



# REGULAR MEETING AGENDA

## FORT COLLINS CITY COUNCIL

June 7, 2005

Doug Hutchinson, Mayor  
Karen Weitkunat, District 2, Mayor Pro Tem  
Ben Marvel, District 1  
Diggs Brown, District 3  
Kurt Kastein, District 4  
Kelly Ohlson, District 5  
David Roy, District 6

City Council Chambers  
City Hall West  
300 LaPorte Avenue  
Fort Collins, Colorado

Cablecast on City Cable Channel 27  
on the Comcast cable system

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

- A. Presentation of a Proclamation to City Council by Representatives of the Greeley Independence Stampede Proclaiming June 24, 2005 as "Fort Collins Day" at the Greeley Independence Stampede.
- B. Proclamation Proclaiming June 2005 as "Bike Month."

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

#### PLEDGE OF ALLEGIANCE

1. CALL MEETING TO ORDER.
2. ROLL CALL.

## 3. CITIZEN PARTICIPATION (limited to 30 minutes)

Individuals who wish to address the Council on items not specifically scheduled on the agenda must first be recognized by the Mayor or Mayor Pro Tem. 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.

- State your name and address for the record
- Applause, outbursts or other demonstrations by the audience is not allowed
- Keep comments brief; if available, provide a written copy of statement to City Clerk

## 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

### Consent Calendar

The Consent Calendar consists of Items 6 through 29. 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 Item No. 35, Pulled Consent Items. 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 Regular Council Meeting Minutes of May 3, 2005.7. Second Reading of Ordinance No. 053, 2005, Appropriating Prior Year Reserves in the General Fund for Cultural Development and Programming Activities and Tourism Capital.

This Ordinance, which was unanimously adopted on First Reading on May 17, 2005, appropriates lodging tax revenues that were in excess of 2004 budgeted lodging tax receipts to Cultural Development and Programming ("CDP"), Visitor Events, and Tourism Capital fund accounts. Lodging tax revenue for 2004 was estimated to be \$573,600 and the 2005 budget appropriated an equal amount. However, actual receipts totaled \$601,143 for 2004 and the difference of \$27,543 has not been appropriated.

In accordance with City Code Section 25-244, 75% of the total lodging tax receipts are to be used for the promotion of convention and visitor activities and 25% for cultural development and programming activities. The City's contract for services with the

Convention and Visitors Bureau ("CVB") requires the payment of \$400,000 to CVB for 2005, with \$5,213 for service enhancements.

8. Second Reading of Ordinance No. 054, 2005, Authorizing the Transfer of Appropriations from the Street Oversizing Fund to the Capital Project Fund - Timberline Road Improvements Project to Be Used for Completion of Engineering Design and Establishing Appropriations for Railroad Crossing Improvements at the Project.

Developers have contributed \$100,000 to the City to begin the engineering design of Timberline Road from Prospect to Drake. There are additional engineering design costs with the project to be funded by Street Oversizing. This item appropriates \$184,000 into the project budget for the completion of the final engineering design. In addition, railroad crossing permits with Great Western Railroad for widening the track on both Timberline Road and Prospect Road need to be submitted one year in advance of the construction in order to schedule the railroad crews. The permit requires that funds for the crossing material and labor be budgeted and available in the project. \$280,000 will be appropriated and earmarked for the railroad crossing agreement in order to submit the required permits and work orders. The total transfer amount is \$464,000 and is available in existing Street Oversizing Fund appropriations. Ordinance No. 054, 2005, was unanimously adopted on First Reading on May 17, 2005.

9. Second Reading of Ordinance No. 055, 2005, Authorizing the Purchasing Agent to Enter into an Agreement for the Financing by Lease-Purchase of Vehicles and Equipment.

This Ordinance, which was unanimously adopted on First Reading on May 17, 2005, authorizes the Purchasing Agent to enter into a lease-purchase financing agreement with Koch Financial Corporation at 4.96 percent interest rate. The agreement is for an original term from the execution date of the agreement to the end of the current fiscal year. The agreement provides for renewable one-year terms thereafter, to a total term of five (5) years, subject to annual appropriation of funds needed for lease payments. The total lease terms, including the original and all renewal terms, will not exceed the useful life of the property. This lease-purchase financing is consistent with the financial policies of the City of Fort Collins.

All equipment shall be purchased following the City's purchasing ordinances and procedures to ensure that the City realizes all cost savings. The vehicles and equipment financed under the agreement will comply with applicable City policies, and will be in accordance with the goal of optimizing City resources without impacting service to the community.

10. Second Reading of Ordinance No. 056, 2005, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the Schrader Rezoning.

This is a request to rezone a parcel owned by Schrader Oil Company and the abutting Burlington Northern Santa Fe right-of-way, presently zoned T (Transition), to RDR (River Downtown Redevelopment). The subject site consists of 5 ± acres located south of Willow Street and east of College Avenue. Ordinance No. 056, 2005, was unanimously adopted on First Reading on May 17, 2005.

11. Postponement of Second Reading of Ordinance No. 057, 2005, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary for the Construction of Public Improvements in Connection with the Dry Creek Drainage Improvements Project - East Vine Diversion Channel, to July 5, 2005.

This item, which was originally scheduled for the June 7, 2005 meeting has been postponed to July 5, 2005. Since Council approval of this item on First Reading on May 17, 2005, staff has been meeting with the Weiss' to discuss the project and their issues. Further meetings have been scheduled in the next couple of weeks, including a site inspection by the appraiser hired by the City. Staff will be using this extra time to continue to work with the Weiss' and to insure they understand the process and have sufficient notification of the July 5, 2005 Council meeting for Second Reading consideration of the item.

12. Second Reading of Ordinance No. 058, 2005, Authorizing an Easement for a Pedestrian Bridge for Opera Gardens Lofts.

The development of Opera Garden Lofts was approved as a minor amendment to the Opera Galleria, contingent upon the developer being able to provide off-street parking to the users of the new mixed-use building and also contingent upon negotiating permission from the City for a bridge between the Opera Galleria and the Civic Center Parking Structure ("CCPS"). The developer cannot commence construction until this easement is granted. The developer has indicated that this bridge is important to make the Opera Garden Lofts project more attractive to lenders and potential purchasers of units.

The Opera Gardens Lofts project will add two floors to the Opera Galleria. The easement request is to construct an above-grade pedestrian bridge from the 4th floor of the CCPS to one of the new floors of the Opera Galleria. This pedestrian bridge will not replace the existing bridge, which is a public bridge. The new bridge will be a private bridge to be used by users of the mixed-use structure. Ordinance No. 058, 2005, was unanimously adopted on First Reading on May 17, 2005.

13. Items Related to the Completion of the Spring Cycle of the Competitive Process for Allocating City Financial Resources to Affordable Housing and Community Development Projects/ Programs and Community Development Activities Utilizing Community Development Block Grant (CDBG) and HOME Investment Partnership Funds.

- A. Second Reading of Ordinance No. 059, 2005, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations Between Program Years in the Community Development Block Grant Fund.
- B. Second Reading of Ordinance No. 060, 2005, Appropriating Unanticipated Revenue in the HOME Investment Partnerships Fund.

The Community Development Block Grant (CDBG) Program and HOME Investment Partnership Program provide Federal funds from the Department of Housing and Urban Development (HUD) to the City of Fort Collins which can be allocated to housing and community development related programs and projects, thereby, reducing the demand on the City's General Fund Budget to address such needs. The City Council is being asked to

consider the adoption of two resolutions related to funding under the CDBG and HOME Programs. Specific projects for the use of HOME funds will be determined in November as a result of the fall funding cycle of the competitive process for the allocation of the City's financial resources to affordable housing programs/projects and community development activities. Ordinance Nos. 059 and 060, 2005 were unanimously adopted on First Reading on May 17, 2005.

14. First Reading of Ordinance No. 061, 2005, Appropriating Unanticipated Revenue in the Street Oversizing Fund and Authorizing the Transfer of Appropriations from the Street Oversizing Fund to the Capital Project Fund - Trilby and Ziegler Road Improvements Project.

The construction of Kinard Junior High School requires minor arterial street improvements for Ziegler Road adjacent to the school property. Staff worked with the Poudre R-1 School District in an effort to coordinate the completion of Ziegler between Trilby Road and Kechter Road as well as the connection of Trilby between Timberline Road and Kechter. The improvements will be to an important segment of roadway which will provide primary access to the new Kinard Junior High School projected to open in the fall of 2006. This project is funded entirely through developer contributions and the construction will be managed by the City Street Oversizing Program staff.

15. First Reading of Ordinance No. 062, 2005, Approving the Terms of the City's Lease of Building 15, Old Town Square, Fort Collins, Colorado.

In order for this property to become tax exempt, state law requires that the Council approve the terms of the lease by Ordinance.

Since February 1996, the City has been leasing space in Old Town Square for the Police Services District One office. Police Services has leased the present Old Town Square location since January 1, 2000, which term ended and then renewed for one year on January 1, 2004. The present lease term commenced January 1, 2005 and will expire December 31, 2009. Lease payments under the new lease will include base rent, common area maintenance ("CAM") expenses, insurance, utilities and taxes (should they apply). Base rent for the first year shall be \$11.00 per square foot based on 2,075 square feet. The second and third year base rents shall escalate to \$12.00 per square foot. The fourth year will escalate to \$13.00 per square foot, and the fifth year to \$14.00. This escalation was based upon a negotiated amount in line with market rents. CAM, insurance and utilities are based on the City's pro rata share. For the first year the estimated prorated monthly charges amount to \$1.90 per square foot for CAM, \$.28 per square foot for insurance, and \$2.13 per square foot for utilities.

16. First Reading of Ordinance No. 063, 2005, Authorizing a Deed of Easement for the Pleasant Valley Pipeline.

In April of 2001, the City of Fort Collins purchased certain real property from the estate of Robert Udall to be used as the Reservoir Ridge Natural Area. The City acquired the property along with any existing easements of record. Prior to the City obtaining title to the property, Robert Udall had granted an easement to Northern Colorado Water Conservancy District

(NCWCD) for the Pleasant Valley Pipeline, which is used by Fort Collins Utilities to convey water. In March of 2005, NCWCD determined that the legal description used for the original easement was incorrect (it referenced an incorrect Range), making the original easement defective. Because the City is the current owner of record the City has been asked to approve a Deed of Easement correcting the legal description error. Once approved, NCWCD will record the document and provide a copy for City records.

17. First Reading of Ordinance No. 064, 2005, Authorizing the Dedication of a Parcel of Land and a Permanent Public Transportation Easement to the City of Loveland on Jointly Owned City and City of Loveland Property at the Fort Collins-Loveland Municipal Airport.

The City of Loveland is seeking to construct a roundabout at the intersection of Crossroads Boulevard and Rocky Mountain Avenue in order to facilitate airport area development and improvements.

The area of proposed dedication is .571 acres in size, and the Public Transportation Easement will encumber an area .354 acres in size. Both dedication and easement are generally located at the southeast corner of Section 33, Township 6 North, Range 68 West, a portion of the airport property.

Staff has determined that cooperating with Loveland in completing the planned improvements will be of general benefit to the Airport. In addition, due to Federal Aviation Administration ("FAA") funding for the Airport, it is anticipated that the City would be required to pay to the FAA any compensation required from Loveland for the conveyances. Consequently, staff is recommending that no compensation be required in this instance.

18. First Reading of Ordinance No. 071, 2005, Amending Chapter 2, Article 5 of the City Code Pertaining to Administrative Organization.

This ordinance makes the necessary Code amendments involving the restructuring of Administrative Services and Communication and Technology Services. These changes are recommended to ensure a more consistent approach towards improving accountability and increasing efficiencies in the services these two areas support.

19. Resolution 2005-058 Authorizing the City Manager to Grant Revocable Permits to Schrader Oil Company and the U.S. Environmental Protection Agency on the Aztlan Center Property for Environmental Sampling and Related Activities.

Schrader Oil Company representatives have requested that the City allow well sampling by Schrader at the "Poudre River Cleanup Site" property. Staff is recommending that the City grant revocable permits as needed, in the form of license agreements, to Schrader Oil Company for this limited purpose. It is important to note that the monitoring wells Schrader has selected to sample are not permitted by the State of Colorado as is normally required for sampling. However, under EPA's jurisdiction, Paul Peronard, the EPA On-Scene Coordinator, has provided verbal approval for Schrader Oil Company to sample these wells under the AOC. Staff is recommending that the City Council adopt this Resolution in order to authorize the City Manager to enter into the necessary license agreements, including such

terms and conditions as may be necessary to protect the interests of the City and minimize impacts to the City's property.

20. Items Relating to the Kingdom Hall Annexation and Zoning.

- A. Resolution 2005-059 Setting Forth Findings of Fact and Determinations Regarding the Kingdom Hall Annexation.
- B. First Reading of Ordinance No. 065, 2005, Annexing Property Known as the Kingdom Hall Annexation to the City of Fort Collins, Colorado.
- C. First Reading of Ordinance No. 066, 2005, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Kingdom Hall Annexation to the City of Fort Collins, Colorado.

This is a 100% voluntary annexation and zoning of a property approximately 3.87 acres in size. The site is 2104 Kechter Road and located at the northeast corner of South Timberline Road and Kechter Road. Contiguity with the existing municipal boundary is gained along the entire west boundary which abuts Timberline Road the Willow Springs subdivision. The requested zoning is U-E, Urban Estate. This zoning complies with the Structure Plan Map.

21. Postponement of Items Relating to the Airpark Village Annexation and Zoning, to August 16, 2005.

This item, which was originally scheduled for the June 7, 2005, meeting has been postponed to August 16, 2005. The item is being continued primarily due to concerns regarding the proposed amendment to the East Mulberry Corridor Plan (E.M.C.P.) and the Structure Plan Map. Such an amendment is required before the Planning and Zoning Board can recommend Employment zoning for the 147- acre parcel. The applicant is requesting Employment zoning whereas the E.M.C.P. and the Structure Plan Map indicate Industrial zoning. A re-hearing with the Planning and Zoning Board is scheduled for July.

22. Items Relating to the Transfer of Ownership of Harmony Road (State Highway 68) Between College Avenue and I-25 from the Colorado Department of Transportation to the City of Fort Collins.

- A. Resolution 2005-060 Authorizing the Mayor to Enter into an Intergovernmental Agreement with the Colorado Department of Transportation to Transfer the Administrative Control, Maintenance and Ownership of Harmony Road (State Highway 68) between College Avenue and I-25 from the Colorado Department of Transportation to the City of Fort Collins.
- B. First Reading of Ordinance No. 067, 2005, Accepting the Abandoned Portion of State Highway 68 (Harmony Road) from Mile Post 0.00 to Mile Post 4.468 as part of the City's Street System.

The Colorado Department of Transportation (CDOT) and City of Fort Collins Transportation Services have been discussing the transfer of ownership of Harmony Road from CDOT to

the City of Fort Collins for many years. This 4.5 mile section of road is developing into an urban arterial. CDOT made proposals for transfer of ownership of Harmony Road in the past, but the City resisted because of the additional costs involved.

In the most recent discussions CDOT offered funds in a one-time payment to the City to fund upgrades and offset the cost of maintenance cost over the next 20 years. CDOT and the City's Transportation staff worked together to develop estimates for the 20 year maintenance. CDOT will retain maintenance responsibility for the portion of Highway 68 between the west frontage road and I-25, including the frontage road intersection. The City will accept responsibility for the portion west of the frontage road. CDOT is offering a one-time payment of \$13,700,000 to the City to take ownership on this section of Harmony Road. There is some urgency to this matter because part of these funds need to be committed by CDOT within its current fiscal year (before July 31, 2005).

23. Resolution 2005-061 Finding Substantial Compliance and Initiating Annexation Proceedings for the Crawford Annexation.

This item was considered by Council on April 19, 2005, and was postponed to this date to allow staff to determine the ownership of a 30-foot strip of land included in the annexation.

The Crawford Annexation has been revised to remove the westerly 30-foot strip. This 30-foot strip was Quit Claimed in 1902 to another party for access purposes and is not owned by the petitioner. The parcel has been reduced in size and now consists of 29.56 acres. Also it has come to light that the original petition for annexation was signed by the wrong entity, having been signed by Mr. Willox as an individual rather than by the true owner, which is a limited liability company of which he is the manager. Therefore, it is necessary to re-initiate this annexation.

The site is located approximately one-half mile west of North College Avenue on the south side of Willox Lane. Contiguity with the existing municipal boundary is gained along the eastern boundary which is shared with the west property line of the Hickory Village Mobile Home Park. Contiguity is also gained along a portion of the southern boundary which is shared with the north property line of the City of Fort Collins Soft Gold Park. The recommended zoning is U-E, Urban Estate. This zoning complies with the Structure Plan Map.

24. Resolution 2005-062 Authorizing the City to Enter into a Change Order with Felsburg Holt & Ullevig to Amend an Existing Agreement to Include the Design of the Mason Transportation Corridor Trail Project North from the Spring Creek Trail to Connect with the Colorado State University Campus as an Exception to the Competitive Process over \$100,000.

This Resolution will authorize the City Manager to amend the existing agreement, by change order, with the consulting firm of Felsburg Holt & Ullevig (FHU), which designed the southern portion of the trail, to include the design for the Mason Transportation Corridor (MTC) Trail project north from the Spring Creek Trail through the CSU campus. In the future, the City will continue to pursue additional grant funding to cover the construction costs for this segment of the MTC Trail. This extension of the MTC Trail northward from



the Spring Creek Trail is consistent with the adopted Master Plan for the Mason Transportation Corridor Project.

25. Resolution 2005-063 Authorizing the City to Enter into a Construction Agreement with The Burlington Northern and Santa Fe Railway Company for Construction Services Adjacent and Upon Railway's Right-of-Way and/or Property, as an Exception to the Competitive Process over \$100,000.

The Burlington Northern and Santa Fe Railway Company (the "Railway") will construct two bridges as part of the Dry Creek Basin Improvements Project.

26. Resolution 2005-064 Approving an Intergovernmental Agreement with the City of Thornton Concerning the Dry Creek Drainage Improvements Project.

The design portion of the Dry Creek Drainage Improvements Project ("Project") began in 2003. Portions of the Project are currently underway and the balance is scheduled to start later in 2005 with completion scheduled in 2006. The total project involves a combination of sub-projects in the upper, middle and lower basins to reduce the likelihood of flooding.

27. Resolution 2005-065 Approving Expenditures from the Art in Public Places Reserve Account in the Light and Power Utility Fund to Commission an Artist to Design and Paint Murals on Transformer Cabinets Located in the Alley West of College Avenue and North of Laurel Street.

This Resolution will approve expenditures of \$12,380 for design, materials, installation and contingency for a project for artist Sandy Toland to paint murals on five transformer cabinets located in the alley west of College Avenue and north of Laurel Street.

28. Resolution 2005-066 Reappointing Gordon F. Esplin as Temporary Judge and Authorizing the Execution of an Employment Agreement.

Council originally appointed Gordon F. Esplin as Temporary Judge (Assistant Municipal Judge) in 1989, and has reappointed him every two years thereafter. His current appointment terminates on June 30, 2005. Municipal Judge Kathleen M. Lane recommends that Mr. Esplin be reappointed for another two-year term.

Mr. Esplin is currently paid \$85 per hour for his services. That rate is well below the going rate for legal fees in Fort Collins and is at or below the amount paid to other Assistant Municipal Judges in Colorado who serve only occasionally. However, due to budgetary constraints, staff is not recommending an increase in the compensation paid to Mr. Esplin at this time. Mr. Esplin has agreed to continue in this position at the current pay rate.

29. Resolution 2005-067 Making Appointments to the Affordable Housing Board and the Zoning Board of Appeals.

A vacancy currently exists on the Affordable Housing Board due to the resignation of Sunshine Workman. Councilmember Kastein reviewed the applications on file and is

recommending Kevin Brinkman to fill the vacancy with a term to begin immediately and set to expire on December 31, 2009.

A vacancy also exists on the Zoning Board of Appeals due to the resignation of Steve Remington. Councilmembers Ohlson and Weitkunat reviewed the applications on file and conducted interviews. The Council interview team is recommending Jim Pisula to fill the vacancy. The term will begin immediately and is set to expire on December 31, 2007.

## END CONSENT

### 30. Consent Calendar Follow-up.

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

### 31. Staff Reports.

### 32. Councilmember Reports.

## 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.

### 33. Items Relating to the Sunrise Ridge Annexation and Zoning. (45 minutes - 10 minute staff presentation)

- A. Resolution 2005-068 Setting Forth Findings of Fact and Determinations Regarding the Sunrise Ridge Annexation.
- B. First Reading of Ordinance No. 068, 2005, Annexing Property Known as the Sunrise Ridge Annexation to the City of Fort Collins, Colorado.

- C. First Reading of Ordinance No. 069, 2005, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Sunrise Ridge Annexation to the City of Fort Collins, Colorado.

This is a 100% voluntary annexation and zoning of a property approximately 10.34 acres in size. The site is 5101 S. Strauss Cabin Road located approximately one-half mile south of East Harmony Road on the west side of Strauss Cabin Road. Contiguity with the existing municipal boundary is gained along the entire west boundary which is shared with the east property line of the Willow Brook Subdivision (Observatory Village). Contiguity is also gained along the entire northern boundary which is shared with the south property line of Brookfield Subdivision (Morningside Townhomes).

34. First Reading of Ordinance No. 070, 2005, Making Various Amendments to the City of Fort Collins Land Use Code. (30 minutes - 10 minute staff presentation)

Staff has identified a variety of proposed changes, additions and clarifications in the Spring biannual update of the Land Use Code. On May 19, 2005, the Planning and Zoning Board considered the proposed changes and voted 6-0 to recommend approval of the proposed changes to City Council. The Board then voted 5-1 to recommend to Council that staff be directed to reexamine the neighborhood compatibility criteria related to Small Scale Reception Centers.

35. Pulled Consent Items.

36. Other Business.

NOTE: Motion to cancel regular City Council meeting of Tuesday, June 21, 2005.

37. 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 the Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.