

# AGENDA

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

January 4, 2000

**Regular Meeting  
6:00 p.m.**

## PLEDGE OF ALLEGIANCE

1. CALL MEETING TO ORDER.
2. ROLL CALL.
3. CITIZEN PARTICIPATION (limited to 30 minutes)
4. CITIZEN PARTICIPATION FOLLOW-UP:

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

5. AGENDA REVIEW: CITY MANAGER

## 6. CONSENT CALENDAR

The Consent Calendar consists of Item Numbers 7 through 30. 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. Anyone may request an item on this calendar to be "pulled" off the Consent Calendar and considered separately. Agenda items pulled from the Consent Calendar will be considered separately under Agenda Item #37, Pulled Consent Items. The Consent Calendar consists of:

- 1) Ordinances on First Reading that are routine;
- 2) Ordinances on Second Reading that are routine;
- 3) Those of no perceived controversy;
- 4) Routine Administrative actions.

## CONSENT CALENDAR

7. Consideration and adoption of the Council meeting minutes of November 2, 1999, November 16, 1999, December 7, 1999 and the adjourned meeting minutes of November 9, 1999 and December 14, 1999.

8. Second Reading of Ordinance No. 187, 1999, Amending Section 2-581 of the City Code and Setting the Compensation of the City Attorney.

City Council met in Executive Session on November 9, 1999 to conduct the performance appraisal of City Attorney Steve Roy. This Ordinance, which was unanimously adopted on First Reading on December 7, 1999, establishes the 2000 salary and compensation of the City Attorney.

9. Second Reading of Ordinance No. 188, 1999, Amending Section 2-596 of the City Code and Setting the Compensation of the City Manager.

City Council met in Executive Session on November 9, 1999 to conduct the performance appraisal of City Manager John Fischbach. This Ordinance, which was unanimously adopted on First Reading on December 7, 1999 establishes the salary and compensation provided the City Manager.

10. Second Reading of Ordinance No. 189, 1999, Amending Section 2-606 of the City Code and Setting the Compensation of the Municipal Judge.

City Council met in Executive Session on November 9, 1999 to conduct the performance appraisal of Municipal Judge Kathleen M. Lane. This Ordinance, which was unanimously adopted on First Reading on December 7, 1999, establishes the salary and compensation of the Municipal Judge.

11. Second Reading of Ordinance No. 191, 1999, Adding a New Division 4 to Chapter 25, Article II of the Code of the City of Fort Collins Establishing a Program for a Rebate of the City's Sales and Use Taxes for Materials Used in the Construction of Affordable Housing Units, and the Deferral of The Payment of Sales and Use Taxes Thereon.

Ordinance No. 191, 1999, which was unanimously adopted on First Reading on December 7, 1999 establishes a program to provide for a rebate of the City's Sales and Use Taxes for affordable housing units. The impetus for the program comes from the City Council's **1999-2001 Policy Agenda, Theme IV. Helping Make Housing Affordable to Our Citizens - E. Rebates**. The Sales and Use Tax Rebate Program would be another direct financial incentive program which would logistically operate similar to the previous "Development Impact Fee Rebate Program."



On Second Reading, a new provision has been added to Section 25-57 of the Code to clarify that the rebate of sales and use tax for affordable housing units would be available only to those applicants who pay the tax after the effective date of the Ordinance, i.e., January 14, 2000.

12. Second Reading of Ordinance No. 193, 1999, Amending Chapter 23, Article III, of the City Code by the Addition of a New Division 4 Pertaining to Neighborhood Entry Signs and Amending Section 24-1 of the City Code Pertaining to Signs on Streets and Sidewalks.

There have been recent inquiries regarding the placement of Neighborhood Entry signs in the public right-of-way. City staff has developed a process to manage these requests, in order to allow established, organized neighborhoods to request a revocable permit from the City to erect Neighborhood Entry Signs. Ordinance No. 193, 1999, was unanimously adopted on First Reading on December 7, 1999.

13. Second Reading of Ordinance No. 194, 1999, Amending Chapter 19 of the City Code So as to Establish the Municipal Court as a Court of Record.

The Fort Collins Municipal Court is not a "court of record", meaning that there is no verbatim transcript of the hearings held in the Court. The most significant impact of this is that if a defendant appeals a conviction, he/she is entitled to a new trial in County Court. By becoming a court of record, appeals would be based on the record of the trial in Municipal Court and would go directly to District Court. By state statute, an ordinance is required in order to become a court of record. Ordinance No. 194, 1999, was unanimously adopted on First Reading on December 7, 1999.

14. Second Reading of Ordinance No. 195, 1999, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands for the Roma Valley Drive Street Connection with Mail Creek Lane.

The acquisition of land through uncontested eminent domain proceedings is necessitated by the May 18, 1999 City Council approval of the Master Street Plan Amendment. This amendment required a new street connection network that allows the Mail Creek Lane/Roma Valley Drive connection in lieu of the Highcastle Drive connection over Mail Creek. Ordinance No. 195, 1999 was unanimously adopted on First Reading on December 7, 1999 authorizing the acquisition of the above mentioned property.

15. Second Reading of Ordinance No. 196, 1999, Designating the Winslow/Guard House, 730 West Olive Street, as a Local Landmark Pursuant to Chapter 14 of the City Code.

The owner of the property, Ada May Guard, is initiating this request for Local Landmark designation for the Winslow/Guard House. The building is significant for its architectural



importance, as a beautiful example of the American Foursquare architectural style in Fort Collins. Ordinance No. 196, 1999 was unanimously adopted on First Reading on December 7, 1999 designating 730 West Olive Street as a local landmark.

16. Items Relating to the Fossil Creek Wetlands Annexation and Zoning.

- A. Second Reading of Ordinance No. 197, 1999, Annexing Property Known as the Fossil Creek Wetlands Annexation to the City of Fort Collins.
- B. Second Reading of Ordinance No. 198, 1999, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Fossil Creek Wetlands Annexation.

APPLICANT: The City of Fort Collins

OWNER: The City of Fort Collins

On December 7, 1999, Council unanimously adopted Resolution 99-138 Setting Forth Findings of Fact and Determinations Regarding the Fossil Creek Wetlands Annexation.

Also on December 7, 1999, Council unanimously adopted, on First Reading, Ordinance No.'s 197 and 198, 1999, which annex and zone approximately 90.43 acres of publicly owned property located south of East Trilby Road and west Timberline Road. The recommended zoning is Public Open Lands (POL), and it is adjacent to a larger piece of Public Open Lands. This is a 100% Voluntary Annexation.

17. Postponement of Second Reading of Ordinance No. 199, 1999, Authorizing the Lease of Portions of the Resource Recovery Farm to LaFarge Corporation for Sand and Gravel Mining in Order to Protect Sensitive Natural Habitats Along the Cache la Poudre River, to February 15, 2000.

Ordinance No. 199, 1999, which was unanimously adopted on First Reading on December 7, 1999, enables implementation of a unique natural area conservation project involving the City of Fort Collins, LaFarge Corporation, Flatiron Companies, and Colorado State University. The collaborative project will save from sand and gravel mining approximately 40 acres of meadow and mature riparian forest along the Cache la Poudre River that represents some of the most unique and valuable wildlife habitat in the Fort Collins area. In exchange for not mining these sensitive natural habitats, approximately 106 acres of much less sensitive agricultural land on the City's Resource Recovery Farm will instead be mined. Reclamation of the mined area on the Resource Recovery Farm will enhance the wildlife habitat diversity and overall value of the natural areas along this reach of the Cache la Poudre River. This area will enhance the City's efforts to protect and enhance the wildlife habitat, aesthetic, and recreational values of this section of the Poudre River consistent with the



City's Natural Areas Policies and will also enhance programs at CSU's Environmental Learning Center.

Second Reading of this Ordinance is being postponed to February 15, 2000 to allow additional time to finalize the necessary lease and contractual documents with LaFarge, Flatiron, and Colorado State University.

18. Second Reading of Ordinance No. 200, 1999, Amending Section 24-42(c) of the City Code for the Purpose of Correcting an Error.

Ordinance No. 200, 1999 was unanimously adopted on First Reading on December 7, 1999 and amends Section 24-42(c) of the City Code making reference to Section 24-657(g)(4) of the Code, which section does not exist.

19. First Reading of Ordinance No. 1, 2000, Appropriating Use Tax Carryover Reserves in the Sales and Use Tax Fund for a Rebate of Impact Fees to Symbios Logic, Inc.

On July 18, 1995, Council adopted Ordinance No. 112, 1996 approving and authorizing the rebate of impact fees associated with the construction of a 100,000 square foot office building for Symbios Logic, Inc. Fees were estimated to be \$440,000. Council approved a rebate not to exceed that amount. The Ordinance also provided that the rebate be made to Symbios Logic only after a sum equaling twice the amount of the cost to maintain the public infrastructure surrounding the facility over a twenty-year period be paid to the City. Those infrastructure costs were estimated to be approximately \$40,000. Symbios has well exceeded this amount through payments of sales and use taxes and property taxes.

20. First Reading of Ordinance No. 2, 2000, Appropriating Unanticipated Revenue in the General Fund for the Police Services Victim Services Team.

The Fort Collins Police Services Victim Services Team has been awarded a one-year grant for the period of January 1 to December 31, 2000, by the Eighth Judicial District Victims and Law Enforcement (V.A.L.E.) Board to help fund additional growth for this team. Previous V.A.L.E. grants were received in 1998 and 1999 for \$19,500 each year.

21. First Reading of Ordinance No. 3, 2000, Modifying the Description of a Previously Authorized Easement Conveyance to Charles R. Nauta and Connie L. Nauta.

In 1997, the City Council approved the execution of two drainage easements to Charles and Connie Nauta (the "Nautas"), pursuant to a Release and Settlement Agreement (the "Settlement Agreement") that had been entered into between the City and the Nautas. Those deeds of easement have not yet been executed because the property to be conveyed by one of the easements had been encumbered by a railroad right-of-way, and the City was not in a position to convey that portion of the easement to the Nautas. The City has recently



acquired title to that railroad right-of-way and is now in a position to convey that easement without any railroad right-of-way encumbrance. This Ordinance would substitute the new legal description of the easement for the one approved by Ordinance No. 79, 1997.

22. First Reading of Ordinance No. 4, 2000, Amending the Definitions of "Building Permit" in Sections 7.5-17 and 7.5-47 of the City Code.

Under Chapter 7.5 of the Code of the City, Capital Improvement Expansion (CIE) Fees, school fees in lieu of land dedication, and neighborhood parkland fees are collected prior to issuing building permits for the construction of new dwelling units. Phase I of Dry Creek Mobile Home Park, located northeast of the Downtown Fort Collins Airpark, began construction in early 1998. By July of 1999, 59 "mobile home installation permits" had been issued by City Building and Zoning Department. Building and Zoning Department Director Felix Lee (the "Director") placed a "hold" on issuing further permits upon discovering that except for Street Oversizing fees, no other impact fees were collected. The developer indicated that he had asked about all applicable fees prior to pursuing the project and was told no other impact fees would be assessed. The City and the developer soon reached an interim agreement by which additional mobile home installation permits were issued. The developer paid the disputed CIE, school fees and neighborhood parkland fees on further mobile home installations under protest to be held in a special City escrow account pending the outcome of an administrative appeal to the City Manager.

23. Items Relating to the Gateway Mountain Park.

- A. Resolution 2000-1 Authorizing the Mayor to Enter into the Second Amendment to the Intergovernmental Agreement Between the City and the Colorado Department of Transportation ("CDOT") for Highway Realignment and Access Design for Gateway Mountain Park.
- B. First Reading of Ordinance No. 5, 2000, Appropriating Unanticipated Revenue in the Capital Projects Fund for Gateway Mountain Park.

Gateway Mountain Park is a 400-acre site located five miles up the Poudre Canyon. The site is owned by the City of Fort Collins and was previously the City's Water Treatment Plant. The City Council has provided direction to make this property accessible to the public. These lands are currently inaccessible to the public because the entry road must be improved to provide safe access.

Adoption of the Resolution authorizes the amendment of the Intergovernmental Agreement between CDOT and the City of Fort Collins for the design and development of the access road to Gateway Mountain Park. The City entered into the Agreement on September 30, 1998 (Resolution 98-113).



24. Items Relating to Railroad Crossing Warning Devices for Linden Street.

- A. Resolution 2000-2 Authorizing the City Manager to Enter into an Agreement with the Colorado Department of Transportation, and the Union Pacific Railroad Company for Installing New Crossing Warning Devices at the Linden Street Crossing of the Union Pacific Railroad Tracks Northeast of Jefferson Street.
- B. First Reading of Ordinance No. 6, 2000, Appropriating Unanticipated Revenue in the Railroad Consolidation Project Fund to be used for Installing Crossing Warning Devices at the Linden Street Crossing of the Union Pacific Railroad Tracks Northeast of Jefferson Street.

The agreement with the Colorado Department of Transportation (CDOT), and the Union Pacific Railroad Company (UPRR), is for installation of crossing warning devices at the Linden Street crossing of the Union Pacific Railroad tracks northeast of Jefferson Street. The project consists of constructing new signals and gates to improve safety at the crossing.

The City applied for and received Federal ISTEAs Funds to pay for 100% of the cost to install the crossing warning devices. The appropriation ordinance appropriates the \$154,000 in Federal Funds budgeted towards the project into the Railroad Consolidation Project Fund. Not covered by federal funding, the City is required to pay for indirect costs. These costs, estimated at \$10,000, will be paid for with existing Railroad Consolidation Project Funds.

25. Items Relating to Railroad Crossing Warning Devices for Lincoln Avenue.

- A. Resolution 2000-3 Authorizing the City Manager to Enter into an Agreement with the Colorado Department of Transportation, and the Union Pacific Railroad Company for Installing New Crossing Warning Devices at the Lincoln Avenue Crossing of the Union Pacific Railroad Tracks Northeast of Jefferson Street.
- B. First Reading of Ordinance No. 7, 2000, Appropriating Unanticipated Revenue in the Railroad Consolidation Project Fund to be used for Installing Crossing Warning Devices at the Lincoln Avenue Crossing of the Union Pacific Railroad Tracks Northeast of Jefferson Street.

The agreement with the Colorado Department of Transportation (CDOT), and the Union Pacific Railroad Company (UPRR), is for installation of crossing warning devices at the Lincoln Avenue crossing of the Union Pacific Railroad tracks northeast of Jefferson Street. The project consists of constructing new signals and gates to improve safety at the crossing.

The City applied for and received Federal ISTEAs Funds to pay for 100% of the cost to install the crossing warning devices. Adoption of the Ordinance would appropriate the \$148,844 in Federal Funds budgeted towards the project into the Railroad Consolidation



Project Fund. Not covered by federal funding, the City is required to pay for indirect costs. These costs, estimated at \$6,156, will be paid for with existing Railroad Consolidation Project Funds.

26. Resolution 2000-4 Amending the City of Fort Collins' General Employees Retirement Plan.

As part of the budget process, the General Employees Retirement Committee recommended the Council consider a one-time cost of living adjustment for the retirees and beneficiaries of the General Employees Retirement Plan. This Retirement Plan was designed for non-uniformed personnel hired by the City. It is a defined benefit plan in which the amount of retirement is determined by the number of years of service and the employee's average salary as defined in the Plan at the time of retirement. The Plan does not contain an automatic inflationary adjustment provision.

During the budget process, the Council included an appropriation of funds to cover the anticipated cost of a one-time cost of living adjustment for members of the plan that retired prior to 1999. This resolution makes the corresponding adjustment to the Plan to implement the adjustment. The cost of living adjustment schedule calls for the increase to track the annual level of inflation experienced since 1990 less one percent.

27. Resolution 2000-5 Endorsing Federal Legislation Requiring the Collection of State and Local Sales and Use Taxes on Remote Sales.

In 1998, Congress enacted a law that provided for a three-year moratorium on sales and use taxes being charges on goods being sold over the Internet. The stated purpose of the law was to protect Internet based commerce (e-commerce) in the formative stages of its development. Many large e-commerce retailers convinced the Congress that this method of sales needed protection from state and local sales taxes in order to grow. Based on the studies of several national research organizations, e-commerce is not only growing, but is experiencing exponential growth. The volume of sales over the Internet is doubling every 18 months. Some research indicates certain categories of sales are growing even faster.

Allowing Internet sales to occur without regard for state and local taxes creates an inequity in tax collection obligations between mainstreet hometown businesses and their electronic and mail -order catalog competitors. Resolution 2000-5 expresses the Council's position that sales and use taxes should be collected on all types of remote vendor sales in order to maintain an equitable system of taxation.





28. Resolution 2000-7 Designating the Place for Posting Notices of Certain Public Meetings.

The state Sunshine Law requires that, at its first regular meeting of each year, the City Council designate the place for the posting of notices of meetings to be held by the Council, City boards and commissions or any committees of the same.

29. Resolution 2000-8 Making Findings of Fact and Conclusions Regarding the Appeal of a Decision of the Administrative Hearing Officer Relating to the Oakridge Business Park, 28th Filing (Bank of Colorado) Project Development Plan.

On November 9, 1999, an Amended Notice of Appeal of the October 12, 1999 decision of the Administrative Hearing Officer to approve the Oakridge Business Park PUD, 28th Filing (Bank of Colorado) – Project Development Plan was filed by the Appellant, Cimarron – Harmony Corner LLC.

On December 14, 1999, City Council voted to uphold the decision of the Administrative Hearing Officer, with one condition attached. In order to complete the record regarding this appeal, the Council should adopt a Resolution making findings of fact and finalizing its decision on the appeal.

30. Resolution 2000-9 With Respect to Issuance of Revenue Bonds of the City of Fort Collins, Colorado to Finance All or a Portion of the Cost of Acquiring, Constructing, Equipping, and Improving Certain Facilities For Anheuser-Busch Companies, Inc. and Anheuser-Busch, Incorporated; Authorizing the Execution of a Memorandum of Agreement by and Between the City of Fort Collins, Colorado and Said Corporations; and Related Matters.

In mid-November of 1999, representatives of Anheuser-Busch Companies, Inc. (the "Company") and Anheuser-Busch, Incorporated ("ABI"), a wholly owned subsidiary of the Company contacted the City to request consideration of using private activity bonds to finance sewage and solid waste disposal facility near the existing brewery located in the northeast part of the City. The Company estimates the total amount of bonds for which a private activity bond allocation would be sought for the project to be \$30 million.

Each year the City receives a private activity bond allocation from the State of Colorado. In 2000, the amount is \$2,756,250. Council has previously established affordable housing private activity bonds as the top priority use for its 2000 allocation. Staff expects that an affordable housing project will apply for the City's entire allocation and also need to request additional allocation from the Statewide balance of private activity bonds. The Company is requesting the City also support its application to the State for a portion of the statewide balance. Approval of the inducement resolution would allow the Company to submit an application to the State. The Resolution also sets the beginning point for the transaction. Costs that the Company incurs after the Resolution is approved may be reimbursed from the proceeds of the bond issue.



**\*\*\*END CONSENT\*\*\***

31. Consent Calendar Follow-up.  
This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.
32. Staff Reports.
33. Councilmember Reports.  
**Committees that have met since December 7 include:**  
*Finance Committee*                      *Growth Management Committee*  
*Health and Safety Committee*        *NFRT&AQPC*

**ITEMS NEEDING INDIVIDUAL CONSIDERATION**

34. Consideration of an Appeal Filed by Larimer County Challenging the Validity of the Building Review Board's Decision of October 28, 1999, Denying a Variance to Larimer County Regarding the City Building Code which Specifies Certain Guardrail Safety Standards Relative to the Larimer County Detention Center Expansion Project at 2405 Midpoint Drive, Fort Collins.

At its October 28, 1999, meeting, the Building Review Board (BRB) denied Larimer County a variance from certain safety standards contained in the City Building Code as they apply to second level walkway guardrails in the inmate residential areas of the new Larimer County Detention Center Expansion. The provisions of the *1991 UNIFORM BUILDING CODE™* (UBC), adopted in both the City and Larimer County at the time of and prior to construction, prohibit intermediate openings in guardrails that allow a sphere 4-inches and larger to pass through them, except in "non-public areas of commercial and industrial-type occupancies". The plans submitted with the permit application depict complying guardrails. After the new facility was well underway, the applicant unsuccessfully requested a variance from the Building and Zoning Director (the "Director") to allow the commercial-industrial exception to the general rule. Subsequently, the applicant appealed to the BRB to allow the commercial-industrial exception. The BRB denied the appeal, finding that the Director's interpretation of the code was correct and that the applicant failed to provide an acceptable alternate design or method.

35. Second Reading of Ordinance No. 192, 1999, Amending Section 24-1 of the City Code Pertaining to Signs on Bus Shelters and Bus Benches.

Ordinance No. 192, 1999, which was unanimously adopted on First Reading on December 7, 1999, permits staff to install 5 bus shelters to evaluate whether the Fort Collins citizens find the shelters acceptable as to design and function.

36. Resolution 2000-6 Establishing Guidelines for Citizen Participation at City Council Meetings.

This Resolution consolidates the rules of procedure previously established by the Council for the conduct of its meetings and establishes new time limits for citizen input regarding agenda items.

37. Pulled Consent Items.

38. Other Business.

39. Adjournment.