

September 19, 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**

- 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.**

The above proclamations were presented by Mayor Jeni Arndt in City Council Chambers beginning at 5:00 p.m.

**REGULAR MEETING**

**6:00 PM**

**B) CALL MEETING TO ORDER:**

Mayor Jeni Arndt called the regular meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City's Zoom platform.

**C) PLEDGE OF ALLEGIANCE**

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

**D) ROLL CALL:**

PRESENT  
Mayor Jeni Arndt  
Mayor Pro Tem Emily Francis  
Councilmember Susan Gutowsky  
Councilmember Tricia Canonico  
Councilmember Shirley Peel  
Councilmember Kelly Ohlson  
Councilmember Julie Pignataro

**STAFF PRESENT**

City Manager Kelly DiMartino  
City Attorney Carrie Daggett  
City Clerk Anissa Hollingshead

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

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

- All items on the consent agenda were recommended for approval.
- The scheduled staff report and 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.)*

Carrie Harriman, Fort Collins resident, moved from Great Falls, Virginia and Huntington Beach, California, and shared the reasons her household chose to come to Fort Collins and expressed the need to avoid increasing housing density in established neighborhoods.

Adam Eggleston, Fort Collins resident, spoke about trying to learn from item discussions and the work Council is doing on housing affordability specifically, observing every time there are efforts to take a big step forward in this regard, those steps become minimized out of fear when there is a need to be bold, including in keeping costs down in developing new housing to keep things more affordable for more residents. Eggleston also spoke regarding oil and gas setbacks to advise the seller's disclosure statement is not a required form in any sales transaction and adding a new form will require approval from DORA, which will take at least a year.

Asad Aziz, Fort Collins resident, spoke as someone who raised their family here regarding policies like U+2, and how that rule is discriminatory by using the current definition of family as a basis and makes it difficult for similarly situated residents who want to remain in their homes after children are grown and who may need to be able to rent out parts of the home in order to maintain it. Aziz also cited studies done by the Federal Reserve Bank of New York, and the Brookings Institute regarding alternatives to occupancy restrictions.

Patricia Babbitt, Fort Collins resident, shared the intention to run for mayor as a write in candidate in the upcoming City election, speaking regarding the importance of representing residents and their views in policy making in a range of areas.

Kathryn (last name not given), Fort Collins resident, spoke regarding the YIMBY (Yes, In My Backyard) organization and shared information she read regarding its origins in coopting the work of advocates for housing justice, advising of the dangers of politicians supporting this work. She mentioned three City Councilmembers have accepted endorsements of the YIMBY group and recounted the formation of a Fort Collins YIMBY group after the repeal of the previously proposed Land Development Code by the Council.

Dawn Cramer, Fort Collins resident, asked Councilmembers to explain what the YIMBY movement is and how to explain if there is a large amount of money invested by the national YIMBY organization in City elections and what its impact may be.

Renee Walkup Chair of the Economic Advisory Board in supporting local small businesses, asking as well for broad support for those businesses. Walkup also spoke about the revolving loan fund (RLF)



and its importance in supporting small businesses, especially businesses unable to obtain credit otherwise. Speaking for herself, Walkup stated that she recommends Council make this RLF “evergreen.”

Ed Behan, Media and Outreach Liaison with the Larimer Alliance for Health, Safety and the Environment, and resident of Fort Collins, spoke regarding reverse setbacks for oil and gas and media reporting regarding plugging wells, pointing to concerns this group has regarding the presence of wells and the need for ongoing monitoring, as well as robust notification and information to the public. Active advocacy by the City to the State may also be a necessary element to ensure the State is able to take necessary action.

Rich Stave, Fort Collins resident, spoke with questions about rather Planning and Zoning works for the City or for developers, noting a particular unnamed development has had a host of set asides from the City to encourage development and continues to ask for more, not as a package but in pieces.

Public comment concluded at 6:30 p.m.

#### **H) PUBLIC COMMENT FOLLOW-UP**

Mayor Pro Tem Emily Francis asked about Item #12 on the consent agenda tonight, noting it does become evergreen and sought clarity on the process for this. SeonAh Kendall, Economic Health Director, came forward to note the evergreen aspect of this loan comes from the loan the repayment being redistributed once complete.

Mayor Jeni Arndt asked for follow up on Mr. Eggleston’s comment about real estate disclosures requiring approval from DORA and if that is accurate. Kirk Longstein came forward and responded that the disclosure requirement is being recommended tonight, and responded to whether that is being proposed to be added to the seller’s disclosure statement. He noted what is proposed is a notice and not an addition to disclosure documents.

Councilmember Gutowsky followed up on the comments made regarding YIMBY, noting she herself had similar interest in learning more about the YIMBY organization after becoming aware that three of her fellow Councilmembers were endorsed by them. She noted she attended an event sponsored by the Fort Collins YIMBY chapter called Housing Fest and was able to speak to the president of the local organization. She continued her own research and noted it is important to know who is coming into our community and how policy is being influenced. She also noted other organizations Neighbor to Neighbor and CARE Housing who were also present at that event, which was positive to see.

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

None.

#### **J) 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.*

***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.*

***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).*

***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.*

***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.*

***Adopted on Second Reading.***



6. **Second Reading of Ordinance No. 114, 1023, 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.*

**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.*

**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.

**Adopted Ordinances 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.*

**Adopted Ordinances 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.*

**Adopted 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.

**Adopted 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.*

**Adopted 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.*

**Adopted 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.*

**Adopted 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.*

***Adopted 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.*

***Adopted 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).*

***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.*

***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.*

***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.*

***Adopted Resolution and Ordinance on First Reading.***

**END OF CONSENT CALENDAR**

***Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to approve the recommended actions on items 1-20 on the Consent Calendar.***

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

**K) CONSENT CALENDAR FOLLOW-UP**

Mayor Arndt commended the revolving loan fund, and the work done to ensure this is an evergreen, ongoing program in support of local businesses.

**L) STAFF REPORTS**

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

City Clerk Anissa Hollingshead provided a brief verbal report on how Fort Collins residents can get registered to vote or ensure their registration is current and accurate. In response to questions from the Council, Clerk Hollingshead also provided information about deadlines and options for receiving and returning ballots in the November 7 Municipal Election.

**M) COUNCILMEMBER REPORTS**

Councilmember Tricia Canonico reported on attending the following events over the last two weeks:

- A SNAPP Empowering Teens fundraiser on September 14.
- The Neighbor to Neighbor Welcome Home fundraiser on September 15 where \$60,000 was raised to help with its housing work.
- A business listening session at the Board and Brush Creative Studio for the City's Multicultural Business and Entrepreneur Center customers.
- Colorado Remembers September 11 event in Denver with former Secretary of State Condoleezza Rice and Admiral Stavridis.
- Got to share about the Epic Homes plan and Our Climate Future with an EPA local government working group. Kudos to everyone who has been part of bringing about those programs.

Councilmember Susan Gutowsky spoke about the following events:

- Attended the historic homes tour last week, which included the Museo de Tres Colonias for the first time.
- Prior to the Historic Home Tour, there was a tour host party to recognize those who were opening their homes, noting it was the first time the City partnered with the Poudre Landmarks Foundation in this work.
- Chamber of Commerce hosted an event to learn more about Proposition HH with well-presented information on both sides of the issue.
- Saw the band Blood, Sweat and Tears at the Gardens on Spring Creek concert series and encouraged community members to attend if not this year, then the next year.
- Longview Campus of Larimer County Behavioral Health Center celebration day will be this Friday, with tours available of the now completed building at Taft and Trilby that will start taking patients in December and believes it will be a blessing to the community.

Councilmember Shirley Peel shared the following notes:

- Reminder the Chamber of Commerce is recognizing small businesses this month and the importance of those businesses to the community.
- As a former educator she greatly enjoyed the opportunity in the last two weeks to speak to students at Coyote Ridge Elementary about city government, as well as being part of the team addressing Polaris School students at City Hall the day prior.
- Reminder it is Constitution Week.
- Also celebrating Hispanic Latin/x Heritage Month starting September 15.
- Common Sense Institute and the Chamber of Commerce this year is concentrating on municipalities and produced a report for Fort Collins on homelessness, crime, and housing, which gave the City and Police department kudos on how these issues are being handled in Fort Collins.
- Attended the Farm to Table fundraiser run by the Fort Collins Rescue Mission and was encouraged by their work to help people with addiction.

Councilmember Julie Pignataro shared the following updates:

- Sustainable Living Association is doing a youth climate action event this weekend.
- Open Streets event this Sunday on Manhattan Ave, which will include several Councilmembers present.
- Noting how housing has been a topic for a while, the NPR program "1A" is coming to the Lincoln Center for a free event on September 28.

Mayor Jenni Arndt shared the following update:

- Gave a shout out to the work of the staff we have here, noting Fort Collins was asked to be on a webinar with the USDOT following receipt of a SMART grant, which is something we sort of take for granted while other communities are fascinated by our work. She specifically shouted out Tracy Ochsner as the content subject matter expert who did an excellent job and knows all the details.

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

None.



## 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 contaminates 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).*

Interim Planning Manager Clay Frickey introduced the item before turning the presentation over to Senior Environmental Planner Kirk Longstein who presented as set forth in the slide deck in the agenda packet. Also present to assist with questions was Sr. Assistant City Attorney Brad Yatabe.

#### PUBLIC COMMENT

There was no public comment on this item.

#### COUNCIL DISCUSSION

Councilmember Peel asked if Hearthfire or any other affected areas are already allowed to have ADUs. Clay Frickey noted developments in Urban Estates and Low Density Mixed Use Neighborhood Districts both also allow ADUs. In follow up, it was clarified that going forward under the proposed language new building of ADUs that would require a certificate of occupancy could

not be built. Staff noted the overall impact of this restriction on the City's ability to add additional housing to address affordable housing would be minimal.

Peel asked for a reminder on the process for plugging the wells and what the timeline would be. Longstein reiterated the ECMC Rule 211 application process to request operators permanently abandon and plug low producing wells. Not all 10 active wells would be eligible for this. Requesting a hearing with ECMC would likely take 4-6 months to schedule that hearing and a few months to prepare this application.

Councilmember Pignataro asked about whether a resident inquiry that was shared is regarding current variance process or what is being proposed. Longstein clarified the reverse setbacks in front of Council represent a modification of standard process from the 2000' setback from well approved earlier in the year. After discussion on this modification and how it would rarely be able to be invoked, staff clarified the option is being provided to ensure private policy rights are respected and consistency is supported while allowing for additional information to be presented in the future that may make a modification appropriate.

Pignataro asked who is liable when a plugged well fails, and if we have a percentage of plugged wells that fail. Staff did not have such a percentage, while Longstein acknowledged cement can fail and staff can provide details on the age of current plugged wells. Longstein referenced a known instance in Boulder County where a plugged well did fail and spoke to how the oil and gas operator has been released from liability after completing requirements which places the responsibility on the private property owner. Longstein also referenced the disclosure notice being recommended as a compromise to ensure the private property owner understands their liability.

Councilmember Gutowsky asked regarding parks and for more clarity on the status of parks in those areas. Longstein shared a backup slide from their presentation showing a City owned property in the buffer area, which was included in the Richard's Lake Park master plan, where preliminary planning work was done in 2010 and some fees have been collected on this park, which would make it exempt from the proposed ordinances as staff is recommending they move forward since it is already in the planned project. Similarly, the Water's Edge Park had submitted Development Application in 2021 which would also be exempt, noting as well the developer did pay to plug adjacent wells.

***Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt on Second Reading Ordinance No. 116, 2023, Amending the Land Use Code Regarding Buffering Between Buildings with Occupiable Space and Oil and Gas Facilities, with the amendments recommended by staff, including:***

**(1) Amending Section 3.8.36(A)(2) and (E)(3)(B) to Clarify Exemption**

- Section 3.8.36(A)(2) (strike-through of text to be deleted and underline of text to be added):

Any existing building containing occupiable space ~~already~~ constructed within an oil and gas buffer pursuant to an approved application submitted prior to September 29, 2023, is exempt from the restriction on such building in an oil and gas buffer. However, any lot upon which the building is placed is subject to the restriction described in Subsection (E)(3) and disclosures in Subsection (F).

- Section 3.8.36 (E)(3)(B):

Any existing building containing occupiable space ~~already~~ constructed within an oil and gas buffer pursuant to an approved application submitted prior to September 29, 2023, is exempt from the restriction on such building within an oil and gas buffer. However, no additional



building containing occupiable space for which an application was submitted after September 29, 2023, may be constructed on any portion of the same lot located within an oil and gas buffer.

(2) **Amending Section 3.8.36(E)(2) to Clarify the Applicability of the Prohibition on Playgrounds, Play Structures, Recreational Fields, and Community Gathering Spaces**

- Section 3.8.36 (E)(2) (strike-through of text to be deleted and underline of text to be added): After September 29, 2023, permanent playgrounds, play structures, recreational fields, or permanent community gathering spaces may not be placed within any portion of a homeowner's association, special district, or City owned or maintained ~~common-area~~ property located within an oil and gas buffer. Development applications submitted prior to September 29, 2023, to place or construct any of the improvements described in this Subsection (2), and City parks planned as of September 29, 2023, to serve already approved development, are not subject to this restriction.

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

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

***Nays: Councilmembers Ohlson, 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.*

There was no presentation on this item.

PUBLIC COMMENT

None.

## COUNCIL DISCUSSION

Councilmember Ohlson reiterated his comments in support of a team approach for a joint recommendation for appointments rather than relying on the Council liaison.

**Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to adopt on Second Reading 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.**

**The motion carried 6-1.**

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

**Nays: Councilmember Ohlson.**

## **23. Second 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).*

Present for questions were PDT Deputy Director Paul Sizemore, Interim Planning Manager Clay Frickey, Assistant City Attorney Eric Potyondy and Senior City Attorney Brad Yatabe.

## PUBLIC COMMENT

None.

## COUNCIL DISCUSSION

None.

**Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt on Second Reading Ordinance No. 121, 2023, Amending the Land Use Code to Include Regulations for Making Water Adequacy Determinations.**

**The motion carried 6-1.**

**Ayes: Mayor Arndt, Mayor Pro Tem Francis, 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.)*

Mayor Arndt requested consideration for directing staff to actively pursue Rule 211 and look into all manner of health and safety to plug wells, even if that includes purchase. City Manager DiMartino noted the acknowledgement of sufficient support from Councilmembers for this direction to move forward.

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

***Mayor Pro Tem Francis moved, seconded by Councilmember Peel, that Council adjourn this meeting until after the completion of the Stormwater Utility Enterprise Board business.***

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

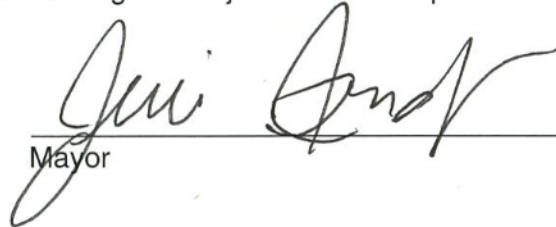
The meeting adjourned to the Stormwater Utility Enterprise Board meeting at 7:33 p.m.

At 7:36 p.m., following the Stormwater Utility Enterprise Board meeting, the Council meeting resumed. The same members were present at the resumption of the meeting as in the initial roll call.

**Q) ADJOURNMENT**

There being no further business before the Council, the meeting was adjourned at 7:36 p.m.



  
\_\_\_\_\_  
Mayor

ATTEST:

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