

**March 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 March 20-26, 2023, as Fix a Leak 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 regular 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  
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.)*

Andy Clark, Fort Collins resident, spoke regarding the former Hughes Stadium site to request a portion of the space be utilized for a mountain bike park.

Kenny Bearden, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Kevin Krause, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Cameron Krause, a seven-year-old Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Alaina Smith, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Emma O'Dell, a nine-year-old Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Ian Long, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Benjamin Brown, Fort Collins resident in 7<sup>th</sup> grade, spoke in support of a mountain bike park at the former Hughes Stadium site.

Taylor Calmus, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Tristan West, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Lisa Butler, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Brittney Slightom, Fort Collins resident, spoke about Morgellons Disease to request recognition of the real nature of this rare disease and the need for awareness and recognition of this disease, reduced stigma, and increased research.

Natalie Reimers, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Trace Fondy, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.



Ty Fulcher, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Ed Behan, Fort Collins resident, spoke regarding concerns with the level of engagement done by City staff in drafting proposed oil and gas regulations.

Cameron Dreyer, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Patricia Babbitt, Fort Collins resident, spoke as an avid cyclist with concerns about a mountain bike park at the former Hughes Stadium site due to the potential impact on wildlife in that area.

Olivia Brown, Fort Collins resident in 5<sup>th</sup> grade, spoke in support of a mountain bike park at the former Hughes Stadium site.

Chris McCullough, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Shari Due, Fort Collins resident, spoke regarding oil and gas regulations and the known impact of drilling activities on ozone damage.

Madeline Blair, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Kevin Caffrey, Fort Collins resident, spoke regarding concerns about oil and gas regulations and the need to keep this town clean and protect air quality by limiting drilling. He also expressed support for a bike path at the Hughes stadium site.

Dr. Cory D. Carroll, Fort Collins resident, spoke about oil and gas regulations and the need to protect residents from the pollution of drilling and in support of continuous monitoring, more robust oversight, and enforceable penalties for bad actors.

Ben Zukowski, an 11-year-old Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Meghan Highland, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Andrew Klooster, Fort Collins resident, spoke about his work in monitoring emissions that could violate air quality regulations, noting Fort Collins has a frequent offender in Prospect Energy around odors and emissions.

John McDonagh, Fort Collins resident, spoke as a mountain biker against the development of bike park at the Hughes Stadium site due to the impacts to wildlife in favor of low impact activities for the site.

Theodore A. Rogers, Fort Collins resident, spoke against providing an appropriation to the Northern Colorado airport for a terminal expansion due to a lack of need and support for increased flights.

Rick Casey, Fort Collins resident, spoke about oil and gas regulations on behalf of the Fort Collins Sustainability Group regarding the proposed regulations and key topics yet to be addressed by staff.

Krista Piepenbrink, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Brad Bishop, Fort Collins resident, spoke in support of including a designed cross country course at the former Hughes Stadium site as compatible with many other uses at the space, including a bike park and a natural area.

Doug Henderson, Fort Collins resident, spoke on behalf of the Larimer Alliance regarding oil and gas regulations and the need to manage oil and gas in a manner that protects residents through revised regulations.

Lucy Porter, Fort Collins resident in 7<sup>th</sup> grade, spoke in support of a mountain bike park at the former Hughes Stadium site.

Mike Weber, Fort Collins resident, spoke about concerns with using the Hughes Stadium site for a natural area given the amount of money that needs to be spent for the acquisition, stating support for making this a recreation area.

Mary Steiner, Fort Collins resident, spoke as a mountain biker in opposition to a mountain bike park at the former Hughes Stadium site due to the potential for large crowds and lack of alignment with the intent of the ballot question that was approved by City voters.

Chris Stockburger, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Lucas Currell, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Adrian Macdonald, Fort Collins resident, spoke in support of a cross country course at the former Hughes Stadium site.

Adam Eggleston, Fort Collins resident, spoke in opposition to a rental registration program with proactive inspections.

Jonathan Guerdrum, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Quinn McConnell and two other CSU cross country team members spoke in support of a cross country course at the former Hughes Stadium site.

Barbara Krupnik-Goldman, Fort Collins resident, spoke about oil and gas proposed regulations to encourage strengthening those proposed regulations to include the recommendations that were forwarded for consideration in a letter from a number of concerned organizations. In addition she requested adding a clause that after a certain date the City would ban any further oil and gas facilities.

Dan Porter, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Zach, no last name given, spoke as a member of the CSU cross country team in support of a cross country course at the former Hughes Stadium site.

Christina Cooley, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

**Clerk's Note: Mayor Arndt called for a 10-minute recess at 7:30 p.m. The meeting resumed at 7:42 p.m.**

Zach Watkins, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.



Mary Alice Grant, Fort Collins resident, spoke in support of a mountain bike park but not at the former Hughes Stadium site.

Hannah Casey, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Alistair Clark, Fort Collins resident, spoke in support of a cross country course at the former Hughes Stadium site.

Susan Huse, Fort Collins resident, spoke in support of a mountain bike park but not at the former Hughes Stadium site.

Michelle Haefele, Fort Collins resident, spoke regarding proposed oil and gas regulations to encourage Council to take full advantage of this delay to ensure more protections are included in the final regulations.

Jason Knebel, Fort Collins resident, requested the Councilmember from district 6 recuse herself from any further matters regarding the Land Use Code.

Warren Snyder, Fort Collins resident, spoke in opposition of a mountain bike park at the former Hughes Stadium site in favor of only low impact activities and preservation as a natural area.

Noelle Bauman-Stucky, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Lindsay Morgan, Fort Collins resident, spoke in opposition of a mountain bike park at the former Hughes Stadium site due to the impact to the natural areas.

Steve McClintock, Fort Collins resident, spoke in opposition to a funding appropriation for a new terminal at the Northern Colorado Regional Airport.

Justine Wagner spoke about the need for revisions to the Land Use Code to include protection of historic resources and maintaining resident engagement in those considerations.

Mike Beckstead, Fort Collins resident, spoke as a resident of the Hearthfire tank farm development area and concerns about what those residents can do to maintain safety, including implementing 24-7 air quality monitoring.

Beth Benschmidt, Fort Collins resident, spoke about the need to protect the treasure that is the former Hughes Stadium site by maintaining it as an open natural area.

Tom Farnsworth, Fort Collins resident, spoke about overwhelming resident support for maintaining the former Hughes Stadium site as an open natural area.

Mary Alyce, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Cade Shortridge, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Mary Frissell Smith, Fort Collins resident, spoke in support of the trash contracting proposal and Ordinances being considered for second reading.

Adam Miller spoke about a code violation at 6024 South College and the way the company parks semis blocking traffic for loading and unloading.

Barbara Denny, Fort Collins resident, spoke in opposition to a bike park at the former Hughes Stadium site and the need to preserve that open space, natural area and dark sky.

Owen Diehl, Fort Collins resident, spoke in support of a mountain bike park at the former Hughes Stadium site.

Dawson Gordon spoke in support of a mountain bike park at the former Hughes Stadium site.

Michela Dunbar, Fort Collins resident, spoke in support of using the former Hughes Stadium site for wildlife rehabilitation alongside other low impact uses.

Danni Cook, Fort Collins resident and cross country coach at Fossil Ridge High School, spoke on behalf of a cross country facility in Fort Collins.

Michael (last name unclear), 17 year old Fort Collins resident) spoke in support of a bike and recreation area at the former Hughes Stadium site.

Jasper Gordon, rides for SendTown Bike Club, spoke in support of a bike park at the former Hughes Stadium site.

Brandon Fix, Fort Collins resident, spoke in support of a bike park at the former Hughes Stadium site.

Joe (no last name given), spoke in support of a bike park at the former Hughes Stadium site.

Tim Gosar, Fort Collins resident, spoke in support of increased oil and gas regulations.

Tim Walthrop, Fort Collins resident, spoke in support of maintaining the former Hughes Stadium site as a natural area.

Ethan Cooley, Fort Collins resident and junior at Fort Collins High School, spoke in support of a bike park at the former Hughes Stadium site as well as for use for Nordic skiing.

Melissa Rosas, Fort Collins resident, spoke against the idea of large scale tourist destination bike park at the former Hughes Stadium site.

Nate Rogue spoke in support of a bike park at the former Hughes Stadium site.

Tallon Nightwalker, Fort Collins resident, spoke about the importance of protecting the Hughes site as open space as an essential area for wildlife to thrive.

Addie (no last name given) spoke about collecting signatures during the pandemic to protect Hughes as open space as was intended by the petition.

Tamra Meurer, Fort Collins resident, noted she also was part of collecting signatures in the petition effort focused on maintaining the Hughes area as open space.

Public comment concluded at 8:51 p.m.



## H) PUBLIC COMMENT FOLLOW-UP

Mayor Pro Tem Francis thanked everyone for coming out and speaking tonight, including all the young people who spoke tonight. She noted there will be a work session on the Hughes Stadium site next Tuesday as part of the beginning stages of the process around the use of this site. Regarding Oil and Gas, she noted second reading was delayed to get feedback to incorporate into the proposed regulations. City Manager DiMartino shared Council can expect a memo on March 20 about how this might come forward in the best way for Council to consider potential changes at second reading.

Councilmember Ohlson thanked everyone for coming out and speaking tonight, especially the young people. He also asked about the oil and gas regulations, noting a big gap was placed between first and second reading and as a result would like to see a menu of potential changes that Council can choose from when the item returns for second reading. Regarding the issue of trash accumulation previously and on truck traffic tonight at a property on South College, requested follow up on this topic. City Manager DiMartino noted a follow up will be provided.

Councilmember Gutowsky noted she did hear several requests to have an open session or meeting prior to second reading of the oil and gas regulations and asked if this is something that is being considered. Lindsay Ex, Environmental Services Director, and Paul Sizemore, CDNS Director, responded, noting there are staff out on leave right now that may make it difficult to schedule additional engagement opportunities before the scheduled second reading date beyond a forum planned for later this week on the topic. It was noted that if staff needs more time, Council could consider a further delay.

Councilmember Pignataro thanked everyone for coming out tonight, especially those speaking for the first time. She also reiterated the Hughes site will be discussed at next week's work session. In addition, she apologized to a resident for providing incorrect information about oil and gas regulations. Also noted the site on South College that Adam Miller referred to definitely needs attention based on the satellite imagery.

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

Councilmember Gutowsky noted she would like to pull item number 3 from the consent calendar for additional discussion.

## J) CONSENT CALENDAR

### 1. **Second 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 Ordinance, unanimously adopted (6-0) on First Reading on February 21, 2023, 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 Second Reading.***

2. **Second 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 Ordinance, which was unanimously adopted (6-0) on First Reading on February 21, 2023, 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 Second Reading.**

3. **Items Related to Residential Solid Waste Collection.**

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

*C. Second 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.

All three Ordinances were unanimously adopted (6-0) on First Reading on February 21, 2023.

Between First and Second Reading, staff has revised the Review Version of the contract with Republic Services and the proposed Code changes contained in Ordinance No. 027. Here are summaries of those changes:

- Staff revised the frequency of the Recyclable Materials Service from every-other-week to weekly within the contract, added a new provision to address the City's right to change from weekly to every-other-week Recyclable Materials Service during the Agreement term subject to the party's good faith negotiations to determine the timing and impact to pricing of such change, and updated the Pricing Sheet accordingly. (See attached Contract Revision #1). Staff also updated the Pricing Sheet to reflect the selection of weekly Recyclable Materials Service (See attached Contract Revision #2). Additionally, staff incorporated a Cooperative Purchase provision to allow other governmental entities within the state of Colorado to use the City's competitive purchasing process as the basis to negotiate a contract with Republic Services for similar services, subject to such governmental entities' governing laws, rules, and regulations. (See attached Contract Revision #3).
- Staff also revised the Code changes to make various technical updates, including correcting the use of certain defined terms, removing unnecessary language, and correcting typographical errors. Staff moved a subsection from existing Section 15-413(d) to new Section 15-412(h) and clarified communication requirements for collectors in that same subsection. Additionally, staff clarified yard trimmings collection requirements within Section 15-414. All amendments from the First Reading version of Ordinance No.0 27 are shown within the Second Reading version of Ordinance No. 027.

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

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

The purpose of this Ordinance, unanimously adopted (6-0) on First Reading on February 21, 2023, is 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.

***Adopted on Second Reading.***



5. **First Reading of Ordinance No. 032, 2023, Authorizing the Release of Restrictive Covenants on Property at 1947 Phia Way Developed by Fort Collins Habitat for Humanity.**

*The purpose of this item is to obtain authorization from Council to release the Agreement of Restrictive Covenants Affecting Real Property on the single-family home located at 1947 Phia Way, which was developed by Fort Collins Habitat for Humanity. The development of this home was initially assisted with funding from the Department of Housing and Urban Development (HUD). At the time of completion, the project no longer met the HUD requirements, triggering a HUD mandated repayment of the funds and cancellation of the project.*

**Adopted on First Reading.**

6. **First Reading of Ordinance 033, 2023, Extending the Moratorium on Certain Activities of State Interest Designated in Ordinance No. 122, 2021.**

*The purpose of this item is the First Reading of an ordinance that extends the length of a moratorium previously imposed through Ordinance No. 122, 2021, and further extended with Ordinance No. 139, 2022, on two designated activities of state interest. The proposed Ordinance extends the length of the existing moratorium for three months beyond March 31, 2022, or until City Council adopts guidelines for the administration of the two designated activities. Extending the moratorium allows staff to reengage with stakeholders and develop policy decision points for Council's consideration along with first reading of the version-three 1041 regulations, May 2, 2023.*

**Adopted on First Reading.**

7. **First Reading of Ordinance No. 034, 2023, Making Supplemental Appropriations from the Colorado Water Conservation Board Grant and Water Fund Reserves and Authorizing Transfers of Appropriations for the Water Efficiency Plan Update.**

*The purpose of this item is to support updating the City's Water Efficiency Plan by end of 2024 by:*

- *Appropriating \$160,000 of unanticipated grant revenue, awarded by the Colorado Water Conservation Board, to the Water Fund*
- *Appropriating \$65,795 from the Water Fund reserves*
- *Utilizing matching funds in the amount of \$126,705 from existing 2023 appropriations into this new grant project*

**Adopted on First Reading.**

8. **First Reading of Ordinance No. 035, 2023, Authorizing the City Manager to Execute Agreements, Conveyances, and Other Documents to Incorporate the Spring Cañon Waste Way Ditch.**

*The purpose of this item is to approve the City's conveyance of its 2/12ths fractional ownership of the Spring Cañon Waste Way Ditch (Ditch) to a newly formed and incorporated Spring Cañon Wasteway Ditch Company (Ditch Company), and thereby receive 2/12ths share of the Ditch Company. This item would also authorize the City Manager to execute related agreements needed to form the Ditch Company. This administrative restructuring of the Ditch and water right ownership will allow for a variety of efficiencies including easier shareholder transfers, providing a single point of contact, and improving coordination of Ditch maintenance.*

**Adopted on First Reading.**



**9. Resolution 2023-024 Adopting the Water Quality Management Policy for City-Owned Lakes and Stormwater Basins in the Growth Management Area.**

*The lakes and stormwater basins (together, “urban lakes”) that the City owns are important resources that provide a range of benefits to the Fort Collins community. There are significant challenges associated with managing water quality in the City’s urban lakes. A project team has been working over the last two years to address these challenges by developing the City of Fort Collins Urban Lakes Water Quality Management Policy (“Policy”) and associated Guidance Document (“Guidance”). The Policy provides a framework for the City’s water quality operational and management decisions for its urban lakes and the Guidance provides technical resources to assist City staff with implementing the Policy. Development of the Policy and Guidance were informed by feedback received as part of an extensive stakeholder engagement process, and the Water Commission, Land Conservation and Stewardship Board, Natural Resources Advisory Board, and Parks and Recreation Board have formally recommended that City Council adopt the Policy.*

**Adopted.**

**END OF CONSENT CALENDAR**

**Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to approve the recommended actions on items 1-2 and 4-9 on the Consent Calendar.**

**The motion carried 7-0.**

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

None.

**L) STAFF REPORTS**

None.

**M) COUNCILMEMBER REPORTS**

Councilmember Peel noted a listening session will be held on March 11 at the Harmony Library. She also noted she attended the annual Poudre River Forum, where Fort Collins was well represented by several staff.

Councilmember Canonico shared she has attended recent events including the Rocky Mountain Raptor Gala, Leadership Northern Colorado to share perspectives of elected officials in the area, and a climate discussion with Vice President Harris in Denver. She also attended a Human Library program put on by the Human Relations Commission at the Museum of Discovery and thanked the community for such an amazing event.

Mayor Arndt noted she spent last week with Deputy City Manager Tyler Marr as representatives of the only US City attending a Net Zero conference organized by ICLEI as well as the U7 (Urban 7) consortium feeding advice up to the G7.

Councilmember Gutowsky provided information about participating in Holocaust week recognitions at CSU last week, as well as the grand opening for the Oak 140 Building as a partnership between Housing Catalyst, the DDA and the City of Fort Collins among other partners.

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

### 3. Items Related to Residential Solid Waste Collection.

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

C. *Second 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.*

*All three Ordinances were unanimously adopted (6-0) on First Reading on February 21, 2023.*

*Between First and Second Reading, staff has revised the Review Version of the contract with Republic Services and the proposed Code changes contained in Ordinance No. 027. Here are summaries of those changes:*



- Staff revised the frequency of the Recyclable Materials Service from every-other-week to weekly within the contract, added a new provision to address the City's right to change from weekly to every-other-week Recyclable Materials Service during the Agreement term subject to the party's good faith negotiations to determine the timing and impact to pricing of such change, and updated the Pricing Sheet accordingly. (See attached Contract Revision #1). Staff also updated the Pricing Sheet to reflect the selection of weekly Recyclable Materials Service (See attached Contract Revision #2). Additionally, staff incorporated a Cooperative Purchase provision to allow other governmental entities within the state of Colorado to use the City's competitive purchasing process as the basis to negotiate a contract with Republic Services for similar services, subject to such governmental entities' governing laws, rules, and regulations. (See attached Contract Revision #3).

- Staff also revised the Code changes to make various technical updates, including correcting the use of certain defined terms, removing unnecessary language, and correcting typographical errors. Staff moved a subsection from existing Section 15-413(d) to new Section 15-412(h) and clarified communication requirements for collectors in that same subsection. Additionally, staff clarified yard trimmings collection requirements within Section 15-414. All amendments from the First Reading version of Ordinance No.0 27 are shown within the Second Reading version of Ordinance No. 027.

This item was removed from the consent agenda to allow for discussion. There was no staff report and no public comment.

Councilmember Gutowsky noted she would still be supporting these actions because of the good work included in this towards several goals, but there are some groups of residents who will not benefit from this action. She stated a desire to see a variance for residents who haul their own trash. She also shared her belief the lack of choice for residents who wish to use another hauler is problematic, even while understanding an opt out fee is necessary for the success of the program.

Councilmember Pignataro requested a clarification from staff regarding variances and whether, if we chose to add a variance for residents who haul their own trash, that would need to be considered now or if it could be changed later in the implementation process. Caroline Mitchell noted there are two variances currently identified in the code language before the Council tonight. City Attorney Daggett noted it would be necessary to consider further code changes in the future if additional variances are desired. For follow up, it was requested to obtain the costs incurred for self-hauling. Prior to the end of considerations of this item, staff confirmed current costs are set at \$15 per car load, \$25 per pick up load, and \$12 per cubic yard for trailers.

Councilmember Ohlson spoke to this process being more than 37 years in the making. He also noted staff and management fully understand HOAs need to have legitimate pay-as-you-throw system that matches our regulations. Staff indicated it is one of the first steps they will be addressing.

Councilmember Peel noted she does struggle with this, wanting to be a voice for her district and advocating for residents. She thanked staff for coming up with a reasonable compromise.

**Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt on second reading Ordinance No. 027, 2023.**

**The motion carried 7-0.**

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt on second reading Ordinance No. 028, 2023.**



*The motion carried 7-0.*

**Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt on second reading Ordinance No. 029, 2023.**

*The motion carried 7-0.*

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

10. **Second 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 Ordinance, adopted 5-1 (Nay: Ohlson) on First Reading on February 21, 2023, 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 spoke regarding his concerns about the historic emphasis on corporate advertising at the Gardens, and shared he has received assurances from staff we will be accepting and acknowledging philanthropic revenue more appropriately going forward.

**Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt on second reading Ordinance No. 026, 2023.**

***The motion carried 6-1.***

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

***Nays: Councilmember Ohlson.***

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

*The purpose of this Ordinance, adopted 5-1 (Nay: Ohlson) on First Reading on February 21, 2023, is to appropriate an anticipated \$1,000,000 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.*

*The Ordinance has been revised between first and second reading to add a new sixth recital listing the performance indicators for the Project that City staff identified. These indicators were not explicitly included in the changes to the Ordinance read into the record at first reading and approved by Council. These performance indicators are: (i) the Project achieve LEED Silver building certification; (ii) the Project include a public art commitment at 1% of the non-federal funding; (iii) the terminal's carbon footprint be no greater than 198 metric tons of carbon dioxide equivalent; (iv) the terminal have enhanced accessibility; and (v) the Airport achieve by 2028 no less than 33,000 bus or air passengers annually utilizing the terminal.*

There was no staff report.



## PUBLIC COMMENT

Joe Rowan, Fort Collins resident, spoke in support of the appropriation for the airport as part of the overall transportation strategy supported by the Fort Collins Area Chamber of Commerce.

Mike Fassi, a major with the Colorado Civil Air Patrol, shared the air patrol is one of the entities that will be kicked out of the hangars currently at the airport. He noted their largest customer is FEMA and they will no longer have a place for their aircraft to support their emergency response ability. He requested Council take a step back and consider how to do right by the entities that have been supporting the airport for the last 30 years.

## COUNCIL DISCUSSION

Councilmember Ohlson noted he voted no on this item and still is not in support of this appropriation. He asked about the necessity for discussing the demolition of the hangars in executive session. City Manager DiMartino noted she would be able to pull up that information.

Mayor Pro Tem Francis asked Airport Director Jason Licon about the article in the Coloradoan referenced by a speaker tonight about the hangars. Licon noted the buildings were built on property subject to long term land leases that have subsequently expired. The subject properties are part of areas that have been identified in the Airport's master plans that have been approved by the City for other uses. It was noted the financial impact to the airport is the loss of \$175,000 in revenue from the lease of those parcels.

City Manager DiMartino shared in follow up the two items identified for an executive session justification included discussing leases as well as to obtain legal advice.

Councilmember Pignataro asked for clarification about whether the termination of the leases is separate from this appropriation. Licon confirmed that it is.

Councilmember Gutowsky asked about the plan to reconstruct new hangars in the future. Licon noted the involved cities have not historically provided funding for building and constructing hangars. That funding has come through the private sector. Currently, there are two construction projects building new hangars at the airport.

Mayor Arndt asked if there is a plan for the future of the Civil Air Patrol. Licon noted the current structures are not structurally sound and there is not yet a plan for addressing this issue. Mayor Arndt expressed concern for that service going away. She also asked about the 2018 Strategic Plan and what the plan is for 2023 and beyond. Licon provided details about the master plan the airport relies on for planning purposes, while noting the Strategic Plan for 2023 does include these topics. Regarding the \$175,000 revenue annually that will be missing, the structures were found unsustainable since first reading and now we are investing heavily in a non-revenue source. We need a new building there, whether it's a terminal or a transit hub and leveraging federal dollars is a good idea. She asked if O&M costs are included in ongoing budgeting. Licon indicated they are part of that planning. The revenue source for that includes the Landline Company currently using the terminal building. The airport does receive a per passenger fee from the service. Mayor Arndt shared concerns about the sunk costs of testing a remote control tower. The local system has been driven by the FAA, with all funding coming from the state or the FAA. She noted questions about viability of attracting a carrier by a tower if the remote tower is not certified. Licon indicated they are working on getting the FAA's changing requirements met. In response to a question of whether there is funding for demolition of the hangars, Licon indicated options are being explored for the demolition including potential reuse of the materials.

Ohlson asked for clarification on the cities providing free hangar space for the Civil Air Patrol and how that worked when the private sector had ownership of hangars. Licon noted the hangar that



has been used by the Civil Air Patrol was the oldest of the hangars and has been owned by the cities for some time, providing free space for the Civil Air Patrol since at least 2008 according to records.

Mayor Pro Tem Francis stated she will not be able to support this item given her concerns about not seeing desired outcomes, including the inclusion of a transit hub. There are too many concerns about the airport being able to become the hub desired.

Mayor Arndt noted she will be supporting tonight's action but does want to see some of the concerns she has brought up tonight addressed going forward, as well as reconsidering the governance structure.

Councilmember Peel stated she sees what the airport can be but believes it is not functioning well right now. She stated she would support the current appropriation but wants to see a change to the governance structure and will not support any additional funding without a better strategic plan as well.

Councilmember Gutowsky asked again to clarify the funding for the terminal is separate from the other issues raised tonight. That was confirmed. She did state she would support this action tonight.

Councilmember Pignataro noted her agreement with the statements of Councilmember Peel and Mayor Arndt.

Councilmember Canonico noted she would be supporting this appropriation with the same caveats mentioned by others.

***Councilmember Pignataro moved, seconded by Councilmember Peel, to adopt on second reading Ordinance No. 031, 2023.***

***The motion carried 5-2.***

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

***Nays: Mayor Pro Tem Francis and Councilmember Ohlson.***

**Clerk's Note: Mayor Arndt called for a 15-minute break at 9:55 p.m. The meeting resumed at 10:10 p.m.**

**12. Appeal of Planning and Zoning Commission Approval of 636 Castle Ridge Court Group Home Project Development Plan/Final Development Plan.**

*The purpose of this quasi-judicial item is to consider an appeal of the Planning and Zoning Commission's decision on December 15, 2022, approving the Castle Ridge Group Home combined Project Development Plan/Final Development Plan (#FDP220013 or "FDP") located at 636 Castle Ridge Court. Two Notices of Appeal were filed, the first on December 21, 2022, and second on December 28, 2022, alleging that the Planning and Zoning Commission failed to properly interpret and apply relevant provisions of the Land Use Code and failed to conduct a fair hearing.*

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

**STAFF EXPLANATION**

Paul Sizemore, CDNS Director, presented a staff overview as set forth in the slide deck in the agenda packet.

**CONFLICTS**



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

## SITE VISITS

Councilmember Gutowsky noted she attended the site visit to gain a better understanding of the spatial areas involved.

Councilmember Peel also attended the visit and was able to look at the street and driveway, including how the house is positioned on the street.

## PARTIES PRESENT

Parties present included:

- Appellants: Dr. Steve Sunderman; Mr. Kurt Johnson representing the other 11 appellants
- Opposed to the appeal: Michelle Pinkowski, attorney for the applicants

## TIME ALLOCATIONS

Mayor Arndt announced the following time allocations:

- 20 minutes total for Dr. Sunderman in support of that appeal
- 20 minutes total for Mr. Johnson's group in support of that appeal.
- 40 minutes total for the applicant and any other parties-in-interest opposed to the appeal.
- 10 minutes for rebuttal for each appeal and any parties-in-interest supporting the appeals.
- 10 minutes total for rebuttal for the applicant and any other parties-in-interest opposed to the appeal.

## PROCEDURAL ISSUES

Issue 1: Michelle Pinkowski brought up an issue relating to the site visit and the need to offer new evidence regarding a coordinated effort on the part of neighbors to manufacture parking issues on the street.

City Attorney Daggett noted the information provided is the new evidence that is being offered, and Council may wish to ask if the appellants object to this new evidence being offered and also whether this information is relevant to the consideration of the provisions of the Land Use Code.

Harmon Zuckerman, attorney representing Kurt Johnson, offered an objection to the introduction of new evidence.

Mayor Arndt ruled the new evidence would not be permitted.

Issue 2: Pinkowski objected to any argument that is beyond the scope of this appeal as outlined in the Land Use Code, including whether there are 8 or 10 residents in the group home. Arguing against the reasonable accommodation procedures calls into question a separate process.

Issue 3: Any argument group homes should not be allowed at all should be stricken as this is an allowed use in this zoning district. The Land Use Code has already determined this is an allowed use and the scope of the Planning and Zoning Commission is to set conditions.

Item 4: Mr. Johnson's written statement submitted after his notice of appeal. The grounds under which he filed the appeal do not allow for submission of new evidence and therefore no further written statements should have been allowed.



## PRESENTATIONS

### *Appeal 1*

Dr. Steve Sunderman presented the first appeal of the 636 Castle Ridge project. He spoke to the reasons set forth for the appeal, noting the use of the property enriches one homeowner at the expense of all other property owners on the street and speaking to concerns about traffic and parking on the narrow private street. A video was shown that was displayed during the Planning and Zoning Commission hearing demonstrating the street layout with vehicles parked on both sides. He spoke to the plans for the development established in 1995 that are now being violated, including provisions of the HOA. He spoke to concerns about falsehoods in the applications filed by the applicants. He continued speaking to the violations identified in the notice of appeal, including broken promises from City staff on process issues and how he has been silenced by City staff repeatedly through this process. Also presented was information about the limitations on donated time for speaking at the Planning and Zoning Commission. A video clip from the Planning and Zoning Commission hearing about the denial of the use of donated time.

### *Appeal 2*

Kurt Johnson began the presentation in support of the second appeal on the matter, presenting as set forth in the presentation in the record. Mr. Johnson outlined the parameters of the appeal, the issues at hand relating to the Planning and Zoning Commission failing to apply conditions appropriate to the project, how the code was applied and requested Council apply conditions and implement a staged approach to the optimal number of residents.

Tracey Stefanon, 642 Castle Ridge, continued the presentation, showing an overview of the area.

Harmon Zuckerman continued the presentation, noting the municipal code does allow the Council to apply conditions at the time of considering an appeal. He provided information about the desired conditions being requested in this appeal.

Johnson then resumed the presentation, continuing discussion of proposed conditions.

### *Applicant*

Michelle Pinkowski presented on behalf of the applicant. Prior to beginning the presentation as set forth in the slide deck in the record, Pinkowski addressed the arguments made by Dr. Sunderman about several matters, including regarding the conduct of a fair hearing. She noted the first claim was not actually a fair hearing issue. On the second claim, what was brought up was the actions of City staff but not the commission which is what is at subject here. All of Dr. Sunderman's evidence was presented and he was allowed 18 minutes to present at the hearing, of which he only used 12 minutes. Regarding the third claim made, she stated Dr. Sunderman made substantially gross and misleading statements. She also addressed perceived falsities shared about Eric Schulte and his status as a medical doctor. He has completed medical school and through his own choice is not practicing medicine. She noted no evidence has been provided that the parking information provided is false or misleading. Dr. Sunderman spoke at community meetings as well. All emails are provided. His position has been well stated multiple times. There is no evidence in the record that there was a failure to conduct a fair hearing because the Commission was biased.

Pinkowski then introduced the applicant team present and began presenting as set forth in the slide deck in the record. She noted the presentation is focused on the people who are being served by the project. Under CRS 24-3-101, the applicants are and can care for two residents now. She also spoke to the Fair Housing Act and how it defines protected class and how it extends to cover the applicants in this situation.



## REBUTTALS

### *Appeal 1*

Dr. Sunderman spoke regarding comments about working with and helping people with disabilities, implying the neighbors in this neighborhood are not willing to make room for this type of home. He spoke to the prior property owners which included residents with disabilities that the neighborhood supported and provided assistance. In this instance, the property owners are using people with disabilities for their own benefit and profit.

He also spoke of how the home is ideal for disabled people, which is accurate, but only to the extent it is for 1-2 people and not 10 people. Regarding parking issues, there are 17 other neighbors who act like normal neighbors and who may have parties or other events, but not constantly. The rest of the neighborhood lives under the same rules that are being abused by this home based on the disability status of residents. He stated it is obvious there are certain City staff members who are just trying to push this through.

### *Appeal 2*

Harmon Zuckerman stated he has collegial respect for the applicant's attorney. He offered a rebuttal to the point the code makes a predetermination of compatibility. He stated what the code says is they go through a process and P&Z can apply conditions to ensure the group home meets all the requirements. The appellants have provided suggested conditions to assist the Council in making decisions.

Kurt Johnson noted the appeal is based on land use, not the residents of the property. He also noted if all statements made by the applicant's representative are accurate then meeting the suggested conditions should not be an issue. He also noted concerns the elevation shown with landscaping is not accurate. It is a large home at 6,400 square feet but you have to subtract the unfinished basement. There is only a single egress in and out on the street, which is different from other group homes in the city. The argument about the number of residents being a financial issue does not appear accurate as it has been raised previously and overcome.

Tracey Stefanon offered comments related to the statement from the Poudre Fire Authority (PFA). When the PFA came, they recommended striping one entire side of the street prohibiting parking. Ms. Pinkowski then sent a letter that it was highly unlikely there would be parking on both sides of the street so PFA only required striping along the fire hydrant. They are grossly understating the amount of traffic and visitors, providing the example of her own family and the number of children who visit regularly for extended visits.

Barbara Schwerin spoke as a party in interest as a neighbor who received notice. She stated concerns with zoning and the fact this neighborhood is not zoned for a profit business.

### *Applicant*

On the financial side, Mr. Johnson is correct, there was a financial argument made under two different scenarios. Many homes this size only have one caregiver during the day. When asking for more residents that meant more staff. When P&Z denied the application the first time, they looked at what could be changed. The ratio of caregivers to residents must be 5-1. Everything has gone up in prices. That ratio is needed to make it work financially, which included shifting from 3 caregivers to 2 caregivers now. Also, we had to take out the affordability element when going down to 10 residents.

With respect to visiting, they are seeing the time for visits and the number of visitors is lower.



In conclusion, the applicant's representative requested that Council please not overturn the hard work of the Planning & Zoning Commission and of the staff just based on fear and speculation, noting staff was meticulous in applying the code.

## COUNCIL QUESTIONS

Councilmember Pignataro asked staff to explain how PFA comes up with its recommendations that were referred to in the rebuttal. Is it a normal procedure for PFA to take the word of an applicant to change its determination? Kai Kleer stated PFA applied International Fire Code to make its determination. They looked to mitigate potential safety impacts by recommending striping along the fire hydrant for an existing condition that cannot be mitigated to current standards.

For the applicant, Pignataro asked about the conditions one of the appellants is requesting and that it appears the applicants are willing to meet all conditions except limiting deliveries to certain hours Tuesday through Thursday. The applicant would agree to that but over five weekdays instead. Another condition requests deliveries only occur in the driveway or garage, which the applicant is willing to attempt but cannot guarantee and is also concerned about equal standards. The proposed condition to limit parking only in front of the house may be an issue if someone else has parked in the front of the home already. They are willing to educate families and employees to ensure parking is aligned with these expectations as much as possible. It is not possible to guarantee the actions of others. Three residential trash receptacles is acceptable but they should also have a recycling receptacle. On the fifth condition for all loading to occur in the driveway, they are fine with that. On the sixth requirement for providing five parking spaces, that is not possible without the reconfiguration the neighbors do not support. On condition seven, she supports no van or bus permanent parking.

Councilmember Gutowsky asked staff to clarify the appellant's concern about being silenced and also the decision being predetermined. CDNS Director Sizemore spoke to the context that may have contributed to the reasons Dr. Sunderman felt silenced. The first instance was because pooled time can only be used if the time donated is from another in person attendee. Regarding the sense the decision was predetermined, when staff was attempting to broker an additional meeting between the applicants and Dr. Sunderman, it did not come together which may contribute to why he felt that staff was siding with the applicant. Dr. Sunderman also responded, indicating he was silenced when there was a remote meeting and the moderator stopped his comments saying they would get to them later but then could not. Kai Kleer admitted Dr. Sunderman got cut off and was not allowed to speak. The promise for another didn't happen. Chair Katz communicated multiple times before that meeting with Em and Kai that he could have time donated to him from several neighbors which was confirmed. Chair Katz did everything he could to keep him from speaking.

Councilmember Peel asked about no high traffic vehicles. Pinkowski responded she was unclear about that but did address the HOA covenants. These covenants do have an occupancy limit. The HOA process was not part of the P&Z meeting and therefore is not part of the appeal, but for clarity Pinkowski noted she made a reasonable accommodation request to the HOA as well and they did agree to the increase to 10 residents. Peel asked how staff considers the traffic report on this type of project. Sizemore indicated the report is compiled by a contractor hired by the applicant and then reviewed by the City's traffic staff. If necessary, City staff raises any objections to the data provided. No such objection was noted in this instance.

Mayor Arndt asked about the PFA determination about the striping around the fire hydrant and if it would apply to all 17 homes in the area. The determination to use the International Fire Code and the fact it was an existing nonconformity is acceptable and would also be applicable to other properties for maintaining access. This home has not been singled out as particularly problematic for providing fire and emergency service.



Councilmember Gutowsky asked if the original prohibition of businesses was overridden by the Fair Housing Act. Pinkowski noted that is addressed in both the legislative history for the Fair Housing Act and also when courts have interpreted the Act. Courts have said there is a business because there needs to be a structure for providing the care, but this is a residential use. This is where the residents live and make their home on an ongoing basis.

There being no further questions, Mayor Arndt closed the hearing at 12:49 a.m. to allow Council discussion.

## COUNCIL DISCUSSION

Mayor Arndt noted the purpose of the hearing is not deciding whether we do or do not like group homes but a review of the decision of the Planning and Zoning Commission based on the Land Use Code.

Councilmember Peel noted she did read all the materials and did watch the Commission hearing. She stated it was interesting watching the Planning and Zoning Commission, where they got stuck on the parking. After hearing the arguments and answers to Council's questions, she finds they did conduct a fair hearing and did correctly interpret the Land Use Code.

Councilmember Canonico stated agreement with Councilmember Peel. There was ample evidence it was a fair hearing.

Mayor Arndt noted she also found the Planning and Zoning Commission conducted a fair hearing. On the issue of compatibility, she finds the Commission appropriately applied the Land Use Code and placed appropriate conditions on the applicant and is reticent to place more restrictive conditions.

Councilmember Gutowsky noted she does find the Planning and Zoning Commission conducted a fair hearing. She stated support for the additional conditions proposed in the second appeal.

Mayor Pro Tem Francis stated she found the Planning and Zoning Commission conducted a fair hearing and does not see the need for additional conditions.

***Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to deny Appeal 1 filed by Steve Sunderman.***

***The motion carried 7-0.***

***Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to deny Appeal 2 filed by Steve Sunderman and Kurt Johnson et al.***

***The motion carried 7-0.***

## Q) OTHER BUSINESS

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

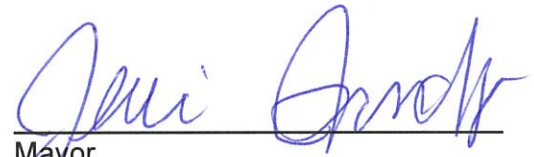
*(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)*

None.


**R) ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 12:58 a.m.



  
\_\_\_\_\_  
Mayor

ATTEST:

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