

AGENDA

OF THE

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

December 18, 2001

**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 #38, 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 October 16, November 6 and November 20, 2001 and the adjourned meeting minutes of November 13 and November 27, 2001.

8. Items Relating to Appropriation of Grant Revenues for Police Services.
 - a. Second Reading of Ordinance No. 198, 2001, Appropriating Unanticipated Revenue in the General Fund for Police Services and Authorizing the Transfer of Matching Funds Previously Appropriated in the Police Services Operating Budget to the Grant Project.

 - b. Second Reading of Ordinance No. 199, 2001, Appropriating Unanticipated Grant Revenue in the General Fund for Police Services for the Youth Community/Family Conferencing Program.

Local Law Enforcement Block Grant (LLEBG): Fort Collins Police Services has been awarded a grant under the U.S. Department of Justice, Local Law Enforcement Block Grant (LLEBG) program in the amount of \$75,275 for the procurement of equipment and technology relating to basic law enforcement functions. A local cash match of \$8,364 is required and will be met by the existing Police Services budget. The grant funds will be used to purchase computer, video, and photo imaging equipment, as well as a flexible articulating borescope for SWAT use.

Office of Juvenile Justice, Division of Criminal Justice (DCJ) Grant: A second grant in the amount of \$30,000 has been received from the Office of Juvenile Justice, Division of Criminal Justice (DCJ) for salaries associated with the continued operation of a Youth Community/Family Conferencing (restorative justice) Program. Restorative justice is an alternative method of holding a youth offender accountable for his or her actions by conferencing with the youth and the victim to develop appropriate consequences for the offense. By learning to understand the impacts of their actions on the victim, Criminal Justice Officials are optimistic repeat offenses will be reduced. No cash match is required.

Ordinance No. 198, 2001 and Ordinance No. 199, 2001, were unanimously adopted on First Reading on November 20, 2001.

9. Second Reading of Ordinance No. 200, 2001, Appropriating Prior Year Use Tax Carryover Reserves for the Manufacturer's Use Tax Rebate Program.

In March 1996, City Council approved a temporary rebate program for use tax paid on manufacturing equipment. The program was amended in February 1999 to include several changes suggested by staff and the manufacturing community. The goal of the program is to maintain the local economic base by providing modest tax relief to manufacturing

concerns located in Fort Collins. During 2000, the City of Fort Collins received \$3,438,535 in use tax receipts from eligible companies within the Standard Industrial Code classification for manufacturers. This constitutes 65% of all use tax paid by local businesses in 2000. Ordinance No. 200, 2001, was unanimously adopted on First Reading on November 20, 2001.

10. Second Reading of Ordinance No. 201, 2001, Appropriating Prior Year Reserves Designated for Community Park Improvements in the Capital Improvement Expansion Fund and Neighborhood Parkland Fund Prior Year Reserves for Transfer to the Building Community Choices Capital Projects Fund Fossil Creek Community Park Capital Project for Use With Existing Appropriations to Construct a Maintenance Facility.

This Ordinance, which was unanimously adopted on First Reading on November 20, 2001, appropriates a total of \$180,000 from neighborhood and community park impact fee revenues to enlarge the maintenance facility at Fossil Creek Park so it can be used to maintain other parks in the southeast area of the city.

11. Second Reading of Ordinance No. 202, 2001, Authorizing the Conveyance of Non-Exclusive Utility, Drainage and Temporary Construction Easements at Fort Collins-Loveland Municipal Airport for the Loveland-Fort Collins Industrial Airpark 9th Subdivision.

The Cities of Fort Collins and Loveland each own a 50% share of the Fort Collins-Loveland Municipal Airport. Centre Point LLC has received approval of the Loveland-Fort Collins Industrial Airpark 9th Subdivision from the Loveland Planning Commission, but is required to obtain the proposed utility, drainage and temporary construction easements in order to develop the Subdivision. Centre Point has agreed to improve the Airport retention pond by increasing its size. The improvements to be constructed in the easements will also be beneficial for the Airport. Ordinance No. 202, 2001, which was unanimously adopted on First Reading on November 20, 2001, conveys the easements necessary for the Loveland-Fort Collins Industrial Airpark 9th Subdivision.

12. Second Reading of Ordinance No. 203, 2001, Authorizing the Conveyance of Two Non-exclusive Easements in Connection with the Community Horticulture Center Project.

The development of the City's Community Horticulture Center site requires the conveyance of two easements: (1) an easement for the new location of the Sherwood Lateral Ditch, which will be moved from its current location; and (2) an emergency access easement for Poudre Fire Authority. This Ordinance, which was unanimously adopted on First Reading on November 20, 2001, authorizes the conveyance of the above-mentioned easements.

13. Second Reading of Ordinance No. 204, 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 Fall biannual update of the Land Use Code. On November 15, 2001, the Planning and Zoning Board voted 6-0 to recommend approval of the proposed changes to City Council.

This Ordinance has been amended between First and Second Reading. One of the proposed changes has been deleted. The proposed change would have moved enforcement of holding more than five garage or yard sales per year on the same property over to the Zoning Department by adding a new subparagraph to Section 3.8.1. This proposed change has been postponed until the Spring of 2002. Ordinance No. 204, 2001, was unanimously adopted the Ordinance on First Reading on November 20, 2001.

14. Second Reading of Ordinance No. 205, 2001, Adopting the 2002 Classified Employees Pay and Classification Plan.

The pay for each pay grade has been reviewed by comparing the benchmark jobs in each occupational group to similar jobs in the local private and public sectors. This analysis permitted an evaluation of the competitiveness of the pay grade. Each of the pay grades in an occupational group was similarly analyzed, and if it was observed that a structure adjustment was needed, the pay ranges in that occupational group were adjusted. Ordinance No. 205, 2001, was unanimously adopted on First Reading on November 20, 2001.

15. Second Reading of Ordinance No. 208, 2001, Amending Section 13-23 of the City Code Concerning Appeals to the Human Relations Commission.

Section 13-16 of the City Code provides that the Human Relations Commission (“HRC”) will hear appeals from decisions of the City Manager that find no probable cause related to an alleged violation of the Human Rights Code. As currently worded, Section 13-23 of the City Code requires the HRC to conduct an appeal hearing within 30 days of the filing of the appeal with the City Manager’s Office. Over the past couple of years, this 30-day time limit has been difficult to meet because the HRC’s regular meetings are monthly and obtaining a quorum for a special meeting is sometimes difficult to achieve.

Ordinance No. 208, 2001, which was unanimously adopted on First Reading on November 20, 2001, extends the time limit to 50 days. The Ordinance also adds a sentence allowing the HRC to adopt additional procedures for the conduct of the appeal hearing (such as those regulating the appeal notices, documentary evidence, witness statements, pre-hearing procedures, burden of proof, hearing procedures, decision of the commission on the merits, notification of decision, as long as those procedures do not conflict with the City Code or Charter). The procedures are intended to help ensure a fair yet efficient process for the conduct of the hearing.

16. Second Reading of Ordinance No. 209, 2001, Amending Section 2-581 of the City Code and Setting the Salary of the City Attorney.

City Council met in Executive Session on November 13, 2001, to conduct the performance appraisal of City Attorney Steve Roy. This Ordinance, which was unanimously adopted on First Reading on November 20, 2001, establishes the 2002 salary provided the City Attorney at \$121,590 for a total compensation of \$152,520.

17. Second Reading of Ordinance No. 211, 2001, Amending Section 2-606 of the City Code and Setting the Salary of the Municipal Judge.

City Council met in Executive Session on November 13, 2001 to conduct the performance appraisal of Municipal Judge Kathleen M. Lane. This Ordinance, which was unanimously adopted on First Reading on November 20, 2001, establishes the 2002 salary provided the Municipal Judge at \$91,904 for a total compensation of \$118,235.

18. First Reading of Ordinance No. 212, 2001, Amending Chapters 23 and 28 of the City Code so as to Permit the Use of Motorized Wheelchairs and Similar Assistive Devices on City Sidewalks and Trails.

Staff has noted that the provisions of certain sections of Chapters 23 and 28 of the Code appear to preclude the use of motorized wheelchairs on City trails and City sidewalks. Title II of the Americans with Disabilities Act requires that the City make reasonable accommodation in the use of its facilities for persons with a disability. Therefore, these sections of the Code should be amended so as to clearly permit persons using motorized wheelchairs and similar assistive devices to operate them on City sidewalks and trails. For that reason, staff recommends adoption of this Ordinance. Additional language changes have been made to those sections of the Code to delete references to motorized skateboards and motorized scooters. The existing language implies that these means of conveyance are permissible on established roadways and designated parking areas, while, in fact, they are not permitted on any public right of way or property in the City.

19. First Reading of Ordinance No. 213, 2001, Authorizing Eminent Domain Proceedings to Acquire Parcel #9701312005 for Construction of Redwood Street and Conveyance of Remainder Property.

The developer, Palladian Construction Company, of the Old Town North affordable housing project is required to complete the construction of Redwood Street between Conifer and Vine Drive. Redwood Street is classified as a collector street and will be an important connection in this area in addition to providing primary access to the development.

There is one small, irregularly-shaped parcel of property on the alignment of Redwood Street for which the developer has been unable to obtain the necessary right-of-way. This small parcel appears to have been abandoned by its owner. The Old Town North developer

purchased the tax certificates for the property when it was auctioned by the Larimer County Treasurer for non-payment of taxes. Repeated attempts to locate the property owner have been unsuccessful.

In order to take advantage of approved state financing for affordable housing projects, the developer has asked the City to use its power of eminent domain to acquire the property. The efforts of the developer meet the criteria of the resolution that Council adopted regarding City participation in eminent domain proceedings for development projects. The developer will pay all City costs associated with this action, including, but not limited to, appraisals, litigation cost and any amount necessary for the purchase of the property or any amount ordered as just compensation for the property.

That portion needed for construction of Redwood Street and related improvements will be held by the City. The remainder portion is encumbered by an existing irrigation ditch easement held by Lake Canal. That remainder will be conveyed to the developer for inclusion in the development project.

20. First Reading of Ordinance No. 214, 2001, Vacating Two Portions of Right-of-Way as Dedicated on the Plat of Rigden Farm, Filing One.

The Rigden Farm development site is located south of Drake Road, east of Timberline Road and east of Ziegler Road. As a part of Rigden Farm, Filing One it was anticipated that Custer Road would extend easterly beyond Chase Drive and that an unnamed street would extend easterly beyond Chase Drive between Custer Drive and Topeka Lane. Street stubs for both of these anticipated streets were dedicated with Rigden Farm, Filing One. In Rigden Farm, Filing Six for which an Administrative Hearing was held on December 11, 2001, the street stubs are no longer needed and the streets are not planned to extend beyond Chase Drive. Therefore, the right-of-way for the two street stubs is no longer necessary and is proposed for vacation at this time. As there are currently utilities within the right-of-way, the area will be retained as a utility and drainage easement.

21. Items Relating to the Paradigm Properties Annexation.

- A. Resolution 2001-162 Setting Forth Findings of Fact and Determinations Regarding the Paradigm Properties Annexation.
- B. Hearing and First Reading of Ordinance No. 215, 2001, Annexing Property Known as the Paradigm Properties Annexation.
- C. Hearing and First Reading of Ordinance No. 216, 2001, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Paradigm Properties Annexation.

This is a request to annex and zone 16.848 acres located south of East Prospect Road, east of Interstate 25, and west of McLaughlin Lane. The property is largely undeveloped except for the Fort Collins Motorsport retail operation (motorcycles, ATV's, snowmobiles, and ski-doods) at the southwest corner of the site. It is in the C - Commercial Zoning District in Larimer County. The requested zoning in the City is C - Commercial.

Staff is recommending that this property be excluded from the Residential Neighborhood Sign District. A map amendment will be necessary to place this property on the Residential Neighborhood Sign District Map as an area not in the Sign District.

APPLICANT: Hattman Associates
c/o Ric Hattman
145 West Swallow Road
Fort Collins, CO. 80525

OWNER: Paradigm Properties, LLC
c/o Jeff A. Hill
2186 Knoll Drive
Ventura, CA. 93003

22. Resolution 2001-163 Stating the City's Intent to Not Act as a Reviewing Entity in 2002 for the Colorado Historic Preservation Income Tax Credit for Qualifying Historic Rehabilitation Projects Under Colorado House Bill 90-1033 (CRS 39-22-514, as amended).

As a Certified Local Government, Fort Collins has the opportunity each year to choose to be a reviewing entity for the Colorado Historic Preservation Income Tax Credit during the next calendar year. The City Council must adopt a resolution stating whether or not it intends to take on this responsibility in the next year.

Fort Collins became a Certified Local Government in 1991 when the Colorado Income Tax Credit was instituted, but didn't take on the reviewing entity function for this program until 1995. For three years, the Landmark Preservation Commission was the reviewing entity and performed design review on qualifying historic rehabilitation projects for the Colorado Income Tax Credit. The Landmark Preservation Commission has declined the review since 1999.

On November 14, 2001 the Landmark Preservation Commission discussed this function and made the decision to recommend that the City decline the reviewing entity function for the Colorado Historic Preservation Income Tax Credit in 2002. The basis for the recommendation to not act as reviewing entity for the next year is twofold. First, the demand for staff resources to administer the State's program has steadily grown as the tax credits have become more popular, and as a result has taken staff resources away from other, higher priority local preservation activities. Secondly, the Tax Credit Program contains some requirements which the City has no control over, but yet has created discord for both

the City and applicants. The Landmark Preservation Commission and staff believe that the "costs" outweigh the "benefits" of continuing to assume the review authority.

The reviewing entity function will be performed by the Colorado Historical Society staff for the 2001 calendar year and the program will still be available to Fort Collins citizens.

23. Resolution 2001-164 Authorizing the Lease to Mary Michie Udall of City-owned Property Donated by the Estate of Robert H. Udall.

On July 17, 2001, the City Council approved Resolution 2001-95 authorizing the acceptance of a donation from the estate of Robert H. Udall of 20.133 acres of land, including improvements, and a cash donation of \$125,000 for ongoing site maintenance. The donation also reserved a life estate in part or all of the property for his widow, Mary Michie Udall. This is the second donation from the Udall family. In 1996, Mr. Udall donated approximately 41 acres of land just west of this site. Both tracts are located on the south end of Claymore Lake at the west end of Michaud Lane and northeast of the Reservoir Ridge Natural Area. Both areas have been donated to be used as a natural area/nature center.

Mrs. Udall has decided not to retain a life estate. Her decision is based on her desire to have Natural Resources commence using this property as a natural area/nature center as soon as possible. However, Mrs. Udall does want to utilize the property until September 30, 2002. The closing for this donation is scheduled for December 20. Staff is recommending the City Council approve a lease to Mrs. Udall for the period of December 21, 2001 through September 30, 2002. Because this lease will replace a life estate interest to which Mrs. Udall is entitled, staff is recommending that there be no charge for this lease.

24. Resolution 2001-165 Finding Substantial Compliance and Initiating Annexation Proceedings for the Webster Farm Annexation.

The Webster Farm Annexation is 156.23 acres in size. The site is approximately one-quarter section of land located on the east side of Ziegler Road (C.R. #9) one-half mile south of Harmony Road. Kechter Road (C.R. #36) forms the southern boundary. Contiguity with the existing municipal boundary is gained along the north, east and west property lines.

The proposed Resolution states that it is the City's intent to annex this property and directs that the published notice required by State law be given of the Council's hearing to consider the needed annexation ordinance. The hearing will be held at the time of First Reading of the annexation and zoning ordinances on February 5, 2002. Not less than 30 days prior, published notice is required by State law.

25. Resolution 2001-166 Finding Substantial Compliance and Initiating Annexation Proceedings for the East Ridge Annexation.

This is a request for a 100% voluntary annexation. The site is approximately 125 acres of land located south of East Vine Drive, east of North Timberline Road and north of East Mulberry Street. The recommended zoning is Transition (T).

The proposed Resolution states that it is the City's intent to annex this property and directs that the published notice required by State law be given of the Council's hearing to consider the needed annexation ordinance. The hearing will be held at the time of First Reading of the annexation and zoning ordinances on February 5, 2002. Not less than 30 days prior, published notice is required by State law.

26. Resolution 2001-167 Making Appointments to Various Boards and Commissions.

Vacancies currently exist on various boards, commissions, and authorities due to resignations of board members and the expiration of terms of members. Applications were solicited during September. Council received copies of the applications and Council teams interviewed applicants during October and November.

This Resolution makes appointments to 24 boards and commissions, excluding only the Planning and Zoning Board and the Zoning Board of Appeals (appointments to those boards are being considered through a separate resolution). Names of those individuals recommended for appointment by each Council interview team have been inserted in the Resolution.

In addition, this Resolution affirms one Team Fort Collins appointment to the Youth Advisory Board.

27. Resolution 2001-168 Reappointing Utilities General Manager Michael B. Smith to the Platte River Power Authority Board of Directors.

The Platte River Power Authority Board of Directors is comprised of two representatives from each of the four member cities. The Mayor (or Mayor's designate) fills one slot and the second representative is appointed by the Council. On April 21, 1998, the Council adopted Resolution 98-70 appointing Utility Services General Manager Michael B. Smith as the City's appointed representative, for a term to expire on December 31, 2000.

This Resolution reappoints Utilities General Manager Michael Smith for a term to expire December 31, 2004, or until such appointment is changed by the Council.

28. Routine Easements.

- A. Non-exclusive easement from the Public Service Company of Colorado, for pedestrian access, located on Taft Hill Road across from Blevins Junior High School. Monetary consideration: \$10. Staff: Ron Mills.
- B. Easement for construction and maintenance of public utilities from Carolyn Young, to install a pad mount transformer, located at 816 Peterson. Monetary consideration: \$10. Staff: Patti Teraoka.
- C. Easement for construction and maintenance of public utilities from Marc B. Fryer, to install an electric transformer bank to underground existing overhead system, located at 410 East Oak Street. Monetary consideration: \$100. 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.

31. Councilmember Reports.

Committees that have met since November 20 include:

Legislative Review Committee

NFRT&AQPC

Governance Committee

ITEMS NEEDING INDIVIDUAL CONSIDERATION

32. Resolution 2001-169 Approving the Findings and Recommendations of the Northern Colorado Truck Mobility/SH-14 Relocation Study in Fulfillment of Ballot Initiative 200 (1999) Mandates. (Options A and B)

The *Northern Colorado Truck Mobility/SH-14 Relocation Study* is now complete, finalizing the analysis as mandated by Ballot Initiative 200 (1999) language. As specified within the ballot language, this project has examined three key issues germane to through truck travel in Fort Collins and Northern Larimer County:

- 1. Non Route-Based Strategies intended to encourage through truck traffic to use the Interstate 25/Interstate 80 route as opposed to the SH-14/US-287 currently favored by some truckers.
- 2. Analysis and identification of an alternate route for SH-14, located a minimum of two miles north of Douglas Road.
- 3. Funding mechanisms that could be used to fund items 1 and 2.

33. Resolution 2001-170 Making Appointments to the Planning and Zoning Board and the Zoning Board of Appeals.

Vacancies currently exist on the Planning and Zoning Board and the Zoning Board of Appeals due to the expiration of terms of members. Applications were solicited during September. Council received copies of the applications and Council teams interviewed applicants during October and November.

Councilmembers Weitkumat and Hamrick did not reach an agreement for one vacancy on the Planning and Zoning Board. The Council interview team wishes to submit two names for Council’s consideration for that position.

One appointment to the Zoning Board of Appeals is contingent upon the appointment to the Planning and Zoning Board. Only two applications were submitted for the Zoning Board of Appeals. If David Lingle is appointed to the Planning and Zoning Board, readvertising will be necessary to fill the vacancy on the Zoning Board of Appeals.

34. Items Relating to the Amendment of the City's Structure Plan and the Front Range Rezoning.

- A. Resolution 2001-171 Amending the City’s Structure Plan Map.
- B. Hearing and First Reading of Ordinance No. 217, 2001, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for That Certain Property Known as the Front Range Rezoning.

The request is to amend 43 acres on the City Structure Plan Map, and rezone approximately 39 acres.

The Structure Plan Map amendment is larger than the rezoning because it incorporates a 4-acre “outparcel” right at the NW corner of Trilby and College, which is not yet annexed. When annexed, its zoning would match the proposed zoning.

35. Resolution 2001-172 Finding Substantial Compliance and Initiating Annexation Proceedings for the Front Range Annexation.

The applicant, BHA Design, Inc., on behalf of the property owners, Front Range Limited Partnership, has submitted a written petition requesting annexation of 4.84 acres located at the northwest corner of State Highway 287 (South College Avenue) and Trilby Road. The property is currently functioning as the High Country Pools commercial operation. The requested zoning for this annexation is NC – Neighborhood Commercial. The surrounding properties are currently zoned C - Commercial in Larimer County to the south and east and C – Commercial in the City to the west and the north.

The proposed Resolution makes a finding that the petition substantially complies with the Municipal Annexation Act, determines that a hearing should be established regarding the annexation, and directs that notice be given of the hearing. The hearing will be held at the time of First Reading of the annexation and zoning ordinances. Not less than thirty days of prior notice is required by State law.

The property is located within the Fort Collins Urban Growth Area. According to policies and agreements between the City of Fort Collins and Larimer County contained in the Intergovernmental Agreement for the Fort Collins Urban Growth Area, the City will agree to consider annexation of property in the UGA when the property is eligible for annexation according to State law. This property gains the required 1/6 contiguity to existing City limits from common boundaries with the Timan First Annexation (May 23, 1988) to the west and the north.

36. Second Reading of Ordinance No. 206, 2001, Amending Section 2-575 of the City Code Relating to Councilmember Compensation.

This Ordinance, which was adopted by a vote on 6-1 on November 20, 2001, amends Section 2-575 of the City Code to set the 2002 compensation of Councilmembers at \$575 and the compensation of the Mayor at \$860.

37. Second Reading of Ordinance No. 210, 2001, Amending Section 2-596 of the City Code and Setting the Salary of the City Manager.

City Council met in Executive Session on November 13, 2001 to conduct the performance appraisal of City Manager John Fischbach. This Ordinance, which was adopted by a vote of 5-2 on First Reading on November 20, 2001, establishes the 2002 salary and compensation provided the City Manager at a salary of \$148,213 for a total compensation of \$183,267.

38. Pulled Consent Items.

39. Other Business.

40. Adjournment.

*****Note: this meeting needs to be adjourned to 6:00 p.m. on Tuesday, January 8, 2002.**