

# **AGENDA**

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

March 1, 2005

## **Proclamations and Presentations**

**5:30 p.m.**

- A. Proclamation Proclaiming March 2005 as “Women’s History Month.”
- B. Proclamation Proclaiming March 1, 2005 as “Poudre School District K-12 Student Day.”
- C. Proclamation Proclaiming March 7-11, 2005 as “Disability Awareness Week.”
- D. Presentation of “Preserve America” Certificate to the Questers Organization.
- E. Presentation Recognizing Ilene Yokoyama Reed, Governor’s Minority Business Office Director, for her contributions on behalf of the Governor's Minority Business Advisory Council.

## **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 20. 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 #28, 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. Consideration and approval of the regular Council meeting minutes of February 1, 2005.
8. Second Reading of Ordinance No. 019, 2005, Amending Chapter 20 of the City Code to Add a New Article Relating to Nuisance Gatherings.

The Nuisance Gatherings provision creates a new misdemeanor criminal offense directed at social gatherings or parties that result in nuisance behaviors occurring on neighboring properties. These amendments would be in conjunction with continued efforts to more effectively and proactively enforce current nuisance laws, including loud parties, code compliance issues and the Public Nuisance Ordinance. Ordinance No. 019, 2005, was adopted 6-0 (Councilmember Bertschy was absent) on First Reading on February 15, 2005. The motion included direction to incorporate on Second Reading an amendment regarding party guest responsibility for costs of abatement. Staff has drafted a separate Ordinance (see Item #16) to specifically address that issue.

9. Second Reading of Ordinance No. 023, 2005, Appropriating Unanticipated Grant Revenue in the General Fund for the Larimer County Drug Task Force.

The Larimer County Drug Task Force ("Task Force") includes Fort Collins Police Services, Loveland Police Department, Larimer County Sheriff's Department, Drug Enforcement Administration, and the Colorado State University Police Department.

Fort Collins Police Services applied to the Office of National Drug Control Policy on behalf of the Task Force for federal grant monies to help fund the investigation of illegal narcotics

activities in Larimer County. The City has recently received notification of the grant award in the amount of \$45,000. These funds will be used to help offset the overtime costs of each participating agency.

This appropriation is not a request to identify new dollars for the Fort Collins Police Services 2005 budget. This action appropriates the \$45,000 in new federal grant money. As the administrator of this grant, Fort Collins Police Services will assure participating agencies receive their share of the funds. Ordinance No. 023, 2005, was adopted 6-0 (Councilmember Bertschy was absent) on First Reading on February 15, 2005.

10. Second Reading of Ordinance No. 024, 2005, Amending Various Sections of the City Code to Define the Term "Growth Management Area" and to Replace the Existing References to "Fort Collins Urban Growth Area" with Said Term.

This Ordinance, which was adopted 6-0 (Councilmember Bertschy was absent) on First Reading on February 15, 2005, adds to Chapter 1 of the City Code a definition of the term "Growth Management Area". The City Charter contains a definition of the term "Fort Collins Urban Growth Area" and the new "Growth Management Area" definition references and includes that Charter definition. The term "Growth Management Area" is the more commonly accepted and currently used term and this change will update the Code accordingly. Also, there are two references in the City Code to the term "Fort Collins Urban Growth Area" and these references are revised to instead reference the newly added term, "Growth Management Area".

11. First 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. A payment schedule is attached. The Water Utility will pay the debt primarily from development fees paid to the City.

This Ordinance appropriates the constructive bond proceeds to the Halligan Project.

12. First 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 appropriates the grant proceeds to the Spring Creek PDM Capital Project.

13. First 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 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.

14. First 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 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.

Staff recommends that “resource recovery” be added to the Land Use Code as an allowable use subject to administrative review.

15. First 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 will submit the changes to Colorado Department of Transportation (CDOT) for approval. As these amendments are not substantive, it is anticipated that CDOT will approve.

16. First 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.

17. First 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.

18. First 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.

19. Resolution 2005-019 Authorizing a Revocable Permit for a Period of Five Years on Property Owned by the City for the Purpose of Seeding and Irrigating a Future Park Site.

With the intention of providing a future neighborhood park within the recently approved Trail Head development (the "Development"), the City purchased Tract H (the "License Area") from Trail Head Inc. (the "Developer").

This proposed License will allow the Developer, at the Developer's expense, to install an irrigation system and seed the License Area in grass which will be a blend approved by the City. This "greening" of the future park will be done to coincide with the Developer's construction of the Development. In addition, the Developer will be responsible for the cost

of the maintenance of the irrigation system, regular mowing of the grass and the cost of sufficient water to irrigate the License Area during the term of the License.

Providing this green space will offer an immediate benefit to the property owners as development occurs and delays the City's obligation for park maintenance for five years. The City's Park Planning and Development staff will meet with the neighbors to develop a plan for the park as the year 2010 approaches. The City purchased this 4 acre neighborhood park site in February, 2005.

20. Resolution 2004-020 Supporting City Participation in the Mark of Distinction for Character Development through Youth Sports.

In 2001, the City of Fort Collins adopted Resolution 2001-117 naming Fort Collins as a City of Character. Recognizing that good character is the principal foundation for personal, family and organizational success, the City has joined Character Fort Collins in its effort to facilitate the development of good character throughout the community.

An area that has generated specific attention is that of youth sports programs. Organized youth sports programs are one of the greatest resources available for instilling valuable life skills in youngsters. Unfortunately, the climate surrounding some of today's programs has become less than ideal. In an effort to further develop good character in youth sports, Character Fort Collins, Colorado State University, Poudre School District, Healthier Communities Coalition of Larimer County and the City of Fort Collins are partnering to develop a "Mark of Distinction" program. Organized youth sports teams, including recreational, club and interscholastic, will be eligible to receive the "Mark of Distinction" based on criteria to be established by the partner organizations. The criteria will promote character development and ethical behavior of athletes, coaches, parents, fans and team administrators.

This Resolution confirms the City's participation in this partnership and encourages youth sports and interscholastic teams and their administrative organizations to pursue the "Mark of Distinction."

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

21. Consent Calendar Follow-up.

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

22. Staff Reports.

23. Councilmember Reports.

**ITEMS NEEDING INDIVIDUAL CONSIDERATION**

24. Items Relating to Out of City Utility Service. (30 minutes - 10 minute staff presentation)
- A. Resolution 2005-018 Regarding Utility Service in the Laporte Area.
  - B. First 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.

At the December 14, 2004, City Council Study Session, Council discussed the extension of City wastewater service near Laporte. Council agreed with the staff recommendation for Option 4: City provides wastewater treatment through a new wastewater district. Resolution 2005-018 establishes policy for this service and directs staff to cooperate with various entities that are pursuing formation of a special district in the Laporte area. The agreement between the City and the special district will be presented to Council for final approval. The Resolution also provides direction regarding the resolution of outstanding issues related to an outdated wastewater service agreement with Laporte Water and Sanitation District.

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 will clarify this ambiguity and require that the areas to be served outside the GMA must be approved by City Council.

25. Items Relating to Section 2-31 and 2-33 of the City Code Pertaining to Executive Sessions. (30 minutes - 5 minute staff presentation)
- A. First Reading of Ordinance No. 025, 2005, Amending Section 2-31 of the City Code of the so as to Clarify That City Council Can Provide Direction to City Staff or Other Persons During to Executive Sessions

This Ordinance 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.

- B. First Reading of Ordinance No. 036, 2005, Amending Section 2-33(b) of the City Code so as to Eliminate City Council's Ability to Go off the Record During Attorney-Client Communications that Occur in Executive Session



This Ordinance amends Section 2-33 of the City Code so as to eliminate the ability of the Council to go off the record during an executive session to discuss matters that are subject to the attorney-client privilege.

26. First Reading of Ordinance No. 037, 2005, Repealing and Reenacting Article II of Chapter 10 of the City Code Regarding Flood Hazard Areas. (60 minutes - 10 minute staff presentation)

The proposed ordinance 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.

27. First 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 clarifies when restitution can be ordered as a condition of sentencing for violations of the Municipal Code.

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

**NOTE:** This meeting needs to be adjourned to 6:00 p.m. on March 8 to allow the City Council to consider any business that might come before the Council.