

District 4 Meeting with Kurt Kastein – Issues that Affect You
Community Room, Harmony Library
4616 S. Shields Street
October 13, 2005
7:00 – 9:00 p.m.

Meeting Agenda:

1. Recent Council Action
2. Occupancy Ordinance
3. Southwest Annexation
4. 2006-2007 City Budget
5. Your Priorities/Questions

Recent Council Actions:

1. Plant Investment Fees –

- Water \$3,362 = >\$3,890 15.7%
- Waste water \$1,030 = > \$2,820 173.8%
- Storm water \$751 = < \$520 -32.4%
- Electric \$2,340 = >\$2,448 4.6%

Question – does this incorporate the cost for each house or each development? Kurt responded that these fees apply to each residence built.

Staff Question – How do these fees apply to the wastewater plant operating at capacity vs. the rate they are currently operating?

Response: In theory there should not be much, if any, difference in the wastewater PIF with regard to the status of the plant capacity that is being utilized by existing customers.

Staff Question – How much more time before the City completes its Undergrounding Program for utility lines?

Response: The Electric Undergrounding program should be completed in 2006.

Question – Is the decrease in the plant investment fees for storm water for individuals? Kurt responded that there will be no decrease for individuals.

Question – Will street oversizing fees increase like plant investment fees? Kurt responded that street oversizing fees are reviewed every two years, and he was uncertain about when this would be back on Council's work session agenda for re-evaluation.

2. DDA Expansion –

Kurt explained that this is the taxing district for the area around old Fort Collins and how the district captures funds from property tax increases and returns it to the DDA which uses the funds for restoring buildings. This area has recently been expanded to include the area north of Old Town – Vine Drive, the Raptor Center, etc.

3. Council Policy Agenda – (Work Session – 3x)

Kurt explained that the Council Policy Agenda includes items Council will address during the next two years. This helps to give guidance to the City Manager. Normally, Council's Policy Agenda would be set before this date, but the process has been delayed due to staff time spent on the City's new budgeting process.

4. 2006-2007 Budget (Work Session – x2, Regular Council meeting – x2)

5. Passed Resolution Supporting 2A – BOB

Kurt explained that this is a tax referendum for a ¼ cent sales tax extension of an existing tax. The rate will not change. These revenues are used for capital improvements needed that are not included in regular budget. Kurt stated 60% of the revenues will be used for transportation improvements, some of which will include making Harmony four lanes from College to Seneca, improving the intersection at Timberline and Harmony, etc. There will also be \$6 million set aside for a planned combination of the Museum and the Discovery Center and to access local matching funds, and for Library technology which has gone under funded for some time.

6. Human Rights Protection Ordinance -

Kurt stated that the Council addressed this at its meeting on October 4 and voted 5-2 against it. He stated this was brought forward by a group in the City that desired to see less questioning of immigrant status. He stated he was not in agreement and did not support the Ordinance. He stated there is protection from racial profiling at the State level and if immigrants are not here legally, Police should be allowed to ask. He stated the Ordinance also would have prohibited the City from requiring proof of legal status for access to certain City programs, including rental assistance, the rebate program, and first-time buyer programs. He stated that provision of these services is dependent up legal residency status but the Ordinance would have prohibited the City from requiring documentation. He stated that the Ordinance was approved by the Human Relations Commission for submission to the City Council and many community members worked for almost two years on passing the Ordinance.

Question/Comment – City should expand the review of services and ask for proof of legal status, especially when there are other people who cannot receive services. Also, the City should ensure that all City employees are here legally, along with all City subcontractors. Kurt responded that he has already asked this at a City Council meeting, and there is a requirement that participants submit tax returns for certain programs.

Question/Comment - Many programs require proof of residency, and they may not necessarily have a Social Security number.

Staff Question - If someone is on welfare would they also qualify for these programs?

Response: In regards to the City's Homebuyers Assistance program, a person on "welfare" (e.g. any kind of subsidy from the Federal Government) would also be eligible for our assistance. We have provided homebuyers assistance to families who also receive SSI (supplemental security income), SSDI (supplemental income for disabled), and Section 8 housing assistance. If they receive a mortgage, the Federal requirements include background checks, employment checks, etc., that will generally identify immigration status.

Future Council Actions:

1. Oct. 18 Occupancy Ordinance vote
2. Southwest Annexation – 11/8 Work Session, 11/29 Initiating Annexation
3. 2006-2007 Budget – Nov. 2 vote, Work Session next week
4. City Employee Pay Plan – Nov. 2
5. Alternative Funding for Library Services
6. Annual Performance Reviews – City Manager, City Attorney, Municipal Judge
7. Northwest Subarea Plan

Occupancy Ordinance:

Kurt explained that there are two primary desired outcomes:

1. Slow the rate of turnover for owner-occupied to rental homes in low-density (single family) neighborhoods; and
2. Reduce the likelihood of nuisance violations due to overcrowding.

Question – Did the City do any canvassing to determine if landlords are promoting the maximum occupancy available or if kids are promoting it in order to reduce rent expense? He had a negative experience as a landlord with single male tenants, and he no longer rents to single males. As landlord, he also lived next door to his rental so he knew immediately when there was a problem.

Question – How will the City enforce knowing how many people live in a house? Kurt explained that the law as written today, limits occupancy to families or groups of no more than three unrelated adults. The new ordinance:

- would have the same limit as current but would make violations a civil offense; and
- would allow for some increased occupancy.

Question – What is the penalty if found guilty? Kurt responded the penalty would be \$1,000 or six months in jail, and both landlord and tenant would be subject to fine.

Staff Question – Please provide details on penalty per new code.

Response: The new ordinance will not be punishable by up to \$1,000 or six months incarceration as is the current ordinance, since the new one will be decriminalized. The penalties for violation of the new occupancy regulation could include: (1) a fine of \$500 to \$1,000; (2) compliance with any order issued by the referee to ensure compliance with the occupancy limit or with the terms and conditions of any permit or certificate granted by the City or to abate a nuisance on the premises; and/or (3) possible denial, suspension or revocation of any city permit or certificate relating to the dwelling unit.

Once the new laws and related resources are in place, enforcement of the new provisions would follow that of other codes. If an alleged violation is brought to the attention of the Housing Inspector an investigation will be conducted to determine if there are sufficient grounds for a summons. If a summons is served, the violator(s) would be required to appear before the referee for a hearing. At the hearing, evidence would be presented on both sides. It should be noted that in the case of occupancy violations, neighbors may have to be called as witnesses. The referee would then decide if a violation exists and, if so, would assess a fine of \$500 to \$1000. He or she could also enter orders to prevent future violations. The decision of the referee could be appealed to Municipal Court. If the fine was not paid, the potential exists to put a lien on property or use a collection agency. As with all prosecutions, it is possible that a plea agreement could be reached before the matter proceeded to hearing.

Question – How will City prove a violation? What if just living there for a couple of weeks? If someone chooses jail time, where do they go if jails are already full? Kurt responded that neighbors will be required to collect data and staff will investigate.

Staff Question – Please provide details on how City will prove a violation.

Response: Due to the myriad of circumstances, there is no one way that the City will prove a violation. However, the City will present any competent, admissible evidence gathered through investigation to prove a particular case. Such evidence could include testimony from neighbors or other witnesses regarding the number and identification of different people, vehicles and cars present at the premises in excess of 30 days, documents such as lease payment receipts, lease agreements, statements or other documents showing use of the address by an occupant, statements from tenants regarding who resides in the dwelling, statements of tenants or owners to others regarding the identity and number of persons occupying a particular dwelling, etc.

Question/Comment – Landlords are not aware of what is going on. He had neighbors who were on welfare, woman wore an ankle bracelet and landlord did not know what was going on. Kurt commented that the City has turned a blind eye for years, however ignorance of the law is no excuse. The passage of this Ordinance will tell the community that the City will now enforce the law for those who are in violation.

Question/Comment – City should split the fine collected with the neighbor who turned in the violator.

Question/Comment – The closure of certain schools will impact low-density neighborhoods – has this been considered? People are saying schools will close because residents are moving out of area due to rentals.

Question/Comment – The three-unrelated ordinance was passed in the 60's. In the 60's, the most expensive house was around \$35,000 – \$50,000 and most had three bedrooms, one bathroom and a one-car garage. The ordinance is out of date now. Most houses are four to five bedrooms, three bathrooms and a three-car garage. Why enforce an ordinance that is so out of date? Kurt responded that people made decisions based on this ordinance. Many apartment buildings only rent to three occupants and now are suffering 60% vacancy rate. Renters move into homes because it is less expensive. Zoning density differs in neighborhoods and some allow for boarding houses. Zoning decisions have been based on this ordinance and the definition will stay in the Code.

Question/Comment – Nuisance problems go back to management if no one is around. If property owner oversees what is going on – that property is mowed, shoveled, etc., and makes sure it is done, it does not matter how many are living in a house. CSU enrollment is down; if enforce three-unrelated, this will affect students negatively. If you go from four to five, to three in a house, that increases student rent and heating costs.

Question/Comment – There was a problem in his neighborhood and property owner did not know Police had been out. Kurt responded that he thought Police notify property owner and asked citizen to email the address and he can ask for follow-up.

Response: Do the police notify the landlord of our response to a neighborhood problem? Yes, if it is a component of the nuisance ordinance, a notice is sent. Not necessarily if it is another issue.

Question/Comment – Regarding the number of people in a house – normal house now designed with four-five bedrooms, two-car garage, designed for families, not designed for five college students all driving cars. Kurt responded that many college towns are more restrictive, only allowing two unrelated adults in the same house.

Question/Comment – He walked many neighborhoods while helping with Kelly Ohlson's campaign and stated it was obvious which were rentals when there were five to six cars sitting around - they were trashy, congested. He stated RL zone maintains the City as a place where people/businesses want to live. If college students do not want to meet those standards, they should go elsewhere. Kurt responded that Greeley limits occupancy to two. He also mentioned a web site which reviews 85 communities and the various occupancy standards

See: <http://www.collegetownlife.com/occupancy/occupancy.htm>

Question/Comment – What about a seven-bedroom rental on five acres that does not bother anyone – it is in an RL zone and would be okay until a neighbor complains. Kurt responded that there may be circumstances when there should be exceptions.

Question/Comment – If it only costs \$10 to license a dog, why not charge \$10 to track a rental unit or tenant? Kurt responded that the Council voted against registration for rentals. He stated many notices are sent out when violations occur. He said there is a group that never responds. Registration process would be expensive to put together. If the same residents are causing problems, they are not likely to participate in registration. This is one reason he does not support a registration requirement.

Question/Comment – There have been problems with enforcing the laws. If this is changed, will City enforce those changes? Kurt responded that there are good arguments on both sides. He stated the law is in place and the City will enforce it now. He said the City Attorney is stating it must be changed to a civil infraction in order to enforce it.

Question/Comment – Some people believe problem is mostly around CSU, but not all. What is CSU opinion? Kurt responded that CSU has no official position. He said affecting cost of student rent is a concern for CSU and has been communicated as such by CSU administration.

Question/Comment – What is average rent around CSU? Meeting attendee stated that it is around \$1500 for a three bedroom home.

Question/Comment – A lot of this is due to landlords inflating prices. Kurt responded that if landlords can collect it, they do. This may equalize if occupancy is limited to three. A comment was made that this problem will equalize itself when economy equalizes.

Question/Comment – Has there been any discussion about investors buying properties – if this is passed, will property values go the other way? Kurt responded that consultant has stated that a rental house brings down the value of owner-occupied homes. Meeting attendee stated that 50% of dwelling units in Fort Collins are rentals.

Southwest Annexation:

Kurt explained that Fort Collins is obligated by the IGA with Larimer County to pursue possibility annexation when property becomes available. He stated the City Council is undecided at this time whether or not to annex. Reasons for annexing include County's lack of urban level services, planners, infrastructure and law enforcement. City can offer better land use planning, and annexation would provide equity to adjacent City/County residents. He stated there is still much to consider, in particular, fairness to those being annexed as there is a cost associated.

Question/Comment – Regarding Kelmar strip – it is already developed, so what is advantage of giving City proprietary rights? No one is complaining about equity issues, in fact people there are opposed. People chose to live there. Kurt responded that this would apply mostly to re-

development of certain areas. He stated there are people right next to City who live in the County but take advantage of City services. It was stated that these County residents pay City sales taxes every time they buy groceries.

Question/Comment - Heard that City stated eight police officers would be needed for an area now served by ½ sheriff deputy. How does that work – lower crime right? Kurt responded that staff is in the process of evaluating this issue.

Staff Question/Comment – Brian Schumm asked what happens if decision is made not to annex?

He stated that ten years ago, decisions were made about what was going to happen, and now City is not following through with those decisions. Right now, City Police will not cross the line to enforce on the south side – how will the City deal with these service issues? When Lemay was closed and detoured, Police would only deal with North side of the street. If this area were annexed, many of these issues would be resolved. What happens to these issues if decision is made not to annex? Will IGA with County be canceled? He feels frustrated that IGA and Structure Plan are not being followed, and feels that changes made should be public knowledge, not made via a staff memo.

Response: If the decision is not to annex, the County will continue having primary jurisdiction for Police enforcement.

Schumm question: No, the IGA will not be "canceled" nor will the City be in violation of it. Paragraph 8(D) of the IGA only requires the city to "pursue" enclave annexations. The city is doing so, but if it ultimately decides not to annex, it still will have "pursued" annexation.

As to the flea market question, flea markets will be regulated as "second hand dealers" as provided in Chapter 15, Article XI of the City Code.

Staff Question/Comment – How/why was Coyote Ridge, which is outside the GMA, annexed?

Kurt responded that all annexations are voluntary unless it is an enclave.

Response: Coyote Ridge was annexed as municipally owned land under the statutory authority of CRS 31-12-106(3), which is the same authority as is afforded for enclaves (no notice/hearing requirements). The location of the property outside the GMA is irrelevant since the IGA allow for such annexations pursuant to paragraph 8 (F) of the IGA.

Question/Comment – Resident asked about profitability of annexation for the City. She stated that at a meeting of the Mulberry Corridor Group, Greg Byrne, Director of Community Planning & Environmental Services, stated staff has been asked to do an in-depth financial analysis. Kurt stated a broad financial analysis had been done regarding the annexation and that staff has been asked to prepare this type of financial analysis for future annexations. He stated that City has

never had an Economic Plan in the past, and this is the Council's top priority on its Council Policy Agenda.

Question/Comment – Resident asked about whether urban renewal district is planned for Kelmar area after annexation is complete and if this decision is in writing. Kurt responded that this is not in writing. He stated that Council has stated an interest in this possibility but there is no guarantee it will happen. He explained an urban renewal district would be a great way to buffer economically disadvantaged areas.

Question/Comment – One resident stated he did not understand the opposition to the annexation as there are more benefits after annexation. People who live in the area have a voice in City business and can vote. He stated he was sorry people didn't appreciate their right to vote. Kurt stated he has a separate presentation that addresses the Southwest Annexation. Resident stated that the only service that changes is law enforcement. She stated City does not impact people living there that much – roads are maintained by the state or county, they will lose an electric company most prefer over the City's, there are more regulations. She also stated if annexation happens, hundreds of small businesses will be in the same economically challenged position as the City.

Staff Question/Comment – Resident asked if flea markets would be subject to more restrictive pawn shop regulations. This should be addressed before annexing.

Response: As to the flea market question, flea markets will be regulated as "second hand dealers" as provided in Chapter 15, Article XI of the City Code.

Question/Comment – How will illegal uses in County be handled when annexed into City? Resident responded that he had spoken with Peter Barnes of the Zoning Department who explained to him that someone under enforcement action by the County who is annexed into the City is given a two-year period to comply before the City will start enforcement process of its regulations.

City Budget:

Nov. 2 vote on the budget. The City budget is available for review on the City's web site – fcgov.com. Budget is very well organized by seven drilling platform areas (economy, environment, etc.). Each area lists what will be funded and what will not be funded.

Question/Comment – Is budget organized by department? He stated that an ordinary person still cannot read budget and understand it. From a business perspective, one cannot see actual plan from each area of City's domain. What is gained in return for money spent? Kurt responded that budget is not organized by department, but is now organized by what services the City will provide, some of which overlap departments.

Question/Comment – Resident asked if City does a budget review similar to building a building – an as-built print, does City have an as-spent budget that reflects amounts changed over the year and what was actually spent? Kurt responded that there is an appropriation ordinance that by law appropriates the money the City can spend. Every year, the City must also pass a clean-up ordinance that re-appropriates new revenues and any funds unable to be spent in the current fiscal year.

Kurt discussed proposed budget. He stated that the proposed budget is \$353 million in 2006, and \$354 million in 2007. Half of this budget amount is set aside for utilities.

Big \$ Items –

- No new police (\$.9 million/year)
- TMF (Transportation Maintenance Fund) 2007 –will be added to utility bills for maintenance costs. Kurt stated that this is for transportation capital.

Question/Comment – How can City call this a fee when it is a tax? Resident commented that it seems like a slippery way to do it. Kurt responded that it is a fee and state law provides that the City can charge this fee.

Staff Question: Why can City assess the TMF as a fee that does not need TABOR approval by voters?

Response: The TMF is not subject to the TABOR election requirements because those election requirements do not apply to fees, and the Colorado Supreme Court has determined that charges such as the TMF are special service fees and not taxes.

Question/Comment – Why doesn't the City charge a ¼ cent on gasoline? Kurt said this is regulated by the State and the legislature would not be supportive of an additional tax.

Question/Comment – Resident asked if City assessing how efficiently Police use resources. At recent incident in his neighborhood, there were six police officers and cars there for two hours calming down a party. Kurt responded that Police treat gatherings that are out of control very seriously but did not deny that there are efficiencies that can be gained by better use of resources. He stated that two new traffic officers will be funded through a \$25 traffic surcharge on all traffic tickets issued.

Question/Comment - Regarding employee compensation increases – if number of employees is going down, but yet \$4 million in revenue will be going to fewer employees, is this actually larger increase? How can adding \$4 million to employee compensation be justified when City is cutting significant programs and services people use daily? Employee compensation should be kept at current rate to share some of the pain others are feeling. Kurt responded it is important to maintain a good balance in order to keep good people and keep them motivated. He stated that although the City's pay plan calls for a pay range maximum of the 70th percentile of other similar cities and communities in the area, but this does not mean that employees are actually

receiving compensation at this level, as this is the rate for the top of the pay range. He agrees with the 70th percentile plan in order to reward high performers. City staff is reviewing this now.

Question/Comment – Citizen commented that City does train certain employees who require specialized skills. The pay plan gives opportunity to pay employees in order to retain them and safeguard investment made in such employees.

Kurt explained that citizen feedback he has received about items cut include:

- Dial-A-Ride – night services (\$175,000)
- Bike Coordinator (\$60,000)
- Youth Activity Center

Citizen Questions:

1. Citizen had a question regarding City police officers supporting traffic direction for various mega churches in town. One person commented that they are off-duty City police officers and salary is paid by the churches. Resident questioned how this is possible given separation of church and state limitations.

Staff Question: Do churches pay for extra police service for traffic control, etc. before and after services?

Response: Yes, churches do pay for extra police services, specifically traffic control.

2. Brian Schumm had questions regarding Kurt's June 16 meeting and answers given to some of his questions. Those will be forwarded to Sarah Kane in the City Manager's Office for follow-up directly with him.
3. Regarding August 18 Land Use Code general discussion about staff, Brian stated that people doing business with the City are reluctant to do so because they have to deal with staff at some point. He stated he was aware that Council is supportive of increased salaries and he asked about consistent performance appraisals and stated they should be used to weed out those employees who need to move on. Kurt responded that currently performance appraisals are not consistently used throughout the organization. He stated all employees will be required to have a performance evaluation completed by January 1. He believed pay plan increases are important in order to retain high quality employees, to pay them better, and to give incentive to stay with the organization.
4. Is there a review system in place when issues arise in the development process in order to re-evaluate land use code decisions, e.g., distance regulations, parking, sign code, land use decision at Harmony and Ziegler? Is this open to citizens? Kurt responded there is a process for issues in development review. First request for review is sent to Cameron Gloss, Director of Current Planning. Second reviews would be sent to a Review Board with Greg Byrne, Director of Community Planning & Environmental Services, Ron Phillips, Director of Transportation Services, and others. After this, request for review

would be sent to City Manager. (is this right?) Citizen commented that there is a disconnect between being a civil service and being a citizen; employees should take ownership and pride in their work. Kurt responded that the majority of City employees do a fantastic job and that the City must deal with those who are not doing a fantastic job and separate fact from fiction.

Staff Question: Please provide details on development review oversight procedure as mentioned above.

Response: 1. Citizen opportunities for input throughout Development Review Process?

Once a development project is submitted, staff reviews the project for compliance with our existing Land Use Code. Again, our existing rules apply. An individual can not change the rules or standards once a project has been submitted. We do have a separate bi-annual process for changes to the Land Use Code.

The assigned staff project manager only makes an informed recommendation on the development project in question. Development review staff are supervised by the Department Director, with oversight by the Service Area Director, then City Manager and ultimately by City Council. All decisions are appealable.

Citizens can be informed of a particular project by notification if identified on the project list, posted signs on the property, neighborhood meetings and all public hearings associated with the project. Usually individual citizen issues comments or requests for more information are directed to the project Planner or Director. Other citizen requests are directed to the City Manager's office, where staff assist with a response directed back and through the City Manager.

The City development review process is quasi-judicial. Review procedures are outlined in the Land Use Code in Article 2. Staff need to follow these specific development review procedures, or they can be appealed. With the initial stage of a project submittal, a staff planner is assigned to the project and acts as a liaison between the City and applicant, other interests and citizens. Again, oversight is established by the staff supervisor. The development review process follows a sequence of review steps including conceptual review, application submittal, staff review, revisions, public hearing, final plan submittal and final recordings, permits and then construction.

Neighborhood meetings if required, are the best and first opportunity for public input on a particular project. For larger projects, additional public meetings may be included. All hearings are public meetings. For Type I administrative review, a single hearing officer makes a decision on the project. For Type II projects, the Planning and Zoning Board is the final authority. The Planning and Zoning Board is comprised of 7 lay persons. However, both of these mentioned hearings can be appealed to City Council for a final decision.

Meeting adjourned at 9:20 p.m. Kurt thanked everyone for attending. Minutes of this meeting with answers to staff questions will be posted on his web page on the City's web site. He

Kurt Kastein District 4 Meeting

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reminded folks that he holds a meeting every other month on the 3rd Thursday. The next meeting is scheduled for December 15, Harmony Library Community Room, 7:00 – 9:00 p.m.

Questions from Brian Schumm:

He asked questions at June 16 meeting – page 4, questions #2 and #3. He said one answer is simply wrong and other answer doesn't make sense. He would like to speak with staff person who answered the questions.

Response: Cameron Gloss has been in touch with Cameron Gloss and will take his further specific concerns and arrange for them to be distributed to City Staff as appropriate.

He also asked about minutes from a meeting Kurt presented regarding the Southwest Annexation. He was unsure of the date.

Response: Kurt Kastein held a district meeting regarding Southwest Annexation on August 24, 2005 at the Harmony Library at 7:00 p.m.