

AGENDA

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

December 17, 2002

**Regular Meeting
6:00 p.m.**

PRESENTATION OF COLORS BY CUB SCOUT PACK 84

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 28. 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 #38, 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 Council meeting minutes of November 5, 2002.
8. Second Reading of Ordinance No. 170, 2002, Appropriating Unanticipated Grant Revenue in the General Fund for Police Services for the Larimer County Drug Task Force.

The City received a grant from the Colorado Department of Public Safety Division of Criminal Justice for the period of December 1, 2002 to July 31, 2003, for the purchase of a mobile lab trailer. The purpose of this trailer, which is handicapped accessible and will be available for use by other Northern Colorado law enforcement agencies, is to transport equipment and evidence to and from rural methamphetamine laboratories and to provide facilities from which officers may work to safely dismantle such labs. Ordinance No. 170, 2002, was unanimously adopted on First Reading on November 19, 2002.

9. Second Reading of Ordinance No. 171, 2002, Appropriating \$420,500 from Prior Year Reserves in the General Fund for Police Services Equipment.

This Ordinance, which was unanimously adopted on First Reading on November 19, 2002, appropriates funds from the Equipment Replacement Reserve fund to the Police Services budget for the purchase of 800 MHz radio consoles and furniture in the Emergency Dispatch Center to enable expansion and technological upgrades.

10. Second Reading of Ordinance No. 173, 2002, Appropriating Unanticipated Revenue in the Sales and Use Tax Fund for a Change in Accounting Practices.

Each year the City prepares an annual financial report that is audited by an independent firm. In the 2001 Management Report from *Bondi & Co LLP*, the auditors recommended that collection fees be included in the gross revenue of the City. Staff has made adjustments to account for the collection fees that the Larimer County Treasurer retains in the collection of property taxes. In further discussions with the auditors, the principle applies to other revenue sources. Businesses retain a portion of sales taxes and the County Treasurer retains a portion of use taxes paid when vehicles are registered. This Ordinance, which was unanimously adopted on First Reading on November 19, 2002, appropriates unanticipated revenue for a change in accounting practices.

11. Items Relating to the Issuance of City of Fort Collins Downtown Development Authority Subordinate Tax Increment Revenue Bonds, Series 2002.

- A. Second Reading of Ordinance No. 174, 2002, Authorizing the Issuance of City of Fort Collins Downtown Development Authority Taxable Subordinate Tax Increment Revenue Bonds Series 2002 in the Amount of \$1,065,000 for the Purpose of Financing Certain Capital Improvements and Capital Projects.

- B. Second Reading of Ordinance No. 175, 2002, Appropriating Proceeds from the Issuance

of City of Fort Collins, Colorado, Downtown Development Authority Taxable Subordinate Tax Increment Revenue Bonds, Series 2002, for the Purpose of Making Certain Capital Improvements in the Downtown Area of Fort Collins and Appropriating Revenues in the Tax Increment Fund.

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.

Ordinance No. 174, 2002, which was unanimously adopted on First Reading on November 19, 2002, authorizes the issuance of short term bonds for the projects which will be paid from the tax increment revenue. Ordinance No. 175, 2002, which was also unanimously adopted on First Reading on November 19, 2002, appropriates the proceeds in the Capital Projects Fund for the various projects.

12. Second Reading of Ordinance No. 177, 2002, 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 5, 2002, the Planning and Zoning Board voted 4-0 to recommend approval of the proposed changes to City Council. Ordinance No. 177, 2002, was unanimously adopted on First Reading on November 19, 2002.

13. Second Reading of Ordinance No. 178, 2002, Vacating a Utility Easement on Lot 6, Block 2, Riverside Park Subdivision.

This Ordinance, which was unanimously adopted on First Reading on November 19, 2002, vacates a utility easement which was originally intended to allow the installation and operation of electric and cable television facilities. City Light and Power has obtained another easement in the vicinity for these purposes and no longer needs this easement.

14. Second Reading of Ordinance No. 180, 2002, Designating the Emily E. and J. M. Calvert House and Garage, 321 East Mulberry Street, Fort Collins, Colorado, as a Historic Landmark Pursuant to Chapter 14 of the City Code.

The owners of the property, Laura Thompson and Bessie and Richard Braesch, initiated this request for Fort Collins Landmark designation for the Emily E. and J. M. Calvert House and Garage. The property is listed on the National Register of Historic Places, as a contributing element of the Laurel School Historic District. The home has architectural significance to Fort Collins as a good reflection of the changing tastes in architectural styles, materials, and techniques within Fort Collins during the first half of the twentieth century. The garage dates to the period of significance, and also contributes to the property’s significance. Ordinance No. 180, 2002, was unanimously adopted on First Reading on November 19, 2002.

15. First Reading of Ordinance No. 184, 2002, Authorizing the Long-term Lease of Property at the Fort Collins-Loveland Municipal Airport to Stephen Brown for the Construction of an Aircraft Hangar.

This lease is the standard lease form that has been used on numerous other ground leases approved by the City. The ground rental rate is \$.14 per square foot per year, which is consistent with other leases approved within the last year. The hangar location is consistent with the Airport's development plan and is considered to be a good addition to the Airport. At the expiration of the lease the improvements revert to the ownership of the Airport.

16. First Reading of Ordinance No. 185, 2002, Authorizing the Long-term Lease of Property at the Fort Collins-Loveland Municipal Airport to Dennis Swenson for the Construction of an Aircraft Hangar.

This lease is the standard lease form that has been used on numerous other ground leases approved by the City. The ground rental rate is \$.14 per square foot per year, which is consistent with other leases approved within the last year. The hangar location is consistent with the Airport's development plan and is considered to be a good addition to the Airport. At the expiration of the lease, the improvements revert to the ownership of the Airport.

17. First Reading of Ordinance No. 186, 2002, Amending Chapter 14 of the City Code Relating to Landmark Preservation.

The demolition/alteration review process, adopted in 1994 as a part of Chapter 14 of the City Code, has generated continued confusion and concern by Council, staff and the public. The Landmark Preservation Commission (LPC) and staff have completed a thorough review of Chapter 14, and are proposing the following revisions to the Code. These revisions address the major concerns with the demolition/alteration review process, by allowing for a distinction between resources that are individually eligible, those that would only contribute to a district, and those that are not eligible or would not contribute to a district, and by adopting new standards for evaluating a property's level of eligibility based upon its significance and integrity. These changes would result in the demolition/alteration review process being required only for individually eligible properties and those properties designated on the State or National Registers, and then only if the proposed work would have an adverse effect on the property's integrity. Finally, the proposed revisions include minor housekeeping changes to Chapter 14. On November 19, Council adopted Ordinance No. 177, 2002, on first reading, which, in part, amends Section 3.4.7 of the Land Use Code to correspond to these proposed revisions.

18. First Reading of Ordinance No. 187, 2002, Authorizing a Modification of the Meadow Springs Ranch Grazing Lease With Natural Fort Grazing Association, Inc.

Natural Fort Grazing Association, Inc. (“NFGA”), has asked if the City is willing to restructure the current ten-year grazing lease to a lease that is year to year with an option to renew for the following year up to the ten year term.

While a ten-year term arrangement is preferred by the City and the NFGA, recent changes in the property tax treatment of publicly-owned property that is leased and used by private parties have raised new issues related to the structure of leases such as the grazing lease. Because the value of the grazing lease is assessed as the current value of the entire term, the value of a ten-year lease is high throughout the life of the lease, even though the lease itself is terminable by the parties with notice at any time. If the grazing lease is not restructured, the value of the last year of a ten-year term lease would be taxed nine times rather than once annually. Given that the current lease is terminable with notice, staff does not believe that modifying the lease to constitute a series of one-year terms, as opposed to one ten-year term, will result in negative impacts to the City as the lessor. The restructuring would continue to allow a long-term relationship, but would make the lease more financially viable for the lessee. Because the Utility believes the continued lease of the property for grazing purposes is beneficial, staff is recommending that the modification of the lease to provide for successive one-year terms, rather than one ten-year term, will result in an overall benefit to the City.

19. First Reading of Ordinance No. 188, 2002, Amending Chapter 20 of the City Code to Limit Residential Chimney Smoke Opacity to 20%.

Although local emissions from residential wood-burning devices have declined over the past decade, approximately 10% of citizens still believe there is too much wood smoke in their own neighborhood. Some wood smoke complaints are not resolved through the City’s Wood Smoke Response Program, although staff has spent up to forty hours per complaint attempting to resolve individual complaints. Section 20-1 of the City Code currently restricts residential chimney smoke opacity to 40% (100% opacity is too dense to see through. 0% opacity is clear.). A review of residential chimney smoke opacity restrictions used by other communities around the country shows that 20% is the limit used most commonly. Bringing Fort Collins’ residential chimney smoke opacity limit into line with the national norm will provide staff with a better tool to help address neighborhood-scale wood smoke problems, and assist in meeting the City’s policy objective of reducing area-wide wood smoke emissions.

20. Resolution 2002-110 Finding Substantial Compliance and Initiating Annexation Proceedings for the State Highway 14 – East Frontage Road Annexation.

The State Highway 14 – East Frontage Road Annexation is 47.15 acres in size. The site is located on the east side of the I-25 East Frontage Road approximately one-quarter mile south of State Highway 14 (East Mulberry Street). Contiguity with the existing municipal boundary is gained along the southern boundary which is shared with the north property line of the Galatia Annexation

(230 acres). The recommended zoning is L-M-N, Low Density Mixed-Use Neighborhood. An Amendment to the Structure Plan Map will also be recommended at the time of the Annexation Ordinance.

The proposed Resolution states that it is the City's intent to annex this property and directs that the published notice required by state law be given of the Council's hearing to consider the annexation ordinance. The hearing will be held at the time of first reading of the annexation and zoning ordinances on February 4, 2003. Not less than 30 days prior, published notice is required by state law.

21. Resolution 2002-111 Finding Substantial Compliance and Initiating Annexation Proceedings for the First Free Will Baptist Church Annexation.

The First Free Will Baptist Church Annexation is 4.92 acres in size, located west of College Avenue and north of Trilby Road. The parcel is contiguous to existing City boundaries by the Timan First Annexation. The recommended zoning is Low Density Mixed-Use Neighborhood. (LMN).

The proposed resolution states it is the City's intent to annex this property and directs that the notice required by state statutes be given of the Council's hearing to consider the annexation ordinance. The public hearing for the annexation ordinance must occur no less than 30 days and no greater than 60 days from adoption of the resolution finding compliance with state statutes.

22. Resolution 2002-112 Making Findings of Fact and Conclusions Regarding the Appeal of a Decision of the Administrative Hearing Officer Relating to the 616 South College (Waffle House) Project Development Plan.

On October 24, 2002, an Amended Appeal of the September 30, 2002 decision of the Administrative Hearing Officer to approve the 616 South College (Waffle House) Project Development Plan was filed by Appellants Judith A. and Grant W. Reid.

On November 19, 2002, City Council voted 4-3 to uphold the decision of the Hearing Officer. In order to complete the record regarding this appeal, the Council needs to adopt a Resolution making findings of fact and finalizing its decision on the appeal.

23. Resolution 2002-113 Approving Expenditures from the Art in Public Places Reserve Account in the Cultural Services and Facilities Fund to Commission an Artist Team to Create Five "Ice Crystal" Sculptures for the Second Sheet of Ice at EPIC Project.

This Resolution would approve expenditures of \$32,283 for design, fabrication, installation and contingency for this project. The artists, Patricia and Juan Navarrete, will create five suspended sculptures. The five sculptural interpretations of ice crystals will hang at various heights and be visible from many directions.

24. Resolution 2002-114 Approving Expenditures from the Art in Public Places Reserve Account in the Cultural Services and Facilities Fund to Commission an Artist to Create a Site-specific Art Piece for the Traffic Operations Facility.

This Resolution would approve expenditures of \$16,914 for commission of the artist to create and install the artwork, contingency and maintenance of the piece. The artist, James Haire, will create a bronze sculpture depicting a turn of the century traffic officer.

25. Resolution 2002-115 Making Appointments to Various Boards and Commissions.

Vacancies currently exist on various boards, commissions, and authorities due to resignations of board members and the expiration of terms of members. Applications were solicited during September. Council received copies of the applications and Council teams interviewed applicants during October and November. Names of those individuals recommended for appointment by each Council interview team have been inserted in the Resolution.

In addition this Resolution affirms one Team Fort Collins appointment of a member to the Youth Advisory Board.

26. Resolution 2002-116 Reappointing Kathleen M. Lane as Municipal Judge.

Article VII, Section 1 of the Charter provides that the Municipal Judge is to be appointed for a term of two years. Kathleen M. Lane was first appointed to serve as the City's Municipal Judge for a term commencing July 1, 1989. This Resolution reappoints Judge Lane for another two-year term commencing on January 1, 2003 and ending on December 31, 2004, and authorizes the Mayor to execute an addendum to Judge Lane's Employment Agreement.

27. Resolution 2002-117 Approving the Purchase of one John Deere 544H Loader From Colorado Machinery as an Exception to the Competitive Purchasing Process.

The Utility Department has for many years purchased John Deere equipment as an exception to the competitive process for its construction machinery needs. Staff has requested that this practice be continued based on the department requirements and its experience with John Deere equipment. John Deere loaders have been very reliable and dealer support has been excellent. The department has a wide variety of attachments which can be used on John Deere equipment. It would be cost-prohibitive to maintain a similar supply of attachments for more than one make. Ergonomically, the units are nearly identical, so operators can work with all of them.

The issue of using an exception to the competitive process for certain brands of equipment for the purpose of standardization across a department has been a topic of discussion by the City's Internal Equipment Review Board. The Board consensus has been that standardization is appropriate for relatively small equipment pools, such as Utilities, where physical and functional similarity can enhance efficiency and safety. Utility employees, especially when on-call, are required to operate machinery they are not normally assigned to, sometimes at night and in bad

weather. John Deere maintains a similar control setup throughout product lines, which enhances operator safety and makes it simpler and quicker to complete tasks.

28. Routine Deed and Easement.

- A. Deed of dedication for utility easement from Cactus Rose Development, Ltd., for a utility easement, located on the south west corner of Taft Hill Road and LaPorte Avenue. Monetary consideration: \$500.
- B. Deed of dedication for right-of-way from Cactus Rose Development Group, Ltd., for a road right-of-way, located on the south west corner of Taft Hill Road and LaPorte Avenue. Monetary consideration: \$520.

*****END CONSENT*****

29. Consent Calendar Follow-up.

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

30. Staff Reports.

31. Councilmember Reports.

ITEMS NEEDING INDIVIDUAL CONSIDERATION

32. Second Reading of Ordinance No. 181, 2002, Repealing and Re-enacting Article III of Chapter 12 of the City Code, Regarding Smoking in Public Places and Places of Employment.

Ordinance No. 181, 2002, which was adopted 7-0 on First Reading was an adapted version of the Colorado Tobacco Education and Prevention Association (“CTEPA”) model ordinance.

The differences between this version of the Ordinance, and the Ordinance as it was presented for consideration on first reading include the following:

- Section 12-63 has been added, to provide for designated smoking areas, together with corresponding changes to accommodate the addition of this Section (including the employer requirements described in Section 12-60);
- Section 12-56, the definitions section, has been modified to:
 - delete unnecessary definitions (terms no longer needed in the Ordinance), including the definitions for “attached bar”, “business”, and “sports arena”;

- add a definition of “establishment” to clarify the meaning of that term throughout the Ordinance as the building(s) or facilities in which a business or undertaking is operated;
- modify the definition of “performance hall” to make clear that incidental live entertainment is not sufficient to cause an establishment to be a “performance hall”; and
- modify the definition of “restaurant” to include establishments that operate a kitchen for the preparation of meals or provide regular service of meals within the definition, in addition to any establishments that meet the 25% food revenue test.
- Subsection 12-59(b) has been deleted in order to eliminate the prohibition on smoking in outdoor sports arenas, convention halls and performance halls; and
- Section 12-61 has been modified to exclude passersby who do not stop from the smoke-free perimeter requirement.

Editorial changes have also been made to improve consistency and form.

33. First Reading of Ordinance No. 189, 2002, Amending Section 4.15(B)(3)(c) of the City of Fort Collins Land Use Code by adding Supermarkets as a Permitted Use in the Community Commercial - North College Zone District.

This is a request to add Supermarkets (over 25,000 square feet) as a permitted use within the C-C-N, Community Commercial - North College zone district.

The C-C-N zone does not permit large retail buildings or supermarkets over 25,000 square feet in floor area. (Retail stores and grocery stores under 25,000 sq. ft. are permitted.) This zone, along with Standards and Guidelines, was specifically written for the property in question in a public planning process. It is intended for mixed uses of moderate scale and intensity in a pedestrian-oriented arrangement. It suggests that new buildings should be brought together along Willox and new internal streets; and also that buildings next to natural features on the property should have outdoor spaces for people that open onto those features and provide attractive views. A large retail building footprint and parking lot is inconsistent with these ideas. In addition to being inconsistent with the area-specific plan, this request is also inconsistent with the general land use provisions in City Plan.

The reason for the request is the applicant’s interest in development of a supermarket shopping center at the northeast corner of the intersection of North College Avenue and Willox Lane.

34. Items Relating to the North Front Range Transportation and Air Quality Planning Council (MPO).

- A. Resolution 2002-118 Authorizing the Mayor to Execute an Intergovernmental Agreement for the Provision of a Loan to the North Front Range Transportation and Air Quality Planning Council.

The Resolution authorizes the Mayor to sign the loan to the MPO. The loan provisions have been modified since November 19, 2002, to reflect that federal grant guidelines do not allow the MPO to use grant proceeds to pay interest on the loan. The MPO will use other sources to repay the interest portion of the loan.

- B. Second Reading of Ordinance No. 172, 2002, Appropriating Prior Year Reserves in the Transportation Services Fund for Transfer to the North Front Range Transportation and Air Quality Planning Council Fund.

Ordinance No. 172, 2002, which was adopted 6-1 on First Reading on November 17, 2002, appropriates prior year reserves in the Transportation fund to be transferred as the loan to the MPO. When the MPO receives reimbursements from various grants, it will be able to repay the loan.

35. Items Relating to the Manufacturer's Use Tax Rebate Program.

- A. Second Reading of Ordinance No. 182, 2002, Appropriating Prior Year Use Tax Carryover Reserves for the Manufacturer's Use Tax Rebate Program.
- B. Second Reading of Ordinance No. 183, 2002, Appropriating Prior Year Use Tax Carryover Reserves for the Manufacturer's Use Tax Rebate Program for Symbios Logic.

In March 1996, City Council approved a temporary rebate program for use tax paid on manufacturing equipment. The program was amended in February 1999 to include several changes suggested by staff and the manufacturing community. The goal of the program is to maintain the local economic base by providing modest tax relief to manufacturing concerns located in Fort Collins. During 2001, the City of Fort Collins received about \$3.6 million in use tax receipts from eligible companies within the Standard Industrial Code classification for manufacturers. This constitutes 48% of all use tax paid by local businesses in 2001. Ordinance Nos. 182 and 183, 2002, were adopted 6-0 (Councilmember Kastein withdrawn) on First Reading on November 19, 2002.

36. Resolution 2002-119 Making an Appointment to the Air Quality Advisory Board.

A vacancy currently exists on the Air Quality Advisory Board due to the resignation of Cassie Archuleta. Applications were solicited during September. Council received copies of the applications and Council teams interviewed applicants during October and November.

Mayor Martinez and Councilmember Hamrick did not reach an agreement for the vacancy on the Air Quality Advisory Board. The council interview team wishes to submit two names for Council's consideration for that position.

37. First Reading of Ordinance No. 176, 2002, 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 2002, Councilmembers were compensated \$575 per month, and the Mayor received \$860 per month.

This Ordinance amends Section 2-575 of the City Code to set the 2003 compensation of Councilmembers at \$585 and the compensation of the Mayor at \$880, as required by the City Charter.

38. Pulled Consent Items.
39. Other Business.
40. Adjournment.