



ADJOURNED MEETING AGENDA

FORT COLLINS CITY COUNCIL

November 29, 2005

Doug Hutchinson, Mayor
Karen Weitkunat, District 2, Mayor Pro Tem
Ben Manvel, 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 14
on the Comcast cable system

The City of Fort Collins will make reasonable accommodations for access to City services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (TDD 224-6001) for assistance.

Proclamations and Presentations 5:30 p.m.

- A. Proclamation Proclaiming December 10, 2005 as "International Human Rights Day."
- B. Proclamation Proclaiming "Initiative as the Community Character Focus of the Month" for December 2005 in the City of Fort Collins.

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 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. 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. 26, 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. First Reading of Ordinance No. 159, 2005, Appropriating Prior Year Reserves in the General Employees' Retirement Fund.

The City Council created the Plan in 1971 to provide a retirement benefit in addition to the Social Security system. Oversight is provided by a six-member committee, five of whom are appointed by Council, the other being the Financial Officer.

The single-sum benefit, approved by City Council in 1998, is designed to be actuarially neutral to the Plan. When an employee elects to receive a lump sum amount from the Plan, the liability of providing a future pension benefit to the employee is removed from the Plan. Although actuarially neutral, voluntary elections of single sum payments reduce the uncertainty regarding the number of employees for whom the Plan must provide an income over an unknown period of years. From that standpoint, lump sum payments are considered financially favorable.

7. First Reading of Ordinance 160, 2005 Authorizing the Lease of Portions of Soapstone Prairie Natural Area to Folsom Grazing Association.

This Ordinance authorizes a grazing lease on approximately 16,450 acres (12,588 Soapstone, 3,862 Colorado Lease Lands) located within the Soapstone Prairie Natural Area to the Folsom Grazing Association beginning on January 1, 2006 and ending December 31, 2008. The lease was awarded through a competitive request for proposal process.

The duration of this lease corresponds to the opening of Soapstone Prairie to the public in 2009. The interim lease was designed to continue grazing as a habitat management tool while other portions of the Soapstone Management Plan were developed. This ensures that any future grazing plans will be developed to minimize conflicts with recreation use and other management objectives of the Natural Area.

8. First Reading of Ordinance No. 161, 2005, Making Various Amendments to the City of Fort Collins Land Use Code.

Staff has identified a variety of proposed changes, additions and clarifications in the Fall biannual update of the Land Use Code. On November 17, 2005, the Planning and Zoning Board considered the proposed changes and voted 5 – 0 to recommend approval of the proposed changes to City Council with one exception. On the item relating to requiring a higher level of connectivity in the Urban Estate Zone (Item 704), the Board voted 4 – 1 to approve the proposed change.

9. First Reading of Ordinance No. 162, 2005, Amending Section 2-575 of the City Code Relating to Councilmember Compensation.

Article II, Section 3 of the City Charter provides that the compensation of Councilmembers shall be adjusted annually for inflation in accordance with the Denver/Boulder Consumer Price Index. In 2004, Councilmembers were compensated \$595 per month, and the Mayor received \$895 per month. Council compensation remained the same for 2005.

This Ordinance amends Section 2-575 of the City Code to set the 2006 compensation of Councilmembers at \$606 and the compensation of the Mayor at \$912, as required by the City Charter.

10. First Reading of Ordinance No. 163, 2005, Amending Section 25-75 of the City Code so as to Extend Certain Portions of the City's Sales and Use Tax in Accordance with Three Voter-Approved Ballot Measures.

Fort Collins' voters have approved the renewal of three one-quarter cent sales and use taxes to fund high priority capital needs in the community. The three taxes were previously used to fund three packages of capital projects in the Building Community Choices capital plan. All three current taxes are set to expire on December 31, 2005. The ordinance will implement the tax extensions by amending the sales and use tax code to reflect the provisions of the voter actions.

11. First Reading of Ordinance No. 164, 2005, Appropriating Prior Year Reserves in the Self Insurance Fund to Cover the Annual Actuarial Report Adjustment.

The City's Self-Insurance fund pays for liability (auto, public officials, general liability), property (damage to buildings, flood etc.) and worker compensation claims and related expenses. An actuarial report is provided annually in March to project reserves which are needed for claims which have been filed but not settled and claims that have not been filed or reported to the City. These are known as claims incurred but not reported, or "IBNR" claims.

Claims are affected by timing. Once an incident has occurred, claimants have 180 days after the incident to file a claim with the City for a State covered tort and two years to file claims covered by Federal law.

The reserves necessary to cover claims that have not been reported or filed (IBNR claims) and claims which have not yet been settled, fluctuates annually. For example, in 2002 the reserve/IBNR increased \$156,000, in 2003 it increased \$1,300,000, and in 2004 it decreased \$1,400,000. It is estimated that the amount of reserves will increase by \$500,000 – 800,000 for 2005.

When the actuarial report is finalized in March of each year, Self-Insurance funds are moved from Reserves for Operations to Reserves Designated for Claims Payable. In order to avoid exceeding authorized appropriations, the amount appropriated for Claims Payable needs to have adequate appropriations to cover the outstanding claims and IBNR amount for the year 2005 even though IBNR claims will be paid in the future years.

Because the amount is not known until after the end of the year this shifting of reserves is needed to ensure that the Self-Insurance Fund does not exceed authorized appropriations. The Self-Insurance Fund is adequately funded.

12. First Reading of Ordinance No. 165, 2005, Repealing Division 2 of Article II of Chapter 21 of the City Code Concerning the Personnel Board.

Because the functions of the Personnel Board can be more efficiently and economically met by the use of ad hoc committees and the streamlining of the administrative disciplinary process to allow for the conduct of personnel hearings by the City Manager or his/her designee, the Personnel Board can be dissolved without adversely affecting the City.

13. First Reading of Ordinance No. 166, 2005, Authorizing the Transfer of Appropriations Between Capital Improvements Within the Downtown Development Authority Operations and Maintenance Fund Related to the City of Fort Collins, Colorado, Downtown Development Authority Taxable Subordinate Tax Increment Revenue Bonds, Series 2004A.

The City of Fort Collins created the Downtown Development Authority ("DDA") to make desired improvements in the downtown area. Through tax increment financing, the DDA has made significant contributions to the redevelopment and improvement of the downtown area. This Ordinance authorizes the transfer of unexpended appropriations in the Downtown

Development Authority Operations and Maintenance Fund resulting from the cancellation of an improvement identified in Ordinance No. 89, 2004, the 2004 Bond Appropriation Ordinance for the DDA. New improvements have been identified or are in process of being identified and an existing improvement will receive increased funding.

The total of the improvements and associated issuance costs related to the 2004 Bond Appropriation Ordinance was \$6,235,000. The Board of Directors of the DDA (the "Board") reviewed and recommended all of these improvements.

14. First Reading of Ordinance No. 167, 2005, Amending the Code of the City of Fort Collins Relating to General Penalties.

This Ordinance provides a new and dedicated revenue source to fund enforcement of speed limits in neighborhoods, citywide awareness programs and other traffic calming measures. Approval of this Ordinance will change the way the City approaches the "speeding in neighborhoods" issue.

This program is an enhancement to the existing Neighborhood Traffic Safety Program (NTSP) housed currently housed in Traffic Operations. Fort Collins residents want to feel safe in their neighborhoods. This is an important quality of life aspect that many folks believe they are missing. One of the main causes of concern is speeding in neighborhoods. The Traffic Operations Department has had a neighborhood traffic calming program in place for approximately 10 years and the program has been largely ineffective at reducing speeds in neighborhoods. The new program approach is intended to change the approach to reducing speeds on neighborhood streets.

15. First Reading of Ordinance No. 168, 2005, Appropriating Unanticipated Grant Revenue in the General Fund for the Poudre Valley Health System "Reduce Intoxicated Driving" Program.

Poudre Valley Health System ("PVHS") developed a comprehensive prevention program called Reduce Intoxicated Driving ("RID") to minimize the number of individuals who drive while intoxicated. RID collaborates with local government, businesses, law enforcement, health care providers, Colorado State University, Poudre School District and other community sectors to reduce the number of individuals who drive intoxicated. The program uses many strategies to decrease the number of people who drive intoxicated such as public education and dissemination of information about hazards of driving while intoxicated to youth in the community.

The State of Colorado and the Alcohol and Drug Division of the Colorado Department of Human Services require that the grant funds be dispersed to a "local public procurement unit." A "local public procurement unit" means any county, city, municipality, or other public subdivision of the state, any public agency of any such political subdivision, any public authority, any education, health or other institution, and to the extent provided by law, any other entity which expends public funds for the procurement of supplies, services and construction.

PVHS requested that the City serve as the local public procurement unit and a pass-through recipient of the grant proceeds. This Ordinance will allow the City to disburse the grant funds to PVHS (via the Hospital Foundation) upon completion of any grant-related documents and a subgrant agreement between the City and PVHS.

16. Resolution 2005-125 Correcting a City Structure Plan Map Color Error Regarding the Lifestyle Shopping Center on Harmony Road.

On July 15, 2003, the City Council adopted Resolution 2003-086 amending the *Harmony Corridor Plan* to allow for the potential development of a Lifestyle Shopping Center to be located north of Harmony Road and west of Ziegler Road, west of Hewlett-Packard. Specifically, Map 10 of the *Harmony Corridor Plan* was amended to show a new "Mixed Use Activity Center" north of Harmony Road and west of Ziegler Road as the potential location for a Lifestyle Shopping Center.

The amendment to the *Harmony Corridor Plan* occurred during the process to update *City Plan*, the City's Comprehensive Plan. A revised City Structure Plan map was an element of the update to *City Plan*. The boundaries of the new Mixed Use Activity Center of the amended *Harmony Corridor Plan* was depicted on the revised Structure Plan map. Unfortunately, the color associated with the center was the color for a neighborhood shopping center instead of the color for a Commercial Corridor District, the broader category for a lifestyle shopping center. The Council approved the update to *City Plan* with the adoption of Resolution 2004-058 on May 4, 2004, and in doing so approved the wrong color for the lifestyle shopping center. The purpose of this Resolution is to correct the error and place the correct Commercial Corridor District color on the Structure Plan map for the lifestyle shopping center on Harmony Road.

17. Resolution 2005-126 Finding Substantial Compliance and Initiating Annexation Proceedings for the McClelland's Creek PD & PLD Annexation.

The applicant, Stanley K. Everitt, on behalf of the property owners, McCreek, LLC, has submitted a written petition requesting annexation of 11.93 acres located on the east side of Lake Ranch Road, approximately 1/8th mile south of Kechter Road between Ziegler Road to the west and Strauss Cabin Road to the east. McClelland's Creek runs along the east side of the property. The property is undeveloped and is in the FA-1 Farming District in Larimer County. The requested zoning for this annexation is LMN - Low Density Mixed-Use Neighborhood. The surrounding properties are currently zoned FA-1 Farming in Larimer County to the east, LMN - Low Density Mixed-Use Neighborhood in the City to the north, LMN - Low Density Mixed-Use Neighborhood in the City to the south, and LMN - Low Density Mixed-Use Neighborhood in the City to the west.

The proposed Resolution makes a finding that the petition substantially complies with the Municipal Annexation Act, determines that a hearing should be established regarding the annexation, and directs that notice be given of the hearing. The hearing will be held at the time of first reading of the annexation and zoning ordinances. Not less than thirty days of prior notice is required by State law.

The property is located within the Fort Collins Urban Growth Area. According to policies and agreements between the City of Fort Collins and Larimer County contained in the Intergovernmental Agreement for the Fort Collins Urban Growth Area, the City will agree to consider annexation of property in the UGA when the property is eligible for annexation according to State law. This property gains the required 1/6 contiguity to existing City limits from common boundaries with the Staley Annexation (May, 2001) to the north, the Fossil Lake Annexation No. 1 (March, 2002) to the west, and the Swift Addition to Fossil Lake PUD Annexation (July, 2003) to the south.

18. Resolution 2005-127 Adopting the City's 2006 Legislative Policy Agenda.

Each year the Legislative Review Committee (LRC) develops a legislative agenda to assist in the analysis of pending legislation. The proposed 2006 Legislative Policy Agenda has been updated from the 2005 document and was reviewed and approved by the Legislative Review Committee. Changes are highlighted below. This document will be used as a guide for the upcoming 2006 General Assembly and the second session of the 109th Congress. The purpose of the Legislative Policy Agenda is to articulate the City's position on common legislative topics. It will be used by Council members and staff to determine positions on pending legislation and as a general reference for state legislators and our congressional delegation.

19. Resolution 2005-128, Adopting the City's Economic Vision and Values.

On November 15, 2005 City Council adopted the 2005-2007 Policy Agenda outlining the policy initiatives Council wishes to undertake during the two-year term. One of the policy goals included under the mission of "Improve Economic Health" is the development of an economic plan.

As a foundation for the economic plan, Council members recognized the need to develop an economic vision and a set of economic core values. Members of the Economic Vitality and Sustainability Action Group (EVSAG) provided recommendations that assisted Council in this effort.

This Resolution adopts both the economic vision and core values. These two components will, in turn, guide the development of specific strategies and actions contained within the economic plan, which is scheduled to be completed in 2006.

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.

22. 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.

23. Consideration of the Appeals of the September 8, 2005, Determination of the Administrative Hearing Officer to Deny the Cherry Street Station Project Development Plan. (2 hours -10 minute staff presentation)

On September 8, 2005, the Administrative Hearing Officer **denied** the Cherry Street Station Project Development Plan, a proposal to develop a vacant .349 acre site (15,213 square feet) into a 15-unit, 69-foot tall multifamily project with a small (200sf) office/server area for an internet provider.

The property is located on the north side of Cherry Street just west of College Avenue, within the CCR – *Community Commercial – Poudre River District*.

On September 21, 2005, the City Clerk's Office received a Written Notice of Appeal from Mikal Torgerson regarding the decision of the Administrative Hearing Officer, hereafter referred to as the "Torgerson Appeal." On September 30, 2005, two additional Written Notices of Appeal were received by the City Clerk's Office, one from Jerry Gavaldon, hereafter referred to as the "Gavaldon Appeal" and one from Mikal Torgerson, Troy Jones, Bill Mesaros and Jeanette Cullup, hereafter referred to as the "Jones Appeal." The Gavaldon Appeal was withdrawn via email on October 12, 2005.

The Torgerson and Jones Appeals allege that the Administrative Hearing Officer failed to apply the Land Use Code properly, allegations of error that enable the Council to uphold, overturn or modify the decision of the Hearing Officer.

The procedures for deciding the appeals are described in Chapter 2, Article II, Division 3 of the City Code.

24. Items Relating to City Structure Plan Map Amendments to Include the Recent Expansion of the Growth Management Area (GMA) Boundary, and Land Use Designations Within the Fossil Creek Cooperative Planning Area (CPA). (1 hour - 10 minute staff presentation)
- A. Resolution 2005 -129 Amending the City Structure Plan Map to Show the Expansion of the Growth Management Area Boundary to Include the Former Fossil Creek Cooperative Planning Area.
 - B. Resolution 2005-130 Amending the City Structure Plan Map "Land Use Designations" Within the Southwest Quadrant of I-25 and Carpenter Road.

The Fort Collins City Council and the Larimer County Commissioners have agreed to expand the Fort Collins Growth Management Area (GMA) boundary to include the former Fossil Creek Cooperative Planning Area (CPA). The first item is a follow-up house keeping action to show the expanded GMA boundary line on the City Structure Plan Map.

The City Council has also directed City staff to work with property-owners in the area to see if any land use designation changes are appropriate in order to deal with a variety of development related issues in the expanded GMA area, including but not limited to, the need to improve the I-25 interchange and Carpenter Road, compatibility of future development with surrounding existing land uses, preservation of open lands as part of the Loveland-Fort Collins community separator, and mitigation of development impacts on existing wetlands and natural areas. The City Structure Plan map for the former Fossil Creek Cooperative Planning Area is in need of amendment in order to better comply with the policies and expectations set out in adopted plans for the area including the *Fossil Creek Reservoir Area Plan*, *A Plan for the Region Between Fort Collins & Loveland* and the *Northern Colorado Regional Communities I-25 Corridor Plan*. All of these plans are elements of *City Plan*, the City's Comprehensive Plan.

25. First Reading of Ordinance No. 169, 2005, Creating the Land Conservation and Stewardship Board. (45 minutes- 10 minute staff presentation)

In November 2002, voters passed a ballot measure known as Open Space, Yes! (OSY), a continuation of the City's .25 cent sales tax for the acquisition and management of open space. Open Space, Yes! begins collecting and distributing revenues to the City's Natural Areas Program as of January 1, 2006.

Section 15 of OSY states that: "...the City Council shall designate a voluntary City Advisory Board, either existing or new, to advise and make recommendations to the City Council regarding the expenditure of the moneys for the purposes stated herein."

At the Council's August 9, 2005 work session, Council indicated to staff that it wished to create and appoint a Board with certain functions as well as describe an array of desired skill sets that prospective Board members could bring to the Board.

26. Pulled Consent Items.

27. Other Business.

28. 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.