

January 7, 2025

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

None scheduled.

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 Melanie Potyondy
Councilmember Kelly Ohlson

STAFF PRESENT

City Manager Kelly DiMartino
City Attorney Carrie Daggett
City Clerk Delynn Coldiron

E) CITY MANAGER'S AGENDA REVIEW

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

- No changes to the published agenda.
- Items 1-6 on the Consent Calendar are recommended for adoption.

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.)*

John Ramstead spoke in favor of the Connexion Workers Coalition stating that not recognizing the union sends a message that Council and the City Manager are against unions. Ramstead opposed placing the item on the ballot and stated the employees have come together and want to bargain for their rights. Additionally, Ramstead supported placing an item on the ballot similar to Denver's 2U initiative to make forming unions easier. Ramstead encouraged Council to reconsider allowing video as part of public comment.

Kimberly Conner stated Council and our community are being complicit in the genocide occurring in the Middle East and that by remaining silent, Council is responsible for death and homelessness. Conner stated the war is not separate from our community and we are all responsible for what is occurring. Conner urged Council to approve a ceasefire resolution and arms embargo.

Christina Swope encouraged Council to ask the City Manager to recognize the Connexion Workers Coalition and to honor the legislation that was passed in Denver. Swope stated the voters of Colorado want workers to be able to bargain with employers regarding quality-of-life issues without fear of retaliation. Swope stated Fort Collins should set a precedent in this regard and approve a union without requiring it to go to a ballot.

Nicholas Sahwin noted he is a Connexion tech support worker and organizer of the union. Sahwin encouraged Council to develop a ballot measure like Denver's that would enable Fort Collins voters to weigh in on this issue. Sahwin stated there may be no option other than a strike should employee unions not be recognized and asked Council and City leadership to start communicating with the union.

Michael May asked Council to pass a resolution and encourage the City Manager to recognize the Connection Workers Coalition.

Casey Johns asked the City to recognize the Connexion Workers Coalition and stated a framework should be established to make this easier for other groups that want to organize.

Kaori Keyser stated it is important for the City to recognize the Connexion Workers Coalition and begin to develop a framework like Denver's. She stated the cost of doing this would not be too impactful to the City's budget and would ensure workers' voices are heard.

Jonesy Winchell spoke in support of recognizing the Connexion Workers Coalition and stated the City should develop a framework like Denver's.

August-Carter Nelson spoke in support of recognizing the Connexion Workers Coalition and stated Council should care about its employees in addition to its constituents.

Adam Hirschhorn provided comments on various pictures he provided and discussed nuclear war and related impacts.

Jonah Salehi noted he is a co-chair of DSA Fort Collins and asked Council and the City to recognize the Connexion Workers Coalition. Salehi commented on the training staff attended about creating environments where unions are not needed. Salehi stated workers will continue to unionize and this is Council's opportunity to put in place a framework to make this happen more easily. Salehi stated the only thing that should go to the ballot should be a framework like Denver's.

Kevin Caffrey, Northern Colorado Labor Council president, stated the bottom line is that people need to make a livable wage and it is appropriate for Council, which has approved raises for its direct reports, to consider the Connexion workers and recognize their union.

Greg Zoda stated Denver's measure related to unions was an electoral victory and urged Council to recognize the Connexion Workers Coalition now and to start working on a framework to make creating unions easier in the future.

Harper Axelman spoke in support of Fort Collins recognizing the Connexion Workers Coalition and urged the City to start engaging with these employees and to place something on the ballot like what was done in Denver.

Public comment concluded at 6:28 p.m.

H) PUBLIC COMMENT FOLLOW-UP

Councilmember Potyondy asked if representatives from the Connexion Workers Coalition are continuing to converse with City leadership about their identified collective bargaining unit and the percentage of workers who are participating. City Manager DiMartino replied she has not received any recent information, but noted some of that information cannot be requested by the City per legal requirements. She stated staff will follow-up with legal information regarding what types of requirements exist for Council and City leadership.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

Councilmember Ohlson withdrew Item Nos. 2, *First Reading of Ordinance No. 001, 2025, Amending Chapters 15 and 23 of the Code of the City of Fort Collins Relating to Small Cell Contractors and Provider Bond Requirements for Operating in the Public Right-of-Way*, and 3, *First Reading of Ordinance No. 002, 2025, Authorizing the Conveyance of a Temporary Construction Easement on Whitewater Park to Public Service Company of Colorado for Construction of Infrastructure Improvements at the Poudre River Regulator Station H-111-A*, from the Consent Calendar.

J) CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the December 17, 2024 Regular meeting.

The purpose of this item is to approve the minutes of the December 17, 2024 Regular meeting.

Approved.

2. First Reading of Ordinance No. 001, 2025, Amending Chapters 15 and 23 of the Code of the City of Fort Collins Relating to Small Cell Contractors and Provider Bond Requirements for Operating in the Public Right-of-Way.

The purpose of this item is to present a recommendation from the City Planning Development Team to:

1. Increase the bond requirements for all contractors working in the public right-of-way. These bond amounts have not been updated since 1998.

2. Increase the bond requirements for boring contractors stems from damage caused by telecommunication providers to underground facilities.

3. Create a performance bond requirement for all small cell facility installations.

Removed from Consent Calendar for individual consideration.

3. **First Reading of Ordinance No. 002, 2025, Authorizing the Conveyance of a Temporary Construction Easement on Whitewater Park to Public Service Company of Colorado for Construction of Infrastructure Improvements at the Poudre River Regulator Station H-111-A.**

The purpose of this item is to authorize the conveyance of a Temporary Construction Easement (the "TCE") on 0.469 acres (the "TCE Area") being a portion of City property presently known as Poudre River Whitewater Park and located at 201 East Vine Drive. The TCE will be used by Public Service Company of Colorado d/b/a Xcel Energy ("Xcel") for required infrastructure improvements at the Poudre River Regulator Station H-111-A.

Removed from Consent Calendar for individual consideration.

4. **Resolution 2025-001 Authorizing the Mayor to Execute an Intergovernmental Agreement with Larimer County concerning the Livermore Conservation Project.**

The purpose of this item is to seek authorization to enter into an Intergovernmental Agreement (IGA) with Larimer County for the Livermore Conservation Project. The project will conserve four ranches totaling 4,897 acres within the Laramie Foothills/Mountains to Plains Priority Area. The County would be the lead on this project and hold the conservation easements on the properties.

Adopted.

5. **Resolutions 2025-002 Finding Substantial Compliance and Initiating Annexation Proceedings for the Heritage Annexation.**

The purpose of this item is to determine substantial compliance and initiate annexation proceedings for the Heritage Annexation, a voluntary annexation located northeast of the intersection of International Boulevard and Mexico Way. The Applicant has submitted a written petition requesting annexation of 24.84 acres and zoning into the Employment (E) zone district, which is consistent with the City of Fort Collins Structure Plan Map and the most recently adopted (December 2023) East Mulberry Plan.

This annexation request is in conformance with the State of Colorado Revised Statutes as they relate to annexations, the City of Fort Collins City Plan, and the Larimer County and City of Fort Collins Intergovernmental Agreement Regarding Growth Management.

Adopted.

6. **Resolution 2025-003 Authorizing the Initiation of Exclusion Proceedings of Annexed Properties Within the Territory of the Poudre Valley Fire Protection District and Authorizing an Intergovernmental Agreement with Said District.**

The purpose of this item is to authorize the City Attorney to file a petition in Larimer County District Court to exclude the property annexed into the City in 2024 from the Poudre Valley Fire Protection District (the "District") in accordance with state law. The property affected by this Resolution is the I-25 & Mulberry Annexation. Colorado Revised Statutes Section 32-1-502 requires an order of exclusion from the District Court to remove the annexed property from special district territories. The property has been receiving fire protection services from the Poudre Fire Authority and will continue to do so. The City Attorney's Office files the petition in Larimer County District Court each year seeking exclusion for all properties annexed in the previous year that should be removed from the District to avoid double taxation.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Potyondy, to approve the recommended actions on items 1-6, minus 2 and 3, 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 scheduled.

M) COUNCILMEMBER REPORTS

Mayor Jeni Arndt

- Commented on difficulties with Parks and Recreation program sign-up and commended the Atzlan employees who have been working on the issue.

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

2. First Reading of Ordinance No. 001, 2025, Amending Chapters 15 and 23 of the Code of the City of Fort Collins Relating to Small Cell Contractors and Provider Bond Requirements for Operating in the Public Right-of-Way.

The purpose of this item is to present a recommendation from the City Planning Development Team to:

- 1. Increase the bond requirements for all contractors working in the public right-of-way. These bond amounts have not been updated since 1998.*
- 2. Increase the bond requirements for boring contractors stems from damage caused by telecommunication providers to underground facilities.*
- 3. Create a performance bond requirement for all small cell facility installations.*

Councilmember Ohlson suggested looking for other items such as this that may need to be updated, noting this has not been updated since 1998. He then read from the second page of the AIS about a contractor being unable to complete a job that was referenced and the potential penalties for which the City would be responsible. He asked whether the job was completed. Ken Zetye, Chief Construction Inspector, stated there was a serious threat the company in question would not be able to finish the work due to circumstances outside the City's control; however, the project is now nearly complete, and staff is confident the project will be completed.

Councilmember Ohlson stated if the City would have been responsible for paying the \$800,000, he wondered if the \$250,000 being requested was adequate. Zetye replied it is \$250,000 per boring contractor, and in this case, there were six or seven contractors; therefore, the amount is sufficient.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 001, 2025, Amending Chapters 15 and 23 of the Code of the City of Fort Collins Relating to Small Cell Contractors and Provider Bond Requirements for Operating in the Public Right-of-Way, on First Reading.

The motion carried 7-0.

3. **First Reading of Ordinance No. 002, 2025, Authorizing the Conveyance of a Temporary Construction Easement on Whitewater Park to Public Service Company of Colorado for Construction of Infrastructure Improvements at the Poudre River Regulator Station H-111-A.**

The purpose of this item is to authorize the conveyance of a Temporary Construction Easement (the "TCE") on 0.469 acres (the "TCE Area") being a portion of City property presently known as Poudre River Whitewater Park and located at 201 East Vine Drive. The TCE will be used by Public Service Company of Colorado d/b/a Xcel Energy ("Xcel") for required infrastructure improvements at the Poudre River Regulator Station H-111-A.

Councilmember Ohlson commented on the fact that the Whitewater Park land was initially transferred to the City's Parks Department in 1987 to be included as part of the Gustov-Swanson Natural Area and asked if that ever actually occurred. Raime Lanham, Business Support for Real Estate Services, replied the land was part of a nature area prior to the official formation of Natural Areas and noted there is not a great deal of documentation about when or how the transfer occurred.

Councilmember Ohlson questioned the transfer of the land, specifically noting the Natural Areas ballot measure requires renumeration. Lanham reiterated this was prior to Natural Areas.

Councilmember Ohlson requested additional follow-up prior to Second Reading.

Ralph Campano, Real Estate Services Manager, stated the property was acquired through several different deeds and this particular area was transferred to the City from the former Light and Power Division, and at the time, the Parks Department and Natural Areas Department were under the same umbrella. He stated he has yet to find any records relating to the formal transfer of the property, but assumed it was to be used for park purposes.

Councilmember Ohlson requested follow-up as to why the Xcel facility must look like the provided renderings and suggested there may be an opportunity to improve the aesthetics.

Councilmember Ohlson noted the AIS indicated that a review from the Parks and Recreation Board was not required, but suggested the Board may have had some questions and should have been involved.

Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to adopt Ordinance No. 002, 2025, Authorizing the Conveyance of a Temporary Construction Easement on Whitewater Park to Public Service Company of Colorado for Construction of Infrastructure Improvements at the Poudre River Regulator Station H-111-A, on First Reading.

The motion carried 7-0.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

7. **First Reading of Ordinance No. 003, 2025, Repealing and Reenacting Chapter 2, Article II, Division 3 of the Code of the City of Fort Collins Pertaining to Appeals Procedure.**

The purpose of this item is to incorporate process improvements to the procedures for addressing appeals and other questions of final decisions that are appealable to Council. The City Code changes address previously identified concerns with the current Council appeals procedure as discussed among Council, administrative staff, hearing officers, City boards and commissions, and members of the public. The City Code changes also clarify the processes and offer different routes for different types of questions on review.

Kim Meyer, Principal City Planner, stated this item is a recommendation from City staff for a Code amendment to improve the procedures for addressing appeals.

Heather Jarvis, Assistant City Attorney, summarized the proposed changes, including clarification and narrowing of the standing required to file an appeal, separating processes between the appeals of interpretation and application of the Code versus fair hearing questions, fee updates, and additional process changes. Jarvis noted the proposed changes include allowing for fair hearing issues to be determined at the administrative level. Additionally, one of the process changes includes a shortened timeline.

PUBLIC COMMENT

None.

COUNCIL DISCUSSION

Councilmember Ohlson stated he does not want the process to change to the point of discouraging people to bring appeals forward and opposed the phrase related to the appeal process creating unrealistic expectations.

Councilmember Ohlson questioned whether all types of communication have been included in the list of participation for identifying individuals with standing to file an appeal. Assistant City Attorney Jarvis replied there is no requirement that the communication occur in a certain form and the appeal must only relate to issues raised before the original decision maker. City Attorney Daggett noted the process is set to ensure that any information given to the decision maker, regardless of form, makes a person eligible to file an appeal.

Related to process improvements, Councilmember Ohlson asked about the screening review to verify whether an appeal is valid and expressed concern the City organization could throw out an appeal. Assistant City Attorney Jarvis noted the Code includes a list of items that will guide the screening review. Additionally, she noted the phrase related to the appeal process creating unrealistic expectations does not appear anywhere in the code language.

Councilmember Potyondy noted it is often unclear to residents that Council is acting in a different capacity when considering appeals and must solely consider Code requirements. She expressed support for the changes to make the appeals process more user-friendly and quicker. She also supported the inclusion of the pre-appeal conference to help set people up for success in the process.

Councilmember Pignataro commended staff for their work and supported the compressed timeline. She asked how quickly corrections could be made if some unintended consequences of these changes are found. Assistant City Attorney Jarvis confirmed that corrections could be made simply with an additional ordinance and noted any appeal in process would be governed by the ordinance in effect at the time.

Councilmember Gutowsky stated these changes will assist appellants to navigate the process and asked who will be completing the screening reviews. Assistant City Attorney Jarvis replied the screening review will be done by an administrative decision maker appointed by the City Manager and the completeness review, which will occur within two working days of appeal submittal, will be done by a representative from the City Clerk's Office. She noted new evidence will not be considered in appeals to help reduce confusion.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 003, 2025, Repealing and Reenacting Chapter 2, Article II, Division 3 of the Code of the City of Fort Collins Pertaining to Appeals Procedure, on First Reading.

Councilmember Canonico commended staff for their work to make this process clean and transparent and stated the changes will make the City government more efficient and professional.

Mayor Arndt concurred with Councilmember Canonico's comments.

Mayor Pro Tem Francis also thanked staff and commended the transparent process. She noted Council plays a different role when considering appeals and stated these changes are important to help clarify that fact.

The motion carried 7-0.

P) OTHER BUSINESS

OB 1. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers.

None.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 7:19 p.m.

Mayor

ATTEST:

City Clerk