

AGENDA

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

March 16, 2004

Proclamations and Presentations

5:30 p.m.

- A. Proclamation Proclaiming March 22-April 22, 2004 as “Earth Day Educational 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)
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 #29, 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. Second Reading of Ordinance No. 041,2004, Amending Section 24-95 of the City Code to Clarify The Language That Assigns Responsibility for Constructing Streets to Adjacent Property Owners at the Time of Development or Redevelopment.

This Ordinance, which was unanimously adopted on First Reading on March 2, 2004, amends Section 24-95(a) of the City Code. The change was made to remove a confusing phrase referencing "undeveloped property" at the beginning of the first sentence which does not match the reference to redevelopment at the end of the same sentence. The clarification makes it clearer that property owners have the responsibility to improve streets adjoining their property at the time they develop or redevelop their property. This, in turn, clarifies that the City may recover costs under Section 24-95(c) that are incurred by the City with City-constructed capital project improvements from the adjacent property owners at the time of their development or redevelopment.

8. Items Relating to Harmony Farm Second Annexation.
- a. Second Reading of Ordinance No. 042, 2004, Annexing Property Known as the Harmony Farms Second Annexation to the City of Fort Collins, Colorado.
 - b. Second Reading of Ordinance No. 043, 2004, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Harmony Farms Second Annexation to the City of Fort Collins, Colorado.

On March 2, 2004, Council unanimously adopted Resolution 2004-031 Setting Forth Findings of Fact and Determinations Regarding the Harmony Farms Second Annexation. On March 2, 2004, Council also unanimously adopted on First Reading Ordinance No. 042, 2004 and Ordinance No. 043, 2004, annexing and zoning the property known as the Harmony Farms Second Annexation.

9. Second Reading of Ordinance No. 044, 2004, Designating the Aaron Kitchel House, 601 West Mountain Avenue, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

The owner of the property, Sue Walker, initiated the request for Fort Collins Landmark designation for the Aaron Kitchel House, 601 West Mountain Avenue. The home is significant for its architectural importance, being a good example of vernacular masonry Queen Anne architecture in Fort Collins; and is significant for its historical importance due to its association with Aaron Kitchel, Civil War veteran, pioneer farmer of Larimer county and former County Commissioner. The garage does not contribute to the historic and architectural character of the Property and is not being designated. This Ordinance was unanimously adopted on First Reading March 2, 2004.

10. Second Reading of Ordinance No. 046, 2004, Amending Section 25-123(c) of the City Code Relating to Compensation of Vendors for Collecting and Remitting Sales Tax.

Resolution 2004-006 was adopted by City Council in January directing the City Manager to proceed with public outreach regarding a change to the vendors' fee. The City Manager was further directed to present a recommendation to Council no later than the first meeting in March.

The vendors' fee was last changed in 1989 in response to the need for additional funding for the Choices 95 Capital Improvement Program. Prior to that time, vendors were allowed to retain 3.0% of all sales tax they collected. The 1989 change limited vendors to 3.0% of the first \$3,000 in tax they collected plus 1.0% of all taxes thereafter. There was no dollar cap on the total amount vendors could retain. This Ordinance, which was unanimously adopted on First Reading on March 2, 2004, limits the vendors' fee to 3.0% of the first \$3,000 in tax collected.

11. First Reading of Ordinance No. 047, 2004, Appropriating Unanticipated Revenue in the Capital Projects Fund Building Community Choices - Community Horticulture Center Capital Project to be Used for Design and Construction of a Children's Garden.

In 1997, the voters approved Ordinance No. 29, 1997, which provided funding for the establishment of the Community Horticulture Center (now referred to as the Gardens on Spring Creek), as part of the Building Community Choices capital improvement program. The first phase of construction has now been completed, and the Gardens on Spring Creek is open to the public (with a Grand Opening scheduled for Saturday, May 8).

This project has benefited significantly from community involvement and private fundraising. A private non-profit group, the Friends of the Gardens on Spring Creek, was established to assist staff with membership development and private fundraising. During the first phase of construction, \$80,000 in private donations enabled the inclusion of the 900 square foot Evelyn Clark Classroom.

The current focus for private fund raising by City staff and the “Friends” group is for the establishment of a Children’s Garden, as the next step in the Gardens on Spring Creek development. The mission of the Children’s Garden will be to provide outdoor recreation and education on horticulture and the natural world, within a garden-like setting.

12. Items Relating to the Advanced Traffic Management System.

- A. Resolution 2004-030 Authorizing the Mayor to Execute an Intergovernmental Agreement with the Colorado Department of Transportation Regarding the Installation of Fiber Optic Communication, Wireless Communication and the Purchase of Associated Equipment of the Advanced Traffic Management System.
- B. First Reading of Ordinance No. 040, 2004, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund - Traffic Signal Timing System Project to Be Used for the Installation of Fiber Optic and Wireless Communications and the Purchase of Additional Equipment for the Advanced Traffic Management System.

The City of Fort Collins has been awarded a Federal Congestion Mitigation and Air Quality Grant in the amount of \$893,849.

The grant has been specified for use on completing the fiber optic communication system and installing wireless communication. Fiber optic lines will be installed along the Taft Road Corridor, Timberline Corridor, North College Corridor, and the far south US287 Corridor. Wireless communication will be used in the downtown area. Equipment such as cabinets, controllers, and associated electronics will also be purchased with this grant.

During the system analysis phase of the ATMS project, a decision was made to use fiber optics as the principle mode of communication between the on-street controllers and the master traffic signal system. Fiber optics is the most reliable form of communication medium in the market today. Wireless technology has also proven itself to be reliable. Phase I of the ATMS has installed fiber optic communication along the South College Corridor, Harmony Road, Shields Street, East Mulberry Street, West Drake Road, and Lemay Avenue.

13. First Reading of Ordinance No. 048, 2004, Amending Chapter 23, Article III, Division 3 of the City Code Pertaining to Encroachments.

This Ordinance revises Sections 23-81 and 23-82 of the City Code. The proposed changes simply clarify the requirement for encroachment permits when privately-owned utilities, telecommunications lines, irrigation pipes, and similar facilities are allowed to reside within the public rights-of-way. The changes also give the City Manager the ability to require liability insurance to protect the City, if necessary and appropriate.

14. First Reading of Ordinance No. 049, 2004, Authorizing the Lease of City-owned Property at 6916 South College Avenue, Fort Collins, Colorado, for up to Five Years.

The City acquired this property as part of the Affordable Housing Land Bank Program. The property is composed of 17.11 acres of vacant development land. Prior to the City's purchase and during last summer, the site was leased for hay production. This lease is for land only and does not allow the use of City-owned water on the property.

One of the goals of the Land Bank Program is to hold land for a minimum of five years. Leasing the property during this time period generates revenue for the program and eliminates the cost of ground maintenance for the City.

15. First Reading of Ordinance No. 050, 2004, Authorizing the Acquisition by Eminent Domain Proceedings of Certain Lands Necessary for the Construction of Public Improvements in Connection with the Stormwater Utility Drainage Outfall for the North Tributary System and the Street Oversizing Ziegler Road Realignment Project.

A stormwater drainage easement is required for the North Tributary outfall across property east of CR 9 owned by Ed McDowell. The North Tributary Stormwater pipe drains areas of existing Parkwood, Parkwood East, and Meadows East neighborhoods. Installation of this storm water pipe across Timberline Road was done in 1999, and currently floods property owned by the Rigden Farm Development before spilling into the Fossil Creek Reservoir Inlet Ditch (FCRID), overtopping CR13 and draining into the Poudre River.

The developer for Rigden Farm Sixth Filing is planning development of this flood affected property and has proposed a siphon structure to carry 100 year storm flows under the FCRID ditch and CR 9 and into an open channel to the Poudre River. As is standard practice, the Stormwater Utility has been working with the developer to design and construct these regional drainage improvements.

The Street Oversizing Program has also been working with the developer to obtain the right of way necessary to construct Ziegler Road from Drake to Horsetooth on a new alignment west of the FCRID. This new alignment will meet minor arterial standards and eliminate the current substandard roadway with narrow one lane bridges.

16. First Reading of Ordinance No. 034, 2004, Authorizing the Sublease to Larimer County of Portions of the Fossil Creek Reservoir Property Leased by the City from North Poudre Irrigation Company.

The Natural Areas Program holds a lease on 810 acres of land and surface water rights from North Poudre Irrigation Company for Fossil Creek Reservoir. This Ordinance approves a sublease of all or a portion of that leased property to Larimer County. The sublease will allow Larimer County Open Lands to lease, operate, maintain and manage a 150' strip (approximately 25 acres) along the south shore of the reservoir adjacent to Fossil Creek Reservoir Regional Open Space (FCRROS). FCRROS is jointly owned by the City and County, but it will be operated by Larimer County. Larimer County has completed the design of the public improvements for FCRROS, which will be constructed this spring/summer/fall and the site opened to the public late this year.

17. Resolution 2004-039 Authorizing the City Manager to Execute an Agreement with Barnard Dunkelberg & Company to Prepare a Comprehensive Master Plan Study for the Fort Collins-Loveland Municipal Airport.

The Airport's current master plan is over 10 years old and is in need of updating. The Cities have already accepted a grant from the FAA in the amount of \$450,000 to pay for 90% of the new master plan study. The Cities have also received a grant from the State Aeronautics Division in the amount of \$25,000 for half of the local share of the project costs.

The FAA procedures were followed for the procurement of the planning consultant as well as negotiating fees with the selected firm of Barnard Dunkelberg & Company. The agreement with Barnard Dunkelberg & Company establishes a not to exceed sum of \$490,620 for completing the study.

18. Resolution 2004-040 Authorizing the Lease of City-owned Property at 304 North Howes Street.

The City purchased this property as part of the Civic Center Master Plan in 2000. The City's use of this block is still being planned. In the interim, the residence has continued as a rental. The current rental term and approval expires this spring. The existing tenants have expressed an interest in continuing their lease of the Property. The new lease term will be for one year, with the City having the option to renew for an additional term.

19. Resolution 2004-041 Establishing Rental Rates and Delivery Charges for the City's Raw Water for the 2004 Season.

This Resolution approves rates for the rental and use of the City's raw water supplies. The Water Utility uses these rates to assess charges for agricultural use, for various contractual raw water obligations and for raw water deliveries to other City departments. Each year prior to the irrigation season, the City's Water Board ("the Board") makes a recommendation

to the Council regarding the raw water charges. The Board discussed the proposed rental rates and charges at its February 26, 2004 meeting. The proposed rate for each type of water is based on several factors including market conditions and assessments charged by irrigation companies.

20. Resolution 2004-042 Making Appointments to Various Boards and Commissions.

Vacancies currently exist on the Commission on the Status of Women due to unfilled vacancies remaining from the annual appointment process. Applications were solicited and Councilmembers Weitkunat and Tharp interviewed the applicants. The Council interview team is recommending Beena Bawa and Rondell Ferguson with terms to begin immediately and set forth to expire on December 31, 2005. Councilmembers Weitkunat and Tharp are also recommending Barbara Goff with a term to begin immediately and set forth to expire on December 31, 2006.

A vacancy currently exists on the Human Relations Commission due to the resignation of Kimberly Clouser. Councilmembers Roy and Hamrick reviewed the applications on file and are recommending JoAnn Ginal to fill said vacancy with a term to begin immediately and set to expire on December 31, 2007.

Vacancies currently exist on the Parks and Recreation Board due to the resignations of Mike Gavin and Paul Van Valkenburg. Applications were solicited and Councilmembers Bertschy and Hamrick interviewed the applicants. The Council interview team is recommending Mark Lueker and Jon Sinclair with terms to begin immediately and set forth to expire respectively on December 31, 2005 and December 31, 2006.

A vacancy currently exists on the Telecommunications Board due to the removal of Rob Koeller for attendance violations. Councilmembers Kastein and Tharp reviewed the applications on file and are recommending Chip Cushman to fill said vacancy with a term to begin immediately and set to expire on December 31, 2005.

*****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.

Status Report on Council Requests.

23. Councilmember Reports.

ITEMS NEEDING INDIVIDUAL CONSIDERATION

24. Second Reading of Ordinance No. 039, 2004, Amending Article III of Chapter 12 of the City Code Pertaining to the "Private Club" Exception to the Prohibition Against Smoking in Enclosed Public Places. (30 minutes)

This Ordinance, which was adopted 4-2 as amended (Councilmembers Hamrick and Roy opposed, Councilmember Bertschy was absent) on First Reading on February 17, 2004, amends Article III of Chapter 12 of the City Code, which generally prohibits smoking in enclosed public places, so as to clarify the private club exception to that prohibition against smoking.

25. Items Relating to the Adrian Annexation and Zoning. (1 hour)

- A. Resolution 2004-043 Setting Forth Findings of Fact and Determinations Regarding the Adrian Annexation.
- B. First Reading of Ordinance No. 051, 2004, Annexing Property Known as the Adrian Annexation.
- C. First Reading of Ordinance No. 052, 2004, Amending the Zoning Map and Classifying for Zoning Purposes the Property Included in the Adrian Annexation.

This is a request to annex and zone 2.18 acres located at the southeast corner West Vine Drive and Impala Drive. The property is north of LaPorte Avenue, west of North Taft Hill Road, and east of North Overland Trail. It is currently being used as an existing single-family residence (with house and horse barn) and is in the FA – Farming Zoning District in Larimer County. The requested zoning in the City of Fort Collins is LMN – Low Density Mixed-Use Neighborhood.

Staff is recommending that this property be included in the Residential Neighborhood Sign District. A map amendment will not be necessary to place this property on the Residential Neighborhood Sign District Map.

26. Items Relating to Solid Waste Collection and Recycling Service. (45 minutes)

- A. First Reading of Ordinance No. 025, 2004, Amending Chapter 15, Article XV of the City Code Relating to Solid Waste Collection and Recycling Services.
- B. First Reading of Ordinance No. 053, 2004, Amending Chapter 12, Article II of the City Code Relating to Collection of Garbage and Refuse.

Since it was adopted in 1996, the pay-as-you-throw (PAYT) Code provisions governing the provision of solid waste collection services have been implemented by trash haulers as a

condition of their City license, with one amendment made in March 2000 to establish an audit system for the City's use.

Clarification of the Code language is proposed to specifically state that all single family and two-family residences in Fort Collins are subject to unit-based (PAYT) trash rates, including those participating in group accounts for trash service. By including group accounts in the PAYT Ordinance, staff estimates 10,000 more residences (approximately 19% of residences in Fort Collins) will participate in the unit-based trash system, preventing up to 15,000 cubic yards of municipal solid waste from being sent to local landfills for disposal. Staff also expects to see a 4-6% increase in recycling in these residences.

Code language is also being added to Chapter 12, requiring that persons arranging group accounts for trash service do so in a manner consistent with the PAYT requirements.

27. Resolution 2004-044 Making Appointments to the HRC Task Force. (30 minutes)

On March 2, 2004 the City Council adopted Resolution 2004-037 which provided direction to the Human Relation Commission (HRC) as a result of a January Study Session.

At the January 27 Study Session, the HRC suggested that City Council consider a draft Human Rights Protection ordinance. Per Resolution 2004-037, the City Council asked the Human Relations Commission to establish a citizen task force (Task Force) to review certain issues raised in the draft Human Rights Protection ordinance and provide to the Council any recommendations related to such issues.

The Task Force is to include cross-functional community stake holders, including representatives from Police Services, the Northern Colorado Multicultural Corporation, the City of Fort Collins Human Rights Office, Colorado State University, and other community organizations.

The Human Relations Commission meets on March 11 and, as a result of that meeting, will submit names to be approved by the City Council as members of the HRC Task Force.

28. Second Reading of Ordinance No. 045, 2004, Amending Chapter 26, Article III, Division 4 of the City Code Relating to User Rates and Charges for Water. (15 minutes)

The previous water rate for single family and duplex customers was the 5-tiered rate implemented in January 2003 during the drought. The rate sent a very strong price signal to customers to conserve water since the more a customer used, the higher the cost per gallon. Since it was implemented customers have had many concerns about the high price per gallon in the upper tiers. In response to these concerns Council reviewed alternative rate structures at its December 9, 2003 study session. Rate options considered included modifications to the tiered rate and the water budget rate.

Council continued to address water rate options at the February 3, 2004 Council meeting and after lengthy discussion adopted Resolution 2004-018.

After the February 3, 2004, Council meeting, the City Manager was directed to prepare a modified tiered water rate ordinance for single family and duplex customers for the March 2, 2004 Council meeting.

This Ordinance, which was adopted 4-3 (Councilmembers Kastein, Martinez and Weitkunat opposed) on First Reading on March 2, 2004, amends Chapter 26, Article III, Division 4 of the City Code.

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