

February 7, 2023

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

**PROCLAMATIONS & PRESENTATIONS
5:00 PM**

A) PROCLAMATIONS AND PRESENTATIONS

PP 1. **Proclaiming February 19-25, 2023 as National Engineers Week.**

Mayor Jeni Arndt presented the above proclamation at 5:00 p.m.

**REGULAR MEETING
6:00 PM**

B) CALL MEETING TO ORDER

Mayor Jeni Arndt called the meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City's Zoom platform.

C) PLEDGE OF ALLEGIANCE

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

D) ROLL CALL

PRESENT

Mayor Jeni Arndt
Mayor Pro Tem Emily Francis
Councilmember Susan Gutowsky
Councilmember Julie Pignataro
Councilmember Tricia Canonico (arrived at 6:26 p.m.)
Councilmember Shirley Peel
Councilmember Kelly Ohlson

STAFF PRESENT

City Manager Kelly DiMartino
City Attorney Carrie Daggett
City Clerk Anissa Hollingshead

E) CITY MANAGER'S AGENDA REVIEW

City Manager Kelly DiMartino provided an overview of the agenda, including:

- There were no changes to the published agenda.
- All items on the consent agenda were recommended for approval.

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.)

Adam Eggleston, Fort Collins resident, spoke regarding a few items, including housing related items. Relating to the Land Development Code, he urged finding common ground to move forward including taking related changes quickly around occupancy regulations. He also suggested looking at impact fees and how restructuring them could incentivize smaller housing units to help increase more housing options as well. He also expressed support for the Victim Services Grants on tonight's agenda.

Stacy Lynne, investigative journalist, spoke regarding John Feyen being sworn in as Larimer County Sheriff and a recent district court ruling against Feyen regarding his conduct when he was with Fort Collins Police. She shared her experience having a tracking device placed on her vehicle by Feyen without a warrant when he was previously with the Larimer County Sheriff's Office.

Jerry Gavaldon, Fort Collins resident, spoke regarding the proposed trash contract with Republic Services and his concerns regarding the potential for a monopoly and the elimination of choice for residents.

Dennis Gatlin, Fort Collins resident, spoke as the chair of the Boxelder Sanitation District Board regarding the proposed 1041 regulations under consideration. He spoke regarding the duplication of existing sewer regulations at other levels of government and how they would result in additional costs for sanitation district customers.

H) PUBLIC COMMENT FOLLOW-UP

Mayor Jeni Arndt requested written follow up about impact fees and how they incentivize larger homes.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

Councilmember Ohlson requested to pull item 12 from the consent calendar.

J) CONSENT CALENDAR

1. **Consideration and Approval of the Minutes of the December 6, 2022 and December 20, 2022, Regular Council Meetings.**

The purpose of this item is to approve the minutes of the December 6, 2022 and December 20, 2022 regular Council meetings.

Adopted.

2. **Second Reading of Ordinance No. 001, 2023, Appropriating Funds in the General Fund for 2023 Increases in Salary Compensation for the Mayor and Councilmembers as Approved by the City of Fort Collins Voters on November 8, 2022, by the Amendment of Section 3 in Article II of the City Charter.**

The purpose of this Ordinance, unanimously adopted on First Reading on January 17, 2023, is a General Fund supplemental appropriation to fund 2023-2024 Budget Offer 28.12 - City Council Voter Approved Pay Increase but only for fiscal year 2023. This budget request was not funded in the 2023 annual appropriation since the election results of the 2022 City-Initiated Charter Amendment No. 1 (Council Compensation) ballot initiative would not be known until after First Reading of the City's annual appropriation ordinance for 2023. The initiative was approved by

Fort Collins voters and this action is to appropriate the increased spending in the General Fund to implement the ballot initiative for the salary increases in 2023.

Adopted on Second Reading.

3. **Second Reading of Ordinance No. 002, 2023, Appropriating Philanthropic Revenue Received Through City Give for the Acquisition of a Community Soundstage in the Parks Department.**

This Ordinance, unanimously adopted on First Reading on January 17, 2023, requests appropriation of \$250,000.00 in philanthropic revenue received by City Give for Parks for the purchase and acquisition of a community soundstage.

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.

Adopted on Second Reading.

4. **Second Reading of Ordinance No. 003, 2023, Declaring a Portion of City-Owned Property at 835 Wood Street as Right-of-Way.**

The purpose of this item is to declare a strip of property owned by the City as road right-of-way (ROW) via the proposed plat for the Fort Collins Fleet Maintenance Subdivision. City staff recently discovered that a portion of the City's property at 835 Wood Street is being used for public street purposes, but was never dedicated or declared to be public ROW. This Ordinance, which was unanimously adopted on First Reading on January 17, 2023, establishes this portion of the property as ROW for Wood Street and authorizes the City Manager to dedicate such ROW through execution of the plat.

Adopted on Second Reading.

5. **Second Reading of Ordinance No. 004, 2023, Authorizing the Sale of the Real Property Located at 945 East Prospect Road to Kum & Go, L.C.**

The purpose of this item, which was unanimously adopted on First Reading on January 17, 2023, is to authorize the sale of the City-owned property located at 945 East Prospect Road to Kum & Go, L.C., an Iowa limited liability company (Kum & Go), for \$403,000. The sales price was determined by an appraisal by CBRE Valuation and Advisory Services, which provides on-call property appraisals for the City. A purchase and sale agreement was executed by Kum & Go and the City Manager on November 3, 2022. Completion of the purchase is contingent on City Council's approval of the sale by its final adoption of this Ordinance in accordance with Section 23-111 of the City Code, and approval of the final development plans by the City's Director of Community Services and Neighborhood Development.

Adopted on Second Reading.

6. **Second Reading of Ordinance No. 005, 2023, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the 215 North Mason Municipal Court 15-Year Buildout Design and Related Art in Public Places.**

The purpose of this item is to receive Council approval for an appropriation for Design of the 215 North Mason Municipal Court 15-year build-out using Capital Expansion Fees. This Ordinance was unanimously adopted on First Reading on January 17, 2023.

Adopted on Second Reading.

7. **Second Reading of Ordinance No. 006, 2023, Appropriating Prior Year Reserves in the Transportation Capital Expansion Fee Fund for Eligible Reimbursement to the Northfield Developer for the Construction of Suniga Road Improvements.**

The purpose of this item is to appropriate \$2,081,548 of Transportation Capital Expansion Fee (TCEF) Funds for expenditure from the Transportation Capital Expansion Fee Program Budget to reimburse the Northfield developer for its oversizing construction of Suniga Road. The Northfield developer has constructed Suniga Road as a four-lane arterial to City standards as part of its development requirements. Per Section 24-112 of the City Code, the developer is eligible for reimbursement from Transportation Capital Expansion Fee (TCEF) funds for the oversized, non-local portion of Suniga Road not attributed to the local portion obligation. This Ordinance was unanimously adopted on First Reading on January 17, 2023.

Adopted on Second Reading.

8. **Second Reading of Ordinance No. 007, 2023, Repealing 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".**

On January 17, 2023, Council unanimously adopted this Ordinance on First Reading from the options available to it upon the presentation of a petition certified as sufficient for referendum.

Adopted on Second Reading.

9. **Items Related to Code Amendments to Update and Align Wireless Communication Facility Regulations with the Wireless Telecommunications Master Plan**

- A. **Second Reading of Ordinance No. 011, 2023, Amending the Fort Collins Land Use Code to Update Standards for Wireless Communications Facilities Consistent with the Wireless Telecommunications Master Plan.**

- B. **Second Reading of Ordinance No. 012, 2023, Amending the Code of the City of Fort Collins to Update Standards for Wireless Communications Facilities in Public Highways Consistent with the Wireless Telecommunications Master Plan.**

The purpose of the update to the Wireless Communication section of the Land Use Code and corresponding revisions to the City Code is to ensure City standards and requirements for wireless communication development proposals align with the goals, policies, and implementation strategies of the recently adopted Wireless Telecommunications Master Plan and current state and federal regulatory standards. Doing so will enable the City to fully exercise its regulatory authority during the review and siting of new wireless communication infrastructure throughout the community. The Planning and Zoning Commission has reviewed and recommended approval of the revised City Code and Land Use Code language. These Ordinances were unanimously adopted on First Reading on January 17, 2023.

To avoid confusion with the Codifier in accurately updating the Land Use Code, a new Section 47 has been added to Ordinance No. 011, 2023, to specifically state that the definitions of "Wireless telecommunication equipment", "Wireless telecommunication facility" and "Wireless telecommunication services" are deleted from Section 5.1.2 of the Land Use Code. This is not a substantial change to the Code language Council approved on First Reading.

Adopted Both Ordinances on Second Reading.

10. **First Reading of Ordinance No. 013, 2023, Appropriating Unanticipated Grant Revenue From the Colorado Community Revitalization Grant Program in the Cultural Services & Facilities Fund for the Renovation of the Carnegie Center for Creativity and Approving the Associated Grant Agreement.**

The purpose of this item is to appropriate unanticipated grant revenue in the Cultural Services & Facilities Fund for the renovation of the Carnegie Center for Creativity. This appropriation includes \$2,400,000 of supplemental grant revenues awarded on November 25, 2022, provided by the State of Colorado through the Colorado Creative Industries Office.

Adopted on First Reading.

11. **First Reading of Ordinance No. 014, 2023, Appropriating Philanthropic Revenue Received by City Give for Tree Planting in the Forestry Department.**

The purpose of this item is to request appropriation of \$50,000.00 in philanthropic revenue received by City Give for Forestry, Community 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.

Adopted on First Reading.

12. **First Reading of Ordinance No. 015, 2023, Appropriating Philanthropic Revenue By City Give and Conservation Trust Funds for the Construction of the 9/11 Memorial at Spring Park and Related Art in Public Places.**

The purpose of this item is to request appropriation of \$480,765.00 for the designated purpose toward the construction of the 9/11 Memorial at Spring Park, 2100 Mathews Steet, Fort Collins, CO.

A partnership between the City of Fort Collins and Poudre Fire Authority, the 9/11 Memorial will be located in midtown Fort Collins, and will honor firefighters, emergency medical technicians, law enforcement officers, and nearly 3,000 others who lost their lives on September 11, 2001.

Pulled from Consent Calendar to Allow for Discussion

13. Items Relating to the 2023 City Classified Employee Pay Plan as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.

- A. First Reading of Ordinance No. 016, 2023, Adopting the 2023 Amended City Classified Employee Pay Plan to Update Classified Positions as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.**
- B. First Reading of Ordinance No. 017, 2023, Appropriating Prior Year Reserves in the General Fund for the Cost of Police Services Salary and Benefit Increases as Provided in the Collective Bargaining Agreement with the Fraternal Order of Police.**

The purpose of this item is to recommend changes to the 2023 City Classified Employee Pay Plan based on an annual market analysis conducted as agreed upon through the 2022-2024 Collective Bargaining Agreement (the "Agreement") with the Northern Colorado Lodge #3 of the Fraternal Order of Police ("FOP"). The Agreement was approved by Council by Resolution on December 7, 2021. The Agreement specifies a salary data collection method and evaluation process that includes market data as of early January. This data has been collected and analyzed, resulting in the revised 2023 City Classified Employee Pay Plan.

Adopted Both Ordinances on First Reading.

14. Items Relating to The Landing at Lemay Plan Amendment to the City Structure Plan Map and Rezoning.

- A. First Reading of Ordinance No. 018, 2023 Amending the City's Structure Plan Map.**
- B. Public Hearing and First Reading of Ordinance No. 019, 2023 Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification of that Certain Property Known as The Landing at Lemay Rezoning.**

The purpose of this item is to amend the City's Structure Plan Map, which is part of City Plan, to change the place type land use designation of approximately 17 acres of land east of the Lemay Avenue and Duff Drive intersection from the Industrial Place Type to the Mixed Neighborhood Place Type and to rezone the property from the Industrial (I) District to the Medium Density Mixed Use Neighborhood (MMN) District.

In order to approve a Structure Plan Map change, Council must determine that the Structure Plan Map is in need of the proposed amendment, and that the proposed amendment will promote the public welfare and will be consistent with the vision, goals, principles, and policies of City Plan and its elements.

The rezoning request is subject to criteria in Section 2.9.4 of the Land Use Code. The rezoning may be approved, approved with conditions, or denied by Council after receiving a recommendation from the Planning and Zoning Commission, which voted 5-1 at their December 2022 hearing to recommend approval of the request with two conditions as recommended in the staff report and with agreement from the petitioner.

The rezoning is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 2(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2022-068. The Structure Plan Map amendment is a legislative matter.

Adopted Both Ordinances on First Reading.

15. Items Relating to Victim Services Grants.

- A. First Reading of Ordinance No. 020, 2023, Making Supplemental Appropriation from the Eighth Judicial District Victim Assistance and Law Enforcement Board for the Fort Collins Police Services Victim Services Unit.**
- B. First Reading of Ordinance No. 021, 2023, Making Supplemental Appropriation from the Colorado Division of Criminal Justice under the Federal Victim of Crime Act for the Fort Collins Police Services Victim Services Unit.**

The purpose of these items is to help fund the Victim Services Unit of Fort Collins Police Services for victim advocacy services which are required under the Colorado Victim Rights Amendment for victims of crime and their family members.

The Victim Services Unit has been awarded a \$70,000 VALE grant for the period from January 1, 2023, to December 31, 2023. The VALE grant is awarded through the Eighth Judicial District Victim Assistance and Law Enforcement (VALE) Board to help fund services provided by the Victim Services team. This grant will fund one part-time victim advocate, as well as 65% of the salary of a contractual 40-hour per week victim advocate.

The Victim Services Unit has also been awarded a 24-month grant in the amount of \$47,959 for the period from January 1, 2023, to December 31, 2024, by the Colorado Division of Criminal Justice under the Federal Victim of Crime Act (VOCA). The amount to be received in 2023 is \$23,979 with the remaining amount to be received in 2024. This grant will help fund services provided by the Victim Services Unit. These funds will be used to pay 35% of the salary for the victim advocate who provides crisis intervention services for sexual assault victims between the school ages of kindergarten through 12th grade.

Adopted Both Ordinances on First Reading.

16. First Reading of Ordinance No. 022, 2023, Making Supplemental Appropriations and Authorizing Transfers for the Environmental Services Radon Program.

The purpose of this item is to appropriate unanticipated grant revenue in the General Fund for the Environmental Services Radon Program. This appropriation includes \$9,000 of grant revenues provided by the Colorado Department of Public Health and Environment (CDPHE) to support radon testing and mitigation programs. The grant directly supports radon activities identified in the Environmental Services Department's core budget offer and requires a local match of \$6,000. Matching funds are appropriated and unexpended in the 2023 Environmental Services operating budget and will be transferred to the Environmental Services Radon Program.

Adopted Ordinance on First Reading.

17. Resolution 2023-015 Making an Appointment to the Youth Advisory Board.

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

Adopted.

18. Resolution 2023-016 Authorizing the Initiation of Exclusion Proceedings of Annexed Properties Within the Territory of the Poudre Valley Fire Protection District and Authorizing an Intergovernmental Agreement with Said District.

The purpose of this item is to authorize the City Attorney to file a petition in Larimer County District Court to exclude properties annexed into the City in 2022 from the Poudre Valley Fire Protection District (the "District") in accordance with state law. The properties affected by this Resolution are the Peakview Annexation Number One and the Timber Lark Annexation. Colorado Revised Statutes Section 32-1-502 requires an order of exclusion from the District Court to remove these annexed properties from special district territories. The properties have been receiving fire protection services from the Poudre Fire Authority and will continue to do so. The City Attorney's Office files the petition in Larimer County District Court each year seeking exclusion for all properties annexed in the previous year that should be removed from the District to avoid double taxation.

Adopted.

19. Resolution 2023-017 Adopting Amendments to the City's Financial Management Policies.

The purpose of this item is to update three of the internal Financial Management Policies:

Policy 5 – Fund Balance

Policy 7 – Debt

Policy 8 – Investment

The policies are reviewed on a three-year rolling schedule. The recommended changes have been presented to the Council Finance Committee which supported the changes recommended.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to approve the recommended actions on items 1-11 and 13-19 on the consent calendar.

The motion carried 6-0.

Absent: Councilmember Canonico.

K) CONSENT CALENDAR FOLLOW-UP (This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)

Councilmember Ohlson requested follow up before second reading on item 10, which is an ordinance appropriating unanticipated grant revenue for the renovation of the Carnegie Center for Creativity. He requested more details about the nature of the whole project and the total dollars and sources involved in the renovation.

L) STAFF REPORTS

Multicultural Business and Entrepreneur Center (MBEC) Update.

SeonAh Kendall, Economic Health Director, and Edgar Ramos, Business Connector, provided the update as set forth in the presentation slide deck in the agenda packet.

Mayor Pro Tem Francis asked about the biggest barriers seen in starting a business in Fort Collins. The staff team shared one common trend is not being able to find information, which is compounded by language challenges. Confusion is also an issue at some levels, such as the requirements in some grant programs to have a business license, which in Fort Collins is handled as a sales tax license which is not always required for service businesses. Mayor Pro Tem Francis requested future follow up on the impacts of the program.

Clerk's Note: Councilmember Canonico arrived at 6:26 p.m.

M) COUNCILMEMBER REPORTS

Councilmember Julie Pignataro

- A targeted listening session focused on renters will be held next week.

Councilmember Susan Gutowsky

- A listening session will be held this week which will be focused on thoughts around the Land Use Code moving forward.
- Attended Municipal Judge Jill Hueser's Right Track Docket Program focused on allowing offenders to work through issues.
- Attended the recent Fort Collins Police Services Award ceremony, celebrating the excellent work of our police employees and community members.
- Attended the grand opening of Animal Friends Alliance's new facility caring for dogs and cats.
- Attended the Women Give luncheon held by the United Way in support of their work in providing child care for women returning to the work force.
- Attended the Chinese New Year at Early Colleges which included a wonderful show.

Councilmember Shirley Peel

- Had the opportunity to visit with Claire Brossard at the Care Initiative and shared information about community grants being offered with applications open through the end of February.
- Mill City Church held a Giving Sunday in December and raised over \$127,000 to give money to several housing initiatives as well as providing support for Lincoln Middle School.

Mayor Jeni Arndt

- Reminded everyone Friday is Bike to Work (or Anywhere) day.

N) CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT CALENDAR FOR INDIVIDUAL DISCUSSION

12. First Reading of Ordinance No. 015, 2023, Appropriating Philanthropic Revenue By City Give and Conservation Trust Funds for the Construction of the 9/11 Memorial at Spring Park and Related Art in Public Places.

The purpose of this item is to request appropriation of \$480,765.00 for the designated purpose toward the construction of the 9/11 Memorial at Spring Park, 2100 Mathews Steet, Fort Collins, CO.

A partnership between the City of Fort Collins and Poudre Fire Authority, the 9/11 Memorial will be located in midtown Fort Collins, and will honor firefighters, emergency medical technicians, law enforcement officers, and nearly 3,000 others who lost their lives on September 11, 2001.

Councilmember Ohlson noted he supports the memorial but objects to the way things were handled with this item, as originally it was slated to involve no public dollars which has now shifted and is using conservation trust fund dollars rather than general fund dollars.

Councilmember Pignataro asked about the eligible purposes for Conservation Trust Fund dollars. City Manager Kelly DiMartino provided some general guidelines as those eligibility parameters which City Give Director Nina Bodenhamer expanded upon. Councilmember Pignataro spoke regarding some degree of confusion for what open space means, and requested a definition. Community Services Interim Director Dean Klingner responded, noting it can mean many different things.

Councilmember Gutowsky shared her excitement for this memorial as a member of the Poudre Fire Authority Board, including providing information about the location for the memorial in Spring Park.

Councilmember Ohlson reiterated his support for the memorial and emphasized his concern with how it is funded.

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, to adopt on first reading Ordinance No. 015, 2023.

The motion carried 6-1.

Ayes: Councilmembers Canonico, Pignataro, Gutowsky, Peel, Mayor Arndt, Mayor Pro Tem Francis.

Nays: Councilmember Ohlson.

Clerk's Note: Mayor Arndt called for a 5-minute break at 7:00 p.m. The meeting resumed at 7:10 p.m.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

20. First Reading of Ordinance No. 023, 2023, Amending the Land Use Code to Include Regulations for Areas and Activities of State Interest.

The purpose of this ordinance is to amend the Fort Collins Land Use Code to include regulations for reviewing and permitting designated areas and activities of statewide interest - a new 1041 permit process for major domestic water, sewage treatment and highway projects. 1041 powers give local governments the ability to regulate particular development projects occurring within their jurisdiction, even when the project has broader impacts.

If Council wishes to provide additional time for review and consideration of the Ordinance, a postponement by motion to a date certain would be appropriate or providing additional time between first and second reading. Regardless, staff recommends Council use February 7th for discussion and further clarifications. If there will not be a hearing on February 21st, a new notice will need to be published in a newspaper of general circulation at least 30 days prior to the hearing.

Paul Sizemore, Community Development and Neighborhood Services Director, introduced the item. Senior Environmental Planner Kirk Longstein led the presentation as set forth in the slide deck in the agenda packet.

PUBLIC COMMENT

Windsor Mayor Paul Rennemeyer spoke regarding the importance to Windsor and the region for NISP (Northern Integrated Supply Project) and a secure water supply.

Barry Wilson, Mayor Pro Tem in Windsor, spoke regarding the impacts to Windsor and other areas throughout the region of the decision to be made by Council, and emphasized the importance of proactive water projects including NISP.

Shane Hale, Windsor Town Manager, shared his belief the regulations in front of the Council go further than may be intended and spoke to the collaborative work done by Windsor in the realm of water use and encouraged Fort Collins' participation in ongoing collaboration.

Jordan Radin, Fort Collins resident and chair of the Fort Collins Water Commission, noted the Commission has not yet had the opportunity to review the latest version of the proposed ordinances and requested on behalf of the commission to have that opportunity before action by the Council.

Chris Fletcher, Fort Collins Loveland Water District General Manager, spoke on behalf of the water provider for part of the city and requested an opportunity to review the current version of the ordinance before any action is taken.

Kevin Jones, Fort Collins resident and Fort Collins Area Chamber of Commerce director, spoke in support of delaying action on this ordinance until Council can better articulate why stricter regulations are required and more time is made available for review of the current proposal. On behalf of the Chamber, he formally requested that Council reject these proposed regulations.

Stefanie Furman, Finance Director of the Town of Erie, spoke on behalf of the Town with concerns about the regulations and its impact on other communities. The Town requested a limit to the scope of the regulations to be adopted by the City.

Mike Scheid, Executive Director of the ELCO Water District providing service to Fort Collins residents, spoke about the need for additional time for stakeholders to continue conversations with City staff to ensure full understanding of the impact of regulations on others.

Gary Wockner commented on behalf of the Save the Poudre organization to speak in support of the City moving forward with 1041 regulations, including considering changes to extend regulations to projects outside of the city with impacts inside the city.

Brad Wynn, Manager of Northern Water for NISP, commented about the importance for collaborative action around water needs in the region.

Joe Rowan, Fort Collins resident, spoke about the why behind moving forward and his belief it is connected to NISP which should be explicit.

Brian Zick, District Manager of Boxelder Wastewater District, spoke about how he sees these regulations coming into practice and concerns with cost implications.

COUNCIL DISCUSSION

Mayor Arndt asked staff what would be desired if Council chose to delay action tonight. Senior Environmental Planner Longstein asked for clarity on what kind of changes Council would like to see prior to the item returning to Council.

Councilmember Gutowsky shared her desire to pass this on first reading and delay second reading to see an opportunity to utilize the advice of some commenters, including Save the Poudre, for more robust environmental regulations.

Councilmember Ohlson stated support for passing this item on first reading and delaying second reading while staying within the moratorium. He shared his concern with using a pipeline through natural areas as the path of least resistance and a desire to see that practice end. Stakeholders

involve more than water utilities and waste water utilities. Staff has requested direction on what Council would like to see and for him it is for other stakeholders to get the same level of consideration as the utilities. He also stated his support for the City having to follow its own rules and for these regulations to impact us as well as other providers.

Councilmember Peel shared appreciation for all the work of staff while noting she is not yet ready to vote yes on this, with several areas of concern, including around cost and the timing of this moving forward.

Mayor Arndt shared her questions and concerns with what constitutes a matter of statewide interest and its scope. She also requested a legal read on staff's recommendation not to explore regulations on projects outside of the City. Senior Assistant City Attorney Brad Yatabe responded it was not our interpretation that the specific criteria exceeds the authority granted under the statute. Mayor Arndt offered her support for the staff recommendation and a desire to see a requirement of Council to provide reasons for its findings related to a 1041 permit application. Mayor Arndt inquired if ditches were included under the permitting process. Senior Environmental Planner Kirk Longstein indicated they would not be included if a facility is in support of stormwater or irrigation.

Mayor Pro Tem Francis stated her support for postponing the item entirely rather than adopting on first reading and then postponing second reading. She reiterated support for the three recommendations made by the Planning and Zoning Commission. She asked for more information about the impacts in other municipalities that have implemented 1041 regulations.

Councilmember Pignataro shared her support for postponing action at this point. Finding middle ground compromise will not leave everyone happy but is necessary.

Councilmember Canonico thanked staff for their work and stated her support for delaying first reading. She asked if Larimer County is using a 12" diameter sewer collector for wastewater projects as well. Longstein noted it was 15" which is what the City is looking at as well. She indicated she would like to see more pairing with Larimer County to create more predictability.

Councilmember Ohlson asked if stormwater was eliminated from day one. Longstein noted stormwater is not a matter of state interest. Are we choosing to allow existing easements? Are we exempting all easements and are we required to do so? Longstein indicated that was a compromise in conversations with community partners and is consistent with SPAR (site plan advisory review) process. From a planning perspective, it is preferred that these projects are incentivized to work within existing easements rather than creating or expanding existing easements and rights-of-way. Ohlson stated his concern with compromises because they don't usually support the environment. He also reiterated his encouragement to consider equally the input of Save the Poudre, the Land Conservation and Stewardship Board (LCSB), Sierra Club, and the Fort Collins Sustainability Group, in addition to the utilities. He concurred with Council delaying first reading as long as the moratorium is respected.

Mayor Pro Tem Francis suggested Council may need another work session on this topic before an ordinance comes back.

There was discussion around working from the current version, seeking additional outreach and input to inform the development of alternatives as part of a work session, and ultimately a presentation of potential amendments that clearly delineate the tradeoffs involved in various options. Staff requested more time to review potential amendments similar to what was provided with the Land Development Code which will require an extension of the current moratorium. Staff will bring the moratorium extension to a meeting prior to the expiration of the moratorium. Councilmember Ohlson suggested the term tolerable ground versus middle ground. He also

requested more time for Council to review the alternatives than was provided for the Land Development Code discussion.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to postpone first reading of the ordinance to May 2, 2023.

The motion carried 7-0.

Q) OTHER BUSINESS

A. 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.)

R) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 8:53 p.m.

ATTEST:



City Clerk





Mayor

