

December 5, 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 AND PRESENTATIONS

PP 1. **Declaring December 10, 2023 as Human Rights Day.**

Mayor Pro Tem Emily Francis presented the above proclamation 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 Julie Pignataro
Councilmember Tricia Canonico
Councilmember Shirley Peel
Councilmember Kelly Ohlson

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:

- Recommended adoption of the Consent Calendar as presented.
- Reviewed minor amendments made to three items on the agenda Monday as well as the addition of an Other Business item:

- Revision to Item 30 to reflect in both the Agenda Item Summary and Resolution that there is only one source for this software; and
 - Updates to the salary ordinances in items 32 and 33 to include the recommended salary amounts.
 - Noted an item was added under Other Business to provide an update on the referendum petition.
- Reviewed the four discussion items.

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.)*

Erin Fussell, Fort Collins resident, indicated a desire to just listen to tonight's meeting and hold any comment.

Kevin Cross, Fort Collins resident, spoke to request Mayor Arndt, as a PRPA board member, support an All Source RFP for dispatchable power, noting the board's recent adoption of an All Source resolution.

Barbara Krupnik-Goldman, Fort Collins resident, spoke regarding the PRPA proposal noting the existence of a climate crisis and stating opposition to construction of a new gas plant without even considering other sources of energy and requested Council support for Mayor Arndt to insist all power sources be considered by PRPA.

Dolores Williams, Fort Collins resident, commented on PRPA plans to put out an RFP in the next year for dispatchable energy and generating capacity, indicating a desire to see this include sources beyond gas and asking for Mayor Arndt's support.

Sally Dowiatt, Fort Collins resident, spoke to request considering directing PRPA to include renewables in their RFP for dispatchable generating capacity, and referenced an article read in today's Washington Post about what gets people to change, noting it is the community and what we say and do and commit to.

Keith Ela, Fort Collins resident, thanked Council for their service to the community and asked that alternative energy sources be considered, such as purchasing power from renewable sources further from here to accommodate when no sun or wind is available locally and asking for investigation into how many days other regional communities also have no wind or sun on the same days as Fort Collins. The grid allows us to bring power to our area from other resources.

Joe Rowan, Fort Collins resident, spoke in appreciation for the tenor of conversations around what a policy does regarding the cost of housing. Rowan spoke in support of the diligence done by PRPA, board members, and City staff in investigating options and supporting an RFP for a gas powered turbine.

Fred Kirsch, Fort Collins resident, spoke representing themselves as their organization has not yet had a chance to meet and discuss this. Kirsch encouraged support for an All Source RFP.

John Border, a senior at CSU, spoke at the request of PRPA looking at all options for meeting peak demand through an All Source RFP.

Ed Behan, Fort Collins resident, spoke as a citizen and on behalf of Larimer Alliance in support of PRPA issuing an All Source RFP.

Jaiden Wade, Fort Collins resident, spoke as a student with a passion for the community pushing for support for PRPA's issuance of an All Source RFP.

Gayla Maxwell Martinez, Fort Collins resident, spoke to encourage Mayor Arndt to support an All Source RFP at the upcoming PRPA board meeting, noting we must stop burning fossil fuels.

Michael Stella, ASCSU member, came forward on behalf of ASCSU to present a thank you to Councilmember Shirley Peel for her work and service to CSU students.

Kevin Jones, resident of the Fort Collins Urban Growth Area and Business Advocacy Director of the Fort Collins Chamber, shared about monthly discussion forums conducted by the Chamber noting the topic of the November civic conversation was City Priorities. From that conversation came the following items: Housing Affordability, Reducing Homelessness, Improving Transit, Increasing Recycling Options, and getting the Land Use Code passed for good.

Mary Alice Grant, Fort Collins resident, asked Council to refer the Land Use Code to the ballot, stating the whole issue is so complicated and emotional for all City residents, while noting diversity comes in many forms and the current Land Use Code is not diverse.

Ross Cuniff, Fort Collins resident, spoke about the referendum petition and subsequent potential actions, noting Preserve Fort Collins strongly feels the Land Use Code should be referred to the ballot, noting it is an issue that is core to the future of the city.

Ciara Mylen spoke regarding the gas power plant, stating support for looking at all options for meeting future energy demand.

Eric Sutherland spoke about Connexion as the largest public policy failure in Colorado history, as an effort that will never be able to pay its own interest.

Rick Casey, Fort Collins resident, spoke for himself and on behalf of Larimer Alliance about the choice now to vigorously pursue renewable energy options, including through an RFP for All Source Power.

Charles Kopp, Fort Collins resident, spoke against the revised Land Use Code and noting the need to put the interest of those already living in Fort Collins first and look to other methods around increasing affordability.

Daisy Schaub, Fort Collins resident, requested prioritizing an All Source RFP for sustainable energy options.

Jared Ross, Fort Collins resident, encouraged the City to pursue an All Source RFP rather than continuing to support fossil fuels.

Owen Brinder, Fort Collins resident, requested prioritizing an All Source RFP for sustainable energy options.

Martha Hedrick, Fort Collins resident, requested prioritizing an All Source RFP for sustainable energy options and also noted that all Fort Collins voters should have the ability to have input on the land use code by putting it on the ballot.

Elizabeth Hudetz, Fort Collins resident, requested prioritizing an All Source RFP for sustainable energy options.

Renee Walkup, Fort Collins resident, requested prioritizing an All Source RFP for sustainable energy options.

Anya Kaplan-Hartnett and Hannah (no last name given), Straayer Center students, offered thanks on behalf of the organization to Councilmember Peel for her dedication and service to residents and students in Fort Collins.

Public comment concluded at 6:50 p.m.

H) PUBLIC COMMENT FOLLOW-UP

Councilmember Shirley Peel expressed appreciation for the acknowledgements from CSU students as well as appreciation for the work of students.

Mayor Arndt spoke of her time in Dubai that just ended today at a local climate action conference, where youth engagement was a major focus. She also noted the availability of grants focused on youth engagement specifically for the 100 communities whose mayors participated in the summit, sharing she has already reached out to ASCSU members on this opportunity.

Mayor Arndt also requested Utilities Director Kendall Minor address PRPA's upcoming RFP. Minor expressed thanks to the community for coming out to share comments tonight, noting the concerns brought forward have been considered by PRPA and are included in the RFP submitted to the state which is still under consideration. This is a process that must be completed to see the level of renewables available. He also stated the shared goal remains moving to a solely renewable future. The initial decision made regarding the gas turbine has been for permitting only at this point and will remain under consideration until the current RFP process is complete at the end of 2024. City Manager Kelly DiMartino also noted PRPA staff has put together additional information about their perspective on the all source versus sequenced approach, and indicated there will be a follow up memo provided that also includes this information.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

J) CONSENT CALENDAR

1. Second Reading of Ordinance No. 150, 2023, Making a Supplemental Appropriation for the Oak Street Stormwater Improvements Project.

This Ordinance, unanimously adopted on First Reading on November 21, 2023, appropriates the expenses related to the recent bond issuance for the Oak Street Stormwater Improvements Project.

The Stormwater Utility Enterprise Board unanimously adopted Ordinance No. 011 on October 3, 2023, authorizing a bond issuance in the Stormwater Fund for the construction of the Oak Street Stormwater Improvements project. Following the sale and closing of the bonds' gross proceeds, the amount of \$40.4M have been paid into the Stormwater Fund on October 31, 2023.

This first appropriation request is being brought for your consideration to cover expenses for the recent bond issuance, including closing costs and underwriter's fees associated with closing of the bond. Payment for expenses will be made by the end of 2023.

The total amount being requested for appropriation is: \$375,931.

A second appropriation request will be brought forth once the construction contractor selection process is complete and the construction contract value has been finalized. The anticipated schedule is late December 2023 or January 2024.

Adopted on Second Reading.

2. **Second Reading of Ordinance No. 151, 2023, Appropriating Prior Year Reserves in the General Fund and Transportation Services Fund for Snow Removal.**

This Ordinance, unanimously adopted on First Reading on November 21, 2023, appropriates prior year reserves to cover snow removal costs that have exceeded the 2023 budget. Overspend in the snow budget is driven by severe snowstorms that present cold temperatures, ice, and higher volumes of snow.

Adopted on Second Reading.

3. **Second Reading of Ordinance No. 152, 2023, Appropriating Philanthropic Revenue Received by City Give for the 9/11 Memorial, Park Planning and Design for the Construction of the 9/11 Memorial at Spring Park.**

This Ordinance, unanimously adopted on First Reading on November 21, 2023, appropriates \$24,870.70 for the designated purpose toward the park planning and design for the construction of the 9/11 Memorial at Spring Park, 2100 Mathews Street, Fort Collins, Colorado.

A partnership between the City of Fort Collins and Poudre Fire Authority (PFA), the 9/11 Memorial will be located in midtown Fort Collins, and will honor firefighters, emergency medical technicians, law enforcement officers, and nearly 3,000 others who lost their lives on September 11, 2001.

Adopted on Second Reading.

4. **Second Reading of Ordinance No. 153, 2023, Appropriating Philanthropic Revenue by City Give for Fort Collins Police Services for the 2024 Police Leaders' Summit.**

This Ordinance, unanimously adopted on First Reading on November 21, 2023, appropriates \$5,850 in philanthropic revenue received by City Give for Fort Collins Police Services for the 2024 Police Leaders' Summit as designated by the donor.

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.

5. **Second Reading of Ordinance No. 154, 2023, Making Supplemental Appropriations of Unanticipated Grant Revenue and Authorizing Transfers for Transport and Ebus Charging Equipment.**

This Ordinance, unanimously adopted on First Reading on November 21, 2023, appropriates unanticipated grant funding for Transport operational and capital needs.

Adopted on Second Reading.

6. **Second Reading of Ordinance No. 155, 2023, Appropriating Unanticipated Revenue and Authorizing Transfers for Replacement of Bicycle Racks in Downtown Fort Collins.**

This Ordinance, unanimously adopted on First Reading on November 21, 2023, appropriates funds to support replacement of aged and corroded bike racks with new bike racks that provide improved accessibility along downtown sidewalks by:

- Appropriating \$15,050 of unanticipated grant revenue awarded by Colorado Department of Transportation (CDOT); and
- Utilizing matching funds in the amount of \$1,672 from existing 2023 appropriations for this new grant project.

Pursuant to the State of Colorado Small Dollar Grant Terms and Conditions, and in accordance with Section 1-22 of the City Code, the City Manager has accepted this grant agreement.

Adopted on Second Reading.

7. Second Reading of Ordinance No. 156, 2023, Making a Supplemental Appropriation from the Colorado Division of Criminal Justice of Unanticipated Grant Revenue for Various Restorative Justice Services Programs.

This Ordinance, unanimously adopted on First Reading on November 21, 2023, appropriates grant revenue to fund Restorative Justice Services within Community Development and Neighborhood Services.

Additional grant funds in the amount of \$12,000 have been awarded from the Colorado Division of Criminal Justice (DCJ) Juvenile Diversion fund for the continued operation of Restorative Justice Services, which includes the RESTORE program for shoplifting offenses, and the Restorative Justice Conferencing Program (RJCP) and Reflect Program for all other offenses. The \$12,000 in grant funds are in addition to a grant awarded to Restorative Justice Services earlier this year from DCJ in the amount of \$57,356, bringing the total amount of the awarded grant to \$69,356. No match is required, and the grant period is July 1, 2023, to June 30, 2024.

Adopted on Second Reading.

8. Second Reading of Ordinance No. 158, 2023, Amending the City's Master Street Plan.

This Ordinance, unanimously adopted on First Reading on November 21, 2023, requests approval of proposed amendments to the Master Street Plan for the purposes of implementing recommendations from the North College MAX Plan, regular clean-up items, and a request from Montava.

Adopted on Second Reading.

9. Second Reading of Ordinance No. 159, 2023, Authorizing the Purchasing Agent to Enter into a Contract for Services, Professional Services and/or Construction in Excess of Five Years for the Golf Professional and the Food and Beverage Concessionaire at City Park Nine Golf Course.

This Ordinance, unanimously adopted on First Reading on November 21, 2023, authorizes the Purchasing Agent, pursuant to City Code Section 8-186(a), to enter into a contract greater than five years in length for the Golf Professional/Concessionaire at City Park Nine Golf Course. This contract was originally awarded by competitive purchasing processes in accordance with City Code Section 8-158, Competitive sealed proposals. The contract for the Golf Professional/Concessionaire includes a provision for the City to extend the contract for up to an additional five years, subject to Council approval. Extending the contract for the Golf Professional/Concessionaire at City Park Nine Golf Course is in the City's best interest.

Adopted on Second Reading.

10. **Second Reading of Ordinance No. 160, 2023, Approving the Vacation of a Drainage Easement Located on Tract A of the Old Town North, Fifth Filing Subdivision.**

This Ordinance, unanimously adopted on First Reading on November 21, 2023, vacates a 0.808 acre drainage easement (the "Easement") that was dedicated on Tract A of the Plat of the Old Town North Fifth Filing (the "Subdivision") for the benefit of the City because the Easement is no longer required by the City's Stormwater Utilities Department.

Adopted on Second Reading.

11. **Second Reading of Ordinance No. 161, 2023, Authorizing the Conveyance of Three Permanent Easements and a License to Enter to Colorado State University for Installation of Fiber Optic Cables on City Property.**

This Ordinance, unanimously adopted on First Reading on November 21, 2023, permits the conveyance of three (3) permanent easements (the "Easements") and one (1) license to enter (the "License") to Colorado State University ("CSU") for the installation and operation of fiber optic cables on City property to connect the Powerhouse Energy Campus (the "Powerhouse Campus") located at 430 North College Avenue to the CSU main campus and allow for future CSU fiber optic connectivity to the Powerhouse 2 facilities.

Adopted on Second Reading.

12. **Second Reading of Ordinance No. 162, 2023, Adopting the East Mulberry Plan as an Update of the 2002 East Mulberry Corridor Plan.**

This Ordinance, unanimously adopted on First Reading on November 21, 2023, adopts the draft East Mulberry Plan and potential annexation considerations related to the plan. Staff will share a potential approach to annexation for Council to consider based on a concept referred to as "Thresholds."

Exhibit A to the Ordinance has been revised with edits made on First Reading.

Adopted on Second Reading.

13. **First Reading of Ordinance No. 163, 2023, Appropriating Unanticipated Revenue in the Transportation Services Fund for "Work For Others" Program Expenses.**

The purpose of this item is to appropriate \$700,000 in unanticipated revenue in the Transportation Services Fund received for work to be completed through the Planning, Development, and Transportation's "Work for Others" program. This appropriation will be used for costs corresponding to the program and the generated revenue.

Adopted on First Reading.

14. **First Reading of Ordinance No. 164, 2023, Appropriating Prior Year Reserves for the Golf Enterprise.**

The purpose of this item is to consider an appropriation of \$185,000 from golf reserves to the 2023 budget associated with the additional costs in golf related to higher revenues.

Adopted on First Reading.

15. First Reading of Ordinance No. 165, 2023, Appropriating Prior Year Reserves and New Philanthropic Revenue Received through City Give for Various Programs and Services as Designated by the Donors.

The purpose of this item is to request an appropriation of \$11,968.53 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.

16. First Reading of Ordinance No. 166, 2023, Amending Chapters 18 and 26 of the Code of the City of Fort Collins Regarding Mobile Home Park Management and Livability.

The purpose of this item is to present Municipal Code updates related to the livability issues identified by residents, property managers, and owners of manufactured housing communities/mobile home parks in our community. This item also addresses analysis of unmet needs in the State of Colorado Mobile Home Park Oversight Program.

Staff's recommendation includes the following Code changes:

- *Expansion of authorization to conduct inspections in mobile home parks to include not only the Building Official, but also Specially Commissioned Officers under the Chief of Police.*
- *Establishment of protection for use and installation of clotheslines by residents in mobile home parks in Section 18-6(g).*
- *Establishment of protection for use and installation of window-mounted air conditioning units or evaporative coolers on homes within mobile home parks in Section 18-6(h).*
- *Establishment of new water utility billing/rebilling transparency requirements for Fort Collins Utility mobile home park water customers including:*
 - *Require as a condition of mobile home park service from the City's water utility that a mobile home park customer directly provide a designated Specially Commissioned Officer, or authorize such Officer to obtain, a copy of any notice, correspondence, invoice, and water leak notice from the water utility within seven days of receipt in Section 18-7(c).*
 - *Require as a condition of mobile home park service from the City's water utility that a mobile home park customer participates in the continuous consumption water usage/leak notification system through Fort Collins Utilities in Section 18-7(c).*
 - *Authorize the City's water utility in serving a mobile home park to provide the designated Specially Commissioned Officer a copy of any notice, correspondence, invoice, and water leak notice sent to the mobile home park in Section 18-7(c). Add a cross-reference to these changes to Section 26-97 (water utility lines; general regulations).*
 - *Acknowledge, as a condition of service, the designated Specially Commissioned Officer may exercise the power to audit and collaborate with the City's water utility to verify and maintain accuracy of water rebilling by the mobile home park.*

Adopted on First Reading.

17. **First Reading of Ordinance No. 167, 2023, Amending Chapters 3 and 17 of the Code of the City of Fort Collins to Update and Align City Code Regarding Alcohol Beverages with State Law Changes and Adding Municipal Code Violations for Certain Alcohol-Related Offenses.**

The purpose of this item is to request approval of the proposed amendments to Chapter 3 (Alcohol Beverages) and Chapter 17 (Miscellaneous Offenses).

Adopted on First Reading.

18. **First Reading of Ordinance No. 168, 2023, Amending Article III of Chapter 25 of the Code of City of Fort Collins for the Voter Approved One-Half Cent Sales Tax Rate Increase Effective January 1, 2024.**

The purpose of this item is to amend Section 25-75 of City Code to reflect the 0.50% sales and use tax approved by the voters at the City's November 7, 2023, election. The City of Fort Collins tax rate will increase from 3.85% to 4.35% beginning January 1, 2024. The use of the revenue is specifically identified in the ballot measure and, in general, may be used for parks and recreation facilities, environmental sustainability, and for public transit system improvements. The tax will not apply to: (1) items exempt from sales and use tax under the City Code; (2) food for home consumption; and (3) for the use tax only, manufacturing equipment.

The Ordinance would also amend Section 25-75 to remove reference to a 0.85% sales and use tax that expired at midnight on December 31, 2020. City staff is recommending this change as a clean-up item to remove extraneous provisions from the City Code.

Adopted on First Reading.

19. **First Reading of Ordinance No. 169, 2023, Amending Chapter 2, Article III of the Code of the City of Fort Collins to Update Ex-Officio Member Provisions for Various Boards and Commissions.**

The purpose of this item is to consider an amendment to add an ex-officio seat for the Housing Catalyst to the Affordable Housing Board and to eliminate ex-officio members from the Art in Public Places Board and Water Commission.

Adopted on First Reading.

20. **First Reading of Ordinance No. 170, 2023, Authorizing the Conveyance of a Permanent Non-Exclusive Utility Easement on Property Jointly Owned by the City of Fort Collins and the City of Loveland at the Northern Colorado Regional Airport to the Fort Collins-Loveland Water District.**

The purpose of this item is to authorize a permanent non-exclusive utility easement over a portion of the Northern Colorado Regional Airport property to allow for the installation and maintenance of a regional waterline to serve the Fort Collins-Loveland Water District's (the "District") public water system. This project will directly benefit the Airport by providing water infrastructure to areas that currently lack it and service connection points, which have been strategically located to serve future Airport development.

Adopted on First Reading.

21. **First Reading of Ordinance No. 171, 2023, Vacating a Portion of Public Right-of-Way Dedicated by the Redwood Village PUD Phase II Plat.**

The purpose of this item is to approve the vacation of a portion of public right-of-way that has never been used for street purposes. Once this right-of-way area is vacated, the property will be privately developed as a multifamily housing project, and new public right-of-way will be dedicated

to support the housing project and provide public street connections to the adjacent Northfield subdivision.

Adopted on First Reading.

22. First Reading of Ordinance No. 172, 2023, Adopting the 2024 Classified Employee Pay Plan.

The purpose of this item is to recommend the 2024 City Classified Employee Pay Plan. Classified jobs are grouped according to job functions, a business practice commonly used by both the public and private sectors. Pay ranges are developed by career group (management, professional, administrative, operations and trades) and level for each job function. The result of this work is a City Classified Employee Pay Plan (Pay Plan) which sets the minimum, midpoint, and maximum pay ranges for the level within each career group and function. Actual employee pay increases are awarded through a separate administrative process in accordance with the budgeted amount approved by Council.

Adopted on First Reading.

23. Resolution 2023-102 Adopting the 2023 Three-Mile Plan Update for the City of Fort Collins.

The purpose of this item is to adopt the annual update of the Three-Mile Plan for the City of Fort Collins. The Three-Mile Plan is a reference document of plans and policies coordinating the general location, character, utilities, infrastructure, and land uses for areas of potential annexation within three miles of the municipal boundary.

An annual update of the Three-Mile Plan is required by Colorado Revised Statutes and highlights applicable plans and policies adopted or amended by Council over the preceding year.

Adopted.

24. Resolution 2023-103 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the FASTER Transit Program Grant for Fiscal Year 2023 to Fund Transfort's FLEX Service.

The purpose of this item is to receive and expend federal funds through the Colorado Department of Transportation (CDOT) for Transfort's commuter FLEX service. This agreement will result in the receipt of \$200,000 in grant funds through the Statewide Competitive Pool of the FASTER (Funding Advancement for Surface Transportation and Economic Recovery Act of 2009) Transit program for fiscal year (FY) 2023. Transfort will be required to match the \$200,000 in grant funds with a \$200,000 local match. Both the grant and local match were appropriated through the 2023 BFO (Budgeting for Outcomes) cycle and are accounted for in the approved 2023 Transfort budget. If approved, this agenda item will authorize the City Manager to execute an intergovernmental agreement for the FY 2023 FASTER funds from CDOT.

Adopted.

25. Resolution 2023-104 Authorizing the Mayor to Execute an Amendment to an Intergovernmental Agreement with Larimer County and the City of Loveland Regarding the Heaven's Door Ranch Conservation Project.

The purpose of this item is to seek authorization to amend an Intergovernmental Agreement (IGA) with Larimer County and the City of Loveland for the Heaven's Door Ranch Conservation Project. The amendment will extend the timeframe to complete a conservation easement conveyance.

Adopted.

26. Resolution 2023-105 Authorizing the City Manager to Enter Into an Agreement Between the City of Fort Collins and Numerous Stakeholders Regarding Operation and Maintenance of Boxelder Creek Watershed Dams (B Dams B-2, B-3, and B-4).

The purpose of this item is to authorize the City Manager to execute an intergovernmental agreement (IGA) between the City of Fort Collins and numerous stakeholders regarding the operation and maintenance of the Boxelder Creek Watershed Dams (B Dams B-2, B-3, and B-4). These flood control dams were built in the 1970s and 1980s to protect agricultural lands and rural properties from flooding and erosion damage. In 2014, the Colorado State Engineer's Office (SEO) elevated their hazard classification for the dams from "moderate" to "high" due to the increased urban and suburban development and resulting flood risk to properties and citizens downstream of the facilities.

Initial costs to design and construct improvements to the B Dams were in the range of \$70 million to meet dam safety requirements. Municipal stakeholders joined together to pursue a new approach that utilized a Risk and Consequence Analysis to demonstrate that the risk will be greatly mitigated if adequate warning of flooding could be provided for the dams in lieu of the costly improvements. The IGA allocates respective costs to fund the flood warning system as well as the operations and maintenance of the B Dams.

The IGA also establishes a Management Committee to provide technical and other recommendations related to the agreement. Each party will designate one person to represent and act on the party's behalf. When possible, appointees should have applicable technical knowledge and skills.

Adopted.

27. Resolution 2023-106 Authorizing an Intergovernmental Agreement with the Downtown Development Authority for Designated Financial Support of the Carnegie Center for Creativity.

The purpose of this item is to seek approval of an intergovernmental agreement (IGA) between the City and the Downtown Development Authority for the financial support of renovation of the Carnegie Center for Creativity.

Adopted.

28. Resolution 2023-107 Supporting a Grant Application for Gray and Black Market Marijuana Enforcement Funding for Fort Collins Police Services.

The purpose of this item is to obtain support for the City to apply for grant money to support enforcement of gray and black market marijuana activity for Fort Collins Police Services.

Adopted.

29. Items Relating to Gratitude and Appreciation to the Members of the Golf Board and Bicycle Advisory Committee.

A. Resolution 2023-108 Expressing Gratitude and Appreciation to the Members of the Golf Board for their Service and Contributions to the Community.

B. Resolution 2023-109 Expressing Gratitude and Appreciation to the Members of the Bicycle Advisory Committee for their Service and Contributions to the Community.

The purpose of these items is to acknowledge the work that has been done by the Golf Board as well as the Bicycle Advisory Committee. The attached Resolutions acknowledge the contributions that the board and committee have made individually.

Both Resolutions Adopted.

30. Resolution 2023-110 Approving an Exception to the Competitive Purchasing Process with SMART Mobility Office, Unit of Panasonic Corporation of North America for Equipment, Software, Consulting and Support Services for Execution of the USDOT SMART Grant.

This item was amended after initial publication to indicate there is only one source for the software.

The purpose of this item is to approve the sole source award of a contract with Panasonic Corporation of North America ("Panasonic") to complete the work set forth within the USDOT Strengthening Mobility and Revolutionizing Transportation (SMART) Grant Agreement.

This request for an exception to the competitive process was noted in the original request to the US DOT for this grant and that it is in accordance with the Code of Federal Regulations procurement process: "This item is available only from a single source." 2 CFR § 200.320(c)(2). Piloting the PEFSA software is fundamental to the SMART grant awarded the City. The US DOT has approved the exception because the PEFSA software is proprietary to Panasonic and only available from Panasonic. In addition, this project is being funded 100% by the SMART grant and is not utilizing local funds.

This exception to the competitive process will authorize the continuation of the relationship between Panasonic and the City through an agreement that will continue for a five (5) year term. This approval will be in line with federal procurement guidelines required by the grant.

This election will enable a timely completion of the work plan set forth within the signed SMART Grant Agreement.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, to approve the recommended actions on items 1-30 on the Consent Calendar.

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.)*

Councilmember Peel commented on item 16 on the mobile home code updates, sharing appreciation for the safeguards being put in place.

Councilmember Ohlson shared regarding the following items:

- On Item 13, requested a breakdown of the total number of where the monies went, as well as which funds were public, and which were private.
- On Item 19, noted he is not a fan of ex officio members on boards and commissions; however Housing Catalyst is the one commission that makes the most sense for an ex officio member.
- On Item 22, requested a printed hard copy on legal sized paper so the document can be read straight across rather than going onto two pages.

L) STAFF REPORTS

None.

M) COUNCILMEMBER REPORTS

Councilmember Susan Gutowsky

- Shared about serving on the Behavioral Health Policy Council and recently attending its first meeting at the new facility on Trilby, noting what a wonderful and beautiful environment it has. It opened Saturday, December 2, after getting its certificate of occupancy and welcomed its first client at 8:04 that morning.
- Attended the annual North Fort Collins Business Association Christmas event yesterday, noting the wonderful services for the community offered, including the Coats and Boots Program run by Don Butler for many years and Operation Smile providing dental care for students.

Councilmember Shirley Peel

- Noted it is small business season and she was able to visit All Star Cleaning, which provides free cleaning for many non-profits and community organizations and gave them a shout out for their contributions to the community.
- Shared about her visit to Washington, DC last week with Councilmembers Canonico and Pignataro to visit with legislators, stressing the value of these trips to connect with federal legislators and agencies around the needs of the city and community, also acknowledging Deputy City Manager Tyler Marr and his knowledgeable support for this work.

Clerk's Note: Mayor Arndt called for a break at 7:15 p.m., noting the meeting would resume at 7:30 p.m.

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

None.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

- 31. Second Reading of Ordinance No. 157, 2023, Making A Supplemental Appropriation, Appropriating Prior Year Reserves, Authorizing Transfers and Authorizing the City Manager to Enter into an Agreement for the Zero Carbon Performance Code Project.**

This Ordinance, adopted on First Reading by a vote of 6-1 (nay: Ohlson) on November 21, 2023, supports the appropriation of funds for the Zero Carbon Performance Code Project by:

- *Appropriating \$693,595 of unanticipated revenue awarded by the Department of Energy (DOE);*
- *Appropriating \$152,127 from Light and Power Fund reserves;*
- *Transferring \$7,600 matching funds from existing 2023 appropriations in the Light & Power Fund; and*
- *Appropriating \$46,842 from General Fund reserves.*

In July 2023, the Department of Energy (DOE) awarded the City of Fort Collins (City) \$693,595 under the Bipartisan Infrastructure Law, Resilient and Efficient Codes Implementation (RECI) funding. The award supports development of a Zero Carbon Performance Energy Code

framework by 2030 to meet energy use and carbon emissions reduction targets and replace prescriptive energy code models. This framework will be developed as a Code path to include successive code update cycles focused on an end goal of zero carbon new construction in the 2030 code cycle.

This project directly aligns with Our Climate Future's Big Move 6 "Efficient, Emissions Free Buildings." It also recognizes the importance of building energy codes as an effective strategy to improve health and safety, comfort, climate resilience and lower energy costs within community buildings.

While the DOE did not provide the final grant agreement before first reading of this Ordinance, staff is seeking approval to begin spending resources toward the City's anticipated match. The City's \$206,569 match will be met principally through Energy Services and Building Services staff personnel time. Upon presentation of its final grant agreement and DOE confirmation of its \$693,595 award (anticipated to occur before or contemporaneous with second reading), the DOE grant will be applied to reimburse project partners and the City. DOE funds and the City's match support total project costs of \$900,164.

Note: At the time of the December 5 agenda publication, the DOE was still processing the final grant agreement.

PUBLIC COMMENT

Eric Sutherland spoke about energy use, including comparing Fort Collins to other communities and asking for the metrics and data that indicate Fort Collins is ahead of other communities. Sutherland also stated, based on several sources, that previous code amendments are not being followed and the results are immeasurable. There are no metrics to indicate that the City should continue down this road.

Glen Colton, Fort Collins resident, spoke about the need for real discussions about growth in this community when taking other climate action plan goals while looking to add 70,000 residents without regard for the impacts of this growth on the climate. Colton also stated Council should educate itself on population growth and suggested a community discussion with the Center for Public Deliberation about growth as it surfaced as a big issue while circulating referendum petitions.

COUNCIL DISCUSSION

Councilmember Ohlson asked when Council decided to move away from the existing code or if that decision was made at the staff level. Brad Smith, Energy Code Project Manager, noted the direction was set in the development of the Our Climate Future plan. Smith also noted that staff has analyzed residential building utility use per square foot and further explained that performance code models for energy performance. The focus is on reduction in utility use and greenhouse gas emissions so staff is looking to align the focus with the new building code. Each code update has indicated that energy used is reduced.

Mayor Pro Tem Francis clarified the item is funding to develop the framework and code updates will be presented to Council at a later date.

Councilmember Pignataro thanked Smith for the thorough answer.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt on second reading Ordinance No. 157, 2023, Making A Supplemental Appropriation, Appropriating Prior Year Reserves, Authorizing Transfers and Authorizing the City Manager to Enter into an Agreement for the Zero Carbon Performance Code Project.

The motion carried 7-0.

32. First Reading of Ordinance No. 173, 2023, Amending Section 2-606 of the Code of the City of Fort Collins and Setting the Salary of the Chief Judge.

This item was amended after agenda publication to include the proposed 2024 salary amount.

The purpose of this item is to amend City Code to establish the 2024 compensation of the Chief Judge. Council met in executive session on November 28, 2023, to conduct the performance review of Jill Hueser, Chief Judge and to consider the salary market analysis for this position.

Teresa Roche, Human Resources Executive, offered thanks to Council for spending significant time looking at the market data, evaluating performance, and speaking individually with Roche to develop a salary level recommendation.

PUBLIC COMMENT

None.

COUNCIL DISCUSSION

None.

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, to adopt on First Reading Ordinance No. 173, 2023, Amending Section 2-606 of the Code of the City of Fort Collins and Setting the Salary of the Chief Judge.

Councilmember Pignataro offered thanks to Judge Hueser and noted how impressed Council has been with the changes made since her appointment, including working in a challenging physical space.

Mayor Pro Tem Francis also spoke in support of the motion, noting the work done in diversion programs and other innovative efforts.

Mayor Arndt reiterated these remarks, also noting the collaboration with Police Services and efforts resulting in bringing crime rates down in Fort Collins.

The motion carried 7-0.

33. First Reading of Ordinance No. 174, 2023, Amending Section 2-581 of the Code of the City of Fort Collins and Setting the Salary of the City Attorney.

This item was amended after agenda publication to include the proposed 2024 salary amount.

The purpose of this item is to amend City Code to establish the 2024 compensation of the City Attorney. Council met in executive session on November 28, 2023, to conduct the performance review of Carrie Daggett, City Attorney and to consider the salary market analysis for this position.

Teresa Roche reiterated her comments and shared the recommended salary amount.

PUBLIC COMMENT

None.

COUNCIL DISCUSSION

None.

Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, to adopt on First Reading Ordinance No. 174, 2023, Amending Section 2-581 of the Code of the City of Fort Collins and Setting the Salary of the City Attorney.

Councilmember Pignataro thanked City Attorney Daggett for all the work done in this last year, especially in addressing the challenges in getting the office fully staffed.

Councilmember Ohlson shared appreciation for how City Attorney Daggett serves the organization and community well and has done so consistently for many years.

Councilmember Peel expressed appreciation for City Attorney Daggett, noting the challenges that come with council turn over and how Daggett has risen to the challenge.

Mayor Arndt also showed appreciation to City Attorney Daggett for always keeping the City within the law while consistently doing good work, also offering congratulations on the Open suit as a major success.

The motion carried 7-0.

34. Resolution 2023-111 Adopting an Update to the Economic Health Strategic Plan for the City of Fort Collins.

The purpose of this item is to consider adoption of the 2023 Economic Health Strategic Plan (EHSP) which includes the Circular Economy Work Plan. The EHSP does not take a one-size-fits-all approach to economic health but a people-centered, integrated economic, social, and environmental approach so Fort Collins is a healthy, equitable, and resilient community where people and businesses can thrive.

Jacob Castillo, Chief Sustainability Officer, introduced the item and noted he was joined by Shannon Hein, Economic Health Manager and SeonAh Kendall, Economic Sustainability Director, for the presentation. Kendall presented as set forth in the slide deck in the agenda materials.

PUBLIC COMMENT

Joe Rowan, Fort Collins resident, spoke about the impacts of achieving social and environmental objectives and requested that this strategic plan really dive into looking at how we make sure economic health measures are equal partners with these other factors in the triple bottom line.

Glen Colton, Fort Collins resident, noted he was involved with the original economic health group as well as serving on the Economic Advisory Board when the 2015 plan was developed. This work focused on government supporting businesses, not on attracting businesses. Colton shared concerns about the plan being largely written by consultants, with no evidence of getting input from a range of stakeholders and focusing on growth.

COUNCIL DISCUSSION

Mayor Arndt commented on a desire to ensure the City looks broadly across departments to help make sure this plan comes to fruition and is successful.

Mayor Pro Tem Francis asked why the housing plan and climate plan were not called out in the goals of the plan. Kendall responded that staff discussed how to help and support these plans. It was noted there has been job growth but no significant wage growth. Staff then looked at what we are trying to achieve, which is good quality job growth so that residents can spend money as they choose to rather than on basic needs, such as housing and medical care. Efforts were made

to include those plans by mapping out and aligning strategically to areas where there was not a point by point alignment.

Councilmember Ohlson thanked staff for their hard work, noting that it is clear the efforts that have gone into this plan. He stated his philosophies and values are different and he will therefore not be supporting the plan, but that does not negate the hard work that has been done. He stated he views this plan as focused on growth and government in the role of spending resources to make that growth happen at a more rapid rate.

Councilmember Pignataro noted growth has been a constant whether desired or not. She asked CSO Castillo to speak to the equity focus of this plan. He noted the equity overlay present in the plan and efforts to support both small businesses and primary employers, and provided information on proactively attracting businesses that match the ethos of the community.

Councilmember Gutowsky asked Hein to share about the Multicultural Business and Entrepreneur Center. Hein provided an overview and noted that this program was considered in the reporting in the realm of the plan goals.

Councilmember Ohlson requested clarification on some points, noting he has not opposed or supported no growth policies, but rather has looked for discussions on what the role of government should be. He asked what the end game of growth was.

Councilmember Canonico asked for more background on the population forecast of 70,000 additional residents. Castillo noted Fort Collins has had a steady growth rate of 1.5% and that means the growth being experienced is neither off the charts nor unprecedented. These estimates come from the state demographer as well as a range of other sources looking at several factors. Councilmember Canonico noted the role of government is the need to be prepared for growth.

Mayor Pro Tem Francis asked for clarification on the sentence about not achieving social equity without economic growth in specific populations, noting she reads it as not speaking to general growth but rather growth in specific populations. Castillo concurred. Mayor Pro Tem Francis spoke to her support for this plan and the important work it supports.

Mayor Arndt noted she thought the population of Fort Collins went down a little bit last year.

Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, adopting an Update to the Economic Health Strategic Plan for the City of Fort Collins.

The motion carried 6-1.

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

Nays: Councilmember Ohlson.

P) OTHER BUSINESS

OB 1. Update on Status of the Referendum Petition Process.

City Clerk Anissa Hollingshead updated Council on the status of the current referendum petition noting the examination of signatures is complete and 5,776 signatures were determined to be valid. This exceeds the threshold of 4,228 signatures required for a petition to be determined sufficient. A statement of referendum petition sufficiency was issued today. Hollingshead explained the process to protest the determination of sufficiency, the protest hearing process and the next steps in the referendum process. A final certification of a finding of sufficiency cannot be made until either the expiration of the protest period or any protest process concludes.

Mayor Pro Tem Francis requested clarification on the number of options that would be presented if the petition is certified sufficient. Mayor Arndt noted that Council could repeal, amend, and repass at the same meeting. City Attorney Daggett clarified amendments to the Land Use Code are required by the Land Use Code to be heard by the Planning and Zoning Commission before they are presented to Council.

OB 2. 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.)

Councilmember Canonico requested that staff bring forward to Council the previously presented code amendment options at First Reading of Ordinance No. 136, 2023, as well as procedural options for Council to consider. Council supported this request.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 8:41 p.m.

ATTEST:

Matt L. Wall
City Clerk, Deputy



[Signature]
Mayor