

May 2, 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 May 2023 as Fort Collins Archaeology and Historic Preservation Month.**

PP 2. **Friend of Preservation Awards**

The Historic Preservation Commission established the Friend of Preservation Awards in 1985 to recognize people, organizations, and projects that exemplify work in local history, education, and historic preservation. The chair of the HPC and the Mayor give the award each year. In 2023, the Commission recognized D.L. Roberts, Rose Brinks, Kim Medina, and Meg Dunn for both recent and lifetime achievements in support of preserving the Fort Collins area's important places.

Mayor Jeni Arndt presented the above proclamation and awards 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:

- Noting there were no changes to the published agenda.
- Recommending adoption of the consent calendar as presented.
- Noting there is one item for discussion on the agenda.

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.)*

Adam Eggleston, Fort Collins resident, spoke regarding Mental health awareness month and invited the community to attend an event this coming Saturday at Ginger and Baker to provide resources and education for mental health support and awareness across the community.

Nick DeSalvo, Fort Collins resident, spoke in a new role as the CSU Student Body President, inviting the Council to work together with the CSU student body on issues, before speaking about the uncertainty around Senate Bill 213 and the work being done by students to petition for an initiative to change the City's U+2 policy if the bill does not pass, noting the challenges facing students who are part of the missing middle not receiving support towards housing who need this change.

Barry Noon, Fort Collins resident, spoke regarding 1041 regulations, noting prior studies showing the impacts to the Poudre River from a response model demonstrating it is already impaired and at risk from various factors strongly dependent on limiting the amount of water taken from the river and stabilizing water levels late in the season. Concerns were expressed about the NISP project and its impact on the river.

Madeleine Kamburg Jennings, Fort Collins resident, spoke about the work done to draft an initiative to replace U+2 as someone impacted as part of the missing middle, and also spoke against the rental registration program with inspections.

David Bohler, Fort Collins resident, spoke representing CSU students as someone who served in the military over 24 years, noting the similarities found in communities with bases and universities, and the dynamic CSU brings to the town. He also encouraged allowing CSU students to apply for host family permits.

Jorge Garcia, Fort Collins resident and CSU student and housing security director for ASCSU, shared it is finals week and therefore there are not as many students as had been hoped tonight, while noting how big a problem housing is for students and the community at large and sharing support for changes to U+2.

Evan Welch, Fort Collins resident and director of governmental affairs with ASCSU and incoming housing security director, spoke regarding issues with housing and the need to work with students to help improve this situation.

Eric Sutherland, Fort Collins resident, spoke with concern regarding Connexion.

Braxton Dietz, CSU student, spoke regarding concerns around U+2 to counter some perceived misconceptions.

Crystal Boyer, Fort Collins resident and CSU student, spoke as a social worker and intern about the lack of shelter space and how it contributes to issues with housing and U+2.

Alayna Truxal, Fort Collins resident and incoming chief justice of the ASCSU supreme court, spoke regarding U+2 and student support for eliminating that ordinance.

Ross Cunniff, Fort Collins resident, spoke regarding water adequacy and the Council's prior position regarding lack of support for NISP ahead of next week's work session.

Marcus Zacarias, the outgoing ASCSU chief justice, reiterated comments about the needs for housing exacerbated by U+2 and how at this time of year, many students are graduating and leaving the community because of a lack of housing.

Grace Crangle, ASCSU director of marketing and CSU graduating senior, noted the importance of representing students and that a good portion of whom are impacted by U+2 provisions.

Public comment concluded at 6:42 p.m.

H) PUBLIC COMMENT FOLLOW-UP

Councilmember Shirley Peel offered congratulations to all the students who are graduating.

Mayor Jeni Arndt offered clarification the Council unanimously voted not to approve the mandatory rental inspections.

Councilmember Julie Pignataro thanked students for coming tonight and stated anticipation for ongoing conversations about occupancy at next week's work session. Regarding Connexion, she asked for clarification if there is a board with people on it.

City Manager Kelly DiMartino responded to confirm there is now a community advisory committee for transparency in ongoing public reports, and indicated Connexion Executive Director Chad Crager was also available to offer further clarifications if desired.

Councilmember Tricia Canonico also thanked students for continuing to come out and offered congratulations to graduating students.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

J) CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the April 18, 2023 Regular Meeting.

The purpose of this item is to approve the minutes of the April 18, 2023 regular meeting.

Approved.

2. Second Reading of Ordinance No. 063, 2023, Appropriating Prior Year Reserves in the Natural Areas Fund and the Sales and Use Tax Fund for the Purpose of Land Conservation, Visitor Amenities, Restoration and Other Related Natural Areas Stewardship Activities Not Included in the 2023 Adopted City Budget.

This Ordinance, unanimously adopted on First Reading on April 18, 2023, appropriates \$10,844,479 in prior year reserves in the Natural Areas Fund and \$1,258,071 in prior year reserves in the Sales and Use Tax fund to be transferred to the Natural Areas Fund. These appropriations are for land conservation, visitor amenities and restoration of wildlife habitat, as well as other Natural Areas Department stewardship activities to benefit the residents of Fort Collins.

Adopted on Second Reading.

3. **Second Reading of Ordinance No. 064, 2023, Appropriating Unanticipated Grant Revenue from the Colorado Energy Office's Community Access to Electric Bicycles Grant Program for the Choose Your Ride, Shift Your Ride Program.**

This Ordinance, unanimously adopted on First Reading on April 18, 2023, supports the Choose Your Ride, Shift Your Ride project being administered by FC Moves in collaboration with Colorado State University in support of affordable active modes of transportation for low-income individuals by appropriating \$148,350 of unanticipated grant revenue, awarded by the Colorado Energy Office, to the Transportation Fund.

Adopted on Second Reading.

4. **Second Reading of Ordinance No. 065, 2023, Authorizing the Acquisition by Eminent Domain Proceedings of Temporary Easements on Certain Lands Necessary to Construct Public Improvements for the Eastern Segment of the Laporte Corridor Improvement Project.**

This Ordinance, unanimously adopted on First Reading on April 18, 2023, authorizes the use of eminent domain, if deemed necessary, to acquire temporary construction easements needed for constructing improvements for the Laporte Corridor Project.

Adopted on Second Reading.

5. **Items Relating to the Appropriation of Federal Funds in the Community Development Block Grant and HOME Investment Partnership (HOME) Program Funds.**

A. First Reading of Ordinance No. 066, 2023, Making Supplemental Appropriations in the Community Development Block Grant Fund.

B. First Reading of Ordinance No. 067, 2023, Making Supplemental Appropriations in the HOME Investment Partnerships Grant Fund.

The purpose of this item is to appropriate the City's FY2023 Community Development Block Grant (CDBG) Entitlement Grant and Fiscal Year (FY) 2023 Home Investment Partnerships Program (HOME) Participating Jurisdiction Grant from the Department of Housing and Urban Development (HUD), and CDBG program income from FY2021 and FY2022 and HOME Program Income from FY2021 and FY2022.

Adopted Both Ordinances on First Reading.

6. **Public Hearing and First Reading of Ordinance No. 068, 2023, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for that Certain Property Known as the North College Mobile Home Park Rezoning.**

The purpose of this item is to amend the Zoning Map and rezone the North College Mobile Home Park (the "Property") from the Service Commercial (CS) and Low Density Mixed-Use Neighborhood (LMN) zone districts to the Manufactured Housing (MH) zone district. Half the Property is the CS zone district, and the other half is the LMN zone district. With the proposed rezoning both of those would change to the MH zone district, which would cover the entirety of the property. The 33-acre Property is located southwest of the North College Avenue and Willox Lane intersection. The proposed rezoning was initiated by the City and continues a series of rezonings begun in 2020 to rezone existing mobile home parks to the MH zone district to promote the preservation of existing manufactured housing communities.

The rezoning request is subject to Section 2.9.4 of the Land Use Code. The rezoning may be approved, approved with conditions, or denied by Council after receiving a recommendation from

the Planning and Zoning Commission. The Planning and Zoning Commission voted 5 to 1 at their March 23, 2023, hearing to recommend approval of the rezoning.

This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with Section 2(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2022-068.

Adopted on First Reading.

7. Items Relating to the West Elizabeth Corridor Final Design.

A. First Reading of Ordinance No. 069, 2023, Making Supplemental Appropriations, Appropriating Prior Year Reserves, and Authorizing Transfers of Appropriations for the West Elizabeth Corridor Final Design and Related Art in Public Places.

B. Resolution 2023-041, Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and Colorado State University for the West Elizabeth Corridor Final Design.

C. Resolution 2023-042, Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the West Elizabeth Corridor Final Design.

The purpose of this item is to appropriate local match funds and approve two intergovernmental agreements (IGAs) for the West Elizabeth Corridor Final Design (the Project) and enable the City to receive and expend Federal and Colorado Department of Transportation (CDOT) funds for and to proceed forward with the Project. The funds will be used for the final 100% design and outreach regarding improvements along West Elizabeth Street from Mason Street and the Colorado State University (CSU) campus to Overland Drive. If approved, the item will: (1) authorize the Mayor to execute an IGA with CDOT for the Project (the CDOT IGA); (2) authorize the Mayor to execute an IGA with CSU for the Project (the CSU IGA); (3) appropriate \$651,628 from Transportation Capital Expansion Fee and unanticipated revenue from Transfort funds, \$616,124 of matching CSU-provided funds, and \$1,232,248 of Multi-Modal Options Funding grant funds for the Project; and (4) appropriate \$6,516 to the Art in Public Places Program.

Adopted Ordinance on First Reading and Resolutions.

8. First Reading of Ordinance No. 070, 2023, Vacating a Portion of Impala Circle Right-of-Way.

The purpose of this item is to approve the vacation of Impala Circle right-of-way that is no longer desirable or necessary to retain for street purposes. Portions of the right-of-way area, once vacated, will be retained as public access and emergency access easements to the City to provide continued access for the neighboring properties.

Adopted on First Reading.

9. Resolution 2023-043 Approving Expenditures From the Art in Public Places Water Utility Account to Commission an Artist to Create Art in Public Places for the Water Treatment Facility Project.

The purpose of this item is to approve expenditures from the Art in Public Places (APP) Water Utility Account to commission an artist to create a sculpture for the Water Treatment Facility Project. The expenditures of \$45,000 will be for design, engineering, materials, signage, fabrication, delivery, installation, and contingency for Todd Kundla to create the entrance artwork for the Water Treatment Facility Project that honors the staff, the process, and facility that provides clean water to the community.

Adopted.

10. **Resolution 2023-044 Approving Expenditures from the Art in Public Places Stormwater and Water Utility Account to Commission an Artist to Create Art in Public Places Relating to Stream Rehabilitation.**

The purpose of this item is to approve expenditures from the Art in Public Places (APP) Stormwater and Water Utility Accounts to commission an artist to create art for the Stream Rehabilitation Project. The expenditure of \$191,800 will be for construction final design, engineering, materials, signage, fabrication, delivery, installation, and contingency for Andy Dufford and Chevos Studios to create the artworks for the Stream Rehabilitation Project.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to approve the recommended actions on items 1-10 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.)*

None.

L) STAFF REPORTS

None.

M) COUNCILMEMBER REPORTS

Councilmember Tricia Canonico

- Participated in a land use code walking tour the prior weekend, noting it was great and very hands on.
- Also participated last week with the Mayor and several City staff in the inaugural Cities Summit of the Americas focused on the subnational level and how we can all work together.

Mayor Jeni Arndt

- Reiterated how phenomenal the Cities Summit of the Americas was, including the recognition of the work done at the municipal level.

Councilmember Susan Gutowsky

- Congratulated the City and partnering entities on providing excellent Earth Day activities at the library, including as a highlight the electric vehicle library carrying roughly 1500 materials and serving as a library card sign up location, as well as providing Wi-Fi hotspots.

Councilmember Shirley Peel

- Recognized last week was Administrative Professionals Day and this week is Professional Municipal Clerks Week.
- Attended Crossroads Safe House behind the Mask exhibit, and noted Crossroads can always use donations.
- Attended the Life of the Innocent Gala raising money to rescue children from human trafficking.
- Attended a cold Earth Day celebration.
- Attended the Torah celebration at the synagogue.

Councilmember Julie Pignataro

- Attended the beginning of the deliberative session regarding the land use code with Mayor Pro Tem Francis and noted she is anxious to see the report of the outcomes of that session.
- Attended FoCo MX and enjoyed the weekend and entertainment, seeing all the people coming from out of town to participate.

Clerk's Note: Mayor Arndt called for a break at 6:53 p.m. The meeting resumed at 7:06 p.m.

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

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

11. First Reading of Ordinance No. 071, 2023, Amending the Land Use Code to Include Regulations for Areas and Activities of State Interest

The purpose of this ordinance is to amend the Fort Collins Land Use Code to include 1041 regulations. 1041 powers give local governments the ability to regulate particular development projects occurring within their jurisdiction, even when the project has broader impacts. The 1041 regulations would allow for reviewing and permitting of two designated areas and activities of statewide interest - (1) major domestic water, sewage treatment and (2) highway projects. Staff has included five decision points for Council's consideration based on feedback from stakeholder meetings since Council's previous consideration of 1041 regulations on February 7, 2023.

Planning, Development and Transportation Deputy Director Paul Sizemore introduced the item before turning the presentation over to Senior Environmental Planner Kirk Longstein who presented as set forth in the slide deck in the agenda packet.

PUBLIC COMMENT

Paul Rennemeyer, Windsor mayor, spoke about the proposed 1041 regulations and how they are not a collaborative process and are unaligned with the goals of Council.

Ross Cunniff, Fort Collins resident and Land Conservation Stewardship Board member, spoke about the potential impacts of 1041 regulations on the Poudre River and encouraged more be done to protect natural areas.

Kevin Jones, Fort Collins Area Chamber of Commerce, reiterated perspectives shared by the Chamber in a letter to concern, continuing to believe local 1041 regulations add more complexity to an already complex process.

Chris Pletcher, General Manager of the Fort Collins Loveland Water District, spoke to how 1041 intersects the district's provision of water to the City and highlighted top two points of feedback on the proposed regulations, including support in decision point four for the use of IGAs as a form of appropriate regulatory authority, and expressed support of removing existing pipe thresholds in decision point one.

Mike Scheid, general manager of East Larimer County (ELCO) Water District, spoke to thank staff for their collaboration and noted ELCO submitted written comments earlier today with its feedback, including concern about what constitutes a major project based on their understanding of the proposed regulations including several pending projects it does not see as constituting major projects but that are rather pipeline projects in either right of way or a private easement.

Michelle Haefele, Fort Collins resident, urged Council to adopt the regulations before it and for the City to exercise its authority under state statute to apply these requirements to activity that

may have adverse impacts within the City, as well as including the Poudre River as an area of statewide concern. She encouraged the City not to use an IGA in lieu of 1041 regulations.

Brad Wins, general manager of Northern Water, spoke about challenges of uncertainty in providing services while residents have become intolerant of uncertainty, noting the need for creating win-win partnerships that share the burden of risk.

Joe Rowan, Fort Collins resident, spoke about the charge given to staff two years ago to stop NISP and noted the error in pursuing 1041 to stop a single project and encouraged taking a more balanced approach tonight focused on defining outcomes.

Brian Zick, district manager of Boxelder Sanitation District, noted Boxelder is small. He is also the chair of the Executive committee of the North Front Range Water Quality Planning Association which is looking at water quality in Northern Colorado. Presently doing a non-point source watershed study and considering things like water trading programs to look at how to improve water quality and stream flows. His vision is that is the kind of thing all these entities should be talking about together with investments to really make things happen rather than talking about regulations that could create a chasm between organizations that restrict the ability to collaborate.

Dennis Gatlin, chair of the Boxelder Sanitation District Board of Directors, noted the district stands shoulder to shoulder with the City's environmental objectives, while noting the perception these regulations show a lack of trust in long standing partners. He encouraged the use of enforceable and accountable agreements within common understanding, and asked Council to consider exempting local government partners from 1041 regulations.

Gary Wockner spoke on behalf of Save the Poudre with two points, first asking the Council to vote yes and pass these regulations, and then regarding decision point 3, he shared a perception Council has received erroneous information on this point. State law and court case precedent allows this sort of regulation, and other counties and cities have and are doing this. In 2020, two former Larimer County commissioners did it here, permitting NISP, invoking cross jurisdictional authority and causing negative impacts on natural areas in Fort Collins. This is about empowerment of the people of Fort Collins and the City organization, as well as staff and this Council.

Matthew Fries, Mayor of the Town of Severance spoke to share biographical data about the town's 11,000 residents, roughly 60% of whom are employed within Fort Collins, including 32 Fort Collins police officers. As a former longtime resident of Fort Collins, he noted many people move to Severance because it is the only affordable commutable residence. The other part of that reality is having a sustainable water source. The creation of NISP has nothing to do with power but rather with taking care of residents. Water was the consuming factor of his time as mayor. The common theme in all dialogues and summits on this topic is it is going to take a regional approach.

COUNCIL DISCUSSION

Councilmember Peel asked two questions, including what the IGA process would look like. Longstein noted staff would need more guidance from Council on how they would like that structured. She also asked about using a third-party consultant, noting it did not seem to bring predictability to cost. Longstein replied there is not a full set of data from the existing request for information. Deputy Director Sizemore noted any project would have an element of unpredictability that would get more refined as the project moved further along. It is the hope of staff that in having those initial conversations, staff would be gathering information to be able to identify contingencies and better zero on estimates.

Councilmember Ohlson shared his belief the City has listened to community and regional partners, with more things changed in their favor over environmental protections, noting a desire not to compromise any further. In response to a question about why these regulations do not

apply to the whole city, Planner Longstein noted under project definitions, if it is partially or fully within the City limits, it would be covered. Under a FONAI determination, it would look at several geographic areas to encourage protection of natural areas. Staff is recommending moving forward with the FONSI (finding of no significant impact) rather than the FONAI (finding of no adverse impact). Councilmember Ohlson also questioned the integrity of the definition of “mitigation” in the proposed regulations, and separately expressed his disinterest in a pre-application review by Council. Planner Longstein clarified this was not included in the present staff recommendation.

Councilmember Pignataro asked a series of questions answered by Planner Longstein and Senior City Attorney Brad Yatabe. There was a request for follow up before second reading if the ordinance moves forward on whether a city property owned by the City but outside the City limits, would it be covered by Larimer County regulations, and how consultants selected by the City would be determined reliably unbiased; Planner Longstein replied that could be part of selection criteria.

Mayor Arndt asked a series of questions, focused on IGA options.

Mayor Pro Tem Francis stated agreement with the staff recommendations as presented.

Councilmember Gutowsky asked for clarification on the community comment about the scope of our regulation and what happens in a natural area or river when there is an impact outside of our GMA. Longstein noted this is related to Decision Point 3.

Council then walked through the five decision points to indicate support for any potential amendments to the ordinance prior to its adoption on first reading.

Decision Point 1 – Update Definitions

There was consensus support for the staff recommendations shown on the slide in the presentation as a, b, and c, to amend the ordinance, including:

- a) Remove pipe-size diameter from defined project thresholds.
- b) Add definition for Public Right of Way and exclude projects in Public Right of Way from covered projects.
- c) Add definitions that redefine the Applicability of Standards determination (FONAI →FONSI)
 - i. Impact
 - ii. Cumulative impacts
 - iii. Significant
 - iv. Finding of No Significant Impact (FONSI)

Decision Point 2 – Update Application Procedures

There was consensus support for amending the item to include staff recommendations a and b, as well as for d:

- a) Add conceptual submittal document that summarizes the potential for a significant impact.
- b) Move neighborhood meeting requirements to after review of the applicability of standards (i.e., FONAI determination), and extend comment period during the pre-application activity review.
- c) Remove Optional Pre-Application Review by Council.

Decision Point 3 – Update Review Standards to account for construction activities outside the jurisdiction

There was consensus support for the staff recommendation to make no changes to the ordinance in this area, as well as to schedule a work session to explore designating areas of statewide interest outside the jurisdiction and/or the Poudre River (other geographic limits) and analyze policy implications and establish parameters for a new work stream.

Decision Point 4 - Consider Intergovernmental Agreement (IGA)

There was consensus support for the staff recommendation to make no changes to the ordinance in this area.

Decision Point 5 – Permit Administration

There was consensus support for the staff recommendation for option a, to direct staff to bring back a supplemental appropriation for permit administration. With the proposal of the process of using On-call developmental support.

Mayor Arndt called for a 20-minute break at 9:05 p.m. to allow an opportunity for the City Attorney to write up the amendments with consensus support for the Council to act on. The meeting resumed at 9:50 p.m.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt on first reading Ordinance No. 071, 2023 Amending the Land Use Code to Include Regulations for Areas and Activities of State Interest, including staff recommendations of 2a) and 2b).

Staff Recommendation 2a) Add conceptual submittal document that summarizes the potential for a significant impact.

Staff Recommendation 2b) Move neighborhood meeting requirements to after review of the applicability of standards (i.e., FONAI determination), and extend comment period during the pre-application activity review.

City Attorney Daggett ran through the changes associated with the scope changes to the ordinance relating to Decision Point 1, reading them into the record and displaying them for meeting participants in the Council Chambers and watching the meeting broadcast, including:

- A change in Section 6.1.9 to the definition of “Major new sewage system” on page 35 of the ordinance:

Major new sewage system shall mean:

- (1) A new wastewater treatment plant;**
- (2) A new lift station; or**
- (3) An interceptor main or collector sewer used for the purposes of transporting wastewater that meets one or more of the following criteria:**
 - (a) Distribution and transmission lines Will require a new public right-of-way or easement greater than 30-feet in width 42” diameter pipe and 1,320 1,452 linear feet in length in the aggregate for the proposed development plan; or**

(b) Will require a new, or utilize an existing, easement within any City natural area or conserved land greater than 30-feet or greater in width and 1,452 1,320 linear feet in length in the aggregate for the proposed development plan.

- A change in Section 6.1.9 to the definition of “Major new domestic water system” also on page 35 of the ordinance:

Major new domestic water system shall mean:

- (1) A system of wells, water diversions, transmission mains, distribution mains, ditches, structures, and facilities, including water reservoirs, water storage tanks, water treatment plants or impoundments and their associated structures, through which a water supply is obtained, stored, and sold or distributed for domestic uses; or
- (2) A system of wells, water diversions, transmission mains, distribution mains, ditches, structures, and facilities, including water reservoirs, water storage tanks, water treatment plants or impoundments and their associated structures, through which a water supply is obtained that will be used directly or by trade, substitution, augmentation, or exchange for water that will be used for human consumption or household use;

And all or part of a system described in (1) or (2) above meets one or more of the following criteria:

- (a) ~~Distribution and transmission lines~~ Will require a new public right-of-way or easement greater than 30-feet in width 42” diameter pipe and 1,320 1,452 linear feet in length in the aggregate for the proposed development plan; or
- (b) Will require a new, or utilize an existing, easement within any City natural area or conserved land greater than 30-feet or greater in width and 1,452 1,320 linear feet in length in the aggregate for the proposed development plan.

In determining whether a proposed development plan is a major new domestic water supply system, the Director may consider water rights decrees, pending water rights applications, intergovernmental agreements, treaties, water supply contracts and any other evidence of the ultimate use of the water for domestic, human consumption or household use. Domestic water supply systems shall not include that portion of a system that serves agricultural customers, irrigation facilities or stormwater infrastructure.

- A change in Section 6.1.9 to the definitions of “Major extension of an existing domestic water treatment system” and “Major extension of an existing sewage treatment system” on page 36 of the ordinance:

Major extension of an existing domestic water treatment system shall mean the expansion of an existing domestic water treatment plant or capacity for storage that will result in a material change, or the extension or upgrade of existing transmission mains, distribution mains, or new pump stations that will result in a material change. Major extension of an existing domestic water treatment system shall exclude the following:

- (1) Any maintenance, repair, adjustment;
- (2) Existing pipeline or the relocation, or enlargement of an existing pipeline within the same public right-of-way or easement not greater than 30-feet in width and for a distance of 1,452 linear feet or less;
- (3) A new pipeline or facility within an existing public right-of-way;

- (4) A new pipeline or facility within easements not greater than ~~Expanding any existing easement to a total width of 30-feet or less and for a distance of 4,320~~ 1,452 linear feet or less; or
- (5) A new pipeline or facility constructed partially within an existing public right-of-way and partially within adjoining easements that are not greater than 30-feet in width and for a distance of 1,452 linear feet or less
- (6) Any facility or pump station or storage tank that does not increase the rated capacity from the Colorado Department of Public Health and Environment.

Major extension of an existing sewage treatment system shall mean any modification of an existing wastewater treatment plant or lift station that will result in a material change, or any extension or upgrade of existing interceptor main or collector sewer that will result in a material change. Major extension of an existing sewage treatment system shall exclude the following:

- (1) Any maintenance, repair, adjustment;
- (2) Existing pipeline or the relocation, or enlargement of an existing pipeline within the same public right-of-way or easement not greater than 30-feet in width and for a distance of 1,452 linear feet or less;
- (3) A new pipeline or facility within an existing public right-of-way;
- (4) A new pipeline or facility within easements not greater than ~~Expanding any existing easement to a total width of 30-feet or less and for a distance of 4,320~~ 1,452 linear feet or less; or
- (5) A new pipeline or facility constructed partially within an existing public right-of-way and partially within adjoining easements that are not greater than 30-feet in width and for a distance of 1,452 linear feet or less; or
- (6) Any ~~sewage system~~ facility or lift station that does not increase the rated capacity from the Colorado Department of Public Health and Environment.

- Added a new definition in Section 6.1.9 of Public Right of Way on page 37 of the ordinance:

Public right-of-way shall mean an area dedicated to public use or impressed with an easement for public use which is owned or maintained by the City and is primarily used for pedestrian or vehicular travel for public utilities or other infrastructure. Right-of-way shall include, but not be limited to, the street, gutter, curb, shoulder, sidewalk, sidewalk area, parking area and any other public way.

- Elimination in Section 6.1.9 on page 33 of the existing definition for “Adverse impact”

~~*Adverse impact* shall mean the direct or indirect negative effect or consequence resulting from development. Adverse impact shall refer to the negative physical, environmental, economic, visual, auditory, or social consequences or effects that may or may not be avoidable or fully mitigable. Adverse impacts may include reasonably foreseeable effects or consequences caused by the development plan that may occur later in time or be cumulative in nature.~~

- Elimination in Section 6.1.9 on page 34 the definition of FONAI

~~*FONAI* shall mean a finding of negligible adverse impact pursuant to Section 6.6.5.~~

- Adding a definition in Section 6.1.9 on page 34 of “Finding of no significant impact (or FONSI):

Finding of no significant impact (or FONSI) shall mean the decision by the Director as to whether a potential impact is not significant based on the scale and context of the proposed development plan as well as the magnitude, duration or likelihood of an impact occurring.

- Adding a definition in Section 6.1.9 on page 34 of “Impact”:

Impact shall mean the direct or indirect negative effect or consequence resulting from development that may or may not be avoidable or fully mitigated.

- Adding the language “The standards shall be evaluated for significant impacts within the geographic context of the development plan, and relate to the magnitude, duration or likelihood of such an impact.” In three places, in Section 6.7.1 on page 54; in Section 6.8.3 on page 60; and in Section 6.9.3 on page 62:

6.7.1 Review Standards for All Applications

In addition to the review standards for specific activities listed at Divisions 6.8 and 6.9, all applications under these Regulations, in consideration of proposed mitigation measures, shall be evaluated against the following general standards, to the extent applicable or relevant to the development plan, in City Council’s reasonable judgment. The standards shall be evaluated for significant impacts within the geographic context of the development plan, and relate to the magnitude, duration or likelihood of such an impact. To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance.

6.8.3 Specific Review Standards for Major New Domestic Water or Sewage Treatment Systems or Major Extensions

A permit application for the site selection and construction of a major new domestic water or sewage treatment system or major extension of such system shall be approved with or without conditions only if the development plan complies with the review standards in Section 6.7.1 and the below standards, to the extent applicable or relevant. The standards shall be evaluated for significant impacts within the geographic context of the development plan, and relate to the magnitude, duration or likelihood of such an impact. To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance. If City Council finds the development plan does not comply with all applicable standards, the permit shall be denied unless City Council, in its sole discretion, imposes conditions pursuant to Section 6.6.14 which if fulfilled would bring the development plan into compliance with all applicable standards, in which case City Council may approve the permit. City Council may also impose additional conditions pursuant to Section 6.6.14 on any permit.

6.9.3 Specific Review Standards for Arterial Highway, Interchange or Collector Highway Projects

A permit for the site selection of an arterial highway, interchange or collector highway shall be approved with or without conditions only if the proposed development plan complies with the review standards in Section 6.7.1 and the below standards, to the extent applicable or relevant. The standards shall be evaluated for significant impacts within the geographic context of the development plan, and relate to the magnitude, duration or likelihood of such an impact. To the extent a permit application may not comply with a particular standard, the applicant may demonstrate compliance with such standard by proposing mitigation measures that sufficiently offset the extent of noncompliance. If City Council finds the development plan does not comply with all applicable standards, the permit shall be denied unless City Council, in its sole discretion, imposes conditions pursuant to Section 6.6.14 which if fulfilled would bring the development plan into compliance with all applicable standards, in which case City Council may

approve the permit. City Council may also impose additional conditions pursuant to Section 6.6.14 on any permit.

- Making conforming changes throughout the ordinance to change the reference from FONAI to FONSI and to change the reference from adverse impact to significant impact.

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, to amend the motion on the floor to amend the ordinance to include the changes related to Decision Point 1 read into the record by the City Attorney.

The motion to amend the motion on the floor carried 7-0.

The motion as amended carried 6-1.

Ayes: Councilmember Canonico, Pignataro, Gutowsky, Ohlson, Mayor Pro Tem Francis and Mayor Arndt.

Nays: Councilmember Peel.

Mayor Arndt invited further discussion on the ordinance as adopted on first reading.

Councilmember Pignataro offered comments on her perspective at this phase, noting the work that was undertaken around this topic was never about stopping a particular project, but a project did highlight issues with the current process. She shared her primary concern has always been ensuring our natural areas remain as undisturbed as they can but also that there is a predictable path forward for these projects that need to happen for our region in general. The support of our neighbors is important and there is a level where it cannot affect our wellbeing. Our air quality is some of the worst in the world because of other goings on in the Northern Colorado region. This is what led to making regionalism a priority to address these issues holistically. These regulations are not intended to kill any project but rather to put parameters around a project so that it does not hurt the things that make our community great.

Councilmember Peel shared she has a different approach to this, agreeing that while we do want to protect the environment in our City, we also cannot forget residents in her district are served by the Fort Collins Loveland Water District. While she is one of seven in making decisions for the City, she was elected to represent District 4 and these regulations have adverse effects on her district.

Mayor Arndt spoke about the intent of the 1041 regulations to protect natural areas and spaces while allowing permits and projects to come through. She asked staff for some reassurance that these 1041 regulations will be designed in a manner that allows projects to come through. Planner Longstein responded, speaking to the primary focus on incentivizing the avoidance natural areas, as well as working with applicants to work through mitigation when they cannot be avoided, all with the intent of also providing certainty and clarity to applicants through the use of geographic areas for a better outcome for projects. In response to a follow up question about concerns regarding permitting being used as a delay tactic, Longstein also discussed the 60-day 'shot clock' that was added as a self-imposed requirement on staff requiring action taken when an application comes in. There is also a 90-day shot clock that incorporates the Council hearing within 30 days of the submission of a complete application, with the Council hearing occurring within 60 days of that.

Regarding a potential work session on extra jurisdictional regulation, Mayor Arndt reiterated her own concerns regarding the legality surrounding this topic while stating she would not object to holding a work session.

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.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:15 p.m.

Mayor

ATTEST:

City Clerk

DRAFT