

February 21, 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**

There were no proclamations.

**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  
Councilmember Susan Gutowsky  
Councilmember Julie Pignataro  
Councilmember Tricia Canonico  
Councilmember Shirley Peel  
Councilmember Kelly Ohlson

**EXCUSED**

Mayor Pro Tem Emily Francis

**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.)*

George Hansen, Fort Collins resident, spoke regarding concerns about a parking ticket and related court fees. He also stated his preferences for weekly recycling service.

Ayleesa Stirzel, resident of the growth management area (GMA), spoke regarding the residential solid waste collection item, stating her support for the waste proposal while sharing her concerns as a resident of the GMA and limits to choices in trash services due to companies leaving the market in the city and beyond. She requested consideration of offering service through the City's contract in GMA areas.

Adam Eggleston, Fort Collins resident, thanked staff for the follow up and dialogue on capital improvement fees and ideas that have come up from that discussion that are possible for the City. He also spoke against any proactive inspections as part of a rental licensing program.

Brannan Davis, Fort Collins resident, spoke as a property manager regarding the proposed rental licensing program in opposition to the program in its current form.

Kim Miller, Fort Collins resident, spoke in support of the waste collection program and asked if it was possible to reuse the existing bins from Republic/Gallegos.

Adam Miller, Fort Collins resident, spoke regarding the business at 6024 South College Avenue that is storing trash on a public easement, stating he has brought this up to the City previously over the last several months and has not seen a resolution.

Jason Knebel, Fort Collins resident, reiterated a request for his Councilmember, Emily Francis, to recuse herself from any action on the Land Use Code given her involvement with the FoCo Forward organization in support of the Land Development Code.

Ray Martinez, Fort Collins resident, spoke against trash hauling districting, stating the opt out fee is a tax and needs to go to the voters.

## **H) PUBLIC COMMENT FOLLOW-UP**

Councilmember Ohlson requested staff follow ups including:

- Explanation of costs for protesting a parking ticket exceeding the cost of the ticket.
- Information on whether the issue brought up by Adam Miller is a code enforcement issue.

Councilmember Pignataro thanked everyone for coming out to the meeting. Relating to the comments on the trash issue, information will be shared on that item about the rationale and data that has been compiled on the topic.

Mayor Arndt noted the trash discussion will also include questions to address the issues brought up with the GMA, reuse of existing cans and education on what goes in the recycling cans. She thanked those commenting tonight, including Mr. Eggleston for his ongoing follow up and communication about potential issues.

**I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION**

Councilmember Ohlson requested to pull item number 9 for discussion .

**J) CONSENT CALENDAR**

- 1. Second 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. This Ordinance was unanimously adopted on First Reading on February 7, 2023.*

***Adopted on Second Reading.***

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

*This Ordinance, which was unanimously adopted on First Reading on February 7, 2023, requests 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 Second Reading.***

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

*A. Second 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. Second 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. These Ordinances were unanimously adopted on First Reading on February 7, 2023.*

***Adopted on Second Reading.***

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

A. *Second Reading of Ordinance No. 018, 2023 Amending the City's Structure Plan Map.*

B. *Second 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.*

*These Ordinances were unanimously adopted on First Reading on February 7, 2023.*

*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 on Second Reading.**

**5. Items Relating to Victim Services Grants.**

A. *Second 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. *Second 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.*

*These Ordinances, unanimously adopted on First Reading on February 7, 2023, 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 on Second Reading.**

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

*This Ordinance, unanimously adopted on First Reading on February 7, 2023, appropriates 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 on Second Reading.**

**7. First Reading of Ordinance No. 024, 2023, Appropriating Philanthropic Revenue Received By City Give for Fort Collins Police Services for the Safe Futures Initiative.**

*The purpose of this item is to request appropriation of \$86,000.00 in philanthropic revenue received by City Give for Fort Collins Police Services for the Safe Futures initiative.*

*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.**

**8. First Reading of Ordinance No. 025, 2023, Appropriating Prior Year Reserves and Unanticipated Revenue from Philanthropic Donations Received Through City Give for Various Programs and Services as Designated by the Donors.**

*The purpose of this item is to request appropriation of \$19,692 in philanthropic revenue received through City Give. These miscellaneous gifts to various City service areas and departments 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.*

**Adopted on First Reading.**

**9. First Reading of Ordinance No. 026, 2023, Appropriating Philanthropic Revenue Received Through City Give for The Gardens on Spring Creek for General Operations as Designated by the Donor.**

*The purpose of this item is to request appropriation of \$100,000 in philanthropic revenue received through City Give for The Gardens on Spring Creek for general operations as designated by the donor.*

*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.*

***Pulled from Consent to Allow for Discussion.***

**10. Resolution 2023-018 Making Appointments to the Air Quality Advisory Board.**

*The purpose of this item is to fill vacancies on the Air Quality Advisory Board.*

***Adopted.***

**11. Resolution 2023- 019 Approving Fort Fund Grant Disbursements – Project Support II Category.**

*The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Project Support II category, based upon the recommendations of the Cultural Resources Board.*

***Adopted.***

**12. Resolution 2023-020 Approving an Exception to the Use of a Competitive Process for an Enterprise License Agreement with ESRI for GIS Software.**

*A request for an exception to the use of a competitive bid process for the purchase of a three-year Enterprise License Agreement (ELA) with an option to renew for two additional years from ESRI is being brought forward for consideration. The alternative is contrary to the City's best interests for the following reasons:*

- ESRI's suite of Geographic Information System (GIS) software solution is used throughout the City by many departments and partner agencies to deliver map services to the public and to help City Council and Staff to make informed decisions.*
- The ESRI solution is integrated and highly integral to various other software solutions used by the City. Moving away from the ESRI solution would be a multi-year project with high cost, the potential loss of functionality, and great impact to the City and the public.*
- ESRI's software is proprietary and is only available for purchase directly from ESRI; they do not partner with third party resellers.*
- ESRI holds the market share in GIS software making it easy to hire and maintain highly qualified staff.*
- The ELA is a cost-effective approach which allows for an unlimited number of staff to make use of this software. It also provides access to future updates and upgrades which allows for growth and sustainability of the GIS environment.*

***Exception to the Competitive Bid or Proposal Rationale:***

*Section 8-161(d)(1)b. Although there exists more than one (1) responsible source a competitive process cannot reasonably be used or, if used, will result in a substantially higher cost to the City, will otherwise injure the City's financial interest, or will substantially impede the City's administrative functions or the delivery of services to the public.*

***Adopted.***

**13. Resolution 2023-021 Finding Substantial Compliance and Initiating Annexation Proceedings for the Thompson Thrift Spaulding Addition Annexation.**

*The purpose of this item is to determine substantial compliance and initiate annexation proceedings for the Thompson Thrift Spaulding Addition Annexation, located at 423 Spaulding Lane. The Applicant has submitted a written petition requesting the annexation and proposed zoning. The Thompson Thrift Spaulding Addition Annexation totals 3.743-acres and is located off Terry Lake Road/Highway 1 on Spaulding Lane, closest to the Spaulding Lane and Valley View Lane intersection.*

*The requested zoning for this annexation is Low Density Mixed Use (L-M-N), which is in alignment with the City of Fort Collins Structure Plan designation for this area. No project development plan proposal was submitted in conjunction with the annexation application.*

*This annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins City Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreement Regarding Growth Management.*

**Adopted.**

### END OF CONSENT CALENDAR

**Councilmember Pignataro moved, seconded by Councilmember Peel, to approve the recommended actions on items 1-8 and 10-13 on the consent calendar.**

**The motion carried 6-0.**

**Excused: Mayor Pro Tem Francis.**

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

Councilmember Peel drew attention to the donations being received in items 7 through 9. She also noted item 8 included several donors to several different City departments.

**L) STAFF REPORTS**

None.

**M) COUNCILMEMBER REPORTS**

Councilmember Susan Gutowsky

- Attended an excellent conference called Saving Places in Denver recently dealing with historic preservation, learning the different interpretations of historic preservation. The takeaway from the conference was intangible preservation is essential.
- Attended the Empty Bowls event held by the Larimer County Food Bank.

Councilmember Shirley Peel

- Attended the recent promotional ceremony for Police Services.

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

9. **First Reading of Ordinance No. 026, 2023, Appropriating Philanthropic Revenue Received Through City Give for The Gardens on Spring Creek for General Operations as Designated by the Donor.**

*The purpose of this item is to request appropriation of \$100,000 in philanthropic revenue received*

through City Give for The Gardens on Spring Creek for general operations as designated by the donor.

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.

There was no staff report and no public comment.

Councilmember Ohlson noted his opposition as stated at the prior meeting, not to the project but rather to the process for where the funds are being sourced from.

**Councilmember Pignataro moved, seconded by Councilmember Gutowsky, to adopt on first reading Ordinance No. 026, 2023.**

**The motion carried 5-1.**

**Ayes: Councilmembers Gutowsky, Pignataro, Canonico, Peel, and Mayor Arndt.**

**Nays: Council Member Ohlson.**

**Excused: Mayor Pro Tem Francis.**

## **O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION**

### **14. Second 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. This Ordinance was adopted 6-1 (Nay: Ohlson) on First Reading on February 7, 2023.*

*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.*

There was no staff report and no public comment.

Councilmember Ohlson stated he supports the memorial but does not support the way it is funded.

**Councilmember Pignataro moved, seconded by Councilmember Canonico, to adopt on second reading Ordinance No. 015, 2023.**

**The motion carried 5-1.**

**Ayes: Councilmembers Gutowsky, Pignataro, Canonico, Peel, and Mayor Arndt.**

**Nays: Council Member Ohlson.**

**Excused: Mayor Pro Tem Francis.**

### **15. Items Related to Residential Solid Waste Collection.**

*A. First Reading of Ordinance No. 027, 2023, Amending Chapter 12, Article II and Chapter 15, Article XV of the Code of the City of Fort Collins to Allow for the Establishment of a City Waste Collection Program and Generally Updating Provisions of the Code Governing Waste Collection Within the City.*

*B. First Reading of Ordinance No. 028, 2023, Authorizing the City Manager to Enter Into a Contract for the Provision of Residential Waste Collection Services.*



*C. First Reading of Ordinance No. 029, 2023, Appropriating Prior Year Reserves for Start-up Costs to Create a Contracted Residential Waste Collection Program.*

*The purpose of this item is to consider the adoption of a contracted residential waste and recycling program, which includes three separate Ordinances and one policy question:*

*1. Ordinance No. 027, 2023, would amend the City Code to enable the contracted hauling program and establish the City Administrative Fee to fund the City's role in the program.*

*2. Ordinance No. 028, 2023, would adopt the contract with Republic Services.*

*3. Ordinance No. 029, 2023, would approve an off-cycle general fund appropriation in the amount of \$107,251 to support the start-up phase of the proposed program.*

*4. Policy question: Do Councilmembers prefer the weekly or every-other-week recycling collection option?*

*This program aligns with the Council Priority to Explore a Districted System for Garbage, Recycling and Compost.*

*The proposed program includes the following benefits:*

- Trash, recycling as well as yard trimmings and two bulky item collections per year for a cost similar to what most residents paid in 2022 for only trash and recycling*
- A more affordable way to increase the collection of yard trimmings from residents*
- Cost-effective, predictable pricing*
- Opportunity to ensure a high level of customer service with penalties to the hauler and service credits to customers in the event of a missed pickup etc.*
- Fewer trucks on residential roads helps to improve neighborhood safety, quality of life, reduces emissions, also reduces road wear and tear*
- Additional yard trimmings composted (78% - 130% increase) and additional materials recycled if Councilmembers select the weekly recycling policy option (9% - 27% increase). Additional yard trimmings and recycling combined would achieve 3.7% - 6.7% of the progress needed to meet the zero waste goal.*

Lindsay Ex, Environmental Sustainability Director, introduced this item for consideration and the team presenting. Caroline Mitchell, Environmental Sustainability Manager, led the staff presentation on this item as set forth in the PowerPoint in the agenda packet.

#### **PUBLIC COMMENT**

Jim Hutchinson with Republic Services provided information about Republic's commitment to sustainability it shares with the City and how this contract helps get to the goals they have set in terms of sustainability as well, including noting the natural gas fleet Republic is planning to bring on board to service this contract. He noted Republic Services is an environmental services company, not a waste company.

Mary Smith, Fort Collins resident, thanked the Council for their consideration of these ordinances and complemented staff for their thorough research and work on this topic, stating it is about time the City takes this action.

Jason Knebel, Fort Collins resident, spoke in opposition to these ordinances.

Elizabeth Chapman, Fort Collins resident, applauded the Council and staff for the work on this topic and spoke in support of the ordinances as well as every week recycling service.

Holli McElwee, municipal sales manager at Republic Services, thanked the Council and staff for their consideration of Republic and stated Republic's support for partnering in sustainability efforts. She also spoke to Republic's challenges last year in transitioning to new systems as well as the reasons for recent pricing increases. She noted the density in service provisions in this contract allow for lower pricing.

Brittany Fields noted she is a junior at CSU and spoke in support of the proposed ordinances for their impact on sustainability goals. She also spoke in support of adding a compost service to trash services.

Carrie (no last name given) stated her support for the proposed ordinances and noted the most important thing to her is weekly pick up for recycling.

## COUNCIL DISCUSSION

Councilmember Peel:

- Questioned the accuracy of online service reviews, specifically relating to Republic, and how widespread service issues are. Staff spoke to conversations with other communities who have contracted with Republic and have had satisfactory service and chosen to renew services. Republic staff also addressed customer reviews.
- Inquired whether the liquidated damages provisions of the contract are at enough to ensure quality service. Staff noted there are liquidated damages provisions as well as performance standards measured over a monthly basis that City compliance staff will be reviewing on an ongoing basis.
- Requested an explanation of the variance provisions. Staff explained the two variances in the contract, one for extra-large users and one for shared service for very minimal trash generators, and how households would be able to apply for one of those variances.

Councilmember Canonico:

- Requested options for residents in the GMA. Staff noted they reached out to Golden staff involved at the initiation of their program and noted they have not seen any changes in the pricing in the surrounding areas outside of the City limits. There is also an element in the contract that would allow other local governments to leverage Fort Collins competitive purchasing process the City has negotiated. The contract would allow Larimer County to opt in to the competitive purchasing process Fort Collins has already negotiated.
- Inquired whether HOAs would be able to opt in when existing contracts may expire with current providers. Staff noted if this program is implemented, in the initial step of its implementation, City staff will work with HOAs to evaluate their current services and whether they match the requirements of the program. At any point during that process, an HOA can opt into the contract. Once services start, there are provisions in the contract allowing HOAs to later choose to opt in on a mutually agreed upon timeline with Republic.
- Inquired about pursuing composting options. Staff noted food scraps are not included in the contract currently but the potential to reconsider this in the future has been discussed with Republic. The food scraps composting infrastructure is currently not available but there could be a potential to shift and add that service to the yard waste bin but would be subject to further discussion.
- Inquired about the potential for reuse of bins. Staff noted one of the reasons for requiring all new bins is to support the competitive purchasing process by not giving an advantage to any

haulers that may already have carts in the community. Republic bins will be collected and those still in usable shape will be redeployed to other service areas and those not in usable shape will be recycled. City carts also continue to support future competitive purchasing processes.

- Asked if there is a sense of how many residents might opt out and how the fee level was set. The price point was based on peer community feedback and is set at the lowest level of offered services. In a community that set a lower opt out fee, opt outs were significantly higher and pricing was not sustainable over time.
- Inquired about competition for future contracts. Staff noted peer communities have received competitive proposals after the initial contract term and in some instances have switched providers.
- Inquired how the service provider checks on service level standards regarding contamination. Republic representatives indicated this is typically done via visual examination but also anticipates rolling out artificial intelligence technology in 2024 for this purpose.
- Inquired about extra charges for excess materials for recycling. Staff noted trends are toward automated collection for greater efficiency and driver safety, which is not supported by materials outside of bins. This is a matter that is in Republic's discretion in the current contract based on the prevalence of issues. It was also noted it may be impacted on whether recycling is selected weekly or biweekly.

Councilmember Gutowsky:

- Inquired how trucks are powered by methane from landfills. Republic representatives provided details on how they procure and harness this landfill gas for fueling vehicles. The local facility will be upgraded to capture these gases as well.
- Inquired how yard waste will be disposed. Staff responded that residents would have the option to put their yard waste in separate collection bins specifically for yard waste. Gutowsky also indicated she would like weekly recycling service.
- Inquired how Republic customer service staff will be able to service Fort Collins residents without knowing the community and neighborhoods. Staff noted this was an area of significant conversation and while the contract does not include requirements for where staff is answering calls from, it does include expectations for the knowledge base of those engaged in that work.
- Indicated she will be supporting the Ordinances because of how this work aligns with Council priorities and existing climate goals.

Councilmember Pignataro:

- Requested clarification on the 20% number on slide 5 of the presentation. Staff explained the 20% is not based on the number of homes but the market share by revenue. Of all the trash and recycling service in Fort Collins, 20% of it is represented by this contract. Staff anticipates 40-45,000 homes will be serviced by this contract.
- Inquired about the small bin cost of 1-3% which goes to the hauler not the City. Staff explained the administrative fee up to \$1.35 which funds the City's role in the program. The opt out fee revenue goes to the hauler because of the baseline calculation for pricing. Neighbors who opt to share service are not required to be next to each other.
- Inquired if we opt for weekly recycling service, is there an option to return to bi-weekly if we see unanticipated consequences. Staff indicated the contract does not prevent a return to bi-weekly.
- Inquired about cancellation fees. Staff indicated cancellation fees are not permitted by Ordinance.

Mayor Arndt indicated support for the contract but would like to revisit composting as new technology options open.

Councilmember Ohlson thanked staff and management for their great work and supports the measure including the shift to weekly recycling.

Councilmember Canonico discussed the anaerobic digester for composting and federal funds available for a program. She would like to see Council explore that option as well.

***Councilmember Pignataro moved, seconded by Councilmember Ohlson, to adopt on first reading of Ordinance No. 027, 2023.***

***The motion carried 6-0.***

***Excused: Mayor Pro Tem Francis.***

***Councilmember Pignataro moved, seconded by Councilmember Gutowsky, to adopt on first reading of Ordinance No. 028, 2023.***

***The motion carried 6-0.***

***Excused: Mayor Pro Tem Francis.***

***Councilmember Pignataro moved, seconded by Councilmember Canonico, to adopt on first reading of Ordinance No. 029, 2023.***

***The motion carried 6-0.***

***Excused: Mayor Pro Tem Francis.***

**Clerk's Note: Mayor Arndt called for a break at 8:18 until 8:30 p.m. The meeting resumed at 8:33 p.m.**

**16. First Reading of Ordinance No. 031, 2023 Appropriating Prior Year Reserves for a Conditional Capital Contribution of \$1,000,000 for Construction of a New Public Terminal Facility at the Northern Colorado Regional Airport.**

*The purpose of this item is for Council to consider a public position of support by appropriating an anticipated \$1,000,000 conditional capital contribution for the construction of a new public terminal facility (Project) at the Northern Colorado Regional Airport (Airport). Total Project costs are estimated to be \$25,000,000, and this Ordinance's adoption by the end of February helps to secure the anticipated \$21,000,000 of federal funding. At the suggestion of the Council Finance Committee, staff has developed a series of performance indicators to use as terms and conditions of the City contribution.*

Chief Financial Officer Travis Storin and Northern Colorado Regional Airport Executive Director Jason Licon presented as set forth in the slide deck on the agenda packet.

There was no public comment.

Council discussion focused on the proposed metrics and performance indicators.

Mayor Arndt inquired how we share half of ownership and require the other owner to pay us back if certain metrics are not met. Also requested was a review of the governance model due to growth and the necessary changes in how we do business now.

Councilmember Peel inquired if the metrics would only be suggestions and the funds would not be contingent on the metrics.

Councilmember Pignataro asked if Loveland's appropriation is committed and staff confirmed it was a clean appropriation ordinance. City Manager Kelly DiMartino confirmed the Loveland ordinance was contingent on Fort Collins appropriating \$1M.

Councilmember Pignataro requested confirmation that airport administration is provided by the City of Loveland. Airport Director Jason Licon indicated Fort Collins input on performance metrics would come from the Fort Collins Mayor and City Manager who sit on the Airport Commission.

Councilmember Canonico indicated agreement with previous comments.

Councilmember Ohlson stated he would not support this measure and agreed a new governance model needs to be addressed.

Councilmember Pignataro asked about changing the language so refunding the money would not be the goal but more about performance metrics.

City Attorney Carrie Daggett made suggestions that would not make the City's funding contingent:

- Eliminate the word conditional in several places in the title, section 2, and any other places it appears in the Ordinance.
- In the 5<sup>th</sup> Whereas clause: remove the end of recital that states 'to be used as conditions for the City's capital contributions' and include 'for the project.'
- Remove the 7<sup>th</sup> recital and add 'Whereas this Ordinance directs the City Manager to negotiate and execute an IGA with Loveland for this capital contribution that addresses the performance indicators but leaves to the City Manager the discretion as to how they will be addressed with the goal being the timely funding of the project.'
- Combine sections 3 and 4 with revised language: "That the City Manager is directed to negotiate an intergovernmental agreement with Loveland for this capital contribution and is authorized to enter into and sign on the City's behalf. The City Manager is further authorized to enter into the agreement on such terms and conditions concerning the Performance Indicators as the City Manager determines are in the best interest of the City for the timely funding of the Project."

There was Council support for these changes.

***Councilmember Pignataro moved, seconded by Councilmember Gutowsky, to adopt on first reading Ordinance No. 031, 2023 with amendments as read into the record by the City Attorney.***

***The motion carried 5-1.***

***Ayes: Councilmembers Gutowsky, Pignataro, Canonico, Peel, and Mayor Arndt.***

***Nays: Councilmember Ohlson.***

***Excused: Mayor Pro Tem Francis.***

**17. First Reading of Ordinance No. 030, 2023, Adopting the North College MAX BRT Plan as a Component of City Plan.**

*The purpose of this agenda item is for City Council to consider adoption of the North College Max Plan. The North College MAX BRT Plan is the result of approximately 18 months of community engagement, information analysis, and concept refinement. The plan provides recommendations for Bus Rapid Transit, local transit routes, bicycle and pedestrian facilities, future development, and affordability.*

Drew Brooks, interim PDT Deputy Director, introduced this item for consideration. Seth Lorson, Transit Planner, led the staff presentation on this item as set forth in the presentation in the agenda packet.

There was no public comment on this item.

There was discussion by the Council and questions to staff on some of the particulars included in the plan.

Councilmember Ohlson:

- Requested definitions for near-term, mid-term and long-term in years. Staff indicated the measurement is based on the area's actual growth. Until certain changes are met, the City is not eligible for certain federal grants. Staff explained the timeline of the project indicating 10-12 years for the final buildout. Staff also indicated the long-term could be 20 years.
- Inquired about adjusting the architectural standards. Lorson provided examples of where the architectural standards could be lessened to address affordability.
- Requested clarification on interlining with MAX, clarification that the reference is related to route operations.
- Requested clarification about the \$27 million which staff indicated is the total share.

Councilmember Pignataro:

- Inquired whether Vision Zero was incorporated in the Plan. Staff responded that all design is based on safety measures and provided examples.

Councilmember Canonico stated support for the project and appreciation for the considerations around affordability and gentrification.

Councilmember Ohlson asked about attention to South College. Staff indicated that North College is the natural progression of the MAX and is the area of robust ridership.

***Councilmember Pignataro moved, seconded by Councilmember Canonico, to adopt on first reading Ordinance No. 030, 2023.***

***The motion carried 6-0.***

***Excused: Mayor Pro Tem Francis.***

**Clerk's Note: Mayor Arndt called for a 5-minute recess at 9:27 p.m. The meeting resumed at 9:35 p.m.**

18. **Hearing and Determination of Standing for the Appeal of the Historic Preservation Commission Determination that 1901 and 1925 Hull Street are not Eligible for Landmark Designation and Consideration of Resolution 2023-023 Adopting Findings of Fact and Conclusions of Law Regarding the Determination of Standing.**

*The purpose of this item is to consider the standing of James Sack to file an appeal of the Historic Preservation Commission's (HPC) Decision on December 14, 2022, determining that the properties at 1901 and 1925 Hull Street, historically the Hull and Shankula properties respectively, are not eligible as Fort Collins landmarks and are not subject to the provisions of Land Use Code 3.4.7.*

*The appeals process in Code Section 2-54(c) allows for the Mayor to establish a separate period of time in advance of arguments on the merits of the appeal to consider procedural issues. The Council is tasked with determining if Mr. Sack is a "party-in-interest" with standing to bring the appeal as defined in Municipal Code 2-46. Council may only proceed with hearing the issues raised in the notice of appeal at a future meeting if Mr. Sack qualifies as a party-in-interest Mr. Sack filed his notice of appeal on December 27, 2022. The Council may make its determination of standing by adopting Resolution 2023-023 with the correct option to state that determination.*

City Attorney Carrie Daggett provided a brief overview of the process for this hearing.

Paul Sizemore, CDNS Director, provided a brief staff explanation of the Historic Preservation Commission on appeal, an explanation of the nature of the standing issue, and a staff report as set forth in the slide deck in the agenda packet.

No Councilmembers disclosed any potential conflict of interest issues or other possible reasons for recusal.

Parties present included James Sack, the appellant, and Calleigh Olson, attorney representing True Life Companies, and Zell Cantrell, project manager with the True Life Companies as the property owners.

Mayor Arndt announced the following time allocations:

- 10 minutes total for Mr. Sack and any parties-in-interest supporting a finding of standing.
- 10 minutes total for the property owner and any other parties-in-interest opposed to a finding of standing.
- 5 minutes total for rebuttal for Mr. Sack and any parties-in-interest supporting a finding of standing.
- 5 minutes total for rebuttal for the owner and any other parties-in-interest opposed to a finding of standing.

## PROCEDURAL ISSUES

City Attorney Daggett noted it would be helpful to ask the parties about any new evidence they would like to have considered tonight. Mr. Sack noted he submitted some photos of the signs posted on the site as well as some additional emails that were exchanged with City staff in addition to the items submitted earlier and provided in the packet. The representatives for the property owner requested the photos be provided to them.

Council took a 5-minute recess to allow counsel for the property owner to review the new materials provided by the appellant today. The property owner's representative did not object to most of the materials provided, except for the lengthy email chain a City planner in January, after the date of the hearing. Mayor Arndt ruled the items apart from the email exchange would be admitted into the record.

## PRESENTATIONS

James Sack provided a verbal presentation relating to the appeal and how he asserts he meets the requirements for standing as a party in interest based on submitting written comments. He explained he first emailed City staff on December 13 after seeing a posted sign at the property about a potential historic review action. He then called the number on the sign, which reached the Building Services offices, and was advised to also email the Development Review comments email, which he did on December 14.

Calleigh Olson, attorney representing the property owner, True Life Companies, provided a verbal presentation, noting the comments made by the appellant were not specific to the project, were not sent to the correct staff, and were not directed to the Commission.

On rebuttal, Mr. Sack spoke to the issue of a question versus a comment, noting the language in the Code is very broad and should construe that question as a comment about the project. The phone number on the sign goes to the Building Services Department. He stated he called that number on Monday, December 12, and left a message. After not receiving a response the next day, he called the Planning Department and reached someone who could not find the address to identify the project. That staff person suggested emailing Development Review comments. He reached Em Myler who also could not find the address after providing three associated addresses

due to issues with the website. He also chronicled subsequent communications with planning staff about the challenges with keeping the website up to date.

Attorney Olson on rebuttal asserted the objective of written comments being submitted to the Historic Preservation Commission is so the body can consider those comments when making a decision. Even if Mr. Sack had reached the appropriate staff, he did not provide comments for the commission to review. Olson objected to Mr. Sack reading into the record the email that was not admitted into new evidence.

City Attorney Daggett advised Council to not consider the content of the email read aloud by the appellant unless it is subsequently admitted into the record.

## QUESTIONS

Councilmember Ohlson asked if the City Attorney has an interpretation of what constitutes providing comments. City Attorney Daggett noted the Code does generally contemplate comments provided to the Commission for its consideration in its decision-making process.

Councilmember Peel asked staff about the yellow development review sign. Jim Bertolini noted the sign was posted two weeks in advance and is a Historic Review sign. He stated the signs are old and include the phone number for Building Services.

Councilmember Peel asked Mr. Sack what his objective was in trying to reach out after seeing the posted historic review signs. City Attorney Daggett advised caution in the line of questioning about what the intent of something was when the Code only contemplates what was done.

The photo of the sign provided by Mr. Sack and admitted into evidence was displayed, showing it indicates: Historic Review Underway. He also spoke to the sign and the difficulty in reaching someone for further information.

Councilmember Gutowsky wondered if what Councilmember Peel was asking was if the appellant had received a timelier response, would he have then been able to submit more appropriate comments to the HPC. Councilmember Peel confirmed that was her question.

There being no further questions, Mayor Arndt closed the hearing at 10:37 p.m. to allow Council discussion.

Councilmember Ohlson provided comments on the challenges with reaching City staff via phone.

Councilmember Peel shared Councilmember Ohlson's frustrations around not being able to get ahold of anyone as well as not being able to do what needs to be done because of challenges with the City website. She also commented on concerns with the appeal process broadly. She shared her belief that his intent was to make appropriate comments to the Commission and would have occurred if he had been able to reach the appropriate staff.

Mayor Arndt noted she is reaching a different conclusion based on what the Code provides for. She stated her agreement that Mr. Sack cannot be faulted for challenges with reaching the appropriate City staff, but his comments were an inquiry rather than substantive comments.

Councilmember Pignataro noted if the comment had reached the appropriate staff, it still was not substantive enough to reach the Commission. She also commented regarding what could be considered adequate time for response. In this instance, there was not enough time for staff to appropriately respond and allow time for Mr. Sack to participate in the hearing.

Councilmember Canonico stated she does not find the comments provided would have had any impact on the hearing.



Councilmember Gutowsky asked how a question would have to be worded to qualify to be part of the record that would go to the Commission. Councilmember Pignataro provided an example of a question with slightly more substance, but indicated this message did not include any other details aside from an inquiry.

Councilmember Ohlson stated he can see both viewpoints on this issue clearly. He noted there have been too many glitches in the organization, particularly on responsiveness.

**Councilmember Pignataro moved, seconded by Councilmember Canonico, to adopt Resolution 2023-023, with Option A which reads as follows:**

**Section 2. That, based on the evidence in the record and presented at the Initial Hearing, the Council finds that James Sack does not have standing to appeal the Decision of the Historic Preservation Commission, because he does not meet any of the conditions to be considered a party-in-interest under Municipal Code Section 2-46.**

**Section 3. That the Appeal is dismissed.**

**Section 4. That adoption of this Resolution shall constitute the final action of the City Council on the Appeal, in accordance with City Code Section 2-56(c).**

**The motion carried 4-2.**

**Ayes: Councilmembers Gutowsky, Pignataro, Canonico, and Mayor Arndt.**

**Nays: Councilmembers Peel and Ohlson.**

**Excused: Mayor Pro Tem Francis.**

#### **Q) OTHER BUSINESS**

##### **A. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

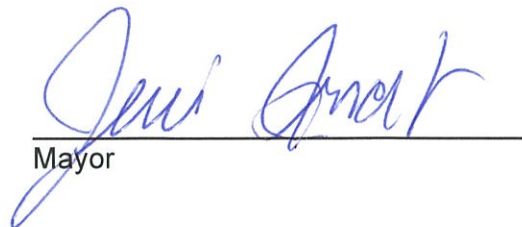
*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)*

None.

#### **R) ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 10:54 p.m.



  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

