

**AGENDA**  
OF THE  
COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

March 15, 2005

**Proclamations and Presentations**  
**5:30 p.m.**

- A. Proclamation Proclaiming March 31, 2005 as "Cesar Chavez Day."
- B. Proclamation Recognizing Joseph Akmakjian as the 2005 North Central Colorado Goodwill Ambassador for the Muscular Dystrophy Association.
- C. Presentation Recognizing Fort Collins as a "Take Pride in America Community."

**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 24 . 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 #31, 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. Second Reading of Ordinance No. 026, 2005, Amending Chapter 7.5 and Chapter 26 of the City Code to Establish Requirements and Procedures for Utility Service Outside the Fort Collins Growth Management Area.

Chapter 26 of City Code outlines a process in which water or wastewater service can be provided outside city limits if certain conditions are met. City Plan Policy GM-5.1 discourages extension of utilities outside the City's Growth Management Area ("GMA") unless the extension is consistent with City Plan and has a community benefit. Ordinance No. 026, 2005, which was unanimously adopted on First Reading on March 1, 2005, will clarify this ambiguity and require that the areas to be served outside the GMA must be approved by City Council.

8. Second Reading of Ordinance No. 027, 2005, Appropriating Bond Proceeds in the Water Fund.

A \$4,150,781.22 non-interest bearing bond was issued to the City of Fort Collins Water Utility Enterprise to acquire from the North Poudre Irrigation Company (NPIC) the property and rights it owns that were necessary to proceed with the permitting and development of the Halligan Reservoir Enlargement Project, however, no appropriation was done at that time. The transfer and sale of the property to the City of Fort Collins closed on January 22, 2004. Because the debt consists of a non-interest bearing bond, the value of the investment in the property is calculated at the net present value of the payment streams required in the bond obligation, which results in an appropriation for \$2,476,446.24 in constructive bond proceeds. The City will commit to the annual payments, which includes the principal and

the interest as imputed, for the next 27 years. The Water Utility will pay the debt primarily from development fees paid to the City.

This Ordinance, which was unanimously adopted on First Reading on March 1, 2005, appropriates the constructive bond proceeds to the Halligan Project.

9. Second Reading of Ordinance No. 028, 2005, Appropriating Unanticipated Revenue in the Storm Drainage Fund for Projects to Reduce Peak Flows in the Spring Creek Basin.

The Spring Creek Stormwater Basin Master Plan identified several capital projects to reduce the risk of flooding in the Spring Creek Basin. A \$2,697,188 State of Colorado Division of Emergency Management ("CDEM") Grant has been awarded to the City for the construction of some of the stormwater projects in the Spring Creek Basin. The projects to be constructed with the grant include expansion of the Taft Hill, Rolland Moore and Southern Railroad Detention Ponds and the stabilization of the Burlington Northern Railroad embankment. The performance period for the grant is December 16, 2004 through December 31, 2006.

This new grant was made available from the CDEM through an agreement with the Federal Emergency Management Agency for Pre-Disaster Mitigation ("PDM") projects. The Fort Collins projects were selected through a nationwide competitive process and may be the first in the nation to be awarded the PDM grant for a capital project.

The Ordinance, which was unanimously adopted on First Reading on March 1, 2005, appropriates the grant proceeds to the Spring Creek PDM Capital Project.

10. Second Reading of Ordinance No. 029, 2005, Amending Chapter 15 of the City Code Relating to the Definition of Outdoor Vendor Licensees Downtown Plan Area Concessionaires.

Chapter 15, Article XIV of the City Code defines various terms used in that Article which pertain to the licensing of "outdoor vendors." This Ordinance, which was unanimously adopted on First Reading on March 1, 2005, would establish a distinction between outdoor vendors and "downtown plan area concessionaires." Staff recommends adoption of the Ordinance, as it was the original intent to differentiate between the two different operations when the Outdoor Vendor Ordinance was revised in 1994. The amendment to the Code would reflect what the working procedure has been since 1994.

11. Second Reading of Ordinance No. 030, 2005, Amending the Land Use Code by Adding "Resource Recovery" Use to the Public Open Lands (P-O-L) Zoning District.

This Ordinance, which was unanimously adopted on First Reading on March 1, 2005, would amend the Land Use Code to add "Resource Recovery" to the P-O-L zoning district.

Resource recovery is defined as:

“The process of obtaining materials or energy, particularly from solid waste”.

Resource recovery complements existing uses in the Land Use Code related to waste diversion, including recycling and composting facilities, but permits additional alternatives to landfilling.

In the short-term, adding Resource Recovery to the P-O-L district will allow the Natural Resources Department (NRD) to lease existing facilities at the Resource Recovery Farm to Frontline Bioenergy for experimental research in extracting hydrogen from biomass (specifically chipped tree branches). The 150-acre Resource Recovery Farm (RRF) is located just south of East Prospect Road at I-25.

12. Second Reading of Ordinance No. 031, 2005, Amending Various Sections of the Fort Collins Traffic Code.

At the time of the adoption of the Traffic Code, it was the understanding of staff and Council that the Traffic Code would most likely be subject to future amendments, not only for the purpose of clarification and correction of errors, but also for the purpose of ensuring that the Traffic Code remains consistent with State traffic laws. The proposed amendments will:

- Renumber the speeding in a construction and school zones sections for placement in the speeding section of the Traffic Code, a more logical placement for these provisions; and
- Renumber the funeral procession provision for placement in a more appropriate section of the Traffic Code; and
- Provide a definition for "street rod" consistent with State statute.

Staff submitted the changes to Colorado Department of Transportation (CDOT) for approval. CDOT has approved the ordinance changes as written.

Ordinance No. 031, 2005 was unanimously adopted on First Reading on March 1, 2005.

13. Second Reading of Ordinance No. 032, 2005, Adding Restitution Requirements to Section 1-15 of the City Code Relating to the General Penalty for City Code Violations and Traffic Infractions.

This Ordinance, which was unanimously adopted on First Reading on March 1, 2005, clarifies when restitution can be ordered as a condition of sentencing for violations of the Municipal Code.

14. Second Reading of Ordinance No. 033, 2005, Authorizing the Conveyance of a Non-Exclusive Easement to LaFarge West, Inc. Over, Across and Under a Portion of the Poudre Trail.

The City has constructed the Poudre Trail east and west of Taft Hill Road. The latest segment was constructed west of Overland Trail on a strip of land that was donated by LaFarge West, Inc. LaFarge still owns land abutting both sides of the Trail. The property on both sides is being used for water storage and LaFarge has a need to connect between the ponds on both sides of the trail. LaFarge is requesting easements for underground pipe installation to convey water in 3 locations on the City-owned property. Each easement will be 85 feet by 100 feet. City staff has reviewed the request and has no objections to the requested easements. Ordinance No. 033, 2005, was unanimously adopted on First Reading on March 1, 2005.

15. Second Reading of Ordinance No. 034, 2005, Authorizing the Lease of City-Owned Property at 3829 East Prospect Road, Fort Collins, Colorado, to Frontline Bioenergy.

Vacant buildings suitable for industrial uses are located on the Resource Recovery Farm property (RRF), which was transferred from Utilities to the Natural Areas program for use as open space in 2003. Frontline BioEnergy, which is working to develop innovative technology and integrate systems that convert biological waste materials (biomass) into useful energy products such as hydrogen through thermal or microbial processes, is interested in using certain of the buildings at RRF. Frontline BioEnergy offers proven research methods, design and manufacturing expertise, and system integration. In furtherance of the City Council adopted policy of encouraging development of and implementing hydrogen-related projects in Fort Collins, and funds have been budgeted for Utilities' use for hydrogen fuels projects. Utilities has proposed to use a portion of those funds to assist Frontline BioEnergy in acquiring this lease space from the Natural Areas program for the start-up of its operations.

The lease would include the following: both levels of the office, consisting of 2,106.88 square feet, 2,450.09 square foot section of the shop, and an outside area on which the tenant would construct a temporary open front pole shed, together with a small amount of parking area. Ordinance No. 034, 2005, was unanimously adopted on First Reading on March 1, 2005.

16. Second Reading of Ordinance No. 035, 2005, Authorizing the Conveyance of a Non-exclusive Easement Interest to North Weld County Water District for an Existing Waterline Across the Vehicle Storage Building Property.

The Vehicle Storage Building Property is located at 701 Wood Street. There is an existing North Weld County Water District waterline across the property that was installed in the 1960s without recorded documentation that City staff or North Weld County Water District Staff can locate. The line was in place at the time the City acquired the property, and City

staff likely knew of the existence of the waterline, as it continues across a number of other properties owned by the City.

Both parties acknowledge that an easement document defining and providing notice of the waterline easement needs to be executed and recorded. Ordinance No. 035, 2005, was unanimously adopted on First Reading on March 1, 2005.

17. Second Reading of Ordinance No. 037, 2005, Repealing and Reenacting Article II of Chapter 10 of the City Code Regarding Flood Hazard Areas.

This Ordinance, which was unanimously adopted on First Reading on March 1, 2005, modifies the City Code to reflect changes to the floodplain regulations that balance risk with regulation for floodplains citywide, excluding the Poudre River floodplain. Regulations for the floodway (areas of the highest risk) are more restrictive than for areas in the floodplain fringe and moderate risk areas. Regulations are more restrictive for new development and less restrictive for existing development. Residential development has more restrictive regulations than non-residential development. Areas of the lowest flood hazard, moderate risk floodplains, are not subject to any restrictions.

Other changes to the Code include the incorporation of restrictions for erosion buffer zones, which have previously been addressed in stormwater master plans. Revisions were also made to bring the Code into compliance with current FEMA criteria. To make the City Code more user friendly and easier to understand, the entire Flood Hazard article (Article II) was rewritten and more details were added to clarify specific types of development activities and the applicable floodplain requirements. The section regarding the Poudre River floodplain has no policy changes but was changed to be in the same format.

Public outreach was completed during the formulation of the floodplain regulation changes which included mailings, open houses, boards and commissions review and newspaper articles. City Council discussed this item at its January 13, 2004, and February 8, 2005, study sessions.

18. Items Related to Grant Funding for a Compressed Natural Gas Backup Compressor at the Transfort Alternative Fueling Station.

- A. Resolution 2005-021 Authorizing the Execution of an Intergovernmental Agreement with the Colorado Department of Transportation for the Construction and Installation of a Compressed Natural Gas Backup Compressor at the Transfort Alternative Fueling Station.
- B. First Reading of Ordinance No. 038, 2005, Appropriating Unanticipated Revenue in the Equipment Fund and Authorizing the Transfer of Existing Appropriations in the Equipment Fund for Construction and Installation of a Compressed Natural Gas Backup Compressor at the Transfort Alternative Fueling Station.

These actions are necessary to move forward with the installation of a backup Compressed Natural Gas facility which will provide additional fast fueling capability and a redundancy system in the event of a main compressor malfunction. This system will be critical in Transfort's fueling capability, as Transfort continues to acquire additional Natural Gas buses.

19. Resolution 2005-022 Establishing Rental Rates and Delivery Charges for the City's Raw Water for the 2005 Season.

This Resolution approves rates for the rental and use 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. Each year prior to the irrigation season, the City's Water Board ("the Board") makes a recommendation to the Council regarding the raw water charges. The Board discussed the proposed rental rates and charges at its February 24, 2005 meeting. The proposed rate for each type of water is based on several factors including market conditions and assessments charged by irrigation companies.

20. Resolution 2005-023 Authorizing the One-Year Extension of a Lease of the City Ditch on City-owned Property at 2005 North Overland Trail in Larimer County, Colorado to Larimer County Canal No. 2 Irrigating Company.

This Resolution authorizes the extension of a lease to Larimer County Canal No. 2 Irrigating Company of the City Ditch on the City's old Water Works Property at 2005 North Overland Trail Road. Although the original 1906 lease provided for an automatic renewal of the lease for an additional 99-year term at the Ditch Company's option, the Council's authorization at the time only authorized the lease for the initial 99 years. Pending resolution of this matter for the long term, an extension for one year will allow the continued use of the City Ditch for irrigation flows on the same terms as have been in place for the past 99 years, and will avoid disruption of the right to run those irrigation flows in the City Ditch for the 2005 irrigation season.

21. Resolution 2005-024 Extending the Term of the Ad Hoc Compensation and Benefits Committee.

The Committee has recommended that the Council extend its existence in order to allow the City Manager to communicate with City employees regarding the Committee's recommendations. The extension would be through April 26, 2005.

22. Resolution 2005-025 Appointing Arbitrators to the Collective Bargaining Panel Pursuant to Section 2-624 of the City Code.

Citizen-Initiated Ordinance No. 1, 2004, which was approved by City voters in April of 2004, created Section 2-624 of the City Code which provides for the establishment of a permanent panel of arbitrators whose role will be to hear requests for binding arbitration. This Resolution establishes the panel of arbitrators.

23. Resolution 2005-026 Filling a Vacancy on the Economic Vitality and Sustainability Panel.

On September 21, 2004 City Council adopted Resolution 2004-113 and endorsed the establishment of an Economic Vitality and Sustainability Panel which shall: (a) serve as a forum for the continued discussion of economic vitality and sustainability issues; (b) provide information and advice to City Council, the City Manager and the Economic Advisor on a regular basis; (c) provide guidance in the creation and implementation of a formal action plan; (d) facilitate partnerships that lend organizational support for the implementation of economic vitality and sustainability partnership strategies; and (e) report to City Council, on an annual basis, progress achieved towards improving the economic vitality and sustainability of the Fort Collins community.

Resolution 2005-026 appoints Gary Amato as a member of the Economic Vitality and Sustainability Panel. Mr. Amato replaces former member Hank Gardner, who was forced to resign his position due to schedule conflicts.

24. Routine Easements.

- A. Easement from construction and maintenance of public utilities from Mulhge, LLC, to install a 3 phase switch cabinet and padmount transformer to underground the overhead electric system, located at 1412 East Mulberry. Monetary consideration: \$1500.
- B. Easement dedication from FC Timberline Development, LLC, for a new screen wall at 4502 John F. Kennedy Parkway. Monetary consideration: \$0.
- C. Sidewalk easement from The Landings Community Association, Inc., located on Tract D, Whaler's Cove, Second Replat. Monetary consideration: \$500.

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

25. Consent Calendar Follow-up.

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



26. Staff Reports.
27. Councilmember Reports.

### **ITEMS NEEDING INDIVIDUAL CONSIDERATION**

28. Second Reading of Ordinance No. 025, 2005, Amending Section 2-31 of the City Code so as to Clarify That City Council Can Provide Direction to City Staff or Other Persons During Executive Sessions. (5 minutes - no staff presentation)

This Ordinance, which was adopted as amended 6-1 (Nays: Councilmember Tharp) on First Reading, amends Section 2-31 of the City Code pertaining to executive sessions to clarify that Council can provide direction to City staff or other persons during the course of an executive session with regard to the matters that are permissible for discussion in executive session.

29. Resolution 2005-027 Expressing City Council's Support of the April 5, 2005 Ballot Measure to Renew the City's Street Maintenance Sales and Use Tax for Ten (10) Additional Years. (20 minutes - 5 minute staff presentation)

On February 1, 2005, City Council placed a renewal of the City's Street Maintenance sales and use tax on the April 5, 2005 City election ballot. The current 1/4 cent sales tax has been in place since voters approved it in 1997. The tax is set to expire December 31, 2005. By seeking voter approval of the tax extension, uninterrupted funding of the program can be assured. Ballot Issue No. 3 asks for voter approval to extend the tax for 10 years, with a term running from January 1, 2006 through December 31, 2015.

The Street Maintenance Program provides funding for the repair and renovation of the City's street system. All 475 miles of city streets are covered by the program including arterials, collectors and residential streets. The program covers major maintenance and preventative maintenance of streets including repairs, renovations and reconstruction when necessary. Maintenance is also performed on curbs, gutters, bridges, sidewalks, parkways, shoulders and medians.

The purpose of this resolution is to express City Council's support of Ballot Issue No. 3. Renewal of the sales tax is a key component of the City's financial stability and the City's ability to maintain a high quality, efficient transportation system.

30. Resolution 2005-028 Amending the Growth Management Area (GMA) Boundary to Include the Fossil Creek Cooperative Planning Area (CPA). (30 minutes - 5 minute staff presentation)

This is a request to amend the Fort Collins Growth Management Area (GMA) boundary to include the Fossil Creek Cooperative Planning Area (CPA), an area of approximately 2.25

square miles. The CPA was identified as a location for a possible amendment to the GMA boundary in the recently adopted update to City Plan (May 2004) and City Structure Plan map. If approved by the City Council, the boundary amendment will be forwarded to the Board of Commissioners of Larimer County for approval as amendment to the Intergovernmental Agreement for the Fort Collins GMA.

31. Pulled Consent Items.
32. Other Business.
33. Adjournment.