

# **AGENDA**

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

September 2, 2003

## **Proclamations and Presentations**

**5:30 p.m.**

- A. Presentation of an Exemplary Citizenship Award to Jeff Borg.
- B. Proclamation Proclaiming September 13, 2003 as “A Day of Education and Awareness for Children’s Safety.”
- C. Proclamation Proclaiming the Week of September 17-23, 2003 as “Constitution Week.”
- D. Proclamation Proclaiming the Month of September as “Hispanic Heritage 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 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 #37, 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 July 15, 2003 and the adjourned meeting minutes of July 22, 2003.
8. Second Reading of Ordinance No. 106, 2003, Appropriating Unanticipated Revenue in the Cultural Services and Facilities Fund for the Art in Public Places Reserve Account and Approving Expenditures from the Art in Public Places Reserve Account to Commission an Artist to Create a Front Entry Piece for the Lincoln Center.

This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, appropriates the donation by the Lincoln Center Support League and ArtWear Fund to the Art in Public Places Reserve Account, and authorize expenditure of the donated funds to commission the creation of the "Portal" project for the Lincoln Center.

9. Second Reading of Ordinance No. 107, 2003, Appropriating Unanticipated Revenue in the General Fund for the Rehabilitation of 259 South College Avenue, the Mountain Empire (Historic Armstrong) Hotel.

The City has been awarded a grant from the Colorado Historical Society's State Historical Fund for the rehabilitation of 259 South College Avenue. Matching funds will be provided by the owners of the building. This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, appropriates the grant and matching funds for the restoration of 259 South College Avenue.

10. Items Relating to Appropriating Prior Year Reserves in the Downtown Development Authority Operations and Maintenance Fund.

- A. Second Reading of Ordinance No. 108, 2003, Appropriating Funds from City of Fort Collins, Colorado, Downtown Development Authority Debt Service Fund for the Payment of Downtown Development Authority Taxable Subordinate Tax Increment Revenue Bonds.

Ordinance No. 108, 2003, which was unanimously adopted on First Reading on August 19, 2003, appropriates \$1 million to pay the bonds the City anticipates issuing later this year.

- B. Second Reading of Ordinance No. 109, 2003, Appropriating Funds from the Downtown Development Authority Operations and Maintenance Fund for the Purpose of Making Certain Capital Improvements in the Downtown Area of Fort Collins and Appropriating Prior Year Reserves Designated for Capital Improvements.

Ordinance No. 109, 2003, which was unanimously adopted on First Reading on August 19, 2003, appropriates the \$1 million of transferred money from the bond issue and another \$850,000 from the DDA Operations and Maintenance Fund prior year reserves.

These Ordinances have been modified slightly to clarify that bond proceeds will be used to pay for the capital improvements, while debt service funds will be used to pay the bonds.

11. Second Reading of Ordinance No. 110, 2003, Appropriating Unanticipated Revenue in the General Fund to Be Returned to the Fort Collins Housing Authority to Fund Affordable Housing Related Activities.

The Fort Collins Housing Authority (the “Authority”) made a payment to the City from its 2003 budget for the sum of \$11,113 as a “Payment in Lieu of Taxes” (“PILOT”) for public services and facilities. The Authority annually requests that the City refund the money “...to again fund sorely needed affordable housing related activities, to attend the low-income housing needs of Fort Collins residents.” This Ordinance was unanimously adopted on First Reading on August 19, 2003.

12. Second Reading of Ordinance No. 111, 2003, Authorizing the City to Enter into a Revocable Lease with the Cortina Homeowners’ Association for Portions of Public Right-of-Way for Underground Storage.

This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, authorizes the Mayor to enter into an agreement with the Cortina Homeowners’ Association for a revocable lease of portions of public right-of-way to be used as underground storage for a proposed building on the southwest corner of the intersection of Canyon Avenue and Howes Street.

13. Second Reading of Ordinance No. 112, 2003, Amending Article III of Chapter 17 of the City Code Pertaining to Offenses Against Property.

Like the State, the City of Fort Collins has maintained laws in its Code against theft of rental property, concealment and criminal mischief. Currently, under State law, such crimes may be considered either a misdemeanor or a felony, depending upon the amount of dollar loss. Under the City Code such crimes are misdemeanors if the value of the property stolen, concealed or damaged is less than \$400. These crimes under the State statutes are considered misdemeanors if the value of the property is less than \$500.

This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, amends Sections 17-37, 17-38, and 17-39 to raise the value limit of property to \$500, which will be consistent with State Statutes relating to theft of rental property, concealment and criminal mischief.

14. Second Reading of Ordinance No. 113, 2003, Amending Chapter 1 of the City Code Relating to General Provisions and Repealing Identical Sections Contained Elsewhere in the Code.

The City Code applies these principles only to the offenses contained in Chapter 17 and Section 12-99(e), relating to the sale and use of tobacco products. There are other offenses under the City Code, for example, sales tax and licensing violations, environmental regulation violations, fire code and noise violations, which cannot presently be prosecuted under the principles of complicity or corporate liability. This Ordinance was unanimously adopted on First Reading on August 19, 2003.

15. Second Reading of Ordinance No. 114, 2003, Authorizing Amendment #1 to the Long-Term Lease of Property at the Fort Collins-Loveland Municipal Airport with Cole Smith, DBA Signal Construction, for the Construction of an Aircraft Hangar.

The Cities entered into a ground lease agreement with Cole Smith on July 17, 2001, for the construction of an aircraft storage hangar. It has been discovered that the legal description for the property built upon is incorrect. This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, amends the lease incorporating the correct legal description.

16. Second Reading of Ordinance No. 115, 2003, Amending Section 2-238 of the City Code Pertaining to the Functions of the Golf Board.

This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, amends the functions of the Golf Board, as contained in the City Code, to reflect the fact that it is the City Manager, rather than the City Council, who sets the annual fees and charges at City-owned golf courses.

17. Second Reading of Ordinance No. 116, 2003, Amending the City Code Relating to Candidates for Municipal Election.

This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, amends the deadline for a nominated candidate for municipal election to withdraw his or her candidacy, and amends the deadline for a person to file an affidavit of intent with the City Clerk indicating that such person desires to be a write-in candidate and is qualified for the office.

18. Second Reading of Ordinance No. 117, 2003, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for That Certain Property Known as the Whitham Property Rezoning.

Ordinance No. 117, 2003, which was unanimously adopted on First Reading on August 19, 2003, rezones 160.3 acres located on the south side of East Vine Drive between North Timberline Road (1/2 mile to the west) and Interstate 25 (1/2 mile to the east). The site is currently vacant and is in the T - Transition District.

19. Second Reading of Ordinance No. 118, 2003, Amending Article III of Chapter 12 of the City Code, Regarding Smoking in Public Places and Places of Employment, to Authorize Administrative Regulations.

This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, amends the Code to specifically authorize the City Manager to establish administrative regulations.

20. Second Reading of Ordinance No. 119, 2003, Amending Section 24-91 of the City Code Adding Categories of Names to the List of Street Names to Be Used for Selecting Names for New Arterial and Collector Streets.

Section 24-91 of the City Code requires arterial and collector streets to be named only from a list of names of citizens that the City would like to honor posthumously. This Ordinance, which was unanimously adopted on First Reading on August 19, 2003, amends this section of the Code to also allow such streets to be named after natural areas, natural features, historic and/or well-known places other names that Council may approve.

21. First Reading of Ordinance No. 121, 2003, Appropriating Unanticipated Grant Revenue in the Cultural Services and Facilities Fund to be Used to Evaluate and Determine the Cultural Affiliation of Human Remains and Cultural Artifacts in the Museum's Holdings.

On August 1, 2003 the Museum received written notice that it had been awarded a \$75,000 NAGPRA Documentation Grant from the National Park Service. This Documentation Grant will enable the Museum to evaluate and determine the cultural affiliation of human remains and cultural artifacts in the Museum's holdings. The overarching goal for this project is to submit three Notices of Inventory Completion to the National Park Service

determined through consultation with several Californian and Puebloan tribes, the Hopi tribe, the Navajo Nation, and continued consultations with Plains Indian tribes.

The Museum will utilize the grant funds to hire a NAGPRA Coordinator and part time Collections Manager, who will organize and facilitate the consultation with tribes, and to cover travel expenses and consultation fees.

22. First Reading of Ordinance No. 122, 2003, Appropriating Unanticipated Grant Revenue in the General Fund for the Operation of the Fort Collins Welcome Center.

Pursuant to Resolution 99-97, the City contracted with Colorado State University for space at the Environmental Learning Center/Visitors Center, approximately one-quarter mile west of Interstate 25. The City, in its effort to welcome visitors to Fort Collins through the activities of its convention and visitor services contractor, the Fort Collins Convention and Visitors Bureau (the "CVB"), will use the space for the Fort Collins Welcome Center. The CVB, in addition to promoting tourism activity, will operate the Welcome Center pursuant to the City's agreement with the CVB, and consistent with the City's grant agreement with the State of Colorado.

23. Items Relating to the Fort Collins-Loveland Airport.

- A. Resolution 2003-098 Authorizing the City Manager to Execute a Grant Agreement with the Federal Aviation Administrator Regarding an Update to the Airport Master Plan.

In July, the Federal Aviation Administration ("FAA") awarded the Airport a \$250,000 grant to be used toward the Airport's Master Plan Update Study ("Study"). Recently, the FAA offered the Airport additional grant funds in the amount of \$200,000 to be used for the Study. Taken together, the grant funds will cover 90% of the costs to prepare an update to the Airport's existing study. The Airport is currently negotiating fees with the consultant to prepare the Study based on the scope of work. It is anticipated that the Grant will be adequate to cover the total costs of the Study and the scope of work. Should any of the FAA money be left over once the Study is fully funded, the remaining funds can be recovered for other FAA eligible projects.

- B. First Reading of Ordinance No. 123, 2003, Authorizing the Appropriation of Funds for Expenditure to Be Used for the Fort Collins-Loveland Airport's FAA Sponsored Airport Master Plan Update Study.

This Ordinance appropriates the City's 50% share of the \$200,000 additional grant money (or \$100,000) as well as its 50% share of the \$22,200 required matching funds (or \$11,100).

24. First Reading of Ordinance No. 124, 2003, Amending Section 22-90 of the City Code Relating to Limit on Assessments.

City staff has been discussing the possible formation of a special improvement district to construct streets, intersections, and other improvements along Timberline Road from the Drake Road intersection north past the Prospect Road Intersection. Some of the property owners and developers that would be benefited by the improvements have proposed that they provide the money necessary to construct the improvements, and that the City create a special improvement district to distribute the costs among other benefited property owners through the payment of special assessments against their property. Section 22-90 of the City Code restricts the amount of assessments that may be placed on benefited properties to one-half the actual value of the property, not including the proposed district improvements. This restriction was intended to protect the City and property owners from assessments that are too high for the property to bear.

As envisioned, the proposed financing structure for a special improvement district for the Timberline Road improvements would not present any financial risk to the City, because the petitioning property owners and development companies would advance the cost of the improvements and would bear the risk of default, rather than the City. Under these circumstances, relaxation of the limits on assessments would not put the City at risk and would better enable the petitioning property owners to recover the costs they advance. Therefore, staff has developed new language for Section 22-90 of the City Code which would allow the amount of the assessment to be determined in relation to the value of the benefited property including the value of the improvements. However, the amount assessed against the property would still not be allowed to exceed the amount that the property's value is enhanced by reason of the construction of the district improvements.

25. First Reading of Ordinance No. 125, 2003, Designating the Empire Grange Hall, 2306 West Mulberry Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

The members of Empire Grange #148 are initiating this request for Fort Collins Landmark designation for the Grange Hall. Due to the Hall's excellent physical integrity and high degree of architectural and historical significance, the building may be regarded as individually eligible for landmark designation under City of Fort Collins Landmark Preservation Standards (A) - Association with events that have made a significant contribution to the broad patterns of history; and (C) - Embodies the distinctive characteristics of a type, period, or method of construction. The Grange Hall, still in use after 91 years, remains a tangible reminder of the presence in Fort Collins of the Order of the Patrons of Husbandry, or Grange. The building's architectural significance is derived not only from its architectural form as a locally rare vernacular brick meeting hall, but also from the fact that it was built, and most likely designed, by Empire Grange members. The Hall is remarkably unaltered from its date of construction in 1912.

26. Resolution 2003-099 Setting the Dates of the Public Hearings on the 2004 and 2005 Proposed City of Fort Collins Biennial Budget.

The City will be adopting a biennial budget for the years 2004 and 2005. The City Charter requires that the City Council set a date for a public hearing on the proposed budget. This Resolution sets that hearing date for the Council meeting of September 16, 2003. In an effort to receive further public input, this Resolution also sets an additional hearing date for the October 7, 2003 Council meeting.

27. Resolution 2003-100 Amending the Service Directors' Pension Plan to Adjust the Contribution Rate of the City Manager.

The proposed change to the Service Directors' Pension Plan requires the City Manager to increase the amount of his personal contributions to the Plan. There is no additional cost to the City.

The Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA) introduced new retirement plan limits. Under EFTRRA, the maximum annual contribution to an individual's defined contribution account is \$41,000 in 2003. The City's defined contribution retirement plans are implemented through the ICMA Retirement Corporation (RC or the Retirement Corporation). The City Manager has requested that the City's plan for Service Directors' Pension Plan (Plan No. 8530-19) be amended to require contributions by the City Manager to be equal to the new limit. Pursuant to Section VI of the Third Addendum to the City Manager Employment Agreement, the City Council has agreed to accommodate the request of the City Manager to increase the amount of his mandatory contributions to the Plan. Substantive changes to the Plan require approval by the City Council. If adopted, this Resolution would authorize the change requested by the City Manager. Upon adoption by Council, staff will take the appropriate actions to effect the change. This action does not increase the City's financial liability.

28. Routine Easements.

- A. Easement for construction and maintenance of public utilities from Tim and Rosyln Stern, to underground electric services, located at 1608 Remington. Monetary consideration: \$500. Staff: Patti Teraoka.
- B. Easement for construction and maintenance of public utilities from Joel Lerich, to underground electric services, located at 212 East Stuart. Monetary consideration: \$300. Staff: Patti Teraoka.

**\*\*\*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.  
Status Report on Council Requests.

31. Councilmember Reports.

### **ITEMS NEEDING INDIVIDUAL CONSIDERATION**

32. Resolution 2003-096 Adopting the City Council's 2003-2005 Policy Agenda. (1 hour)

Every two years, the City Council adopts a Policy Agenda that outlines the policy initiatives it wishes to undertake in the two-year Council term. This proposed Policy Agenda has been developed through discussions with and among Councilmembers during a Council retreat and subsequent study session.

The 2003- 2005 Policy Agenda includes major theme areas on which Council would like to focus its policy work during the coming two years. The themes are supported by a number of policy targets and objectives that will provide focus and guidance to staff over the next two years.

33. Consideration of the Appeal of the July 14, 2003, Determination of the Administrative Hearing Officer to Impose the Following Condition on the Approval of the Discount Tire at Fossil Creek Project Development Plan: "The Applicant Shall Include on the Final Plan, the Hours of Operation of 8:30 a.m. to 5:30 p.m. Monday Through Saturday." (1 hour)

The Appellant has alleged, as the grounds for appeal, that the Hearing Officer failed to conduct a fair hearing in that evidence upon which the Hearing Officer based his decision was substantially false. If the Council finds that the applicant was denied a fair hearing, then, in accordance with Section 2-56(d) of the Fort Collins City Code, the City Council must remand the matter for rehearing.

34. Resolution 2003-101 Submitting to the Registered Electors of the City a Proposed Ballot Measure Which Would Authorize a Change in Use of Certain Building Community Choices Tax Revenues May Be Expended (Option A and Option B). (45 minutes)

At the August 12, 2003 Study Session, City Council directed staff to bring forward a proposal to place a measure on the November election ballot that would reallocate funds from two Building Community Choices transportation projects toward two higher priority transportation projects. In 1997, voters approved the Building Community Choices capital improvement program, including 20 specific projects in three sales and use tax funded packages.

Voter approval of the projects means that the City cannot change the projects without voter approval. However, changing circumstances suggest that these funds could be more effectively used for other transportation needs. If the Council wishes to reallocate a portion of these funds, voter approval would be required. The Resolution would authorize City staff to submit the proposed reallocation to the voters and change the use of the funds from the

Truck Route and Prospect Road projects to the Timberline Road and Harmony Road projects.

35. Second Reading of Ordinance No. 120, 2003, Amending the City's Land Use Code to Implement the I-25 Subarea Plan, Which is an Element of the City's Comprehensive Plan. (20 minutes)

The planning area of the I-25 Subarea Plan includes only lands located within the Fort Collins Growth Management Area (GMA) boundary. The planning area includes approximately 5,561 acres (8.7 square miles) of land of which approximately 2,128 acres (3.3 square miles), or 38% of the 8.7 square miles of the planning area, is currently annexed into the City. The vision, goals, principles and policies contained within the I-25 Subarea Plan apply only to the 8.7 square mile planning area. In addition, the I-25 Subarea Plan describes a variety of implementation actions that should be taken if the Subarea Plan is to be successful.

Based on concerns expressed by some property-owners staff has amended Ordinance No. 120, 2003, to have most distance measurements be made from the center-line of I-25 instead of the edge of the I-25 right-of-way. Ordinance No. 120, 2003, was adopted 4-2 (Councilmembers Hamrick and Roy opposed, Mayor Pro Tem Bertschy absent), on August 19, 2003.

36. Public Hearing on Fossil Creek Trail Options Through Paragon Point Subdivision. (1 hour)

The City does not have a formally dedicated easement through the Paragon Point Subdivision for a previously constructed section of the Fossil Creek Trail.

The purpose of this hearing is to provide the Council with background information and public input regarding options for the trail, in order to assist the Council in deciding whether to leave the trail in its present location, or relocate it.

37. Pulled Consent Items.

38. Other Business.

39. Adjournment.