



City Council Regular Meeting Agenda

September 19, 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 17-23, 2023, as Constitution Week.
- PP 2. Declaring September 24-30, 2023, as Source Water Protection Week.
- PP 3. Declaring October 1-6, 2023, as Community Classic Week.
- PP 4. Declaring September 2023 as Hunger Action Month.
- PP 5. Declaring September 15-October 15, 2023, as Hispanic/Latinx/e Heritage Month.

Proclamations were presented.

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

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 September 5, 2023 Regular Meeting.

The purpose of this item is to approve the minutes of the September 5, 2023 regular meeting.

Action Taken: Approved.

2. Second 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.

This Ordinance, unanimously adopted on First Reading on September 5, 2023, 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 Second Reading.

3. Second 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.

This Ordinance, unanimously adopted on First Reading on September 5, 2023, is to appropriate \$1,059,037 of unanticipated grant revenue from USDOT.

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).

Action Taken: Adopted on Second Reading.

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

This Ordinance, unanimously adopted on First Reading on September 5, 2023, 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 Second Reading.

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

This Ordinance, unanimously adopted on First Reading on September 5, 2023, 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 Second Reading.

6. Second 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.

This Ordinance, unanimously adopted on First Reading on September 5, 2023, amends 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 Second Reading.

7. Second 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.

This Ordinance, unanimously adopted on First Reading on September 5, 2023, authorizes a permanent nonexclusive 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 Second Reading.

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

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

A. Second 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.

On First Reading of Ordinance No. 118, 2023, a change was proposed to City Code Section 2-102 (Section 4 of the Ordinance) to add an ex-officio position on the Affordable Housing Board. During First Reading, Council decided not to adopt that change. Because no other changes to Section 2-102 were proposed, on Second Reading, Section 4 of the Ordinance is being deleted in its entirety because the wording in Section 2-102 remains the same as it currently appears in City Code.

B. Second 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.

C. Second 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.

On Second Reading of Ordinance No. 120, 2023, a change is being made to Section 2-577 to correct a typographical error to a cross reference.

NOTE: Due to a split vote on Ordinance No. 117, 2023 (Nays: Ohlson), on Second Reading it will be on Discussion. Second Reading of Ordinances Nos. 118, 119 and 120 are on Consent, as they passed unanimously.

Action Taken: Adopted Ordinance No. 118 on Second Reading.

Action Taken: Adopted Ordinance No. 119 on Second Reading.

Action Taken: Adopted Ordinance No. 120 on Second Reading.

9. Items Pertaining to the Annual Adjustment Ordinance.

The purpose of these Annual Adjustment Ordinances is to appropriate additional revenues or prior year reserves that need to be appropriated before the end of the year to cover related expenses that were not anticipated, and therefore, not included in the 2023 annual budget appropriation. The additional revenue is primarily from fees, charges for service, rents, contributions, donations, and grants that have been paid to City departments to offset specific expenses.

A. First Reading of Ordinance No. 122, 2023, Making Supplemental Appropriations in Various City Funds.

B. First Reading of Ordinance No. 123, 2023, Appropriating Prior Year Reserves and Authorizing Transfers in Various City Funds.

Action Taken: Adopted Ordinance No. 122 on First Reading.

Action Taken: Adopted Ordinance No. 123 on First Reading.

10. **First Reading of Ordinance No. 124, 2023, Appropriating Philanthropic Revenue Received Through City Give for Various Programs and Services as Designated by the Donor.**

The purpose of this item is to request appropriation of \$20,300 in philanthropic revenue received through City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative, was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

Action Taken: Adopted Ordinance No. 124 on First Reading.

11. **First Reading of Ordinance No. 125, 2023, Making a Supplemental Appropriation from the Great Outdoors Colorado Grant in Support for the Completion of the Colorado Front Range Trail-Poudre River Trail Segment.**

The purpose of this item is to support this project by appropriating \$1,000,744 of unanticipated grant revenue from GOCO through Larimer County to the City.

Larimer County, in partnership with City of Fort Collins (City), and Towns of Windsor and Timnath, applied for a funding opportunity through Great Outdoors Colorado (GOCO) in support of the completion of the Poudre River Trail. The joint request successfully secured the funding needed to design and construct the remaining sections of trail. The focus of this work extends from the Environmental Learning Center in eastern Fort Collins to River Bluffs Open Space west of Windsor and includes a spur connection to Windsor's Kyger Reservoir property (the Project).

Larimer County, serving as the grant administrator, signed an agreement with GOCO that GOCO would pay a total of \$3,740,402 to complete construction of the Poudre River Trail. The agreement provides proposed allocation of construction costs to each of the partners. The City and Larimer County entered an Intergovernmental Agreement (IGA) identifying the City as a subrecipient of \$1,000,744 of the total \$3,740,402 awarded by GOCO. The IGA stipulates the City's obligation to invoice Larimer County for all eligible costs associated with the construction of Poudre River Trail within the City's jurisdiction. Larimer County will reimburse the City for all eligible construction-related costs.

Action Taken: Adopted Ordinance No. 125 on First Reading.

12. **First Reading of Ordinance No. 126, 2023, Appropriating Prior Year Reserves and Making Supplemental Appropriation for the City of Fort Collins Revolving Loan Fund Program.**

The purpose of this item is to authorize the transfer of \$143,884 accumulated from Platte River Power Authority's (PRPA) annual contribution to the City of Fort Collins in support of community economic development funds. The accumulated economic development funds have been in the General Fund to create the City of Fort Collins Revolving Loan Fund for Small Businesses and Startup companies operating in Fort Collins. The City will use the funds to support program access to capital for small businesses in Fort Collins city limits, including those that have historically not had access to traditional financial capital markets.

Action Taken: Adopted Ordinance No. 126 on First Reading.

13. **First Reading of Ordinance No. 127, 2023, Amending Chapter 7 of the Code of the City of Fort Collins Regarding Duties of the City Clerk.**

The purpose of this item is to align the duties of the City Clerk regarding retention of certain election campaign records with new state law provisions regarding the same.

Action Taken: Adopted Ordinance No. 127 on First Reading.

14. First Reading of Ordinance No. 128, 2023, Ratifying and Reaffirming Certain 2022 and 2023 City Expenditures and Designating Certain Unexpended and Unencumbered Appropriations as Non-Lapsing.

The purpose of this item is to address and remedy an oversight made in certain 2021, 2022, and 2023 appropriation ordinances related to certain appropriated funds that were intended to be designated as non-lapsing appropriations as contemplated in Section 11 of Article V of the City Charter (“Section 11”) but were not so designated. Section 11, which was amended by the City’s voters in April 2021, provided before it was amended that all appropriations for capital projects and for federal and state grants were considered non-lapsing appropriations without any specific designation of non-lapsing in the appropriation ordinance. However, after being amended, Section 11 now requires that there be an express non-lapsing designation in the ordinance, and it also adds another category of appropriations that can be designated non-lapsing, those being private grants and donations.

It has been discovered that various appropriations for capital projects and for federal, state, and private grants and donations, mostly in 2021 appropriation ordinances, were intended to be designated as non-lapsing but through oversight that designation was not included in the ordinance. Nevertheless, these appropriations were accounted for in the City’s accounting records as non-lapsing accounts and funds were spent from those accounts in the subsequent fiscal years of 2022 and 2023. To ensure these expenditures were properly spent in those years, this Ordinance ratifies and reaffirms those expenditures and designates the remaining amounts from those appropriations as non-lapsing for future expenditure.

Action Taken: Adopted Ordinance No. 128 on First Reading.

15. First Reading of Ordinance No. 129, 2023, Suspending Certain Provisions of the City’s Land Use Code and Building Code to Permit Temporary Use of City Property at 117 North Mason Street as a Seasonal Overflow Homeless Shelter.

The purpose of this item is to suspend certain provisions of the City’s Land Use Code to allow the temporary use of 117 North Mason Street as a men’s overflow shelter site from November 1, 2023-April 30, 2024.

Action Taken: Adopted Ordinance No. 129 on First Reading.

16. First Reading of Ordinance No. 130, 2023, Approving the Vacation of an Emergency Access Easement Located on Lot 1 of the Elizabeth Subdivision.

The purpose of this item is to approve an Ordinance that would vacate a twenty-foot emergency access easement (the “Easement”) that was dedicated on the Plat of the Elizabeth Subdivision (the “Subdivision”) across Lot 1, Block 1 (811 East Elizabeth Street) for the benefit of Lot 2, Block 1 (813 East Elizabeth Street) because the Easement is no longer required by Poudre Fire Authority.

Action Taken: Adopted Ordinance No. 130 on First Reading.

17. **Resolution 2023-086 Adopting the Transportation Capital Projects Prioritization Study to be Used as a Methodology and Foundation for Ten-Year Transportation Capital Improvement Program Prioritization and Planning.**

The purpose of this item is to discuss the results of the Transportation Capital Projects Prioritization Study (TCPPS) as it relates to our ten-year Transportation Capital Improvement Program (TCIP) prioritization and planning. The TCPPS is a methodology for selection of capital projects to improve intersections and roadway corridors in the City and aligns with our Vision Zero Action Plan (Vision Zero) and our Active Modes Plan (AMP).

Action Taken: Adopted.

18. **Resolution 2023-087 Repealing Resolution 2003-008 and Adopting the City's Administrative Policy for the Use, Management, and Retention of Electronic Mail by the Mayor and City Council.**

The purpose of this item is to repeal Resolution 2003-008, which adopted a policy for the use, management and retention of electronic mail by the Mayor and Council. In its place, Council will consider adopting the City's Administrative Policy 2.02 "Electronic Records Retention," which will govern use, management and retention of electronic mail by the Mayor and Council.

Action Taken: Adopted.

19. **Resolution 2023-088 Authorizing the Procurement of Services for an Annual Independent Audit of the City's Financial Records.**

The purpose of this item is to authorize City staff to enter into a professional services agreement with Plante Moran PLLC, the independent audit firm recommended by the Council Finance Committee. The Committee interviewed three finalists at the August 16, 2023, special meeting and adopted a motion to recommend Plante Moran for the Council's selection.

Action Taken: Adopted.

20. **Items Relating to the Boards and Commission Manual and Terms of Board and Commission Members Recommended by the Ad Hoc Committee on Boards and Commissions.**

The purpose of these items is to consider a resolution and ordinance that reflect the recommendations of the Ad Hoc Committee on Boards and Commissions.

A. Resolution 2023-089 Approving Amendments to the Board and Commissions Manual.

B. First Reading of Ordinance No. 131, 2023, to Extend Terms of All Board and Commission Members to Align with New Recruitment and Interview Schedule and Waive Eight Year Service Limit.

Action Taken: Adopted Resolution 2023-089.

Action Taken: Adopted Ordinance No. 131 on First Reading.

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

Staff Report: Regarding National Voter Registration Day and Efforts Ahead of the November 7, 2023, Municipal Election.

Registering to vote is the first critical step to participating in elections in Colorado. The upcoming municipal election will be held as a coordinated election conducted by Larimer County and all active registered voters will be sent a mail ballot to participate in the election. Ensuring eligible Fort Collins residents have active voter registrations is one key to maximizing voter participation in this election.

National Voter Registration Day is an annual nationwide event, occurring this year on September 19, focused on ensuring people eligible to vote across the country know how and where to register. In Colorado, online voter registration is fast and easy through the Secretary of State's secure resources at: www.GoVoteColorado.gov.

M) COUNCILMEMBER REPORTS

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

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

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

As adopted during Council's regular meeting on September 5, 2023, the Ordinance includes the following requirements for new neighborhoods and existing neighborhoods located adjacent oil and gas wells:

Oil and Gas Buffers:

- Well not abandoned – 2,000'
- Well abandoned, not reclaimed – 500'
- Well abandoned, reclaimed – 150'

Buffer Standards:

- (Future Developments) No occupiable buildings in the buffer
- (Future Developments) Environmental Site Assessment and remediation of contaminants found.
- (Future Development) Platted Property Disclosure
- (Existing Developments) No new Accessory Dwelling Units
- (Existing and Future Developments) Point of sale disclosure

- (Existing and Future Developments) Prohibition of new common area/community gathering spaces (e.g., playgrounds)

If a new development application (either for future development that is not built or for additional development within an existing development (e.g., Hearthfire and Richard’s Lake)) is deemed complete prior to the adoption of Ordinance No. 116, 2023, the standards currently in the Land Use Code (Ordinance No. 114, 2018) are applied to the development application. Development applications currently under review within the active oil and gas field and under the existing standards include Sonders Village (PDP230012), Water’s Edge Parks (MA210077), and Montava Phase G (BDR210013).

Action Taken: *Adopted Ordinance No. 116 5-2 on Second Reading with recommended amendments.*

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

Nays: *Councilmember, Ohlson and Peel*

22. Second 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.

This Ordinance, adopted on First Reading by a vote of 6-1 (Nays: Ohlson), considers amending Chapter 2, Article III, Division 1 of the Code of the City of Fort Collins to Add City Council Liaison Responsibilities.

The purpose of this ordinance is to change the Code language in Section 2-72 in order to provide flexibility for one or more boards to meet together. The responsibility for the Council liaisons in making the determination of allowing the joint meeting has also been added to Council liaison role section:

(d) Two or more board or commissions, committees of boards or commissions, or representatives from each such board, commission or committee may hold a joint meeting if the subject of the meeting specifically relates to the functions an item or project in the work plan of each participating board or commission, or if the City Manager or City Council liaison assigned to each of the involved boards or commissions has approved the joint meeting.

NOTE: Due to a split vote on Ordinance No. 117, 2023 (Nays: Ohlson), on Second Reading it will be on Discussion. Second Reading of Ordinances Nos. 118, 119 and 120 are on Consent, as they passed unanimously.

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

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

Nays: *Councilmember Ohlson*

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

This Ordinance, adopted by a vote of 6-1 (Nays: Peel) on First Reading on September 5, 2023, adopts 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 on Second Reading.

Ayes: Mayor Arndt, Mayor Pro Tem Francis, and Councilmembers Ohlson, Canonico, Pignataro, and 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.)

Direction to staff to actively pursue Rule 211 and look into all manner of health and safety to plug wells, including purchase.

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

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

Motion Adopted 7-0.

Q) ADJOURNMENT

Adjourned at 7:36 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.