



City Council Regular Meeting Action Agenda

October 3, 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 October 4, 2023 as Energy Efficiency Day.
- PP 2. Declaring the Week of October 1-7, 2023 as Public Power Week.
- PP 3. Declaring the Week of October 8-14, 2023 as Fire Prevention Week.
- PP 4. Declaring October 2023 as Cybersecurity Awareness Month.

Presented Proclamations.

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**

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 19, 2023 Regular Meeting.**

The purpose of this item is to approve the minutes of the September 19, 2023 regular meeting.

Action Taken: Approved.

2. **Items Pertaining to the Annual Adjustment Ordinance.**

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

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

These Ordinances, unanimously adopted on First Reading on September 19, 2023, 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.

Action Taken: Adopted both Ordinances on Second Reading.

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

This Ordinance, unanimously adopted on First Reading on September 19, 2023, requested 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 on Second Reading.

4. **Second 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.**

This Ordinance, unanimously adopted on First Reading on September 19, 2023, appropriates \$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 for the 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 on Second Reading.

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

This Ordinance, unanimously adopted on First Reading on September 19, 2023, authorizes 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 on Second Reading.

6. Second Reading of Ordinance No. 127, 2023, Amending Chapter 7 of the Code of the City of Fort Collins Regarding Duties of the City Clerk.

This Ordinance, unanimously adopted on First Reading on September 19, 2023, aligns the duties of the City Clerk regarding retention of certain election campaign records with new state law provisions regarding the same.

Action Taken: Adopted on Second Reading.

7. Second 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.

This Ordinance, unanimously adopted on First Reading on September 19, 2023, addresses and remedies 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 on Second Reading.

8. **Second 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.**

This Ordinance, unanimously adopted on First Reading on September 19, 2023, suspends 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 on Second Reading.

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

This Ordinance, unanimously adopted on First Reading on September 19, 2023, approves 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 on Second Reading.

10. **Second 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.**

This Ordinance, unanimously adopted on First Reading on September 19, 2023, extends the terms of all current board and commission members through March 31 of the year their term ends. This aligns with the new recruitment schedule.

The exception to this is the Affordable Housing Board (AHB) and the Human Services and Housing Funding Board (HSHFB) whose terms will start on July 1. This is to align the scope of their work of making grant recommendations with the timing of when funds are received from the U.S. Department of Housing and Urban Development. The terms of current AHB and HSHFB members will be extended through June 30 of the year their terms end.

Pulled from Consent

11. **First Reading of Ordinance No. 132, 2023, Making a Supplemental Appropriation from the Regional Air Quality Council Mow Down Pollution Grant for Purchase of Zero-Emission Commercial Lawn and Garden Equipment.**

The purpose of this item is to support the City's Parks Department in converting lawn and garden gasoline powered equipment to battery-powered equipment by appropriating \$100,000 of unanticipated grant revenue, awarded by the Regional Air Quality Council (RAQC) through funds provided by the Colorado Department of Public Health and Environment (CDPHE).

This item would also authorize the City Manager or their designee to accept the grant award and comply with the terms of the grant application and award.

Action Taken: Adopted on First Reading.

12. **First Reading of Ordinance No. 133, 2023, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the Childcare Space Modifications at the Northside Aztlan Community Center and Related Art in Public Places.**

The purpose of this item is to appropriate \$197,960 from Recreation Reserves to close the funding gap on the Childcare Space Modifications at Northside Aztlan Community Center and transfer 1 percent of the applicable construction costs to Art in Public Places.

Action Taken: Adopted on First Reading.

13. **First Reading of Ordinance No. 134, 2023, Authorizing Transfer of an Appropriation for Art in Public Places Related to the Design and Construction of Connexion.**

The purpose of this item is to transfer \$27,924 of appropriated funds for Art in Public Places (APP) artwork expenses in the Cultural Services and Facilities Fund back to the Broadband Fund, where those related expenses will be transacted.

Action Taken: Adopted on First Reading.

14. **Items Relating to Lemay Avenue and Drake Road Intersection Improvements.**

A. Resolution 2023-090 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the Lemay and Drake Intersection Improvements Project.

B. First Reading of Ordinance No. 135, 2023, Appropriating Unanticipated Revenue and Authorizing Transfers for the Lemay and Drake Intersection Improvements Project and Related Art in Public Places.

The purpose of these items is to enable the City to receive and expend Colorado Department of Transportation (CDOT) funds for the Lemay and Drake Intersection Improvements Project (the Project). The funds will be used for design, right-of-way acquisition, and construction of improvements at the intersection of Lemay Avenue and Drake Road. If approved, the item will: (1) authorize the Mayor to execute an Intergovernmental Agreement for the Project with CDOT; (2) appropriate \$900,072 of Highway Safety Improvement Program (HSIP) grant funds for the Project; (3) appropriate \$100,008 from the Community Capital Improvement Program (CCIP); and (4) appropriate \$1,000 (1% of the CCIP amount) to the Art in Public Places Program.

Action Taken: Adopted Resolution and Ordinance on First Reading.

15. **Resolution 2023-091 Designating a New City Representative to the Larimer County Community Services Block Grant Advisory Board.**

The purpose of this item is to designate Councilmember Gutowsky to represent the City on the Larimer County Community Services Block Grant Advisory Board.

Action Taken: Adopted.

END OF CONSENT CALENDAR

J) ADOPTION OF CONSENT CALENDAR

Adopted Consent Calendar, minus item #10: 7-0

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

L) STAFF REPORTS – None.

M) COUNCILMEMBER REPORTS

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

Item #10 pulled from the consent calendar by City Manager Kelly DiMartino to amend the exhibit to the ordinance to include board member Kevin Goff's name and term information to the Human Relations Commission.

Adopted: 7-0

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

16. Items Related to the Adoption of a New Land Use Code.

This item consists of three separate ordinances:

A. First Reading of Ordinance No. 136, 2023, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Revised Land Use Code and Separately Codifying the 1997 Land Use Code as the “Pre-2024 Transitional Land Use Regulations.”

B. First Reading of Ordinance No. 137, 2023, Updating City Code References to Align With the Adoption of the Revised Land Use Code.

C. First Reading of Ordinance No. 138, 2023, Amending the Zoning Map of the City of Fort Collins to Rename All Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town Zone District In Conjunction With the Adoption of the Land Use Code.

The purpose of this item is to consider adopting of changes to the City’s Land Use Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Changes are intended to address one or more of the following Guiding Principles:

- 1. Increase overall housing capacity and calibrate market-feasible incentives for affordable housing.

2. Enable more affordability, especially near high frequency transit and priority growth areas.
3. Allow more diverse housing choices that fit in the existing context and priority place types.
4. Make the Code easier to use and understand.
5. Improve predictability of the development review process, especially for housing.

If adopted by Council, staff recommend that the proposed Code changes take effect on January 1, 2024.

In addition to changes to the Land Use Code updates to City Code references to the revised Land Use Code are proposed.

Finally, because the revised Land Use Code rename the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town zone district with corresponding subdistricts A, B, and C, updates to the zoning map to reflect the name changes are proposed. This change only affects the name of the zone districts and no changes to the boundaries are proposed.

Action Taken: *Adopted motion to amend Ordinance No. 136 to amend Land Use Code Section 2.1.4 to remove duplex as a permitted use and building type in the RL zone district: 6 - 1.*

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

Nays: Councilmember Pignataro.

Adopted Ordinance No. 136, as amended, on First Reading: 5 - 2.

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

Nays: Councilmembers Gutowsky and Ohlson.

Action Taken: *Adopted Ordinance No. 137 on First Reading: 5 - 2.*

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

Nays: Councilmembers Gutowsky and Ohlson.

Action Taken: *Adopted Ordinance No. 138 on First Reading: 5 - 2.*

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

Nays: Councilmembers Gutowsky and Ohlson.

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.)

None.

- 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 10:58 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.