

November 1, 2022

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

A) PROCLAMATIONS AND PRESENTATIONS – 5:00 pm

PP 1. **Proclamation Declaring November as Native American Heritage Month.**

PP 2. **Proclamation Declaring the Year of November 2022 to November 2023 as Natural Areas 30th Anniversary.**

Mayor Jeni Arndt presented the above proclamations at 5:00 p.m. in the City Council Chambers.

**REGULAR MEETING
6:00 PM**

B) CALL MEETING TO ORDER

Mayor Jeni Arndt called the 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
Deputy City Clerk Aimee Jensen

E) CITY MANAGER'S AGENDA REVIEW

City Manager Kelly DiMartino announced next week's work session will occur on Monday at 6 p.m. rather than Tuesday due to the general election.

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

- There were no changes to the published agenda; however, DiMartino noted there was an amendment to item No. 6, *Second Reading of Ordinance No. 112, 2022, Amending Chapter 23, Article III of the Code of the City of Fort Collins Regarding Obstructions and Encroachments to Allow for the Expansion of Outdoor Dining Areas onto City Property and Adopting by Reference the City of Fort Collins Outdoor Dining Design Manual*, to restrict the use of concrete Jersey barriers.
- All items on the consent agenda were recommended for approval.

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.)

Kent Bruxvoort, Water Commission member, recommended the inclusion of one offer that currently sits below the acceptance line in the budget: offer 4.47 to fund one full-time civil engineer as a project manager to facilitate the replacement of utilities aging infrastructure.

Nathaniel Coffman commended the Land Development Code updates and supported adoption.

Holly Tarry expressed support for adoption of the Land Development Code phase one updates and commended the public input process.

Jerry Gavaldon commended City staff and volunteers for excellent work at the Museo de las Tres Colonias event.

Alan Lamborn expressed concern about unintentional consequences of certain regulations in the proposed revised Land Development Code.

Laurie Klith, Center for Family Outreach Executive Director, commended staff for work on the overflow shelter new location and commented on efforts to secure the building at 212 West Mountain Avenue for a teen center.

Lauren Storeby thanked Councilmembers for meetings with the restaurant sector regarding the upcoming minimum wage discussion. She commented on upcoming issues that will continue to affect the restaurant industry and decrease profitability, including bird flu and a diesel shortage.

Mark Morehouse discussed the southeast recreation center pool and the outcome of the City's aquatics study which showed there is not enough lane space in Fort Collins, particularly in the southeast part of town. He suggested funding recreation through an excise tax on marijuana sales.

Kennedy Glasgow discussed the southeast recreation center requesting additional pool lane space. She commented on the benefits of swimming as a teenager.

Brian Tracy expressed concern about the multi-unit structures that could be built in the Old Town area with the new Land Development Code updates. He stated the public outreach efforts should have better matched the potential impacts of the changes and he opposed adoption of the updates.

Rob Duran, Blue Agave and Vato's Tacos, discussed the detrimental effects of increasing the minimum wage on restaurants.

Mark Sluss questioned what problems will be solved by an increase in minimum wage and suggested restaurants receive credits for providing learning opportunities to young employees.

Abby Crum commented on the high level of swimming in Fort Collins and on the benefits of swimming as a teenager. She supported increasing lane space in the city.

Sidney O'Neal commented on the benefits of swimming as a teenager and supported increasing lane space in the city.

Steve Valdes commented on the special nature of Old Town and opposed updates to the Land Development Code that will change its character.

Joe Rowan opposed increasing the minimum wage.

Ian Taylor supported adoption of the Land Development Code updates.

Steve Kuehneman, Care Housing Executive Director, supported adoption of the Land Development Code updates.

Sally Lee expressed concern about the proposed changes to Old Town regulations in the Land Development Code and specifically opposed the elimination of neighborhood meetings for certain projects.

Lester Kaplan commented on his time as the City's Planning Director and on his time as a developer. He expressed concern about certain aspects of the proposed updates to the Land Development Code, specifically opposing the change in which projects are heard by the Planning and Zoning Commission.

Jason Stentz opposed increasing the minimum wage and discussed the increase in costs for restaurants.

Brian Barbieri supported the proposed Land Development Code updates.

Deana Munoz stated she cannot afford to live in the community she serves and opposed aspects of the proposed Land Development Code.

Nick Frey opposed changing the public input process in the Land Development Code and stated the proposed changes will reduce property values.

Michelle Haefele requested Council delay the final vote on Land Development Code changes to allow additional time for input from a broader share of members of the public.

Margit Hentschel stated the public involvement process related to the Land Development Code was not inclusive, transparent, or equitable. She stated the changes disproportionately reflect the interests of developers.

Ronnie Estelle opposed the proposed changes to the public involvement process aspect of development review and requested Council postpone this vote to allow for additional public input.

Sean McCoy discussed solar metering and solar generation credits.

Dan Siegfried concurred with Ms. Haefele's and Ms. Estelle's comments on the lack of public input in the Land Development Code revisions.

Richard Cavendish supported adoption of the Land Development Code updates citing its incentivization of affordable housing.

Jared Karen opposed the adoption of the Land Development Code updates stating they will change the character of Old Town. He urged Council to delay a vote.

Bill Whitley urged Council to pause the process related to the Land Development Code updates.

Rory Heath concurred with Ms. Haefele's comments and opposed adoption of the Land Development Code updates stating not enough public outreach occurred.

Dave Szmasky expressed support for the Land Development Code updates but suggested additional public input should occur prior to a final decision being made.

Beth Fisher opposed adoption of the Land Development Code updates and stated she does not see how the proposed changes will impact housing costs.

Clerk's Note: Mayor Arndt called for a ten-minute break at 7:46 p.m. The meeting resumed at 7:56 p.m.

H) PUBLIC COMMENT FOLLOW-UP

Councilmember Pignataro requested information regarding next week's work session as it relates to the aquatics issue. City Manager DiMartino replied there will be a work session discussion item regarding the status of discussions and a recommended path forward regarding development of the southeast community innovation center.

Councilmember Pignataro requested an update on the status of the Mulberry Pool. City Manager DiMartino replied another short-term investment of about \$500,000 will be made to extend the life of the facility.

Councilmember Gutowsky expressed support for a teen activity center as recommended by Ms. Klith. She also commended City staff efforts and the multi-modal participation at the Museo event.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

Councilmember Gutowsky requested Item No. 15, *First Reading of Ordinance No. 123, 2022, Updating References in City Code to the Land Use Code*, be withdrawn from the Consent Calendar for discussion of the change of name from the Land Use Code to the Land Development Code.

City Attorney Daggett clarified this would only move forward if the new Land Development Code updates are adopted on Second Reading.

Councilmember Gutowsky rescinded her request to remove the item from the Consent Calendar.

J) CONSENT CALENDAR

- 1. Second Reading of Ordinance No. 107, 2022, Appropriating Philanthropic Revenue Received By City Give for the Bucking Horse Park Trail Spur Project as Designated by the Donor.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends \$5,000 in philanthropic revenue received by City Give for Park Planning and Development as designated by the donor.

Adopted on Second Reading.

2. **Second Reading of Ordinance No. 108, 2022, Appropriating Unanticipated Revenue From Philanthropic Donations Received in 2022 By City Give for Various City Programs and Services as Designated by the Donors.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, appropriates \$4,070 in philanthropic revenue received by City Give. These miscellaneous gifts to various City service areas support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

In 2019, City Give, a formalized enterprise-wide initiative was launched to create a transparent, non-partisan governance structure for the acceptance and appropriations of charitable gifts.

Adopted on Second Reading.

3. **Second Reading of Ordinance No. 109, 2022, Making a Supplemental Appropriation of HOME Investment Partnership Program - American Rescue Plan Act Funding from the Federal Department of Housing and Urban Development.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, appropriates \$2,628,410 in HOME Investment Partnership Program – American Rescue Plan funds received from the Department of Housing and Urban Development.

Adopted on Second Reading.

4. **Second Reading of Ordinance No. 110, 2022, Amending Article IX of Chapter 23 of the Code of the City of Fort Collins Regarding Natural Areas.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends various provisions in Article IX of Chapter 23 of the City Code regarding natural areas to close loopholes, add new definitions, and add new regulations that better protect the natural environment and promote visitor safety. Natural Areas Department rangers researched existing Code and worked with Natural Areas Department staff and the City Attorney's Office before the proposed changes were brought to the Land Conservation and Stewardship Board in July 2022.

Adopted on Second Reading.

5. **Second Reading of Ordinance No. 111, 2022, Amending Certain Sections of Chapter 25 of the Code of the City of Fort Collins Relating to the Imposition, Collection, and Enforcement of the City's Sales and Use Taxes.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends Chapter 25 of City Code concerning sales and use tax. The updates include revisions to the Grocery Tax Rebate Program to increase the area median income threshold for a rebate as part of ongoing City-wide initiatives to streamline and broaden access to City income-qualified programs. Other updates include but are not limited to: (1) updating the deadlines for refund claims and petitions protesting the denial of tax-exempt organization license applications to align with other deadlines in Chapter 25; (2) amending the appeals process to align with state statute; and (3) adding exemptions from sales and use tax for the state carryout bag fee and retail delivery fee. (The

Council approved Ordinance No. 053, 2022, in May 2022, which created an exemption from sales tax for the City's disposable bag fee).

For Second Reading, in light of prior discussions by the Council Finance Committee, the City Manager is proposing a Whereas clause be revised. The revision will document that the City Manager has committed that City staff will return to the Council Finance Committee after approximately one year not only to discuss the effectiveness of the Code update increasing the area median income threshold for the Grocery Tax Rebate Program, but also to discuss other options to expand participation, such as removing income verification requirements.

Adopted on Second Reading.

6. **Second Reading of Ordinance No. 112, 2022, Amending Chapter 23, Article III of the Code of the City of Fort Collins Regarding Obstructions and Encroachments to Allow for the Expansion of Outdoor Dining Areas onto City Property and Adopting by Reference the City of Fort Collins Outdoor Dining Design Manual.**

This Ordinance, unanimously adopted on First Reading on October 18, 2022, amends City code to allow outdoor dining areas on public property. During the COVID pandemic and declared local emergency, Emergency Orders were put in place to support hospitality businesses by allowing extended outdoor patios on public property. The extended patios have been popular and successful both economically and as a vibrant way to activate streets and sidewalks. Staff is proposing changes to the City Code obstruction and encroachment permit provisions and a framework, including the City of Fort Collins Outdoor Design Manual ("Design Manual"), to make these spaces permissible after the expiration of the Emergency Orders.

In response to Council feedback regarding concrete barriers, staff has replaced previous language, which said "Concrete 'Jersey Barriers' shall only be installed where required or deemed appropriate by the City Engineering Department." with "Crash rated barriers will only be required for safety or traffic volume. In those cases, the City will not allow a concrete "Jersey-barrier" style and will require a crash-rated barrier that meets the urban design standard of the location (Downtown, for instance)."

Adopted on Second Reading.

7. **Second Reading of Ordinance No. 113, 2022, Suspending Certain Provisions of the City's Land Use Code and Building Code to Permit Temporary Use of City Property at 117 North Mason Street as a Homeless Shelter.**

This Ordinance, unanimously adopted on First Reading on October 25, 2022, suspends certain provisions of the City's Land Use Code to allow the temporary use of 117 North Mason Street as a men's overflow shelter site from November 2022 – April 2023.

Adopted on Second Reading.

8. **Second Reading of Ordinance No. 116, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Make Various Changes to the Water Supply Requirement for Nonresidential Water Service.**

This Ordinance, unanimously adopted on First Reading on October 25, 2022, adopts changes to Fort Collins Utilities (Utilities) Water Supply Requirement (WSR) in Chapter 26 of City Code. Changes to the WSR went into effect January 1, 2022, through Ordinance No. 119, 2021. However, after administering the WSR under that ordinance for several months, staff realized a need for further revision. The Ordinance broadened when Utilities nonresidential water customers

doing redevelopment must meet the WSR, such that these customers must meet WSRs for almost any redevelopment. The Ordinance also results in the assignment of an annual allotment and the potential for excess water use surcharges. These changes have resulted in significant staff time for previously routine matters and impacts to customers that are perceived as unfair. The proposed ordinance would return to the previous, historical requirement, where customers must only meet the WSR for new development and redevelopment that is replacing and existing meter or service with a larger size.

Adopted on Second Reading.

9. **First Reading of Ordinance No. 117, 2022, Approving the Fiscal Year 2023 Budget, and Being the Annual Appropriation Ordinance for the Fort Collins Downtown Development Authority, and Fixing the Mill Levy for the Downtown Development Authority for Fiscal Year 2023.**

The purpose of this item is to set the Downtown Development Authority ("DDA") Budget.

The following amounts will be appropriated:

DDA Public/Private Investments & Programs	\$7,800,493
DDA Operations & Maintenance	\$2,030,378
Revolving Line of Credit Draws	\$7,000,000
DDA Debt Service Fund	\$7,431,611

The Ordinance sets the 2023 Mill Levy for the Fort Collins DDA at five (5) mills, unchanged since tax year 2002. The approved Budget becomes the Downtown Development Authority's financial plan for 2023.

Adopted on First Reading.

10. **First Reading of Ordinance No. 118, 2022, Adopting the 2023 Budget and Appropriating the Fort Collins Share of the 2023 Fiscal Year Operating and Capital Improvements Funds for the Northern Colorado Regional Airport.**

The purpose of this item is to adopt the 2023 budget for the Northern Colorado Regional Airport and appropriate Fort Collins' share of the 2023 fiscal year operating and capital funds for the Airport. Under the Amended and Restated Intergovernmental Agreement for the Joint Operation of the Airport between Fort Collins and Loveland (the "IGA"), the Airport is operated as a joint venture with each City owning 50% of the assets and revenues and responsible for 50% of the operating and capital costs. The proposed budget does not include any financial contributions from the City's General Fund. Because each City has an ownership interest in 50% of the Airport revenues, each City must appropriate its 50% share of the annual operating and capital budget for the Airport under the IGA.

Adopted on First Reading.

11. **First Reading of Ordinance No. 119, 2022, Appropriating Philanthropic Revenue Received Through City Give to Benefit Income-Qualified Youth Sports Programming and Services in the Recreation Department.**

The purpose of this item is to request appropriation of \$17,000 in philanthropic revenue received through City Give for Recreation to benefit income-qualified youth sports programming and services.

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.

12. **First Reading of Ordinance No. 120, 2022, Appropriating Prior Year Reserves in the General Fund and Transportation Services Fund for Snow Removal.**

The purpose of this item is to appropriate prior year reserves to cover snow removal costs that have exceeded the 2022 budget. Overspend in the snow budget is driven by severe snowstorms that present cold temperatures, ice, and higher volumes of snow.

Adopted on First Reading.

13. **First Reading of Ordinance No. 121, 2022 Amending Chapter 7.5 of the Code of the City of Fort Collins to Increase for Inflation the Capital Expansion Fees and the Transportation Expansion Fee.**

The purpose of this item is to make annual inflation updates effective January 1, 2023, associated with the City's Capital Expansion Fees and its Transportation Expansion Fee. Inflation updates are 8.6% for the Capital Expansion Fees and 7.1% for the Transportation Expansion Fee.

Adopted on First Reading.

14. **Items Related to an Affordable Housing Development Incentives Grant from the Colorado Department of Local Affairs for Kechter Townhomes.**

A. Resolution 2022-109 Authorizing the Mayor to Execute an Intergovernmental Grant Agreement for an Affordable Housing Development Incentives Grant from the Colorado Department of Local Affairs.

Adopted.

B. First Reading of Ordinance No. 122, 2022, Making Supplemental Appropriations in the General Fund of Grant Proceeds from the Colorado Department of Local Affairs for the Kechter Townhomes Project.

Adopted on First Reading.

The purpose of this item is to consider a Resolution authorizing execution of a state Grant Agreement providing \$2.2 million to pay water and wastewater tap and permit fees to the Fort Collins-Loveland Water District for the Kechter Townhomes project and adoption of an Ordinance making an appropriation of unanticipated grant revenue in the General Fund. In November of 2021, the City sold a property from the Land Bank Program located at 3620 Kechter Road to Kechter TWG, LLLP for the purpose of building 54 permanently affordable townhomes. The City applied for and was awarded a grant from the Colorado Department of Local Affairs (DOLA) to support water and wastewater utility costs associated with this development. This item seeks approval of the intergovernmental grant agreement and authority to spend the grant proceeds.

15. **First Reading of Ordinance No. 123, 2022, Updating References in City Code to the Land Use Code.**

This purpose of this item is to update the City Code's existing references to Land Use Code to the new name Land Development Code.

Adopted on First Reading.

16. **First Reading of Ordinance No. 124, 2022, Authorizing an Extension of the Temporary Exception to the Land Use Code to Allow T-Mobile to Place a Temporary Wireless Telecommunication Facility at 1800 East Harmony Road to Replace Lost Wireless Service Coverage.**

The purpose of this item is to extend the authorization for a temporary wireless telecommunication facility known as a cell-on-wheels (COW), operated by T-Mobile, currently located at 1800 East Harmony. The current temporary authorization is set to expire on December 1, 2022. This temporary facility is in place to address a critical loss in T-Mobile's existing cellular coverage in south Fort Collins caused by T-Mobile's removal of wireless equipment from Platte River Power Authority ("PRPA") infrastructure and is to be used only until a permanent facility (proposed at 4518 Innovation Drive) is fully constructed in Spring 2023.

Adopted on First Reading.

17. **First Reading of Ordinance No. 125, 2022, Conditionally Vacating a Portion of Crestridge Street Right-of-Way.**

The purpose of this item is to approve the conditional vacation of Crestridge Street right-of-way, currently known as Crestridge Drive, 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 in order to provide continued access for the neighboring properties. The right-of-way vacation will be conditional upon the construction of the extension of Venus Drive. These conditions are outlined in detail in the Ordinance.

Adopted on First Reading.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to approve the recommended actions on items 1-17 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 highlighted item No. 11, First Reading of Ordinance No. 119, 2022, Appropriating Philanthropic Revenue Received Through City Give to Benefit Income-Qualified Youth Sports Programming and Services in the Recreation Department.

L) STAFF REPORTS

None.

M) COUNCILMEMBER REPORTS

Councilmember Shirley Peel

- Recent listening session at Front Range Reptiles
- Attended the Linden Street ribbon cutting
- Participated in a Dutch-inspired intersection test

- Boards and Commissions interviews are currently occurring, and she thanked the applicants
- Small business recovery grants are still open
- Remembrance of Hugh McKean, a former Loveland City Councilmember and state representative, who recently passed away

Councilmember Susan Gutowsky

- Participated in Linden Street ribbon cutting
- Met with restaurant owners
- Attended grand opening of affordable senior housing development on Drake near Timberline
- Attended bias workshop at the Senior Center
- Attended Habitat for Humanity fundraiser breakfast
- Attended Halloween symphony event at the Lincoln Center

Mayor Jeni Arndt

- Announced the Downtown lighting even Friday at 5:30 PM
- Condolences to Hugh McKean's family

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

None.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

18. First Reading of Ordinance No. 126, 2022, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for Fiscal Year 2023; Adopting the Budget for the Fiscal Years Beginning January 1, 2023, and Ending December 31, 2024; and Fixing the Mill Levy for Property Taxes Payable in 2023.

The purpose of this item is to present the Annual Appropriation and Budget Ordinance for First Reading. This Ordinance sets the City Budget for the two-year period (2023-2024) which becomes the City's financial plan for the next two fiscal years. This Ordinance sets the amount of \$778,543,584 to be appropriated for fiscal year 2023. However, this appropriated amount does not include what is being budgeted and appropriated by separate Council/Board of Director actions to adopt the 2023 budget for the General Improvement District (GID) No. 1 of \$313,275, the 2023 budget for General Improvement District (GID) No. 15 (Skyview) of \$1,000, the Urban Renewal Authority (URA) 2023 budget of \$6,005,369 and the Downtown Development Authority 2023 budget of \$24,262,482. This results in the City-related total operating appropriation of \$809,125,710 in 2023.

This Ordinance also sets the 2023 City mill levy at 9.797 mills, unchanged since 1991.

Travis Storin, Chief Financial Officer, commented on the process leading up to the presentation of the budget and provided highlights of enhancement offers across the seven outcome areas.

Lawrence Pollack, Budget Director, summarized the changes that have been made to the budget resulting from the work sessions and public hearings.

Public Comment

Joe Rowan commented on a false economy created with the federal funding resulting from the pandemic. He stated the economy is likely heading into a recession and he urged Council to be more conservative with its spending.

Council Questions and Comments

Councilmember Ohlson requested a staff response regarding Mr. Bruxvoort and the Water Commission's request to fund one full-time civil engineer as a project manager to facilitate the replacement of utilities aging infrastructure. Jason Graham, Water Utility Executive Director, replied the Water Commission is highly motivated to achieve a 1% replacement rate on water infrastructure and the offer that will assist in getting to that point is currently unfunded. He stated the FTE would help in achieving the 1% replacement rate.

Councilmember Ohlson asked why the position was not funded. Storin replied a great deal of turnover amongst the engineering staff has occurred and the desire was to determine whether the right resources exist to execute on all capital projects that are already appropriated within the budget.

Councilmember Ohlson asked if the position could come back as a mid-cycle offer. Storin replied in the affirmative.

Councilmember Pignataro asked about offer 20.9 regarding Fort Collins Public Access. Storin replied FC Public Media had requested the inclusion of this offer though there was some reservation by staff as this would constitute a new and different operating agreement with FC Public Media.

Councilmember Pignataro asked what other options the group has. Storin replied he is unequipped to answer that question but assumed there may be some federal funding opportunities. City Manager DiMartino clarified the City is required to have a public access studio as a result of its franchise agreement with Comcast. She stated there is a competitive process involved and FC Public Media, which is a non-profit, is the selected provider. She clarified the City does own the studio equipment and provides office space at a discounted rate.

Councilmember Ohlson stated this situation is not analogous to other non-profit organizations because of the franchise agreement.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 126, 2022, on First Reading.

The motion carried 7-0.

Councilmember Ohlson thanked staff and management for their efforts and commended the response to Council concerns.

Councilmember Peel thanked staff and acknowledged Mr. Rowan's comments.

Mayor Pro Tem Francis thanked staff.

Mayor Arndt thanked all involved in the budget process.

19. Items Relating to 2023 Utility Rates, Fees, and Charges.

A. First Reading of Ordinance No. 127, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees and Charges and Updating Related Provisions.

B. First Reading of Ordinance No. 128, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Rates, Fees and Charges.

C. First Reading of Ordinance No. 129, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Wastewater Rates, Fees and Charges.

D. First Reading of Ordinance No. 130, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Rates, Fees and Charges.

E. First Reading of Ordinance No. 131, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Regarding Calculation and Collection of Development Fees Imposed for the Construction of New or Modified Electric Service Connections.

F. First Reading of Ordinance No. 132, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Sewer Plant Investment Fees.

G. First Reading of Ordinance No. 133, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise the Stormwater Plant Investment Fees.

H. First Reading of Ordinance No. 134, 2022, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Plant Investment Fees.

The purpose of this item is to consider Ordinances related to proposed 2023 rates and fees being brought forward for Council consideration, including the following items:

Items (A-D) – *Monthly utility charges to increase 5% for Electric customers, 4% for Water customers, 4% for Wastewater customers, and 3% for Stormwater customers.*

Items (E-H) – *A 9% inflationary increase to development fees including Electric Capacity Fees (ECFs) and Water, Wastewater, Stormwater Plant Investment Fees (PIFs).*

Lance Smith, Utilities Finance Director, introduced Randy Rusher.

Randy Rusher, Utilities, discussed the difference between monthly fees and one-time development fees and outlined the area served by City of Fort Collins Utilities. He detailed the proposed monthly rate increases and one-time fees. He also discussed the portfolio of affordability and efficiency programs, including the Income-Qualified Assistance Program, medical assistance program, and water and electric retrofit programs.

Public Comment

None.

Council Questions and Comment

None.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 127, 2022, on First Reading.

Councilmember Peel thanked staff for addressing her questions and reiterated her concerns about moving completely toward solar and wind energy.

Councilmember Pignataro noted there was an extensive discussion about this topic at the Council Finance Committee meeting and she stated the recording of that meeting is available for members of the public.

The motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 128, 2022, on First Reading.

The motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 129, 2022, on First Reading.

The motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 130, 2022, on First Reading.

The motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 131, 2022, on First Reading.

The motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Ohlson, to adopt Ordinance No. 132, 2022, on First Reading.

The motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 133, 2022, on First Reading.

The motion carried 7-0.

Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to adopt Ordinance No. 134, 2022, on First Reading.

The motion carried 7-0.

20. First Reading of Ordinance No. 135, 2022, Amending Chapter 26 of the Code of the City of Fort Collins Related to Water, Wastewater and Electric Rates, Fees, and Charges Applied Under the Income-Qualified Assistance Program.

The Income-Qualified Assistance Program (IQAP) that provides income-qualified Fort Collins Utilities (Utilities) customers reduced rates on select Utilities services was introduced in October 2018 as a pilot program. The IQAP program bill adjustment effectively applies a 23% rate discount on electric, water, and wastewater services, and is due to expire December 31, 2022. In July 2021, City Council approved moving the program from an application-based, opt-in program to an auto-enroll, opt-out program, subject to participants' participation in the complementary state Low-income Energy Assistance Program (LEAP). At that time, City Council also requested an evaluation of the discounted rate percentage to ensure it was still sufficient to meet program objectives. Since July 2021, participation in IQAP has increased 128%. Staff are seeking a motion

from City Council to adopt the program. The Council Finance Committee reviewed this proposal on October 20, 2022 and provided staff direction for presentation to the full City Council.

Gretchen Stanford, Utilities Customer Connections Director, introduced her team and provided a history of the Income-Qualified Assistance Program (IQAP). She stated this item would adopt the IQAP as an ongoing program.

Heather Young, Community Engagement Manager, discussed the IQAP's areas of strategic alignment, including Neighborhood Livability and Social Health and Our Climate Future.

Shannon Ash, Utilities Affordability Supervisor, discussed the background of the IQAP and stated staff would like to have the program be formally adopted prior to the end of the year so as to prevent program participants from having any disruptions in their discounts. She stated the IQAP provides a 23% rate reduction on electric, water, and wastewater services and she noted customers are approved through the Low-Energy Assistance Program, or LEAP, and are automatically enrolled in IQAP if they are approved through LEAP. She noted there are still qualifying households that are not yet enrolled; therefore, staff will be doing specific and targeted outreach during this time period of LEAP enrollment.

Young provided an update on the program and noted there was a 128% increase in enrollment when the auto-enrollment component was instituted. She discussed the energy use for IQAP customers and noted statistics showed it increased for IQAP customers in the initial years of participation but evened out with non-IQAP customers after the third year of participation. She summarized the benefits customers have experienced when being on the program and stated staff is recommending the rate reduction be increased from 23% to 25% based on the fact that utility bills have increased at a higher rate than income since 2018. She suggested the number should be reexamined every three to five years and she outlined the financial implications to customers and the utilities of that change, noting it would be nominal for the utilities and other customers. Young summarized the reasons to make the IQAP a permanent utilities program.

Public Comment

None.

Council Questions and Comments

Mayor Arndt asked how the program works given Fort Collins water service does not geographically cover the same area as Fort Collins electric service. Young replied customers only receive the discount on the services they have with Fort Collins Utilities.

Mayor Pro Tem Francis supported the program becoming permanent and the rate reduction being increased. Mayor Arndt concurred and stated she was glad to see water included in the program.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 135, 2022, on First Reading.

The motion carried 7-0.

Clerk's Note: Mayor Arndt called for a ten-minute break at 9:17 p.m. The meeting resumed at 9:26 p.m.

21. Items Relating to the Adoption of the Land Development Code.

A. Second Reading of Ordinance No. 114, 2022, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying

the 1997 Land Use Code as “2022 Transitional Land Use Regulations”.

B. Second Reading of Ordinance No. 115, 2022, Amending the Zoning Map of the City of Fort Collins to Rename all Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone District to the Old Town Zone District in Conjunction with the Adoption of the Land Development Code.

These Ordinances, adopted on First Reading on October 18, 2022 by a vote of 6-1 (Nay: Ohlson), consider adoption of changes to the City’s Land Use Code including renaming to the Land Development Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Changes are intended to address one or more of the following Guiding Principles:

- 1. Increase overall housing capacity and calibrate market-feasible incentives for affordable housing*
- 2. Enable more affordability, especially near high frequency transit and priority growth areas*
- 3. Allow more diverse housing choices that fit in with the existing context and priority place types*
- 4. Make the LUC easier to use and understand*
- 5. Improve predictability of the development review process, especially for housing*

In conjunction with adoption of the Land Development Code, a conforming change to the zoning map to rename the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone District to the Old Town zone district is proposed by means of a rezoning.

At first reading, Council directed that “2022” be added to the term “Transitional Land Use Regulations” to avoid possible confusion with the previous Transitional Land Use Regulations utilized when the Land Use Code was adopted in 1997.

If adopted by Council, staff recommends that the proposed LUC changes and renaming to the Old Town zone district take effect on January 1, 2023.

Meaghan Overton, Housing Manager, noted the proposed updates to the City’s land use regulations are a direct implementation of the City’s adopted policies and plans. She summarized Council’s actions at First Reading, including the 15 specific changes Council voted to add to the public draft of the Land Development Code. She noted Council voted to adopt the Code overall including those changes.

Noah Beals, Development Review Manager, further detailed the specific changes Council adopted during First Reading as well as three edits that pertain to grammar, clarification, and existing Code language that was not visible in the initial draft.

Public Comment

Robin Hause stated the change in the density needs to be revised downward as an increase in density will result in a decrease in trees and increase in global warming. She opposed the proposed changes to the Old Town zones and supported allowing public input for all development projects.

Kathy Williams opposed the elimination of single-family neighborhoods and stated she believes Old Town is being unfairly targeted.

James Burtis expressed support for the proposed Land Development Code updates. He suggested the adoption of the Code should be followed up by a comprehensive affordable housing plan.

Martha Hedrick stated this process has not been transparent and she was unaware of these proposed changes until yesterday. She stated these changes would alter the character of Old Town, which is known nation-wide for its charm.

Amy Hahn spoke in favor of many of the strategies put forth in the Land Development Code; however, she expressed concern about the lack of data-driven background as to how the updates will create affordable housing and about the lack of communication and outreach in the process.

Adam Eggleston expressed support for the proposed Land Development Code updates and stated single-family and multi-family uses can co-exist.

Jim Troxell discussed the history of the Mantz neighborhood and its residents and expressed concern the proposed Land Development Code changes may potentially change the unique character and significance of Old Town. He requested Council postpone a vote until more engagement of affected neighborhoods is completed.

Kristin Fritz, Housing Catalyst, expressed support for the proposed Land Development Code updates stating it provides tools that reflect the City's adopted goals related to affordable housing.

Joe Rowan, One Voice for Housing, expressed support for the proposed Land Development Code updates.

Tom Ridgely stated he does not want to see the character of Old Town change.

Chris Holmquist-Johnson stated there was a lack of public input in this process and requested neighborhood meetings not be eliminated from the development review process.

Virginia Pervis stated she appreciates the uniqueness of Old Town and stated there was not enough public outreach in this process. She suggested employment should be mapped to affordable housing locations.

Gary Fisher expressed concern about the lack of transparency and public input in this process. He questioned how these changes will improve housing affordability.

Kevin Murray stated it has taken ten to twelve years to change the development review process to allow the community to be notified early and these changes seem to be moving backward.

Paul Patterson opposed the public input process regarding the Land Development Code updates.

Suzanne Murray stated she worked hard to have her neighborhood designated as an historic district and expressed concern the proposed allowed densities would change the character of the district.

Susan Patchen stated these Code updates will lead to increased investment opportunities; however, residents are not well represented.

Nicole Swan spoke in support of the Land Development Code updates.

Diane Marshky stated she was not aware of the Land Development Code updates and while she understands the goals, she expressed concern there may be unintended consequences. She specifically expressed concern about reduced parking requirements for affordable developments.

Mary Grant requested Council postpone this vote and expressed concern about the lack of transparency in the process. She stated many of the proposed updates are too dramatic.

Council Questions and Comments

Mayor Pro Tem Francis requested clarification regarding how square footage is calculated in Old Town. Beals replied the different calculation in Old Town has been in place for some time and is calculated from outside wall to outside wall counting every floor at grade or above. He stated that calculation formula was developed in part to maintain the character of the Old Town area and the proposed changes maintain some of that while also tweaking the definition to align more with the new building types being presented.

Mayor Pro Tem Francis asked about the process for the proposed multi-units that would be added as an allowed use in Old Town. Beals replied building types that can relate to the character of the neighborhoods were introduced as part of the form-based standards. He noted historic preservation standards are not being changed and historic review as currently required will remain. Overton noted the Old Town districts have specific building design requirements that apply when things are changing. Additionally, none of the current setback requirements are proposed to change.

Mayor Pro Tem Francis requested information about form-based standards. Overton replied the new Code will regulate more what something looks like and how it relates to its context and less about what is happening inside. She also noted the new Code proposes to carry forward the rear lot area limitations.

Mayor Arndt noted the current Code already allows non-single-family homes in Old Town, citing the townhomes on Mountain at Shields. Overton noted the zoning of that parcel was different and allowed that use.

Councilmember Peel asked if adding these dwellings to Old Town would be supported by existing utilities infrastructure. Beals replied Utilities updates and increases capacity as projects are added. He noted capital expansion fees would be paid by any new development to help cover costs.

Councilmember Peel asked about the concerns mentioned about parking. Beals replied parking is a tradeoff in terms of increasing housing capacity and affordable housing. He stated the parking standards that are proposed for reduction only apply to studio and one-bedroom units. For affordable housing projects, the new parking requirements would match those that are currently in the transit-oriented parking overlay zones.

Mayor Arndt requested staff review the public input process for the Code update project. Overton replied it is an implementation action of many different policy and planning processes beginning in 2018 with City Plan engagement, followed by the Housing Strategic Plan and Our Climate Future in 2020 and 2021, both of which included their own years-long engagement processes. She stated all the engagement processes resulted in specific policies that directed updates to the City's land use regulations and the Land Development Code is a tool the City has to shape the built environment based on alignment with those policy documents. Overton discussed the opportunities for public engagement since the draft Land Development Code was made available to the public in July, including office hours, virtual public workshops, internal workshops, and meetings with community groups and Boards and Commissions.

Councilmember Ohlson noted he never saw it clearly stated that single-family low-density housing is set to be eliminated in 98% of the city. Additionally, he stated the ability for public input is being reduced due to the elimination of neighborhood meetings and the involvement of the Planning

and Zoning Commission. He stated that is a massive governance and leadership failure. He opposed the formation of the updates solely by people with a vested economic interest as opposed to a broad sector of the city population.

Councilmember Peel requested clarification on Councilmember Ohlson's comments related to eliminating 98% of single-family zoning. Beals replied there are still zone districts that will not allow multi-unit buildings; however, accessory dwelling units are being proposed to be allowed throughout the city. Overton noted the different types of housing permitted in different zone districts depends on geographic locations within the city.

Councilmember Peel asked if neighbors would still be notified of developments. Beals replied, for any project that would increase density, mailings to the surrounding neighborhood will still occur, signs will still be posted, and staff will be available for questions and comments via email or in person.

Mayor Arndt asked if there is an instance in which a notification process would not occur. Beals replied in the negative.

Councilmember Ohlson asked what new uses would be allowed in the low-density residential zone district. Beals replied the proposed Code would allow a detached house with a detached accessory dwelling unit, a detached house with an attached accessory dwelling unit, a duplex, or a three-unit building if one of the units is deed-restricted affordable housing.

Councilmember Canonico asked about the number of out-of-state investors and the number of units they own in the city. Overton replied she would collect that information and share the statistics shortly. Councilmember Pignataro replied her recollection is that 90% of investors own another rental and live in a unit.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 114, 2022, on Second Reading.

Councilmember Pignataro suggested adding links to the videos of work sessions and previous meetings on this topic to the City's website.

Councilmember Ohlson stated he believes the motives and intentions of the rest of Council are sincere. However, he stated he does not support the proposed updates and stated this is one of the worst proposals to ever make it this far with such extensive changes. He stated the elimination of single-family zoning will negatively impact existing neighborhoods and residents and lead to a denser more congested community with little to no impact on affordable housing. He stated this proposal will eliminate neighborhood meetings, public hearings, and Planning and Zoning Commission involvement which is a huge step backward. He stated increased density does not create increased affordable housing. He suggested the Second Reading should be postponed until the new year to garner additional public input.

Councilmember Gutowsky noted the number of comments related to members of the public having not had enough time to understand these changes. She stated the City needs to do a better job of informing community members of the impacts of the proposed updates. She suggested postponing this vote and questioned the rush to adopt these updates.

Mayor Pro Tem Francis thanked the individuals who spoke. She concurred with Councilmember Ohlson that these updates are a huge change but are more representative of what the community wants. She noted housing choice has been listed as a number one priority over the years of development of plans and policies and stated the Land Development Code is a technical document that reflects that; therefore, there was a technical advisory committee to provide input.

She stated housing choice is essential to the foundation of the community. She stated the city does not have the density to support inclusionary zoning that would require the development of affordable housing.

Mayor Pro Tem Francis stated public hearings and the Planning and Zoning Commission are not being eliminated; however, projects that meet the objectives and regulations are not required to have a public hearing, though public involvement is still an option. She stated this is not a high-density plan.

Councilmember Peel stated she still believes the name should be Land Use and Development Code and opposes the 2,400 square foot limitation in Old Town and the restriction on square footage of accessory dwelling units. However, she stated the city is growing and the needs of its residents are changing, and this Code will help the city adapt to the changes.

Councilmember Canonico stated this Code reflects the values of the community which is seeking diversity of housing, more affordability, and sustainability. She specifically cited the plan providing options for seniors and the Code updates being data-driven.

Councilmember Peel noted the Land Use Code has not been updated since 1997 and development happening under that Code is not beneficial, which is part of the reason for the rush to make changes. She stated this process has been ongoing for three years and does not seem rushed.

Councilmember Pignataro concurred and stated constituents want the accessory dwelling unit option.

Mayor Arndt stated this Code makes generational changes and sets the city up for the next 50 years. She noted these changes are not going to occur overnight and she is solidly in support of the changes.

Councilmember Gutowsky stated she believes the community will feel it has not been heard and she will not support the motion.

The motion carried 5-2.

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

Nays: Councilmembers Gutowsky and Ohlson.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 115, 2022, on Second Reading.

The motion carried 6-1.

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

Nay: Councilmember Ohlson.

22. First Reading of Ordinance No. 136, 2022, Repealing and Reenacting Article IX of City Code Chapter 20 Concerning Public Nuisances and Making Conforming Changes to City Code Section 19-3.

The purpose of this item is for Council to consider the adoption of a new public nuisance ordinance (PNO) that allows for a clearer, broader definition of public nuisance and adds new enforcement mechanism for abating public nuisances and chronic nuisance properties. The new PNO will allow staff to address the current community issues and nuisance situations more effectively.

City Manager DiMartino gave Council the option to discuss this item at its next work session prior to considering it at a regular meeting.

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, to postpone consideration of Ordinance No. 136, 2022, to November 15, 2022.

The motion carried 7-0.

P) OTHER BUSINESS

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

No other business was discussed.

Q) ADJOURNMENT – 11:26 pm

There being no further business before the Council, the meeting adjourned at 11:26 p.m. to a meeting of the General Improvement District No. 1.

Mayor

ATTEST:

City Clerk