

AGENDA

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

June 5, 2001

Proclamations and Presentations

5:30 p.m

- A. Proclamation Proclaiming June 15 and 16, 2001 as “Relay for Life Days”.
- B. Proclamation Proclaiming the Month of June 2001 as “Bike 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 21. 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. Second Reading of Ordinance No. 93, 2001, Appropriating Unanticipated Revenue and Authorizing the Transfer of Appropriations for the Local and Regional Transportation Demand Management Programs the Regional Vanpool Program and Transportation Planning.

In April 2001, the North Front Range Transportation and Air Quality Planning Council approved the expenditures of unspent 2000 Regional TDM program funds, for SMART*Trips* marketing and business outreach activities, the purchase of a van for the VanGO program, and support of MPO administrative expenses.

CMAQ funds will be used to pay for accounting support of the 12 City CMAQ projects – TDM, air quality, and alternative fuel activities. The funding for the CMAQ projects is through a contract with the Colorado Department of Transportation. Ordinance No. 93, 2001, was unanimously adopted on First Reading on May 15, 2001.

8. Second Reading of Ordinance No. 94, 2001, Designating the Nix Farm, 1745 Hoffman Mill Road, as a Local Landmark Pursuant to Chapter 14 of the City Code.

The owner of the property, the City of Fort Collins, is initiating this request for local landmark designation for the Nix Farm. The property contains two residences, a ramp barn, and an equipment/animal shed. These buildings and structures have architectural significance to Fort Collins, as excellent examples of both Craftsman and vernacular, farm-related architecture. The ramp barn in particular is highly significant as a rare example of

this specialized barn construction technique. Additionally, the Nix Farm buildings and site have historical significance to Fort Collins, for their representation of and association with the agricultural development of Fort Collins. Ordinance No. 94, 2001, was unanimously adopted on First Reading on May 15, 2001.

9. Second Reading of Ordinance No. 95, 2001, Authorizing the Conveyance of a Non-Exclusive Utility Easement to QWest Corporation and Appropriating Unanticipated Revenue in the Conservation Trust Fund Trail Acquisition and Development Project.

Ordinance No. 95, 2001, which was unanimously adopted on First Reading on May 15, 2001, authorizes the conveyance of an non-exclusive utility easement to QWest.

10. First Reading of Ordinance No. 96, 2001, Appropriating Unanticipated Revenue and Prior Year Reserves in the Downtown Development Authority Debt Service Fund.

On April 17, Council adopted Ordinance No. 50, 2001, which refunded a portion of the Downtown Development Authority (“DDA”) Tax Increment Revenue Refunding Bonds, Series 1992, through the issuance of City of Fort Collins Downtown Development Authority Tax Increment Revenue Refunding Bonds Series 2001, as approved by the Council in Ordinance No. 50, 2001, the amount of \$3,640,000. This refunding will save the City and DDA about \$200,000 over the next five years. Some of the costs of the refinancing were not known at the time of the second reading and therefore, staff was unable to have Council appropriate the exact amounts needed for the refunding costs. Ordinance No. 96, 2001, makes the required appropriations to adequately cover the costs of the refinancing. The appropriations include the use of prior year reserves (\$1,227,306) and bond proceeds netted against existing appropriations in the fund (\$3,476,777).

11. First Reading of Ordinance No. 97, 2001, Authorizing the Sale of Real Property to Tidal Wave Car Wash, LLC.

Responding to the rapid growth of the early 1980s, the City established partnerships with several development companies and issued special improvement district bonds to make public improvements in several areas of the City. The eventual owners of the properties were to pay off the bonds through special assessments. In the mid to late 1980s, the City experienced a sharp drop in demand for housing units and many of the development companies decided to not to pay the special assessments. The City continued to make payments on the bonds with funds transferred from the General Fund. The City also proceeded to foreclose on the property and eventually received title to the properties. The two parcels in Ordinance No. 97, 2001, (the City parcel and the Johnson parcel) comprise a 0.87-acre property located at the northwest corner of JFK Parkway and the Troutman. The buyer has offered a payment that will pay the City a net amount of \$82,602.52, substantially higher than the amount estimated (\$37,900) in the 1993-feasibility study. The Ordinance

authorizes the sale of the City's ownership interests in the properties, which is legally two separate parcels represented by two separate sales agreements.

12. First Reading of Ordinance No. 98, 2001, Amending Section 24-95(c) of the City Code to Include Right-of-Way Acquisition as a Reimbursable Cost of the City When Constructing Streets.

Currently when the City designs and constructs a street through undeveloped areas, the City can be reimbursed for the design and construction costs at the time the undeveloped areas are developed and the developer takes access from that street. Under this proposed amendment to the City Code, when the City has to acquire land or right-of-way for the construction of the street, the costs for the acquisition would be recoverable by the City from the developer, at the time the land is developed and the developer takes access from the street.

This recommended change to the City Code would match a similar change to the Land Use Code, Section 3.3.2(F)(2), that is being proposed under separate cover as part of the Spring 2001 revisions to the Land Use Code.

13. First Reading of Ordinance No. 99, 2001, Amending Chapter 23.5 of the City Code Pertaining to Special Events and Demonstrations.

This Ordinance would amend Chapter 23.5 of the City Code (Special Events), to include a new defined category of event, referred to as a "demonstration". This term is used to clarify provisions in Chapter 23.5 that previously referenced "events for the purpose of exercising free speech." The Ordinance modifies current Code language to clarify that in all instances the permit holder shall be required to reimburse the City for any costs incurred repairing damage caused by the permit holder or its agents. New provisions have been added allowing: (1) the denial of a permit for an event that would violate an ordinance or statute; (2) revocation of a permit if conditions change so that the permit application would have been denied; and (3) revocation of a permit if continuation of an event presents a clear and present danger to participants or the public. The Ordinance also adds standards for determining when and how much insurance will be required, and makes the knowing violation of a permit a Code violation, in contrast to the present "willful" standard. The Ordinance includes other clarifying language consistent with these described changes, as well as general editing of existing provisions.

The proposed changes are the result of a review of the 14-year-old Special Events provisions, based on fairness and constitutional issues that have been identified through the experience of other jurisdictions.

14. Items Relating to the Arbor South Annexation.

- A. Resolution 2001-73 Setting Forth Findings of Fact and Determinations Regarding the Arbor South Annexation.
- B. Hearing and First Reading of Ordinance No. 100, 2001, Annexing Property Known as the Arbor South Annexation to the City of Fort Collins, Colorado.
- C. Hearing and First Reading of Ordinance No. 101, 2001, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Arbor South Annexation to the City of Fort Collins, Colorado.

This is a 100% voluntary annexation and zoning of a property approximately 11.26 acres in size. The site is located on the west side of South College Avenue, east of the Burlington Northern Santa Fe Railroad tracks, approximately one-half mile south of Harmony Road. The property is former Fossil Creek Nursery and is presently vacant.

The proposed zoning is C, Commercial. This will match the existing zoning on the north, east and south sides of the property. Contiguity with the existing municipal boundary is gained along the north, east and south sides of the property as well.

15. Items Relating to Amendments to the Various Agreements for the Civic Center Facilities.

- A. First Reading of Ordinance No. 102, 2001, Approving Amendments to the Leasehold Deed of Trust, Site Agreement, Lease Agreement, and Parking Structure License Agreement for the 1998 Lease Certificates of Participation for the Civic Center Facilities Project.
- B. First Reading of Ordinance No. 103, 2001, Authorizing the City Manager to, from Time to Time, Amend the Long-Term Lease of Real Property Adjacent to the Civic Center Parking Structure to Phelps Program Management, LLC, for the Development of Commercial Space and Related Easements.

In 1998, Council approved Lease Certificates of Participation (“COPS”) in the amount of \$17,210,000 for the Civic Center Facilities Project. This Project includes the Civic Center Parking Structure and the new City Office Building at 215 North Mason Street. In coordination with the issuance of the COPs and the construction of the Parking Structure, the first level along the western side of the Parking Structure was leased to Phelps Program Management (“PPM”), an affiliate of Hensel Phelps, for private use as restaurant, retail and other related purposes to enhance the attractiveness of the downtown area. As a result of the completion of the planning and construction of the Project, staff has been better able to define and anticipate certain issues that are addressed in the various agreements. As a result, staff has prepared and worked with other involved parties to develop amendments to the several agreements that were part of the COPs arrangement and the commercial ground lease

arrangement, in order to refine the terms of those agreements. The Bank of Cherry Creek, which is the trustee for the COPs financing, has already approved the proposed changes.

16. First Reading of Ordinance No. 104, 2001, Authorizing the Purchasing Agent to Enter into an Extension of the Restaurant/Snack Bar Concession Agreement at Southridge Golf Course for Up to Five Additional Years.

The existing Agreement with the SouthRidge Golf Course restaurant/snack bar concessionaire, the Sandtrap, Inc., dba Mackenzie's Pub & Grill at SouthRidge, expires on December 31, 2001. This four-year agreement was entered into on December 3, 1997, after an addendum to the Agreement was entered into on November 15, 2000. As per Section 5.5 of the Agreement (and as noted in the RFP document), "...This Agreement may be extended beyond the original four (4) year term if performance is satisfactory and subject to City Council approval through public process and negotiation of an extension agreement acceptable to Concessionaire and the City". The performance of the concessionaire has been very satisfactory and staff has negotiated a mutually acceptable extension agreement. The Golf Board took public input/comment on such a possible extension at its April 18, 2001, meeting, receiving no public opposition and only positive comments. The Board then unanimously agreed to encourage City Council to extend the agreement for up to five additional one-year renewal periods through December 31, 2006. The City Code requires contracts over five years in length to be approved by Council.

17. First Reading of Ordinance No. 105, 2001, Authorizing the Sublease of a Portion of the Environmental Learning Center/Visitor's Center/Welcome Center at 3545 East Prospect Road by the Fort Collins Convention and Visitors Bureau.

The City entered into an Intergovernmental Agreement with Colorado State University for the Environmental Learning Center/Visitor's Center/Welcome Center in August 1999. This agreement provides space for the City to conduct visitor services at the Center. This sublease will provide a portion of this space to the Fort Collins Convention and Visitors Bureau ("CVB") for use as CVB office space. CVB operates the Visitor's Center and Welcome Center under contract with the City, and uses the majority of the space provided to the City by CSU to provide these services. However, the area being subleased pursuant to this Ordinance is used for CVB purposes.

18. First Reading of Ordinance No. 106, 2001, Authorizing the Conveyance of a Non-Exclusive Sewer Easement to Floyd E. and Gloria M. Frame in Connection with South Taft Hill Projects.

The subject project includes the South Taft Hill Road Improvements, the Spring Creek Trail Crossing and Extension, the Taft Hill Waterline Extension and the Taft Hill Regional Detention Pond. These separate City department projects have been combined to form the South Taft Hill Projects. City departments represented include Engineering, Parks and Recreation and Utilities.

The purpose of the conveyance of this easement is twofold. First, the property owner has requested the installation of a new residential sewer service as part of the South Taft Hill Projects. Second, the City Utilities Department has offered the installation of new sewer service lines to property owners along the project corridor to provide current septic system users a way to convert to the City sewer system. By installing sewer services now, as part of the capital improvement project, the Utilities Department would minimize future sewer construction activities in the new roadway, trail and pond areas.

In addition, this easement is part of the City's overall effort to gain agreement with individual property owners without exercising the City's authority to use eminent domain.

19. First Reading of Ordinance No. 107, 2001, 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 spring biannual update of the Land Use Code. On May 17, 2001, the Planning and Zoning Board voted 7-0 to recommend approval of the proposed changes to City Council.

20. Resolution 2001-74 Authorizing the Mayor to Execute an Intergovernmental Agreement with Platte River Power Authority for Reimbursement to the City for Costs to Relocate City's Substation from the City's Overland Trail Substation Site to Platte River Power Authority's Dixon Creek Substation Site.

The proposed Intergovernmental Agreement (IGA) is the result of negotiations with Platte River Power Authority to relocate the City's Overland Trail Substation at Platte River Power Authority's request. Relocation of the City's substation will result in annual purchase power savings to Platte River Power Authority by eliminating Western Area Power Administration (WAPA) delivery charges for power delivered through substation delivery points served solely through WAPA's transmission system. The IGA specifically defines the reimbursable work to be done by the City and the terms and conditions for effecting reimbursement. The relocation will benefit both the City and Platte River. Light and Power will benefit by relocating delivery capacity to a site closer to its projected load center. Platte River Power

Authority will benefit by avoiding WAPA energy delivery charges (wheeling charges) associated with the current Overland Trail location or, alternatively, by avoiding considerable capital investment in high voltage transmission line construction needed to mitigate these charges.

21. Routine Easements.

- A. Utility easement dedication from Charles S. Hatchette, located east of Lemay on Hoffman Mill Road, south of Mulberry Street. Monetary consideration: \$10. Staff: Marc Virata.
- B. Drainage easement dedication from Larry R. Magnuson, located west of Shields Street at Raintree Drive, north of Drake Road. Monetary consideration: \$0. Staff: Dave Stringer.
- C. Utility and access easement dedication from Larry R. Magnuson, located west of Shields Street at Raintree Drive, north of Drake Road. Monetary consideration: \$0. Staff: Dave Stringer.

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

22. Consent Calendar Follow-up.

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

23. Staff Reports.

24. Councilmember Reports.

Committees that have met since May 15, 2001 include:

Finance Committee

Growth Management Committee

NFRT&AQPC

ITEMS NEEDING INDIVIDUAL CONSIDERATION

25. Second Reading of Ordinance No. 57, 2001, Authorizing the Conveyance of an Easement to Wyoming Interstate Company for Construction of a 36-inch Gas Pipeline.

Wyoming Interstate Company proposes to build a new gas pipeline from Douglas, Wyoming to a station south of Cheyenne, Wyoming as part of the Medicine Bow lateral to increase transportation capacity of its current system in Colorado and Wyoming. This easement will parallel an existing easement granted by the City in May 1999. A portion of this proposed pipeline crosses City-owned Meadow Springs Ranch. This project has been determined to

be “in the public interest” and has been approved by the Federal Energy Regulatory Commission. The Company’s offer is consistent with those made to adjacent landowners. An environmental assessment has been done for the proposed route. Ordinance No. 57, 2001, was adopted 6-1 on First Reading on April 17, 2001.

After the First Reading of the Ordinance some concerns with the environmental assessment review process were brought to the Utilities attention. In response to those concerns, a few changes to the process were made. The assessment has been reviewed jointly by Utilities and Natural Resources staff. Staff believes the assessment was well done, but that some further clarity was needed on a few wildlife and re-vegetation issues. Wyoming Interstate Gas Company’s (WIC) response indicates that the two species the City staff believed needed more discussion were not discussed because they are not present on City property along its proposed route. The WIC will be discussing seed mixes for re-vegetation with the City as part of the project and it is required to monitor the route for five years by the FERC project protocol. When the five-year period is over, certification that the re-vegetation has satisfactorily taken is required. As a result of the review process, a certified member of staff will be inspecting all stream crossings during and after construction to be sure they are satisfactory. A copy of the staff opinion and a copy of Wyoming Interstate Gas Company’s response to the concerns raised have been included with this item.

26. Second Reading of Ordinance No. 58, 2001, Authorizing the Conveyance of an Easement to the Platte River Power Authority for Construction of a 24-inch Gas Pipeline.

Platte River Power Authority proposes to build a new gas pipeline from Rockport, Wyoming to the Rawhide Energy Station to provide fuel for three new gas fired combustion turbines at the station. A portion of this proposed pipeline crosses City-owned Meadow Springs Ranch. The proposed easement will encompass approximately 54 acres. Platte River's offer is consistent with those made to adjacent landowners. An environmental assessment has been done for the proposed route. This Ordinance was adopted by a vote of 6-1, on First Reading on April 17, 2001.

After the First Reading of the Ordinance some concerns with the environmental assessment review process were brought to the Utilities' attention. In response to those concerns, a few changes to the process were made. The assessment has been reviewed jointly by Utilities and Natural Resources staff. In general, staff believes the assessment was very well done, but lacked detail in areas such as stream crossing specifications and re-vegetation issues. As a result of the review process a certified member of staff will be inspecting all stream crossings during and after construction to be sure they are satisfactory. A private native seed contractor has contacted the City on behalf of PRPA and will be meeting with staff to discuss seed mixes and reclamation plans. A copy of the staff opinion and a copy of PRPA’s response to the concerns raised have been included with this item.

27. First Reading of Ordinance No. 92, 2001, Amending the Zoning Map of the City of Fort

Collins by Changing the Zoning Classification for that Certain Property Known as the Timberline Lane Rezoning From UE (Urban Estate) to HC (Harmony Corridor).

The parcel consists of approximately .75± acres located south and adjacent to Timberline Lane, and west and adjacent to Timberline Road. The site contains one mobile home with a detached garage.

Staff has recommended approval on the basis that the request generally complies with the comprehensive plan (*City Plan*); the *City Structure Plan*, an element of the City's comprehensive plan; and, the *Harmony Corridor Plan*. Consistency with the comprehensive plan is legally sufficient for approval of the request; however, the Planning and Zoning Board found that the request does not satisfactorily address all of the additional considerations contained in Section 2.9.4(H)(3) of the Land Use Code. The Board determined that the request is not warranted by changed conditions within the neighborhood surrounding and including the subject property, and the proposed zone change is not compatible with existing and proposed land uses.

On May 1, this item was postponed to this date and time at the request of the petitioner, J.D. Padilla.

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