



REGULAR MEETING AGENDA

FORT COLLINS CITY COUNCIL

September 19, 2006

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 September 20, 2006 through October 20, 2006 as the annual Community Homecoming Celebration.
- B. Proclamation Declaring the month of October as National Physical Therapy Month.
- C. Proclamation Proclaiming September 17-23 as Constitution Week.

Regular Meeting 6:00 p.m.

PLEDGE OF ALLEGIANCE - **Flag Ceremony by Cub Scout Pack 98**

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. **Before speaking, please sign in at the table in the back of the room.** The timer will buzz once when there are 30 seconds left and the light will turn yellow. The timer will buzz again at the end of the speaker's time. 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 22. 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. 28, 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. Second Reading of Ordinance No. 127, 2006, Appropriating Unanticipated Grant Revenue in the Natural Areas Fund and Authorizing the Transfer of Existing Appropriations in the Natural Areas Fund to be Used to Gather Information Necessary for the Development of the Soapstone Prairie Natural Area Management Plan.

The Colorado Division of Wildlife has awarded a Colorado Wildlife Conservation Grant to the Natural Areas Program in the amount of \$32,760. This Ordinance, unanimously adopted on First Reading on September 5, 2006, appropriates the grant revenue and authorizes the transfer of existing appropriations in the Natural Areas Fund to be used to gather information necessary to develop the Soapstone Prairie Natural Area Management Plan.

7. Second Reading of Ordinance No. 128, 2006, Appropriating Unanticipated Grant Revenue in the General Fund for the Operation of the Fort Collins Welcome Center.

The Colorado Tourism Office has awarded the City \$70,222 for the operation of the Fort Collins Welcome Center. As this amount exceeds the \$57,000 originally anticipated, this Ordinance, unanimously adopted on First Reading on September 5, 2006, appropriates the unanticipated \$13,222 in grant funds.

8. Second Reading of Ordinance No. 129, 2006, Appropriating Unanticipated Revenue in the Capital Projects Fund - Water Craft Course Capital Project to be Used for a Feasibility Study, Design and Construction of a Water Craft Course Along a Section of the Cache La Poudre River Near the Old Power Plant.

The vision of developing of a water craft course in the Downtown area at the Old Power Plant was identified in the Downtown River Corridor Implementation Plan ("DRCIP"). The course would be located in the area downstream of the North College Avenue Bridge to a take out area at the BNSF Railroad trestle. The DRCIP identified the need for a feasibility study prior to the development of the course. The project has come through the City's Preliminary Design Review. This Ordinance, unanimously adopted on First Reading on September 5, 2006, appropriates unanticipated revenue in the Capital Projects Fund to be used for a feasibility study, design and construction of a water craft course.

9. Second Reading of Ordinance No. 130, 2006, Authorizing the Appropriation of Funds for Capital Improvements to Construct Capital Improvements at the Fort Collins-Loveland Airport and Operating Expenses for Consulting Services Needed for a New Passenger Facility Charge Application.

The 2006 operating budget for the Fort Collins-Loveland Municipal Airport did not include unanticipated Federal Aviation Administration ("FAA") Grant funds that were recently received. In order to fully fund the construction project associated with the \$4,627,500 FAA grant, additional funds are needed in the total amount of \$501,452. Also, operating funds in the amount of \$7,500 are needed to hire a consultant to prepare a new Passenger Facility Charge ("PFC") Application. The \$7,500 cost will be fully recovered from the PFC collections. The Airport's current budget does not include funding for this expense. This Ordinance, unanimously adopted on First Reading on September 5, 2006, appropriates the City's 50% share of the costs in the amount of \$254,476.

10. Second Reading of Ordinance No. 131, 2006, Amending the Land Use Code Article 4 to Add a New Rural Lands Zone District, as Division 4.1 and Rearrange Division Numbering and to Revise Article 3 Section 3.9.2 to Allow Single Family Residential in the RUL District Within One-Quarter Mile of Interstate Highway 25.

Ordinance No. 131, 2006, unanimously adopted on September 5, 2006, amends the Land Use Code, Article 4, to add a new Rural Lands Zone District, Division 4.1. All proceeding Divisions will then be rearranged. This action represents a housekeeping item to rearrange the numbering of the Article 4 Districts in the Land Use Code, based on the inclusion of the new RUL District placed in the front as Division 4.1. The adjustment to the numbering of

all other Divisions includes 4.1 – 4.28. As part of this amendment, three new Divisions are added as future placeholders, reserved for future use.

This Ordinance also amends the Land Use Code, Article 3 – General Development Standards to allow single-family lots within 1/4 mile of I-25, which would exempt the RUL zone from the residential restriction.

11. Second Reading of Ordinance No. 132, 2006, Authorizing Execution of the Amended Plat Related to the Dedications of Public Rights-of-Way in the Amended Hersh Minor Residential Development No. 06-S2555 for the Benefit of the City of Fort Collins and the Natural Areas Program.

This Ordinance, unanimously adopted on First Reading on September 5, 2006, authorizes the execution of the amended plat related to dedications in the Hersh Amended Residential Development. The County requires that the amended plat dedicate all roads as public rights-of-way.

12. Postponement of Second Reading of Ordinance No. 133, 2006, Authorizing the Grant of an Access, Drainage, and Utility Easement from the City to The Greens at Collindale Homeowners Association to October 3, 2006.

D. Geisler Development and Packard Enterprise, Inc. is developing The Greens at Collindale PUD, First Replat, located on South Lemay Avenue adjacent to Collindale Golf Course, which is owned by the City of Fort Collins. The proposed access, drainage, and utility easement will relocate and provide a necessary detention area for the development. The Greens at Collindale Homeowners Association has requested that the developer put funds into an escrow account to ensure completion of improvements associated with the easement. The developer does not believe this is necessary and is requesting a postponement of the Second Reading to October 3, 2006 to resolve this request from the Homeowner's Association.

13. Second Reading of Ordinance No. 134, 2006, Vacating a Portion of Street Right-of-Way on Oak Street Located West of College Avenue, Established as Part of the 1873 Map of the Town of Fort Collins, for Purposes of Constructing Oak Street Plaza Park Improvements.

This Ordinance, unanimously adopted on First Reading on September 5, 2006, vacates a portion of right-of-way for Oak Street, retaining a blanket easement over the entire vacated portion for access, drainage and public utilities. This portion of Oak Street right-of-way is being vacated to facilitate the use, management and regulation of Oak Street Plaza Park as a park, rather than as right-of-way.

14. Second Reading of Ordinance No. 135, 2006, Authorizing the Conveyance of a Utility Easement and Temporary Construction Easement for the Greeley Waterline Enhancement Transmission Project.

As part of the Greeley Waterline Enhancement Transmission Project, the City of Greeley needs to install a waterline on property owned by the City of Fort Collins. The City of Greeley has asked the City of Fort Collins to grant two utility easements and two temporary construction easements for said waterline. City staff has reviewed the proposed easement areas and has agreed there will be no negative impact to the City property by granting these easements. This Ordinance, unanimously adopted on First Reading on September 5, 2006, authorizes conveyance of these easements to the City of Greeley.

15. Second Reading of Ordinance No. 136, 2006, Declaring Certain City-Acquired Property as Timberline Road Right-Of-Way.

The City completed the purchase of land for the Timberline Road Extension Project in 1998. However, none of the property was designated as right-of-way. This Ordinance, unanimously adopted on First Reading on September 5, 2006, declares that the real property adjacent to Timberline Road, north of Highway 14, is right-of-way for Timberline Road and related improvements, and that this Ordinance be recorded in order to establish a public record of the existence of such right-of-way.

16. First Reading of Ordinance No. 144, 2006, Appropriating Unanticipated Grant Revenue in the General Fund for the Natural Resources Radon Program and Authorizing the Transfer of Matching Funds Previously Appropriated in the Natural Resources Operating Budget to the Grant Project.

The Colorado Department of Public Health and Environment has awarded the City a \$5,760 grant for continuing education and outreach to encourage radon testing and mitigation. Specific efforts include media advertising, low-cost test kit sales, and a revised radon brochure for home buyers. This Ordinance appropriates the unanticipated grant revenue for this program. Matching funds of \$5,760 will be provided from the existing 2006 Air Quality Improvement Budget. The funding period is from October 1, 2006 through September 30, 2007.

17. First Reading of Ordinance No. 145, 2006, Amending Section 17-101 of the City Code Establishing Criteria for Discharge of a Weapon Permit.

This Ordinance amends the City Code to provide the Police Chief authority to issue a non-transferable, revocable permit allowing the discharge of firearms or weapons by any public or private entity or private person at a specific location to test-fire firearms cleaned or repaired at a licensed firearms dealer's business location within appropriately zoned areas of the City and only to those businesses operating prior to annexation.

This City Code amendment was prompted by issues raised during the Southwest Enclave Annexation public process.

18. First Reading of Ordinance No. 146, 2006, Authorizing the Conveyance of a Conservation Easement on City Natural Area Property (Round Butte Ranch Phase 2) to Larimer County and Authorizing a Related Grant Agreement with the Board of the Great Outdoors Colorado Trust Fund.

This Ordinance authorizes the conveyance of a 720-acre conservation easement on Round Butte Ranch, Phase 2, from the City's Natural Area system to Larimer County and authorizes entering into a grant agreement with the Board of the Great Outdoors Colorado Trust Fund. The City will receive a \$212,700 grant from Great Outdoors Colorado to support the conservation of the property. The grant requires that a conservation easement be placed on the property and conveyed to a qualified third party. The conservation easement acknowledges and protects the natural qualities of the property. It also allows a single five-acre building envelope as well as continued ranching and other compatible activities.

19. First Reading of Ordinance No. 147, 2006, Authorizing the Conveyance of a Telephone Cable Right-of-Way Easement to Qwest Corporation on Cathy Fromme Prairie Natural Area.

There is an existing telephone cable running along the north edge of Cathy Fromme Prairie where it abuts Taft Canyon Subdivision to the north. The cable runs from the right-of-way of South Taft Hill Road westerly just south of the northern boundary line of Cathy Fromme Prairie approximately 2,691.07 feet to the western boundary line of that Natural Area. The cable was installed by Qwest at some time shortly after the Second Replat of Taft Canyon PUD was approved in March 1987, in a trench prepared for the cable by the developer(s) of Taft Canyon Subdivision. Qwest acknowledges the cable was put in by Qwest and that Qwest is presently using the cable for telephone service. Staff has proposed the City convey a perpetual, nonexclusive easement for the Qwest telephone cable.

20. First Reading of Ordinance No. 148, 2006, Authorizing the Grant of a Non-exclusive Easement and Right-of-Way to Platte River Power Authority for Construction and Maintenance of a 230kV Transmission Line.

Platte River Power Authority is requesting a 75-foot wide, non-exclusive easement for a 230kV transmission line across Colina Mariposa Natural Area along the east side of Shields Street, south of Trilby Road. Staff was aware that the Natural Areas Easement Policy does not allow overhead power lines to be built across natural areas and has worked with Platte River for over a year to find a solution. Platte River has offered to perform a number of extensive mitigation projects in hopes the policy can be waived in this instance. Staff and the Land Conservation and Stewardship Board have concluded that the alignment of the transmission line is the only reasonable alignment and the mitigation projects offered serve to mitigate the impacts to the natural area and surrounding open spaces.

21. First Reading of Ordinance No. 149, 2006, Appropriating Unanticipated Revenues in the City's General Fund and Prior Year Reserves in the Wastewater Fund for the Purpose of Recording the Transfer of Certain Surplus Properties from the Utilities to the General Fund in Exchange for Certain Properties Historically Used for Utilities Purposes but Not Acquired with Ratepayer Revenues and Approving Said Transfer.

This Ordinance exchanges properties between Utilities and other non-Utilities City purposes. City staff has identified two properties formerly used by Utilities but no longer needed for Utilities purposes - the remaining 25-acre portion of the Wastewater Utility's Resource Recovery Farm and the Electric Utility's Old Power Plant Building at 430 North College Avenue. In exchange for these properties, four properties will be transferred to Utilities. The properties to be transferred to Utilities include three sites that are, and have for years, been in use for Utilities purposes but were not purchased with Utilities funds initially: the Water Treatment Plant #1 site (the area not in use as Gateway Park), the Old Waterworks property on North Overland Trail, and the Mulberry Wastewater Treatment Plant. The fourth property for possible transfer to Utilities is the Police Annex site, Lots 36 and 37, less the north 80 feet, of Block 32 in the City of Fort Collins. This property may be an appropriate future location for Utilities' Customer Information Services office, when it is relocated from 330 South College Avenue. The Charter requires Utilities to reimburse other City funds for services received, and vice-versa. The City's Real Estate Services staff has prepared value estimates for each of the properties and, based on those estimates, Utilities will pay the amount of \$13,400, the difference in total values, to the General Fund in order to make the exchange an even one.

22. Resolution 2006-099 Adopting the 2006 update to the *Three Mile Plan* for the City.

This is a review of updates to the *Three-Mile Plan* for the City. The *Three-Mile Plan* is a policy document that is required to ensure that the City complies with the regulations of the Colorado Revised Statutes.

END CONSENT

23. Consent Calendar Follow-up.

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

24. Staff Reports.

25. 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. **Please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

26. Second Reading of Ordinance No. 122, 2006, Amending Article III of Chapter 12 of the Code of the City of Fort Collins to Conform to the Colorado Clean Indoor Air Act, and to Clarify Certain Provisions. (5 minute staff presentation - 15 minute discussion)

Certain exceptions to the smoking restrictions found in the City Code are inconsistent with the requirements of the Colorado Clean Indoor Air Act, which was enacted in 2006. Ordinance No. 122, 2006, adopted on First Reading on August 15, 2006 by a vote of 5-2 (Nays: Roy, Manvel), eliminates those exceptions. In addition, the Ordinance amends the restriction on placement of ashtrays in nonsmoking areas to allow ashtrays in the 20-foot exterior perimeter of a nonsmoking area where physical constraints make placement of ashtrays difficult. The Ordinance also adds to the City Code additional provisions regarding private nursing home rooms. In response to Council discussion on First Reading, the Ordinance that was presented to the Council for consideration on Second Reading on September 5th added definitions of the terms "retail tobacco business" and "tobacco", and outlines requirements for operation of a "retail tobacco business". (The retail tobacco business exception replaces the existing "retail tobacco store" exception.)

The Ordinance was postponed for further consideration on September 19th, after considerable Council discussion, and has been revised to reflect the direction received from the Council at the meeting on September 5th.

The changes are as follows:

1. A requirement that any new retail tobacco business meet the definition of a "retail establishment" in the Land Use Code has been added.
2. A requirement that retail tobacco businesses require proof of age from all persons entering the business, and provide adequate staffing and training to ensure an effective system for preventing underage persons from entering, has been added.

3. A requirement that retail tobacco businesses post a sign that persons under 18 aren't permitted on the premises, and containing the standard surgeon general's warning regarding smoking, has been added.
 4. A provision has been added to allow an establishment in operation as of July 1, 2006, used primarily for the sale or promotion of tobacco products to continue in operation without enlarging or relocating as long as it meets the ventilation, certificate of occupancy, no underage customers, and warning sign requirements by the beginning of 2007.
27. First Reading of Ordinance No. 150, 2006, Authorizing Amendments to the Intergovernmental Agreements Between the City and Poudre School District and Thompson School District Pertaining to the Land Dedication and In-Lieu Fee Requirements Contained in Such Agreements. (5 minute staff presentation - 15 minute discussion)

Since 1998, the City of Fort Collins has collected a fee-in-lieu of land dedication for both Poudre School District and Thompson School District. These fees allow a residential developer to pay a school site fee to the School Districts rather than to dedicate a parcel of land to the District for development of future schools. The ability of the school districts to require land dedication is provided under State of Colorado Statute.

The last time the amount of these fees was adjusted was in 2001. This ordinance will change the amount of the fees for each district and also modifies the fee structure to reduce the cost in payments for larger, multi-family developments. The school districts requested a substantial increase to the fees in reaction to substantial increases in the cost of securing appropriate school sites.

28. Pulled Consent Items.
29. Other Business.
30. 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.