



# REGULAR MEETING AGENDA

## FORT COLLINS CITY COUNCIL

December 5, 2006

Doug Hutchinson, Mayor  
Karen Weitkunat, District 2, Mayor Pro Tem  
Ben Manvel, District 1  
Diggs Brown, District 3  
Kurt Kastein, District 4  
Kelly Ohlson, District 5  
David Roy, District 6

City Council Chambers  
City Hall West  
300 LaPorte Avenue  
Fort Collins, Colorado

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on the Comcast cable system

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### **Proclamations and Presentations 5:30 p.m.**

- A. Proclamation Declaring “Hospitality” as the Community Character Focus of the Month of December 2006.
- B. Presentation of Local Landmark Designation Certificate to Dr. Ed Siegel.

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

#### PLEDGE OF ALLEGIANCE

1. CALL MEETING TO ORDER.
2. ROLL CALL.

## 3. CITIZEN PARTICIPATION (limited to 30 minutes)

Individuals who wish to address the Council on items not specifically scheduled on the agenda must first be recognized by the Mayor or Mayor Pro Tem. **Before speaking, please sign in at the table in the back of the room.** The timer will buzz once when there are 30 seconds left and the light will turn yellow. The timer will buzz again at the end of the speaker's time. Each speaker is allowed 5 minutes. If there are more than 6 individuals who wish to speak, the Mayor may reduce the time allowed for each individual.

- State your name and address for the record
- Applause, outbursts or other demonstrations by the audience is not allowed
- Keep comments brief; if available, provide a written copy of statement to City Clerk

## 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

### Consent Calendar

The Consent Calendar consists of Items 6 through 23. 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 Item No. 34, Pulled Consent Items. The Consent Calendar consists of:

- Ordinances on First Reading that are routine;
- Ordinances on Second Reading that are routine;
- Those of no perceived controversy;
- Routine administrative actions.

6. Consideration and Approval of the Minutes of the September 19, 2006 Regular Meeting.7. Second Reading of Ordinance No. 148, 2006 Authorizing the Conveyance of Nonexclusive Easement Interests for the Construction of a Platte River Power Authority ("Platte River") Transmission Line Across Colina Mariposa Natural Area adjacent to Shields Street.

Platte River had requested a 75-foot wide non-exclusive easement for an overhead 230kV transmission line across Colina Mariposa Natural Area. City Council approved the easement on First Reading on September 19, 2006. On October 3, 2006, Council denied the easement on Second Reading and requested that PRPA consider constructing the transmission line underground to meet the Natural Areas Easement Policy, which does not allow overhead power lines to be built across natural areas. Platte River has agreed to place the transmission line underground and is now requesting a 25-foot wide non-exclusive permanent easement and a 35-foot wide temporary construction easement for constructing an underground 230kV

transmission line across Colina Mariposa Natural Area along the east side of Shields Street south of Trilby Road and adjacent to the 25-foot wide permanent easement. Platte River has agreed to compensate the City approximately \$26,000 for the permanent easement, \$6,000 for the temporary easement and \$17,000 in restoration fees, for a total of approximately \$49,000. The final compensation values will be determined once the final alignment is determined.

8. Second Reading of Ordinance No. 182, 2006, Authorizing and Approving the Issuance and Sale of Not to Exceed \$20,000,000 Pollution Control Refunding Revenue Bonds (Anheuser-Busch Project) Series 2006 of the City of Fort Collins, Colorado, to Refund Certain Bonds of the City of Fort Collins, Colorado, Issued to Refinance Certain Water Pollution Control Facilities, Sewage Facilities and Solid Waste Disposal Facilities; the Execution and Delivery of an Indenture of Trust to Secure Said Bonds; the Execution and Delivery of a Loan Agreement Between Anheuser-Busch Companies, Inc. and the City of Fort Collins, Colorado Providing for the Repayment of the Loan of the Proceeds of Said Bonds; the Execution and Delivery of a Tax Regulatory Agreement, Bond Purchase Agreement, Official Statement and Said Bonds in Connection Therewith; and Providing for Certain Other Matters in Connection with the Delivery of the Bonds.

In 1984, the City issued \$35,000,000 of pollution control revenue bonds for the Anheuser-Busch Companies, Inc. (the "Company"). In 1986, the bonds were reissued in the amount of \$20,000,000. The 1986 bonds were called at their first call date of September 4, 1996. The bonds were used to finance the costs of acquiring, constructing, installing and equipping pollution control facilities, sewage facilities, and solid waste disposal facilities to be owned by the Company or one of its subsidiary companies. Because of the change in interest rates, the Company would like to refinance the outstanding bonds to attain debt service savings. The 1996 bonds carry an interest rate of 6.00%. The refinanced rate of interest is expected to be approximately 5.50%. The proposed refinancing will extend the maturity of the bonds from 2036 to 2046. Ordinance No. 182, 2006, authorizing and approving the issuance and sale of the bonds, was unanimously adopted on First Reading on November 7, 2006.

9. Second Reading of Ordinance No. 186, 2006, Appropriating Unanticipated Revenue in the Capital Projects Fund - Inspiration Playground Capital Project to Be Used for Design and Construction of a Fully Accessible Playground for All Children at Spring Canyon Community Park.

This Ordinance, unanimously adopted on First Reading on November 21, 2006, appropriates funds to construct a totally accessible playground for children of all abilities at Spring Canyon Community Park.

10. Second Reading of Ordinance No. 187, 2006, Designating 133-137 South College Avenue (the North Half of the Colorado Building) as a Local Landmark Pursuant to Chapter 14 of the City Code.

This Ordinance, unanimously adopted on First Reading on November 21, 2006, designates the North half of the Colorado Building, 133-137 South College Avenue, as a local landmark. The owner of the property, Ida Siegel, through her son Ed Siegel, as attorney-in-fact, is initiating this request.

11. Second Reading of Ordinance No. 188, 2006, Authorizing the Acceptance of a Donation of .901 Acres of Real Property from Calvin C. and Lois Johnson and Appropriating Unanticipated Revenue in the Capital Project Fund – Timberline Road Widening Project 305-23270.

This Ordinance, unanimously adopted on First Reading on November 21, 2006, authorizes the acceptance of a donation of property located just south of Spring Creek on the westerly side of Timberline Road, owned by Calvin and Lois Johnson. This donation is part of an agreement negotiated by City staff to complete the Timberline Road Widening Project.

12. First Reading of Ordinance No. 190, 2006, Appropriating Unanticipated Revenue in the Recreation Fund to Be Used for the Purpose of Improving Youth Football Operations and Increasing Awareness And Interest in the Sport.

The Recreation Division was awarded a three-year National Recreation and Park Association (NRPA) Grant in the amount of \$150,000 over three years. The Recreation Division will receive \$50,000/year to be used for staffing a full-time youth football Coordinator. NRPA, as part of its grant agreement with USA Football, has received funds to be sub-awarded to five community organizations for the purpose of improving youth football operations and increasing awareness and interest in the sport. Fort Collins was selected as one of the five Hubs. This Ordinance appropriates the funding from NRPA for this sub-grant.

13. First Reading of Ordinance No. 191, 2006, Amending Chapter 23, Article IX of the City Code to Allow More Site-Specific Regulation of Certain Activities in Natural Areas.

The Natural Areas Program will officially begin managing Gateway Park on January 1, 2007. Two minor City Code changes are proposed to facilitate the transfer.

14. First Reading of Ordinance No. 193, 2006, Amending Section 15-327 of the City Code Pertaining to Secondhand Dealers and Flea Market Vendor Requirements.

Council recently adopted amendments to the Secondhand Dealer Ordinance as part of the Southwest Enclave Annexation. Section 15-318(f) requires flea market operators to keep a record of each vendor renting a booth in the flea market, including name, address, date of birth and driver's license or other identifying number. Section 15-327 requires vendors to provide that information; however the specific mention of date of birth was inadvertently omitted. This amendment changes the language to ensure that the provisions contained in Sections 15-318(f) and 15-327 are consistent.

15. First Reading of Ordinance No. 194, 2006, Approving Revised Electric Service Rules and Regulations.

The current Electric Service Rules and Regulations were last revised in 2002. Since that time, the section of this document governing the installation and operation of distributed electrical generation at a customer's facilities has become obsolete. A growing interest in photovoltaic systems and alternative fuel generation has made it necessary to update the Electric Service Rules and Regulations to better accommodate these types of installations.

16. First Reading of Ordinance No. 195, 2006, Adopting the 2007 Classified Employees Pay Plan.

The Pay Plan continues the current practice of setting City **pay range maximums** at the market 70th percentile. Data from the public and private sectors was used to determine the prevailing market rates for approximately 100 benchmark jobs. This Ordinance sets salary ranges, not specific salaries of individual employees.

17. First Reading of Ordinance No. 196, 2006, Authorizing the City Manager to Enter into a Second Amendment to the Long-Term Lease for Civic Center Village Adjacent to the Civic Center Parking Structure.

Staff is proposing to amend the Civic Center Village Ground Lease to clarify various maintenance responsibilities, and to provide two reserved parking spaces in the Civic Center Parking Structure for the Civic Center Village leaseholder. This amendment is needed to clarify the maintenance requirements of the lease, to enhance the business partnership between the leaseholder and the City, and to ensure an ongoing business relationship.

18. First Reading of Ordinance No. 197, 2006, Designating the Jefferson Lindenmeier House and Garage, 511 South Whitcomb Street, as a Fort Collins Landmark Pursuant to Chapter 14 of the City Code.

The owner of the property, Sondra Carson, is initiating this request for Fort Collins Landmark designation for the Jefferson Lindenmeier House and Garage, 511 South Whitcomb Street. Constructed in 1925 by the Lindenmeier Brothers, the exceptional historic residence, with rare matching historic garage, are notable examples of Prairie Style architecture with Bungalow elements. The buildings embody the distinctive characteristics of a type, period, and method of construction, and, further, possess high artistic values, and qualify for designation under Landmark Standard 3.

19. Resolution 2006-122 Approving Expenditures From the Art in Public Places Reserve Account in the Cultural Services and Facilities Fund to Commission an Artist to Create Gateway Art Elements for the East Prospect Road Project.

This Resolution approves expenditures of \$46,044 for design, materials, travel, installation and contingency for a project with the artist team from May & Watkins Design, LLC, to create multiple elements for the East Prospect Road Project.

20. Resolution 2006-123 Approving the County Assessor's Current Methodology for Calculating Tax Increment.

Adoption of this Resolution formally recognizes the methodology being applied by the Larimer County Assessor's Office to the North College Urban Renewal Plan Area.

21. Resolution 2006-124 Amending Resolutions 2000-123 and 2001-018 to Revise the Process for City Council Evaluations of the Performance of the City Manager, City Attorney and Municipal Judge.

This Resolution consolidates and amends two previous Resolutions that established a process for conducting the annual performance reviews of Council's three direct employees.

22. Resolution 2006-119 Adopting the City's 2007 Legislative Policy Agenda.

Each year the Legislative Review Committee (LRC) develops a legislative agenda to assist in the analysis of pending legislation. The proposed 2007 Legislative Policy Agenda has been updated from the 2006 document and was reviewed and approved by the Legislative Review Committee. This document will be used as a guide for the upcoming 2006 General Assembly and the first session of the 110th Congress. The purpose of the Legislative Policy Agenda is to articulate the City's position on common legislative topics. It will be applied by Council members and staff to determine positions on pending legislation and as a general reference for state legislators and our congressional delegation.

23. Resolution 2006-125 Establishing Fees Charged by the Fort Collins Police Services for Evidence Viewing.

These fees are being established due, in part, to a significant increase in requests for property and evidence viewing and copying by non-law enforcement agency personnel.

C.R.S. Section 24-72-306(1) authorizes Fort Collins Police Services to assess reasonable fees for the actual costs it incurs, including its personnel and equipments costs, to search, retrieve and copy criminal justice records for public inspection. This statute also requires that such fees be approved by the City Council.

The cost of equipment and personnel to provide copies of digital recordings, color photographs and other documentary materials held in Evidence has not previously been included in calculating established fees. The proposed amendment to the FCPS' Criminal Justice Records Fee Schedule will allow for the copying of documents held in Evidence, as well as the collection of fees for the search, retrieval, copying and viewing of criminal justice records retained in the Property and Evidence Unit.

<b>END CONSENT</b>
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24. Consent Calendar Follow-up.

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

25. Staff Reports.

26. Councilmember Reports.

### Discussion Items

The method of debate for discussion items is as follows:

- Mayor introduces the item number, and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests citizen comment on the item (five minute limit for each citizen)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

**Note:** Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. **Please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

27. First Reading of Ordinance No. 198, 2006, Amending the City Code for the Purpose of Decriminalizing Certain Code Violations by Creating a Civil Infraction Classification and Procedures for Violations Thereof. (10 minute staff presentation - 30 minute discussion)

Currently, all violations of the City Code (except the Occupancy Ordinance and Public Nuisance Ordinance) are criminal misdemeanors, subject to a penalty of \$1,000 and up to 180 days in jail. Decriminalizing certain additional Code sections will result in more effective enforcement of violations that adversely affect the livability of City neighborhoods, such as:

- Collection and disposal of refuse and rubbish
- Weeds, outdoor furniture and outdoor storage restrictions, storage of inoperable motor vehicles and parking on unimproved surfaces
- Sidewalk snow and ice removal and signs in the right-of-way
- Pruning or removing trees or shrubs encroaching streets and sidewalks

28. Items Relating to Recreational Vehicle (RV) Storage and Parking. (10 minute staff presentation - 30 minute discussion)

- A. First Reading of Ordinance No. 199, 2006, Amending Sections 17-181 and 17-182 of the City Code Regarding Camping.
- B. First Reading of Ordinance No. 200, 2006, Amending Sections 1213 and 1214 of the Traffic Code Relating to Parking.
- C. First Reading of Ordinance No. 201, 2006, Amending Sections 20-104, 20-105 and 20-106 of the City Code Pertaining to Parking.

Current ordinances regarding urban camping do not adequately address various issues that have arisen repeatedly over the years, and there is no ordinance that addresses RV parking and storage. The current City Code camping provisions (Sections 17-181 and 17-182) require a permit system that is not workable and prohibits some types of camping the City may not intend to prohibit. Similarly, the Fort Collins Traffic Code (FCTC), Section 1214, as currently written, appears to prohibit occupancy of any vehicle, including RVs, at any time and anywhere, in the City. There is a need for clarification and definitions in order to properly address these subjects. In addition, due to the number of citizen complaints received regarding RV parking, storage and occupancy, Chapter 20 (Nuisances) should be amended.

29. First Reading of Ordinance No. 192, 2006, Making Various Amendments to the City of Fort Collins Land Use Code. (5 minute staff presentation - 20 minute discussion)

Staff has identified a variety of proposed changes, additions and clarifications in the Fall biannual update of the Land Use Code.

30. Resolution 2006-126 Approving an Agreement Between the City and Front Range Retail Company to Provide Financial Assistance for the Front Range Village. (15 minute staff presentation - 45 minute discussion)

City staff has been negotiating diligently with Front Range Retail Company to develop an incentive agreement that will assist in ensuring the development known as “Front Range Village”, a retail and commercial development totaling 910,000 square feet. The development is located on approximately 100 acres at the cross roads of Harmony and Ziegler roads in southeast Fort Collins.

Front Range Village is the first significant retail project the City has seen in many years. This development is regionally significant and will help the City bolster retail trade activity that has eroded over the past five years with the coming of regional retail competition and the decline in Fort Collins specific retail venues.

The proposed Financial Assistance Agreement is based the following philosophy:

1. Incentives should be based on project need.
2. The developers should have the ability to achieve a reasonable rate of return.
3. Incentives should be performance driven.
4. Sales tax share back should be minimized to the extent possible.

The total incentive agreement is \$22,000,000, with the vast majority of these funds being generated by a Public Improvement Fee (PIF), which is an optional sales fee levied by the developer on the retail sales at the development. The anticipated total net present value (today’s dollars) of the Public Improvement Fee is \$18,500,000.

The remaining \$3,500,000 comes from sales tax share back (\$1,500,000) and from Transportation Improvement reimbursements (\$2,000,000) to offset major transportation improvements related to this project on Harmony Road and Ziegler Road.

The Front Range Village retail center will generate \$2,200,000 in net new sales taxes to the City on an annual basis following the full first year of operations. Of that amount, \$1,600,000 is unrestricted general fund dollars to be allocated to City Council priorities. The remaining \$600,000 is allocated in equal amounts to Open Space, Building on Basics, and Transportation improvements related to dedicated sales tax funding streams.

31. Items Relating to the Reappointment, Contract, and Compensation of the Municipal Judge.  
(no staff presentation - 10 minute discussion)

- A. Resolution 2006-127 Reappointing Kathleen M. Lane as Municipal Judge and Authorizing Certain Other Amendments to the Judge's Employment Agreement.
- B. First Reading of Ordinance No. 202, 2006, Amending Section 2-606 of the City Code and Setting the Salary of the Municipal Judge.

Article VII, Section 1 of the Charter provides that the Municipal Judge is to be appointed for a term of two years. Kathleen M. Lane was first appointed to serve as the City's Municipal Judge for a term commencing July 1, 1989. Resolution 2006-127 reappoints Judge Lane for another two-year term commencing on January 1, 2007 and ending on December 31, 2008, and authorizes the Mayor to execute an addendum to Judge Lane's Employment Agreement. The addendum will reflect the new term and, pursuant to the request of the Judge, revise other terms and conditions relating to working less than full-time, as set out in the salary ordinance, including a reduction in vacation benefits.

Ordinance No. 202, 2006, establishes the 2007 salary of the Municipal Judge.

32. Items Relating to the Compensation and Benefits of the City Attorney.  
(no staff presentation - 10 minute discussion)

- A. Resolution 2006-128 Approving a Sixth Addendum to the City Attorney's Employment Agreement.
- B. First Reading of Ordinance No. 203, 2006, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.

City Council met in Executive Session on November 14, 2006 to conduct the performance review of City Attorney Steve Roy. Ordinance No. 203, 2006, establishes the 2007 salary of the City Attorney. Resolution 2006-128 adopts an addendum to the City Attorney's employment contract.

33. First Reading of Ordinance No. 204, 2006, Amending Section 2-596 of the Code of the City of Fort Collins and Setting the Salary of the City Manager. (no staff presentation - 10 minute discussion)

City Council met in Executive Session on November 14, 2006 to conduct the performance appraisal of City Manager Darin Atteberry. Ordinance No. 204, 2006, establishes the salary of the City Manager.

34. Pulled Consent Items.

35. Other Business.

36. Adjournment.

Every Council meeting will end no later than 10:30 p.m., except that: (1) any item of business commenced before 10:30 p.m. may be concluded before the meeting is adjourned and (2) the City Council may, by majority vote, extend a meeting until no later than 12:00 a.m. for the purpose of considering additional items of business. Any matter which has been commenced and is still pending at the conclusion of the Council meeting, and all matters scheduled for consideration at the meeting which have not yet been considered by the Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.