

November 19, 2024

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 November 20, 2024 as GIS (Geographic Information System) Day.**

PP 2. **Declaring November 2024 as Thank a Business Month.**

PP 3. **Declaring November 2024 as Transgender Acceptance 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 Melanie Potyondy
Councilmember Kelly Ohlson

STAFF PRESENT

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

E) CITY MANAGER'S AGENDA REVIEW

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

- No changes to the published agenda.
- Recommending approval of the Consent Calendar, items 1-21, minus Item #8, *Second Reading of Ordinance No. 159, 2024, Making a Supplemental Appropriation and Authorizing Transfer of Appropriation for the Southeast Community Center Land Acquisition in Compliance with Approved Intergovernmental Agreement Between the City of Fort Collins, Poudre School District and Poudre Libraries*, which was recommended to be postponed indefinitely.
- Discussion items included:
 - Amending City Code to adjust Capital Expansion Fees, Transportation Expansion Fees, Electric Capacity Fees and Stormwater Plant Investment Fees; and
 - Appeal of the Historic Preservation Commission's Landmark Design Review Decision Denying Metal-Clad window replacement at 201 Linden Street.
- Other Business:
 - Motion to adjourn the meeting to November 26, 2024, to enter executive session to complete performance reviews for Council direct reports.

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.)

Kimberly Conner presented information on the situation in Gaza, specifically noting the United Nations has stated the United States is complicit in genocide and spoke in favor of a related ceasefire resolution.

Dr. Zach Shelton spoke in favor of community water fluoridation.

Dr. Allison Lesko spoke in favor of continuing water fluoridation.

Gregory Evans provided some history around water fluoridation in Fort Collins and discussed a report that was completed by an earlier City Council after a commissioned study. Evans stated this item has been well researched and requested Council read the executive summary from that study to help them make a decision.

George Grossman, Happy Lucky's Teahouse, spoke about the negative impacts of closing streets downtown for special events. Grossman stated the special event permit process is broken and should be examined to ensure local businesses are not impacted. Grossman stated there is no opportunity for small businesses to provide any feedback and there is no clear system for permit applicants or the City to communicate with small businesses. Grossman added that small business owners would like to help create an updated special events process to make things work for everyone.

Jerell Klaver, Salus Bath and Body, discussed the market event that was scheduled on November 30 which would have closed streets and negatively impacted downtown businesses. Klaver concurred an updated process is needed related to the special events permit process.

Alex Scott provided information regarding Gaza and the United Nations report and spoke in support of a ceasefire resolution.

Dr. Tyler Whiting discussed the detriments of removing fluoride from drinking water and urged Council to maintain fluoridation.

John Zavada stated he is a veteran and a health and wellness professional and discussed the issues he is having related to finding employment. Zavada expressed interest in finding opportunities in adaptive sports and recreation and stated there is a gap related to adaptive recreation opportunities, especially for veterans, in Fort Collins and Northern Colorado.

Adam Hirshhorn discussed the services provided to Israel by Hewlett Packard and commented on a situation in Gaza.

Alan Jantzen, Silver Grill owner, thanked Council and City leadership for listening to the concerns of the downtown merchants related to the proposed November 30 event that would have closed downtown streets.

Elizabeth Hudetz expressed surprise the City is considering building another methane gas plant and questioned why Council would not ask for a second opinion related to the issue.

Dr. Jill Shonka spoke in favor of keeping fluoride in drinking water.

Dr. Jennifer Hargleroad spoke in favor of keeping fluoride in drinking water.

H) PUBLIC COMMENT FOLLOW-UP

Councilmember Ohlson stated Council is not planning to take any action related to changing the City's policies on fluoridation and noted there was a 2005 ballot issue related to keeping the practice.

Councilmember Potyondy echoed Councilmember Ohlson's comments and thanked staff for the information provided. She asked if Mr. Zavada has been contacted by staff. City Manager DiMartino replied in the affirmative.

Councilmember Canonico echoed the comments related to drinking water fluoridation of water and thanked those who spoke.

Mayor Arndt also echoed the comments related to drinking water fluoridation and confirmed no changes are planned.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

J) CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the November 4, 2024 Regular Meeting.

The purpose of this item is to approve the minutes of November 4, 2024 Regular Meeting.

Approved.

2. **Second Reading of Ordinance No. 153, 2024, Adopting the 2025 Budget and Appropriating the Fort Collins Share of the 2025 Fiscal Year Operating and Capital Improvements Funds for the Northern Colorado Regional Airport.**

This Ordinance, unanimously adopted on November 4, 2024, adopts the 2025 budget for the Northern Colorado Regional Airport and appropriate Fort Collins' share of the 2025 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 Second Reading.

3. **Second Reading of Ordinance No. 154, 2024, Approving the Fiscal Year 2025 Budget, and Being the Annual Appropriation Ordinance for the Fort Collins Downtown Development Authority Relating to the Annual Appropriations for Fiscal Year 2025, and Fixing the Mill Levy for the Downtown Development Authority for Property Taxes Payable Fiscal Year 2025.**

This Ordinance, unanimously adopted on First Reading on November 4, 2024, adopts the Downtown Development Authority ("DDA") Budget.

The following amounts will be appropriated:

<i>DDA Public/Private Investments & Programs</i>	<i>\$11,634,753</i>
<i>DDA Operations & Maintenance</i>	<i>\$1,556,393</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 2025 Mill Levy for the Fort Collins DDA at five (5) mills, unchanged since tax year 2002. The adopted Budget becomes the Downtown Development Authority's financial plan for 2025.

Adopted on Second Reading.

4. **Second Reading of Ordinance No. 155, 2024, Appropriating Unanticipated Philanthropic Revenue Received by City Give for Various Programs and Services as Designated by the Donors.**

This Ordinance, unanimously adopted on November 4, 2024, appropriates \$36,605.83 in philanthropic revenue received by City Give. These miscellaneous gifts to various City departments support a variety of programs and services and are aligned with both the City's strategic priorities and the respective donors' designation.

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

Adopted on Second Reading.

5. **Second Reading of Ordinance No. 156, 2024, Appropriating Prior Year Reserves in the Transportation Services Fund for Snow Removal.**

This Ordinance, unanimously adopted on First Reading on November 45, 2024, appropriates prior year reserves to cover snow removal costs that have exceeded the 2024 budget. Overspend in the snow budget is driven by severe snowstorms that present unanticipated cold temperatures, ice, and higher volumes of snow.

Adopted on Second Reading.

6. **Second Reading of Ordinance No. 157, 2024, Authorizing Transfers of Appropriations for the Transfort West Elizabeth Enhanced Travel Corridor Project.**

This Ordinance, unanimously adopted on First Reading on November 19, 2024, transfers grant revenue and the corresponding local match for Transfort into the Capital Projects fund and to clarify the use of funds.

Adopted on Second Reading.

7. **Second Reading of Ordinance No. 158, 2024 Appropriating Prior Year Reserves in the Natural Areas Fund for the Purpose of Land Conservation Not Included in the 2024 Adopted City Budget.**

This Ordinance, unanimously adopted on First Reading, appropriates \$2,000,000 in prior year reserves in the Natural Areas Fund. These appropriations are for additional land conservation, for the Natural Areas Department.

Adopted on Second Reading.

8. **Second Reading of Ordinance No. 159, 2024, Making a Supplemental Appropriation and Authorizing Transfer of Appropriation for the Southeast Community Center Land Acquisition in Compliance with Approved Intergovernmental Agreement Between the City of Fort Collins, Poudre School District and Poudre Libraries.**

This Ordinance, unanimously adopted on First Reading on November 4, 2024, appropriates \$3,180,000 to execute the potential land acquisition as defined in the approved Intergovernmental Agreement with Poudre School District and Poudre Libraries related to the construction of a new Southeast Community Center.

Postponed Indefinitely.

9. **Items Relating to the Fort Colins Traffic Code Regarding Parking of Certain Vehicles.**

A. Second Reading of Ordinance No. 160, 2024, Amending Fort Collins Traffic Code Section 1214 Regarding Parking of Certain Vehicles.

B. Second Reading of Ordinance No. 161, 2024, Amending Fort Collins Traffic Code Section 2002 Regarding Definitions.

These Ordinances, unanimously adopted on November 4, 2024, expand the scope of Fort Collins Traffic Code (FCTC) Section 1214 to allow for City-wide enforcement. Currently FCTC Section

1214 is only enforceable in certain designated residential zones. Additionally, this item will also ensure the language in FCTC Section 2002 is consistent across both sections.

Adopted on Second Reading.

10. Second Reading of Ordinance No. 162, 2024, Adopting the 2025 Classified Employee Pay Plan.

This Ordinance, unanimously adopted on First Reading on November 4, 2024, recommends the 2025 City Classified Employee Pay Plan. On First Reading, Exhibit A to the Ordinance contained a mathematical error. A corrected Exhibit A is attached to the Ordinance for Second Reading. Classified jobs are grouped according to job functions, a business practice commonly used by both the public and private sectors. Pay ranges are developed by career group (management, professional, administrative, operations and trades) and level for each job function. The result of this work is a City Classified Employee Pay Plan which sets the minimum, midpoint, and maximum pay ranges for the level within each career group and function. Actual employee pay increases are awarded through a separate administrative process in accordance with the budgeted amount approved by Council.

Adopted on Second Reading.

11. Second Reading of Ordinance No. 163, 2024, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for Fiscal Year 2025; Adopting the Budget for the Fiscal Years Beginning January 1, 2025, and Ending December 31, 2026; and Fixing the Mill Levy for Property Taxes Payable in 2025.

This Ordinance, unanimously adopted on First Reading on November 4, 2024, sets the City Budget for the two-year period (2025-2026) which becomes the City's financial plan for the next two fiscal years. This Ordinance sets the amount of \$894,603,000 to be appropriated for fiscal year 2025. However, this appropriated amount does not include what is being budgeted and appropriated by separate Council/Board of Director actions to adopt the 2025 budget for the General Improvement District (GID) No. 1 of \$319,731, the 2025 budget for General Improvement District (GID) No. 15 (Skyview) of \$1,000, the Urban Renewal Authority (URA) 2025 budget of \$5,185,096 and the Downtown Development Authority 2025 budget of \$31,622,757. This results in the City-related total operating appropriation of \$931,731,584 in 2025.

On first reading, the Ordinance was adopted by the Council with two amendments that were provided for consideration with first reading.

This Ordinance also sets the 2025 City mill levy at 9.797 mills, unchanged since 1991.

Adopted on Second Reading.

12. Items Relating to 2025 Utility Rates and Programs.

A. Second Reading of Ordinance No. 164, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Rates, Fees and Charges.

B. Second Reading of Ordinance No. 165, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Rates, Fees and Charges.

C. Second Reading of Ordinance No. 166, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Wastewater Rates, Fees and Charges.

D. Second Reading of Ordinance No. 167, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Discontinue Electric Renewable Energy Source Programs.

E. Second Reading of Ordinance No. 168, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees, and Charges and Updating Related Rate Assistance Programs.

This Ordinance, unanimously adopted on First Reading on November 4, 2024, proposes 2025 Utility Rates which align with the 2025 City Manager's Recommended Budget. Monthly utility rates are proposed to increase 6.5% for electric customers, 7% for water customers, 6% for wastewater customers, and 6% for stormwater customers. Two utility programs are proposed to be eliminated at the end of 2024, including the Renewable Energy Source (Green Energy) Program and the Medical Assistance Program (MAP).

All Ordinances Adopted on Second Reading.

13. **First Reading of Ordinance No. 169, 2024, Appropriating Unanticipated 2024 Revenue in the Recreation Fund to Support Increased Recreation Expenses.**

The purpose of this item is to consider an appropriation of \$600,000 of unanticipated revenue in 2024 from the Recreation Fund to support expenses related to higher participation rates than anticipated during the 2023-2024 Budgeting for Outcomes cycle.

Adopted on First Reading.

14. **First Reading of Ordinance No. 170, 2024, Making a Supplemental Appropriation of Additional Revenue Received by the Forestry Division to be used for Various Programs and Services.**

The purpose of this item is to request an appropriation of \$73,902 in unanticipated revenue in 2024 received via various programs and services by the Forestry Division, Community Services.

Adopted on First Reading.

15. **First Reading of Ordinance No. 171, 2024, Authorizing the Extension of the Contract Term with Otak, Inc. for the Power Trail and Harmony Road Grade Separated Crossing Project for Not Fewer Than Five Years and Not More Than Ten Years.**

The purpose of this item is to seek authorization by ordinance to extend the contract term with Otak, Inc. for the Power Trail and Harmony Road Grade Separated Crossing Project (the "Project") for a period greater than five years not to exceed a total of ten years.

Adopted on First Reading.

16. **Resolution 2024-132 Approving the 2025 Annual Plan and Proposed Budget for the Fort Collins Tourism Improvement District.**

The purpose of this item is to consider a resolution approving the Tourism Improvement District 2025 Budget and Annual Plan.

Adopted.

17. **Resolution 2024-133 Approving the 2025 Operating Plan and Proposed Budget of the Fort Collins Midtown Business Improvement District.**

The purpose of this item is to consider a Resolution approving the Midtown Business Improvement District 2025 Budget and Operating Plan.

Adopted.

18. Resolution 2024-134 Approving an Exception to the Competitive Purchasing Process to Procure Professional Services from Hurricane Electric to Increase Internet Service Provider Capacity for Connexion Broadband.

A request for an exception to the use of a competitive bid process for the purchase of a five-year contract for Tier 1 Internet Service Provider Services (ISP). A five-year contract from Hurricane Electric is being brought forward for consideration. The alternative is contrary to the City's best interests for the following reasons:

- 1. Hurricane Electric is currently one of two ISPs providing Internet services for Connexion. Adding capacity to the existing service and proceeding with a five-year contract reduces the cost of each circuit from \$6,600 each to \$4,400 each for a total of \$8,800 per month. The contract also allows for additional capacity to be purchased at the same discounted rate.*
- 2. Hurricane Electric is the only Tier 1 ISP in Cheyenne, a Tier 1 ISP allows direct access to the Internet backbone without being dependent on other third-party providers.*
- 3. Hurricane Electric provides a divergent path towards Salt Lake City and away from Denver, which is where Connexion's other Tier 1 ISP resides, allowing true redundancy for Connexion services.*
- 4. Utilizing another ISP would require the one-time purchase of additional hardware and professional services for approximately \$60,000.*
- 5. Utilizing Hurricane Electric allows for the use of existing hardware and a one-time purchase of hardware for approximately \$7,500.*

Exception to the Competitive Bid or Proposal Rationale:

Code Section 8-161(d)(1)(a). There exists only one responsible source. Although there exists more than one responsible source a competitive process cannot reasonably be used or, if used, will result in a substantially higher cost to the City, will otherwise injure the City's financial interest, or will substantially impede the City's administrative functions or the delivery of services to the public.

Adopted.

19. Resolution 2024-135 Approving Fort Fund Cross-Sector Impact Disbursements.

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming Account and the Tourism Programming Account for the selected community events in the Cross-Sector Impact Grant – October Deadline category, based upon the recommendations of the Cultural Resources Board.

Adopted.

20. Resolution 2024-136 Finding Substantial Compliance and Initiating Annexation Proceedings for the Heritage Annexation.

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

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

Adopted.

21. **Resolution 2024-137 Adopting Findings of Fact in Support of the City Council’s Decision on Appeal to Uphold the Planning and Zoning Commission Approval of the Rescue Mission Development Plan FDP230022.**

The purpose of this item is to make findings of fact and conclusions regarding Council’s decisions at the November 6, 2024, Rescue Mission Development Plan appeal hearing, determining that the Planning and Zoning Commission (i) held a fair hearing and (ii) properly interpreted and applied the code provisions raised in two appeals, and thereby upholding the Planning and Zoning Commission’s approval of the Rescue Mission Development Plan.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to approve the recommended actions on items 1-21, minus Item No. 8, Second Reading of Ordinance No. 159, 2024, Making a Supplemental Appropriation and Authorizing Transfer of Appropriation for the Southeast Community Center Land Acquisition in Compliance with Approved Intergovernmental Agreement Between the City of Fort Collins, Poudre School District and Poudre Libraries, on the Consent Calendar.

The motion carried 7-0.

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

None.

- L) STAFF REPORTS**

None.

- M) COUNCILMEMBER REPORTS**

Councilmember Ohlson stated it has been a privilege to represent the public for so long and it is difficult for him to bring this chapter to a close. He stated he is choosing to leave after this term and will miss running one last time because he enjoys the political combat of differing views and philosophies. He stated he is announcing this now so anyone who wants to run can plan and execute a campaign in a race in which there will be no incumbent. He stated he will miss everything but mostly the people with which he works with and residents with which he interacts, as well as opportunities to do meaningful work.

Mayor Arndt thanked Councilmember Ohlson for his years of service and Council suspended the rules to allow for applause.

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

City Manager DiMartino noted there is no longer a need for this Ordinance given the Poudre School District ballot measure passing.

Mayor Pro Tem Francis made a motion, second by Councilmember Gutowsky, to indefinitely postpone Second Reading of Ordinance No. 159, 2024, Making a Supplemental Appropriation and Authorizing Transfer of Appropriation for the Southeast Community Center Land Acquisition in Compliance with Approved Intergovernmental Agreement Between the City of Fort Collins, Poudre School District and Poudre Libraries.

The motion carried 7-0.

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

Nays: None.

(Secretary's Note: The Council took a brief recess at this point in the meeting.)

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

22. Items Related to Amending City Code to Adjust the Following Fees: Capital Expansion Fees; Transportation Expansion Fee; Electric Capacity Fee; and Stormwater Plant Investment Fee.

A. First Reading of Ordinance No. 172, 2024, Amending Chapter 7.5 of the Code of the City of Fort Collins to revise the Capital Expansion Fees and Transportation Expansion Fee.

Three options are presented for Ordinance No. 172, 2024.

Alternative #1: Incorporates updated fees based on the results of the TCEF and CEF Study updates.

Alternative #1A: Provides for a two-step implementation of the TCEF and CEF fees, with 50% of the changes being proposed for 2025 and the balance of the full adjustments being made in 2026.

*Alternative #2: Adjusts the current TCEF and CEF fee schedules for inflation only based on the underlying relevant index (1.9% for TCEF and 2.7% for CEF's). This is the same approach utilized in setting 2024 fee schedules. This alternative **does not** adopt the 2023 fee studies.*

B. First Reading of Ordinance No. 173, 2024, 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.

C. First Reading of Ordinance No. 174, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Plant Investment Fees.

The purpose of this item is to make adjustments effective January 1, 2025, associated with the City's Capital Expansion Fees, Transportation Expansion Fees, Electric Capacity Fees and Stormwater Plant Investment Fees. Along with updating Electric Capacity Fee tables in City Code, staff is proposing language clarifications related to costs included in the fee calculation.

Travis Storin, Chief Financial Officer, noted there are three options for Ordinance No. 172, 2024 and discussed the history of capital expansion fees in Fort Collins. Storin summarized the inputs and assumptions utilized for the various fees and detailed the three alternatives offered for Ordinance No. 172, 2024 as well as the recommendations for the additional ordinances.

PUBLIC COMMENT

Joe Rowan expressed his gratitude to both Councilmember Ohlson and Travis Storin, both of whom are moving on. He encouraged the planned conversation on how impact fees affect housing affordability and suggested Council has the option to take no action until after that time. Rowan suggested more emphasis should be placed on future community desires and base fees on that information.

COUNCIL DISCUSSION

Councilmember Pignataro asked if the work session scheduled for March is about affordable housing and AMI or housing affordability. City Manager DiMartino replied that the scope will be on the broader definition of housing.

Councilmember Pignataro thanked staff for the presentation and asked why the parkland fee has a larger increase than others. Dave Lenz, Director of Financial Planning and Analysis, replied that the primary driver for that fee versus the others is the difference in units and parks that were used as reference. Lenz stated the three most recent neighborhood parks that were developed were used to estimate future costs and those three were much more expensive with high asset value increases.

Councilmember Pignataro asked what the last three parks were. Storin replied he believed they were Dovetail, Traverse, and Sugar Beet.

Councilmember Pignataro asked about the repercussions of not raising fees tonight given the planned discussion in the spring. City Manager DiMartino replied there would be financial implications to the City. Storin replied there is Code language around needing to adopt inflationary updates at a minimum and/or approve at least a study. City Attorney Daggett confirmed there is a provision in the Code that requires Council to review and update the fees every five years, though there is no consequence of not doing so.

Mayor Arndt noted the requirement is for an update, not necessarily an increase.

Councilmember Ohlson asked if it is accurate to state the fee update is one year behind now and a two-year phase in would increase that. Lenz replied the plan was originally to update the fees in 2021; however, decisions were made to defer two separate times. He noted the study was done in 2023 with a plan to implement it in 2024.

City Attorney Daggett read the applicable Code language which requires a bit more than just a study.

Councilmember Ohlson stated his preference for Ordinance No. 172, 2024, is alternative one and stated his preference would be that fees do not increase; however, the data clearly shows that not implementing these increases will put the City further behind. He commented on the importance of trusting staff and data.

Mayor Pro Tem Francis stated she has struggled with this and has questioned the methodology and the inputs. She concurred the City is budgeting for the city we have today versus the city we want in the future and stated she would be more comfortable going with alternative two and waiting until there is more information on housing affordability in the spring. She also stated the assumptions and methodologies used need to be updated in 2025. She stated she cannot support updating fees based on a study that does not reflect the community we want.

Mayor Pro Tem Francis made a motion, seconded by Councilmember Pignataro, to adopt Ordinance No. 172, 2024, Amending Chapter 7.5 of the Code of the City of Fort Collins to revise the Capital Expansion Fees and Transportation Expansion Fee, alternative two, on First Reading.

Councilmember Pignataro stated there are too many unknowns and so much as changed from the 2017 study which is why she is more comfortable with alternative two. She also noted the utilities fees remain unchanged in all alternatives.

Mayor Arndt stated we are in a highly volatile time and the future of federal grants is uncertain. She stated she would support the motion as it stands and commented on the importance of designing regulations for the city we want, not the city we have.

The motion carried 6-1.

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

Nays: Ohlson.

Mayor Pro Tem Francis made a motion, seconded by Councilmember Pignataro, to adopt Ordinance No. 173, 2024, 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, on First Reading.

Councilmember Ohlson asked if this item is presented as the study showed. Storin replied in the affirmative.

The motion carried 7-0.

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

Nays: None.

Mayor Pro Tem Francis made a motion, seconded by Councilmember Pignataro, to adopt Ordinance No. 174, 2024, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Stormwater Plant Investment Fees.

The motion carried 7-0.

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

Nays: None.

(Secretary's Note: The Council took a brief recess at this point in the meeting.)

23. Appeal of the Historic Preservation Commission's Landmark Design Review Decision Denying Metal-clad window replacement at 201 Linden Street (aka the Linden Hotel), a Fort Collins Landmark.

The purpose of this quasi-judicial item is to consider an appeal of the decision of the Historic Preservation Commission ("HPC") on August 21, 2024, denying the applicant's/appellant's request to replace all of the second and third-story windows at 201 Linden Street, also known as the Linden Hotel, with pre-fabricated metal-clad window units.

The Appellant, Linden Street Treehouse, LLC, the owner of the Property, via OneSeven Advisors and their attorney, raise nine issues on appeal:

1. The HPC failed to conduct a fair hearing under all 5 grounds:

a. The HPC exceeded its authority or jurisdiction as contained within City Code by improperly using the U.S. Secretary of the Interior's Standards for the Treatment of Historic Properties and Old Town Design Standards to justify its denial of window replacement, required repair of interior features not subject to Chapter 14, Article IV, and that the HPC failed to adequately consider Municipal Code 14-2 (Preservation Purposes), the City's Climate Action Plan, or International Building Codes; and

b. The HPC substantially ignored its previously established rules of procedure by failing to initially accept the Applicant's proffered window exhibit; and

c. The HPC considered evidence relevant to its findings which was substantially false or grossly misleading, specifically by utilizing the erroneous and false information in the 2018 Barlow report and 2024 Deep Roots Craftsmen report in their final decision-making; and

d. The HPC improperly failed to receive all relevant evidence offered by the appellant by initially refusing to review and accept the Applicant's proffered window exhibit into the record; and

e. The HPC was biased against the appellant by reason of conflict of interest or other close business, personal, or social relationship that interfered with their independence of judgement; and

2. That the HPC failed to properly interpret and apply provisions of City Code, specifically:

a. Applicable sections of the Building Code,

b. Municipal Code Section 14-2 establishing the purpose of the City's historic preservation program,

c. The U.S. Secretary of the Interior's Standards (adopted by the City for historic preservation use in Municipal Code 14-53), and

d. The Old Town Design Standards.

City Attorney Daggett provided information regarding the appeal and related procedures.

STAFF PRESENTATION

Kim Meyer, Interim Director of Community Development and Neighborhood Services, provided an overview of the appeal related to the Historic Preservation Commission's denial of a proposed window replacement project at 201 Linden Street. Meyer discussed the site location and area properties and discussed the history of the building and its character-defining features.

Meyer outlined the proposal for window replacement with new metal clad units on the second and third floors of the building. Meyer stated it is believed there was some confusion at the Commission hearing and noted there was a second motion to approve full in-kind wood window replacement which failed.

Meyer outlined the role of Council as a quasi-judicial body and discussed the applicable Municipal Code standards and Old Town Design Standards. She noted the goal with historic preservation is to repair windows first and maintain as much of the existing material as possible with replacement only occurring as necessary. Meyer stated the appeal allegations revolve around fair hearing issues and failure to properly interpret and apply the relevant provisions of the Municipal Code.

Mayor Arndt noted there was no organized site visit but asked Councilmembers to disclose any observations made if they visited the site on their own. She stated she has observed the building many times but has not focused on the upper floor windows.

Claire Havelda introduced herself as the attorney representing the applicant/appellant team, including David Diehl, the owners' representative, and Mark Wernimont, their window expert.

No parties in interest opposing the appeal were present.

PROCEDURAL MATTERS

Havelda stated there is a mistake in the agenda packet as it identifies the appeal as of the aluminum clad windows when in fact there were two products put before the Commission, one wood clad and one aluminum clad. She outlined the confusion that occurred at the Commission hearing.

Jim Bertolini, Senior Historic Preservation Planner, stated the first motion brought forward at the Commission hearing was to approve an in-kind wood replacement, and the transcript reflects some confusion during discussion, and the motion ultimately failed 2-4. The second motion was to process the request for a metal clad replacement product, which also failed 2-4.

APPELLANT PRESENTATION

Havelda stated the appellants are requesting a reversal of the Historic Preservation Commission's denial of the certificate of appropriateness of the wood and aluminum clad replacement window products. She commented on the owners' efforts to preserve the building and opposed the suggestions made in the 2018 City-commissioned Barlow window report that the windows were in poor condition due to a lack of maintenance.

Havelda commented on a 2023 incident in which a third-floor window failed and fell to the ground. She discussed the proposed wood clad product and stated it will be virtually impossible to tell the difference between it and the existing windows from the street level. She also discussed the City's 2024 window report from Deep Roots Craftsmen which found that full in-kind replacement would be appropriate based on the condition of the windows. Additionally, the staff report included information that the applicant presented an alternative all wood replacement product that does meet the requirements of the Old Town Design Standards.

Havelda discussed the safety concerns with the existing windows and stated the Commission's decision ignores those concerns, the environmental impacts of having windows that meet none of the City's environmental standards, and private property rights. She discussed the history of requests for window replacement and noted the applicants' window expert, Mark Wernimont, has stated there is a fundamental design flaw with the existing windows.

Havelda discussed the defined purposes of the Historic Preservation Commission, one of which is to promote and encourage continued private ownership and utilization of historic sites and structures. She commented on the Secretary of the Interior standards and stated window rehabilitation is not appropriate where the window design is fundamentally flawed, energy efficiency is not considered, and attempts at rehabilitation have proven to be not sustainable. Additionally, she noted repair would not allow for the windows to be opened. She stated window replacement does align with the Secretary of Interior standards for replacement, the Historic Preservation Commission goals, the building safety standards, the energy sustainability standards, and the Old Town Design Standards.

Havelda outlined the appellants' desire to not have this matter remanded back to the Commission and discussed the unfair hearing concerns related to the Commission exceeding its jurisdiction, including prejudgment of a matter and consideration of substantially false information. She also noted Council was presented with a letter regarding what the appellants see as errors in the Deep Roots Craftsmen report. Havelda also stated the Commission is overreaching and not reading Codes in harmony.

COUNCIL QUESTIONS

Councilmember Pignataro asked if the item is automatically remanded if Council determines there was not a fair hearing. City Attorney Daggett replied in the affirmative but noted some language was added related to some allegations of bias on the Planning and Zoning Commission which

acknowledged that Council may not want to remand an item back to a body where there were concerns about a fair underlying hearing, though that language has never been used.

Havelda stated she believes it is the appellants' privilege to waive whether it gets remanded. She stated she would consider withdrawing the fair hearing item if Council is inclined to decide on the interpretation piece.

Councilmember Potyondy asked if the applicant is amendable to the wood window replacement option. Havelda replied in the affirmative.

Councilmember Gutowsky asked if the Commission's decision was because either of the two proposed window products would not meet historic integrity of the building. Bertolini replied the Commission was clear that the metal clad windows do not meet the Old Town Design Standards. In terms of the wood windows, the question was related to salvageable historic material and the environmental cost of producing new windows for those units. However, there was recognition that an in-kind replacement would meet the standards.

Councilmember Gutowsky questioned what options the building owner has if the windows are too damaged to be repaired but the Commission is stating they cannot be replaced. Bertolini noted several window experts were involved and stated historic preservation practice prioritizes repair over replacement. He noted the City's window expert report had a top recommendation of using a mixed approach to replace some deteriorating portions and rehabilitating the remainder. The report's secondary recommendation was to replace in-kind and staff's recommendation to the Historic Preservation Commission mirrored the two recommendations in that report.

Councilmember Gutowsky asked why the in-kind wood windows were not deemed to be acceptable given they will be visually identical to the existing windows. Bertolini replied that the Commission's concerns were related to the loss of historic material. He noted the in-kind replacement with a small expansion in dimensions is expected in terms of meeting federal preservation standards and Old Town Design Standards given the need for dual glazing.

Councilmember Gutowsky asked if the proposed replacement windows are much more energy efficient than a repaired window. Bertolini replied that studies from the National Parks Service and the National Trust for Historic Preservation find that keeping wood windows in good repair and adding a storm window can come close to meeting modern international energy conservation code, which would also be met with a replacement window. He added repair is emphasized to recognize that there is also an environmental cost to constructing new windows.

Havelda stated the Deep Roots Craftsmen report suggested replacing the bottom sashes, repairing the top sashes, and adding a storm window would meet the energy efficiency goals. However, she stated the Commission and the building owners both believe storm windows are inappropriate, and if they are not part of the equation, energy efficiency goals cannot be met.

Mark Wernimont, Colorado Sash and Door, stated he has looked at these windows multiple times over several years and noted the windows have components that were sized for windows that would be in a residential house and are not adequate for windows of this size. He commented on the need for larger check rails due to glass and wind loading requirements.

Wernimont stated the building owners have a desire to make the building look historically correct and stated the new windows would meet current building and energy standards and would look identical to the existing windows. He commented on the advantages of the aluminum clad windows, including a 30-year finish guarantee. He noted those windows have an exterior clad that looks like wood and they look virtually identical to the wood clad windows.

Councilmember Gutowsky asked if the Commission found that the installation of new windows would conflict with the preservation codes and would interfere with the integrity of the building.

Bertolini replied the Commission's motions did not reflect the general statement that replacement would not meet the preservation codes; however, the Commission did not believe the point of replacement had been met.

Councilmember Gutowsky stated she would prefer to see the building as a pristine quality piece of architecture rather than a cobbled together structure with piecemeal window replacement.

Councilmember Canonico asked if the existing windows could be salvaged and reused elsewhere if they are replaced. Bertolini replied there is nothing in the Code preventing that, and it is encouraged.

COUNCIL DISCUSSION

Councilmember Potyondy thanked the participants and stated the fair hearing issue does not seem to be the central issue. She stated replacement with the in-kind wood windows strikes a balance with aesthetics and meeting other City goals. She stated the existing windows, despite being historic, do not seem to be fit for purpose at this point, and the building's historic charm and appearance would not be compromised with new windows.

Councilmember Pignataro stated she did not see that there was not a fair hearing and would support providing a certificate of appropriateness for replacement with the in-kind wood windows.

Mayor Arndt concurred with the previous comments and agreed the codes should be read in harmony. She questioned why the Commission would only approve repair when a higher performing replacement that will function identically from an aesthetic standpoint exists.

Councilmember Canonico concurred and noted safety is also an issue.

Councilmember Ohlson noted staff's primary recommendation was repair and replace and requested clarification on that recommendation. Bertolini replied that was the recommendation going into the August Commission hearing; however, had staff had the evidence discussed during that hearing prior to making a recommendation, an in-kind replacement would likely have been recommended.

Councilmember Ohlson commented on being part of a team that renovated about a dozen buildings in Old Town between 1979 and 1985 and learning about historic preservation which values the details and maintenance of historic fabric. He referred to the various landmark designations of the property and discussed the dollars the City has provided for renovations to the building. He stated the environmental impacts do not play a role in his thought process and asked about the bottom line of the Deep Roots Craftsmen report and what staff learned that made that recommendation change. Bertolini replied it came down to the condition of the windows and the practicality of the rehabilitation process, which was the new evidence that came out in the August hearing discussion. He noted the rehabilitation process presented some challenges in keeping the windows operable for owners.

Councilmember Ohlson asked if the replacement windows would fit the Secretary of Interior and Old Town Design Standards. Bertolini replied in the affirmative.

Councilmember Ohlson asked who is going to ensure the windows look the same before they are installed. Bertolini replied the applicant provided the specification sheets for the new window products, including measurements.

Councilmember Ohlson requested assurance someone from staff will check the windows before they go in. Bertolini replied window replacement in Fort Collins requires a building permit which will also be reviewed.

Havelda stated the applicants would absolutely stipulate to having an inspection but stated it is disconcerting that Council is doubting what will be provided.

Councilmember Ohlson clarified he is only speaking for himself, not for the Council.

David Diehl, representative for the building owners, stated he would personally assure this.

Mayor Pro Tem Francis made a motion, seconded by Councilmember Pignataro, that Council find that the Historic Preservation Commission conducted a fair hearing in its consideration of the Linden Street Treehouse, LLC application for a certificate of appropriateness to replace the second and third story windows on the Fort Collins historic landmark at 201 Linden Street, and further that Council find the appellants did not establish with competent evidence in the record that any of the fair hearing allegation has merit and that the Council deny and dismiss all the fair hearing allegations.

The motion carried 7-0.

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

Nays: None.

Mayor Pro Tem Francis made a motion, seconded by Councilmember Potyondy, that Council find the Historic Preservation Commission did not properly interpret or apply the following historic preservation standards raised in the Linden Street Treehouse, LLC appeal of the Commission's decision denying a certificate of appropriateness to replace the second and third story windows on the Fort Collins historic landmark at 201 Linden Street: the U.S. Secretary of Interior standards for the treatment of historic properties and the Old Town Historic District Design Standards, and further to overturn the Commission's decision denying a certificate of appropriateness to replace the second and third story windows on the Fort Collins historic landmark at 201 Linden Street, and to issue a certificate of appropriateness to replace the second and third story windows on the Fort Collins historic landmark at 201 Linden Street with the condition that the replacement windows must be an in-kind wood, not metal clad window replacement, and further, that except as so stated based on the evidence in the record and presented at this hearing, any other issues raised in the appeal are hereby found to be without merit and are denied and dismissed.

Councilmember Gutowsky commented on the importance of preserving these buildings so they can be occupied for years to come, and this would enable the building to be comfortable and secure for the occupants.

The motion carried 7-0.

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

Nays: None.

P) OTHER BUSINESS

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

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

None.

- OB 2. Consideration of a motion to adjourn to 6:00 p.m. on November 26, 2024, for the purpose of annual performance evaluations of Council's direct-report employees:

Mayor Pro Tem Francis made a motion, seconded by Councilmember Canonico, that Council adjourn this meeting to 6:00 p.m. on Tuesday, November 26, 2024, in order to consider a motion to go into executive session to conduct annual performance reviews of the Council's direct report employees, and for such other business as may come before the Council.

The motion carried 7-0.

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

Nays: None.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 8:57p.m.

Mayor

ATTEST:

City Clerk