



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

June 4, 2013

Proclamations and Presentations

5:30 p.m.

- A. No proclamations are scheduled.

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. 23)
- Citizen opportunity to pull Consent Calendar items.
(will be considered under Item. No. 29)

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 19. 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 May 7, 2013 Regular Meeting and the May 14, 2013 Adjourned Meeting.

7. Second Reading of Ordinance No. 069, 2013, Appropriating Prior Year Reserves in the Keep Fort Collins Great Fund to Support the Landmark Rehabilitation Loan Program for 2013.

This Ordinance, unanimously adopted on First Reading on May 21, 2013, is a request for an appropriation of \$33,000 to support the City's Landmark Rehabilitation Loan Program from prior years in the Keep Fort Collins Great Fund (KFCG). The Landmark Rehabilitation Loan Program is a highly successful financial incentive program for encouraging the sustainable revitalization of historic residential and commercial structures. The Program was funded with Keep Fort Collins Great funds in the amount of \$25,000 each year for 2013-2014. However, this year alone, the popular program received over \$65,000 in loan funding requests from 12 applicants for 24 projects costing over \$206,200 in materials and services. Without Rehabilitation Loan Program funding, many of these projects could not proceed.

The request is for the use of KFCG Other Community Priority prior year reserves created by the 2012 unspent Design Assistance Program (DAP) budget. Both the Loan Program and the DAP were funded in 2012 from KFCG - Other Community Priorities. These two incentive programs are closely linked sub-programs of the Historic Preservation Program, and provide a continuum of financial support for qualified historic preservation projects.

8. Second Reading of Ordinance No. 070, 2013, Amending Section 4-196 of the City Code so as to Change the Violation of Interference with Animal Control Officers from a Civil Infraction to a Criminal Misdemeanor Offense.

This Ordinance, unanimously adopted on First Reading on May 21, 2013, changes City Code Section 4-196 from a civil infraction to a criminal misdemeanor. On February 19, 2013, City Council adopted Ordinance No. 021, 2013, amending Chapter 4 of the City Code decriminalizing certain offenses related to the care and keeping of animals. This change was intended to include all animal offenses that constitute neighborhood nuisances. After further deliberation, Animal Control recommends keeping the section pertaining to interference with an animal control officer as a criminal misdemeanor. Staff recommends changing this Code section from a civil infraction to a criminal misdemeanor.

9. Second Reading of Ordinance No. 071, 2013, Amending Section 19-65 of the City Code Related to the Service of a Civil Citation.

This Ordinance, unanimously adopted on First Reading on May 21, 2013, is an effort to correct an inadvertent change that occurred with a previous Code change. This amendment will provide the ability for a civil citation to be issued immediately for repeated civil infractions. This will apply to a second or subsequent violation within a twelve (12) month period for the same violation. This process already applies for Land Use Code Section 3.8.16 pertaining to occupancy limits, so this change would make the process consistent for civil infractions. Additionally, this Code change specifies that a civil citation may be issued immediately for animal code violations.

10. Second Reading of Ordinance No. 072, 2013, Amending Sections 19-36 and 19-41 of the City Code Pertaining to Municipal Court Referees.

This Ordinance, unanimously adopted on First Reading on May 21, 2013, makes two minor changes to the Code provisions relating to Municipal Court Referees. First, it removes the residency requirement for such Referees from Section 19-36 so that the Assistant Municipal Judge, who lives outside the City limits, can serve as a back-up Referee, especially on animal infraction cases. Second, it revises Section 19-41 so that all Referees have the same authority to reduce or waive penalties and assessments when appropriate. It removes the previous distinction between the authority of the Parking Referee and the Civil Infraction Referee, which was creating some confusion.

11. Second Reading of Ordinance No. 073, 2013 Amending the City Code to Grant Revocable Permits to Non-City Utilities in Annexed Areas and Correct Internal References.

This Ordinance, unanimously adopted on First Reading on May 21, 2013, eliminates the requirement that a non-City utility provider apply for a permit to continue providing electric service to properties annexed into the city. A revocable permit would automatically be granted at annexation and revoked upon transfer of service.

The second proposed Code change would allow the Utilities Executive Director to adopt minor technical revisions that clarify an existing standard or improve conformity toward best engineering practices.

12. Second Reading of Ordinance No. 074, 2013, Amending the City Code to Authorize Administrative Adoption of Minor Rule Revisions, Clarifications, and Interconnection Project Standards.

This Ordinance, unanimously adopted on First Reading on May 21, 2013, grants the Utilities Executive Director authority to approve temporary exemptions or technical modifications to the City's various electric utility regulations for the purpose of supporting City-managed special pilot projects, equipment testing or research partnerships.

This authority will not be extended to allow exemptions of such regulations and standards to on going operations or services provided to Utility customers not participating in testing or research projects.

13. Second Reading of Ordinance No. 076, 2013, Appropriating Unanticipated Revenues in the General Fund for the Platte River Power Authority Transmission Line Relocation Project Located on the Woodward Property.

Council approved the Woodward incentive package in April 2013. As a part of that agreement, Woodward agreed to advance funds to support the relocation of the Platte River Power Authority (PRPA) Transmission Line. This Ordinance, unanimously adopted on First Reading on May 21, 2013, appropriates \$1,297,080 from the General Fund Reserves for the relocation of the PRPA transmission line. Immediate appropriation is needed to allow the transmission line relocation to move forward so that Woodward's building site plans may remain on schedule. Delay in authorizing the appropriation may necessitate the need for PRPA to construct and remove a temporary transmission line as well as design and construct the relocated permanent transmission line. This effort would require that PRPA incur additional costs.

14. First Reading of Ordinance No. 077, 2013 Appropriating Prior Year Reserves in the General Fund for Waste Reduction and Diversion Projects Approved by the Waste Innovation Program.

This Ordinance shifts \$135,560 that has accumulated in the Waste Innovation Program's reserve account into the City's General Fund account so that the money can be used for the purposes intended. Revenues are paid into the Waste Innovation Program by City departments that "self haul" trash from municipal operations for disposal in the Larimer County Landfill. The fund is designated to pay for projects that enhance these same departments' ability to divert more waste away from the landfill. Unspent funds from several previous years had been moved into a "reserve" account; this action moves the funds back into the General Fund.

15. First Reading of Ordinance No. 078, 2013 Appropriating Unanticipated Grant Revenue into the Stormwater Fund, and Authorizing the Transfer of Existing Appropriations from the Flood Mapping/Stream Gaging Capital Project to the Post Fire Flood Warning Grant Project for Early Flood Warning Capabilities.

The Stormwater Utility has received a grant from the State of Colorado totaling \$17,881. The grant funds will be used to enhance early flash flood warning capabilities due to the increased risk of flooding caused by the High Park Fire. Existing appropriations will be used for the match of \$5,960.

16. First Reading of Ordinance No. 079, 2013, Authorizing the Use of the Noonan Tract and the Bowes Homestead Tract as Match for a Neotropical Migratory Bird Conservation Act Grant Administered by the U.S. Fish and Wildlife Service.

The City will use a recent acquisition of 280 acres at Soapstone Prairie Natural Area (Soapstone Prairie) as match towards the grant, as well as management funds currently obligated in the Natural Areas Department (NAD) budget. Using the funds already spent as match towards this grant is a great secondary benefit for the City. The \$200,000 grant will expand upon Rocky Mountain Bird Observatory's (RMBO) research and monitoring work to implement conservation strategies and management for 19 high priority grassland birds that breed within the Laramie Foothills Mountains to Plains Project and 27 high priority species at wintering sites in the Chihuahu Desert of Mexico.

This will be the fifth such match authorized as the City, in partnership with RMBO, has been successful on four previous grant applications. The previous partnership efforts have resulted in a broader understanding of the grasslands bird species that nest on Soapstone Prairie and the contiguous Meadow Springs Ranch, and has contributed to the conservation of these species' winter ranges in Mexico.

17. Public Hearing and First Reading of Ordinance No. 080, 2013, Authorizing Amendments to the Intergovernmental Agreement Between the City and Poudre School District Pertaining to the Land Dedication and In-Lieu Fee Requirements Contained in Such Agreement.

Since 1998, the City of Fort Collins has collected a fee-in-lieu of land dedication for both Poudre School District and Thompson School District. These fees allow a residential developer to pay a school site fee to the School Districts rather than dedicate a parcel of land to the District for development of future schools. The ability of the school districts to require land dedication is authorized under Colorado Law.

Fees are reviewed every two years and in 2011 the Poudre School District reduced fee amounts by 11 percent. This ordinance will increase the amount of the fees the district receives by 6.9 percent. The school district is requesting an increase in the fees collected because of an increase in land values and cost per acreage. This fee amount was reviewed and approved by the Poudre School Board in February 2013. Thompson School District will not be adjusting fees in 2013.

18. First Reading of Ordinance No. 081, 2013 Authorizing Dryland Farm Leases to Harry Sauer on Long View Farm Open Space, Prairie Ridge Natural Area, and Coyote Ridge Natural Area.

The City of Fort Collins Natural Areas Department is a minority owner in Long View Farm Open Space and Prairie Ridge Natural Area, and is the sole owner of the McKee parcel within Coyote Ridge Natural Area. The majority owners of Long View and Prairie Ridge are Larimer County and the City of Loveland respectively. All three properties are leased by Harry Sauer for dryland wheat production and have been since the time of purchase of the properties by the Cities and County. Intergovernmental Agreements state which agency has management authority and receives the lease revenues for each property. As current leases expire on the properties, all three entities have worked collaboratively to create leases with similar terms and have advertised the properties for lease via one Request for Proposals process. The new leases have a higher lease rate and more contemporary language. Restoration of the dryland wheat to native grasses on the McKee parcel will continue at the same pace as in the past and it will nearly be completely restored to native grasslands by the end of the lease term of five years.

19. Resolution 2013-051 Authorizing the Initiation of Exclusion Proceedings of Annexed Properties Within the Territory of the Poudre Valley Fire Protection District.

This Resolution authorizes the City Attorney to file a petition in Larimer County District Court to exclude properties annexed into the City in 2012 from the Poudre Valley Fire Protection District (the "District") in accordance with state law. The properties will continue to receive fire protection services from the Poudre Fire Authority.

END CONSENT

20. Consent Calendar Follow-up.

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

21. Staff Reports.

A. Mason Minute

22. Councilmember Reports.

23. 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.

24. Second Reading of Ordinance No. 075, 2013, Authorizing the Purchasing Agent to Enter into Standard Power Purchase Program Agreements with Solar Photovoltaic System Owners for up to 20 Years. (staff: Lisa Rosintoski; 5 minute staff presentation; 10 minute discussion)

Fort Collins Utilities' Solar Power Purchase Program (FCSP3) encourages the installation of new local solar systems on behalf of all Utilities customers in support of Fort Collins renewable energy commitments under the Colorado Renewable Energy Standard (RES). The basis of the FCSP3 is a fixed-price, 20-year Power Purchase Agreement (PPA) between Fort Collins Utilities and photovoltaic system owners for solar energy generation. Program funding was approved through the budget process. This Ordinance, unanimously adopted on First Reading on May 21, 2013, is necessary to authorize the required long-term (20 year) purchase power agreements.

25. Resolution 2013-052 Making Findings of Fact and Conclusions Regarding the Appeal of the March 21, 2013 Planning and Zoning Board Approval of the Carriage House Apartments Project Development Plan. (staff: Courtney Levingston; no staff presentation; 5 minute discussion)

On March 21, 2013, the Planning and Zoning Board considered and approved the application for the Carriage House Apartments, Project Development Plan. On April 4, 2013, a Notice of Appeal was filed by Joel Rovnak seeking to remand the decision back to the Planning and Zoning Board.

On May 21, 2013, City Council voted 5 - 0 (Poppaw absent, Campana withdrawn) upholding the decision of the Planning and Zoning Board, concluding that the evidence presented did not indicate the Board failed to conduct a fair hearing by considering evidence relevant to its findings which was substantially false or grossly misleading.

In order to complete the record regarding this appeal, Council is required to adopt a Resolution making findings of fact and finalizing its decision on the appeal.

26. First Reading of Ordinance No. 083, 2013, Designating the Johnson Farm Property, 2608 East Drake Road as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code. (staff: Josh Weinberg, Karen McWilliams; 10 minute staff presentation; 10 minute discussion)

The owner of the property, Gino Campana of Johnson Farm LLC, is initiating this request for Fort Collins Landmark designation for the Johnson Farm Property at 2608 East Drake Road.

27. Consideration of an Appeal of the Planning and Zoning Board's April 18, 2013 Decision to Approve the Max Flats, Project Development Plan. (staff: Seth Lorson; 15 minute staff presentation; 2 hour discussion)

On April 18, 2013, the Planning and Zoning Board considered and unanimously approved the application for the Max Flats, Project Development Plan. The application consisted of a request to demolish the existing King's Auto building at 203 West Mulberry Street and construct a 63,900 square-foot, 5-story, mixed-use building consisting of 64 dwelling units and 1,439 square-feet of ground level retail. The site is on the MAX bus rapid transit (BRT) line at the Mulberry Station in the Transit-Oriented Development (TOD) Overlay Zone and the Community Commercial (CC) Zone District. The project requested four modifications of standards, as follows: (a) a reduction in parking lot landscaping; (b) the ability to provide off-site bike parking; (c) a reduction for parking lot setback from five feet to four feet two inches; and (d) an increased percentage of compact parking spaces.

On May 2, 2013, Bruce Froseth (Appellant) filed a Notice of Appeal alleging that the Planning and Zoning Board failed to properly interpret and apply relevant provisions of the Land Use Code, failed to conduct a fair hearing because it allegedly considered evidence that was substantially false and grossly misleading, and substantially ignored its previously established rules of procedure when approving the Project Development Plan application.

28. First Reading of Ordinance No. 084, 2013 Authorizing the Conveyance of Four Easements, a Temporary Construction Easement and a Revocable Permit on City Right-of-Way and City-Owned Property to Linden Bridges LLC for the Encompass-River District Block One Mixed Use Development. (staff: Helen Matson, Craig Foreman; 10 minute staff presentation; 20 minute discussion)

Encompass – River District Block One Mixed Use Development (“Encompass”) is a mixed use development at 418 Linden Street consisting of office space, residential space and a restaurant. The property is owned by Linden Bridges LLC (“LB LLC”). Several easements are required for this project. These easement interests are needed for improvements in the right-of-way, bank stabilization and river enhancement, drainage and landscape areas.

29. Consideration of Citizen-Pulled Consent Items.

30. Other Business.

31. Adjournment.

A. Motion to adjourn to June 11, 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.