

October 3, 2023

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

**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.**

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
Assistant City Clerk Ann Marie Sharratt
Assistant City Clerk Amani Chamberlin

E) CITY MANAGER'S AGENDA REVIEW

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

- Noting a motion was added under Other Business to adjourn the regular meeting to conduct the Stormwater Utility Enterprise Board business.
- All but item 10 on the consent agenda was recommended for approval.
- Item 10 is recommended for approval with an amended exhibit to the ordinance.
- The items on the discussion agenda were reviewed.

F) COMMUNITY REPORTS

None.

G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS *(Including requests for removal of items from Consent Calendar for individual discussion.)*

Matthew Behunin, Fort Collins resident, spoke as a volunteer with YIMBY (yes in my back yard) Fort Collins regarding housing and the organization's work by volunteers to make housing more available in the community through a greater variety of housing types for a greater range of income levels.

Kathryn Dubiel, Fort Collins resident, spoke about public engagement, including how making an argument in two minutes in forums like this is difficult and could benefit from allowing people to pool their time for a single spokesperson, as well as noting the recent forum held at CSU was by invitation only and therefore not effective engagement.

Robbie Moreland, Fort Collins resident, spoke on behalf of a coalition of residents also present to speak regarding the mock voter guide the group produced and would like to see produced by the City for the 2025 municipal election.

Kristina Vrouwenvelder, new Fort Collins resident who moved into the community a few months earlier, spoke regarding the lack of inventory for young families in walkable and bikeable parts of the City and in support of the land use code updates increasing density.

Anita Rehner spoke against the proposed land use code changes increasing density through infill as an ill-fitting solution for housing availability and affordability, and with concerns about the four days allowed to review the final version on the proposed land use code.

Brian Tracy, Fort Collins resident, spoke against the proposed changes to the land use code, calling the changes in this version lipstick on a pig.

Luke Flynn, Fort Collins resident, spoke in support of the land use code, noting it is good for the environment in comparison to the alternative of sprawl.

Julie Brewen, CEO of Housing Catalyst, a member of OneVoice for Housing, spoke on behalf of the authority and its board of directors in support of the proposed land use code.

Karen Artell, Fort Collins resident, spoke about inclusionary zoning and short-term rentals and how most residents in her neighborhood are likely unaware of the zoning in their area and how it makes them vulnerable in these proposed changes which do not incorporate inclusionary zoning or other measures that would support affordable housing development.

Paul Patterson, Fort Collins resident, spoke about the comments he made at the Planning and Zoning Commission last year, which grew into additional speakers at Council consideration and those same people are still not happy with these proposed changes.

Nick Scott spoke as a homeowner, landlord and property manager, and manager of extra occupancy properties, sharing the examples of the types of tenants in his extra occupancy properties as working professionals who are seeking housing they can afford and are often trying to save to buy homes of their own.

Chris Conway, Fort Collins resident and teacher, spoke regarding helping form the local Fort Collins YIMBY group and spoke in support of the proposed land use code, noting involvement in housing issues came from seeing friends and colleagues unable to find housing to stay in the community.

Hanna McCaslin, Fort Collins resident, spoke about researching and performing academic work studying how affordable housing impacts different systems in the community, concluding how housing density is necessary and spoke in support of the proposed land use code.

Barbara Denny, Fort Collins resident, spoke against the adoption of the proposed land use code, arguing the proposal is not ready yet and there is no need to rush.

Joy (Deirdre) Sullivan, president and CEO of United Way of Larimer County, , a member of OneVoice for Housing, spoke on behalf of the board of directors urging adoption of the proposed land use code, and noted their personal property includes a granny flat that is not allowed to have an oven because that would make it a duplex under current code provisions.

Bill King, Fort Collins resident, spoke about the minimization of engagement in the development review process, noting little has changed since the objections voiced in last year's consideration of the proposed land development code.

Vicki Rossen, Fort Collins resident and retired public school teacher, spoke against the proposed land use code, noting it does not guarantee affordable housing and will destroy Fort Collins as it is today, also speaking against attacks on HOAs by the proposed code.

Carrie Harriman, Fort Collins resident of two years previously living in northern Virginia and Huntington Beach California, spoke against the proposed land use code and its provisions supporting high density living and the negative impacts on affordability even with density.

Wayne Brothers, Fort Collins resident, spoke against building everything, everywhere, all at once, and against the proposed land use code, asking to leave existing low-density single-family neighborhoods alone.

Tom Farnsworth, Fort Collins resident, spoke against the proposed land use code, stating it is still not ready for prime time, noting it is all in the implementation and suggesting starting with baby steps.

Matt Peters, long time Fort Collins resident, spoke about the recent changes made to the land use code of the City of Boulder, noting we could study the impacts of these changes before Fort Collins

acts given current data is lacking and it is not known if these changes will help issues with affordability and housing availability.

Jenny Bramhall, 30-year Fort Collins resident and homeowner in Old Town, spoke in support of the proposed land use code and stated there is no dark force pushing this forward, rather neighbors and range of community members and stakeholders.

Charles Howes, Fort Collins resident, spoke about experiences of friends having trouble finding housing at a range of ages and income levels noting this shared challenge supports coming together as a community to support the revised proposed code to meet housing and climate goals.

Ann Hutchison, president and CEO of the Fort Collins Area Chamber of Commerce, a member of OneVoice for Housing, and Fort Collins resident, spoke in support of the proposed land use code on behalf of the Chamber and its involvement in this work for more than three years.

Jerry Gavaldon, spoke as a lifelong Fort Collins resident and real estate broker, spoke about density not equaling affordability and the importance of development fees on affordability as a core issue driving costs, not the land use code.

Peter Erickson, Fort Collins resident, spoke about what it means to be progressive and how all these issues come back to housing and the need to support affordable housing.

Randolph Lippert, Fort Collins resident, spoke about the City's identified priorities and how unaffordable housing is the number one contributor to homelessness, as well as the impacts of housing unaffordability on queer youth, and in support of the proposed land use code changes.

Lauren DeBell, Fort Collins residents and Chief Strategy Office for Elevation Community Land Trust, a member of OneVoice for Housing, spoke in support of the proposed land use code changes.

Nicole Swan, Fort Collins resident, spoke as an advocate for both affordable and attainable housing and in support of the proposed land use code.

Marsha Mulroney, Fort Collins resident and homeowner, spoke against the proposed land use code with concern about quality-of-life issues, noting it took 45 hours for their family to afford to move back to Fort Collins after graduating from CSU to enjoy this quality of life.

Kelly Evans, director of Neighbor to Neighbor, a member of OneVoice for Housing in pursuit of affordable housing for all, speaking of the coalition comprising One Voice for Housing and the need for sustainable, affordable housing, and addressed comments about what the rush is by noting the current land use code is from 1997 and is in dire need of changes to increase housing availability and affording without pushing these needs further down the road.

Mara Johnson, chief development officer for Habitat for Humanity, a member of OneVoice for Housing, spoke in support of affordable and available housing options across the community and in support of the proposed land use code now to help real people with real housing issues.

Vivian Bust, Fort Collins resident and homeowner, spoke in opposition to the proposed land use code, stating it would damage Fort Collins' image as a charming community with distinct characters, and spoke in support of applying densification to the undeveloped areas of the city.

Cece Abrams spoke about the need to preserve history and protect what you love and in opposition to the proposed land use code, with more housing as an option without sacrificing the existing small town charm of Fort Collins.

Connor M. Flynn, Fort Collins resident and electoral committee chair of Democratic Socialists of America of Fort Collins, spoke in support of the proposed land use code, noting density is not the enemy.

Steve Kuehneman, executive director of CARE Housing Inc., a member of OneVoice for Housing, spoke in support of the proposed land use code, noting the role of housing regulations on the cost of housing as well as the scope of housing challenges in the community.

Paul Anderson, Fort Collins resident, spoke about concerns with ADUs or duplexes built on a property as part of the proposed land use code and a desire for these units to be owner-occupied rather than allowing private equity firms, investors, and venture capitalists to buy up and maximize housing units.

August-Carter Nelson, Fort Collins resident, spoke about leaving a hometown due to affordability and in support of the proposed land use code to support affordability for residents of Fort Collins and their children and grandchildren.

Mary Alice Grant, Fort Collins resident, spoke in opposition to the proposed land use code and the voice of the community against the minimal changes made since the prior year, with complaints against the community engagement that was done.

Chris Rogers, Fort Collins resident, spoke against the proposed land use code as pushing increased density and housing changes on existing neighborhoods and potential challenges to existing infrastructure, suggesting the Council put this issue on the ballot for residents to decide.

Ryan Walker spoke in support of housing and affordable housing but stated this proposed code does not move in this direction, as the market dictates housing and this code seems to cater to developers.

Sean McCoy, Fort Collins resident, spoke largely in support of the proposed land use code as a tool in assisting affordable housing, and provided figures regarding the work that has gone into public engagement on this proposal, while stating concerns with false claims being spread by email.

James Burtis, Fort Collins resident, spoke in support of the proposed land use code, and in particular the incentives to add onto existing structures as well as noting their community is walkable and bikeable to many locations and can support more density so others can enjoy these advantages, and increased transit can help as well.

Patricia Babbitt, Fort Collins resident and write in candidate for Mayor, spoke regarding concerns with the land use code and its relationship to proposition 123 requiring a 3% growth rate per year with the need for careful consideration of related provisions.

Vara Vissa, Fort Collins resident, spoke in opposition to the proposed land use code and noted the possibility of single homes being multi-generational.

Tom Mulrone, Fort Collins resident, spoke about the agreements entered into by property owners at the time of their purchases that would be altered without a vote of the property owners by the adoption of the proposed land use code and spoke against the proposed code.

Julie Northrop, Fort Collins resident who moved from the Bay Area in 2015, spoke about the sense of community in Fort Collins that tonight appears instead to be an us versus them, and to the need for more affordable housing, speaking in support of the proposed land use code.

Brandon Northrop, Fort Collins resident, spoke about how the city is on the verge of crisis with high rents and lack of housing that requires building more housing, speaking in support of the proposed land use code as a good first step in addressing these needs.

Kaori Keyser, Fort Collins resident and homeowner and co-chair of Democratic Socialists of America, spoke in support of the proposed land use code to assist in developing more housing in the community.

Diane Smith, Fort Collins resident, spoke about good intentions not always making good policy and this being one of those instances with the proposed land use code, sharing concerns with experiences on the west side of the city where at one point housing was deteriorating with unmaintained rentals and departing homeowners.

Johanna Loury, Fort Collins resident, spoke about choosing to live in a neighborhood with an HOA for the last 30 years and against the proposed land use code with concerns about changes to the neighborhood.

David Kovach, director of FoCo Legal Services and chair of Fort Collins Senior Advisory Board, spoke about how Fort Collins will continue to be a great place to live regardless of what happens tonight, while also noting this Saturday is Ageism Awareness day, making it a great time to think about how to treat people of various ages.

Jonah Salehi, Fort Collins resident and member of DSA Fort Collins, spoke about moving to Fort Collins two years ago as a graduate student, finding it surprising how incredibly unaffordable the city is and noted support for the proposed land use code.

Michael May, Fort Collins resident and junior at Colorado State University from Silicon Valley, spoke about the impact of sprawl including impacts of traffic particularly when people cannot live in the community they need to travel to, and spoke in support of the proposed land use code.

Elaine Boni, spoke as a long-term Fort Collins resident with concerns with the proposed land use code and urged voting against the proposed code, speaking in support of increased density in undeveloped parts of the city only.

Melanie Potyondy, Fort Collins resident, thanked staff and City Council for all the work that has gone into the proposed land use code and spoke in support of the proposed land use code.

Madeleine Kamberg, Fort Collins resident, spoke about the U+2 policy and how it is both illegal and immoral, noting the cease-and-desist letter that has been sent to the Council and requested the City stop all enforcement of the policy as a matter of good faith until a proper policy has been implemented.

Rich Stave, Fort Collins resident, commented about the inability to sign up for both public comment and item discussion, then also commented that the community survey results seem to skew towards higher incomes, and that many people are driving around with missing or expired plates without enforcement. Also noted was a belief Transfort service will not be used in inclement weather given the need to walk long distances to reach stops.

Public comment ended at 7:56 p.m.

H) PUBLIC COMMENT FOLLOW-UP

Mayor Jeni Arndt noted last Wednesday's session was conducted by the State, not the City, and was out of the control of the Council.

Councilmember Julie Pignataro noted more will be discussed regarding the land use code during that item but commented regarding seeing excellent dialogue occurring within City Hall among community members as part of these deliberations.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

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.

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.

Adopted 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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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 Susan Gutowsky to represent the City on the Larimer County Community Services Block Grant Advisory Board.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Emily Francis moved, seconded by Councilmember Kelly Ohlson, to approve the recommended actions on items 1-15, minus item 10, on the Consent Calendar.

Councilmember Julie Pignataro asked for more information regarding item 11, including if the funds are intended for grants to individuals.

Mike Brunkhardt, Senior Supervisor with the Parks Department, spoke about the use of grant money being intended for the Parks Department's operations. The gasoline powered equipment that will be taken out of service will be disassembled to the point of inoperability.

The motion carried 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

Councilmember Tricia Canonico

- PD will be hosting a gun drop off event for Fort Collins residents on October 22 at Fort Collins Police Services.

Councilmember Ohlson

- Read a letter from a student at Polaris School that visited the Council a couple of weeks ago.
- Noted a transformer on his block was replaced today after 43 years and noted he shared with the crew he would give a shout out for the way that was handled, including the communication in advance to the neighborhood.

Councilmember Susan Gutowsky

- Attended a flower tour guided by a staff member from Parks, with appreciation for learning about the intricacies of planning and the science involved.
- Attended a ribbon cutting for Longview Behavioral Health center on September 22 with a new facility that will enhance mental health care for area residents.
- Attended the Governor's Tourism Conference hosted at the Hilton in Fort Collins, with international attendance, noting Colorado is one of the most popular states to come visit internationally.

Councilmember Shirley Peel

- Thanked people who came out to speak with her at both Open Streets and at a mobile home park listening session.
- Also attended Arc Film Festival, allowing community members as part of that organization to share short films.
- Shout out to HOPE team for their ongoing engagement work.
- Also attended the Governor's listening session last week and was able to engage with community members regarding a range of concerns impacting the community, finding it very valuable.
- Noted the family of the individual missing in Rocky Mountain Park, including former students of hers, is in her prayers.

Mayor Jeni Arndt

- Visited Boise, Idaho, with City manager DiMartino last week, noting they just passed a very robust land use code for their community that is right for their community, noting one of the reasons they passed that code was to preserve open space in the foothills.
- Shared that following next week's work session she will be going to a housing conference.

Clerk's Note: Mayor Arndt called for a 15-minute break at 8:11 p.m. The meeting reconvened at 8:26 p.m.

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

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.

This item was pulled from the Consent Calendar to allow the Council to consider approving an amended exhibit to the ordinance.

PUBLIC COMMENT

Rich Stave, Fort Collins resident, spoke about his perception this action is eliminating term limits for board and commission members.

Mayor Pro Tem Francis clarified term limits are not being eliminated by this action, rather only are being waived in this singular instance to allow for a one-time extension of existing terms to align with shifts to the recruitment schedule and ongoing start and end dates for terms.

Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, that the 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, be passed on second reading with an updated exhibit to the ordinance, to include an additional board member, Kevin Goff, whose current term ends December 31, 2023, and whose new term would end March 31, 2027, in the Human Relations Commission section.

The motion carried 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.

Caryn Champine, Planning, Development & Transportation Director, introduced this item and provided an overview of the purpose of Land Use Code updates and the guiding principles that have governed the work done on this. CDNS Director Paul Sizemore then reviewed the engagement done on the proposed Code update since this was last considered by the Council. Noah Beal, Development Review Manager, then continued the full presentation as set forth in the slide deck in the meeting materials.

Other staff present to assist with any questions relating to the item included Interim Planning Manager Clay Frickey, Senior Policy & Project Manager Sylvia Tatman-Burruss, and Senior Assistant City Attorney Brad Yatabe. Participating remotely in the meeting were Senior Manager Social Sustainability Meaghan Overton and Outside Legal Counsel Jill Hassman.

PUBLIC COMMENT

David Roy, Fort Collins resident, spoke about how division seems to be the word of the year and urged the Council to slow down on the actions contained in the proposed land use code to help alleviate division and to help protect and preserve neighborhoods and look for proof of concept before proceeding on a wide scale.

Stefanie Berganini, Fort Collins resident and long term homeowner and chair of the Democratic Socialists of America of Fort Collins housing justice committee, spoke to urge Council to support adoption of the proposed code and suggested three changes: 1) extend the affordable housing deed restriction; 2) act to clarify the power of HOAs in the current version of the code particularly relating to setbacks; and 3) remove the stipulation for onsite managers for ADUs.

Kate Conley, Fort Collins resident and architect specializing in designing affordable housing and member of YIMBY Fort Collins, spoke in support of the proposed land use code and its provisions that will support additional development of the types of homes she designs.

Abigail Feuka, Fort Collins resident and renter, spoke advocating for people and in support of the proposed land use code, noting it is a bigger concern where we will put people rather than just where we will put the cars.

Kristin Fritz, Fort Collins resident and Chief Real Estate Officer at Housing Catalyst and two-time board member of the Housing Affordability Board, spoke noting the many voices heard tonight supporting the proposed land use code, also sharing support.

Adam Eggleston, Fort Collins resident, small business owner, and Realtor, spoke in support of the proposed land use code, noting work has been going for some time, since the 2020 presidential debates which he watched while reading the land use code audit.

Ross Cunniff, Fort Collins resident and chair of Preserve Fort Collins, noted being one of 6,447 residents to sign a petition to overturn the land development code passed in 2022 and how many concerns from those residents remain, also speaking about the many ancillary impacts of increased density.

Rich Stave, Fort Collins resident, stated the number one issue is trust, voicing concern about fiscal responsibility such as is demonstrated by homeowners paying taxes and assessments for years and calling the proposed code a regressive progressive policy.

Clint Anders requested clarification on alternative five, indicating a concern about letting HOAs govern setbacks, particularly for dormant older HOAs that have highly restrictive covenants.

Rick Hoffman, Fort Collins resident, spoke as an owner of several single family homes in the city that would potentially provide benefits given this, yet still spoke against the proposed land use code with concerns it will damage the character of the city. Hoffman asked Council to answer in its discussions if it is the responsibility of the City to provide housing for everyone who wants to live here.

Greg Zoda, Fort Collins resident and graduate teaching assistant at CSU and co-chair of DSA of Fort Collins, spoke in support of the proposed land use code and with concerns about statements regarding new residents to Fort Collins or those who want to come to Fort Collins indicating a belief that outsiders are somehow morally deficient.

Colleen Hoffman, Fort Collins resident, shared a quote from JFK about the persistent myth being the enemy of the truth rather than lie, then stating opposition to the proposed land use code as presented, and requesting amendments to focus density and development in the undeveloped part of the city.

Kolt Herkstroeter thanked everyone for the community interaction tonight and stated a belief that this issue should be on the ballot for everyone to vote on.

Aaron Miripol, president and CEO of Urban Land Conservancy, spoke in support of the proposed land use code as a good start, and shared prior work done through a land trust in Boulder to create affordable homes that remain today and have not brought down other property values, while also speaking in support of a 99 year period for deed restrictions.

Christina Larson, Fort Collins resident, spoke in opposition to the proposed land use code stating concern with more than 300 current vacant rentals that have been vacant for more than 90 days that will be sold if they aren't rented, as well as other landlords who will likely look to sell.

COUNCIL DISCUSSION

Mayor Pro Tem Francis asked a follow up question about a commenter regarding a payment in lieu provision. Staff noted this provision is not currently included and could apply as an option for not including affording housing primarily under a mandatory inclusionary zoning policy. There was a request for follow-up information on this subject before second reading.

Staff responded to several questions about specific differences between the current and proposed code in different zoning districts relating to various limits and requirements.

In a response to a question from Councilmember Pignataro about why the language landed on 60 years for maintaining affordability from the current 20, staff recounted how the Land Development Code provisions had proposed a 99 year limit and 60 years was identified as a compromise to allow at least a couple generations to live in that affordable unit while acknowledging there is also a significant cost reinvestment that needs to happen around 50 to 60 years. It was also noted that the land use code is intended to be a living document that could be adjusted down the road.

Staff responded to questions regarding clarifying how dwelling units and ADUs are essentially the same thing, whereas an accessory unit is differentiated and is allowed in the existing code and would still be allowed in the proposed code.

There was discussion about allowable heights for homes in some zones, including how switching from stories allowed to capping total height does not necessarily equate to taller structures. It was noted in Old Town there are stormwater standards that require buildings to be raised between 18 inches to four feet.

Mayor Arndt requests a list of Colorado cities and counties that currently allow ADUs and asked about owner occupied ADUs and the legality around that. Senior Assistant City Attorney Yatabe indicated the proposal for resident managers was intended to address concerns while avoiding potential legal issues around owner occupancy requirements.

Councilmember Ohlson asked if Golden and Boulder do have owner occupancy requirements for ADUs, as that information was sent to the Council. It was noted Boulder does do that and different jurisdictions must make their own determinations about potential legal risks. There was an additional request for follow up on ADUs for information on how long Boulder has allowed them with an owner occupancy requirement as well any other Colorado jurisdictions.

Councilmember Peel initiated a discussion about potentially eliminating the provisions identified as options 1-4 for the Council to consider in staff's presentation materials, including asking what the impact would be on density. Director Sizemore shared information including slides showing most of the additional capacity comes in Mixed-use zones (71%), while those first four provisions all have to do with RL zones that would make up 6%. In response to a question about if taking out those four provisions would impact the City's application for proposition 123, staff noted it would decrease incentives to build affordable housing in the RL but would not impact eligibility for proposition 123.

The Council continued discussion on Councilmember Peel's proposal, including looking at the first provision alone and removing duplexes as a permitted use in the RL zone. Some members noted concerns about alienating a sizeable segment of the community over 2-3% of the housing area while others shared the viewpoint that further compromise is not appropriate because this version of the code is already a stripped-down version because of a series of compromises from what was presented a year ago. There was discussion about the importance of provisions 2 and 3 in some parts of the community.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 136 on first reading.

Councilmember Peel moved, seconded by Councilmember Ohlson, to amend the motion on the floor to amend LUC Section 2.1.4 so as to remove duplexes as a permitted use and building type in the RL zone district.

The motion to approve the amendment passed 6-1. Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Ohlson, Peel, Canonico and Gutowsky. Nays: Councilmember Pignataro.

Mayor Arndt and members of Council made comments reflecting their positions ahead of the final vote on this item.

The motion to adopt the motion as amended passed 5-2. Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Peel, Canonico and Pignataro. Nays: Councilmembers Ohlson and Gutowsky.

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:**

Councilmember Francis moved, seconded by Councilmember Ohlson, that Council adjourn the meeting until after the completion of the Stormwater Utility Enterprise Board business.

The motion carried 7-0.

The meeting adjourned for the Stormwater Utility Enterprise Board Meeting at 10:55 p.m.

The Council meeting reconvened at 10:58 p.m., with the same members present at the time of reconvening as at the start of the meeting.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:58 p.m.

ATTEST:

City Clerk



Mayor

