

# **AGENDA**

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

March 2, 2004

**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 26. 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 #34, 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 a January 6, and January 20, 2004.
8. Second Reading of Ordinance No. 026, 2004, Appropriating Unanticipated Revenue in the Capital Projects Fund - Timberline Road Improvements Project to be used for the Engineering Design of Timberline Road from Prospect Road to Drake Road.

Traffic congestion at the Timberline/Prospect intersection is well below the City's Level of Service requirements, with almost all legs and turn movements failing during the morning and evening peak rush hours. In accordance with the Adequate Public Facilities Ordinance, any new development which impacts this intersection cannot proceed until these existing deficiencies are corrected.

In the absence of any capital improvement funding for this intersection, two developers are electing to privately fund these improvements in order to proceed with their development projects. These two developers, owners of the bulk of the impacted property, are proposing the initiation of a special improvement district (SID) which will assess a portion of the costs of the improvements to the other owners of undeveloped property in the area that will benefit by the improvements.

The two initiating developers have contributed \$100,000 so the City can prepare the plans, an estimate of costs, and maps of the district needed to complete the engineering design without cost to the City. This Ordinance, which was adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004, appropriates funds into a capital project account for the selection of a consulting engineering firm to provide the design plans and documents needed for the creation of the SID and the construction of the project.

9. Second Reading of Ordinance No. 027, 2004, Appropriating Prior Year Reserves Designated for Community Park Improvements in the Capital Improvement Expansion Fund for Transfer to the Capital Projects Fund - Southwest Community Park Capital Project to Be Used for Park Design Costs.

In 1996, Council adopted the Parks and Recreation Policy Plan which gives direction for the development of community parks. The community park standard is one park per 20,000 population. The city's population in 2007, when the Park is scheduled to open, is estimated to be about 140,000. The development of Southwest Community Park is necessary to serve the growing community and to meet parkland standards. This Ordinance, which was adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004, appropriates prior year reserves for park design costs.

10. Second Reading of Ordinance No. 028, 2004, Appropriating Unanticipated Revenue in the Capital Projects Fund - Community Horticulture Center Capital Project to be used as Reimbursement for Project Expenditures Incurred.

The City designed and constructed storm water improvements, in connection with the development of the Horticulture Center project, which were oversized to accommodate both the historic and developed stormwater flows from Colorado State University Research Foundation (CSURF) property onto and across the City property. A cost sharing agreement was entered into by CSURF and the City whereby the City would finance and construct all of said drainage improvements. CSURF agreed to reimburse the City for oversizing the drainage channel to accept its developed flows once Phase 1 of the construction project was completed. Ordinance No. 028, 2004 was adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004.

11. Second Reading of Ordinance No. 029, 2004, Amending Chapter 20, Article III of the City Code Concerning the Prohibition of Indoor Furniture in Certain Outdoor Locations.

This Ordinance, which was adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004, revises Sections 20-41 and 20-42.5 of the City Code. These changes modify the existing ban on using or keeping indoor furniture in certain outdoor locations, so as to make it a violation to keep such furniture in any yard or on any porch where the furniture is visible to the public or visible from the ground level of adjacent property.

12. Second Reading of Ordinance No. 030, 2004, Amending Chapter 20, Article VII of the City Code Concerning the Parking of Motor Vehicles in Yards.

This Ordinance, which was adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004, amends Article VII of Chapter 20 of the City Code to: redefine "yards"; expand the prohibition against parking on lawns to all yards of all residential properties; make allowances for unimproved driveways that access a garage; clarify the term "permanent border"; limit to front yards only the "40 percent rule" for improving parking areas; allow for the issuance of citations to the owners of illegally parked cars, as well as to the owners of the properties on which the cars are parked; and allow Code enforcement officers the right of entry onto private property to issue citations.

13. Second Reading of Ordinance No. 031, 2004, Amending Sections 227(3) and (4) of the Fort Collins Traffic Code Relating to Tinted Windshields.

Originally, the Fort Collins Traffic Code allowed only a certain level of window tinting for all vehicles, including law enforcement vehicles. Staff requested Council amend the Fort Collins Traffic Code to exempt law enforcement vehicles from the window tinting restrictions. This Ordinance was adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004.

14. Items Relating to Amending the Fort Collins Traffic Code and City Code Regarding Muffler Noise.

- A. Second Reading of Ordinance No. 032, 2004, Amending the Fort Collins Traffic Code Relating to Muffler Noise and to More Narrowly Define Prohibited Exhaust Systems.
- B. Second Reading of Ordinance No. 033, 2004, Amending Section 20-22 of the City Code Relating to Unreasonable Noise.

After discussion and review of ordinances around the country, the committee made recommendations for changes to the Fort Collins Traffic Code and the Code of the City of Fort Collins in an effort to reduce the problems with muffler noise and to more narrowly define prohibited exhaust systems. These amendments will become effective upon the state highways within the City limits upon approval by CDOT, pursuant to C.R.S. Section 43-2-135(g). Ordinance No. 032, 2004 and Ordinance No. 033, 2004, were both adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004.

15. Second Reading of Ordinance No. 035, 2004, Authorizing the Conveyance of a Conservation Easement on a Portion of Running Deer Natural Area, Authorizing an Access Easement on a Portion of Running Deer Natural Area Adjacent to the Conservation Easement Area and Appropriating Revenues into the City's Natural Areas Fund.

This Ordinance, which was adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004, authorizes the execution of a conservation easement on a portion of Running Deer Natural Area on which Great Outdoors Colorado (GOCO) has awarded the City a grant to reimburse the City for a portion of the cost of acquiring the property.

16. Items Relating to the Homestead Annexation and Zoning.

- A. Second Reading of Ordinance No. 036, 2004, Annexing Property Known as Homestead Annexation to the City of Fort Collins.
- B. Second Reading of Ordinance No. 037, 2004, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Homestead Annexation.

Ordinance No. 036, 2004 and Ordinance No. 037, 2004, were both adopted 6-0 (Mayor Pro Tem Bertschy as absent) on First Reading on February 17, 2004, annexing and zoning approximately 25.151 acres of publicly and privately owned property. This annexation includes the development approved in the County as the "Homestead P.U.D. 2nd Filing P.L.D. & P.D.", a 1271 foot long portion of the Ziegler Road right-of-way, and a the adjacent street rights-of-way along Cornerstone Drive and Hearthstone Drive. The

recommended zoning is the **UE – Urban Estate** zone district. The property is located within the Fossil Creek Reservoir Area Plan.

17. Second Reading of Ordinance No. 038, 2004, Expanding the Boundaries of the Fort Collins, Colorado Downtown Development Authority and Amending the Plan of Development of the Authority.

This Ordinance, which was adopted 6-0 (Mayor Pro Tem Bertschy was absent) on First Reading on February 17, 2004, expands the boundaries of the Downtown Development Authority (DDA) District to include the Historic Webster House property.

18. Items Relating to 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 \$1,083,000.

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 today's market. 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, West Drake, and Lemay Avenue.

19. First 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.

It is proposed that the City Code be revised to clarify language in Section 24-95(a). The change is 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 will make 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.

20. Items Relating to Harmony Farm Second Annexation.

- A. Resolution 2004-031 Setting Forth Findings of Fact and Determinations Regarding the Harmony Farms Second Annexation.
- B. First Reading of Ordinance No. 042, 2004, Annexing Property Known as the Harmony Farms Second Annexation to the City of Fort Collins, Colorado.
- C. First 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.

This property is eligible for annexation according to CRS, requiring 1/6 contiguity to the existing city limits. This annexation application complies with this standard since the property has 100% of its total boundary contiguous to the existing City limits. This contiguity occurs through a common boundary with the Rickettes Annexation (September 1993) on the north, the Harmony Farm Annexation on the west (July 1994), the Kendall-Harmony Annexation (6/2000) on the south, and the Johnson-Harmony Annexation (1/2000) on the east.

21. First 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, is initiating this 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.

22. Resolution 2004-032 Authorizing the Airport Manager to Execute a Lease Agreement at the Fort Collins-Loveland Municipal Airport with Zane and Rosalie Iverson, DBA, the Peaks Café.

The Peaks Café wishes to lease 244 square feet of space in the airport terminal building to provide food services to the general public. Primary customers will be passengers flying into and out of the airport on Allegiant Air. The Agreement is for an initial one-year period with a one-year extension. The lease rate is fixed for the first year at \$3,360 payable in twelve monthly installments of \$280. The lease rate will be renegotiated prior to the start of second year. The lease rate is commensurate with terminal building rental rates established for other tenants. The Agreement will provide a new revenue source for the Airport and provide a valuable service to the public. The Peaks Café is an established Loveland business and will operate this facility in conjunction with its existing location.

23. Resolution 2004-033 Finding Substantial Compliance and Initiating Annexation Proceedings for the Prospect East 4th Annexation.

This is an involuntary annexation. The area to be annexed is the entirety of an enclave that has been surrounded by the City of Fort Collins for more than three years; therefore, no annexation petition is required for this annexation.

In accordance with CRS 31-12-106 *Annexation of Enclaves, Partially Surrounded Land, and Municipally Owned Land*, when any unincorporated area is entirely contained within the boundaries of a municipality, the governing body may by ordinance annex such territory to the municipality.

24. Resolution 2004-034 Stating City Council's Recommendations Regarding "Toll Roads" to the Colorado Tolling Enterprise.

The Colorado General Assembly created the Colorado Tolling Enterprise (CTE) in 2002, within the Department of Transportation (CDOT), specifically for the purpose of identifying potential future toll corridors throughout the State and to study the feasibility of implementing toll roads. The CTE is examining tolls only on new roads and new capacity (lanes) on existing highways. The CTE has identified several corridors in Northern Colorado for further study as potential toll roads or additional toll lanes, including I-25 and US-287. The CTE Board has requested written public comment regarding this study.

Transportation staff recommends that the City of Fort Collins not support further exploration of tolling mechanisms along the I-25 Corridor in Northern Colorado due to concerns about usage, cost recovery, and potential precedent for future tolling of existing facilities. The CTE should instead focus its attention, effort and resources on the proposed new toll road, railroad and utility corridor in a new alignment on the eastern plains from north of Fort Collins to south of Pueblo.

25. Resolution 2004-035 Nominating Ron Phillips as a Candidate to the Executive Board of the Colorado Municipal League.

This Resolution formally nominates Ron Phillips as a candidate to the Colorado Municipal League Executive Board. Ron is an active participant and continues to represent the City well as a member of the Colorado Municipal League Executive Board.

26. Resolution 2004- 036 Making Appointments to the Cultural Resources Board and the Zoning Board of Appeals.

A vacancy currently exists on the Cultural Resources Board due to the expiration of term of Jennifer Beccard. Applications were solicited and Councilmembers Weitkunat and Kastein interviewed the applicants. The Council interview team is recommending Sue Beck-Ferkiss with a term to begin immediately and set forth to expire on December 31, 2007.

A vacancy currently exists on the Zoning Board of Appeals due to the resignation of David Lingle. Applications were solicited and interviews were conducted. Councilmembers Weitkunat and Kastein are recommending Dana McBride to fill said vacancy with a term to begin immediately and set to expire on December 31, 2005.

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

27. Consent Calendar Follow-up.

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

28. Staff Reports.

Status Report on Council Requests.

29. Councilmember Reports.

### **ITEMS NEEDING INDIVIDUAL CONSIDERATION**

30. Resolution 2004-037 Reaffirming Certain Principles with Regard to Human Rights and Civil Liberties and Giving Direction to the Human Relations Commission. (45 minutes)

At several Council meetings during the latter part of 2003 and early 2004, community members and Mr. Ken Gordon, Chair of the Human Relations Commission expressed their belief that action is needed to clarify the circumstances under which inquiries about an individual's immigration status should be made by City personnel.

On January 27, 2004 the City Council discussed with representatives of the Human Relations Commission the follow-up actions that Council would do and Council's direction and expectations of the work that Human Relations Commission would do as a result of the January study session.

31. First 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. (45 minutes)

The current water rate for single family and duplex customers is 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. It directed the City Manager to prepare a modified tiered water rate ordinance for single family and duplex customers for consideration on March 2, 2004. The Resolution further directed that the new rate ordinance retain the current fixed charge and first tier price and that it eliminate the fifth tier pricing level.

32. Resolution 2004-038 Adopting the Transportation Master Plan 2004 as an Element of the City's Comprehensive Plan and Amending the Master Street Plan. (1 hour)

The *Transportation Master Plan 2004* (TMP) updates the City's 1997 transportation master plan. This is a comprehensive update to transportation-related goals, principles, and policies; analysis of current and forecast system performance; development of a transportation-specific Capital Improvement Project (CIP) needs list and fiscally constrained CIP list; and recommended amendments to the City's Master Street Plan. This eighteen month effort was conducted in collaboration with the ongoing *City Plan* comprehensive land use plan update to ensure consistency and sensitivity to the linked relationships between land use, transportation, and air quality. The TMP received input from Council, City advisory boards, key stakeholders, and the public throughout the plan's development.

33. First 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. (30 minutes)

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.

Since 1989, the national-wide and state-wide trend has been to reduce the amount of tax that vendors are allowed to retain. Many studies have shown that there are diminishing costs to vendors who collect large amounts of sales tax. Computerized systems have greatly reduced the cost of tax collections.

As the City's tax rate has grown from 1.0% in 1972 to the current rate of 3.0% , so has the total amount of tax revenue that vendors have retained. In 1972, the amount of annual tax revenue retained by vendors in the City was only about \$34,000. In 2003, vendors retained just over \$1 million.

34. Pulled Consent Items.
35. Other Business.
36. Adjournment.