



City Council Regular Meeting Action Agenda

October 4, 2022 at 6:00 PM

Jeni Arndt, Mayor
Emily Francis, District 6, Mayor Pro Tem
Susan Gutowsky, District 1
Julie Pignataro, District 2
Tricia Canonico, District 3
Shirley Peel, District 4
Kelly Ohlson, District 5

City Council Chambers
300 Laporte Avenue, Fort Collins
& via Zoom at
<https://zoom.us/j/98241416497>

Cablecast on FCTV
Channel 14 on Connexion
Channel 14 and 881 on Xfinity

Carrie Daggett
City Attorney

Kelly DiMartino
City Manager

Anissa Hollingshead
City Clerk

**The purpose of the action agenda is to provide a brief overview of the actions taken by the City Council to be available shortly after a Council meeting.
Council Proceedings are the complete official record of the meeting and are prepared for approval by the Council generally at its next meeting. They are published following their approval as the minutes of the meeting.**

PROCLAMATIONS & PRESENTATIONS 5:00 PM

A) PROCLAMATIONS AND PRESENTATIONS

No proclamations scheduled.

REGULAR MEETING 6:00 PM

B) CALL MEETING TO ORDER

C) PLEDGE OF ALLEGIANCE

D) ROLL CALL

**6 Members Present: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Gutowsky, Ohlson, Peel, and Pignataro.
1 Excused: Councilmember Canonico.**

E) CITY MANAGER'S AGENDA REVIEW

- City Manager Review of Agenda
- Consent Calendar Review, including removal of items from Consent Calendar for individual discussion.

NO CHANGES

F) COMMUNITY REPORTS

G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS
(Including requests for removal of items from Consent Calendar for individual discussion.)

H) PUBLIC COMMENT FOLLOW-UP

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

J) ADOPTION OF CONSENT CALENDAR

CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the September 20, 2022 Regular Meeting.

The purpose of this item is to approve the minutes of the September 20, 2022 Regular meeting.

ACTION TAKEN: APPROVED.

2. Second Reading of Ordinance No. 097, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 Through City Give for Various City Programs and Services as Designated by the Donors.

This Ordinance, unanimously adopted on First Reading on September 20, 2022, appropriates \$90,234 in philanthropic revenue received through City Give. These miscellaneous gifts to various City service areas support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

ACTION TAKEN: ADOPTED ON SECOND READING.

3. Second Reading of Ordinance No. 098, 2022, Appropriating Prior Year Reserves in the General Fund to Provide Financial Support to the United Neighbors/Vecinos Unidos for Nueva Vida Mobile Home Park.

This Ordinance, unanimously adopted on First Reading on September 20, 2022, provides financial support to United Neighbors/Vecinos Unidos (UN/VU), a non-profit 501(c)(3) corporation that recently acquired ownership of the Parklane Mobile Home Park. On August 1, 2022, residents of the Parklane Mobile Home Park (Parklane MHP), with the help of a newly formed nonprofit (United Neighbors/Vecinos Unidos, UN/VU), outbid a commercial owner's offer and purchased their park. With this purchase, residents of Parklane have become one of only six mobile home parks in Colorado purchased by residents. UN/VU is seeking City funding toward several urgent and necessary infrastructure repairs to the park. This item was discussed at the September 1, 2022, Council Finance Committee.

ACTION TAKEN: ADOPTED ON SECOND READING.

4. Second Reading of Ordinance No. 099, 2022, Annexing the Property Known as the Peakview Annexation No. 1 to the City of Fort Collins, Colorado.

This Ordinance, unanimously adopted on First Reading on September 20, 2022, annexes a 5.78-acre portion of private property that will be used for the construction of Greenfields Drive, a future arterial street within the East Mulberry Corridor. The property to be annexed is a portion of the property subject to the Peakview Planned Land Division (“PLD”) development application which is currently being processed by Larimer County and is expected to be approved prior to completion of this annexation. The remaining property subject to the PLD is expected to petition for annexation as a condition of the County’s approval. The Initiating Resolution for this annexation was adopted on August 16, 2022. A related item to zone the annexed property is presented as the next item on this agenda.

This Annexation request is in conformance with State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins Comprehensive Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreements.

ACTION TAKEN: ADOPTED ON SECOND READING

5. **Second Reading of Ordinance No. 100, 2022, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Peakview Annexation No. 1 to the City of Fort Collins and Approving Corresponding Changes to the Residential Neighborhood Sign District Map and Lighting Context Area Map.**

This Ordinance, unanimously adopted on First Reading on September 20, 2022, zones the property included in the Peakview Annexation No. 1 Annexation into the General Commercial (C-G), Neighborhood Commercial (N-C) and Medium Density Mixed Use Neighborhood (MMN) zone districts and placement into the LC1 and LC2 Lighting Context Areas.

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 2(d) of the Council’s Rules of Meeting Procedures most recently adopted in Resolution 2022-068.

ACTION TAKEN: ADOPTED ON SECOND READING

6. **Second Reading of Ordinance No. 101, 2022, Authorizing the Release of a Restrictive Covenant on Property at 331 North Howes Street Owned by Villages, Ltd.**

This Ordinance, unanimously adopted on First Reading on September 20, 2022, authorizes the release of the Agreement of Restrictive Covenants Affecting Real Property for the property located at 331 North Howes Street. This property is owned by Villages, Ltd, a 501(c)(3) non-profit corporation managed by Housing Catalyst. In exchange for repaying the original \$3,000 in Community Development Block Grant (CDBG) loan funds, the City will allow early release of a restrictive covenant which would otherwise expire in 2023.

ACTION TAKEN: ADOPTED ON SECOND READING

7. **Items Pertaining to the Annual Adjustment Ordinance.**

A. First Reading of Ordinance No. 102, 2022, Making Supplemental Appropriations from Various City Funds.

B. First Reading of Ordinance No. 103, 2022, Appropriating Prior Year Reserves in Various City Funds.

The purpose of these Annual Adjustment Ordinances is to appropriate dedicated and additional revenues or prior year reserves that need to be appropriated before the end of the year to cover

related expenses that were not anticipated, and therefore, not included in the 2022 annual budget appropriation. The additional revenue is primarily from fees, charges for service, rents, contributions, donations, and grants that have been paid to City departments to offset specific expenses.

ACTION TAKEN: ADOPTED ON FIRST READINGS

8. **First Reading of Ordinance No. 104, 2022, Authorizing the Conveyance of a Permanent, Nonexclusive Stormwater Drainage Easement on Redtail Grove Natural Area to WWW Properties, LLC.**

The purpose of this item is to authorize conveyance of a permanent, nonexclusive drainage easement to WWW Properties, LLC (owners of Fort Collins Nissan and Fort Collins Kia) on Redtail Grove Natural Area. The proposed easement area aligns with an existing historic drainage path for stormwater. WWW Properties, LLC will construct underground water quality and detention facilities on their property to capture stormwater, decrease peak flow rates into Fossil Creek, and decrease the amount of water overtopping the Fossil Creek Trail, as well as the time the trail is overtopped, during significant storm events.

ACTION TAKEN: ADOPTED ON FIRST READING

9. **First Reading of Ordinance No. 105, 2022, Authorizing the Conditional Conveyance of Certain City-Owned Property Rights to Chris Vandemoer and Geo. A. Henderson Co.**

The purpose of this item is to seek Council authorization for the conditional conveyance of certain City-owned real property rights to Chris Vandemoer and Geo. A. Henderson, Co. (collectively "Vandemoer"). The proposed conveyance is part of a proposed settlement agreement between the City, Vandemoer, and The Nature Conservancy ("TNC") to obtain necessary property rights on the primary private access road for all three phases of the City's Halligan Water Supply Project ("Halligan Project"), in which the City intends to replace or modify a dam and enlarge Halligan Reservoir. Vandemoer owns certain real property adjacent to the reservoir that includes a private road that serves as the primary access point to the reservoir and the dam. The property is also encumbered by two conservation easements held by TNC. Since late 2018, City representatives have negotiated with Vandemoer to obtain property rights necessary for the Halligan Project. The parties are currently in eminent domain litigation for Phase 1 of the Project and have had productive conversations regarding a global settlement for all three phases of the Halligan Project.

The conveyance of the City-owned property would only occur if: (1) the parties enter into a settlement agreement; and (2) the City completes construction of the Halligan Project. This Ordinance does not seek approval of the settlement agreement itself. The decision whether to enter into the settlement agreement would be made by the City Manager following a recommendation by City staff, in consultation with outside legal counsel and the City Attorney's Office. This Ordinance is limited only to authorizing the conditional conveyance of City-owned property. The structure of the settlement agreement is explained more fully below.

ACTION TAKEN: ADOPTED ON FIRST READING

10. **First Reading of Ordinance No. 106, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Net Metered Renewable Energy Generation System Sizing and Adopting Administrative Rules for Net Metered System Sizing.**

This Ordinance amends sizing requirements in City Code that limit the generating size (i.e. production capacity) of renewable energy systems, removing reference to 120% of a customer's annual electric consumption and adopts administrative program rules to guide the Utilities' Executive Director to define allowable generation system sizing consistent with the City's 2030 energy and climate goals.

ACTION TAKEN: ADOPTED ON FIRST READING

11. **Resolution 2022-101 Granting A Revocable Permit to Current Holders of Temporary Outdoor Expansion Permits Issued Pursuant to Emergency Rule and Regulation No. 2020-17A and Emergency Ordinance No. 124, 2020, to Temporarily Continue to Occupy Public Rights-of-Way.**

The purpose of this item is to bring forth a resolution that addresses a timing gap between terminating emergency rules and regulations and consideration of code changes to allow expanded outdoor permitting on an on-going basis.

ACTION TAKEN: ADOPTED

END OF CONSENT CALENDAR

- K) **CONSENT CALENDAR FOLLOW-UP** (*This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.*)
- L) **STAFF REPORTS** - None
- M) **COUNCILMEMBER REPORTS**
- N) **CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION**
- O) **CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

12. **Resolution 2022-102 Adopting Findings of Fact Supporting the Historic Preservation Commission's Determination That 1802 North College Avenue was Eligible for Landmark Designation and Denying the Landowner's Appeal.**

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's Decision Finding the Property at 1802 North College Avenue a Historic Resource for the Purposes of Development Review under Land Use Code 3.4.7 and therefore eligible for Landmark Designation. The appeal was heard by Council on September 20, 2022.

ACTION TAKEN: ADOPTED RESOLUTION

13. **Items Relating to the Designation of Indigenous Peoples' Day.**

A. Native American Community Update.

B. Resolution 2022-103 Recognizing the Second Monday in October as "Indigenous Peoples' Day" in the City of Fort Collins, Colorado, Acknowledging and Supporting the Native and Indigenous Peoples Living in Fort Collins, and Affirming the City's Commitment to Recognize and Include the Voices and Interests of Native and Indigenous Peoples in the City's Commitment to Work Towards Equity.

Members of the Fort Collins Native American and Indigenous community collectively have created a resolution recognizing the second Monday in October as Indigenous Peoples' Day. Staff from the Equity and Inclusion Office also will share an update on the work that has been taking place with the Native American community this year.

ACTION TAKEN: ADOPTED

14. Public Hearing #2 on the 2023-24 Recommended Budget for the City of Fort Collins.

This is the second public hearing on the City Manager's 2023-24 Recommended Budget for the City of Fort Collins. The purpose of this public hearing is to gather public input on the 2023-24 budget. Both hearings were set by Council adoption of Resolution 2022-097 at its September 6, 2022, meeting. The City Manager's 2023-24 Recommended Budget can be reviewed at the City Clerk's Office by appointment only and online at fcgov.com/budget.

Public input will also be taken during the budget adoption meetings on Tuesday, November 1 and Tuesday, November 15, 2022, at 6:00 p.m. in Council Chambers.

ACTION TAKEN: HEARING HELD

15. 1306 West Mountain Avenue Landmark Design Review Appeal.

The purpose of this quasi-judicial item is to consider an appeal of the Historic Preservation Commission's (HPC) Decision on July 20, 2022, regarding proposed alterations to the City landmark at 1306 West Mountain Avenue, also known as the Jackson-Bailey House & Garage.

This appeal is regarding the final design review decision of the applicants' project by the HPC. The HPC is tasked by Municipal Code Chapter 14, Article IV, with assessing whether a proposed exterior project on a City Landmark meets the *Secretary of the Interior's Standards for Rehabilitation*, and to issue, with or without conditions, or to deny, a Certificate of Appropriateness. In the application that was the subject of the July 20, 2022, decision being appealed, the applicant proposed an addition onto the rear elevation of the main historic building along with related rehabilitation including the modification of windows along the north end of the west elevation. The HPC approved the addition but denied the modification of windows and the Appellant is appealing the denial of the windows both on fair hearing and interpretation and application grounds.

A previous application to make alterations to the same property was approved by the HPC on February 16, 2022, with the written decision issued on and dated February 17, 2022, and included demolition of a non-historic accessory structure, construction of a new garage building, and modification of basement windows for egress compliance under the *International Existing Building Code*. The previous application included an addition to the house that was denied but a modified addition was approved as part of the July 20, 2022, HPC decision.

A Notice of Appeal was filed on August 2, 2022, under the following grounds:

1. The HPC failed to properly interpret and apply relevant provisions of the City Code, the Land Use Code, and Charter, specifically City Code Sec. 14-53, the Secretary of the Interior's Standards for Rehabilitation (Standards 2 and 5), and the Secretary of the Interior's "Interpreting Standards" Bulletin #14 regarding Modifications to Windows on Secondary Elevations.

2. The HPC was biased against the appellant by reason of conflict of interest or other close business, personal or social relationship that interfered with the HPC's independence of judgement.

The HPC's sole consideration was whether the project proposed at 1306 West Mountain Avenue met the City's adopted standards for reviewing projects on historic buildings, the *Secretary of the Interior's Standards and Guidelines for the Treatment of Historic Properties*, specifically those for adaptive reuse, or *Rehabilitation*.

ACTION TAKEN: DENIED APPEAL IN ITS ENTIRETY

P) OTHER BUSINESS

OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

Q) ADJOURNMENT

Every regular Council meeting will end no later than midnight, except that: (1) any item of business commenced before midnight may be concluded before the meeting is adjourned and (2) the Council may, at any time prior to adjournment, by majority vote, extend a meeting beyond midnight for the purpose of considering additional items of business. Any matter that has been commenced and is still pending at the conclusion of the Council meeting, and all matters for consideration at the meeting that have not yet been considered by the Council, will be deemed continued to the next regular Council meeting, unless Council determines otherwise.

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide 48 hours advance notice when possible.

A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione 48 horas de aviso previo cuando sea posible.