



City Council Regular Meeting Agenda

September 5, 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) PROCLAMATIONS AND PRESENTATIONS

PP 1. **Declaring September 9, 2023 as Poudre Landmarks Foundation 39th Annual Historic Homes Tour Day.**

Presented Proclamation.

REGULAR MEETING 6:00 PM

B) CALL MEETING TO ORDER

C) PLEDGE OF ALLEGIANCE

D) ROLL CALL

7-0

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 August 8, 2023 Special Meeting and the August 15, 2023 Regular Meeting.**

The purpose of this item is to approve the minutes of the August 8, 2023 special meeting and the August 15, 2023 regular meeting.

Action Taken: Approved.

2. **Second 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.**

This Ordinance, unanimously adopted on First Reading on August 15, 2023, appropriates 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.

There was an error in the Ordinance on First Reading in Section 2. The appropriation amount expressed in words did not match the numerical value. The numerical value was correct and reflected throughout the Ordinance. The appropriation amount expressed in words has been updated to match the numerical value.

Action Taken: Adopted on Second Reading.

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

This Ordinance, unanimously adopted on First Reading on August 15, 2023, appropriates \$200,000 in additional funds to continue the encampment 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.

Action Taken: Adopted on Second Reading.

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

This Ordinance, unanimously adopted on First Reading on August 15, 2023, appropriates \$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.

Action Taken: Adopted on Second Reading.

5. **Second 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.**

This Ordinance, unanimously adopted on First Reading on August 15, 2023, appropriates 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.

Action Taken: Adopted on Second Reading.

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

This Ordinance, unanimously adopted on First Reading on August 15, 2023, requests 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.

Action Taken: Adopted on Second Reading.

7. **Second 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.**

This Ordinance, unanimously adopted on First Reading on August 15, 2023, appropriates 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.

Action Taken: Adopted on Second Reading.

8. **First Reading of Ordinance No. 110, 2023, Appropriating Prior Year Reserves and Philanthropic Revenue Received Through City Give for The Carnegie Center for Creativity as Designated by the Donors.**

The purpose of this item is to request appropriation of \$100,000 in philanthropic revenue received through City Give for The Carnegie Center for Creativity as designated by the donors.

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 First Reading.

9. **Items Related to the Implementation of a Strengthening Mobility and Revolutionizing Transportation (SMART) Grid Electric Vehicle Charge Management Solution.**

A. Resolution 2023-077 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the U.S. Department of Transportation for Implementation of a SMART Grid Electric Vehicle Charge Management Solution.

Action Taken: Adopted.

B. First Reading of Ordinance No. 111, 2023, Making a Supplemental Appropriation of Grant Funds from the U.S. Department of Transportation SMART Grants Program in Support of the City of Fort Collins Electric Vehicle Fleet.

Action Taken: Adopted on First Reading.

The City successfully applied for \$1,059,037 under the U.S. Department of Transportation (USDOT) SMART Grants Program to support implementing a SMART Grid Electric Vehicle (EV) charge management solution to control usage of City owned EV chargers to reduce energy consumption (the SMART Grid Project).

The purpose of this item is to support this project by:

- Authorizing the Mayor to execute an Intergovernmental Agreement (IGA) with the USDOT for implementing the SMART Grid Project; and
- Appropriating \$1,059,037 of unanticipated grant revenue from USDOT.

10. **First Reading of Ordinance No. 112, 2023, Making Supplemental Appropriations and Authorizing Transfers for the “Planning to Implement Future Innovation Zones” Project.**

The purpose of this item is to develop the Innovation Zones Project Plan by:

- Appropriating \$50,000 of unanticipated grant revenue, awarded by the Colorado Department of Transportation’s Office of Innovative Mobility; and
- Utilizing matching funds in the amount of \$10,000 from existing 2023 appropriations into this new grant project.

Action Taken: Adopted on First Reading.

11. **First Reading of Ordinance No. 113, 2023, Making Supplemental Appropriations and Authorizing Transfers for the City of Fort Collins Electric Vehicle Readiness Roadmap Update.**

The purpose of this item is to update the City’s 2017 Electric Vehicle (EV) Readiness Roadmap by:

- Appropriating \$40,000 of unanticipated grant revenue, awarded by the Colorado Energy Office; and
- Utilizing matching funds in the amount of \$13,333 from existing 2023 appropriations into this new grant project.

Action Taken: Adopted on First Reading.

12. **First Reading of Ordinance No. 114, 2023, Amending Various Sections of the Code of the City of Fort Collins to Correct References to the Building Review Board and to Correct References to Meeting Minutes Requirements.**

The purpose of this item is to amend various sections of City Code. During the work of the Ad Hoc Committee on Boards and Commissions, staff identified necessary edits to all reference to the Building Review Board. Those references should be changed to the Building Review Commission, which is in line with City Ordinance No. 049, 2021. Also, staff identified numerous incorrect references to the requirement for various bodies to record meeting minutes.

Action Taken: Adopted on First Reading.

13. **First Reading of Ordinance No. 115, 2023, Authorizing Conveyance of a Permanent Non-Exclusive Utility Easement on Property Jointly Owned by the City and the City of Loveland at the Northern Colorado Regional Airport for the AeroFNL Development.**

The purpose of this item is to authorize a permanent non-exclusive utility easement over a portion of the Northern Colorado Regional Airport property owned jointly by the City of Fort Collins and the City of Loveland and leased by IC Loveland Investors, LLC, to allow for the installation and maintenance of electrical infrastructure for the new AeroFNL development.

Action Taken: Adopted on First Reading.

14. **Resolution 2023-078 Approving the Execution of the Fifth Amended Intergovernmental Agreement Establishing the Larimer Emergency Telephone Authority.**

The purpose of this item is to approve an agreement to amend and supersede an intergovernmental agreement (IGA) establishing an "E911" Emergency Telephone Service. The City is a party to an Intergovernmental Agreement (the "E-911 IGA") dated November 14, 1990, which established a separate legal entity called the Larimer Emergency Telephone Authority ("LETA"). LETA is responsible for operating the emergency telephone service program (911) and defining how each of the parties will participate in the Authority. The LETA Board of Directors recently approved an amended E-911 IGA to expand services and representation in LETA operations into Jackson County. This Resolution approves execution of the Fifth Amended Intergovernmental Agreement for the Establishment of the Larimer County Emergency Telephone Authority.

Action Taken: Adopted.

15. **Resolution 2023-079 Amending the Existing Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the Reconstruction of the US 287 and Troutman Traffic Signal to Extend the Agreement's Expiration Date.**

The purpose of this item is to extend the expiration date of an existing Intergovernmental Agreement ("IGA") with the Colorado Department of Transportation ("CDOT") that is set to expire on September 11, 2023, to September 11, 2025. This date will allow for staff to complete the work and receive the full \$250,000 reimbursement amount identified in the IGA.

Action Taken: Adopted.

16. Resolution 2023-080 Adopting Findings of Fact in Support of the City Council’s Decision on Appeal to Remand the Planning and Zoning Commission Approval of a Major Amendment to the Ziegler-Corbett Overall Development Plan.

The purpose of this item is to make findings of fact and conclusions regarding Council’s decision at the August 15, 2023, appeal hearing to remand the Planning and Zoning Commission decision to approve the Ziegler-Corbett Overall Development Plan Major Amendment back to the Planning and Zoning Commission for further consideration.

Action Taken: Adopted.

17. Resolution 2023-081 Making an Appointment to the Human Relations Commission.

The purpose of this item is to fill a vacancy on the Human Relations Commission.

Action Taken: Adopted.

END OF CONSENT CALENDAR

J) ADOPTION OF CONSENT CALENDAR

Adopted the Consent Calendar: 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

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

18. Items Relating to City Council’s Direction to Address Existing Occupancy Regulations.

- A. Possible Public Hearing and Motion(s) Regarding Protest(s) of Ballot Language.
- B. Resolution 2023-082 Directing City Staff to Prepare and Present to Council Amendments to the City of Fort Collins Land Use Code Increasing Limits on Occupancy in Residential Dwellings.
- C. Resolution 2023-083 Referring to the Registered Electors of the City of Fort Collins Resolution 2023-082, 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 Tuesday, September 5, 2023, at noon. Protest(s) shall be heard, considered and resolved by the Council prior to

adoption of the related Resolution. If protests are received, copies will be included in Council's "Read Before the Meeting" packet.

Action Taken: *Adopted Resolution 2023-082 5-2.*

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

Nays: *Councilmembers Gutowsky and Ohlson*

Resolution 2023-083: *Lack of motion. No action taken.*

19. **First Reading of Ordinance No. 116, 2023, Amending the Land Use Code Regarding Buffering Between Buildings with Occupiable Space and Oil and Gas Facilities.**

Based on Council direction during the October 25, 2022, Work Session discussion and the April 2023 adoption of Ordinance No. 151, 2022 for new oil and gas well sittings, staff seek to update the reverse setback development standards (LUC 3.8.26) to reflect recent changes in the **Colorado Energy and Carbon Management Commission (ECMC)** regulations, recently adopted Ordinance No. 151, 2022 – AMENDING THE LAND USE CODE TO REGULATE OIL AND GAS FACILITIES AND PIPELINES, and lessons learned over the past 4 years, including:

- Apply reverse setback buffers to all occupiable buildings, not just residential uses; and
- Explicitly state required setback buffers, rather than refer generally to ECMC rules; and
- Create a more predictable pathway for abandoned/inactive well types; and
- Eliminate the buffer exemption for crossings of arterial roadways.

Action Taken: *Adopted Ordinance No. 116 6-1.*

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

Nays: *Councilmember Peel*

20. **Items Implementing Recommendations from the Ad Hoc Committee on Boards and Commissions.**

- A. First Reading of Ordinance No. 117, 2023, Amending Chapter 2, Article III, Division 1 of the Code of the City of Fort Collins to Add City Council Liaison Responsibilities.
- B. First Reading of Ordinance No. 118, 2023, Amending Chapter 2, Article III, Division 2 of the Code of the City of Fort Collins to Modify Type 1 Advisory Board Composition and Functions and Eliminate One-Year Terms.
- C. First Reading of Ordinance No. 119, 2023, Amending Chapter 2, Article III, Division 3 of the Code of the City of Fort Collins to Eliminate One-Year Terms of Type 2 Advisory Boards.
- D. First Reading of Ordinance No. 120, 2023, Reorganizing Chapter 2, Article VII, Divisions 1 and 2 of the Code of the City of Fort Collins to Consolidate the Ethical Rules of Conduct and Board of Ethics Sections with a Complaint Process for Violations of the Code of Conduct.
- E. Resolution 2023-084 Approving Amendments to the Respectful Workplace Policy and Renaming it the Anti-Discrimination and Anti-Harassment Policy.
- F. Resolution 2023-085 Approving a Code of Conduct for City Councilmembers and Board and Commission Members.

G. Discussion and Direction to Staff Regarding Ex-officio Members.

The purpose of these items is to consider resolutions and amendments to various divisions of Chapter 2 of the Municipal Code to reflect the recommendations of the Ad Hoc Committee on Boards and Commissions.

Action Taken: *Adopted Ordinance No. 117 6-1.*

Ayes: *Mayor Arndt, Mayor Francis, Councilmembers Peel, Canonico, Pignataro, and Gutowsky*
Nays: *Councilmember Ohlson*

Adopted Ordinance No. 118, as amended to change the number of members of the Women and Gender Equity Board from 9 to 7 and to remove all references to ex-officio members from the current and proposed code language 7-0.

Adopted Ordinance No. 119 7-0.

Adopted Ordinance No. 120 7-0.

Adopted Resolution 2023-084 7-0.

Adopted Resolution 2023-085 6-1.

Ayes: *Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Gutowsky, Peel, Canonico, and Pignataro*
Nay: *Councilmember Ohlson*

21. **First Reading of Ordinance No. 121, 2023, Amending the Land Use Code to include Regulations for Making Water Adequacy Determinations.**

The purpose of this item is to adopt Land Use Code provisions to add specific regulations outlining how the City will make water adequacy determinations for development. The proposed regulations are divided into three different categories for: (1) established potable water supply entities; (2) new, or other potable water supply entities; and, (3) non-potable water supply entities. The goals of these changes include: complying with Colorado state statutory requirements (Section 29-20-301, et seq., C.R.S.); ensuring development has an adequate water supply; providing City staff with guidance to make these determinations and applicants with certainty on the requirements; and ensuring that growth and development in the City occur in a planned and coordinated manner. Other than minor, non-substantive clarifications, the proposed regulations are the same as those discussed at the June 6, 2023, Work Session. The Planning & Zoning Commission has recommended adoption of the proposed regulations (4-2 vote).

Action Taken: *Adopted Ordinance No. 121 6-1.*

Ayes: *Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Canonico, Pignataro, Gutowsky*
Nays: *Councilmember 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, November 7, 2023, Regular Council meeting:**

"I move, pursuant to City Code Section 2-28(a), that Council cancel its regular meeting on Tuesday, November 7, 2023, due to the election that day."

Motion Adopted 7-0.

- OB 3. **Consideration of a motion to cancel the Tuesday, January 2, 2024, Regular Council meeting:**

"I move, pursuant to City Code Section 2-28(a), that Council cancel its regular meeting on Tuesday, January 2, 2024."

Motion Adopted 7-0.

- OB 4. **Motion to adjourn this meeting until after the completion of the Electric Utility Enterprise Board business:**

"I move that Council adjourn this meeting until after the completion of the Electric Utility Enterprise Board business."

Motion Adopted 7-0.

Q) ADJOURNMENT

Adjourned at 11:08 p.m.

Every regular Council meeting will end no later than midnight, except that: (1) any item of business commenced before midnight may be concluded before the meeting is adjourned and (2) the Council may, at any time prior to adjournment, by majority vote, extend a meeting beyond midnight for the purpose of considering additional items of business. Any matter that has been commenced and is still pending at the conclusion of the Council meeting, and all matters for consideration at the meeting that have not yet been considered by the Council, will be deemed continued to the next regular Council meeting, unless Council determines otherwise.

Upon request, the City of Fort Collins will provide language access services for individuals who have limited English proficiency, or auxiliary aids and services for individuals with disabilities, to access City services, programs and activities. Contact 970.221.6515 (V/TDD: Dial 711 for Relay Colorado) for assistance. Please provide advance notice. Requests for interpretation at a meeting should be made by noon the day before.

A solicitud, la Ciudad de Fort Collins proporcionará servicios de acceso a idiomas para personas que no dominan el idioma inglés, o ayudas y servicios auxiliares para personas con discapacidad, para que puedan acceder a los servicios, programas y actividades de la Ciudad. Para asistencia, llame al 970.221.6515 (V/TDD: Marque 711 para Relay Colorado). Por favor proporcione aviso previo cuando sea posible. Las solicitudes de interpretación en una reunión deben realizarse antes del mediodía del día anterior.