



Karen Weitkunat, Mayor
Gerry Horak, District 6, Mayor Pro Tem
Bob Overbeck, District 1
Lisa Poppaw, District 2
Gino Campana, District 3
Wade Troxell, District 4
Ross Cunniff, District 5

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 Nelson, City Clerk

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REGULAR MEETING

April 16, 2013

*****REVISED*****

Proclamations and Presentations

5:30 p.m.

- A. Proclamation Declaring April as Fair Housing Month.
- B. Proclamation Declaring April 21 as Police Services Day in honor of "A Century of Service".
- C. Proclamation Declaring April as Local Music Appreciation Month.
- D. Proclamation Declaring April 16-21, 2013 as National Crime Victims Rights Week.
- E. Proclamation Declaring May 2, 2013 as the National Day of Prayer.
- F. Proclamation Declaring April 19, 2013 as Arbor Day.

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. 22)
- Citizen opportunity to pull Consent Calendar items.
(will be considered under Item. No. 26)

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.

Speakers are asked to:

- State your name and address for the record.
- Keep comments brief; if available, provide a written copy of statement to City Clerk.
- Address your comments to Council, not the audience.
- Promptly cease your comments when the allotted time expires.
- You may not yield part or all of your time to another and another speaker will not be credited with time requested but not used by you.
- Applause, outbursts or other demonstrations by the audience are not allowed.

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 18. 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:

- Ordinances 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 March 18, 2013 Adjourned Meeting and the March 19, 2013 Regular Meeting.

7. Second Reading of Ordinance No. 051, 2013, Authorizing the Conveyance of a Non-Exclusive Drainage and Landscaping Easement and an Access Easement on the Hickory Trail Property to Charles Meserlian.

Charles Meserlian (the "Developer") is planning a 1.89 acre live/work residential development called Hickory Commons (the "Development") located in the 300 block of Hemlock Street, immediately north of the City's Salyer Natural Area and east of City-owned property known as the Hickory Trail. The Development requires off-site drainage and landscaping improvements on the Hickory Trail property. In order to complete the installation of the planned improvements, the Developer is requesting that the City grant a 3,601 square foot non-exclusive drainage and landscaping easement and an access easement on City-owned property.

This Ordinance, unanimously adopted on First Reading on March 19, 2013, would authorize the conveyance of the non-exclusive drainage and landscaping easement and access easement on the Hickory Trail property.

8. Second Reading of Ordinance No. 052, 2013, Appropriating Prior Year Reserves in the Water Fund for the Construction of a Pre-Sedimentation Basin as Part of the High Park Fire Remediation.

The 2013 Budget for the Water Fund included \$987,953 for BFO Offer 244.1 – Fire Mitigation Capital Improvements. After further evaluation of the potential ways capital investment could improve the ability of Fort Collins Utilities to treat water from the Cache la Poudre watershed, a pre-sedimentation basin is being constructed. The total cost of this basin will be \$2,150,000.

This Ordinance, unanimously adopted on First Reading on March 19, 2013, appropriates \$1,250,000 from the Water Fund reserves so that the construction of the pre-sedimentation basin can be completed and operational before June 2013.

9. Second Reading of Ordinance No. 053, 2013, Designating the Oliver and Leota Chandler Property, 710 Mathews Street, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

This Ordinance, unanimously adopted on First Reading on March 19, 2013, designates the Oliver and Leota Chandler Property at 710 Mathews Street as a Fort Collins Landmark. The owner of the property, Barbara Liebler, is initiating this request.

10. First Reading of Ordinance No. 058, 2013, Appropriating Prior Year Reserves.

City Council authorized expenditures in 2012 for various purposes. The authorized expenditures were not spent or could not be encumbered in 2012 because:

- there was not sufficient time to complete bidding in 2012 and therefore, there was no known vendor or binding contract as required to expend or encumber the monies
- the project for which the dollars were originally appropriated by Council could not be completed during 2012 and reappropriation of those dollars is necessary for completion of the project in 2013
- to carry on programs, services, and facility improvements in 2013 with unspent dollars previously appropriated in 2012

In the above circumstances, the unexpended and/or unencumbered monies lapsed into individual fund balances at the end of 2012 and reflect no change in Council policies.

11. Items Relating to the Design and Implementation of a Traffic Responsive Traffic Signal System at Signals Adjacent to the Railroad Tracks in the Vicinity of Lemay, Riverside and Mulberry.

- A. Resolution 2013-032 Authorizing the Mayor to Execute an Intergovernmental Agreement with the Colorado Department of Transportation to Use Federal Congestion Mitigation Air Quality (CMAQ) Funds for the Design and Implementation of a Traffic-Responsive Traffic Signal System at Signals Adjacent to the Railroad Tracks in the Vicinity of College Avenue, Lemay Avenue, Riverside Avenue and Mulberry Street.
- B. First Reading of Ordinance No. 059, 2013, Appropriating Unanticipated Grant Revenue in the Transportation Services Fund for the Design, Equipment Procurement and Implementation of a Traffic-Responsive Traffic Signal System.

The City's Traffic Operations Department was awarded a \$248,370 Federal Congestion Mitigation Air Quality (CMAQ) grant to design, procure equipment and implement a traffic responsive traffic signal system at select intersections that are impacted by railroad and truck operations. The project will be implemented at intersections along North College Avenue (U.S. 287), Riverside Avenue (SH 14), Mulberry Street (SH 14) and Lemay Avenue where trains and heavy trucks impact traffic on those major streets. The project is intended to reduce traffic delays by more quickly dispersing congestion at the intersections impacted by the passing trains.

12. First Reading of Ordinance No. 060, 2013, Appropriating Unanticipated Federal Department of Energy Grant Revenues in the Light and Power Fund.

This Ordinance appropriates \$845,323 of additional revenue related to the Renewable and Distributed Systems Integration (RDSI) project. This total includes \$372,500 of additional Department of Energy grant funding, as well as \$472,823 in other RDSI project revenues.

13. First Reading of Ordinance No. 061, 2013, Amending Section 2.2.10 of the Land Use Code by the Addition of a New Subparagraph (D) Pertaining to Parkway Landscaping Amendments.

This Ordinance amends the City's Land Use Code to add a new administrative process for changes to parkway landscaping in approved development plans. This is a necessary follow-up to new Streetscape Standards adopted by City Council on February 26, 2013. It involves parkway landscaping in single family housing developments where approved development plans specify turfgrass in the parkways (the strips of land between street curbs and detached sidewalks). These residential parkways are part of the City-owned right-of-way, but abutting property owners are responsible for parkway landscaping. The new process makes it easier for homeowners to request changes to approved plans.

14. First Reading of Ordinance No. 062, 2013, Approving an Intergovernmental Agreement Amending Certain Provisions of the First Amended Intergovernmental Agreement Pertaining to the Development of the Interstate 25/State Highway 392 Interchange.

This Ordinance approves an amendment to the Intergovernmental Agreement (IGA) between the City of Fort Collins and the Town of Windsor regarding the I-25/SH 392 Interchange.

The First Amended IGA became effective on November 27, 2012. The IGA provides that Windsor and Fort Collins will annually share property and sales tax revenue generated in the area surrounding the I-25/ SH 392 Interchange (the CAC). The amount to be shared is the amount of increased taxes in the CAC beyond the amount collected in the base year. The IGA provided that the base year would be the revenues collected in the year 2012, the year the IGA became effective.

In discussions with the Town of Windsor, it was concluded that it would be more equitable if the base year for the increment calculation was 2010 rather than 2012. The tax revenues were reduced by as much as 25% in 2011 and 2012, since construction of the interchange was ongoing during that year. 2010 was the last year of tax revenues before construction began, and as such, would be a more accurate reflection of tax revenues for the purpose of determining increased increments to be divided.

A similar Ordinance was adopted by the Windsor Town Board on Second Reading on March 25, 2013.

15. First Reading of Ordinance No. 063, 2013, Authorizing the Conveyance of a Non-Exclusive Utility Easement on Springer and Williams Natural Areas to Platte River Power Authority.

Platte River Power Authority (Platte River) has requested a realignment of its existing easement (granted in 1982) across Natural Areas property to accommodate the proposed construction of the Woodward Inc. (Woodward) Link-N-Greens Campus, a master planned development, on adjacent property. As part of the development plan, Woodward is working with Platte River to reroute a portion of the overhead electric transmission line that crosses the Link-N-Greens campus. Subsequently, the transmission line will also need to be relocated from its current position on Springer Natural Area (Springer). To construct the new alignment, Platte River is requesting a 60 to 100-foot wide permanent easement, approximately 550 feet in length across the Springer and Williams Natural Areas to replace the 1982 easement. In addition, Platte River is requesting a temporary construction easement of roughly the same area. Natural Areas Department (NAD) staff is working with Platte River to delineate the final easement areas.

If the new alignment is approved, Platte River will vacate the existing 1982 easement in the north and west portions of Springer; remove all features associated with that part of the transmission line and restore the site. All impacts within the proposed temporary and permanent easement areas on Springer and Williams will be fully restored, as well. The overall restoration effort enables the site to be returned to a more natural riparian forest. The net benefit of the larger restoration in the former transmission line corridor will exceed the impacts caused by this project.

16. Resolution 2013-033 Authorizing the Acceptance of a Partial Donation of 1.345 Acres of Real Property from Interstate Land Holdings, LLC for Natural Areas Purposes.

The I-25 / SH 392 Interchange Project required the City to complete wetland mitigation improvements on property adjacent to Fossil Creek Reservoir Natural Area owned by Interstate Land Holdings, LLC. The owner of the property has agreed to convey the property to the City at an amount lower than the market value for the property. The owner has chosen to donate the remaining value of the property to the City. The purpose of this Resolution is to officially document the acceptance of the donation at a lower than market value for the benefit of the owner for tax reporting purposes.

17. Resolution 2013-034 Authorizing the Mayor to Execute an Intergovernmental Agreement Creating a Public Entity to Manage the Loveland to Fort Collins Stage of the USA Pro Challenge Cycling Race.

Fort Collins successfully partnered with Loveland, Estes Park, Windsor and Larimer County to secure a stage in the 2013 USA Pro Challenge (Pro Challenge), a seven day, professional cycling race. This Resolution authorizes the City to enter into an intergovernmental agreement with these local government partners to create a new public entity, the Northern Colorado Pro Challenge Local Organizing Committee (LOC), which would be responsible for planning, funding, promoting and conducting the Fort Collins-Loveland stage of the August, 2013 Pro Challenge.

18. Resolution 2013-035 Authorizing the Mayor to Enter into a Third Addendum to the Intergovernmental Agreement Between the City of Fort Collins and Poudre Valley Fire Protection District to Amend the Fire Chief's Spending Limit from \$20,000 to \$75,000 per Expenditure and Ratifying the First and Second Addenda to Such Agreement.

The City and the Poudre Valley Fire Protection District (PVFPD) entered into an Intergovernmental Agreement (IGA) in 1981 to establish the Poudre Fire Authority (PFA) to provide fire and emergency services to Fort Collins and surrounding areas. The IGA has been amended several times over the years and currently includes a spending limit for the Fire Chief, over which the Chief must seek Board approval. The proposed amendment (Addendum 3) will change the Fire Chief's spending limit from \$20,000 to \$75,000. In addition to allowing the increased spending limit, the Resolution also ratifies two previous Amendments to the IGA (Addenda 1 and 2) which were previously approved in inconsistent manners.

END CONSENT

19. Consent Calendar Follow-up.

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

20. Staff Reports.

- a. Canal Importation Ponds and Outfall Drainage and Natural Area Improvement Project Awards.

21. Councilmember Reports.

22. Consideration of Council-Pulled Consent Items.

Possible Executive Session.

Council will consider going into Executive Session under Section 2-31(a)(2) of the City Code, for the purpose of discussing potential litigation and related legal matters.

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.

23. Items Relating to the Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC (Revised). (staff:Laurie Kadrich, Lindsey Ex, Dan Weinheimer; 0 minute staff presentation; 90 minute discussion)

- A. Second Reading of Ordinance No. 057, 2013 Terminating the Moratorium Imposed by Ordinance No. 145, 2012 with Respect to Oil and Gas Operations Conducted under an Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC and Exempting Such Operations from the Prohibitions Contained in Section 12-135 of the City Code.

- B. Resolution 2013-036 Approving an Amendment to the Oil and Gas Operator Agreement Between the City and Prospect Energy, LLC.**

On March 19, 2013, Council approved an Operator's Agreement with Prospect Energy to conduct oil and gas operation in the city limits. The terms of the Agreement ensure stringent public health and

safety measures are in place through Best Management Practices (BMPs), which generally exceed current requirements mandated by the Colorado Oil and Gas Conservation Commission (COGCC), and provide strict controls on the release of methane gases and other volatile organic compounds (VOCs). The Council also adopted on First Reading, Ordinance No. 057, 2013, by a vote of 5-1 (nays: Ohlson, absent: Poppaw), removing the Moratorium imposed by Ordinance No. 145, 2012, with respect to an Oil and Gas Operator Agreement with Prospect Energy.

Resolution 2013-036 will further amend the Operator's Agreement with Prospect Energy to clarify that no new drilling will occur in any plugged or abandoned well in the Fort Collins Field and that all Colorado Oil and Gas Conservation Commission rules to be effective August 1, 2013 will apply to any exploration and drilling activities in the Undeveloped Acreage (UDA).

24. First Reading of Ordinance No. 064, 2013, Amending the City Code to Authorize the City Manager to Ban Open Burning in the City Upon Recommendation of the Fire Chief.(staff: Ann Turnquist, Tom DeMint, Bob Poncelow; 5 minute staff presentation; 15 minute discussion)

During the spring and summer of 2012, Fort Collins and Larimer County experienced record setting fire weather following a prolonged drought. As a result, the community experienced not only the worst wildfire in the history of Larimer County, but the second largest wildfire in the history of Colorado and the second most costly season in lost homes and property. During this time, Governor Hickenlooper and the Larimer County Commissioner enacted fire bans due to the extreme fire conditions. The Fort Collins City Council also adopted a fire ban through an emergency ordinance (Emergency Ordinance No. 065, 2012). At that time, staff was directed to figure out a more efficient way to implement a fire ban and to avoid the emergency ordinance process.

25. First Reading of Ordinance No. 065, 2013, Designating the Jessup Farm Property, 1908 South Timberline Road, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code. (staff: Karen McWilliams; 5 minute staff presentation; 10 minute discussion)

The owner of the property, Gino Campana of Jessup Farm LLC, is initiating this request for Fort Collins Landmark designation for the Jessup Farm Property at 1908 South Timberline Road.

26. Consideration of Citizen-Pulled Consent Items.

27. Other Business.

28. Adjournment.

- a. Motion to adjourn to 6:00 p.m., Monday, April 29, 2013.

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.