

DATE: April 17, 2012
STAFF: Rita Harris

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

6

SUBJECT

Consideration and Approval of the Minutes of the March 6 and March 20, 2012, Regular Meetings.

March 6, 2012

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting - 6:00 p.m.

A regular meeting of the Council of the City of Fort Collins was held on Tuesday, March 6, 2012, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll call was answered by the following Councilmembers: Horak, Kottwitz, Manvel, Ohlson, Poppaw, and Weikunat.

Councilmembers Absent: Troxell

Staff Members Present: Jones, Harris, Roy.

Agenda Review

Deputy City Manager Jones stated there were no changes to the published agenda.

Eric Sutherland, 3520 Golden Currant, withdrew Item No. 8, *Second Reading of Ordinance No. 016, 2012, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund and Appropriating Prior Year Reserves and Authorizing the Transfer of Existing Appropriations in the Keep Fort Collins Great Fund for the North College Improvements Project - Conifer Street to Willox Lane* from the Consent Calendar.

Citizen Participation

Eric Sutherland, 3520 Golden Currant, discussed the City's regulations prohibiting cultivation of medical marijuana in multi-family housing. He stated the regulations are discriminatory and noted Council's ability to go into Executive Session is a privilege.

Vivian Armendariz, 820 Merganser Drive, acknowledged City Clerk Krajccek's retirement and wished her well. She supported the resignation of Marlys Sittner from Transfort and Dial-a-Ride and thanked Interim Police Chief Schiager for his service. Ms. Armendariz opposed comments made by Kathleen Bracke regarding the Americans with Disabilities Act requirements for roundabouts and asked if she had spoken to any disabled individuals regarding the issue.

Doug Brobst, 1625 Independence Road, commended staff and the work on the passage of the Keep Fort Collins Great ballot issue in November 2010. He stated committee meetings regarding the on-campus stadium are open to the public, but opposed the sub-committee meetings which are closed to the public, and opposed the potential new on-campus stadium.

Citizen Participation Follow-up

Councilmember Kottwitz requested follow-up regarding the communication and transparency in the stadium public process. Deputy City Manager Jones stated she would follow up with Dr. Frank and noted the sub-committees will be reporting out at the advisory committee meeting at the end of March. She noted she has also been invited to meet with the Save our Stadium group.

Councilmember Manvel asked Deputy City Manager Jones if her sub-committee meeting is closed to the public. Deputy City Manager Jones replied in the affirmative but noted she would take comments back to the sub-committee co-chairs.

Councilmember Horak requested additional information regarding the sub-committee meetings. Deputy City Manager Jones replied her understanding is those meetings are not open for public attendance or public comment.

Councilmember Horak requested that correspondence be sent to CSU regarding these concerns.

CONSENT CALENDAR

6. Consideration and Approval of the Minutes of the February 7, 2012, Regular Meeting.
7. Second Reading of Ordinance No. 015, 2012, Appropriating Unanticipated Grant Revenue in the Transportation Services Fund for the Acquisition of New Traffic Signal System Software.

This Ordinance, unanimously adopted on First Reading on February 21, 2012, appropriates a \$248,000 Federal Congestion Mitigation Air Quality grant awarded to the City's Traffic Operations Department to procure and install new traffic signal system software to replace existing software in the City's Traffic Operations Center and in traffic signal controllers at intersections throughout the City. The current software is aging and the vendor has discontinued support. Updating the system software provides the ability to utilize new technologies that were not available previously. The installation process will be done in phases and the old software will be retired, once full conversion is completed.

8. Second Reading of Ordinance No. 016, 2012, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund and Appropriating Prior Year Reserves and Authorizing the Transfer of Existing Appropriations in the Keep Fort Collins Great Fund for the North College Improvements Project - Conifer Street to Willox Lane.

The North Front Range Metropolitan Planning Organization has awarded the City of Fort Collins \$2,039,000 in federal funds to design improvements, and begin rights-of-way acquisition along North College Avenue between Conifer Street and Willox Lane. This Ordinance, unanimously adopted on First Reading on February 21, 2012, appropriates fiscal

year 2012 federal funds into the Capital Project Fund for use on the North College Improvements Project – Conifer to Willox. Keep Fort Collins Great funds are intended to be used as the local funds required for the project as per the intergovernmental agreement with CDOT. This project is one of the highest ranked roadway projects in the City’s Capital Improvements Plan.

9. Second Reading of Ordinance No. 017, 2012, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund for the City Bridge Program Project.

The City has been awarded a grant in the amount of \$552,000 in federal funds from the Colorado Off-System Bridge Program. This Ordinance, unanimously adopted on First Reading on February 21, 2012, appropriates funds for the replacement of the structurally deficient Bryan Avenue Bridge over the Larimer County Canal No. 2, located just north of Poudre Fire Authority Fire (PFA) Station 2 by City Park.

10. First 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 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.

11. First 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. The proposed change in the City Code would provide an option to connect the water and sewer services to the primary residence at the front of the lot with certain limitations.

12. First 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 damages to a section of the City of Fort Collins located north and east of the river known as the Buckingham neighborhood. The Oxbow Levee is located between Linden Street and Lincoln Avenue. The City of Fort Collins Stormwater Master Planning and Floodplain Administration Division completed (in conjunction with its engineering consultants) and submitted a levee certification analysis to the Federal Emergency Management Agency (FEMA). FEMA determined that the levee certification

March 6, 2012

documentation was in order and accredited the levee and associated flood insurance rate maps that depict the floodplain areas as protected from the base regulatory (100-Year) flood.

The City then pursued inclusion of the levee into the United States Army Corps of Engineers (USACE) levee maintenance program. The benefits of inclusion in this program are:

1. the USACE can assist with flood fighting efforts during flood events; and,
2. qualifying damages will be repaired by the federal government at 80 percent federal / 20 percent local cost share.

The levee has been reviewed by the USACE and it has been determined that additional land in the form of an access and maintenance easement is needed 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.

13. First 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. The lease for 1506B West Horsetooth Road will be for the efficiency apartment.

14. Resolution 2012-014 Ratifying the Reappointment of Michael Liggett and the Appointments of John Frey and Kipp Lyons 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 Michael Liggett expires on March 6, 2012, and he has expressed a desire to serve another term. The initial term of Mary Robertson (Atchison) also expires March 6, 2012 and she has not expressed a desire to be reappointed. John Knezovich's initial term expired on March 6, 2008 and Resolution 2008-027 reappointed Trustee Knezovich for a second term which expires on March 6, 2012. According to the Bylaws of the Library Board of Trustees Boardmembers are limited to two terms so Trustee Knezovich is not eligible to reapply.

March 6, 2012

The Library Trustee Selection Committee, comprised of Mayor Karen Weitkumat and Councilmember Lisa Poppaw and Larimer County Commissioners Lew Gaiter and Steve Johnson, unanimously recommends the reappointment of Michael Liggett to the Library Board of Trustees for a four-year term and the appointments of John Frey and Kipp Lyons for four-year terms.

15. Resolution 2012-015 Approving the Appointment of Rita Harris as Interim City Clerk.

This Resolution appoints Chief Deputy City Clerk Rita Harris as Interim City Clerk, following the resignation of City Clerk Wanda Krajicek.

*****END CONSENT*****

Ordinances on Second Reading were read by title by Interim City Clerk Harris.

7. Second Reading of Ordinance No. 015, 2012, Appropriating Unanticipated Grant Revenue in the Transportation Services Fund for the Acquisition of New Traffic Signal System Software.
8. Second Reading of Ordinance No. 016, 2012, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund and Appropriating Prior Year Reserves and Authorizing the Transfer of Existing Appropriations in the Keep Fort Collins Great Fund for the North College Improvements Project - Conifer Street to Willox Lane.
9. Second Reading of Ordinance No. 017, 2012, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund for the City Bridge Program Project.

Ordinances on First Reading were read by title by Interim City Clerk Harris.

10. First Reading of Ordinance No. 018, 2012, Establishing Rental Rates and Delivery Charges for the City's Raw Water for the 2012 Irrigation Season.
11. First 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.
12. First Reading of Ordinance No. 020, 2012, Authorizing the Conveyance of City Property to PS Poudre River, LLC.
13. First Reading of Ordinance No. 021, 2012, Authorizing the Lease of City-Owned Property at 1506B West Horsetooth Road for Up to Five Years.
20. First Reading of Ordinance No. 022, 2012, Amending Section 26-464 of the City Code to Establish a Medical Discount Program for Electric Customers.

March 6, 2012

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt and approve all items not withdrawn from the Consent Calendar. Yeas: Weitkunat, Manvel, Kottwitz, Poppaw, Ohlson and Horak. Nays: none.

THE MOTION CARRIED.

Staff Reports

Deputy City Manager Jones noted Rita Harris has been appointed the Interim City Clerk. She thanked Ms. Harris and the Clerk's Office for its work to make the transition seamless. She stated the City Clerk position has been posted and the national search will be open for most of March.

Helen Migchelbrink, City Engineer, provided an update on the North College Avenue improvements. Rick Richter, Engineering and Capital Projects Manager, discussed the road design and construction details. He stated the project is set to be completed at the end of 2012 and the total project budget is just under \$11.2 million.

Mayor Pro Tem Ohlson asked about the construction cost for the section of roadway in the planning stage. Richter replied that section has an estimated budget of about \$11.8 million.

Mayor Pro Tem Ohlson asked about the gap in funding. Migchelbrink replied the gap is about \$9.5 million.

Councilmember Horak asked if the Keep Fort Collins Great funds have been programmed for the next four years in the estimated transportation budget. Migchelbrink replied in the negative but stated staff is looking at options.

Deputy City Manager Jones added that a series of priorities will be put together for transportation projects, which will then be discussed with Council to determine gap levels and where funding will be placed.

Councilmember Reports

Councilmember Horak stated Brian Moeck, General Manager of Platte River Power Authority, resigned and a request for proposal for a headhunter went out. He discussed a meeting held with the neighbors of the Pine Ridge Natural Area regarding the power line installation. A meeting was held in Loveland regarding the Highway 287 corridor to examine the formation of a coalition to attempt to better coordinate transportation needs. He has been appointed to the National League of Cities Energy and Environment Natural Resources Steering Committee and Policy Committee.

Mayor Weitkunat stated the National League of Cities meeting will be held in Washington D. C. next week.

March 6, 2012

**Ordinance No. 022, 2012,
Amending Section 26-464 of the City Code to Establish a Medical
Discount Program for Electric Customers, Postponed Indefinitely**

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

The medical life support discount program is a new program which is targeted at customers who are in the tiered residential electric rate class and who have electric medical equipment in their homes. There are three eligibility requirements for participation in the program: (1) a household income ceiling, (2) an affidavit from a physician that affirms the listed equipment is approved by Medicare and medically necessary, and (3) a lawful presence affidavit.

BACKGROUND / DISCUSSION

On December 6, 2011, City Council adopted Ordinance No. 166, 2011, increasing the residential class electric rates, effective February 1, 2012. The new rates incorporated two significant changes to the rate structure. First, the rate structure was changed to reflect the new seasonal purchase power charges from Platte River Power Authority. Second, in order to better align the rate structure with the conservation values of the City, the rate structure was changed to a 3-tiered inclining block rate structure. In the discussion before the vote to adopt the ordinance, City Council directed Fort Collins Utilities to develop a medical life support discount program so as not to impose any additional economic hardship on those customers who may have sufficient monthly energy usage to have some of that energy fall into the second or third tiers. The medical life support discount program is the result.

Initial research indicated there are a number of discount programs related to alleviating potential hardship on customers faced with medical issues around the country. Comparisons of the programs in the western United States served as a basis for the development of this program. While the energy usage equivalent of the discount varied by program and was generally higher than the 150 kWh in the proposed program, staff believes this is an adequate level for the medical devices that are approved by Medicare. The comparison showed monthly discounts between \$5 and \$17 across the programs, with this proposed program providing a \$12 discount to a qualifying customer per month.

In determining a reasonable household income ceiling, the Area Median Income (AMI) used by the Federal Housing Authority provided an independent source of income information based on the number of people in a household. The AMI is specifically formulated for Larimer County and factors in local cost of living. Without more detailed information than the median income, it was necessary to take some portion of this AMI as the program is designed to help those customers who will see the rate increase as a substantial economic hardship. The income table included in the application shows the income ceiling as 60% of the Larimer County AMI. The affidavit from a physician verifies the need for a Medicare-approved medical device. The lawful presence affidavit

March 6, 2012

is required by Colorado state law because participation in the program is considered a local public benefit.

FINANCIAL / ECONOMIC IMPACTS

It is estimated that there will be fewer than 150 residential accounts enrolled in this program annually. Assuming 150 households are enrolled, the total annual revenue being lost as a result of this program is not expected to exceed \$25,000. This revenue shortfall will be accommodated within the Light and Power reserves until the next cost of service study.

While it is hard to estimate the economic impacts of a new program, this program is not increasing electric rates for customers and is providing a reduction for the eligible customers. Thus, it is not expected that this program will have any substantial economic impact on the community as a whole but it will provide some relief for customers participating in the program. It is expected that the savings seen by these customers will be spent elsewhere within the local community.

ENVIRONMENTAL IMPACTS

This program does not have any foreseeable negative environmental impacts. This program in conjunction with the new tiered rate structure has the potential to help customers be more aware of their personal energy usage and may be an opportunity in the future to expand on energy efficiency education programs.”

Lance Smith, Utilities Strategic Financial Planning Manager, stated this item is a direct result of concerns expressed by citizens and Council following the discussion of tiered rate implementation. This program is designed to eliminate undue medical burdens on citizens who use some type of durable medical equipment in their household. The program provides a 30% discount on electric usage charges for the first 500 kilowatt hours and has three eligibility requirements: a household income ceiling, a physician affidavit, and a citizen residency affidavit.

Councilmember Kottwitz noted there is a difference between medical life support and quality of life issues. She also expressed concern with the income ceiling and asked why the only approved equipment is the equipment approved by Medicare. Smith replied the intent of the program does not put a limitation on the durable medical equipment as being necessary for life support, but it does ask the physician to provide a Medicare code for the equipment; however, it does not require the individual or another household member to be on Medicare or Medicaid. It is anticipated that about 100 residents will be eligible, at an annual cost of less than \$150 each. Citizens are being asked to look at their household income to determine if it meets or is less than a certain threshold. Examining debt to income ratios or requiring tax returns will increase the administrative costs, which was not the original intent. Medicare must consider equipment to be durable medical equipment; for example, air conditioners would not be included.

Councilmember Kottwitz asked if any medical experts were consulted regarding this program. Smith replied in the negative, but stated other programs involving this type of discount in the state were examined.

March 6, 2012

Angela Condit, 1709 Welch Street, Senior Advisory Boardmember, supported the program but requested devices not be limited.

Dolores Kueffler, 1525 Riverside Avenue, National Multiple Sclerosis Society, stated a broader definition of medical exceptions needs to be put in place. She suggested certain medical conditions require climate control devices.

Eric Sutherland, 3520 Golden Currant, stated the issue needs a larger, more in-depth conversation.

Councilmember Poppaw stated, though this program is generally a good idea, it may not be quite ready. She asked about the basis for the program structure. Smith replied the program was developed based on citizen and Council concerns and noted other municipalities' programs were examined.

Councilmember Poppaw suggested involving medical professionals in developing elements of the program.

Councilmember Manvel commended the simplicity and objectivity of the proposal.

Mayor Weitkunat questioned the goal of the program.

Councilmember Horak noted the major rate increase is due to the seasonality rate imposed by Platte River Power Authority and stated the tiered rates do not provide as large an impact as does the pass-through of the Platte River increase.

Mayor Weitkunat clarified the program should balance the need for medical support with the need to have assistance based on income, and the need should be legally validated.

Councilmember Kottwitz proposed delaying the item for two weeks or more for additional research regarding community medical needs.

Councilmember Horak noted the Ordinance is broadly worded and suggested moving forward with the Ordinance and providing options for the program.

Councilmember Poppaw agreed with Councilmember Horak but stated she would not support the Ordinance on Second Reading without involvement from the medical community. Smith replied staff is open to exploring options.

Councilmember Horak suggested the development of options for the public and Council consideration.

Councilmember Poppaw questioned whether or not the item should move forward on First Reading.

Councilmember Kottwitz asked Councilmember Horak about his concerns regarding delaying the item. Councilmember Horak stated the item could be delayed either now or prior to Second Reading, given the Ordinance language is not likely to change substantially.

March 6, 2012

Mayor Pro Tem Ohlson supported delaying the item for additional support and research. He opposed making the regulations of the program so broad it could possibly be undermined. He suggested random audits of self-reported income levels and supported the possibility of including more specifics in the Ordinance. Smith replied the Ordinance should not be written so as to possibly exclude the most recent medical equipment and diagnoses.

Councilmember Poppaw asked if there would be any issues with delaying First Reading of the Ordinance and if Ordinance language should be expanded. City Attorney Roy replied some additional notice expense will be incurred if the Ordinance is not finalized within thirty days. He stated the Ordinance is intentionally broad and stated the details can be included in administrative regulations. He stated changes can be made between First and Second Reading.

Councilmember Kottwitz expressed concern regarding making major changes between First and Second Reading.

Councilmember Kottwitz made a motion, seconded by Councilmember Poppaw, to postpone Ordinance No. 022, 2012, to a later date at the discretion of the City Manager.

Councilmember Manvel stated the finances should be an important consideration and commended staff on its work.

Councilmember Horak commended staff and noted an audit system has already been proposed. He stated the item needs to come back before Council in April in order to allow it to go into effect in May.

Mayor Weitkunat stated there are organizations and groups in the community which will be able to aid staff in developing options.

Councilmember Kottwitz agreed with Councilmember Manvel regarding the fiscal aspects of the program and stated she would like the program to be refined for the people who need it the most. She stated she hoped Fort Collins could be an innovative leader in this type of program. She recommended staff speak with neurologists and pulmonologists as well as Respite Care, medical social workers, and United Way.

Councilmember Poppaw suggested staff consult Disabled Resource Services and an allergist or ear, nose, and throat doctor.

Mayor Pro Tem Ohlson suggested the Energy Board provide comments regarding the program.

The vote on the motion was as follows: Yeas: Weitkunat, Manvel, Kottwitz, Poppaw, Ohlson and Horak. Nays: none.

THE MOTION CARRIED.

March 6, 2012

**Ordinance No. 016, 2012,
Appropriating Unanticipated Grant Revenue in the Capital Projects Fund and
Appropriating Prior Year Reserves and Authorizing the Transfer of Existing
Appropriations in the Keep Fort Collins Great Fund for the North College
Improvements Project - Conifer Street to Willox Lane, Adopted on Second Reading**

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

The North Front Range Metropolitan Planning Organization has awarded the City of Fort Collins \$2,039,000 in federal funds to design improvements, and begin rights-of-way acquisition along North College Avenue between Conifer Street and Willox Lane. This Ordinance, unanimously adopted on First Reading on February 21, 2012, appropriates fiscal year 2012 federal funds into the Capital Project Fund for use on the North College Improvements Project – Conifer to Willox. Keep Fort Collins Great funds are intended to be used as the local funds required for the project as per the intergovernmental agreement with CDOT. This project is one of the highest ranked roadway projects in the City's Capital Improvements Plan.”

Eric Sutherland, 3520 Golden Currant, questioned the RMI2 building loan.

Councilmember Horak made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 016, 2012, on Second Reading. Yeas: Weitkunat, Manvel, Kottwitz, Poppaw, Ohlson and Horak. Nays: none.

THE MOTION CARRIED.

Adjournment

The meeting adjourned at 7:47 p.m.

Mayor

ATTEST:

Interim City Clerk

March 20, 2012

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting - 6:00 p.m.

A regular meeting of the Council of the City of Fort Collins was held on Tuesday, March 20, 2012, at 6:00 p.m. in the Council Chambers of the City of Fort Collins City Hall. Roll call was answered by the following Councilmembers: Horak, Kottwitz, Manvel, Ohlson, Poppaw, and Weikunat.

Councilmembers Absent: Troxell

Staff Members Present: Atteberry, Gonzales, Roy.

Agenda Review

City Manager Atteberry withdrew the Ordinance No. 025, 2012, *Temporarily Suspending the Deadline for Hearing Two Pending Appeals to the City Council Under Chapter 2 of the City Code to Allow for a Review and Possible Amendment of the Process For Determinations of Eligibility Under Chapter 14 of the City Code* that had been added under Other Business after the Council Agenda had been published.

Citizen Participation

James Lesco, Human Relations Commission, announced the Human Relations Commission annual awards breakfast to be held May 1, 2012, at the Northside Atzlan Center.

Deb James, SOSHughes.org, discussed the idea of making CSU a community-supported university and opposed the construction of an on-campus stadium.

Doug Brobst, 1625 Independence Road, stated the citizens of Fort Collins need to be heard with regard to the proposed on-campus stadium.

Anne Colwell, Fort Collins resident, supported an more open and honest process at CSU regarding the proposed on-campus stadium.

Bryce Hach, 1202 Bennett Road, Homeward 2020 Director, announced Project Homeless Connect, a one-day event to provide support to the community's homeless, to be held on April 20, 2012.

Cheryl Distaso, 135 South Sunset, Fort Collins Community Action Network, provided an update on the displaced Bender Mobile Home Park residents. She requested an update regarding the Advance Planning Relocation Plan and suggested naming it a Low Income Housing Plan.

Citizen Participation Follow-up

Deputy City Manager Jones stated she had passed along Council's concerns regarding a lack of public input at subcommittee meetings, and received a response that the Stadium Advisory Committee meeting, though not required to be open to the public, does allow public attendance, and does have a public comment section. There have been ten Center for Public Deliberation meetings during which input has been gathered and posted on the website. A great deal of on-line input has been received as well.

Councilmember Horak asked if the subcommittees communicate with each other between general meetings. Deputy City Manager Jones replied she has not seen any communication between subcommittees.

Councilmember Horak asked if information from the subcommittee meeting could be shared. Deputy City Manager Jones replied the information will be reported out at the general Advisory Committee meeting, based on the outlined process.

City Manager Atteberry suggested Deputy City Manager Jones let her subcommittee know Council will be requesting the information, unless it is confidential.

Councilmember Poppaw asked who set up the process for the subcommittees. City Manager Atteberry replied Tony Frank, CSU President, Amy Parsons, CSU Vice-President of Operations, and Jack Graham, CSU Athletic Director, have all had a role in leading the process.

Karen Cumbo, Director of Planning, Development, and Transportation Services, stated the relocation plan is on the Advance Planning work plan for this year, and will be expanded to address issues raised at a forum held by Representative Kefalas. Work on the plan has not officially begun.

Mayor Pro Tem Ohlson asked about the timetable for any Council actions regarding the relocation plan. Cumbo replied it will be within the next year and she will provide an exact copy of the timeline to Council.

Councilmember Poppaw noted Ms. Distaso's point regarding the plan being not only related to relocation, but to the retention of affordable housing in the community.

CONSENT CALENDAR

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.

March 20, 2012

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*****

Ordinances on Second Reading were read by title by Acting Clerk Gonzales.

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

Ordinances on First Reading were read by title by Interim City Clerk Harris.

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

March 20, 2012

12. 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.
22. First Reading of Ordinance No. 025, 2012, Temporarily Suspending the Deadline or Hearing Two Pending Appeals to the City Council Under Chapter 2 of the City Code to Allow for a Review and Possible Amendment of the Process for Determinations of Eligibility Under Chapter 14 of the City Code.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt and approve all items on the Consent Calendar. Yeas: Weitkunat, Manvel, Kottwitz, Poppaw, Ohlson and Horak. Nays: none.

THE MOTION CARRIED.

Staff Reports

Kraig Bader, Utilities Standards Engineering Manager, stated the deployment of the Advance Meter Fort Collins project has begun within a test area. City Manager Atteberry noted regular updates will be provided to Council. Brian Janonis, Utility Services Executive Director, stated a letter has gone out to customers regarding the initial deployment area.

Councilmember Kottwitz requested information regarding meter replacement for Fort Collins Loveland Water District (FCLWD) customers. Bader replied FCLWD customers have already received new meters from their provider and those customers will only be receiving new electric meters as part of this process.

Councilmember Reports

Councilmember Horak reported on the National League of Cities meeting in Washington, D.C. He stated the Colorado delegation at the meeting was able to visit with several individuals, including Cass Sunstein, Administrator of the White House Office of Information and Regulatory Affairs. Councilmember Horak and Mayor Weitkunat asked Mr. Sunstein to examine the issue of trains loudly blowing whistles as they cross intersections in towns.

Councilmember Horak stated the Sustainability Institute now falls under the National League of Cities, and will provide an outlet for cities' best practices.

Mayor Weitkunat stated she spoke with HUD representatives at the National League of Cities meeting. HUD is beginning a sustainability initiative and is working with the Environmental Protection Agency and the Department of Transportation to encourage sustainability practices.

March 20, 2012

Resolution 2012-020
Accepting the Advisory Opinion and Recommendation
No. 2012-1 of the Ethics Review Board, Adopted

The following is staff's memorandum for this item.

“EXECUTIVE SUMMARY

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.

...

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

March 20, 2012

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.”

City Attorney Roy stated this Resolution will adopt an opinion and recommendation of the City Council Ethics Review Board. The Ethics Review Board consists of Councilmembers Kottwitz, Manvel, and Poppaw, with Councilmember Troxell as an alternate member. In this case, Councilmember Troxell took the place of Councilmember Kottwitz.

The Ethics Review Board received information from a number of individuals relating to the complaint and ultimately 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.

Eric Sutherland, 3520 Golden Currant, stated many other ethics breaches have occurred relating to the City’s land use development review process. Additionally, 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.

Councilmember Poppaw commended the review process as being thorough.

Councilmember Manvel stated the Ethics Review Board spent much time examining the details of property ownership and timing, buffer rules, and input from affected parties, and ultimately came to the conclusion that the issue did not rise to the level of direct and substantial benefit for Mr. Campana.

Mayor Weitkunat noted the Planning and Zoning Board, as well as other City boards, will receive additional training relating to ethical and legal requirements related to quasi-judicial matters and policy recommendations.

Councilmember Manvel made a motion, seconded by Councilmember Poppaw, to adopt Resolution 2012-020.

Councilmember Horak suggested the training sessions be available online.

City Attorney Roy noted all board and commission members are currently required to review a DVD and written manual.

March 20, 2012

The vote on the motion was as follows: Yeas: Weitkumat, Manvel, Kottwitz, Ohlson, Poppaw and Horak. Nays: none.

THE MOTION CARRIED.

Other Business

Mayor Pro Tem Ohlson asked when Council would be receiving information regarding oil and gas drilling and fracking. City Manager Atteberry replied Karen Cumbo, Director of Planning, Development, and Transportation Services, is leading a multi-pronged approach within the City organization and recently prepared a draft white paper. The item will soon be scheduled for a work session.

Adjournment

The meeting adjourned at 7:05 p.m.

Mayor

ATTEST:

Interim City Clerk