

August 15, 2023

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

**PROCLAMATIONS AND PRESENTATIONS**

**5:00 PM**

**A) PROCLAMATIONS**

No proclamations scheduled.

**REGULAR MEETING**

**6:00 PM**

**B) CALL MEETING TO ORDER**

Mayor Jeni Arndt called the regular meeting to order at 6:02 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 Tricia Canonico  
Councilmember Shirley Peel  
Councilmember Kelly Ohlson  
Councilmember Julie Pignataro

**STAFF PRESENT**

City Manager Kelly DiMartino  
City Attorney Carrie Daggett  
Deputy City Clerk Heather Walls

**E) CITY MANAGER'S AGENDA REVIEW**

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

- Noting a motion was added under Other Business to adjourn the regular meeting to conduct the Electric Utility Enterprise Board business.
- All items on the consent agenda were recommended for approval.
- The items on the discussion agenda were reviewed.

**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.)*

Erin Gray, Economics Advisory Board Member, stated she is interested in working with the City on climate change issues and low-carbon development transitions in concert with economic development plans. She stated the Economic Advisory Board is interested in having a more direct advisory connection with Council.

Ronald Hanser stated he lives in a low-density residential neighborhood with an HOA, and he purchased that home because of the predictability of an HOA community. He expressed concern about many of the proposed alternatives that are being considered related to the Land Use Code revisions. He stated the housing supply in Fort Collins is not the basic problem, the problem is demand and growth. Additionally, he stated the character of existing neighborhoods needs to be preserved and increased density development should only occur along transportation corridors and in new development.

Kate Conley supported placing housing of all types in all neighborhoods because the housing crisis should be shared collectively. She supported many of the proposed Land Use Code amendments and commended the public outreach efforts. Additionally, she urged Council to consider having no special exemptions for HOA neighborhoods and to consider not having an owner-occupancy requirement for ADUs. She stated U+2 is discriminatory and supported alternatives to the ordinance.

Matthew Behunin commented on the lack of housing affordability. He opposed the owner-occupancy requirement for ADUs and stated the parking requirements for ADUs are too costly. He also stated HOA neighborhoods should not be granted special rules.

Christopher Conway commended Council for taking steps forward with the Land Use Code but stated the details must be correct. He noted the AARP is one of the main proponents of ADUs in the country. He supported repealing the U+2 ordinance.

Ann Hutchison, Fort Collins Area Chamber of Commerce President/CEO, stated the Chamber sent a letter to Council expressing thoughts about items being referred to the November ballot. She congratulated Council on identifying priority issues of housing, parks, climate, and transit, but suggests not enough time has been spent on getting the final solutions correct for citizens to support the ballot measures. She specifically expressed concern about the status of the economy in Fort Collins, noting the cost of living is escalating. She encouraged Council to consider delaying the ballot measures.

Braxton Dietz, ASCSU Chief of Staff, supported the proposed ballot measure amending the U+2 ordinance.

Michael Strand, Kechter Farm HOA, expressed concern about how proposed Land Use Code changes would affect HOA covenants.

Michael Stella, ASCSU Director of Governmental Affairs, supported the proposed ballot measure amending the U+2 ordinance.

Evan Welch, ASCSU Deputy Director of Housing Security, supported the proposed ballot measure amending the U+2 ordinance.

Nick DeSalvo, ASCSU, supported the proposed ballot measure amending the U+2 ordinance and urged Council to allow voters to make decisions about their community.

Alayna Truxal, ASCSU Chief Justice, supported repealing the U+2 ordinance.

Marvin Paule commented on parking issues with homes that allowed more tenants prior to the U+2 ordinance. He stated home prices dropped to the point of affordability by families following the institution of the ordinance, and those homes have been fixed up and well-maintained. He expressed concern about infrastructure issues should the ordinance be repealed.

Haydyn Deason, ASCSU Director of Environmental Affairs, stated U+2 is discriminatory, encourages class divides, and actively pushes out students.

Kyle Hill, ASCSU, supported repealing U+2 to allow for equal housing opportunity for all.

William Chapman stated he bought into an HOA community to protect property values and his desired lifestyle. He stated the proposed changes should not apply to all residential areas and questioned how the regulations would impact historic districts.

Wayne Brothers stated it appears from the latest alternatives provided to Council by staff at the August 8 Work Session, Council has decided to delay any meaningful improvements to the development review process and focus solely on the social engineering proposals affecting housing. He proposed the three low-density zone districts: RL, NCL, and LMN, maintain their current zoning to preserve the character of the older, established neighborhoods. He stated this would allow for eight zones to have the increased densities, would treat all residents within a zone equally, maintain the benefits of established HOAs, and minimize potential litigation. He questioned the U+2 ballot item.

Denny Coleman, Economic Advisory Board Member, stated the Board Members would like to make themselves available to Council on a more consistent basis. He specifically commented on the importance of moving forward with the East Mulberry Annexation Plan.

Johanna Loury urged Council to retain current zoning and allow land uses for all established single-family neighborhoods and suggested utilizing undeveloped land in Fort Collins which is better suited for utilities required for denser development.

Adam Eggleston supported repealing or changing the U+2 ordinance and opposed the proposed three mill affordable housing property tax increase ballot measure. He also stated land use code or local regulations supersede HOA covenants per a 1993 state regulation.

Matthew Peters stated increasing density does not solve the issue of affordability. He stated the city has a lot to lose if it moves forward with Land Use Code changes and little to lose by waiting.

Peter Connelly stated family is what built Fort Collins and commented on the importance of real estate appreciation potential stating increased density would negatively impact existing single-family neighborhoods.

Tandena Wagner stated existing housing policies in Fort Collins make affordability difficult. She commented on the benefits of allowing for rental ADUs on rental properties.

Jackson Wagner commented on the benefits of allowing rental ADUs on rental properties.

Colleen Hoffman stated current zoning should remain for existing single-family neighborhoods. She stated any ADU deed restrictions should be enforced by the City but would, in reality, be citizen-complaint driven thereby pitting neighbors against one another. She also commented on the benefits of U+2 and suggested increased density does not necessarily impact affordability.

Glen Colton opposed dramatic upzoning and densification of existing neighborhoods in the proposed Land Use Code amendments.

Phil Soreide commented on a prison-style chain link fence that has been constructed by the Larimer and Weld Irrigation Company with minimal notification and no opportunity for public comment. He stated the Company must be required to respond to the impact of this action on the general public, including on the natural habitat and property values. He stated no environmental, economic, or engineering studies were conducted prior to the start of construction of the fence and the public deserves a forum to discuss the issue.

Jan Stallones expressed support for the funding appropriations described in Ordinance No. 105, 2023 and expressed support for the continued efforts of the City in addressing Fort Collins' unsheltered population. She also expressed support and appreciation for the new HOPE division of Fort Collins Police Services and for the plans for an expanded rescue mission.

Damian Ramirez commented on the need for a new indoor pool facility in Fort Collins, specifically citing the cramped high school practices at EPIC and system and safety issues at the Mulberry Pool, which should be closed.

Abigail Feuka supported changes to the Land Use Code that will result in more housing affordability and supported eliminating U+2.

James Burtis expressed support for many of the proposed Land Use Code changes, particularly the potential for higher density and lower parking requirements in the TOD overlay zone. However, he expressed concern there are no high-frequency bus routes operating in the Transfort system. He stated U+2 is very restrictive and supported allowing voters to weigh in on a less restrictive occupancy regulation.

Ken Christensen stated he is the Parks and Recreation Advisory Board Chair; however, he is speaking as a private citizen. He expressed support for the ballot language developed related to sustainable funding and commented on the \$10 million funding deficit that exists for parks and recreation infrastructure replacement.

Jamie Bailey commented on housing affordability and the need for housing options that would come from zoning changes.

Nick Armstrong, Parks and Recreation Advisory Board Vice Chair, supported the work on sustainable funding initiatives that would assist in funding existing maintenance obligations as well as in attaining some community-wide aspirational goals. He stated the Board recommends the sustainable funding ballot language that includes a half-cent sales tax increase with 50% dedicated for parks and recreation infrastructure. He stated funding for parks and recreation touches on all seven of the City's key outcome areas.

Rich Stave stated he is unclear how the money is to be repaid regarding Item No. 11, *First Reading of Ordinance No. 104, 2023, Appropriating Unanticipated Revenue from Bond Proceeds from the Issuance of the Series 2023 Electric Utility Enterprise Revenue Bonds for Light and Power, Connexion, and the Art in Public Places Program*. He commented on vehicles parking in rights-of-way.

John Parks, Economic Advisory Board Vice Chair, stated the Board welcomes any opportunities to engage with Council and encouraged Council to move forward with the 'reimagining Boards and Commissions' work more directly. He expressed support for the Land Use Code changes.

Public comment concluded at 7:20 p.m.

## H) PUBLIC COMMENT FOLLOW-UP

Councilmember Shirley Peel thanked the Economic Advisory Board members for speaking and their interest in being more engaged with Council.

Councilmember Susan Gutowsky thanked Mr. Ramirez for his comments regarding the need for an additional pool facility.

Councilmember Julie Pignataro thanked the Boy Scouts who are in attendance and requested staff follow-up regarding the fence mentioned by Mr. Soreide. City Manager DiMartino stated the Building Compliance Department issued a stop work order due to the height of the fence being over six feet. She stated the only City area impacted is the Red Wing Marsh Natural Area, and a letter was sent to the Ditch Company letting them know they would need to apply for a permit to have a fence in that area. She also noted the County is investigating and there is ongoing coordination between the City and County to determine if there are any options to address the situation.

Councilmember Pignataro thanked the individuals who spoke on housing issues and noted next week's work session will focus on Land Use Code changes.

Councilmember Kelly Ohlson expressed support for Mr. Brothers' suggestion to look at Land Use Code changes by zone district. He also stated he would like staff to research whether the City is part owner of the Ditch Company. City Manager DiMartino replied the City has a very small ownership stake in this company and staff will provide a detailed breakdown.

Councilmember Ohlson encouraged individuals to contact the Poudre School District Board regarding funding for pools, noting there are no pools at any of its high schools.

Mayor Pro Tem Emily Francis requested follow-up to the questions related to the ownership requirements for financing ADUs and requested an answer to Mr. Stave's question regarding Item No. 11. Chad Crager, Connexion Executive Director, stated the payback for Item No. 11 will be revenue from Connexion customers.

Mayor Arndt also recognized the Boy Scouts in the audience and thanked the members of the Economic Advisory Board for their attendance and desire to be more involved with Council.

***Clerk's Note: Mayor Arndt called for a break at 7:28 p.m. The meeting resumed at 7:43 p.m.***

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

None.

## J) CONSENT CALENDAR

### 1. **Consideration and Approval of the Minutes of the July 18, 2023 Regular Meeting.**

The purpose of this item is to approve the minutes of the July 18, 2023 regular meeting.

**Approved.**

### 2. **Second Reading of Ordinance No. 093, 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.**

This Ordinance, unanimously adopted on First Reading on July 18, 2023, requests an appropriation of \$56,974 in philanthropic revenue received through City Give in 2022 and 2023. 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 as per 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. Second Reading of Ordinance No. 094, 2023, Appropriating Philanthropic Revenue in the General Fund Through City Give for Neighborhood Services for Community Workshops and the Creation and Distribution of a Neighborhood Business Guide.**

This Ordinance, unanimously adopted on First Reading on July 18, 2023, appropriates \$20,000 in philanthropic revenue for Neighborhood Services within the Community Development and Neighborhood Services Department of the Planning and Transportation services area.

Neighborhood Services has been awarded a gift of \$20,000 through the 2023 American Association of Retired Persons (AARP) Community Challenge with the designated intent to support healthy outcomes for residents' homes and personal wellbeing through three one-day Homeowner Workshops, each at a different mobile home community in the City, including Skyline, North College, and Hickory Village. The gift funds also will be used to create and distribute a neighborhood business guide to residents.

***Adopted on Second Reading.***

- 4. Second Reading of Ordinance No. 095, 2023, Authorizing Expenditure of American Rescue Plan Act Funds for Affordable Housing Fee Credits as Specified.**

This Ordinance, unanimously adopted on First Reading on July 18, 2023, appropriates American Rescue Plan Act (ARPA) funding for 5 units targeting forty percent (40%) Area Median Income (AMI) households at the Heartside Hill development. Council already appropriated \$350,000 of ARPA funding for affordable housing fee credits, and this funding must be fully committed by 2024. Affordable housing fee credits have been approved administratively for 20 units serving households at thirty percent (30%) AMI or below, including 8 units at Heartside Hill. There are no additional thirty percent (30%) AMI units expected before the ARPA deadline to commit funds in 2024. Though fee credits for units up to sixty-five percent (65%) AMI are a presumptive eligible use of ARPA funds, the City's fee credit policy as codified in City Code Article VIII, Section 7.5 requires Council approval for fee credits for any units serving income ranges above thirty percent (30%) AMI. This Council action would ensure that the remaining appropriated funds are used for their intended purpose as affordable housing fee credits.

***Adopted on Second Reading.***

- 5. Second Reading of Ordinance No. 096, 2023, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations in Multiple Utility Funds for the Purchase of Vendor Services to Support the Replacement of the City's Utilities Billing System.**

This Ordinance, unanimously adopted on First Reading on July 18, 2023, appropriates available reserves from the Light and Power, Water, Wastewater and Stormwater Enterprise Funds to implement a modern Utility Customer Information System – Customer Self Service Portal (CIS-CX) Solution. This appropriation request is the second, and final, request related to the new CIS-CX.

In March 2023, Ordinance No. 036, 2023, appropriated \$4,250,000 to begin the process of temporarily increasing staffing for the implementation while contract review and negotiations were being finalized. The City has now identified the Vendor of Choice, reviewed the functional

requirements in detail with that vendor and negotiated terms of the contract sufficient to determine the amount of investment needed to successfully deploy a new CIS-CX. This appropriation request of \$9,700,000 will provide the additional funding needed for all costs associated directly with the software deployment, software testing, training, and the organizational change management (OCM) associated with moving onto a modern CIS-CX. With this appropriation, the CIS-CX implementation will begin in October of this year and be fully operational by the end of 2025.

The total amount being requested for appropriation here is \$9,700,000 and is broken out as follows:

Software as Service Implementation \$3,250,000; Software Licensing through Implementation \$2,400,000; Organizational Change Management (OCM) \$1,500,000; Testing Protocol Development and Management \$900,000; Training Development and Initial Training \$900,000; and Business Process Analysis and Alignment \$750,000.

***Adopted on Second Reading.***

**6. Items Relating to Parking of Shared Mobility Devices and Electric Scooters.**

A. Second Reading of Ordinance No. 097, 2023, Amending Sections 2002, 2106 and 2108 of the Fort Collins Traffic Code to Address the Parking of Shared Mobility Devices and Electric Scooters.

B. Second Reading of Ordinance No. 098, 2023, Repealing Chapter 24, Article VI, Parking of Shared Mobility Devices, of the Code of the City.

These Ordinances, unanimously adopted on First Reading on July 18, 2023, amend the Fort Collins Traffic Code to add shared mobility devices and electric scooters regulations for parking of bicycles and electric bicycles, and repeal two sections of the City Code that separately relate only to parking of shared mobility devices and electric scooters.

***Both Ordinances Adopted on Second Reading.***

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

A. Second Reading of Ordinance No. 099, 2023, Amending the City's Structure Plan Map.

B. Second Reading of Ordinance No. 100, 2023, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as The Landing at Lemay Two Rezoning.

These Ordinances, unanimously adopted on First Reading on July 18, 2023, amend the City Structure Plan Map to change the land use designation of approximately nine acres of land east of the Lemay Avenue overpass over Vine Drive from the Industrial Place Type to the Mixed Neighborhood Place Type and rezone the property from the Industrial (I) District to the Medium Density Mixed Use Neighborhood (MMN) District. The site is a remnant area of Industrial zoning resulting from the first Landing at Lemay Rezone which was approved in February 2023.

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 7-0 on their consent agenda to recommend approval of the request at their May 2023 hearing.

*This item 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.*

***Both Ordinances Adopted on Second Reading.***

8. **Second Reading of Ordinance No. 101, 2023, Designating the Emma Malaby Grocery Property, 313 North Meldrum Street, Fort Collins, Colorado, as a Fort Collins Landmark Pursuant to Chapter 14 of the Code of the City of Fort Collins.**

This Ordinance, unanimously adopted on First Reading on July 18, 2023, requests City Landmark designation for the Emma Malaby Grocery Property at 313 North Meldrum Street. In response to an application from the property owner, Historic Larimer County, City staff and the Historic Preservation Commission have determined the property to be eligible for designation under City Code Section 14-22, Standards 1 – Events, 2 – Persons/Groups, 3 – Design/Construction, and 4 – Information Potential. The owner is requesting designation to ensure protection of the property's buildings and features and to gain access to financial incentives for historic property owners.

***Adopted on Second Reading.***

9. **Second Reading of Ordinance No. 102, 2023, Submitting to a Vote of the Registered Electors of the City of Fort Collins Proposed Amendments to Sections 2 and 5 of Article X of the City Charter Relating to Referendum and Petition Requirements.**

This Ordinance, unanimously adopted on First Reading on July 18, 2023, sets ballot language regarding proposed amendments to Sections 2 and 5 of Article X of the City Charter relating to referendum and petition requirements.

Following work with the Election Code Committee and through a Work Session on May 9, 2023, Council directed staff to bring forward a potential ballot option to amend the City Charter to reconcile contradictions in the referendum process.

***Adopted on Second Reading.***

10. **Second Reading of Ordinance No. 103, 2023, Submitting to a Vote of the Registered Electors of the City of Fort Collins Proposed Amendments to Articles II and IV of the City Charter Concerning the Requirement that Certain Employees Live in or Near Fort Collins.**

This Ordinance, unanimously adopted on First Reading on July 18, 2023, sets ballot language regarding the requirement that certain employees live in or near Fort Collins.

Based on feedback from Councilmembers at the May 9, 2023, staff brings forward a potential ballot option to amend the City Charter to remove requirements that certain employment position types live in or near Fort Collins, allowing Council to establish any residency requirements by ordinance or by employment agreement for employees reporting directly to Council. Currently, a vote of the registered electorate is required to amend the Charter language that specifies City positions that must live in or near Fort Collins.

***Adopted on Second Reading.***

11. **First Reading of Ordinance No. 104, 2023, Appropriating Unanticipated Revenue from Bond Proceeds from the Issuance of the Series 2023 Electric Utility Enterprise Revenue Bonds for Light and Power, Connexion, and the Art in Public Places Program.**

The purpose of this item is to appropriate the funds received from the bond issuance in the Light and Power Fund. These proceeds will be used to fund capital projects needing to occur for both



Light and Power and Connexion, as well as for operating funds for Connexion, to pay issuance costs for the Series 2023 Revenue Bonds, and to transfer certain funds required by the Art in Public Places Program (APP Program) for the capital projects.

***Adopted on First Reading.***

12. **First Reading of Ordinance No. 105, 2023, Appropriating Prior Year Reserves in the General Fund to Continue the Encampment Site Cleanup Pilot Program.**

The purpose of this item is to appropriate \$200,000 in additional funds to continue the site cleanup pilot program. In Fall 2022, staff identified a backlog of site cleanups throughout the City and determined that cleanups needed to shift from twice a month to once per week. This was implemented towards the end of January 2023 with the recognition that additional funds would be needed if this pilot program achieved desired results.

***Adopted on First Reading.***

13. **First Reading of Ordinance No. 106, 2023, Making Supplemental Appropriations from the 2023 Colorado Opioid Settlement Funds for Use by the Municipal Court.**

The purpose of this item is to appropriate \$75,000 of the City's share of 2023 funds from the Colorado Opioid Settlement to be used in the remainder of 2023 to work towards establishing a municipal drug court program for persons with opioid use disorder and co-occurring substance use or mental health issues. This is a permitted use for these funds under the Colorado Opioid Settlement Memorandum of Understanding ("MOU") between the City and the State of Colorado.

***Adopted on First Reading.***

14. **First Reading of Ordinance No. 107, 2023, Appropriating Prior Year Reserves Designated for Fire Protection Services in the Fire Protection Capital Expansion Fee Account within the Capital Expansion Fee Fund for Payment to the Poudre Fire Authority to be Used by it for a New Headquarters Building.**

The purpose of this item is to appropriate funds from the reserves in the Fire Protection Capital Expansion Fee Account within the City's Capital Expansion Fee Fund ("CEF Fund") and payment of those funds to the Poudre Fire Authority ("PFA") for its purchase of a new Headquarters Building.

***Adopted on First Reading.***

15. **First Reading of Ordinance No. 108, 2023, Appropriating Prior Year Reserves in the General Fund for the Purchase of Police Radios.**

The purpose of this item is to request an appropriation in the amount of \$620,000 for the purchase of police handheld radios and approve the use of prior year reserves in the General Fund. There are currently 242 total handheld radios with 130 replaced in 2022. This leaves the remaining 112 radios needing to be replaced.

***Adopted on First Reading.***

16. **First Reading of Ordinance No. 109, 2023, Making a Supplemental Appropriation from the Colorado Division of Criminal Justice of Unanticipated Grant Revenue for Various Restorative Justice Services Programs.**

The purpose of this item is to appropriate grant revenue to fund Restorative Justice Services within Community Development and Neighborhood Services. A grant in the amount of \$57,356

has been awarded from the Colorado Division of Criminal Justice (DCJ) Juvenile Diversion Fund for the continued operation of Restorative Justice Services, which includes the RESTORE program for shoplifting offenses, and the Restorative Justice Conferencing Program (RJCP) and Reflect Program for all other offenses. No match is required and the grant period is July 1, 2023, to June 30, 2024.

***Adopted on First Reading.***

17. **Resolution 2023-070 Approving Expenditures from the Art in Public Places Light & Power, Wastewater, Stormwater and Water Utility Accounts to Commission an Artist to Create Art for the City's Utilities.**

The purpose of this item is to approve expenditures from the Art in Public Places (APP) Light & Power, Wastewater, Stormwater and Water Utility Accounts to commission an artist to create art for the City's Inaugural Utilities Artist-in-Residence Project. The expenditures of \$50,000 will be City of Fort Collins Page 7 of 10 for design development, materials, fabrication, delivery, mural installation, signage, additional illustration work, and contingency for Allie Ogg to create the artworks for the Artist in Residence Project.

***Adopted.***

18. **Resolution 2023-071 Approving an Exception to the Competitive Purchasing Process for the Purpose of Renewing the Contract with Nokia of America for Broadband Equipment, Software, Firmware, and Support Services.**

The current Supply and Services Agreement between the City of Fort Collins and Nokia of America Corporation (Nokia) for equipment, software, and firmware necessary to operate Fort Collins Connexion (Connexion) services expires in August 2023.

Connexion's network is built with hardware and software originally provided by Nokia and is an integral part of Connexion's high level of service. Although there may be other viable partners to provide similar hardware, software, and services, transiting from the current Nokia solution would be a multi-year resource intensive project that would be very disruptive to Connexion customers.

Based on the alignment of Nokia's goods and services with the operating requirements of Connexion, the Purchasing Agent has recommended an exception to the City's competitive purchasing process to continue the relationship with Nokia under a new agreement for up to five additional years.

***Adopted.***

19. **Resolution 2023-072 Authorizing the Sound Mitigation Project for Northern Colorado Law Enforcement Training Center Firing Range.**

The purpose of this item is to seek approval to use existing funds from the NCLETC capital budget in the amount of approximately \$136,632 to make necessary modifications to the sound noise abatement materials in the firing range.

***Adopted.***

#### **END OF CONSENT CALENDAR**

***Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to approve the recommended actions on items 1-19 on the Consent Calendar.***

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

**K) CONSENT CALENDAR FOLLOW-UP**

No follow-up comments by Council.

**L) STAFF REPORTS**

None.

**M) COUNCILMEMBER REPORTS**

Councilmember Susan Gutowsky

- Participated in a ride along with the newly formed HOPE team to clean up an encampment.
- Participated in Neighborhood Night Out events on August 1<sup>st</sup>.
- Attended Mama Mia high school event.
- Announced Gardens on Spring Creek concerts.

Councilmember Tricia Canonico

- Attended the Women in Municipal Government conference.
- Announced her appointment to the EPA's Local Government Committee Work Group on Climate Mitigation.

Mayor Jeni Arndt

- Attended the People's Meeting, a new type of civic engagement opportunity.

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

None.

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

**20. Items Relating to City Initiated TABOR Questions (Sustainable Funding).**

*A. Possible Public Hearing and Motions Regarding Protest (s) of Ballot Language.*

*B. Resolution 2023-073 Submitting A Ballot Issue Question to the City's Registered Electors at the City's Regular Election on November 7, 2023, Asking Them to Authorize the City to Levy a Three Mill Property Tax to be Used Exclusively to Fund Affordable Housing.*

OR

*Resolution 2023-073 Submitting A Ballot Issue Question to the City's Registered Electors at the City's Regular Election on November 7, 2023, Asking Them to Authorize the City to Levy a Three Mill Property Tax to be Used Exclusively to Advance the City's Goals Under its 2021 Housing Strategic Plan.*

*C. Resolution 2023-074 Submitting a Ballot Issue Question to the City's Registered Electors at the City's Regular Election on November 7, 2023, Asking Them to Increase by .50% the City's Sales and Use Tax Rate to be Used Exclusively for Certain Specified Purposes. [WITH PERCENTAGES INSERTED]*

OR

*Resolution 2023-074 Submitting a Ballot Issue Question to the City's Registered Electors at the City's Regular Election on November 7, 2023, Asking Them to Increase by .50% the City's Sales and Use Tax Rate to be Used Exclusively for Certain Specified Purposes. [WITH BLANK PERCENTAGES]*

*The purpose of this item is to consider two resolutions and ballot language that reflect Councilmember feedback from the July 25, 2023, work session discussion. Two versions of each resolution are provided for consideration.*

*Any protest of the proposed ballot language must be received no later than Monday, August 14, 2023, at 12:00 p.m. Protest(s) shall be heard, considered, and resolved by the Council prior to adoption of the related Ordinance. If protests are received, copies will be included in Council's "Read Before the Meeting" packet.*

Travis Storin, Chief Financial Officer, stated this work is the product of eight Finance Committee meetings and four Council work sessions and the work has been prompted by some of the City's and community's highest priority master and strategic plans, including the Parks and Recreation Master Plan, the Transit Master Plan, Housing Strategic Plan, and the Our Climate Future Plan. He stated those plans indicate unsourced needs between \$40 and \$46 million.

Storin stated the work over the last 21 months has narrowed down the solution to the most conventional tools of sales and property taxes. He stated Council will be considering two resolutions, each with two options. One of the resolutions proposes a half-cent dedicated sales tax going toward parks and recreation, including aquatics, transit, and climate plans, which would raise a projected \$20 million with an average per-resident impact of \$62. The other resolution proposes a three mill increase, or \$1 for every \$1,000 of assessed value on a home, to be put toward affordable housing goals which would raise a projected \$11 million per year.

Regarding the sales tax resolution, option A would break up the percentage share equally between parks and recreation, climate goals, and transit, whereas option B would propose a one half share towards parks and recreation which would fully fund the new southeast aquatics center and a one half share towards climate and transit combined.

Storin noted the property tax would be a perpetual tax and option A is directed specifically toward affordable housing as defined by Council, whereas option B includes a wider array of eligible uses and references the Housing Strategic Plan.

#### CLARIFYING QUESTIONS

Councilmember Ohlson questioned the references to the property tax item generating \$11 million in one place and \$16 million in another. Storin replied the \$11 million figure is the amount collected; however, the TABOR language is scripted such that, if it happens that more than the amount on the ballot is collected, a refund is necessary. He stated state TABOR experts have provided guidance to make that number conservatively higher to avoid the risk of having to issue TABOR refunds.

City Attorney Carrie Daggett clarified there is a specific provision in TABOR regarding the first year estimate and obligations related thereto if more funds are collected.

#### PUBLIC COMMENT ON RESOLUTION 2023-073

Joe Rowan, One Voice for Housing, expressed appreciation for Council's work to address the overall cost of housing and stated those efforts should continue in earnest. He stated the organization is not currently comfortable with this item as it is written; however, it is supportive of an evergreen fund that supports housing.

Rich Stave opposed the item stating it represents double taxation.

#### COUNCIL DISCUSSION ON RESOLUTION 2023-073

Mayor Pro Tem Francis requested more detailed information on the differences between the two options. Storin replied the affordable housing specific item would address how to mitigate price escalation for housing impacts on disproportionately affected households. The Housing Strategic Plan item would include a broader set of eligible properties.

Josh Birks, Sustainability Services Deputy Director, stated the Housing Strategic Plan item is broad enough to include all the City's housing strategies, whereas the affordable housing specific item is focused just on that aspect of housing strategies.

Councilmember Ohlson asked if homelessness issues would be funded by the affordable housing option. Storin replied that costs such as encampment cleanup or the proposed 24/7 shelter on North College would not be seen as eligible uses of this tax. Birks clarified either option would include funding for permanent supportive funding.

Mayor Pro Tem Francis asked about the implementation difference between the two options. Birks replied the Housing Strategic Plan option would allow for a broader set of programs to be pursued that would not solely focus on addressing affordability issues.

Mayor Arndt stated she would prefer the broader option if Council opted to refer this issue to the ballot. She also reiterated this would be a perpetual tax.

Councilmember Tricia Canonico asked if home energy efficiency programs would fall under this item or under climate. Birks replied energy efficiency is mentioned in the Housing Strategic Plan and there could be some interplay between the two tax measures.

Mayor Pro Tem Francis stated that while it would be nice to fund everything in the Housing Strategic Plan, it seems affordable housing is what the community desires to fund; therefore, she stated she was leaning more toward the more specific option related to affordable housing. She stated housing seems too vague, though having that flexibility could be valuable.

Mayor Arndt noted the Housing Strategic Plan option would not preclude affordable housing dedicated funding through the BFO process.

Councilmember Pignataro stated she is leaning toward the more specific option related to affordable housing. She requested more information regarding the tax being in perpetuity. Storin replied there was some Council dialogue around lining up the tax sunset with the 2040 affordability goals; however, the thinking was that, by 2040, it is likely that a great deal of the housing stock that is built between now and then will need renovations; therefore, investments will still be needed, likely into perpetuity. He noted the tax could be repealed at the discretion of the Council in the future without an election.

Councilmember Canonico stated some concerns from the affordable housing development partners have been raised regarding being unprepared to utilize all these funds and she asked what would occur if extra dollars were present at the end of a budget cycle. Storin replied those funds would accumulate in reserves until such time a use that made sense to the City and Council came forward.

Mayor Arndt reiterated her desire to utilize the broader more flexible option given possible different future needs.

Mayor Pro Tem Francis stated not all housing needs will be able to be addressed with this property tax and she would prefer the dollars be used to focus on the biggest need of affordable housing.

Councilmember Peel thanked staff for their work on this topic and stated she is finding herself increasingly more uncomfortable referring these ballot initiatives because she is unsure the City has done its due diligence in terms of its budget to ensure best practices and best metrics are being used and fiscally sound policies are in place. She stated she does not believe a property tax increase tied to affordable housing will pass and the only ballot initiative she would be comfortable referring is the one tied to parks and recreation.

Councilmember Gutowsky noted the original discussion around utilizing property tax funding for affordable housing occurred prior to assessments showing many property values nearly doubling. She stated it would be difficult to ask the community to raise that even further and she stated she would not support referring either option to the ballot. Additionally, she stated placing both this resolution and Resolution 2023-074 on the ballot would jeopardize its passage.

Mayor Pro Tem Francis stated she would prefer to place the item on the ballot noting Land Use Code outreach efforts have shown that the community cares about affordable housing.

Councilmember Ohlson noted the City's share of property taxes has not increased since 1992 and 2/3 of that amount goes toward Poudre Fire Authority. However, he stated he would not support referring either item due to discontent with the City organization, though he believes Council has been careful and diligent in crafting these options for Fort Collins voters to consider.

Councilmember Canonico stated she has no strong opinion about either option but would like to see the item referred to the ballot.

***Mayor Pro Tem Francis made a motion to adopt Resolution 2023-073 submitting a ballot issue to the City's registered electors at the City's regular election on November 7, 2023, asking them to authorize the City to levy a three-mill property tax to be used exclusively to fund affordable housing and striking the word 'question' in each reference to 'ballot issue question.' Councilmember Pignataro seconded the motion.***

Mayor Pro Tem Francis stated having this dedicated funding stream would reflect the community's values.

***The vote on the motion was as follows: Yeas: Canonico, Pignataro, Arndt, and Francis. Nays: Ohlson, Peel, and Gutowsky.***

***THE MOTION CARRIED.***

#### PUBLIC COMMENT ON RESOLUTION 2023-074

Mark Morehouse commented on Councilmembers citing the need for public pools as an equity issue and because of the current deficit of pools in Fort Collins during the July work session. Additionally, he noted staff referenced the parks and recreation situation as a true budget deficit. He expressed support for the staff recommendation to allot the sales tax split of 50% to parks and recreation, 25% to transit, and 25% to climate goals. He stated he and others will continue to petition Poudre School District to partner with the City.

Rich Stave opposed this item stating it will not serve the best interests of Fort Collins residents. He stated increased taxes are not associated with increased economic activity. He suggested different choices could be made with the existing budget.

Kevin Cross, Fort Collins Sustainability Group, stated the Group feels it is important for the City to devote significant funding toward expanding local solar and battery storage capacity, preparing people, buildings, watersheds, and ecosystems for the threats brought on by climate change, and toward programs that will significantly reduce community greenhouse gases and pollutants. He

stated language in the resolution should explicitly reference those three issues and encouraged the language to reconcile spending percentages for parks and recreation, climate, and transit at the end of 2026 in addition to the other years specified in the resolution. He also stated the Group supports the even split of funding between the three entities.

Fred Kirsch, Fort Collins Community for Sustainable Energy, requested the language for the climate tax initiative include the following phrase: “the City’s efforts to maximize solar generation.” He commented on local solar being a key component of a network’s distributed energy system.

Fred Arnold commented on the need for additional pool resources in Fort Collins and cited the importance of learning to swim for people of all backgrounds.

Kelly Holly expressed support for option B which would provide additional funding for aquatics.

#### COUNCIL DISCUSSION ON RESOLUTION 2023-074

Councilmember Gutowsky expressed support for option B and commented on the community’s love of parks, particularly during the pandemic. She noted 50% of the community’s playgrounds need to be refreshed and support of parks is a Council priority. She also noted there is a large gap in the amount of money available for asset replacement.

Councilmember Ohlson questioned whether the language relating to the School District’s share of ongoing operations, periodic upgrades, and major renovations is clear and specific enough. Storin replied staff believes the language is sufficient to address both the capital operations and equipment replacement in terms of conveying Council’s expectation.

Councilmember Ohlson questioned whether the language is strong enough to ensure a future Council cannot utilize the funds elsewhere. Deputy City Attorney John Duval replied the language as written is not intended to bind future Councils to spend the funds as intended by this Council, and part of the issue is that this is being presented as a resolution rather than an ordinance, which is the way both issues have been presented since their origination. He stated the language is the presentation of the ballot question, not the presentation of an ordinance that may have other requirements the voters would be approving.

Assistant City Manager Tyler Marr clarified a resolution that contains a proposed ordinance could be written should Council desire a more binding condition, though that would require the calling of a special meeting prior to the County’s deadline for finalizing ballot issues.

City Manager DiMartino suggested eliminating the words “Council intends” to make the language more binding.

Mayor Pro Tem Francis asked if the intent of the language is to cover everything within Our Climate Future, or if it should be more specific per the suggestions of some of the speakers. Deputy City Attorney Duval replied the existing language around the climate action section is broadly written so the funds could be used for any programs or projects that advance greenhouse gas and air pollution reduction, the City’s 2030 goal of 100% renewable energy, and the 2050 community-wide goal of carbon neutrality. He noted solar would fit into all three categories.

Councilmember Peel questioned whether combining climate, transit, and parks and recreation in one ballot measure is the best way to gain voter approval. Councilmember Ohlson replied having four separate tax questions, when including the housing item, could be a negative. He supported the use of both property and sales taxes.

Councilmember Ohlson expressed support for option B which would fund parks and recreation at 50%. Mayor Arndt concurred noting that option would fund additional lap lanes for the southwest

pool facility. Additionally, she stated climate and transit are somewhat intertwined which makes the other half of the funding for those items.

Councilmember Pignataro also expressed support for option B.

Councilmember Canonico asked if the ballot language would obligate expenditures on solar even if a better energy source were developed in the future. Birks replied the language is written to address 100% renewable energy and while solar is eligible, it is not limited to that.

Councilmember Canonico also expressed support for option B.

Councilmember Peel stated she wished the City was not in the place it is with parks and recreation funding. She stated she would rather not put additional costs on people at this time; however, she expressed support for option B.

***Clerk's Note: Mayor Arndt called for a break at 9:25 p.m. The meeting resumed at 9:30 p.m.***

City Manager DiMartino outlined the language changes that were made, including changing one of the whereas clauses to eliminate "The City Council intends" and to indicate that the amounts will be supplemented. Additionally, City sourced revenues were added to acknowledge there are many grant funds that come into play making things variable throughout a given year. There was also an addition to the ballot language that clarifies for voters that these funds will supplement and not replace the current City funding for those specified purposes. The word "full" was added to indicate the full cost of the pool lanes to be more explicit, and the word "energy" was changed to "electricity" to be more consistent with climate goals. City Manager DiMartino stated the language would be for 50% to parks, recreation, and pools, 25% for greenhouse gas and climate goals, and 25% for the transit system.

***Mayor Pro Tem Francis made a motion to adopt Resolution 2023-074 submitting a ballot issue question to the City's registered electors at the City's regular election on November 7, 2023, asking them to increase by 0.50% the City sales tax rate to be used exclusively for certain specified purposes with the changes read into the record by the City Manager. Councilmember Canonico seconded the motion.***

Councilmember Pignataro thanked staff for their work on this item.

***The vote on the motion was as follows: Yeas: Peel, Canonico, Pignataro, Gutowsky, Arndt and Francis. Nays: Ohlson.***

***THE MOTION CARRIED.***

## **21. Items Relating to City Council's Direction to Address Existing Occupancy Regulations.**

*Possible Public Hearing and Motion(s) Regarding Protest(s) of Ballot Language.*

*A. Resolution 2023-075 Directing City Staff to Prepare and Present to Council Amendments to the City of Fort Collins Land Use Code Increasing Occupancy Allowed in Residential Dwellings.*

*B. Resolution 2023-076 Referring to the Registered Electors of the City of Fort Collins Resolution 2023-075, Concerning Amending the Fort Collins Land Use Code to Increase the Occupancy Allowed in Residential Dwellings.*

*Any protest of the proposed ballot language must be received no later than Monday, August 14, 2023, at 12:00 p.m. Protest(s) shall be heard, considered, and resolved by Council prior to adoption of the related Resolution. If protests are received, copies will be included in Council's "Read Before the Meeting" packet.*



Sylvia Tatman-Burruss, Sr. Project Manager, stated this item is in response to feedback from the July 18 meeting during which Council directed staff to prepare a resolution to refer the current occupancy ordinance to voters. She stated staff has prepared two options for consideration.

Tatman-Burruss outlined the existing occupancy ordinance which limits occupancy of residential dwellings to a family of any size plus one additional unrelated occupant, or no more than three unrelated occupants. She noted there is currently a process in place to allow for extra occupancy designation in certain zone districts and there is a host family permit option as well.

Tatman-Burruss stated both options provided for consideration eliminate the familial relatedness aspect and both allow for an increase in occupancy. She stated staff is recommending option 2 as it may allow for greater flexibility in choosing the appropriate mechanism for allowing an increase in occupancy while keeping neighborhood quality in mind.

#### PUBLIC COMMENT

Peter Erickson stated the existing occupancy ordinance affects residents of every age and background. He stated parking and noise should be regulated, not people, and he commended the residential parking permit program.

Rich Stave opposed this item stating CSU has had the opportunity to build additional on-campus housing but has opted out. He suggested increasing occupancy is not appropriate for all zones and stated the use of Neighborhood Services as the regulating agency would be misguided and ineffective.

Joe Rowan, One Voice for Housing, supported revisiting occupancy standards in the community and commended allowing some flexibility in how occupancy is defined according to how standards and definitions of family change over time.

#### COUNCIL DISCUSSION

Mayor Arndt requested additional detail regarding the difference between the two resolutions presented. City Attorney Daggett replied Resolution 2023-075 would allow Council to take an action to direct staff whereas Resolution 2023-076 would refer Resolution 2023-075 to the voters.

Mayor Arndt stated she had originally wanted this item to be referred to voters to ensure it was addressed; however, it is not mandatory that it be referred as Council has the purview to make a decision on its own and stated she would be willing to have Council consider a more detailed ordinance prior to the end of its term.

Councilmember Gutowsky stated she would support that idea.

Mayor Pro Tem Francis noted Council places items on the ballot it can undertake itself regularly and she expressed concern the necessary due diligence on solutions could occur by December. She stated she would prefer to have voters provide input.

Councilmember Pignataro noted Council assured the public occupancy would not be part of the Land Use Code changes and she expressed concern about doing that without garnering feedback from the electorate. She noted this is a contentious issue and she was contemplating proposing a longer study of perhaps a year to ensure time for adequate public outreach after a vote occurs.

City Attorney Daggett stated the language of the ballot question could contain a timeframe for the City to work on the issue if voters support adjusting the occupancy ordinance.

Councilmember Ohlson stated he would prefer Council to deal with this issue on its own in whatever timeframe is deemed appropriate. He commented on the changes in the community,

including deteriorating neighborhoods, that led to the necessity for the U+2 ordinance. He stated the positives of the ordinance outweigh any negatives by fifty times and include increased affordability for those who could not compete with large property investors. He commented on an email he received regarding the occupancy ordinance outlining a property that would technically allow 11 people without an ADU based on the number of bedrooms. He questioned how the definition of family would be limiting.

Councilmember Peel asked Councilmember Ohlson if he is willing to work on expanding the occupancy ordinance if it is not sent to the ballot. Councilmember Ohlson replied he would make every honest attempt at looking into changes to the current occupancy ordinance without making any promises. He stated property deterioration was always more of an issue than parking and noise. He also stated he believes the occupancy ordinance has helped affordability.

Councilmember Peel stated being open to making changes is different from committing to changing the ordinance. She expressed concern that changes made by Council that are disliked would be repealed.

Councilmember Ohlson stated his goal would be to develop something that would not be repealed. Additionally, he stated he would like the City to develop its own ordinance rather than have the state dictate the regulations.

Councilmember Peel expressed concern that this issue has been a topic of discussion for some time.

Mayor Arndt stated she believes this Council can address the topic by the end of its term and stated it could be placed on the ballot next year if a new ordinance were to be repealed.

Councilmember Peel stated she has heard from her constituents that they do not want changes to the occupancy ordinance; therefore, it is appealing to send the issue to the ballot to allow for the entire city to weigh in.

Mayor Arndt stated she is committed to revising the occupancy ordinance as there are open bedrooms in the community and people need housing.

Councilmember Pignataro stated she would like to get beyond anecdotal stories to a more concrete decision, and having feedback from the electorate would assist in that regard.

Mayor Pro Tem Francis questioned whether Council can deal with this issue by the end of the year given other business items and holidays. City Manager DiMartino replied it would require a follow-up discussion on reprioritizing items and on the expectations around public engagement.

Councilmember Canonico stated it is clear the community wants to be engaged in any decision the Council makes; therefore, it seems leaving it to Council to determine the outcome of this topic by December would not allow for adequate public outreach that is desired. Given that, she stated she would be more inclined to place the item on the ballot.

Mayor Arndt suggested Council could work on the ordinance over a year then send the resulting ordinance to the ballot next year which would allow for a more robust process.

Councilmember Gutowsky reiterated her support for having Council address the issue.

Councilmember Pignataro noted there are only three current Councilmembers who are guaranteed to have a seat on the next Council and getting an opinion from voters as to whether they want the next Council to address the topic or not could be valuable.

Councilmember Ohlson stated the ballot language as written would bind the next Council to consider the topic. He questioned what type of family is not currently covered by the occupancy ordinance. Tatman-Burruss replied the need to prove familial status can become difficult from an enforceability standpoint.

Councilmember Ohlson opposed the use of the phrase “expand housing efficiency” in the resolution language.

**Mayor Pro Tem Francis made a motion to adopt Resolution 2023-075 directing staff to prepare and present to Council amendments to the City of Fort Collins Land Use Code increasing the occupancy allowed in residential dwellings, option two. Councilmember Pignataro seconded the motion.**

City Attorney Daggett noted a date by which staff would bring options to Council would still need to be placed into the language.

Mayor Pro Tem Francis suggested a date of March 31, 2024. Councilmember Pignataro concurred.

Mayor Arndt clarified this resolution just directs staff to create a revised occupancy ordinance for Council consideration by March 31, 2024; the next resolution would place the item on the ballot.

City Manager DiMartino noted, if placed on the ballot and passed, staff would not be able to begin public outreach until after the election.

Mayor Pro Tem Francis made a friendly amendment to change the date to June 30, 2024. Councilmember Pignataro concurred.

City Manager DiMartino suggested taking the next couple weeks to flush out timelines and options given September 5 is the deadline for placing the item on the ballot.

Councilmember Ohlson commended the conversation on the topic and noted ballots get mailed in October; therefore, he stated it would not be good governance to place the item on the ballot with such a short timeframe. He also requested additional information regarding the familial status issue, particularly wherein an unmarried couple, each with their own children, are concerned.

Mayor Arndt stated she will oppose the motion as she would like to take more time to make the decision.

**The vote on the motion was as follows: Yeas: Pignataro and Francis. Nays: Canonico, Gutowsky, Arndt, Ohlson and Peel.**

**THE MOTION FAILED.**

**Clerk’s Note: Mayor Arndt called for a break at 10:52 p.m. The meeting resumed at 11:00 p.m.**

**Mayor Pro Tem Francis made a motion to extend the meeting past midnight. Mayor Arndt seconded the motion. Yeas: Gutowsky, Arndt, Francis, Ohlson, Peel, Canonico and Pignataro. Nays: none.**

**THE MOTION CARRIED.**

**22. Appeal of Planning and Zoning Commission Approval of the Ziegler-Corbett Overall Development Plan Major Amendment.**

*The purpose of this quasi-judicial item is to consider an appeal of the Planning and Zoning Commission's decision on March 23, 2023, approving the Ziegler-Corbett Overall Development Plan Major Amendment (#MJA220004 or "Major Amendment") located on the west side of Ziegler Road between Front Range Village and The English Ranch neighborhood.*

*Two Notices of Appeal were filed, both on April 5, 2023, alleging that the Planning and Zoning Commission failed to properly interpret and apply relevant provisions of the Land Use Code, City Code, and/or Charter. One of the appeals also alleges the Commission failed to conduct a fair hearing by ignoring previously established rules of procedure.*

Bob Choate introduced himself and Jason Sherrill of Landmark Homes, the applicant.

Craig Latzke and Lacey Joyal introduced themselves as appellants.

Mayor Arndt outlined the time allotments for presentations and rebuttals.

City Attorney Daggett outlined the appeals procedure.

Paul Sizemore, Community Development and Neighborhood Services Deputy Director, provided an overview of the Ziegler-Corbett Overall Development (ODP) Plan Major Amendment which incorporates one additional property into the ODP allowing the access to Ziegler to shift to the north and become a signalized intersection at Hidden Pond Drive. He noted the major amendment does not change the proposed land uses or intensity of development on the site.

Sizemore discussed the ODP and associated alternative compliance for a bicycle and pedestrian connection in lieu of a local street connection to the north that were approved in 2022. He noted a central issue to the ODP major amendment and the appeals is the location and type of access both to the site and to surrounding neighborhoods. Prior to 2011, the Master Street Plan showed Corbett Drive as a collector road running from Front Range Village, curving through the middle of this site, and connecting to Paddington Road. However, when Front Range Village was developed, many residents in English Ranch were opposed to that connection happening; therefore, in 2011, Council chose to remove the collector street connection from the Master Street Plan, though a local street connection was still a possibility in the future. When this ODP came forth, English Ranch residents still broadly objected to a street connection through the new development to Paddington; therefore, the developer proposed alternative compliance to provide a bicycle and pedestrian only connection rather than a street connection. At that time, the access onto Ziegler from the new development was to be a non-signalized channelized T intersection further south.

Sizemore stated feedback has been received from neighbors that a signalized intersection at Paddington and Ziegler is desired; however, the area that feeds Paddington is already built out and it is unlikely there will ever be enough traffic at the intersection to warrant a signal without a connection from Front Range Village through the ODP site to Paddington. He noted that when the major amendment was being considered in March of this year, the developer had worked out an arrangement to add a property allowing for the Ziegler access to shift north to align with Hidden Pond Drive, and a signal would be warranted there.

Sizemore noted the two appeals question the alternative compliance determination that allows the bicycle and pedestrian connection to Paddington rather than a full street connection in the hopes that a full street connection would result in enough traffic to warrant a signal at Ziegler and Paddington. He stated the two appeals contain a total of four allegations: failure to conduct a fair hearing on the basis that the Planning and Zoning Commission substantially ignored previously

established rules of procedure, and three allegations related to failure to properly apply and interpret the Land Use Code.

Regarding the failure to conduct a fair hearing allegation, Sizemore stated the Latzke appeal states the Planning and Zoning Commission allowed the applicant to address the Commission during a deliberation when considering a condition of approval after the Commission had made a statement there would be no further testimony considered. The second appeal allegation relates to whether the Commission failed to properly interpret and apply Sections 3.6.3(E) and 3.6.3(F) of the Land Use Code, which deal with connectivity standards and alternative compliance, specifically that the major amendment made changes to the original ODP to an extent that the previously approved alternative compliance would no longer be applicable, that the alternative compliance presents substantially different tradeoffs, considerations, and additional negative consequences, that staff and the Commission should have been aware that the decision by Council to remove Corbett Drive as a collector street could still result in a local street connection, that the additional acreage incorporated with the major amendment creates new traffic mobility considerations, and that the original alternative compliance should not have been continued.

Sizemore stated the third issue on appeal involves whether the Commission failed to properly interpret and apply Land Use Code Section 1.2.2(K), with the specific allegation being that the location of a traffic signal at Ziegler and Hidden Pond does not foster a rational or common sense pattern of development as a signalized intersection would typically occur at arterial and collector intersections. Sizemore noted this Section is part of the purpose statement of the Land Use Code, and at the time the project was reviewed, neither staff nor the Commission considered it to be a binding development regulation.

The fourth issue on appeal related to whether the Commission failed to properly interpret and apply what was referred to in the appeal as City Code Policy LIV 4.2, which is actually City Plan Policy LIV 4.2, with the specific allegation being that the major amendment does not continue established block patterns and streets to improve access to services. Sizemore noted that at the time this determination was made, Comprehensive Plans and Master Plans were advisory and not binding or regulatory.

Mayor Arndt stated one evidentiary issue raised by the Joyal/Burnside notice of appeal contained new evidence not in the record of the Planning and Zoning decision which was an equation ostensibly from the Federal Highway Administration for calculating the traffic queue length on page 9 of the notice and a map ostensibly depicting traffic patterns at the ODP site on page 10 of the notice. She noted Council does not in general consider new evidence and no other Councilmembers spoke in favor of considering this new evidence. Lacey Joyal, appellant, stated that information was from some online research, but it will not be part of her presentation.

#### APPELLANT PRESENTATION

Craig Latzke commended Landmark Homes and Jason Sherrill. He noted he has no concerns with the two non-controversial parts of the major amendment and stated the development is improved by changing its street to align with Hidden Pond Drive. He stated the appeal aims to get the streets correct and commented on the importance of local street connections within a square mile section stating the approved major amendment violates all provisions related to those connections. He stated full compliance with these provisions is readily feasible for the ODP by including a local connection; therefore, it was inappropriate for the Planning and Zoning Commission to approve the major amendment by relying on alternative compliance rather than actual compliance.

Mr. Latzke stated traffic signal placement on Ziegler is important to get correct and a signal in the area should be placed where it best serves adjacent neighborhoods as well as the new development, where it fits into existing street patterns, and where it will align with the low-stress

bicycle connection at Paddington Road. He detailed the desirable condition and noted it was spoken about favorably even by Commission members at the hearing. He stated it would provide the new residential development with important local connectivity to the north, would provide connectivity to the new development from existing neighborhoods, and would provide a long-planned signal for three sizable neighborhoods at the existing intersection of Ziegler and Paddington. Mr. Latzke stated the proposed signal location at Hidden Pond Drive would serve only the new development and a small existing 13-house neighborhood, and its placement would eliminate the possibility of ever having a signal at Paddington due to spacing issues.

Mr. Latzke stated that when the collector street connection was removed from the Master Street Plan in 2010, Council made it clear that a local street connection to Paddington would be required when this ODP parcel developed, though the ODP process seemed to misapply that intent and dropped the local connection to Paddington. He stated staff were unable to seek guidance from Council regarding the local connection for the ODP due to the need for policy decisions to happen at public hearings, and because Council cannot be involved in the ODP process in order to maintain impartiality as the decision-maker regarding any future appeals. Additionally, Mr. Latzke stated the Commission's discussion at the hearing revealed the members were not sure if they could vote to approve the major amendment while also attaching requirements like the local connection and a different signal location. He noted that of the six members present, four voted to approve the major amendment despite making statements that they desired a different outcome.

Mr. Latzke requested Council either modify the Planning and Zoning Commission's approval to include requirements for the local street connection and signal placement at Paddington or overturn the approval along with providing guidance about these matters. Additionally, he stated he would like to remove his allegation of an unfair hearing and he provided Council with a petition of 88 signatures in support of his appeal.

Lacey Joyal concurred with Mr. Latzke's comments related to Landmark Homes and Jason Sherrill. She stated the goal of the appeal is simply to get the signal placement correct and establish a connection between English Ranch and the ODP site. She stated moving the signal to Paddington is feasible with a street connection from English Ranch and noted the staff report specifically stated that feasibility. She stated the ODP should be fully compliant with connectivity standards and should not be allowed to rely on the alternative compliance for a bicycle and pedestrian only connection.

Ms. Joyal stated staff felt, absent updated Council guidance, a local street connection would duplicate a condition which stakeholders and Council had previously taken action to remove in 2010. She outlined some of the issues that were taken into consideration during the time of that decision and stated Council agreed that future developers would have connectivity into English Ranch and made a contractual agreement with Front Range Village that a connection from its development through the ODP site to English Ranch would occur in the future.

Ms. Joyal commented on the importance of connectivity in the area and specifically noted historically marginalized groups such as low-income households and seniors are suffering with extra driving distances, reduced connectivity to schools and parks, and reduced access to emergency services. She stated connecting the neighborhoods at Edmonds, as the Council intended in 2010, would correct these issues and allow for the correct placement of the signal at Paddington and Ziegler. She requested Council modify or remand the major amendment decision, require full compliance with connectivity standards, and allow the developer a variance if needed to place the signal at Paddington and Ziegler.

## APPLICANT PRESENTATION

Bob Choate stated he understands the desire of the Woodland Park residents to have a light; however, he stated it would be inappropriate to force that by granting the appeal and rejecting the approval provided by the Planning and Zoning Commission. Regarding the appeal related to Land Use Code Section 1.2.2(K), Mr. Choate noted that section is advisory rather than regulatory, per Sizemore's statement.

Mr. Choate addressed the appeal allegations regarding Section 3.6.3, which includes regulatory requirements related to connectivity. He stated the standards require a development plan that appropriately distributes traffic to local streets and require stub streets to adjacent developable parcels. He noted Landmark Homes is planning to build the street to the property line but cannot control what happens off the property.

Regarding the City Plan policy LIV 4.2 relating to compatibility of adjacent development, Mr. Choate stated the policy requires developments that share a property line with existing neighborhoods to promote compatibility by continued established block patterns and streets to improve access to services and amenities from the adjacent neighborhood, which is English Ranch, whose residents have been opposed to the street connection. He stated there was never a requirement for a local street connection or local vehicle access.

Mr. Choate stated the Landmark Homes development, Union Park, is in conformance with the City's goals for density and opening the connection would place a great deal of traffic into English Ranch on a local street sized roadway. He stated there is no established block or street pattern that requires a connection to Paddington. He suggested Council rely upon the expertise of the individuals it has appointed to serve on the Planning and Zoning Commission.

Jason Sherrill, Landmark Homes, stated he has met with the appellants to attempt to work out a solution; however, they were left with few options. He commented on the Union Park project and stated it will be a compliment to the fabric of Fort Collins. He noted the original ODP was approved with a channelized T intersection, which was not a favorite access design. Additionally, he stated they did not want to file for alternative compliance, but it was suggested by the City and seemed the appropriate thing to do as no English Ranch residents desired that full connection.

Mr. Sherrill commented on the acquisition of the Young property which created a better project by removing the channelized T intersection and aligning the project with Hidden Pond Drive. The associated traffic study for the amendment showed the need for a traffic signal at that intersection, which the development is committed to fully funding. He stated that while there could be better or equal value to a signal at Paddington, Code requires the light at Hidden Pond and the major amendment was approved by the Planning and Zoning Commission. He reiterated he has no control over Paddington or the Edmonds connection as they are not on his property and stated there is currently no signal warranted at Paddington though there is one warranted at Hidden Pond. He requested Council deny the appeal and allow the ODP to move forward noting any further delay will increase costs.

## APPELLANT REBUTTAL

Mr. Latzke stated part of the reason Paddington does not warrant a signal is due to the lack of connectivity between Kingsley and Corbett. He stated Land Use Code Section 3.6.3 is very specific in that it requires access to and from the proposed development from at least three arterial streets, and this development would not have access to a third arterial, Horsetooth, without connecting through English Ranch. Additionally, the Section requires multiple routes to existing neighborhood centers, parks, and schools without the use of arterial streets, which would not be the case without the Edmonds connection.

Mr. Latzke concurred Landmark Homes does not have control over off-site areas and stated he would support having the stub out on the Union Park site until the property develops that would make the full connection at Edmonds. He stated he is sensitive to the delay consideration and encouraged Council to use any options it has at its disposal that would give the applicant clarity sooner than others if it chooses to uphold the appeal. He reiterated the Planning and Zoning Commission did not seem to be comfortable with the decision noting Vice Chair Stackhouse stated she did not like the motion she made and she would prefer to see a connection from the ODP to Paddington.

Ms. Joyal stated she did not necessarily concur with Mr. Sherrill's comment that all the English Ranch residents oppose the connection noting she received unsolicited emails from residents of the neighborhood who also desire the signal at Paddington. She also noted the traffic study states the only way to alleviate the left-hand turn delays at Paddington is to install a signal.

#### APPLICANT REBUTTAL

Mr. Choate stated Landmark Homes has designed the connection on its property for vehicular access up to the property line. He suggested the Commission approve the major amendment notwithstanding stated concerns is because this is the best option for what is within control of the applicant.

#### COUNCIL QUESTIONS

Councilmember Pignataro asked if Council needs to act on the fair hearing issue Mr. Latzke withdrew. City Attorney Daggett replied it would be beneficial for Council to make a motion finding there was a fair hearing despite arguments on the topic not being presented.

***Mayor Pro Tem Francis made a motion that Council find that the Planning and Zoning Commission did conduct a fair hearing in its consideration of the Major Amendment to the Ziegler-Corbett Overall Development Plan. Councilmember Pignataro seconded the motion. Yeas: Arndt, Francis, Ohlson, Peel, Canonico, Pignataro and Gutowsky. Nays: none.***

#### ***THE MOTION CARRIED.***

Mayor Pro Tem Francis stated it makes the most sense to remand the decision back to the Planning and Zoning Commission with the direction to be in full compliance with connectivity standards and to disregard the alternative compliance. She stated connectivity between the neighborhoods is important.

Councilmember Peel questioned what the Commission could do with the signal if the issue is remanded. Tyler Stamey, City Traffic Engineer, stated current traffic volumes on Paddington do not warrant a signal; however, adding the connection from the ODP site would likely add enough traffic to the intersection of Paddington and Ziegler to meet that warrant.

Councilmember Ohlson asked staff if this motion provides enough direction. Ryan Mounce, City Planner, replied there is an intervening parcel and while this project could make the connection to the northern property boundary of its site, there is currently no public right-of-way to complete the connection to Edmonds at this time and that would lead to a discussion around when Paddington would potentially be signalized based on the timing of that connection. Additionally, there would be questions around the interim condition for Ziegler Road access and whether it remains full for this development.



Councilmember Ohlson stated he would like to see this project be considered swiftly without cutting out any appropriate process. Sizemore replied that would be staff's approach recognizing this has been an ongoing process.

Mayor Arndt concurred the connectivity standards should apply, and the Commission needed that direction from Council.

**Mayor Pro Tem Francis made a motion that City Council remand this matter for a Planning and Zoning Commission rehearing with the direction that on rehearing its approval of the Major Amendment to the Ziegler-Corbett Overall Development Plan, the Planning and Zoning Commission shall consider at minimum the following issues: coming into full compliance with connectivity standards and removing alternative compliance. The Planning and Zoning Commission shall make specific factual findings with respect to each of these issues. In light of this remand, she further moved to dismiss the two appeals filed by Lacey Joyal and Tamara Burnside together and by Craig Latzke with respect to any other issue not addressed in the remand to the Planning and Zoning Commission. Councilmember Canonico seconded the motion. Yeas: Arndt, Francis, Ohlson, Peel, Canonico, Pignataro and Gutowsky. Nays: none.**

**THE MOTION CARRIED.**

**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.)*

There was a consensus to bring the U+2 ballot question back to Council on September 5.

- OB 2. **Motion to adjourn this meeting until after the completion of the Electric Utility Enterprise Board business:**

**Mayor Pro Tem Francis made a motion that Council adjourn this meeting until after the completion of the Electric Utility Enterprise Board business. Councilmember Peel seconded the motion. Yeas: Arndt, Francis, Ohlson, Peel, Canonico, Pignataro and Gutowsky. Nays: none.**

**THE MOTION CARRIED.**

**Q) ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 12:47 a.m.

ATTEST:

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



  
\_\_\_\_\_  
Mayor