expenditures of \$39,500 for design, materials, installation and contingency for a project with the artist Andy Dufford of Chevo Studios to create two water quality boxes that will house and protect water quality testing equipment located in the Old Town area. The project also become an educational component for this program.

20. Resolution 2011-028 Ratifying the Reappointment of Linda Gabel and the Appointment of Cara Neth to the Poudre River Public Library District Board of Trustees.

Resolution 2007-026 ratified the initial appointments to the Library Board of Trustees on March 6, 2007. Seven Trustees were appointed to the Board with initial terms ranging from 1 to 5 years. The initial term of Trustee Nina Bodenhammer expired on March 6, 2011, and she has decided not to seek reappointment for a second term.

On March 24, 2009, Council adopted Resolution 2009-031 ratifying the appointment of Linda Gabel to fill the unexpired term of resigning member Robert Viscount. Linda Gabel's term expired on March 6, 2011, and she has expressed a desire to serve another term.

The Library Trustee Selection Committee, comprised of Councilmembers Ben Manvel and Lisa Poppaw and Larimer County Commissioners Lew Gaiter and Steve Johnson, unanimously recommends the reappointment of Linda Gabel to the Library Board of Trustees for a four-year term and the appointment of Cara Neth for a four-year term.

END CONSENT

21. Consent Calendar Follow-up.

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

22. Staff Reports.

23. 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.

24. Items Relating to Medical Marijuana Businesses. (staff: Peter Barnes, Steve Dush, Rita Harris, Allen Heaton, Linda Samuelson, Ginny Sawyer, Jerry Schiager; 10 minute staff presentation; 1 hour discussion)
- A. Second Reading of Ordinance No. 018, 2011, Authorizing the Continuing Operation of Existing Medical Marijuana Businesses.
 - B. Second Reading of Ordinance No. 019, 2011, Making Certain Amendments to Chapter 15, Article XVI of the City Code Governing the Licensing, Number, Location and Operation of Medical Marijuana Businesses, and Adding a New Article Governing the Cultivation of Medical Marijuana by Primary Caregivers and Patients.
 - C. Second Reading of Ordinance No. 020, 2011, Amending the City's Land Use Code by Adding Medical Marijuana- Infused Product Manufacturing Facilities as Permitted Uses in Various Zones Districts, and Renaming Dispensaries and Cultivation Facilities.

These three ordinances are being presented to Council to further clarify, regulate, and align medical marijuana businesses to the State regulations and to the intent of previous local ordinances.

Ordinance No. 018, 2011, adopted on First Reading on February 22, 2011, by a vote of 6-1 (nays: Troxell) allows for existing medical marijuana businesses that have met all requirements and paid appropriate fees to both the City and the State to continue operating, even if such businesses do not meet the required zoning and location requirements.

Ordinance No. 019, 2011, unanimously adopted on First Reading on February 22, 2011, amends the provisions of Chapter 15, Article 16 and 17 of the City Code to align the City's local regulations with the Colorado Medical Marijuana Code, to adopt certain additional, more restrictive regulations as permitted under state law, and to adopt local regulations for primary caregivers.

Ordinance No. 020, 2011, unanimously adopted on First Reading on February 22, 2011, amends the Land Use Code to add a definition for a Medical Marijuana - Infused Products Manufacturing Facility, to add the use of such facility to the list of permitted uses in the appropriate zones, and to rename dispensaries and cultivation facilities to be consistent with the Colorado Medical Marijuana Code.

25. Resolution 2011-029 Expressing the City Council's Support for the Poudre Fire Authority Board's Proposed Expenditure of Revenues Derived from the "Keep Fort Collins Great" Tax Measure. (staff: John Mulligan, Mike Gress; 10 minute staff presentation; 30 minute discussion)

On December 11, 2010, Council held a special work session to discuss the most appropriate use of Keep Fort Collins Great revenues, which included \$494,000 for the South Battalion for Poudre Fire Authority (PFA). At the special work session, Council asked for more information on PFA priorities. The remaining \$1,563,000 of the \$2,057,000, or 11% of the City's "Keep Fort Collins Great" funds designated for fires services was appropriated in the City's Annual Appropriation Ordinance. This Resolution indicates Council's support for PFA's determinations for the use of the "Keep Fort Collins Great" tax revenue.

26. Pulled Consent Items.

27. Other Business.

- a. Motion to cancel the Regular Council Meeting of April 5, 2011. (Municipal Election)
- b. Call of Special Meeting for April 12, 2011. (Organizational meeting)

28. Adjournment.

- a. Motion to adjourn meeting to March 22, 2011.

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.