



City Council Regular Meeting Agenda

June 20, 2023 at 6:00 PM

Jeni Arndt, Mayor
Emily Francis, District 6, Mayor Pro Tem
Susan Gutowsky, District 1
Julie Pignataro, District 2
Tricia Canonico, District 3
Shirley Peel, District 4
Kelly Ohlson, District 5

City Council Chambers
300 Laporte Avenue, Fort Collins
& via Zoom at
<https://zoom.us/j/98241416497>

Cablecast on FCTV
Channel 14 on Connexion
Channel 14 and 881 on Xfinity

Carrie Daggett
City Attorney

Kelly DiMartino
City Manager

Anissa Hollingshead
City Clerk

The purpose of the action agenda is to provide a brief overview of the actions taken by the City Council to be available shortly after a Council meeting. Council Proceedings are the complete official record of the meeting and are prepared for approval by the Council generally at its next meeting. They are published following their approval as the minutes of the meeting.

PROCLAMATIONS & PRESENTATIONS 5:00 PM

A) PROCLAMATION

PP 1. Declaring June 2023 as Bike Month.

PP 2. Declaring June 21, 2023 as Make Music Fort Collins Day.

Presented Proclamations.

REGULAR MEETING 6:00 PM

B) CALL MEETING TO ORDER

C) PLEDGE OF ALLEGIANCE

D) ROLL CALL

6-1 – CLERK'S NOTE: Councilmember Peel joined the meeting at 6:30 p.m.

E) CITY MANAGER'S AGENDA REVIEW

- City Manager Review of Agenda

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

F) COMMUNITY REPORTS - None.

G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS

(Including requests for removal of items from Consent Calendar for individual discussion.)

H) PUBLIC COMMENT FOLLOW-UP

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the June 6, 2023 Regular Meeting and the June 13, 2023 Special Meeting.

The purpose of this item is to approve the minutes of the June 6, 2023 Regular Meeting and the June 13, 2023 Special Meeting.

Action Taken: Approved.

2. Second Reading of Ordinance No. 075, 2023, Making Supplemental Appropriation of Unanticipated Grant Revenue and Authorizing Transfers for the Development of a Paratransit Mobile Application and Web Portal.

This Ordinance, unanimously adopted on First Reading on June 6, 2023, appropriates unanticipated grant revenue awarded to Transfort by the Colorado Department of Transportation ("CDOT"), together with unencumbered Transit Services Fund amounts that will satisfy the grant's local match requirement.

Transfort has applied for and been awarded a \$50,000 state grant through CDOT's Office of Innovative Mobility, to be used for the development of a paratransit client web portal and mobile application. This grant requires a \$10,000 local match.

This Ordinance appropriates \$50,000 in state grant revenue, and \$10,000 in local match from the Transit Services Fund.

Action Taken: Adopted on Second Reading.

3. Second Reading of Ordinance No. 077, 2023, Appropriating Philanthropic Revenue Received Through City Give for the Carnegie Center for Creativity as Designated by the Donor.

This Ordinance, unanimously adopted on First Reading on June 6, 2023, appropriates \$200,000 in philanthropic revenue received through City Give for the Carnegie Center for Creativity 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.

Action Taken: Adopted on Second Reading.

4. Second Reading of Ordinance No. 078, 2023, Appropriating Philanthropic Revenue Received through City Give for Various Programs and Services as Designated by the Donors.

This Ordinance, unanimously adopted on First Reading on June 6, 2023, appropriates \$65,790 in philanthropic revenue received through City Give. These miscellaneous gifts to various City

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.

Action Taken: Adopted on Second Reading.

5. **Second Reading of Ordinance No. 079, 2023, Making Supplemental Appropriation from the Colorado Division of Criminal Justice Synthetic Opiate Poisoning Investigation and Distribution Interdiction Grant for the Fort Collins Police Services Forensic Services Unit.**

This Ordinance, unanimously adopted on First Reading on June 6, 2023, supports Fort Collins Police Services Forensic Services Unit work in the prevention and investigation of serious injuries and deaths caused by illegal synthetic opiate poisoning and for disrupting synthetic opiate distribution by appropriating \$255,833 of unanticipated grant revenue from the Colorado Department of Public Safety, Division of Criminal Justice (DCJ).

Action Taken: Adopted on Second Reading.

6. **Second Reading of Ordinance No. 080, 2023, Authorizing Transfers of Appropriations for the Northside Aztlan Resilience Hub Project.**

This Ordinance, unanimously adopted on First Reading on June 6, 2023, appropriates supplemental funds for the Northside Aztlan Community Center Resilience Hub Project. Funding originally provided through Ordinance No. 113, 2020, supported the construction of battery storage and upgraded solar equipment at the Northside Aztlan Community Center. Project cost overruns arising from escalation, building code changes and design modifications requires Utilities to transfer \$60,000 from the Utilities Energy Services budget to supplement the Northside Aztlan Resilience Hub capital project budget. This funding transfer utilizes anticipated underspend of lapsing funds to accomplish an objective consistent with the purpose of the project. The project also received \$200,000 in funding from the Colorado Department of Local Affairs.

Action Taken: Adopted on Second Reading.

7. **Items Relating to Sales Tax Code Updates.**

A. Second Reading of Ordinance No. 081, 2023, Amending Article VIII, Article XI and Article XIV of Chapter 15 of the Code of the City of Fort Collins Relating to Pawnbrokers, Secondhand Dealers, and Outdoor Vendors.

B. Second Reading of Ordinance No. 082, 2023, Amending Article III of Chapter 25 of the Code of the City of Fort Collins Relating to Sales and Use Tax.

These Ordinances were both adopted on First Reading on June 6, 2023. Ordinance No. 081, 2023, amends Chapter 15 of the City Code to include annual renewal dates for pawnbroker and secondhand dealer licenses, to create exemptions from secondhand dealer regulation for flea markets and secondhand furniture stores, and to restrict mobile food truck vendors and pushcart vendors from operating on the renovated portion of Linden Street.

Ordinance No. 082, 2023, amends Chapter 25 of the City Code concerning sales and use tax. The updates to Chapter 25 include clarifying the process for a taxpayer to obtain a refund or credit for overpayment of tax discovered in an audit, updating licensing to align with Senate Bill 22-032,

and the time period that a business relocating to Fort Collins will owe use tax on items brought into the City that were purchased while a nonresident.

Action Taken: Both Ordinances adopted on Second Reading.

8. Second Reading of Ordinance No. 083, 2023, Amending Chapter 23.5 of the Code of the City of Fort Collins Regarding Special Events.

This Ordinance, unanimously adopted on First Reading on June 6, 2023, updates the City Code regarding special event permitting so that it aligns with current standards and practices. The majority of the changes are related to administrative tasks, such as fees, timelines, and permitting authorities. The amendment also includes allowing most of those changes to be handled at the administrative level, with City Manager approval, without coming back to City Council for every change.

On Second Reading, some additional minor edits have been made in Section 23.5-7 to improve consistency by adding the missing conjunction “or” at several points in a numbered list.

Action Taken: Adopted on Second Reading.

9. Items Relating to Emergency Management.

A. Second Reading of Ordinance No. 084, 2023, Amending Article IX of Chapter 2 of the Code of the City of Fort Collins Regarding Emergency Management.

B. Resolution 2023-065 Approving the City of Fort Collins Emergency Operations Plan.

This Ordinance, unanimously adopted on First Reading on June 6, 2023, amends the City Code to reflect updates on how emergency management programming is done and where the responsibility for that programming sits. This includes some updated language changes, as well as authorities and roles for staff and elected officials during a critical event.

On Second Reading of the Ordinance, Council is asked to consider a Resolution to adopt an updated Emergency Operation Plan (EOP) that supports and is consistent with the requested changes in the City Code.

**Action Taken: Ordinance Adopted on Second Reading.
Resolution Adopted.**

10. Second Reading of Ordinance No. 085, 2023, Repealing and Reenacting Article II of Chapter 9 of the City Code Regarding Open Fire and Burning Restrictions.

This Ordinance, unanimously adopted on First Reading on June 6, 2023, updates the City Code provisions regarding restrictions on open fires and burning in the City to update references to the International Fire Code, improve defined terms, better describe what activities are or are not permitted during declared Stage 1 and Stage 2 fire restrictions, and provide a mechanism for Poudre Fire Authority (PFA) to act quickly to postpone previously permitted burns when changes in weather conditions increase the fire danger.

Action Taken: Adopted on Second Reading.

11. Items Relating to the Siphon Overpass Project

A. Resolution 2023-051 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the Siphon Overpass Project.

B. First Reading of Ordinance No. 088, 2023, Making Supplemental Appropriations of Unanticipated Revenue from the Siphon Overpass Project.

The purpose of this item is to enable the City to receive and expend Multimodal Options Fund (MMOF) funds and Carbon Reduction Program (CRP) funds from the Colorado Department of Transportation (CDOT) and to appropriate those funds for the project. This item will authorize the Mayor to execute the Intergovernmental Agreement (IGA) for the Siphon Overpass Project with CDOT and will appropriate an additional \$750,000 in the Capital Projects Fund for the Project. These funds will be used to design and construct a trail overpass spanning the existing railroad tracks near the southwest corner of the Willow Springs neighborhood.

**Action Taken: Resolution Adopted.
Ordinance Adopted on First Reading.**

12. **First Reading of Ordinance No. 089, 2023, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Calculation and Collection of Development Fees Imposed for the Construction of New or Modified Electric Service Connections.**

The purpose of this item is to consider an Ordinance related to electric capacity fees imposed for the construction of new or modified electric service to add a 200-amp service option for multi-family developments. This additional service option will not impact existing customers or developments; rather, it will provide an alternative sizing option to the existing 150-amp multi-family service in Code today.

Action Taken: Adopted on First Reading.

13. **First Reading of Ordinance No. 090, 2023, Authorizing An Extension of the Temporary Exception to the Land Use Code to Allow T-Mobile to Place a Temporary Wireless Telecommunications Facility at 1800 East Harmony Road to Replace Lost Wireless Service Coverage.**

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

Action Taken: Adopted on First Reading.

14. **First Reading of Ordinance No. 091, 2023, Amending the Boundary of the Fort Collins Historic Landmark at 401 Smith Street, the Loomis-Jones Property, Pursuant to Chapter 14 of the Code of the City of Fort Collins.**

The property owners of 401 Smith Street, a City landmark designated in 2008, are seeking a modification to the landmark boundary as listed in the designation ordinance to allow for subdivision of the property and construction of an additional home. After review and consideration of the proposal, the Historic Preservation Commission recommended approval of the boundary

change at their April 19, 2023, hearing. Municipal Code 14-35 requires City Council action within seventy-five days of this recommendation.

Action Taken: Adopted on First Reading.

15. **First Reading of Ordinance No. 092, 2023, Designating the Alexander and Emma Barry Farm Property, 232 East Vine Drive, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.**

The purpose of this item is to request City Landmark designation for the Alexander and Emma Barry Farm Property at 232 East Vine Drive. In cooperation with the property owner, City staff and the Historic Preservation Commission have determined the property to be eligible for designation under Standards 1, Events, 2, Persons/Groups, and 3, Design/Construction. Under Standard 1, the property is associated with the early settlement era of Fort Collins history, from the systematic removal of Native Americans for Anglo western land acquisition to the agricultural district that once existed just north of the historic core. Under Standard 2, this property is associated with early Anglo settlers and prominent farmers Alexander and Emma Barry, with acknowledgement of Native American occupation of the area before Anglo settlers. Under Standard 3, the farmhouse on this property is a good and rare example of an early farmhouse in this area and features Gothic Revival design elements. The owner is requesting designation, which will provide protection of the property's exterior and access to financial incentives for historic property owners.

Action Taken: Adopted on First Reading.

16. **Resolution 2023-049 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the Maintenance of Traffic Signals, Signs, and Pavement Markings Within Fort Collins and Within the Fort Collins Growth Management Area.**

The City has a long-standing agreement with the Colorado Department of Transportation (CDOT) to maintain traffic control devices within the City and within the Growth Management Area (GMA). This update increases the amount that CDOT pays to the City for maintenance of signs and pavement markings to more accurately reflect actual costs incurred by the City for this work. Under this new intergovernmental agreement (IGA), the amount paid to the City by CDOT will increase from \$217,568 to \$249,648 annually. The term of this IGA is 5 years.

Action Taken: Adopted.

17. **Resolution 2023-052 Approving the Boundaries of a Proposed Area of the City to be Submitted to the Director of the Colorado Office of Economic Development for Designation as a CHIPS Zone under the CHIPS Zone Act.**

In July 2022, Congress passed the Creating Helpful Incentives to Produce Semiconductors and Science Act of 2022 (CHIPS Act) as part of President Biden's economic plan to invest in America, strengthen domestic semiconductor manufacturing, fortify the economy and national security, and reinforce America's chip supply chain. This May, the Colorado General Assembly adopted HB23-1260 to provide certain tax incentives to support and encourage investments in semiconductor and advanced manufacturing in Colorado, as well as meet the requirement for state or local participation in the federal government's CHIPS Act. HB23-1260 creates a state income tax-credit opportunity for businesses in the semiconductor and advanced manufacturing that are awarded CHIPS federal funding. For this to occur for businesses in the City, HB23-1260 requires the City to propose an area within the City for designation as a CHIPS Zone (Zone) and to submit this proposed area, together with a development plan, to the Director of the Colorado Office of

Economic Development for consideration and approval of such designation by the Colorado Development Commission.

Action Taken: Pulled from Consent Calendar - Adopted.

18. **Resolution 2023-053 Approving the 2023 Certification to the Larimer County Assessor Pursuant to Colorado Revised Statutes Section 31-25-807(3)(a)(IV)(B) for the Downtown Development Authority Property Tax Increment.**

The purpose of this item is to certify to the Larimer County Assessor the percentages of property tax distributions to be allocated for the Downtown Development Authority by the Assessor as tax increment from the 2023 property taxes payable in 2024 to the City and to all other affected taxing entities.

Action Taken: Adopted.

19. **Resolution 2023-054 Approving Fort Fund Grant Disbursements – Organizational Support Category.**

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

Action Taken: Adopted.

20. **Resolution 2023-055 Making an Appointment to the Northern Colorado Regional Airport Commission.**

The purpose of this item is to appoint Jerry Stooksbury as the Joint Citizen Member to the Northern Colorado Regional Airport Commission.

Action Taken: Adopted.

21. **Items Relating to Appointments to Various Boards and Commissions:**

- A. Resolution 2023-056 Making Appointments to the Air Quality Advisory Board.
- B. Resolution 2023-057 Making an Appointment to the Building Review Commission.
- C. Resolution 2023-058 Making an Appointment to the Cultural Resources Board.
- D. Resolution 2023-059 Making an Appointment to the General Employees Retirement Committee.
- E. Resolution 2023-060 Making an Appointment to the Historic Preservation Commission.
- F. Resolution 2023-061 Making Appointments to the Human Relations Commission.
- G. Resolution 2023-062 Making an Appointment to the Human Services and Housing Funding Board.
- H. Resolution 2023-063 Making Appointments to the Land Conservation and Stewardship Board.
- I. Resolution 2023-064 Making an Appointment to the Senior Advisory Board.

The purpose of this item is to fill vacancies on various Boards and Commissions.

Action Taken: All Resolutions Adopted.

END OF CONSENT CALENDAR

J) ADOPTION OF CONSENT CALENDAR

Adopted Consent Calendar minus Item #17: 7-0

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

L) STAFF REPORTS - None.

M) COUNCILMEMBER REPORTS

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

Item #17 pulled by Councilmember Ohlson to get clarification on tax credits.

Adopted: 6-1 (Nay: Ohlson)

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

17. **Resolution 2023-052 Approving the Boundaries of a Proposed Area of the City to be Submitted to the Director of the Colorado Office of Economic Development for Designation as a CHIPS Zone under the CHIPS Zone Act.**

Adopted: 6-1 (Nay: Ohlson)

22. **Second Reading of Ordinance No. 076, 2023, Appropriating Prior Year Reserves for the Administration of the Land Use Code Regulations for Designated Areas and Activities of State Interest.**

This Ordinance, adopted by a vote of 5-1 (Nay: Peel) on First Reading on June 6, 2023, appropriates general fund dollars to administer the recently adopted 1041 regulations. The 1041 regulations represent a new permitting program for designated activities of statewide interest, including major domestic water, sewage treatment and highway projects.

Adopted on Second Reading: 6-1 (Nay: Peel)

23. **Items Relating to Housing Strategic Plan Implementation: Rental Housing Registration Program.**

A. Second Reading of Ordinance No. 086, 2023, Amending Chapter 5 of the Code of the City of Fort Collins to adopt a Rental Housing Registration Program as an Implementation Action of the Housing Strategic Plan and the Our Climate Future Plan.

B. Second Reading of Ordinance No. 087, 2023, Appropriating Prior Year Reserves in the General Fund for the Startup Phase of the Rental Housing Registration Program.

These Ordinances were adopted on First Reading on June 6, 2023. Ordinance No. 086, 2023, adopted by a vote of 5-1 (Nay: Peel), adopts the Rental Housing Registration Program, which includes rental registration, improvements to the complaint-based inspection system and software, enhanced mediation, education and outreach, and incentives for voluntary compliance. Ordinance No. 087, 2023, adopted unanimously, authorizes an off-cycle General Fund

appropriation in the amount of \$461,375 (with an anticipated two-year total for 2023-2024 of \$1.1 million), to support the startup and implementation phases of the program.

Ordinance No. 086, 2023, included the following amendment to Code Section 5-283 (in gray):

Sec. 5-283. Registration required.

(a) An owner of a long-term residential rental dwelling unit shall register it with the City and comply with the requirements pursuant to this Division.

(b) Long-term residential rental units described in one or more of the following paragraphs are exempted from the registration requirements of this Article:

(1) A long-term residential dwelling unit occupied by the owner; and

(2) A mobile home rental unit in a mobile home park, as defined and described in Chapter 18 of this Code.

The development of a Rental Housing Registration Program implements policy direction in both the Housing Strategic Plan (2021) and the Our Climate Future Plan (2021):

- Housing Strategic Plan, Strategy 20 - Explore the option of a mandated rental license/registry program for long-term rentals and pair with best practice rental regulations.
- Our Climate Future Plan, Strategy HAH6 - Explore the option of mandated rental licensing/rental registry with minimum standards for health, safety, stability, and efficiency.

If adopted by the Council, staff anticipates the phased rollout of registration will begin in Q3 2024. The period between adoption and implementation will be used to hire and train staff, implement new software, implement improvements to the complaint-based inspection system and mediation program, and conduct education and outreach with landlords, tenants, property managers, and others impacted by the Rental Housing Registration Program. Because the timelines for hiring processes, educational outreach, and software upgrades will impact the overall program implementation timeline, staff will keep City Council updated on the progress of the rollout as milestones are achieved.

The proposed Ordinance and supporting AIS before the Council incorporates the components that a consensus of Councilmembers expressed support for bringing forward at April 18, 2023, Council meeting discussion of rental housing. The components of the proposed program include: (1) rental registration; (2) improvements to the existing complaint-based system, including software; (3) enhanced mediation services; and (4) public education and outreach programs.

Action Taken: Ordinance No. 086 Adopted on Second Reading: 6-1 (Nay: Peel)
Ordinance No. 087 Adopted on Second Reading: 6-1 (Nay: Peel)

• **P) OTHER BUSINESS**

- OB 1. **Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.**

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

OB 2. Consideration of a motion to cancel the Tuesday, August 1, 2023, Regular Council meeting:

"I move, pursuant to City Code Section 2-28(a), that Council cancel its regular meeting of Tuesday, August 1, 2023, due to the Neighborhood Night Out community event on August 1, 2023."

Motion Adopted 7-0.

OB 3. Executive Session Motion - Real Estate.

"I move that Council go into Executive Session to discuss REAL PROPERTY ACQUISITION for the Southeast Community Center, as permitted under:

- City Charter Article Roman Numeral Two, Section 11(3),
- City Code Section 2-31(a)(3) and
- Colorado Revised Statutes Section 24-6-402(4)(a)."

Motion Adopted 7-0.

OB 4. Executive Session - Legal Matters.

"I move that the City Council go into Executive Session for the purpose of meeting with the City's attorneys and City management staff to discuss specific legal questions related to the following litigation matters, as permitted under City Charter Article Two, Section Eleven (Two), City Code Section 2-31(a)(2) and Colorado Revised Statutes Section 24-6-402(4)(b):

1. Pending litigation against the City by Michaela Surat;
2. Pending litigation by and against Open International;
3. Pending and threatened litigation related to driving under the influence enforcement by former Police Officer Jason Haferman; and
4. Pending litigation regarding arrests during a demonstration at Fort Collins Police Services on August 8, 2020."

Motion Adopted 7-0.

Q) ADJOURNMENT - 10:42 p.m.