

October 17, 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 October 20, 2023 as Community Media Day.**
- PP 2. **Declaring October 2023 as American Archives Month.**
- PP 3. **Declaring October 2023 as Conflict Resolution Month.**
- PP 4. **Declaring October 2023 as Domestic Violence Awareness Month.**
- PP 5. **Declaring October 2023 as National Disability Employment Awareness Month.**

Mayor Jeni Arndt presented the above proclamations 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

ABSENT

Councilmember Kelly Ohlson

STAFF PRESENT

City Manager Kelly DiMartino
City Attorney Carrie Daggett
Assistant City Clerk Ann Marie Sharratt

E) CITY MANAGER'S AGENDA REVIEW

City Manager Kelly DiMartino noted Councilmember Kelly Ohlson's absence due to illness. Additionally, she noted the November 7 regular Council meeting is cancelled due to it falling on Election Day.

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

- All items on the consent agenda were recommended for approval.
- The items on the discussion agenda were reviewed.

F) COMMUNITY REPORTS

None.

G) PUBLIC COMMENT ON ANY TOPICS OR ITEMS OR COMMUNITY EVENTS

(Including requests for removal of items from Consent Calendar for individual discussion.)

Ann Hutchison, President/CEO Fort Collins Area Chamber of Commerce, expressed support for the items before Council on this agenda, stating Fort Collins is in a housing crisis and housing supply and access must be increased.

Luke Flynn spoke in support of the adoption of the new Land Use Code, stating higher density housing is positive for the environment as it promotes the use of public transportation and active modes and prevents urban sprawl and that the housing supply needs to be increased which adoption of the new Code will aid.

Vicki Rossen spoke in opposition to the adoption of the new Land Use Code stating it should be placed on the ballot for a citizen vote; also stating established single-family neighborhoods did not create the affordability problem and destroying them will not solve it; and suggesting Colorado State University (CSU) needs to build actual student housing while the proposed Code will destroy established neighborhoods by allowing investors to take over the housing market.

Ronald Hanser spoke in opposition to the adoption of the new Land Use Code stating it is not acceptable and requesting changes be made to protect existing neighborhoods, particularly those in the RL zone district or to allow HOAs to block changes within long-established HOA neighborhoods. Hanser stated a desire to see changes to include eliminating the subdivision of existing lots, eliminating duplexes, eliminating external ADUs, and eliminating detached accessory structures, also suggesting grandfathering neighborhoods and that the Code changes be placed on the ballot.

Kristina Vrouwenvelder spoke to express support for the new Land Use Code, sharing experience of recently buying a home in Fort Collins and the difficulty of finding one that was affordable. Vrouwenvelder stated the only way to slow the growth in housing costs and to offer choices for people who want to live here is to increase the housing supply, also stating the Code updates will benefit the climate and environment.

Christopher Conway spoke in support of the adoption of the new Land Use Code, stating schools are under threat of closure or consolidation due to elevated housing costs that make it difficult for teachers and families with children to buy homes within the School District boundaries. Conway stated restrictive zoning and exclusionary policies have been in place for too long; and stated support for the Land Use Code is support for families, children, schools, and public services.

Adam Eggleston thanked Council and staff for work on the Land Use Code and stated it is a good example of compromise and a living document that can evolve over time, encouraging Council to adopt the new Code.

Katherine Peterson spoke in favor of adoption of the new Land Use Code.

Kyle Shelp expressed concerns about safety at the new Laporte Avenue bridge stating it is impossible to see a child or cyclist from his driveway due to the bridge. Shelp shared about contacting Tim Sellers about the concerns as well as meeting with Caryn Champine and Brad Buckman though there was no follow-through on their part.

Paul Anderson stated Boulder, Golden, Wheat Ridge, Durango, Longmont, and Colorado Springs all require owner occupancy for ADUs as do many cities in Utah and Wyoming and others around the country.

Lauren DeBell, Elevation Community Land Trust, spoke in support for the revised Land Use Code stating it is important to provide a spectrum of housing for all, and sharing how the land trust is currently working on the rehabilitation and new development of 100 homes in Fort Collins that are affordable to households earning up to 80% of the AMI.

Lori Rasmussen, United Way Board of Directors, commented on United Way's goals and stated the revised Land Use Code is one important step in meeting housing needs, stating the United Way is in support of the new Code and encourages its adoption.

Michael May, Democratic Socialists of America, Fort Collins Chapter, expressed support for the revised Land Use Code to help increase density in some of the less affordable parts of town that are closer to transit options, stating sprawl would increase absent the new Code.

Peter Erickson stated the average home in Fort Collins costs about six times the median household income and those who work here cannot afford to live here, which increases the amount of commuter traffic and climate emissions, noting studies have shown that new housing construction, even market rate housing, slows the growth of housing prices.

Mara Johnson, Fort Collins Habitat for Humanity Chief Development Officer, and part of One Voice for Housing, discussed the Habitat project at Taft Hill and Harmony Roads, noting the project holds 48 homes and families and a neighborhood park and has allowed people who work in Fort Collins to remain in the community; and expressed support for the revised Land Use Code stating it is a tool to support affordability.

Kelly Evans, director of Neighbor to Neighbor, a member of OneVoice for Housing in pursuit of affordable housing for all, stated the Code update provides a balanced, sensible approach that positions Fort Collins for its current and future needs, stating housing will continue to become out of reach without the adoption of the new Code and placing the code on a ballot for a vote would be irresponsible as it is a technical, living document that has never been voted upon.

Randolph Lippert expressed support for the revised Land Use Code and urged Council to adopt it, stating Fort Collins is in the midst of an affordable housing crisis and we cannot hope that things will change.

Hanna McCaslin expressed support for the revised Land Use Code stating it will benefit housing affordability and environmental sustainability, also noting housing options with greater density are needed and thanking Council for their work on moving the new Code forward.

Dawn Cramer stated there are implications of the revised Land Use Code that have not been considered and questioned why short-term rentals are not being addressed in the Code, also questioning why CSU has not provided more housing despite enrolling additional students. Cramer stated the plastic bag ban was placed on the ballot and this item should also go through that process to allow people to decide what they want to see in their neighborhoods.

Nicole Swan expressed support for the revised Land Use Code and advocated for smart housing policy, stating the Code addresses housing attainability with incentives allowing increased density,

streamlining processes, and improving the construction pipeline. Swan also noted many organizations that work specifically on affordable housing in Fort Collins have expressed support for the revised Code, stating even market rate housing can help with attainable housing goals and does not lead to increased housing costs, urging Council to vote in support of the revised Code.

Patricia Babbitt shared about being an official write-in candidate for Mayor and shared the endorsements received. Babbitt shared hearing from many individuals who have expressed concern about not being heard by many current City leaders.

Cece Abrams spoke against the proposed Land Use Code changes, stating the revised Code barely supports four of the five initiatives for which it was supposedly created, including calibrating market feasible initiatives for affordable housing, enabling more affordability, and making the Code easier to use and understand. Abrams stated the revised Code does not help either side of the debate and is detrimental to the happiness of all residents, also stating the wildlife-welcoming neighborhoods that make up a small amount of the land available are being sacrificed and the revised Code does nothing to address affordability.

James Burtis expressed support for the revised Land Use Code stating the careful changes made to enhance incentives for affordable housing and to utilize existing structures in residential neighborhoods are sensible.

Jerry Gavaldon stated developers, realtors, and builders will continue to make their profits. Ultimately, increasing utility rates and development fees will impact affordability.

Johanna Loury stated Mayor Arndt indicated she was voting in favor of the revised Land Use Code at the first reading as Fort Collins is a friendly, welcoming city, which left the impression that single-family homeowners are not welcoming because they do not want ADUs, large sheds, subdivided lots, massive additions, resident managers with no ownership stake in properties, overcrowding, a lack of parking, extra stress on utilities, and extra deliveries. Loury spoke in support of Councilmember Shirley Peel's concession to not allow duplexes in the RL zone and thanked Councilmembers Susan Gutowsky and Ohlson for opposing the revisions as the new Code does not address affordability, urging Council to vote against the adoption of the revised Code.

Brandon Northrop stated Fort Collins is on the verge of crisis with sky high rents and skyrocketing homelessness, stating there is not enough housing in Fort Collins and the City should be a place where everyone can contribute and live comfortable lives while urging Council to adopt the Code.

Rick Hoffman questioned whether it is the City's job to provide housing for everyone who wants to live in Fort Collins, stating the market will drive the price of housing and the proposed new Code will have little impact on affordability, particularly as the new Code does not include any mandates requiring developers to include a certain percentage of affordable housing in development plans.

Fred Kirsch, Fort Collins Community for Sustainable Energy, stated the organization is advocating for the goal of maximizing solar potential in Fort Collins and previously requested the inclusion of language supporting the goal in the climate funding proposal, which he now realizes was misguided as it is really an economic development issue. Kirsch stated an upcoming vacancy in a senior policy position at Fort Collins Utilities could provide an opportunity to find someone who can lead in the transition to maximize the value of the utility assets for the community.

Kolt Herkstroeter expressed concern the revised Land Use Code will only aid 10% of the individuals needing affordable housing, stating he would prefer to see that goal set higher.

Colleen Hoffman, Preserve Fort Collins and the Fort Collins HOA Coalition, stated a housing crisis cannot be met by taking the low-hanging fruit, or the backyards of low-density neighborhoods, or entire lots to be scraped and rebuilt and requested Council not approve a Code that overrides HOA covenants that run with the land and provide predictability. Additionally, Hoffman requested the

haphazard zoning not be approved without voter approval, stating developers should be funding affordable housing, not private property owners through taxes.

Todd Johns commented on living in mid-town on a block that had 40% rentals that were not affordable, discussing his experience living in a large city that had neighborhoods destroyed when similar land use codes were adopted and developers bought single-family homes and built multi-unit structures, which also were not affordable, and questioning why the revised Code is being promoted to provide affordable housing when it does not meaningfully mandate affordable housing. Johns questioned the Council's commitment to the revised Code given there was willingness to strike multiple provisions during the hearing on first reading, stating Council would be betraying the trust of homeowners by adopting the revised Code and suggested it should be placed on the ballot.

Susan Amador stated the section of town where she lives is already quite dense and Amador does not believe additional density is feasible, encouraging the placement of the item on the ballot.

Brian Tracy stated petitions and recall elections are as important a part of our government as the election of representatives and are a way to combat extreme decisions and prevent extreme change.

Steve Kuehneman, Care Housing Executive Director, part of One Voice for Housing, thanked most of the Council for attending the Heartside Hill groundbreaking event on October 5 and thanked Councilmember Tricia Canonico for speaking. He stated Heartside Hill will bring much needed affordable rental and home ownership opportunities to the community. Hill stated that truly addressing Fort Collins' housing challenges will take a complete toolbox that includes direct investments in housing subsidies, tenant protections, and an adequate supply of housing choices and the Land Use Code is an essential tool in that toolbox and he urged Council to adopt it.

David Rout (remote), Homeward Alliance Executive Director, expressed support for the revised Land Use Code and thanked Council and staff for creating a Code that reflects the values of the community, stating homelessness is the result of system failures and is the inevitable consequence of generations of policy decisions at the federal, state, and local levels that produce rigged systems, reinforce inequities, and leave human beings in despair.

Julie Northrop, Fort Collins resident, stated no neighborhood becomes established on its own and urged Council to adopt the revised Land Use Code.

Kathryn Dubiel requested Council direct City Manager DiMartino to correct a serious and indefensible omission of the name of the write-in mayoral candidate, Patricia Babbit, from the City's election webpages, stating the omission negatively impacts voters' decision-making abilities and that neither the City Charter nor City Code includes language related to the way the City presents the slate of candidates in pre-election information.

Serena Thomas, Homeward Alliance, part of One Voice for Housing, expressed support for the revised Land Use Code, stating many homeless community members are not in their current situations due to character flaws or bad decisions, but many complicating factors, including an outdated Land Use Code that restricts where and how people live within the City's boundaries, also stating the updated Code is one of the first steps in implementing systemic changes, removing barriers, and enabling the community to increase the variety and supply of housing needed for individuals to live healthy, affordable, and safe lives in Fort Collins.

Imran Bhimani stated the number one issue being faced by businesses is a severe lack of work force which is driven by the fact the labor force cannot afford to live in Fort Collins, stating housing supply needs to be increased and a diversity of housing options needs to be provided to retain a sustainable work force while noting placing the Land Use Code on the ballot would be inappropriate, ineffective, and a waste of funds and urging Council to adopt the revised Code.

Rich Stave shared a number of thoughts with Council, including stating the use of Zoom is not a reliable way to add public comment to the record; stating Transfort stops its operations before public business concludes making it difficult for people to participate in public business; and commenting on Item No. 12, *Resolution 2023-093 Approving an Intergovernmental Agreement with the Poudre School District for a Grant to it Under the City's Digital Inclusion Program* and questioning why the City is funding school district business.

Public comment concluded at 7:20 p.m.

H) PUBLIC COMMENT-UP

Mayor Pro Tem Emily Francis requested an update on the safety concerns raised by Kyle Shelp regarding the Laporte Avenue bridge replacement project. Caryn Champine, Planning, Development, and Transportation Director, replied the project is a multi-modal improvement project with two primary goals: to improve the bridges over irrigation ditches and to introduce multi-modal facilities and improve safety for all users, particularly vulnerable users. Champine stated staff has spent a great deal of time with neighbors and professional engineers to work on design and safety requirements. And noted the new facility is a raised curb that goes along the front of the properties and is not a bike lane in the street. Champine stated staff will be increasing signage and placing new pavement markings and mirrors on the pathway, particularly near Mr. Shelp's driveway, to alert all users to the unique condition in the area.

Councilmember Gutowsky discussed a comment made that people who have commented on the Land Use Code do not want to live with poor people and stated she has not experienced or heard anything like that from those who have spoken.

Mayor Jeni Arndt noted Fort Collins is the 156th largest city in the United States.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

J) CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the October 3, 2023 Regular Meeting.

The purpose of this item is to approve the minutes of the October 3, 2023 regular meeting.

Approved.

2. Second Reading of Ordinance No. 132, 2023, Making a Supplemental Appropriation from the Regional Air Quality Council Mow Down Pollution Grant for Purchase of Zero-Emission Commercial Lawn and Garden Equipment.

This Ordinance, unanimously adopted on First Reading on October 3, 2023, supports the City's Parks Department in converting lawn and garden gasoline powered equipment to battery-powered equipment by appropriating \$100,000 of unanticipated grant revenue, awarded by the Regional Air Quality Council (RAQC) through funds provided by the Colorado Department of Public Health and Environment (CDPHE).

This item would also authorize the City Manager or their designee to accept the grant award and comply with the terms of the grant application and award.

Adopted on Second Reading.

3. **Second Reading of Ordinance No. 133, 2023, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the Childcare Space Modifications at the Northside Aztlan Community Center and Related Art in Public Places.**

This Ordinance, unanimously adopted on First Reading on October 3, 2023, appropriates \$197,960 from Recreation Reserves to close the funding gap on the Childcare Space Modifications at Northside Aztlan Community Center and transfers 1% of the applicable construction costs to Art in Public Places (APP).

Adopted on Second Reading.

4. **Second Reading of Ordinance No. 134, 2023, Authorizing Transfer of an Appropriation for Art in Public Places Related to the Design and Construction of Connexion.**

This Ordinance, unanimously adopted on First Reading on October 3, 2023, transfers \$27,924 of appropriated funds for Art in Public Places (APP) artwork expenses in the Cultural Services and Facilities Fund back to the Broadband Fund, where those related expenses will be transacted.

Adopted on Second Reading.

5. **Second Reading of Ordinance No. 135, 2023, Appropriating Unanticipated Revenue and Authorizing Transfers for the Lemay and Drake Intersection Improvements Project and Related Art in Public Places.**

This Ordinance, unanimously adopted on First Reading on October 3, 2023, appropriates: 1) \$900,072 of Highway Safety Improvement Program (HSIP) grant funds for the Project; 2) \$100,008 from the Community Capital Improvement Program (CCIP); and 3) \$1,000 (1% of the CCIP amount) to the Art in Public Places Program.

Adopted on Second Reading.

6. **First Reading of Ordinance No. 139, 2023, Approving the Fiscal Year 2024 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 Property Taxes Payable Fiscal Year 2024.**

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

The following amounts will be appropriated:

<i>DDA Public/Private Investments & Programs</i>	<i>\$6,435,066</i>
<i>DDA Operations & Maintenance</i>	<i>\$1,477,626</i>
<i>Revolving Line of Credit Draws</i>	<i>\$9,000,000</i>
<i>DDA Debt Service Fund</i>	<i>\$9,431,611</i>

The Ordinance sets the 2024 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 2024.

Adopted on First Reading.

7. **First Reading of Ordinance No. 140, 2023, Adopting the 2024 Budget and Appropriating the Fort Collins Share of the 2024 Fiscal Year Operating and Capital Improvements Funds for the Northern Colorado Regional Airport.**

The purpose of this item is to adopt the 2024 budget for the Northern Colorado Regional Airport and appropriate Fort Collins's share of the 2024 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.

8. **First Reading of Ordinance No. 141, 2023, Appropriating Philanthropic Revenue Received by City Give for the 2023 Parks Independence Day Celebration.**

The purpose of this item is to appropriate philanthropic revenue designated for the 2023 Parks Independence Day Celebration.

Adopted on First Reading.

9. **First Reading of Ordinance No. 142, 2023, Appropriating Philanthropic Revenue Received Through City Give for the Art in Public Places Program, Pianos About Town Project.**

The purpose of this item is to consider an appropriation of \$45,221 in philanthropic revenue received by City Give for the Art in Public Places program. This grant award was received from Bohemian Foundation for the designated purpose of Pianos About Town, a collaborative effort among the City's Art in Public Places program, the Fort Collins Downtown Development Authority, and the donor, Bohemian Foundation.

Adopted on First Reading.

10. **First Reading of Ordinance No. 143, 2023, Making a Supplemental Appropriation, Appropriating Prior Year Reserves, Authorizing Transfers and Authorizing Intergovernmental Agreements for the Air Toxics Community Monitoring Project.**

The City was awarded a \$499,139 Air Toxics Community Monitoring Project Grant from the Environmental Protection Agency (EPA) to provide air toxic monitoring that responds to concerns of residents in underserved communities, builds a broader understanding of air quality issues through innovative approaches including storytelling and art and empowers residents to engage in policy and regulatory discussions. This three-year project will be conducted in partnership with Colorado State University and the Larimer County Department of Health and Environment, with support from the Colorado Department of Public Health and Environment and various community organizations.

The purpose of this item is to support the Air Toxics Community Monitoring project by:

- *Appropriating \$499,139 of unanticipated grant revenue awarded by the EPA*
- *Appropriating \$70,178 from the General Fund reserves*
- *Utilizing matching funds in the amount of \$3,230 from existing 2023 appropriations into this new grant project*

This item would authorize the City to accept the grant award and comply with the terms and conditions. This item would also authorize the City to enter into an agreement with Colorado State University to conduct the work contemplated by the grant agreement.

Adopted on First Reading.

11. Items Relating to the Zach Elementary School Crossings Project.

A. Resolution 2023-092 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the Zach Elementary School Crossings Project.

B. First Reading of Ordinance No. 144, 2023, Appropriating Unanticipated Revenue From a CDOT Safe Routes to School Grant and Authorizing Transfers for the Zach Elementary School Crossings Project and Related Art in Public Places.

The purpose of this item is to enable the City to receive and expend federal, Colorado Department of Transportation (CDOT), and local funds for the Zach Elementary School Crossings Project (the Project). The funds will be used to design and construct improvements at the intersection of Kechter Road and Jupiter Drive and at the intersection of Kechter Road and Cinquefoil Lane. These improvements will create safer conditions for bicyclists, pedestrians, and motorists traveling in this location. If approved, the item will: 1) authorize the Mayor to execute an intergovernmental agreement (IGA) for the Project with CDOT; 2) appropriate \$745,587 of Safe Routes to School (SRTS) grant funds for the Project; 3) appropriate matching funds from the SRTS School Transportation Safety Studies; 4) appropriate matching funds from the Bicycle Community Capital Improvement Program (Bicycle CCIP); 5) appropriate matching funds from the Pedestrian Community Capital Improvement Program (Pedestrian CCIP); 6) acknowledge anticipated funds contributed by the Poudre School District (PSD); and 7) appropriate funds to the Art in Public Places Program.

Adopted Resolution and Ordinance on First Reading.

12. Resolution 2023-093 Approving an Intergovernmental Agreement with the Poudre School District for a Grant to it Under the City's Digital Inclusion Program.

The purpose of this item is to authorize the approval of an Intergovernmental Agreement with Poudre School District (PSD) for a Digital Inclusion grant made to PSD's Department of Language, Culture, and Equity to be designated toward the funding of a Digital Family Liaison who will support the technological literacy of PSD Family Liaisons and the digital literacy of those families served by PSD's Family Liaisons.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, to approve the recommended actions on items 1-12 on the Consent Calendar.

The motion carried 6-0.

Absent: Councilmember Ohlson.

K) CONSENT CALENDAR FOLLOW-UP (This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.)

Councilmember Gutowsky commended the Downtown Development Authority on its alley redevelopment projects and commented on the Pianos Around Town project.

Councilmember Peel noted the City fireworks are courtesy of a donation from Elevations Credit Union.

L) STAFF REPORTS

None.

M) COUNCILMEMBER REPORTS

Mayor Jeni Arndt

- Reported Fort Collins was selected to go to City Lab, a problem-solving summit in Washington D.C. with civic leaders worldwide.

Councilmember Susan Gutowsky

- Participated in a traffic study at Rivendale School looking at safety issues in the area.
- Attended Heartside Hill groundbreaking.
- Attended Neighbor to Neighbor open house for its new facility.
- Attended Indigenous Peoples' Day at the Council Tree shopping center.
- Attended President's induction ceremony at CSU.

Councilmember Shirley Peel

- Commended the Economic Office for its business appreciation celebration.
- Announced the City is bringing back the revolving loan fund, which will be administered by the Colorado Enterprise Fund, to support local small businesses.

Clerk's Note: Mayor Arndt called for a break at 7:33 p.m. The meeting resumed at 7:45 p.m.

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

None.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

13. Items Related to the Adoption of a New Land Use Code.

A. Second Reading of Ordinance No. 136, 2023, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Revised Land Use Code and Separately Codifying the 1997 Land Use Code as the "Pre-2024 Transitional Land Use Regulations."

B. Second Reading of Ordinance No. 137, 2023, Updating City Code References to Align with the Adoption of the Revised Land Use Code.

C. Second Reading of Ordinance No. 138, 2023, Amending the Zoning Map of the City of Fort Collins to Rename All Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town Zone District In Conjunction With the Adoption of the Land Use Code.

These Ordinances, adopted on October 3, 2023, by a vote of 5-2 (Nays: Ohlson, Gutowsky), amend the City's Land Use Code. The Land Use Code (LUC) Phase 1 Update implements policy direction in City Plan, the Housing Strategic Plan, and the Our Climate Future Plan. Changes are intended to address one or more of the following Guiding Principles:

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

If adopted by Council, staff recommend that the proposed Code changes take effect on January 1, 2024.

In addition to changes to the Land Use Code, updates to City Code references to the revised Land Use Code are proposed.

Finally, because the revised Land Use Code renames the Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer zone districts to the Old Town zone district with corresponding subdistricts A, B, and C, updates to the zoning map to reflect the name changes are proposed. This change only affects the name of the zone districts and no changes to the boundaries are proposed.

Caryn Champine, Director of Planning, Development, and Transportation, stated there is a suite of adopted plans that serve as the foundation of this work, including City Plan, the Transit Master Plan, the Housing Strategic Plan, and Our Climate Future. She discussed the five guiding principles that were initially developed to inform the work on the Land Use Code and mentioned the regulations that will continue to go forward if this new Code is adopted, including review procedures, specifics pertaining to non-residential uses, historic preservation, and other items such as landscaping and occupancy.

Champine provided a summary of the changes as organized by the five guiding principles: increasing overall housing capacity, enabling more affordability, allow for more diverse housing choices, and a combination of the final two guiding principles which are related to making the Code easier to use and improving predictability.

Paul Sizemore, Community Development and Neighborhood Services Director, commented on the discussion topics from first reading, including the elimination of allowing duplexes in the RL zone. He stated the consultants did some modeling and determined there would be capacity for about 26,000 more residential units to be built in Fort Collins under the existing Code, and under the draft Code, there would be capacity for an additional 13,000 new units. He noted most of the capacity is available in mixed-use zones such as LMN and MMN, some in Commercial zone districts, and only about 6% in lower-density zones such as RL, NCL, NCM, and UE.

In terms of peer city policies for accessory dwelling units, Sizemore stated 85% of 33 front range jurisdictions do allow accessory dwelling units, 70% adopted ADU regulations in the past three years, most allow ADU's as an administrative review, most do allow them for short-term rentals, and about 61% do require owner-occupancy of the property. He discussed a 2021 investor ownership analysis noting about 5% of non-apartment housing in Fort Collins is owned by out-of-state investors, about 90% of the community's landlords own just one property in addition to their own residents, and the number of landlords who own ten or more units make up about 0.2% of the total number of landlords in the community. Sizemore discussed key differences between the current Code, repealed Code, and proposed Code.

PUBLIC COMMENT

Charles Howes shared about asking friends and neighbors about the Land Use Code and many were unaware of the proposed changes; however, most commented on how difficult it is to find housing in the city, also commenting on the importance of protecting open space and the culture of Fort Collins while stopping the evolution of how we use our developed land. Howes stated having more housing inventory of all types will slow rising housing costs and urged Council to adopt the new Code.

Stefanie Berganini, DSA Fort Collins Housing Justice Committee Chair, stated this Code is a compromise on a compromise, but is still a critical and long overdue step to more housing inventory, diversity, and affordability and urged Council to adopt the revised Code.

Wayne Brothers stated most residents of single-family neighborhoods continue to object to the revised Land Use Code as it threatens to destroy single-family neighborhoods for an unneeded 6% increase in housing capacity and imposes subdivision requirements on HOA neighborhoods, which was not part of the repealed Land Development Code and objected to the lack of a requirement for owner-occupancy on a property with an ADU. Brothers requested Council put the item on the ballot.

Anna Mercurio, Urban Land Conservancy Director of Real Estate, spoke in favor of the proposed Land Use Code updates stating they are necessary to improve housing access and increase real estate affordability while advancing smart growth initiatives.

Kristin Fritz, Housing Catalyst Chief Real Estate Officer, and part of One Voice for Housing, expressed support for the proposed Code as it will provide new incentives for the development of affordable housing, including a new streamlined development review process and regulations that will bring down the cost of affordable housing development, also noting the Code supports the concept of transit-oriented development which aids in increasing overall housing affordability and urged Council to adopt the revised Code.

Joe Rowan, commented on instances in which residents were opposed to affordable housing developments in their neighborhoods and then, after development, found that their fears were unfounded, stating decisions cannot be based on fear of the unknown and should be based on what is best for the community, which is additional affordable housing and encouraging Council to adopt the revised Code and refine it over time.

August-Carter Nelson stated the average voter would not be properly informed enough to decide on the Code and we have representative democracy for a reason, stating adopting this Code, while it is not perfect, will be a step in the right direction.

Rich Stave stated the revised Code is repressive rather than progressive and is a misguided use of public policy and could be discriminatory.

Trudy Haines stated individuals who are opposed to the revised Code have been called too old and too white, stating the Council has insulted the people who have worked for years to bring open space, trails, and a beautiful downtown to Fort Collins. Haines stated the revised Code will strip away HOA rights for a very small increase in housing capacity and encouraged the exclusion of existing neighborhoods from the current proposal stating 95% of the desired capacity can be gained by applying the new Code to currently undeveloped areas and along transit corridors.

Glen Colton stated Fort Collins has been unaffordable since he moved here in 1979 and the population was 60,000, stating adopting this revised Code will mean Fort Collins will still be unaffordable twenty years from now when the population is 250,000. Colton stated the proposed additions of housing capacity to existing neighborhoods will do little to help with housing affordability for existing residents and 94% of the sought capacity could be gained solely with

MMN and commercial zone districts, suggesting the tax initiative on the ballot will likely not pass if Council does not remove existing neighborhoods from the Code.

Ross Cunniff stated the largest piece of disinformation in this overall discussion is that the proposed changes are needed to make Fort Collins affordable, stating there has been fundamental dishonesty in how the proposed changes have been presented and encouraged Council to place the revised Code on the ballot or to vote against the Code and instead create true affordability mandates.

Kaori Keyser, Democratic Socialists of America, Fort Collins Treasurer, encouraged Council to adopt the proposed Code, stating Fort Collins will continue to grow and the main threat to the community's character is increased sprawl.

Kyle James Hauser commented on his involvement in the local music community and stated, despite the City's cultural richness, the escalated cost of living equals that of larger music hubs such as New York and Nashville, but without the same industry opportunities. Hauser stated despite being compensated at an above average salary he does not see a path forward for personal home ownership in Fort Collins and urged Council to adopt the revised Code.

Diana Constantin stated it is a misconception that density will create affordability, suggesting ending the U+2 ordinance which would instead create about 10,000 rental units to determine whether that would increase affordability as opposed to revising the entire Land Use Code.

Linda Hall urged Council not to adopt the revised Code, stating morality cannot be legislated and commented on the last repeal effort while stating the marketplace will determine prices.

Tom Farnsworth expressed concern about the revised Code and encouraged Council to rethink the plan or consider phasing it in and involving residents in its development, execution, and approval.

Brian Tracy stated it is worth comparing the size of the problem being created with the size of the benefit that may occur if the revised Code is approved, stating only 5 to 6% of the total number of units would be in existing residential neighborhoods.

Greg Zoda, Democratic Socialists of America, Fort Collins Electoral Chair, stated density promotes community and is better for the environment, affordability, and community values, stating the flow of people into the community cannot be stopped and urging Council to adopt the revised Code.

Matthew Behunin commended staff on their work and stated it is inflammatory to suggest investors will strip mine neighborhoods, stating all should be welcomed in Fort Collins and urging Council to adopt the revised Code.

Public Comment concluded at 8:37 PM.

COUNCIL DISCUSSION

Councilmember Gutowsky stated there is a sentiment among the community that people need to have a say in the Land Use Code.

Councilmember Gutowsky made a motion that City Council refer the Land Use Code as written to the ballot.

The motion failed for lack of a second.

Councilmember Gutowsky expressed disappointment that the possibility of referring the item to the ballot could not be discussed and she stated she takes that as Council's indication that it is not interested in trusting the community to vote on the issue.

Councilmember Julie Pignataro stated there was a lengthy discussion last year about the placement of the issue on the ballot and encouraged anyone who would like to see it go to the ballot look at petition efforts.

Councilmember Canonico requested the City Attorney comment on the previous petition effort. City Attorney Daggett replied that once it was determined there were enough signatures on the petition, the ordinance was presented to Council and Council had two options: place the ordinance on the ballot or to repeal the ordinance, which was Council's ultimate decision.

Councilmember Canonico asked what the Council vote was on repealing the Code ordinance. City Manager DiMartino replied the vote was 7-0 to repeal the ordinance and not place it on the ballot.

Mayor Pro Tem Francis stated the feedback received from the community during the U+2 discussion was that Council was elected to do this work; therefore, Francis is comfortable moving forward without placing the Code item on the ballot.

Councilmember Gutowsky stated she has heard a different sentiment since that original vote which is why she made the motion to place the item on the ballot.

Mayor Pro Tem Francis requested input from staff regarding a possible amendment to the way height in the Old Town zone district is being considered. Noah Beals, Development Review Manager, stated that the proposed height for detached houses in the Old Town district is 35 feet. Beals stated part of the reason it is not 28 feet is because much of Old Town requires buildings to be raised due to floodplain issues. Beals stated one option would be to reduce the height to 28 feet with a note that the height could be exceeded if the building needs to be raised to comply with floodplain regulations. Mayor Pro Tem Francis stated that seems appropriate.

Mayor Arndt commented on the fact that an out-of-state investor could be someone who retires out of state and decides to rent their house in Fort Collins.

Councilmember Canonico asked about the 10% affordable housing inventory goal. Meaghan Overton, Housing Manager, replied the adopted housing affordability goal is for 10% of the City's housing stock to be deed restricted and affordable by 2040. Overton noted that number is currently holding at around 5% and that she stated the goal is regularly revised with each update to the Housing Strategic Plan. Additionally, the 10% number also comes into play when looking at development incentives for affordable housing as a development must have at least 10% of its units as deed restricted affordable units to meet the City's definition of being an affordable housing development. Overton stated a pro forma analysis of the cost of development and value of incentives showed projects could feasibly set aside about 10% of units with the incentives being provided in the Code while still being economically viable to build.

Councilmember Peel requested clarification on whether duplexes would be allowed in the Urban Estate zone. Beals replied both the existing and repealed Land Use Code did allow for duplexes in the UE zone and it remains a permitted use in the proposed Code under a Type I review.

Councilmember Gutowsky stated she would like to amend the resident manager requirement for ADUs to be an owner-occupied requirement.

Councilmember Peel stated Council was generally in favor of an owner-occupied requirement during a work session discussion but there were some legal questions. City Attorney Daggett replied there are some cases around the country regarding owner-occupancy requirements and

there were some staff concerns about the effectiveness of enforcement of such a requirement. She noted the requirement for primary short-term rentals to have an owner occupying the property remains and the requirement being discussed would require an owner of a property with an ADU to reside in either the ADU or main structure. Daggett stated Council could consider making the requirement only for detached ADUs and not internal ADUs.

Mayor Arndt expressed concern that an owner who moves out of state would be required to sell their house if they have an ADU.

Mayor Pro Tem Francis stated she is comfortable with the resident manager requirement and noted the rental registration program and public nuisance ordinance can help to address some of the issues.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 136, 2023, Repealing and Reenacting Section 29-1 of the Code of the City of Fort Collins to Adopt the Revised Land Use Code and Separately Codifying the 1997 Land Use Code as the “Pre-2024 Transitional Land Use Regulations,” on second reading.

Councilmember Canonico stated she ran for office on a policy platform of making Fort Collins work better for residents by facilitating more affordable housing, increasing transit, bike infrastructure, and the walkability of Fort Collins, on promoting climate-forward policies, and on ensuring the future of Fort Collins. Councilmember Canonico stated all those commitments are captured in this Land Use Code update and discussed statistics related to the expense of housing in Fort Collins noting the community is the second highest of non-coastal markets due to supply being limited by zoning and regulations. Councilmember Canonico stated that data shows that supply and density do increase affordability. Additionally, other communities that have allowed ADUs have not seen many built, and while allowing them will not solve affordable housing challenges, it will provide another housing choice for those who want it. Councilmember Canonico went on to state that a climate mitigation work group for the EPA is recommending to the EPA that it can support human health and the environment by supporting local governments highlighting zoning changes and permitting processes that make it easier to adopt climate-smart land use and development patterns, and that the research is clear that land use drives emissions. She stated greater density leads to better transit and bike infrastructure.

Councilmember Canonico stated this Code represents compromise and community engagement. She stated it will allow families to live well in the city today and into the future.

Councilmember Peel stated extensive outreach has been done and commended staff efforts and stated she was sorry accusations were made regarding staff motives and stated she voted in support of the revised Land Development Code and after the repeal, having spent countless hours trying to see all sides of the issue and possible unintended consequences. Councilmember Peel also stated there are still some points that need to be addressed, though she does not want to throw out the good with the controversial; therefore, she will support the revised Code this evening, but remains committed to keep working on the document to ensure it best serves the community.

Councilmember Pignataro thanked the community members for their input and stated that she makes policy decisions based on facts, available data, and experiences from this community and others. Councilmember Pignataro went on to state that every expert in the community who has provided affordable housing is saying this Code is a step in the right direction; in addition to noting that this is a living document and it will continue to be revised.

Mayor Pro Tem Francis thanked the community members for their input and for the placement of trust in Council’s vote and stated she ran on affordable housing and, as a public servant, this revised Code will help deliver on her campaign promises of housing, transit, and climate. Mayor Pro Tem Francis also stated it is important to listen to experts and commented on the importance

of leaving behind a better place for the next generation and on ensuring people in the community have homes. Mayor Pro Tem Francis thanked staff for their work.

Councilmember Gutowsky stated she would not support adoption of the revised Code and also stated it contains very few incentives for developers to contribute to the City's affordable housing stock. Councilmember Gutowsky also stated that density will increase and affordability will not change. Additionally, stating that while developers are not being held responsible for affordable housing development, there is an initiative on the ballot that asks taxpayers to fund it. Councilmember Gutowsky went on to state that the proposed Code is a blanket approach to development that disregards the unique nature of the City's neighborhoods and disrupts their way of life and expressed disappointment that Council opted to not give voters a voice in this matter stating it is too big of an issue to not be decided by the people.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to amend the Ordinance to amend height limits for zones OTA and OTB from 35 feet to 28 feet, including a footnote about floodplains.

City Attorney Daggett clarified that would technically be an amendment to exhibit B to the ordinance on page 2-14 regarding height restrictions with a note stating the maximum height may exceed 28 feet if the additional height is required to comply with floodplain regulations.

***The motion to amend Exhibit B to the Ordinance carried 6-0.
Absent: Councilmember Ohlson.***

***The motion to Adopt Ordinance No. 136, 2023, as amended, carried 5-1.
Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Peel, Canonico and Pignataro.
Nays: Councilmember Gutowsky.
Absent: Councilmember Ohlson.***

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 137, 2023, Updating City Code References to Align with the Adoption of the Revised Land Use Code, on second reading.

***The motion carried 5-1.
Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Peel, Canonico and Pignataro.
Nays: Councilmember Gutowsky.
Absent: Councilmember Ohlson.***

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 138, 2023, Amending the Zoning Map of the City of Fort Collins to Rename All Neighborhood Conservation Low Density, Neighborhood Conservation Medium Density, and Neighborhood Conservation Buffer Zone Districts to the Old Town Zone District In Conjunction With the Adoption of the Land Use Code, on second reading.

***The motion carried 5-1.
Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmembers Peel, Canonico and Pignataro.
Nays: Councilmember Gutowsky.
Absent: Councilmember Ohlson.***

Clerk's Note: Mayor Arndt called for a break at 9:16 p.m. The meeting resumed at 9:29 p.m.

14. **First Reading of Ordinance No. 145, 2023, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for the Fiscal Year 2024; Amending the Budget for the Fiscal Year Beginning January 1, 2024, and Ending December 31, 2024; and Fixing the Mill Levy for Property Taxes Payable Fiscal Year 2024.**

The purpose of this item is to amend the adopted 2024 Budget. This Ordinance sets the amount of \$802,507,950 to be appropriated for fiscal year 2024. This appropriated amount does not include what is also being appropriated by separate Council/Board of Director actions to adopt the 2024 budgets for the General Improvement District (GID) No. 1 of \$318,275, the 2024 budget for GID No. 15 (Skyview) of \$1,000, the Urban Renewal Authority (URA) 2024 budget of \$6,121,898 and the Downtown Development Authority 2024 budget of \$26,344,303. The sum of these ordinances results in City-related total appropriations of \$835,293,426 for 2024. This Ordinance also sets the 2024 City mill levy at 9.797 mills, unchanged since 1991.

Travis Storin, Chief Financial Officer, stated this is the annual appropriation ordinance for the second year of the two-year budget cycle. He stated the appropriations total around \$625 million, which is about a \$6 million increase over the original budget adopted last year.

Lawrance Pollack, Budget Director, noted the second reading of this ordinance would not occur until November 21. He discussed the ongoing programs and services funded in the budget outcome areas and detailed the revisions that were made.

PUBLIC COMMENT

Adam Eggleston stated the budget increase is concerning given potential revenue shortfalls, also stating the realized gains would be lower than projected if Proposition HH passes in November.

Rich Stave concurred with Eggleston's comments, stating increased property values lead to increases in taxes going back to the City and asked if all of those funds are going to FTEs while also expressing concern that the City is requesting tax increases at the November election.

COUNCIL DISCUSSION

Councilmember Pignataro noted this is the first two-year budget since prior to the pandemic and asked if these appropriations are a typical part of a two-year cycle. Storin replied in the affirmative.

Councilmember Pignataro asked if there are also decreases associated with the revisions. Pollack replied the decreases were related to double counting and are not decreases in net expenses. He noted the revisions are fully covered by increases in revenue with the combination of sales tax and the anticipation of lower property taxes if Proposition HH passes.

Storin noted some years do have a net budget cut during the revision cycle, which was the case in 2019.

Councilmember Pignataro asked if the tax items on the ballot are to address anticipated shortfalls in funding of the Transit Master Plan, Climate Action Plan, and Housing Strategic Plan, to make up for deficits in Parks maintenance and replacement, and to fund aquatics. Storin replied Council has referred the items to the ballot to seek resourcing for gaps to aspirations and plans.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 145, 2023, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for the Fiscal Year 2024; Amending the Budget for the Fiscal Year Beginning January 1, 2024, and Ending December 31, 2024; and Fixing the Mill Levy for Property Taxes Payable Fiscal Year 2024, on first reading.

Councilmember Peel stated she shares some of the concerns mentioned during public comment.

The motion carried 6-0.
Absent: Councilmember Ohlson.

15. Items Relating to 2024 Utility Rates, Fee, and Charges.

A. First Reading of Ordinance No. 146, 2023, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees, and Charges and Updating the Related Income-Qualified Assistance Program.

B. First Reading of Ordinance No. 147, 2023, 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. 148, 2023, 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. 149, 2023, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Rates, Fees, and Charges.

The purpose of this item is to propose 2024 Utility Rates for Council consideration, which align with the 2024 City Manager's Recommended Budget. Monthly utility charges are proposed to increase 5% for electric customers, 4% for water customers, 4% for wastewater customers, and 3% for stormwater customers.

Randy Roucher, Utilities Lead Analyst, outlined the proposed rate increases noting they align with the 2024 City Manager's recommended budget. He stated the electric increase is due to the increase in the wholesale rate and to help cover distribution expenses including capital costs. The water, wastewater, and stormwater increases are primarily due to capital project costs. He outlined the impact to a typical utilities customer and compared Fort Collins' rates to other Colorado cities.

Shannon Ashe, Affordability Program Manager, commented on the City's portfolio of affordability program offerings and specifically discussed the income-qualified assistance program (IQAP). She stated staff are proposing direct entry into the program for customers who are not able or eligible to apply for LEAP.

PUBLIC COMMENT

Rich Stave stated net metering should be daily and he expressed concern he cannot read his electric meter in real time. He stated it would be nice to know how much energy is used and how much revenue is generated in each category.

Joe Rowan stated average citizens need to be considered when looking at rates and while achieving climate objectives is very noble, it needs to be done in a manner that people can afford.

COUNCIL DISCUSSION

Councilmember Pignataro thanked staff for developing the IQAP enrollment alternative. She asked how staff will determine whether it is working. Ashe replied programs are always iterative and staff always seek community feedback and feedback from Housing Catalyst which operates the housing voucher program.

Mayor Arndt noted Fort Collins still has a relatively low utilities cost in comparison to other cities.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 146, 2023, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees, and Charges and Updating the Related Income-Qualified Assistance Program, on first reading.

**The motion carried 6-0.
Absent: Councilmember Ohlson.**

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 147, 2023, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Rates, Fees, and Charges, on first reading.

**The motion carried 6-0.
Absent: Councilmember Ohlson.**

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 148, 2023, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Wastewater Rates, Fees, and Charges, on first reading.

**The motion carried 6-0.
Absent: Councilmember Ohlson.**

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to adopt Ordinance No. 149, 2023, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Rates, Fees, and Charges, on first reading.

**The motion carried 6-0.
Absent: Councilmember Ohlson.**

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.)

Councilmember Gutowsky noted ballots are coming out and negativity is creeping into Council races. She urged voters to thoroughly investigate the candidates.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:06 p.m.

Mayor

ATTEST:

City Clerk