



City Council Regular Meeting Action Agenda

October 18, 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

- PP 1. **Proclamation Declaring October 18, 2022 as Canino's Day.**
- PP 2. **Proclamation Declaring October 20, 2022 as Imagine a Day Without Water Day.**
- PP 3. **Proclamation Declaring October 20, 2022 as Community Media Day.**
- PP 4. **Proclamation Declaring October 28, 2022 as Kilwin's Day.**
- PP 5. **Proclamation Declaring October 2022 as Conflict Resolution Month.**

REGULAR MEETING 6:00 PM

B) CALL MEETING TO ORDER

C) PLEDGE OF ALLEGIANCE

D) ROLL CALL

ALL MEMBERS PRESENT.

E) CITY MANAGER'S AGENDA REVIEW

- City Manager Review of Agenda

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

ITEM 11 WITHDRAWN TO BE HEARD ON 10/25.

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

CONSENT CALENDAR

1. Items Pertaining to the Annual Adjustment Ordinance.

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

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

These Ordinances, unanimously adopted on First Reading on October 4, 2022, 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: BOTH ORDINANCES ADOPTED ON SECOND READING.

2. Second 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.

This Ordinance, unanimously adopted on First Reading on October 4, 2022, authorizes 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 SECOND READING.

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

This Ordinance, unanimously adopted on First Reading on October 4, 2022, authorizes 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 SECOND READING.

4. **Second 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, unanimously adopted on First Reading on October 4, 2022, 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 SECOND READING.

5. **First Reading of Ordinance No. 107, 2022, Appropriating Philanthropic Revenue Received By City Give for the Bucking Horse Park Trail Spur Project as Designated by the Donor.**

The purpose of this item is to request an appropriation of \$5,000 in philanthropic revenue received by City Give for Park Planning and Development as designated by the donor.

ACTION TAKEN: ADOPTED ON FIRST READING.

6. **First Reading of Ordinance No. 108, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 By City Give for Various City Programs and Services as Designated by the Donors.**

The purpose of this item is to request appropriation of \$4,070 in philanthropic revenue received by 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 FIRST READING.

7. **First Reading of Ordinance No. 109, 2022, Making a Supplemental Appropriation of HOME Investment Partnership Program - American Rescue Plan Act Funding from the Federal Department of Housing and Urban Development.**

The purpose of this item is to appropriate \$2,628,410 in HOME Investment Partnership Program – American Rescue Plan funds received from the Department of Housing and Urban Development.

ACTION TAKEN: ADOPTED ON FIRST READING.

8. **First Reading of Ordinance No. 110, 2022, Amending Article IX of Chapter 23 of the Code of the City of Fort Collins Regarding Natural Areas.**

The purpose of this item is to amend various provisions in Article IX of Chapter 23 of the City Code regarding natural areas to close loopholes, add new definitions, and add new regulations that better protect the natural environment and promote visitor safety. Natural Areas Department rangers researched existing Code and worked with Natural Areas Department staff and the City Attorney's Office before the proposed changes were brought to the Land Conservation and Stewardship Board in July 2022.

ACTION TAKEN: ADOPTED ON FIRST READING.

9. **First Reading of Ordinance No. 111, 2022, Amending Certain Sections of Chapter 25 of the Code of the City of Fort Collins Relating to the Imposition, Collection, and Enforcement of the City's Sales and Use Taxes.**

The purpose of this item is to amend Chapter 25 of City Code concerning sales and use tax. The updates include revisions to the Grocery Tax Rebate Program to increase the area median income threshold for a rebate as part of ongoing City-wide initiatives to streamline and broaden access to City income-qualified programs. Other updates include but are not limited to: (1) updating the deadlines for refund claims and petitions protesting the denial of tax-exempt organization license applications to align with other deadlines in Chapter 25; (2) amending the appeals process to align with state statute; and (3) adding exemptions from sales and use tax for the state carryout bag fee and retail delivery fee. (The Council approved Ordinance No. 053, 2022, in May 2022, which created an exemption from sales tax for the City's disposable bag fee).

ACTION TAKEN: ADOPTED ON FIRST READING.

10. **First Reading of Ordinance No. 112, 2022, Amending Chapter 23, Article III of the Code of the City of Fort Collins Regarding Obstructions and Encroachments to Allow for the Expansion of Outdoor Dining Areas onto City Property and Adopting by Reference the City of Fort Collins Outdoor Dining Design Manual.**

The purpose of this item is to amend City code to allow outdoor dining areas on public property. During the COVID pandemic and declared local emergency, Emergency Orders were put in place to support hospitality businesses by allowing extended outdoor patios on public property. The extended patios have been popular and successful both economically and as a vibrant way to activate streets and sidewalks. Staff is proposing changes to the City Code obstruction and encroachment permit provisions and a framework, including the *City of Fort Collins Outdoor Design Manual* ("Design Manual"), to make these spaces permissible after the expiration of the Emergency Orders.

ACTION TAKEN: ADOPTED ON FIRST READING.

11. First Reading of Ordinance No. 113, 2022, Suspending Certain Provisions of the City's Land Use Code and Building Code to Permit Temporary Use of City Property at 212 West Mountain Avenue as a Homeless Shelter.

This purpose of this item is to suspend certain provisions of the City's Land Use Code to allow the temporary use of 212 West Mountain Avenue as a men's overflow shelter site from November 2022 – April 2023.

WITHDRAWN TO BE HEARD AT 10/25 ADJOURNED MEETING.

12. Resolution 2022-104 Adopting the City's 2023 Legislative Policy Agenda.

The purpose of this item is to adopt the City's 2023 Legislative Policy Agenda. Each year the Legislative Review Committee develops a legislative agenda to assist in the formation, analysis, and advocacy of pending legislation and regulation. The Legislative Policy Agenda is used as a guide by Council and staff to determine positions on legislation and regulation under consideration at the state and federal levels and as a general reference for state legislators and the City's congressional delegation.

The Legislative Review Committee reviewed and made changes/updates at the August 30, 2022, meeting.

ACTION TAKEN: ADOPTED.

13. Resolution 2022-105 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Larimer County Board of Health for Purchase and Use of an Optical Gas Imaging (OGI) Camera.

The purpose of this item is to authorize the City Manager to sign an Intergovernmental Agreement (IGA) with Larimer County Board of Health, where the City will provide \$100,000 in appropriated funds toward the purchase of an OGI camera that will be owned and operated by the County, for the purpose of detecting hydrocarbon leaks at oil and gas and other sites within the City and County.

ACTION TAKEN: ADOPTED.

14. Resolution 2022-106 Making Appointments to the Youth Advisory Board.

The purpose of this item is to fill vacancies on the Youth Advisory Board.

ACTION TAKEN: ADOPTED.

END OF CONSENT CALENDAR

J) ADOPTION OF CONSENT CALENDAR

ACTION: APPROVED RECOMMENDED ACTIONS FOR ITEMS 1- 14 MINUS ITEM 11 ON THE CONSENT CALENDAR 7-0.

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

NONE.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

15. Resolution 2022-107 Adopting Findings of Fact Supporting the Historic Preservation Commission's Decision to Deny Proposed Window Alterations to the Landmarked Property Located at 1306 West Mountain Avenue and Denying the Appeal.

The purpose of this item is to make findings of fact regarding the appeal of the Historic Preservation Commission's decision to deny the proposed window treatment for the northwest bedroom at 1306 West Mountain Avenue. The appeal was heard by Council on October 4, 2022.

ACTION: ADOPTED 5-0 (RECUSED: ARNDT; ABSENT: CANONICO).

16. Items Relating to the Adoption of the Land Development Code.

A. First Reading of Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as "Transitional Land Use Regulations".

ACTION: ADOPTED ON FIRST READING AS AMENDED 6-1 (NAY: OHLSON).

B. First Reading of Ordinance No. 115, 2022, Amending the Zoning Map of the City of Fort Collins to Rename all Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone District to the Old Town Zone District in Conjunction with the Adoption of the Land Development Code.

ACTION: ADOPTED ON FIRST READING 6-1 (NAY: OHLSON).

The purpose of this item is to consider adoption of changes to the City's Land Use Code including renaming to the Land Development Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Changes are intended to address one or more of the following Guiding Principles:

1. Increase overall housing capacity and calibrate market-feasible incentives for affordable housing
2. Enable more affordability, especially near high frequency transit and priority growth areas
3. Allow more diverse housing choices that fit in with the existing context and priority place types
4. Make the LUC easier to use and understand
5. Improve predictability of the development review process, especially for housing

In conjunction with adoption of the Land Development Code, a conforming change to the zoning map to rename the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone District to the Old Town zone district is proposed by means of a rezoning.

If adopted by Council, staff recommends that the proposed LUC changes and renaming to the Old Town zone district take effect on January 1, 2023.

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

ACTION: ADJOURNED THIS MEETING AT 11:20 PM TO 6:00 PM ON TUESDAY, OCTOBER 25, 2022

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.