



Karen Weitkunat, Mayor
Kelly Ohlson, District 5, Mayor Pro Tem
Ben Manvel, District 1
Lisa Poppaw, District 2
Aislinn Kottwitz, District 3
Wade Troxell, District 4
Gerry Horak, 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
Rita Harris, Interim City Clerk

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REGULAR MEETING

March 20, 2012

Proclamations and Presentations

5:30 p.m.

- A. Proclamation Declaring March 26-31, 2012 as Cesar Chavez Celebration Days.

Regular Meeting

6:00 p.m.

PLEDGE OF ALLEGIANCE

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

3. AGENDA REVIEW:

- City Manager Review of Agenda.
- Consent Calendar Review.

This Review provides an opportunity for Council and citizens to pull items from the Consent Calendar. Anyone may request an item on this Calendar be “pulled” off the Consent Calendar and considered separately.

- Council opportunity to pull Consent Calendar items.
(will be considered under Item No. 19)
- Citizen opportunity to pull Consent Calendar items.
(will be considered under Item. No. 21)

4. CITIZEN PARTICIPATION

Individuals who wish to make comments regarding items remaining 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

5. CITIZEN PARTICIPATION FOLLOW-UP

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

CONSENT CALENDAR

The Consent Calendar consists of Items 6 through 15. 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. 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 21, 2012, Regular Meeting and the February 27, 2012, Special Meeting.

7. Second Reading of Ordinance No. 018, 2012, Establishing Rental Rates and Delivery Charges for the City's Raw Water for the 2012 Irrigation Season.

This Ordinance, unanimously adopted on First Reading on March 6, 2012, 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.

8. Second Reading of Ordinance No. 019, 2012, Amending Chapter 26 of the City Code to Revise the Manner in Which Carriage Houses May Obtain Water and Sewer Service.

The City's Land Use Code allows carriage houses to be constructed at the rear of lots in certain zoning districts. The City Code currently requires that such buildings have separate water and sewer services connecting to City water mains and sanitary sewers. This requirement frequently stops the carriage house projects due to construction constraints and cost considerations. This Ordinance, unanimously adopted on First Reading on March 6, 2012, provides an option to connect the water and sewer services to the primary residence at the front of the lot with certain limitations.

9. Second Reading of Ordinance No. 020, 2012, Authorizing the Conveyance of City Property to PS Poudre River, LLC.

In 2005, the City constructed the Oxbow Levee on the Cache la Poudre River to reduce flooding risk and damage to a section of the City north and east of the River. The City has been pursuing inclusion of the Levee into the United States Army Corps of Engineers (USACE) levee maintenance program. As part of its review of the Levee, the USACE has determined that the City should acquire an access and maintenance easement for the benefit of the Levee from the adjacent property owner, PS Poudre River, LLC. During discussions regarding the needed easement, PS Poudre River, LLC voiced concerns regarding granting the maintenance and access easement since this reduces the developable portion of its property. In an effort to reach a mutually satisfactory solution, the property owner proposed the City grant a small remnant parcel located adjacent to and east of the Oxbow Levee in exchange for the needed access and maintenance easement. The Stormwater Master Planning and Floodplain Administration Division has identified that the proposed remnant parcel is no longer needed for flood control purposes. The property owner has agreed to a provision that the City remnant parcel property will be conveyed subject to a deed restriction limiting the property to natural landscape or trail uses only. This Ordinance, unanimously adopted on First Reading on March 6, 2012, authorizes the conveyance of a .224 acre parcel of City-owned land that is adjacent to PS Poudre River, LLC's land, and in exchange it will grant the access and maintenance easement to the City and pay the City \$2,500.

10. Second Reading of Ordinance No. 021, 2012, Authorizing the Lease of City-Owned Property at 1506B West Horsetooth Road for Up to Five Years.

The City acquired the property located at 1506 West Horsetooth Road as part of the Affordable Housing Land Bank Program in 2003. Total acreage of this property is 8.3 acres of development land. Currently, this site has one single-family residence, one building with an efficiency apartment and garage, and horse facilities. This Ordinance, unanimously adopted on First Reading on March 6, 2012, authorizes a lease for the efficiency apartment at 1506B Horsetooth.

11. First Reading of Ordinance No. 023, 2012, Amending Chapter 7 of the City Code Relating to Redistricting.

The City Charter requires the method used to adjust City Council district boundaries be based upon the number of people residing in each district. The City Code requires the City Clerk to recommend

any district boundary changes necessary to ensure there is no more than a ten percent deviation between the most populous and least populous District no less than one year after the official decennial publication of the United States Census concerning the population of Fort Collins. The timing of the City Clerk's recommendation has proved problematic as City staff has recently received information evidencing significant revisions to county voting precincts so that some City Council districts no longer consist of contiguous, undivided general election precincts as required by the City Charter. The City Clerk's office and other City staff have found it difficult to meet the one year time frame, due to these revisions to county precincts. This Ordinance will amend the redistricting provisions to require the City Clerk to *begin* the process to determine if District boundary adjustments may be needed, rather than to make a recommendation to Council, within eighteen months following publication of the census data.

12. Items Relating to the Archery Range Natural Area.

- A. First Reading of Ordinance No. 024, 2012, Authorizing the Conveyance of a Non-Exclusive Easement on Portions of Archery Range Natural Area to Boxelder Sanitation District.
- B. Resolution 2012-016 Authorizing a Revocable Permit to Boxelder Sanitation District on the Archery Range Natural Area to Repair Flood Damage to the Riverbank.

Boxelder Sanitation District is seeking a non-exclusive permanent easement and a revocable permit to access and install rock rip rap armoring along the north bank of the Cache la Poudre River within the Archery Range Natural Area. The river bank armoring is being installed to protect the Boxelder Wastewater Treatment Facility from further flood damage.

13. Resolution 2012-017 Finding Substantial Compliance and Initiating Annexation Proceedings for the Wild Plum Farm Annexation No. 1.

The applicant, Shane L. Beckers, the property owner, has submitted a written petition requesting annexation of 0.64 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed and is in the FA - Farming District in Larimer County. The requested zoning for this annexation is UE – Urban Estate. The surrounding properties are currently zoned FA – Farming in the Larimer County to the north, west and south; and, UE – Urban Estate in the City (Lincoln Junior High School) to the east.

14. Resolution 2012-018 Finding Substantial Compliance and Initiating Annexation Proceedings for the Wild Plum Farm Annexation No. 2.

The applicant, Shane L. Beckers, the property owner, has submitted a written petition requesting annexation of 3.82 acres located on the east side of North Taft Hill Road, approximately 1,750 feet north of West Vine Drive. The property is developed and is in the FA - Farming District in Larimer County. The requested zoning for this annexation is UE – Urban Estate. The surrounding properties are currently zoned FA – Farming in the Larimer County to the north, west and south; and UE – Urban Estate in the City (Lincoln Junior High School) to the east.

15. Resolution 2012-019 Further Extending the Deadline for the City of Fort Collins and the Town of Windsor to Take Certain Actions Required by the Parties' 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 pertaining to the development of the I-25 interchange at the intersection of State Highway 392. Staff for the City of Fort Collins and Town of Windsor are exploring options to implement actions required by the intergovernmental agreement but require an extension to continue public outreach, incorporate any input from the outreach, and to draft necessary documents for consideration by Council. The staff of both municipalities have recommended that the April 3, 2012 deadline be extended to August 21, 2012, in order to complete the public outreach, draft necessary documents, and make their recommendations.

END CONSENT

16. Consent Calendar Follow-up.

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

17. Staff Reports.

18. Councilmember Reports.

19. Consideration of Council-Pulled Consent Items.

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.

20. Resolution 2012-020 Accepting the Advisory Opinion and Recommendation No. 2012-1 of the Ethics Review Board. (staff: Steve Roy; 5 minute staff presentation; 30 minute discussion)

On January 13, 2012, Mr. David Bell filed a written complaint with the City questioning the propriety of Gino Campana's participation as a member of the Planning and Zoning Board in discussions pertaining to a proposed Land Use Code change regarding buffer zones along rivers (the "LUC Amendment"). Mr. Bell alleges that Mr. Campana should have recused himself since he is a land developer, and was negotiating the purchase of land for a development along the Poudre River.

Section 2-569(d)(1) provides that:

- (d) Complaints and inquiries shall be submitted to the Review Board only according to the following procedures:
 - (1) *Complaints.*
 - a. Any person who believes that a Councilmember or board and commission member has violated any provision of state law or the Charter or Code pertaining to ethical conduct may file a complaint

with the Mayor, who shall immediately notify the chairperson of the Review Board. The complaint shall be placed on the agenda for the next special or regular City Council meeting for review and possible action by the City Council.

- b. Upon receipt of any such complaint, the City Council shall decide by majority vote whether to submit the complaint to the Review Board for an advisory opinion as to whether the violation alleged in the complaint has occurred and, if so, the action, if any, that should be taken with regard to such violation. In the event that such complaint is not submitted to the Review Board, the City Council may decide what, if any, other action pertaining to the same is appropriate.

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Pursuant to this provision, the Council referred the complaint to the Ethics Review Board for an advisory opinion. The Board met on February 23 and February 27, 2012 and received information pertaining to this matter from several persons including the complainant, City staff, Mr. Campana and his attorney, several local engineers, and current and former members of the Planning and Zoning Board. After receiving that information and conferring with the City Attorney, the Board discussed the application of the City Charter conflict of interest rules to the information presented at the meetings and rendered an opinion that Mr. Campana did not violate the conflict of interest rules by participating in discussions about the proposed Land Use Code amendment. However, the Board has recommended that additional training be provided to members of the Planning and Zoning Board and other City boards that handle both quasi-judicial matters and policy recommendations to the Council to clarify the way in which the ethical and legal requirements related to both kinds of matters should be interpreted and applied.

Code Section 2-569(e) provides that all opinions and recommendations of the Board be submitted to the full Council for review and approval. By adoption of Resolution 2012-020, the Council would adopt the opinion and recommendation of the Board.

- 21. Consideration of Citizen-Pulled Consent Items.
- 22. Other Business.
- 23. 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.