



# City Council Regular Meeting Agenda

**November 1, 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 November as Native American Heritage Month.**
- PP 2. **Proclamation Declaring the Year of November 2022 to November 2023 as Natural Areas 30th Anniversary.**

## **REGULAR MEETING 6:00 PM**

### **B) CALL MEETING TO ORDER**

### **C) PLEDGE OF ALLEGIANCE**

### **D) ROLL CALL**

### **7-0 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.

### **F) COMMUNITY REPORTS - None.**

**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. Second 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.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends \$5,000 in philanthropic revenue received by City Give for Park Planning and Development as designated by the donor.

**ACTION TAKEN: ADOPTED ON SECOND READING.**

- 2. Second 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.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, appropriates \$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 SECOND READING.**

- 3. Second 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.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, appropriates \$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 SECOND READING.**

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

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends 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 SECOND READING.**

5. **Second 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.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends 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).

For Second Reading, in light of prior discussions by the Council Finance Committee, the City Manager is proposing a Whereas clause be revised. The revision will document that the City Manager has committed that City staff will return to the Council Finance Committee after approximately one year not only to discuss the effectiveness of the Code update increasing the area median income threshold for the Grocery Tax Rebate Program, but also to discuss other options to expand participation, such as removing income verification requirements.

**ACTION TAKEN: ADOPTED ON SECOND READING.**

6. **Second 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.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends 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.

In response to Council feedback regarding concrete barriers, staff has replaced previous language, which said “Concrete ‘Jersey Barriers’ shall only be installed where required or deemed appropriate by the City Engineering Department.” with “Crash rated barriers will only be required for safety or traffic volume. In those cases, the City will not allow a concrete “Jersey-barrier” style and will require a crash-rated barrier that meets the urban design standard of the location (Downtown, for instance).”

**ACTION TAKEN: ADOPTED ON SECOND READING.**

7. **Second 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 117 North Mason Street as a Homeless Shelter.**

This Ordinance, unanimously adopted on First Reading on October 25, 2022, suspends certain provisions of the City’s Land Use Code to allow the temporary use of 117 North Mason Street as a men’s overflow shelter site from November 2022 – April 2023.

**ACTION TAKEN: ADOPTED ON SECOND READING.**

8. **Second Reading of Ordinance No. 116, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Make Various Changes to the Water Supply Requirement for Nonresidential Water Service.**

This Ordinance, unanimously adopted on First Reading on October 25, 2022, adopts changes to Fort Collins Utilities (Utilities) Water Supply Requirement (WSR) in Chapter 26 of City Code. Changes to the WSR went into effect January 1, 2022, through Ordinance No. 119, 2021. However, after administering the WSR under that ordinance for several months, staff realized a need for further revision. The Ordinance broadened when Utilities nonresidential water customers doing redevelopment must meet the WSR, such that these customers must meet WSRs for almost any redevelopment. The Ordinance also results in the assignment of an annual allotment and the potential for excess water use surcharges. These changes have resulted in significant staff time for previously routine matters and impacts to customers that are perceived as unfair. The proposed ordinance would return to the previous, historical requirement, where customers must only meet the WSR for new development and redevelopment that is replacing and existing meter or service with a larger size.

**ACTION TAKEN: ADOPTED ON SECOND READING.**

9. **First Reading of Ordinance No. 117, 2022, Approving the Fiscal Year 2023 Budget, and Being the Annual Appropriation Ordinance for the Fort Collins Downtown Development Authority, and Fixing the Mill Levy for the Downtown Development Authority for Fiscal Year 2023.**

The purpose of this item is to set the Downtown Development Authority ("DDA") Budget.

The following amounts will be appropriated:

DDA Public/Private Investments & Programs	\$7,800,493
DDA Operations & Maintenance	\$2,030,378
Revolving Line of Credit Draws	\$7,000,000
DDA Debt Service Fund	\$7,431,611

The Ordinance sets the 2023 Mill Levy for the Fort Collins DDA at five (5) mills, unchanged since tax year 2002. The approved Budget becomes the Downtown Development Authority's financial plan for 2023.

**ACTION TAKEN: ADOPTED ON FIRST READING.**

10. **First Reading of Ordinance No. 118, 2022, Adopting the 2023 Budget and Appropriating the Fort Collins Share of the 2023 Fiscal Year Operating and Capital Improvements Funds for the Northern Colorado Regional Airport.**

The purpose of this item is to adopt the 2023 budget for the Northern Colorado Regional Airport and appropriate Fort Collins' share of the 2023 fiscal year operating and capital funds for the Airport. Under the Amended and Restated Intergovernmental Agreement for the Joint Operation of the Airport between Fort Collins and Loveland (the "IGA"), the Airport is operated as a joint venture with each City owning 50% of the assets and revenues and responsible for 50% of the operating and capital costs. The proposed budget does not include any financial contributions from the City's General Fund. Because each City has an ownership interest in 50% of the Airport revenues, each City must appropriate its 50% share of the annual operating and capital budget for the Airport under the IGA.

**ACTION TAKEN: ADOPTED ON FIRST READING.**

11. **First Reading of Ordinance No. 119, 2022, Appropriating Philanthropic Revenue Received Through City Give to Benefit Income-Qualified Youth Sports Programming and Services in the Recreation Department.**

The purpose of this item is to request appropriation of \$17,000 in philanthropic revenue received through City Give for Recreation to benefit income-qualified youth sports programming and services.

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.**

12. **First Reading of Ordinance No. 120, 2022, Appropriating Prior Year Reserves in the General Fund and Transportation Services Fund for Snow Removal.**

The purpose of this item is to appropriate prior year reserves to cover snow removal costs that have exceeded the 2022 budget. Overspend in the snow budget is driven by severe snowstorms that present cold temperatures, ice, and higher volumes of snow.

**ACTION TAKEN: ADOPTED ON FIRST READING.**

13. **First Reading of Ordinance No. 121, 2022 Amending Chapter 7.5 of the Code of the City of Fort Collins to Increase for Inflation the Capital Expansion Fees and the Transportation Expansion Fee.**

The purpose of this item is to make annual inflation updates effective January 1, 2023, associated with the City's Capital Expansion Fees and its Transportation Expansion Fee. Inflation updates are 8.6% for the Capital Expansion Fees and 7.1% for the Transportation Expansion Fee.

**ACTION TAKEN: ADOPTED ON FIRST READING.**

14. **Items Related to an Affordable Housing Development Incentives Grant from the Colorado Department of Local Affairs for Kechter Townhomes.**

A. Resolution 2022-109 Authorizing the Mayor to Execute an Intergovernmental Grant Agreement for an Affordable Housing Development Incentives Grant from the Colorado Department of Local Affairs.

B. First Reading of Ordinance No. 122, 2022, Making Supplemental Appropriations in the General Fund of Grant Proceeds from the Colorado Department of Local Affairs for the Kechter Townhomes Project.

The purpose of this item is to consider a Resolution authorizing execution of a state Grant Agreement providing \$2.2 million to pay water and wastewater tap and permit fees to the Fort Collins-Loveland Water District for the Kechter Townhomes project and adoption of an Ordinance making an appropriation of unanticipated grant revenue in the General Fund. In November of 2021, the City sold a property from the Land Bank Program located at 3620 Kechter Road to Kechter TWG, LLLP for the purpose of building 54 permanently affordable townhomes. The City applied for and was awarded a grant from the Colorado Department of Local Affairs (DOLA) to support water and wastewater utility costs associated with this development. This item seeks approval of the intergovernmental grant agreement and authority to spend the grant proceeds.

**ACTION TAKEN: ADOPTED RESOLUTION AND ORDINANCE ON FIRST READING.**

15. **First Reading of Ordinance No. 123, 2022, Updating References in City Code to the Land Use Code.**

This purpose of this item is to update the City Code's existing references to Land Use Code to the new name Land Development Code.

**ACTION TAKEN: ADOPTED ON FIRST READING.**

16. **First Reading of Ordinance No. 124, 2022, Authorizing an Extension of the Temporary Exception to the Land Use Code to Allow T-Mobile to Place a Temporary Wireless Telecommunication Facility at 1800 East Harmony Road to Replace Lost Wireless Service Coverage.**

The purpose of this item is to extend the authorization for a temporary wireless telecommunication facility known as a cell-on-wheels (COW), operated by T-Mobile, currently located at 1800 East Harmony. The current temporary authorization is set to expire on December 1, 2022. This temporary facility is in place to address a critical loss in T-Mobile's existing cellular coverage in south Fort Collins caused by T-Mobile's removal of wireless equipment from Platte River Power Authority ("PRPA") infrastructure and is to be used only until a permanent facility (proposed at 4518 Innovation Drive) is fully constructed in Spring 2023.

**ACTION TAKEN: ADOPTED ON FIRST READING.**

17. **First Reading of Ordinance No. 125, 2022, Conditionally Vacating a Portion of Crestridge Street Right-of-Way.**

The purpose of this item is to approve the conditional vacation of Crestridge Street right-of-way, currently known as Crestridge Drive, that is no longer desirable or necessary to retain for street purposes. Portions of the right-of-way area, once vacated, will be retained as public access and emergency access easements to the City in order to provide continued access for the neighboring properties. The right-of-way vacation will be conditional upon the construction of the extension of Venus Drive. These conditions are outlined in detail in the Ordinance.

**ACTION TAKEN: ADOPTED ON FIRST READING.**

**END OF CONSENT CALENDAR**

**J) ADOPTION OF CONSENT CALENDAR**

**ACTION TAKEN: APPROVED RECOMMENDED ACTIONS ON ALL ITEMS ON 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

### 18. **First Reading of Ordinance No. 126, 2022, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for Fiscal Year 2023; Adopting the Budget for the Fiscal Years Beginning January 1, 2023, and Ending December 31, 2024; and Fixing the Mill Levy for Property Taxes Payable in 2023.**

The purpose of this item is to present the Annual Appropriation and Budget Ordinance for First Reading. This Ordinance sets the City Budget for the two-year period (2023-2024) which becomes the City's financial plan for the next two fiscal years. This Ordinance sets the amount of \$778,543,584 to be appropriated for fiscal year 2023. However, this appropriated amount does not include what is being budgeted and appropriated by separate Council/Board of Director actions to adopt the 2023 budget for the General Improvement District (GID) No. 1 of \$313,275, the 2023 budget for General Improvement District (GID) No. 15 (Skyview) of \$1,000, the Urban Renewal Authority (URA) 2023 budget of \$6,005,369 and the Downtown Development Authority 2023 budget of \$24,262,482. This results in the City-related total operating appropriation of \$809,125,710 in 2023.

This Ordinance also sets the 2023 City mill levy at 9.797 mills, unchanged since 1991.

**ACTION TAKEN: ADOPTED ON FIRST READING 7-0.**

### 19. **Items Relating to 2023 Utility Rates, Fees, and Charges.**

A. First Reading of Ordinance No. 127, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees and Charges and Updating Related Provisions.

B. First Reading of Ordinance No. 128, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Rates, Fees and Charges.

C. First Reading of Ordinance No. 129, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Wastewater Rates, Fees and Charges.

D. First Reading of Ordinance No. 130, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Rates, Fees and Charges.

E. First Reading of Ordinance No. 131, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Calculation and Collection of Development Fees Imposed for the Construction of New or Modified Electric Service Connections.

F. First Reading of Ordinance No. 132, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Sewer Plant Investment Fees.

G. First Reading of Ordinance No. 133, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise the Stormwater Plant Investment Fees.

H. First Reading of Ordinance No. 134, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Plant Investment Fees.

The purpose of this item is to consider Ordinances related to proposed 2023 rates and fees being brought forward for Council consideration, including the following items:

**Items (A-D)** – Monthly utility charges to increase 5% for Electric customers, 4% for Water customers, 4% for Wastewater customers, and 3% for Stormwater customers.

**Items (E–H)** – A 9% inflationary increase to development fees including Electric Capacity Fees (ECFs) and Water, Wastewater, Stormwater Plant Investment Fees (PIFs)

**ACTION TAKEN: ADOPTED ALL ORDINANCES ON FIRST READING 7-0.**

20. **First Reading of Ordinance No. 135, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Related to Water, Wastewater and Electric Rates, Fees, and Charges Applied Under the Income-Qualified Assistance Program.**

The Income-Qualified Assistance Program (IQAP) that provides income-qualified Fort Collins Utilities (Utilities) customers reduced rates on select Utilities services was introduced in October 2018 as a pilot program. The IQAP program bill adjustment effectively applies a 23% rate discount on electric, water, and wastewater services, and is due to expire December 31, 2022. In July 2021, City Council approved moving the program from an application-based, opt-in program to an auto-enroll, opt-out program, subject to participants' participation in the complementary state Low-income Energy Assistance Program (LEAP). At that time, City Council also requested an evaluation of the discounted rate percentage to ensure it was still sufficient to meet program objectives. Since July 2021, participation in IQAP has increased 128%. Staff are seeking a motion from City Council to adopt the program. The Council Finance Committee reviewed this proposal on October 20, 2022, and provided staff direction for presentation to the full City Council.

**ACTION TAKEN: ADOPTED ON FIRST READING 7-0.**

21. **Items Relating to the Adoption of the Land Development Code.**

A. Second 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 "2022 Transitional Land Use Regulations".

B. Second 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.

These Ordinances, adopted on First Reading on October 18, 2022 by a vote of 6-1 (Nay: Ohlson), 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.

At first reading, Council directed that “2022” be added to the term “Transitional Land Use Regulations” to avoid possible confusion with the previous Transitional Land Use Regulations utilized when the Land Use Code was adopted in 1997.

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.

**ACTION TAKEN: ADOPTED ORDINANCE NO 114, 2022 ON SECOND READING 5-2 (NAYS: OHLSON, GUTOWSKY.)  
ADOPTED ORDINANCE NO. 115, 2022 ON SECOND READING 6-1 (NAY: OHLSON).**

**22. First Reading of Ordinance No. 136, 2022, Repealing and Reenacting Article IX of City Code Chapter 20 Concerning Public Nuisances and Making Conforming Changes to City Code Section 19-3.**

The purpose of this item is for Council to consider the adoption of a new public nuisance ordinance (PNO) that allows for a clearer, broader definition of public nuisance and adds new enforcement mechanism for abating public nuisances and chronic nuisance properties. The new PNO will allow staff to address the current community issues and nuisance situations more effectively.

**POSTPONED FIRST READING OF THE ORDINANCE TO TUESDAY, NOVEMBER 15, 2022 AND ADDED TO WORK SESSION FOR MONDAY, NOVEMBER 7, 2022.**

**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.*