

**AGENDA ITEM SUMMARY**  
**FORT COLLINS CITY COUNCIL**

**ITEM NUMBER: 31**

**DATE: February 21, 2006**

**STAFF: Darin Atteberry**  
**Steve Roy**

**SUBJECT**

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First Reading of Ordinance No. 035, 2006, Amending Chapter 23 of the City Code Relating to the Conveyance of Easements Required to Obtain Utility Service.

**RECOMMENDATION**

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Staff recommends adoption of the Ordinance on First Reading.

**FINANCIAL IMPACT**

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The adoption of this Ordinance is not anticipated to have a financial impact.

**EXECUTIVE SUMMARY**

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Generally, utility services such as electrical service from Public Service Company of Colorado in areas located outside of the city limits, or natural gas service, are governed by tariffs that have been approved by the Colorado Public Utilities Commission. Such tariffs require that the customer's receipt of service be deemed to create a utility easement for the installation of service lines and other infrastructure necessary for the service.

The Code requirement that utility easements must be approved by ordinance creates a substantial impediment to City staff's ability to arrange for utility services for City facilities and improvements.

To provide a more efficient mechanism for arranging for utility services, staff is requesting that the City Council amend the City Code to allow the Purchasing Agent, with the approval of the City Manager, to contract for utility services and grant utility such rights-of-way as may be required in connection with those services.

ORDINANCE NO. 035, 2006  
OF THE COUNCIL OF THE CITY OF FORT COLLINS  
AMENDING CHAPTER 23 OF THE CODE OF THE CITY OF FORT COLLINS  
RELATING TO THE CONVEYANCE OF EASEMENTS  
REQUIRED TO OBTAIN UTILITY SERVICE

WHEREAS, Section 23-111 of the City Code provides that the City Council may sell, convey or otherwise dispose of any and all interests in real property of the City, including utility easements, if the Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City; and

WHEREAS, in connection with the procurement of certain utility services, such as natural gas service and electric service outside of the city limits, the provision of service to the City is conditioned upon the grant of a utility easement for the installation of service lines and other infrastructure necessary for the service; and

WHEREAS, this utility easement requirement is generally imposed not only contractually but also as a condition of service in approved tariffs and other regulatory requirements that in some instances govern the provision of utility services by non-municipal public utilities; and

WHEREAS, the process for approving utility easements by ordinance in order to comply with such tariff-imposed requirements for utility easements creates a substantial impediment to City staff's ability to arrange for utility services for City facilities and improvements; and

WHEREAS, in order to provide an efficient mechanism for arranging for said utility services, the City Council wishes to amend the City Code so as to allow the Purchasing Agent, with the approval of the City Manager, to contract for utility services and in doing so to bind the City to allow the utility providing such services to obtain such rights-of-way as may be required in connection with the services.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS that Section 23-111 of the Code of the City of Fort Collins is hereby amended to read as follows:

**Sec. 23-111. Authorization to sell real property.**

(a) The City Council is hereby authorized to sell, convey or otherwise dispose of any and all interests in real property owned in the name of the city, whether the interest in real property is obtained by tax deed or otherwise, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the city.

(b) With respect to real property which is a part of the city's water or utility systems, the City Council must also find that the disposition will not materially impair the viability of the particular utility system as a whole and that it will be for

the benefit of the citizens of the city.

(c) With respect to the sale of a certificate of purchase obtained by the city pursuant to Section 22-97, if such certificate of purchase is to be sold and assigned for less than its face value, the City Council must authorize such sale and assignment in accordance with § 23-111(a). Prior to City Council approving such sale, however, the city must give notice to all persons having any interest in the property for which the certificate of purchase was issued or having any interest in the proceeds of the proposed sale. Such notice shall be given by publication once each week for two (2) successive weeks in an official newspaper published in the city. Written notice shall also be given by mail within ten (10) days after the first publication, postage prepaid, first class mail, to all governmental taxing units having taxes or other claims against the property, and to the last known address of all record interest holders in the property. In addition, if such sale and assignment will, in the judgment of the Financial Officer, impair in any way the payment of any principal or interest owing under the bonds which are paid with assessments collected from the property described in the certificate of purchase, then such written notice shall also be given to the bondholders. Notice to bondholders shall be mailed, in the case of registered instruments, to those names and addresses which are recorded on the registration books of the city or, in the case of bearer instruments, to those names and addresses which may be otherwise known to the city. The date of sale of any certificate of purchase for which notice is required under the provisions of this Section shall be not less than thirty (30) days nor more than forty-five (45) days after the date of first publication of the notice. Notwithstanding the foregoing, the city's Financial Officer may sell certificates of purchase without notice or formal approval by the City Council when such sale is made in the manner and on the terms provided in § 22-97.

(d) The Planning and Zoning Board may, without formal approval by the City Council, vacate easements and other rights-of-way, except streets and alleys, either by resolution or by approval of replats containing notation of such vacation as provided in § 2-353(4) of this Code.

(e) The Mayor is authorized to execute all leases, deeds and other instruments of conveyance.

(f) Notwithstanding the foregoing requirements, in the event that the city's procurement of any utility service from a regulated public utility is conditioned upon the grant of rights-of-way for installation of service lines and other improvements directly related to said utility service, the Purchasing Agent may, with the approval of the City Manager, enter into a contract for said utility services and so authorize the conveyance of such rights-of-way as may be necessary for the provision of such utility services to the city.

Introduced, considered favorably on first reading, and ordered published this 21st day of February, A.D. 2006, and to be presented for final passage on the 7th day of March, A.D. 2006.

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Mayor

ATTEST:

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City Clerk

Passed and adopted on final reading on the 7th day of March, A.D. 2006.

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Mayor

ATTEST:

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City Clerk