



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

May 7, 2013

Proclamations and Presentations

5:30 p.m.

- A. Proclamation declaring May 5-11, 2013 as Drinking Water Week.
- B. Proclamation declaring May 18-24, 2013 as "I Am Tourism" Week.
- C. Proclamation declaring May 13-17, 2013 as Salvation Army Week.
- D. Proclamation declaring May 12-18, 2013 as National Women's Health Week.
- E. Proclamation declaring May 2013 as Fort Collins Historic Preservation Month.

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. 25)
- Citizen opportunity to pull Consent Calendar items.
(will be considered under Item. No. 33)

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 21. 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 26 and 27, 2013 Adjourned Meetings, the April 2 and 16, 2013 Regular Meetings, and April 9, 2013 Special Meeting.

7. Second Reading of Ordinance No. 058, 2013, Appropriating Prior Year Reserves.

This Ordinance, unanimously adopted on First Reading on April 16, 2013, appropriates prior year's reserves for expenditures authorized in 2012 by Council but which could not be completed by the end of 2012.

8. Second 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.

This Ordinance, unanimously adopted on First Reading on April 16, 2013, appropriates the grant revenue described above to fund this project.

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

This Ordinance, unanimously adopted on First Reading on April 16, 2013, 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.

10. Second 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, unanimously adopted on First Reading on April 16, 2013, 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.

11. Second 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, unanimously adopted on First Reading on April 16, 2013, 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.

12. Second 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.

This Ordinance, unanimously adopted on First Reading on April 16, 2013, authorizes a utility easement and a temporary construction easement across the Springer and Williams Natural Areas to accommodate proposed construction of the Woodward Inc. Link-N-Greens Campus.

13. Second 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.

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.

This Ordinance, unanimously adopted on First Reading on April 16, 2013, authorized the City Manager to ban open burning.

14. Second Reading of Ordinance No. 068, 2013, Authorizing the Conveyance of a Non-Exclusive Utility Easement to Public Service Company of Colorado.

This Ordinance, unanimously adopted on First Reading on April 29, 2013, conveys a Non-Exclusive Utility Easement to Public Service Company of Colorado("PSCo").

The City of Fort Collins staff worked with PSCo over the past several months to determine the alignment of and mitigate the impacts for a new 16-inch high pressure gas transmission line within city limits. The project is designed and construction is expected to start in May 2013. Most of the City issues were addressed, and City Council approved easements in Natural Areas and adopted Resolution 2013-022 on March 19, 2013, directing the use of the payments from PSCo be used for natural areas and trails.

There was continuing concern, however, about the proposed location of the pipeline in private property at the northwest corner of Harmony Road and Shields Street. Although this was primarily an issue of concern between the property owner and PSCo, the City expressed concern over the impacts on future commercial development at the site. At its March 19 meeting, City Council directed the City Manager to follow up with PSCo on this issue. Following several conversations with senior PSCo executives and project staff, they agreed in principle to relocate the pipeline within the Shields Street right-of-way if the City agreed to pay for any relocation of the approximately 2,000 feet of line adjacent to the property that may be necessary in the next fifteen years.

This is a low-risk option, given the location of the pipeline in the Shields Street right of way. PSCo is redesigning the pipeline within the Shields Street right-of way. In order to document this agreement between the City and PSCo, staff recommends a Non-Exclusive Pipeline Easement within the Shields Street right-of-way.

15. First Reading of Ordinance No. 066, 2013, Appropriating Prior Year Reserves and Unanticipated Revenue in the General Fund for Cultural Development and Programming Activities, Tourism Programming, and the Fort Collins Convention and Visitors Bureau.

This Ordinance appropriates \$139,465, of which \$57,571 is for 2013 Cultural Development and Programming Activities (Fort Fund), \$9,842 for 2013 Tourism Programming (Fort Fund), and \$72,052 for 2013 Fort Collins Convention and Visitors Bureau (CVB) from Unanticipated Revenue (Lodging Tax) and Prior Year Reserves (unspent appropriations) in the General Fund Lodging Tax Reserves.

Lodging Taxes for 2012 were estimated at \$815,000 with actual Lodging Tax revenues collected equaled \$1,011,840 (\$196,840 over estimate).

In 2013, the Fort Collins CVB is due to receive \$740,552 based on 2012 Lodging tax collections and prior year reserves. However, the CVB has already received \$65,736 of the unanticipated \$137,788 Lodging tax revenue in 2012 so only \$72,052 is needed to be appropriated to the Fort Collins CVB.

16. First Reading of Ordinance No. 067, 2013 Amending Resolution 2013-001, Ordinance No. 006, 2013, and Ordinance No. 007, 2013, to Correct an Error in the Naming of the Annexation as "Hansen Annexation" by Renaming the Annexation "Hansen Farm Annexation."

In January and February of this year, the City Council adopted Resolution 2013-001, Ordinance No. 006, 2013 and Ordinance No. 007, 2013, all pertaining to the what was called the "Hansen Annexation." This reference to the "Hansen Annexation" was in error because the reference should have been to "Hansen Farm" Annexation. The purpose of this Ordinance is to correct that error.

17. Resolution 2013-037 Authorizing the Mayor to Enter into an Intergovernmental Agreement to Assist in the Operation and Maintenance of the HUB, a Multi-Agency Youth and Family Program.

The City of Fort Collins partners with Larimer County, the City of Loveland, the Town of Estes Park, the Town of Berthoud, the Colorado State University Police Department, the Colorado State Patrol, and the Larimer County Sheriff's Office in a collective agreement to fund operations of the Larimer County Juvenile Assessment Center (known as the "HUB"). The HUB provides valuable services to both families and the law enforcement agencies of Larimer County by providing centralized screening for minors in need of services due to:

- Abuse and neglect
- Delinquency
- High risk behaviors that are non-detainable or beyond the control of parent(s)
- Parent – child conflict
- Drug and alcohol abuse
- Runaway youth

18. Resolution 2013-038 Approving the Stipulated Determination of Vested Rights Between the City and Horsetooth Development, LLC.

Horsetooth Development, LLC., is the developer of the Maple Hill Subdivision, a 155 acre development, and has completed all but one phase of the development. The plan expired on September 9, 2007. Accordingly, Horsetooth, LLC., has filed an application for a Determination of Vested Rights under Division 2.13 of the Land Use Code (LUC) and the City Manager and City Attorney agree that the application for Determination of Vested Rights should be granted. The proposed Resolution would formalize the determination of vested rights.

19. Resolution 2013 -039 Making Board and Commission Liaison Assignments and Various Committee, Board and Authority Appointments.

This Resolution makes Councilmember liaison assignments to boards and commissions and makes various committee, board and authority appointments. (These determinations will be made at the Council Retreat on May 3 and 4.)

20. Resolution 2013-040 Making Appointments to the Energy Board and the Planning and Zoning Board.

Two vacancies currently exist on the Energy Board due to the resignation of Steven Wolley and Ross Cunniff. Since there were no applicants on file, the vacancies were advertized to recruit new applicants. Councilmembers Ross Cunniff and Wade Troxell recommend John Graham to fill one vacancy with a term to begin immediately and set to expire on December 31, 2014 and Nick Michell to fill the other vacancy with a term to begin immediately and set to expire on December 31, 2015.

One vacancy currently exists on the Planning and Zoning Board due to the resignation of Gino Campana. Mayor Weitkunat and Councilmember Gerry Horak reviewed applicants on file and elected to readvertise for the opening. After conducting interviews, Mayor Weitkunat and Councilmember Horak recommend Jeffrey Schneider to fill the vacancy with a term to begin immediately and set to expire on December 31, 2014.

21. Routine Deed.

Quit Claim Deed from Department of Transportation, State of Colorado, near the Poudre River, adjacent to Spring Natural Area. This property will become part of the Springer Natural Area.

END CONSENT

22. Consent Calendar Follow-up.

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

23. Staff Reports.

- a. Platte River Power Authority 2012 Annual Report Update. (to view 2012 Annual Report: <http://www.epageflip.net/i/122243>)
- b. Good News: Colorado Solar Energy Industry Association Award for the Sunshot Program.
- c. Good News: Fort Collins Designation as a "Tree City" for 35 years.
- d. May 8 Oil and Gas Community Forum (Wednesday, May 8, 6:00-8:00 p.m., Columbine Room, Lincoln Center, 417 West Magnolia Street).

24. Councilmember Reports.

25. 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.

26. Second 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 no staff presentation; 5 minute discussion)

This Ordinance, unanimously adopted on First Reading on April 16, 2013, designates the Jessup Farm Property at 1906 Timberline Road as a Fort Collins Landmark. The owner of the property, Gino Campana, is initiating this request.

27. Consideration of the Appeal of the February 25, 2013 Administrative Hearing Officer decision to approve the Project Development Plan at 621 South Meldrum Street. (staff: Jason Holland; 10 minute staff presentation; 1 hour discussion)

On February 13, 2013, an Administrative Hearing was held to consider approval of the Project Development Plan at 621 South Meldrum Street. The Hearing Officer issued a written decision on February 25, 2013 to approve the proposed Project Development Plan and Modification of Standard, with two conditions.

The two conditions are as follows:

- a. The Modification of Standard (reduction in setback from five feet to three feet) shall apply to the rear 78 feet of the lot only.
- b. If access to neighboring properties is required for construction, the Applicant and/or Owner shall obtain appropriate easements.

On March 19, 2013, the Appellants submitted an Appeal of the Hearing Officer's Decision. The Appellants assert that the Hearing Officer considered evidence that was substantially false and grossly misleading and that the Hearing Officer failed to receive all relevant evidence offered by the appellant.

Retaining walls and parking setbacks are a subject of this Appeal. The Applicants request to construct a multi-family building containing four units and four off-street parking spaces to be accessed from the alley. The proposed plan includes several retaining walls ranging in height from 1 to 2.5 feet. The proposed parking lot design requires one Modification of Standard to reduce the required parking setback from 5 feet to 3 feet.

28. Resolution 2013-042 of the City of Fort Collins Approving a Redevelopment and Reimbursement Agreement with the Fort Collins Urban Renewal Authority, Walton Foothills Holdings Vi, L.L.C., and the Foothills Metropolitan District Regarding the Redevelopment of Foothills Mall.(staff: Darin Atteberry, Bruce Hendee, Mike Beckstead, Josh Birks)

This resolution authorizes and approves the execution of a Redevelopment and Reimbursement Agreement, by the City Manager of the City of Fort Collins, in connection with the redevelopment of the Foothills Mall.

29. Resolution 2013-043 of the City of Fort Collins Making Legislative Findings and Approving Amendments to the Midtown Urban Renewal Plan to Establish the Foothills Mall Tax Increment District. (staff: Josh Birks, Tom Leeson)

City Council adopted the Midtown Urban Renewal Plan (Plan) in September 2011 and later reaffirmed and ratified the Plan in February 2013. With the sale of Foothills Mall to Walton Foothills Holdings, IV LLC (Owner) in July 2012, and subsequent Agreement to Negotiate between the Owner and the City, City Council will be considering a public financing package to assist with the substantial redevelopment of the mall. Tax increment financing (TIF) is one component of that financing package; however, in order to utilize TIF, City Council must first amend the Midtown Urban Renewal Plan and create a new Foothills Mall TIF District.

30. Resolution 2013-044 Approving an Amendment to the Foothills Metropolitan District Service Plan. (staff: Josh Birks, Tom Leeson)

The new owner of Foothills Mall Alberta Development, in partnership with Walton Street Capital, requested the formation of a Metropolitan District as allowed by Title 32 of the Colorado Revised Statutes in August 2012. On September 4, 2012, Council approved, by Resolution 2012-084, a Service Plan for Foothills Metropolitan District (the "District"), providing a preliminary framework for operations of the District. The approval included the requirement to amend the District service plan prior to constructing improvements, establishing mill levies, or issuing debt by the District. The Resolution before City Council amends the District Service Plan (the "Amended Service Plan") to operationalize significant components of the Redevelopment and Reimbursement Agreement (the "Agreement") between the City, Fort Collins Urban Renewal Authority, Walton Foothills Holdings VI, L.L.C. and the Foothills Metropolitan District considered by Resolution 2013-044.

31. Resolution 2013-045 Regarding the Redevelopment of Foothills Mall and Regarding Cooperation and Partnership with Larimer County on Economic Revitalization Efforts and the Use of Tax Increment Financing. (staff: Darin Atteberry, Mike Beckstead, Bruce Hendee, Josh Birks)

In an effort to address some of the concerns raised by Larimer County with regards to the use of tax increment financing, the proposed resolution directs the City and the Urban Renewal Authority (URA) to remit an amount equal to 50% of the property tax increment generated from the residential units associated with the Foothills Mall redevelopment project in each year that those funds are available after payment of debt service requirements for the District Bonds, as well as the personal property tax increment revenues from the Mall.

32. Resolution 2013-041 Concerning the Fort Collins Urban Renewal Authority and its Tax Increment Revenue Refunding Bonds (North College Avenue Project), Series 2013, Declaring the City Council's Present Intent to Appropriate Funds to Replenish the Reserve Fund Securing Such Bonds, If Necessary; and Authorizing a Cooperation Agreement and Other Actions Taken in Connection Therewith.(staff: John Voss; 10 minute staff presentation; 30 minute discussion)

ITEM POSTPONED

The Fort Collins Urban Renewal Authority (URA) intends to refinance a portion of the debt it originally borrowed from the City in relation to the North College area. Now that an established revenue stream can be shown to investors, private money can be used to replace City money. The 2013 bonds require the URA to establish a debt reserve fund. To further facilitate the credit rating on the replacement debt, the City needs to make a pledge to replenish the debt reserve fund, if such funds are ever used to make debt payments. With the City's pledge, the new URA debt is expected to have an effective interest rate of 2.98%.

- 33. Consideration of Citizen-Pulled Consent Items.
- 34. Other Business.
- 35. 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.