

# **AGENDA**

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

September 3, 2002

## **Proclamations and Presentations**

**5:30 p.m**

- A. Proclamation Proclaiming September 8 as “Sustainable Living Day”.
- B. Proclamation Proclaiming September 11, as “A Day to Remember”.
- C. Proclamation Proclaiming 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 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 #33, 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. 113, 2002, Appropriating Unanticipated Grant Revenue in the Capital Projects Fund - Major Building Maintenance Capital Project For the Purpose of Rehabilitating the Interior of the Street Railway Car Barn at 300 North Howes Street.

This Ordinance, which was unanimously adopted on First Reading on August 20, 2002, appropriates unanticipated revenue in the amount of \$90,400 to begin rehabilitating the interior of the historic Street Railway Car Barn at 330 North Howes Street. The City has owned this Car (Trolley) Barn since 1919. It is the last streetcar barn in Colorado that is historically intact, inside as well as outside, and it is designated as a local Fort Collins landmark.

8. Second Reading of Ordinance No. 114, 2002, Appropriating Unanticipated Grant Revenue in the General Fund and Authorizing the Transfer of Matching Funds Previously Appropriated in the Natural Resources Budget for the Purpose of Completing a Historic Structure Assessment of the East Farmhouse, Barn, and Loafing Shed Located at the Nix Farm Natural Area.

This Ordinance, which was unanimously adopted on First Reading on August 20, 2002, appropriates unanticipated revenue in the amount of \$10,000 to complete a Historic Structure Assessment of the East Farmhouse, Barn, and Loafing Shed at the Nix Farm, 1745 Hoffman Mill Road. Other than the history search within the assessment, the West Farmhouse will not be part of the assessment because it is already in the process of rehabilitation for Natural Areas Program offices.

9. Second Reading of Ordinance No. 115, 2002, Appropriating Unanticipated Revenue in the Water Fund and Authorizing the Transfer of Appropriations Within the Water Fund for the Vulnerability Assessment Grant Project.

A \$115,000 Environmental Protection Agency (“EPA”) Grant has been awarded to the City to be used for a vulnerability assessment of the water system. Ordinance No. 115, 2002, which was unanimously adopted on First Reading on August 20, 2002, appropriates the EPA grant proceeds to the Water Fund Vulnerability Assessment Grant Project and transfer \$75,000 of existing appropriations from the Water Fund into the Grant Project.

10. Second Reading of Ordinance No. 116, 2002, Correcting the Legal Description of the Property Rezoned Pursuant to Ordinance No. 063, 2002, Known as the 1040 East Elizabeth Street Rezoning.

On May 7, 2002, the City Council approved Ordinance No. 063, 2002, which was intended to rezone the property located at 1040 East Elizabeth Street from the N-C-L, Neighborhood Conservation Low Density, District to the N-C-B, Neighborhood Conservation Buffer, District. Staff has learned that the legal description obtained from the County Assessor’s Office and contained in Ordinance No. 063, 2002, was only for the office building located on the property and not the total land area of the property itself.

Ordinance No. 116, 2002, which was unanimously adopted on First Reading on August 20, 2002, corrects the legal description of Ordinance No. 063, 2003, thus, rezoning the total property of 1040 East Elizabeth Street from the N-C-L District to the N-C-B District.

11. Second Reading of Ordinance No. 117, 2002, Authorizing the Sale of Approximately 160 Acres of Land Known as the Jacoby Farm to Larimer County and Authorizing the Extension of an Existing Agricultural Lease on the Property.

This Ordinance, which was unanimously adopted on First Reading on August 20, 2002, authorizes the sale of 160 acres of land known as the Jacoby Farm to Larimer County to become part of the County Open Lands Program. The site is located east of the Ptarmigan Country Club in Windsor.

12. Second Reading of Ordinance No. 118, 2002, Modifying Emergency Ordinance No. 112, 2002, Prescribing Temporary Restrictions on the Use of City Treated Water for Lawn Watering.

It has come to staff’s attention that the provision in Emergency Ordinance No. 112, 2002 regarding lawn water restrictions exempting new sod for a period of three weeks and new seed for a period of four weeks, may not allow for sufficient time for sod or seed to be adequately established. Taking into account the investment that property owners may have in new sod or seed, it seems prudent to modify Ordinance No. 112, 2002 to allow 4 weeks for sod and 6 weeks for seed.

In addition, staff recommended another change to the Ordinance to clarify that no person may undertake lawn watering in violation of the provisions of the Ordinance, regardless of whether that person is the "customer" of the Water Utility.

Ordinance No. 118, 2002, was unanimously adopted on First Reading on August 20, 2002.

13. First Reading of Ordinance No. 120, 2002, Appropriating Unanticipated Revenue in the Golf Fund for the Purpose of Funding Capital Improvements.

In 1999 and 2001 the City executed lease transactions to provide funding for capital improvements at the City's three golf courses. The total amount of the transactions allocated to the Golf Fund was \$5,085,000 to fund several high priority improvements such as the \$2.65 million Collindale Clubhouse replacement project. Due to unexpected circumstances beyond the control of the City, several of the improvements were delayed. Proceeds from the two transactions were invested at competitive interest rates. When the projects were delayed, the investments earned greater amounts of interest than originally anticipated. This Ordinance appropriates these extra interest earnings to allow the Golf Division to complete additional capital improvements at Collindale, SouthRidge, and City Park Nine Golf Courses. All of the financial transactions will be completed within the Golf Fund, an enterprise category fund.

14. Items Relating to the Issuance of City of Fort Collins, Colorado, General Obligation Water Refunding Bonds, Series 2002.

A. First Reading of Ordinance No. 121, 2002, Authorizing the Issuance of City of Fort Collins, Colorado, General Obligation Water Refunding Bonds, Series 2002, Dated September 15, 2002, in the Aggregate Principal Amount of \$19,460,000.

B. First Reading of Ordinance No. 122, 2002, Appropriating Proceeds from the Issuance of City of Fort Collins, Colorado, General Obligation Water Refunding Bonds, Series 2002, Dated September 15, 2002, in the Aggregate Principal Amount of \$19,460,000.

Authorizing the issuance of the bonds and appropriating the proceeds are both necessary to complete the bond transaction. The Ordinance would appropriate bond proceeds in the Water Fund for payment to the refunded bond escrow agent and the cost of issuing the bonds.

The City of Fort Collins and its Water Utility Enterprise have issued bonds to raise funds to provide for needed capital improvements that provide a consistent and stable supply of water to the residents and customers of the City. In 1992, the City issued three separate bond issues. Two of these bond issues are now eligible to be refinanced. The City will be paying off higher cost bonds with new bonds that will have much lower interest rates. The 1992 issues carried interest rates up to 6.40%. The refunding bonds in this Ordinance will likely carry interest rates under 3.5%. The savings on the lower rates should be over \$1.5 million, a portion of which will be shared with

Anheuser-Busch according to contractual agreements. The final rates will be determined by selling the bonds at a competitive sale on September 17. The final rates will be provided at the meeting on September 17.

15. First Reading of Ordinance No.123, 2002, Appropriating Proceeds from the Issuance of City of Fort Collins, Colorado, Stormwater Utility Enterprise, Storm Drainage Revenue Refunding Bonds, Series 2002, Dated September 15, 2002, in the Aggregate Principal Amount of \$2,800,000.

The Board of the Stormwater Utility Enterprise is scheduled to consider, at its meeting subsequent to the meeting of the City Council, Ordinance No. 007 of the Stormwater Utility Enterprise Board authorizing the issuance of City of Fort Collins, Colorado, Stormwater Utility Enterprise, Storm Drainage Revenue Refunding Bonds, Series 2002, Dated September 15, 2002, in the Aggregate Principal Amount of \$2,800,000. Authorizing the issuance of the Bonds and appropriating the proceeds are both necessary to complete the bond transaction. This Ordinance appropriates the proceeds of the Bonds, contingent upon the final approval and issuance of the Bonds.

16. First Reading of Ordinance No. 124, 2002, Appropriating Unanticipated Revenue in the Transportation Services Fund for the Operation of the North Front Range Transportation & Air Quality Planning Council's 2001-2002 Metropolitan Planning Organization Program Year and Authorizing the Transfer of Existing Appropriation Between Funds.

The North Front Range Transportation & Air Quality Planning Council (NFRT&AQPC), or MPO, received additional federal funding on its 2001-2002 contracts with Colorado Department of Transportation as well as some unanticipated State grant funding which wasn't originally budgeted or appropriated for the current fiscal year. These funds (\$195,975), along with required local matching funds from the City's Equipment Fund (\$18,554), MPO member entities (\$11,590), and additional VanGo program revenue (\$5,100) will be used for the administration of the MPO's projects during its 2001-2002 contract period.

Additionally, the funds to pay the personnel costs of non-City MPO employees, which were previously budgeted and appropriated in the Transportation Services Fund, now need to be transferred to the NFRT&AQPC Fund. The Council's approval of this portion of the Ordinance (\$207,625) will not appropriate additional funds; rather, it will serve as a transfer of existing appropriations to the fund that incurred the expenditures.

17. First Reading of Ordinance No. 125, 2002, Appropriating Unanticipated Revenue in the North Front Range Transportation & Air Quality Planning Council Fund for the Operation of the North Front Range Transportation & Air Quality Planning Council's 2002-2003 Metropolitan Planning Organization Administration Program Year.

The North Front Range Transportation & Air Quality Planning Council (NFRT&AQPC) is the regional Metropolitan Planning Organization. The administration/program budget for the

NFRT&AQPC is funded with federal transportation program dollars administered by the Colorado Department of Transportation (CDOT) based on the federal fiscal and program year of October 1, 2002 to September 30, 2003. This period does not correspond to the City's calendar year appropriation time frame, and this time differential causes some accounting and budget management problems. The Council's approval of this Ordinance will enable staff to more consistently manage and track the NFRT&AQPC's budget and expenditures. The proposed budget and appropriation for the 2002-2003 program year is \$1,840,000 for administration of the NFRT&AQPC and its related programs.

18. First Reading of Ordinance No. 126, 2002, Amending the Definition of *Disabled Individual* as Set Forth in Section 13-16 of the City Code.

The City's anti-discrimination ordinance was first adopted in 1972, well before Congress adopted the Americans With Disabilities Act (ADA) in 1990. The proposed revision sets forth a definition of *disabled individual* that is identical to the definition set forth in the ADA, is more comprehensive than the current definition, and one that is more consistently applied among jurisdictions than the City's current definition. Since the proposed definition has been extensively interpreted by the courts, it will promote the uniform understanding and enforcement of laws prohibiting discrimination based on disability.

19. First Reading of Ordinance No. 127, 2002, Amending Section 2-474(2) of the City Code Relating to Membership of the Housing Authority.

The Board of Commissioners of the Fort Collins Housing Authority has requested that its membership be increased from seven members to nine members. Section 29-4-205, C.R.S., provides that the Housing Authority shall consist of no more than nine commissioners appointed by the Council. The Board of Commissioners believes that currently the Housing Authority has good representation from different areas of the community but believes that two additional members would bring more diversity and experience to the Housing Authority.

20. First Reading of Ordinance No. 128, 2002, Amending Chapter 20, Article III of the City Code Concerning the Prohibition of the Use of Indoor Furniture in Certain Outdoor Locations.

The City Code presently prohibits the use of indoor furniture in certain outdoor locations. It does so by including the use of indoor furniture in those locations within the definition of "discarded furniture" which, in turn, is part of the definition of "rubbish." An accumulation of rubbish is subject to removal by the City as a nuisance under the City Code. This Ordinance would establish a different approach to prohibiting indoor furniture in outdoor locations and would directly prohibit such furniture in yards and uncovered porches.

21. First Reading of Ordinance No. 129, 2002, Amending the City Code to Create a Standard Procedure for Administrative Appeals to the City Manager.

This Ordinance amends the City Code to create one standard procedure for appeals to the City Manager of administrative decisions, when such an appeal is authorized by the Code.

There are approximately twelve sections of the City Code that currently authorize appeals to the City Manager of certain decisions made or actions taken by City employees or officers, such as decisions regarding pawnbroker, secondhand dealer and right-of-way contractor licenses; decisions regarding natural areas and recreation areas permits; and decisions regarding capital improvement expansion fees. However, the appeals procedures outlined in those sections are not consistent, and sometimes no procedure is specified at all. This could potentially create confusion both for the public and for City staff.

The City Clerk's Office and City Attorney's Office looked at the current appeals procedures in the Code, compared them to the procedure for appeals to the City Council, and developed a new, standard procedure for appeals to the City Manager. This procedure covers the filing of a notice of appeal and what the notice should contain, provides for review of the notice for sufficiency, and describes how a hearing will be scheduled and conducted. Where existing Code provisions specify additional requirements specific to a particular type of appeal, those requirements would be retained. In addition, the procedure for appeals of decisions on special events permits under Section 23.5-8 will remain unchanged, as it provides for an expedited process.

22. Items Relating to Code Amendments Updating Organizational Structure, Department and Service Area Names and Job Titles.

A. First Reading of Ordinance No. 130, 2002, Amending Various Provisions of the City Code as They Relate to the Names of Departments and Service Areas and the Job Titles of Certain City Staff.

B. First Reading of Ordinance No. 131, 2002, Amending Chapter 2, Article V of the City Code to Bring the Administrative Organization Provisions of the Code into Agreement with the Current Administrative Structure of the City.

In 2001, the City Charter was amended to redefine the terms "department" and "division" and define the term "service area", to be consistent with the current organizational structure of the City. The organizational level that was previously called a "department" is now referred to as a "service area", and what was previously called a "division" is now called a "department". Following this Charter amendment, the City Attorney's office and the City Clerk's office began reviewing the City Code and examining every use of the words "department" and "division" in the Code, to determine whether in each instance the term needed to be replaced.

In doing its review, staff also noticed some job titles and names of departments in the Code that were outdated, and decided this was a good opportunity to correct those “misnomers” as well.

23. First Reading of Ordinance No. 132, 2002, Vacating a Portion of Right-of-way for Rock Creek Drive and Retaining a Portion Thereof for Utility Easement.

This Ordinance will vacate a portion of right-of-way for Rock Creek Drive and retain a portion for a utility easement in order to eliminate the dedicated right-of-way “street stub”. This right-of-way was originally intended for allowing the continuation of a public street south of Rock Creek Drive when the use of the property adjacent to the street stub was not known. With the Poudre School District proposing the 2004 High School without incorporating a public street connection, there is no longer a need for continuing this street and retaining right-of-way. A utility easement will be retained in order to ensure reservation for utility services is not compromised.

24. First Reading of Ordinance No. 133, 2002, Vacating Portions of Right-of-way for Cambridge Avenue and Retaining Portions Thereof for Utility Easement.

This Ordinance will vacate portions of right-of-way for Cambridge Avenue and retain portions for utility easements in order to eliminate the dedicated right-of-way “street stubs”. This right-of-way was originally intended for allowing the continuation of public streets west of Cambridge Avenue when the use of the property adjacent to the street stubs was not known. With the Poudre School District proposing the 2004 High School without incorporating public street connections, there is no longer a need for continuing these streets and retaining rights-of-way. Utility easements will be retained in order to ensure reservation for utility services are not compromised.

25. Resolution 2002-084 Supporting the Poudre School District Board of Education’s Opposition of Proposed Constitutional Amendment 31 (Unz Initiative).

The Poudre School District Board of Education has adopted a resolution opposing the proposed ballot initiative to amend the Colorado Constitution by adding section (18) to Article IX entitled “English Language Education for Children in Public Schools” (Amendment 31).

This amendment requires children to be taught by using the English language in their classrooms and requires children who are learning the English language (English learners) to be placed in English immersion programs that are intended to last one year or less.

It allows parents to request a waiver from the English immersion program for their English learner child. It allows parents to sue for enforcement of the law and to sue any teacher, administrator or board member who “willfully and repeatedly” fails to implement English immersion programs. It requires all English learners to be tested every year in English using a nationally standardized test of academic subject matter.

26. Routine Easements.



- A. Easement for construction and maintenance of public utilities from Jill Rickards, to install a new streetlight and service, located at 630 Washington Street. Monetary consideration: \$10. Staff: Patti Teraoka.
- B. Easement for construction and maintenance of public utilities from Harold J. Santistevan, to underground electric service, located at 145 Third Street. Monetary consideration: \$10. Staff: Patti Teraoka.
- C. Easement for construction and maintenance of public utilities from David Botterill and James Carlson, to underground electric service, located at 108 East Lincoln. Monetary consideration: \$10. Staff: Patti Teraoka.
- D. Easement for construction and maintenance of public utilities from the Fort Collins Housing Corporation, to underground electric service, located at 209 Second Street. Monetary consideration: \$10. Staff: Patti Teraoka.
- E. Easement for construction and maintenance of public utilities from the Fort Collins Housing Corporation, to underground electric service, located at 212 East Lincoln. Monetary consideration: \$10. Staff: Patti Teraoka.
- F. Easement for construction and maintenance of public utilities from Mary Ramirez, aka Mary Balderrama Life Estate, to underground electric service, located at 111 Buckinham. Monetary consideration: \$10. Staff: Patti Teraoka.

**\*\*\*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.  
Water Restriction Options.
- 29. Councilmember Reports.

## **ITEMS NEEDING INDIVIDUAL CONSIDERATION**

30. First Reading of Ordinance No. 134, 2002, Amending Section 17-42 of the City Code Regarding Posting Notices and Handbills on Premises to Create Different Categories of Offenses.

This Ordinance would amend Section 17-42 of the City Code, which makes it an offense to post notices or handbills on public or private premise without permission of the owner, to create four separate categories of offenses depending on whether the notice is commercial or non-commercial in nature, and whether it is posted on public or private property. Creating several subsections to Section 17-42 will allow the Municipal Judge to establish a different standard fine for each category of offense, in recognition of the more serious problem caused by the posting of commercial notices on public property. Section 17-42, as amended, would retain the existing exception for fastening materials to the entrances to private residences unless access is restricted or a “No Trespassing” or “No Solicitation” sign is posted.

31. Resolution 2002-085 Submitting to the Registered Electors of the City a Proposed Twenty-Five One Hundredths Percent (0.25%) Sales and Use Tax on All Taxable Services and Tangible Personal Property Except Food and a Proposed One Percent (1%) Construction Excise Tax for the Purpose of Obtaining Additional Revenues to Fund Certain Transportation Capital Projects.

On August 20, City Council adopted a resolution supporting the Council Transportation Funding Committee’s long-term funding strategy for Transportation Capital needs. The four-pronged strategy commits to pursuing a 20 year, 0.25 cent Sales and Use Tax, a 1% construction excise tax, a transportation maintenance fee (TMF), and an annual General Fund allocation of \$1,000,000 for transportation capital. The two tax measures will require voter approval, while the TMF proposal and the General Fund commitment can be accomplished by Council action.

The goal of the funding package is to address a \$1.3 Billion transportation construction capital need over the next 20 years. Though approximately \$700 million of that need is potentially funded through new development, existing city revenue and matching state and federal funds, the remaining \$546 million is currently unfunded. The proposed package of funding sources would address \$213 million of that shortfall, or approximately \$10.3 million per year.

The first year revenue amounts in the ballot language are higher than the estimated revenues that the City expects to receive. This has been done to avoid any further legal objections based on the TABOR amendment that might arise should actual first year revenues exceed estimates.

In order to implement the Council’s four-pronged approach to funding Transportation Capital needs, City Council will place the tax measures on the November 2002 ballot.

32. Second Reading of Ordinance No. 119, 2002, Amending Chapter 10 of the City Code Concerning Floatable Materials in the Poudre River Floodplain.

In June of 2000, City Council adopted new floodplain restrictions for the Poudre River. One of those restrictions, outlined in Section 10-61(6) of the City Code, deals with floatable materials.

As that Section currently stands, non-residential properties in the Poudre River floodplain, floodway and product corridor on which floatable materials were located prior to July 1, 2000, were allowed to continue storing floatable materials until the earlier of July 1, 2002, or any change in use, construction of a new building, or the addition to or substantial improvement of an existing structure on the property, before compliance with restriction was mandatory.

Ordinance No. 119, 2002, which was adopted 4-3, on August 20, 2002, eliminates the July 1, 2002 deadline for compliance that was previously imposed. In addition the City Code was amended to clarify that any substantial change in the quantity, type, or character of floatable materials on an affected property which causes an increased risk of flood damage would trigger the obligation to comply.

33. Pulled Consent Items.

34. Other Business.

35. Adjournment.

**MEETING OF THE BOARD OF DIRECTORS OF  
THE STORMWATER UTILITY ENTERPRISE**

1. Call Meeting to Order.
2. Roll Call.
3. First Reading of Ordinance No. 007, Authorizing the Issuance of City of Fort Collins, Colorado, Stormwater Utility Enterprise, Storm Drainage Revenue Refunding Bonds, Series 2002, Dated September 15, 2002, in the Aggregate Principal Amount of \$2,800,000.

The City of Fort Collins and its Stormwater Utility Enterprise have issued bonds to raise funds to provide for needed capital improvements that provide a stormdrainage service to property owners within the city. In 1992, the City issued \$4,335,000 of bonds to provide funding for capital improvements in various stormwater basins within the City. According to the provisions of the 1992 Bonds, they are now eligible to be refinanced. The City will be paying off higher cost bonds with new bonds that will have much lower interest rates. The 1992 issues carried interest rates up to 6.4%. The refunding Bonds in this Ordinance will likely carry interest rates under 3.5%. The savings on the lower rates should be over \$150,000. The final rates will be determined by selling the Bonds at a competitive sale on September 17. The final rates will be provided at that meeting on September 17.

4. Other Business.
5. Adjournment.