

December 19, 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

None scheduled.

**REGULAR MEETING
6:00 PM**

B) CALL MEETING TO ORDER

Mayor Jeni Arndt called the regular meeting to order at 6:00 p.m. in the City Council Chambers at 300 Laporte Avenue, Fort Collins, Colorado, with hybrid participation available via the City's Zoom platform.

C) PLEDGE OF ALLEGIANCE

Mayor Jeni Arndt led the Pledge of Allegiance to the American Flag.

D) ROLL CALL

PRESENT

Mayor Jeni Arndt
Mayor Pro Tem Emily Francis
Councilmember Susan Gutowsky
Councilmember Julie Pignataro (remote and not voting)
Councilmember Tricia Canonico
Councilmember Shirley Peel (left the meeting at 7:44 pm)
Councilmember Kelly Ohlson

STAFF PRESENT

City Manager Kelly DiMartino
City Attorney Carrie Daggett
Deputy City Clerk Heather Walls

E) CITY MANAGER'S AGENDA REVIEW

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

- All items on the consent agenda were recommended for approval.
- One minor wording error was corrected in the November 21, 2023 minutes.
- 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.)

Doug Bartlett, Fort Collins resident, agreed the Land Use Code is due for an update and more affordable housing, both for rent and purchase, is needed in Fort Collins but disagreed that stating the proposed regulations related to accessory dwelling units (ADUs) are not appropriate for Fort Collins as many homeowners have purchased homes with the expectation that the existing zoning would ensure that the lots and homes around them would retain their style and density.

Vicki Rossen, Fort Collins resident, requested Council place the Land Use Code on the ballot or repeal it and amend it to exempt existing established residential neighborhoods then place it on the ballot. Stated the divisiveness that has resulted from this process could be avoided by placing the Land Use Code on the ballot.

Ronald Hanser, Fort Collins resident, supported referring the Land Use Code to the ballot stating it will reflect what the voters want. Feels that the Land Use Code is not too complicated for residents to understand, and such far-reaching changes should be voted upon.

Susan Woods, Fort Collins resident, reviewed the history of the Land Use Code Ordinance and indicated the successful citizen petitions are a clear message to Council, stating support for placing the item on the ballot.

Marsha Mulrone, Fort Collins resident, supported placing the item on the ballot and commented on the increased traffic that would result from the changes and on Fort Collins losing its character.

William Dieterich, Fort Collins resident, discussed the fact that both candidates in District 4 were in favor of the new Land Use Code; therefore, those residents were not able to vote for a candidate opposed to the Code and stated support for putting the item on the ballot.

Tom Griggs, Fort Collins resident, stated how we deal with growth has everything to do with who we are as a community, then questioned what the ultimate response will be to the unquestionable need for affordable housing and ensuring a responsible approach to climate change.

Bill King, Fort Collins resident, stated community members actively sought out petition locations and signers were adamantly opposed to the proposed Land Use Code changes and the impact the changes will have on quality of life. Specifically, concerns were brought up about increased density, increased traffic, environmental damage, a lack of adequate infrastructure, and increasing crime. King expressed support for placing this issue on the ballot.

Christopher Conway, Fort Collins resident and lead for YIMBY ("yes in my back yard") Fort Collins, supported the updated Land Use Code and noted that every pro-housing candidate won the recent Council election.

Katie McMahon, Fort Collins resident, supported the reinstatement of the revised Land Use Code and stated there are not enough viable housing options in Fort Collins.

Vivian Bust, Fort Collins resident, opposed the Land Use Code changes and stated there appears to be undue urgency to implement the revised Code without giving citizens the opportunity to vote. Bust also commented on wildfire danger related to higher density housing.

Michelle Haefele, Fort Collins resident, urged Council to take public input into account and either place the item on the ballot or repeal the proposed Code all together.

Mary Alice Grant, Fort Collins resident, supported placing the item on the ballot. Grant agreed that affordable housing is needed and stated a solution that will result in affordable housing needs to be developed. Additionally, a solution needs to be developed that takes into account the goals of the people who live in or moved to Fort Collins.

Susan Sires, Fort Collins resident, stated she was an active participant in the second petition effort citing extreme proposed revisions. Sires supported placing the item on the ballot.

Adam Eggleston, Fort Collins resident, commended the staff outreach and engagement on the Land Use Code and commented on past major decisions that have benefited the City. Eggleston suggested possibly removing the ADU aspect and adding increased density bonuses for affordable housing before re-adopting the Land Use Code and also encouraged bringing forth phase two of the revisions as soon as possible.

Kate Conley, Fort Collins resident, requested Council reinstate the revised Land Use Code immediately.

Lisa Dunckel Koepke, Fort Collins resident, stated the changes that would result from the updated Land Use Code would adversely affect the community and its inhabitants in terms of overwhelmed infrastructure and possible water and noise issues. Koepke supported placing the item on the ballot.

Larry Grant, Fort Collins resident, supported referring the item to the ballot. Grant expressed support for affordable housing but stated the proposed changes rely too heavily on aspirational language with no specifics and stated citizens have a right of expectation and predictability.

Charles Kopp, Fort Collins resident, supported referring the item to the ballot and stated the Code is not too complicated for the public to decide.

Bill Fairbank, Fort Collins resident, supported referral of the item to the ballot. Fairbank stated the new Code threatens the quality of life in Fort Collins.

Margit Hentschel, Fort Collins resident, stated voting is necessary for peace and democracy. Hentschel discussed comments made by Geoff Wilson, the hearing officer for the protest hearing, and supported placing the item on the ballot.

Peter Connelly, Fort Collins resident, stated it is abundantly clear that the revised Land Use Code is not acceptable to residents. Connelly commented on a recent Travel and Leisure Magazine article honoring Fort Collins as the most peaceful place to live in the United States which cited low noise levels, outdoor spaces, high numbers of bicycle commuters, and parks.

Linda Hall, Fort Collins resident, quoted from the First Amendment and stated the last five minutes of the December 5 Council meeting was a direct assault on those rights.

Stephanie Berganini, Fort Collins resident, supported the amendments related to mobile home park management and livability. Additionally, Berganini supported repealing and readopting the Land Use Code rather than placing it on the ballot and noted all the candidates who support the Land Use Code were elected in the recent Council election.

Jason Knebel, Fort Collins resident, requested Mayor Pro Tem Francis recuse herself from any future votes on the Land Use Code as she is a founding member of the FoCo Forward Coalition which is affiliated with YIMBY Fort Collins. Knebel stated it is not the purpose of the City to provide housing for everyone who wants to live here then commented on the power of recall in the City Charter.

Beth Goodwin, Fort Collins resident, expressed support for increased density and stated the voters have spoken as they voted for candidates who support the new Land Use Code.

Paul Anderson, Fort Collins resident, opposed the Land Use Code updates and stated ADUs should be removed from RL zones.

Barbara Denny, Fort Collins resident, supported referring the item to the ballot. Denny noted collecting signatures for the petition effort and referenced the signers expressing desire to slow density and preserve Fort Collins' current character.

Trudy Haines, Fort Collins resident, stated it is not a small fraction of individuals who want to see this item on the ballot. Haines stated the HOA (homeowners association) coalition represents 8,500 households and approximately 18,000 residents across all Council districts; however, the coalition feels its input continues to be ignored. Further noting the Council election was not a vote for the Land

Use Code as there was only one competitive race where the candidates had a difference of opinion. Haines stated the Code is not too complex to put on the ballot.

Jerry Gavaldon, Fort Collins resident, stated this disagreement could have been avoided if everyone had worked together, stating no one is an expert on the topic and suggesting many have been excluded from the process.

Dawn Cramer, Fort Collins resident, stated many have not felt heard and expressed support for placing the item on the ballot.

Martha Hedrick, Fort Collins resident, stated all petition signers have a right to be heard and stated the item should be placed on the ballot to allow voters to decide.

Tom Farnsworth, Fort Collins resident, stated he collected petition signatures, and the major concern of signers was Old Town. Farnsworth requested Council not allow the Land Use Code to change the character of Old Town and stated the focus should be on development of communities, not redevelopment of existing neighborhoods.

Colleen Hoffman, Fort Collins resident, stated the issue of water limitation is a major concern and has not been fully addressed, requesting the item be placed on the ballot.

Jeff Gantman, Fort Collins resident, expressed support for affordable housing but does not agree with the inclusion of ADUs in single family neighborhoods, and stated Council needs to do a better job of both advocating for more housing and protecting single family neighborhoods. Gantman suggested existing commercial areas with vast areas of surface parking could be rezoned for significant amounts of housing.

Patricia Babbitt, Fort Collins resident, expressed concern about the effects of increased density on urban wildlife and support for placing the item on the ballot.

Nicole Swan, Fort Collins resident, supported the new Land Use Code and stated a small percentage of signatures should not derail the process. Swan stated this change is important and the City needs to plan for changes.

Tyler G., Fort Collins resident, opposed referring the item to the ballot and expressed support for the revised Land Use Code.

Johanna Loury, Fort Collins resident, shared pride in the efforts of Preserve Fort Collins in their successful effort of petition and requested Council focus its efforts to address the need for affordable housing on vacant land available for development.

Tamra Meurer, Fort Collins resident, stated housing prices have never fallen in Fort Collins and expressed support for referring the item to the ballot, stating developers should be held accountable to affordable housing requirements.

Dianna Murphy, Fort Collins resident, asked about the immigration legal fund budget and whether there has been an update on the progress of the program. Murphy asked if Council has considered if the funds could be better allocated to the quality-of-life needs, rental assistance, or other immediate needs of undocumented residents.

William Whitley, Fort Collins resident, spoke in favor of ADUs but was opposed to scraping existing houses to build mansions to line developers' pockets. Whitley supported the placement of the item on the ballot.

Sara Brooks, Fort Collins resident, stated the revised Code will permanently alter the strength of neighborhoods. Brooks requested the placement of the item on the ballot.

Alan Braslau, Fort Collins resident and member of Energy Board, discussed the effects of increasing density with inadequate public transit. Additionally, Braslau stated the proposed Code seeks to reduce the requirements for residential parking which goes against encouraging the ownership of electric vehicles.

Rich Stave, Fort Collins resident, spoke regarding better public accessibility for participating in Council meetings, including questioning why the reserved parking spaces at City Hall indicate they are reserved until 6:00 p.m. when meetings start at 6:00 p.m., also sharing public transit needs to be available for the duration of Council meetings, and expressing the need for a public comment sign up kiosk to be available ahead of a public meeting. Stave also expressed interest in the consolidation of City departments for the interest of the public to see ongoing in a more cohesive manner as well as sharing concerns with Boards and Commissions having ex officio members.

Public comment concluded at 7:20 p.m.

H) PUBLIC COMMENT FOLLOW-UP

Mayor Arndt asked about the next update regarding the immigration legal defense fund. City Manager DiMartino noted the next performance assessment will be in January.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

J) CONSENT CALENDAR

- 1. Consideration and Approval of the Minutes of the November 21, 2023 Regular Meeting, the November 28, 2023 Adjourned Meeting, and the December 5, 2023 Regular Meeting.**

The purpose of this item is to approve the minutes of the November 21, 2023 regular meeting, the November 28, 2023 adjourned meeting, and the December 5, 2023 regular meeting.

Approved.

- 2. Second Reading of Ordinance No. 163, 2023, Appropriating Unanticipated Revenue in the Transportation Services Fund for “Work For Others” Program Expenses.**

This Ordinance, unanimously adopted on First Reading on December 5, 2023, appropriates \$700,000 in unanticipated revenue in the Transportation Services Fund received for work to be completed through the Planning, Development, and Transportation’s “Work for Others” program. This appropriation will be used for costs corresponding to the program and the generated revenue.

Adopted on Second Reading.

- 3. Second Reading of Ordinance No. 164, 2023, Appropriating Prior Year Reserves for the Golf Enterprise.**

This Ordinance, unanimously adopted on First Reading on December 5, 2023, considers an appropriation of \$185,000 from golf reserves to the 2023 budget associated with the additional costs in golf related to higher revenues.

Adopted on Second Reading.

- 4. Second Reading of Ordinance No. 165, 2023, Appropriating Prior Year Reserves and New Philanthropic Revenue Received through City Give for Various Programs and Services as Designated by the Donors.**

This Ordinance, unanimously adopted on First Reading on December 5, 2023, requests an appropriation of \$11,968.53 in philanthropic revenue received through 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. 166, 2023, Amending Chapters 18 and 26 of the Code of the City of Fort Collins Regarding Mobile Home Park Management and Livability.

This Ordinance, unanimously adopted on First Reading on December 5, 2023, presents Municipal Code updates related to the livability issues identified by residents, property managers, and owners of manufactured housing communities/mobile home parks in our community. This item also addresses analysis of unmet needs in the State of Colorado Mobile Home Park Oversight Program.

Staff's recommendation includes the following Code changes:

- *Expansion of authorization to conduct inspections in mobile home parks to include not only the Building Official, but also Specially Commissioned Officers under the Chief of Police.*
- *Establishment of protection for use and installation of clotheslines by residents in mobile home parks in Section 18-6(g).*
- *Establishment of protection for use and installation of window-mounted air conditioning units or evaporative coolers on homes within mobile home parks in Section 18-6(h).*
- *Establishment of new water utility billing/rebilling transparency requirements for Fort Collins Utility mobile home park water customers including:*
 - *Require as a condition of mobile home park service from the City's water utility that a mobile home park customer directly provide a designated Specially Commissioned Officer, or authorize such Officer to obtain, a copy of a notice, correspondence, invoice, and water leak notice from the water utility within seven days of receipt in Section 18-7(c).*
 - *Require as a condition of mobile home park service from the City's water utility that a mobile home park customer participates in the continuous consumption of water usage/leak notifications system through Fort Collins Utilities in Section 18-7(c).*
 - *Authorize the City's water utility in serving a mobile home park to provide the designated Specially Commissioned Officer a copy of any notice, correspondence, invoice, and water leak notice sent to the mobile home park in Section 18-7(c). Add a cross-reference to these changes to Section 26-97 (water utility lines; general regulations).*
 - *Acknowledge, as a condition of service, the designated Specially Commissioned Officer may exercise the power to audit and collaborate with the City's water utility to verify and maintain accuracy of water rebilling by the mobile home park.*

Adopted on Second Reading.

6. **Second Reading of Ordinance No. 167, 2023, Amending Chapters 3 and 17 of the Code of the City of Fort Collins to Update and Align City Code Regarding Alcohol Beverages with State Law Changes and Adding Municipal Code Violations for Certain Alcohol-Related Offenses.**

This Ordinance, unanimously adopted on First Reading on December 5, 2023, requests approval of the proposed amendments to Chapter 3 (Alcohol Beverages) and Chapter 17 (Miscellaneous Offenses).

Adopted on Second Reading.

7. **Second Reading of Ordinance No. 168, 2023, Amending Article III of Chapter 25 of the Code of City of Fort Collins for the Voter Approved One-Half Cent Sales Tax Rate Increase Effective January 1, 2024.**

This Ordinance, unanimously adopted on First Reading on December 5, 2023, amends Section 25-75 of City Code to reflect the 0.50% sales and use tax approved by the voters at the City's November 7, 2023, election. The City of Fort Collins tax rate will increase from 3.85% to 4.35% beginning January 1, 2024. The use of the revenue is specifically identified in the ballot measure and, in general, may be used for parks and recreation facilities, environmental sustainability, and for public transit system improvements. The tax will not apply to: (1) items exempt from sales and use tax under the City Code; (2) food for home consumption; and (3) for the use tax only, manufacturing equipment.

The Ordinance would also amend Section 25-75 to remove reference to a 0.85% sales and use tax that expired at midnight on December 31, 2020. City staff is recommending this change as a clean-up item to remove extraneous provisions from the City Code

Adopted on Second Reading.

8. **Second Reading of Ordinance No. 169, 2023, Amending Chapter 2, Article III of the Code of the City of Fort Collins to Update Ex-officio Member Provisions for Various Boards and Commissions.**

This Ordinance, unanimously adopted on First Reading on December 5, 2023, considers an amendment to add an ex-officio seat for the Housing Catalyst to the Affordable Housing Board and to eliminate ex-officio members from the Art in Public Places Board and Water Commission.

Adopted on Second Reading.

9. **Second Reading of Ordinance No. 170, 2023, Authorizing the Conveyance of a Permanent Non-Exclusive Utility Easement on Property Jointly Owned by the City of Fort Collins and the City of Loveland at the Northern Colorado Regional Airport to the Fort Collins-Loveland Water District.**

This Ordinance, unanimously adopted on First Reading on December 5, 2023, authorizes a permanent non-exclusive utility easement over a portion of the Northern Colorado Regional Airport property to allow for the installation and maintenance of a regional waterline to serve the Fort Collins-Loveland Water District's (the "District") public water system. This project will directly benefit the Airport by providing water infrastructure to areas that currently lack it and service connection points, which have been strategically located to serve future Airport development.

Adopted on Second Reading.

10. Second Reading of Ordinance No. 171, 2023, Vacating a Portion of Public Right-of-Way Dedicated by the Redwood Village PUD Phase II Plat.

This Ordinance, unanimously adopted on First Reading on December 5, 2023, approves the vacation of a portion of public right-of-way that has never been used for street purposes. Once this right-of-way area is vacated, the property will be privately developed as a multifamily housing project, and new public right-of-way will be dedicated to support the housing project and provide public street connections to the adjacent Northfield subdivision.

Adopted on Second Reading.

11. Second Reading of Ordinance No. 172, 2023, Adopting the 2024 Classified Employee Pay Plan.

This Ordinance, unanimously adopted on First Reading on December 5, 2023, recommends the 2024 City Classified Employee Pay Plan. 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 (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.

12. Second Reading of Ordinance No. 173, 2023, Amending Section 2-606 of the Code of the City of Fort Collins and Setting the Salary of the Chief Judge.

This Ordinance, unanimously adopted on First Reading on December 5, 2023, amends City Code to establish the 2024 compensation of the Chief Judge. Council met in executive session on November 28, 2023, to conduct the performance review of Jill Hueser, Chief Judge, and to consider the salary market analysis for this position.

Adopted on Second Reading.

13. Second Reading of Ordinance No. 174, 2023, Amending Section 2-581 of the Code of the City of Fort Collins and Setting the Salary of the City Attorney.

This Ordinance, unanimously adopted on First Reading on December 5, 2023, amends City Code to establish the 2024 compensation of the City Attorney. Council met in executive session on November 28, 2023, to conduct the performance review of Carrie Daggett, City Attorney, and to consider the salary market analysis for this position.

Adopted on Second Reading.

14. Resolution 2023-112 Approving an Intergovernmental Agreement with Poudre School District and Poudre River Public Library District to Acquire Land and Construct the Southeast Community Center.

The purpose of this item is to review the terms of a draft intergovernmental agreement (the IGA) covering land acquisition, constructions, and operation of the Southeast Community Center (SCC).

Poudre School District (PSD) intends to convey to the City at no charge a parcel of land adjacent to Fossil Ridge High School as the site for the SCC. This no-charge conveyance is contingent

upon PSD's full funding of a 15% cost share of the indoor swim lanes construction, operation, and maintenance, includes of the value of the land.

This IGA is a critical first agreement, and throughout 2024 there will be additional agreements drafted and executed:

- *Purchase and Sale Agreement between the City and PSD for the land acquisition (PSA, April 2024), subject to Council approval;*
- *Facility Use Agreement between the City and PSD governing PSD's use of City aquatic facilities (subsequent to November 2024 elections); subject to City Manager approval;*
- *Separate IGA between the City and Poudre River Public Library District (PRPLD) (TBD 2024) governing the Library's property interest, the facility design, cost sharing, and ongoing operations, subject to Council approval.*

The facility was first conceived as a leisure-swim and maker/creator community space with no lane-swim capacity as part of the April 2015 Community Capital Improvement Plan ballot initiative. Subsequent efforts around community engagement, the 2022 Aquatics Study, and the recently passed 2023 ½-cent sales tax have surfaced an opportunity for an expanded recreation facility combined with a library branch. PSD and PRPLD have been highly collaborative partners with staff in drafting this agreement and working toward the full-featured community center proposed within the IGA.

Adopted.

15. Resolution 2023-113 Making Appointments to the Cultural Resources Board.

The purpose of this item is to fill vacancies on the Cultural Resources Board.

Adopted.

16. Resolution 2023-114 Making an Appointment to the Parks and Recreation Board.

The purpose of this item is to fill a vacancy on the Parks and Recreation Board.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Peel, to approve the recommended actions on items 1-16 on the Consent Calendar.

Councilmember Canonico congratulated the City and the School District on partnering to move the Southeast Community Center forward, as per Item No. 14, *Resolution 2023-112 Approving an Intergovernmental Agreement with Poudre School District and Poudre River Public Library District to Acquire Land and Construct the Southeast Community Center.*

The motion carried 6-0.

Not voting: Councilmember Pignataro.

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

None.

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

None.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

19. Resolution 2023-117 Expressing Gratitude and Appreciation to Shirley Peel for her Service and Contributions to the Community as City Councilmember.

The purpose of this item is to recognize the work and contributions of Councilmember Shirley Peel during her time on Council.

Mayor Arndt read Resolution 2023-117 in its entirety.

PUBLIC COMMENT

Adam Eggleston, Fort Collins resident, thanked Councilmember Peel for her service, particularly the numerous listening sessions she held.

Rich Stave, Fort Collins resident, appreciated the community content provided by Councilmember Peel and thanked her for making herself publicly available.

Jerry Gavaldon, Fort Collins resident, complimented Councilmember Peel on the dignity and compassion she brought to her office and stated she set the bar for councilmembers.

Martha Hedrick, Fort Collins resident, commended Councilmember Peel for her ability to listen and actively participate with all participants regardless of whether she supported an issue or not.

Johanna Lowry, Fort Collins resident, thanked Councilmember Peel for offering a compromise on the Land Use Code.

Tom Mulroney, Fort Collins resident, thanked Councilmember Peel for her service.

COUNCIL DISCUSSION

Councilmember Ohlson commended Councilmember Peel for serving her district and the community with enthusiasm, determination, and integrity. He commended her preparation and accessibility to constituents.

Councilmember Canonico thanked Councilmember Peel for her service and stated she has been honored to serve with her.

Mayor Arndt stated Councilmember Peel has been an asset to Council and commended her preparedness, work ethic, voice, and integrity.

Councilmember Pignataro thanked Councilmember Peel for being a cohesion builder and commended her ability to disagree without being disagreeable.

Councilmember Gutowsky commended Councilmember Peel on being intellectual, brave, intuitive, tenacious, collaborative, inquisitive, creative, and kind. She stated Councilmember Peel brought a sense of balance to Council and enriched its work.

Mayor Pro Tem Francis commended Councilmember Peel for being a hard worker and on truly listening to people. She stated she is the kindest, warmest, most welcoming human.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Resolution 2023-117 Expressing Gratitude and Appreciation to Shirley Peel for her Service and Contributions to the Community as City Councilmember.

Councilmember Peel thanked her family for their support and expressed appreciation for each member of Council. She stated serving on Council has been the best job and she has loved serving the residents of District 4. She stated she has met with Councilmember-elect Potyondy, and she will continue the work of the district. She expressed appreciation for City staff and stated serving in this role has provided her the opportunity to get to know the community. She stated she is exploring options for a future role allowing her to continue serving the community.

The motion carried 6-0.

Clerk's Note: Mayor Arndt called for a break at 7:44 p.m., noting the meeting would resume at 8:00 p.m. Councilmember Peel did not return to the meeting after the break.

17. Reconsideration of Ordinance No. 136, 2023, Repealing and Reenacting Section 20-1 of the Code of the City of Fort Collins to Adopt the Land Development Code and Separately Codifying the 1997 Land Use Code as "2023 Transitional Land Use Regulations," Following a Successful Referendum Petition.

The purpose of this item is to provide Council with the options available for action following the presentation of a petition certified as sufficient for referendum. These options include:

● **OPTION 1: Repealing the Ordinance subject to the referendum petition.**

First Reading of Ordinance No. 175, 2023, Repealing 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", and Related Ordinance No. 137, 2023, and Ordinance No. 138, 2023.

- *This option includes language repealing the associated Ordinance Nos. 137, 2023, and 138, 2023, that respectively made updates to City Code to align with the revised Land Use Code and renamed the Neighborhood Conservation zone districts to the Old Town zone district in alignment with the revised Land Use Code.*
- *If this option is approved, Council may choose to discuss next steps regarding a revised version of the repealed Land Use Code.*

or

● **OPTION 2: Referring the Ordinance to a vote of the registered electors of the City. Such referral can be to the next regular or special election called for any other purpose or can be to a special election called for that specific purpose:**

Resolution 2023-115 Referring 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" to a Vote of the Registered Electors of the City at the Next Municipal Election.

- *This would refer the Ordinance to the November 4, 2025, Regular Municipal Election or the next special election called for any purpose prior to that date.*

and, if desired,

- **OPTION 2A: *Calling a Special Election***

First Reading of Ordinance No. 176, 2023, Calling a Special Municipal Election for the Purpose of Submitting to the Registered Electors a Citizen Referendum 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.”

City Clerk Anissa Hollingshead stated the petition was found sufficient and the protest of that finding went before a hearing officer who determined the petition should be certified as sufficient. She stated Council must reconsider the ordinance and either repeal it or refer it to the registered electors. She noted Council does have the ability to call a special election should it so choose specifically for referring this ordinance; however, given there will be three election events in 2024, the windows that are available for holding a special election are limited.

Caryn Champine, Planning, Development, and Transportation Director, discussed the summary of the potential Code revisions that were presented to Council at its December 5 meeting. She detailed three types of regulations that help to achieve the guiding principle goal of providing housing choice in the community and discussed the basic changes to the Code. Additionally, she discussed items that did not change from the 1997 Code, including the review process, the applicability of the types of review processes, environmental and natural resource protection regulations, regulations pertaining to adequate public facilities requirements, and occupancy regulations.

Champine discussed the timeline for bringing forth a revised Code in January and outlined other options available for Council to consider revising different elements of the Land Use Code.

PUBLIC COMMENT

Liz Young Winne, Fort Collins resident, stated they are a certified urban planner and supports the revised Land Use Code. Winne opposed sending issue to the ballot and believes the revised code improves housing availability and helps achieve Our Climate Goals.

Peter O'Neill, Fort Collins resident, supported referring the issue to the ballot.

Wayne Brothers, Fort Collins resident and HOA Coalition organizer, stated Council did not follow policy during the development and approval of the Land Use Code stating it is inconsistent with the zoning referenced in the City Plan and supported placing the item on the ballot.

Ross Cunniff, Fort Collins resident and Preserve Fort Collins Chair, stated the community has exercised its right to petition Council on the Land Use Code issue. Cunniff thanked the City Clerk's Office for fairly handling and certifying the petition and thanked the hearing officer for fairly hearing the protest. Cunniff stated a request that any revisions resulting from a repealed Code be placed on the ballot.

Glen Colton, Fort Collins resident and member of numerous Boards and Commissions, supported referring the issue to the ballot or repeal it and exempt existing neighborhoods, stating that most petition signers were upset about rapid growth and change and were opposed to any increase in density. Colton stated rapid growth is not desired by the community.

Joe Rowan, Fort Collins resident, stated citizens vote with their emotions and he does not support referring the item to the ballot. Rowan expressed support for a repeal.

Jim Miles, Fort Collins resident, supported repealing and rescoping the Code, and stated there is a glaring lack of consideration of ancillary costs, water availability, and infrastructure impacts. Miles stated the issue is conflating availability and affordability.

Eric Sutherland, Fort Collins resident, opposed the revised Code and stated he is proud to be a resident witnessing fellow individuals exercising their rights. Sutherland believes that City staff should not be relied upon to revise the Code stating they're not equipped to understand the needs of the community and claimed that they serve the development community.

Edward Serr, Fort Collins resident, stated the Land Use Code promotes a rapid increase in growth and expressed concern about the impacts on infrastructure.

Dianna Murphy, Fort Collins resident, discussed her experience collecting signatures for the petition and shared concerns of residents who signed the petition, including that the risk of losing the historic and future value of the unique identity of Fort Collins is at risk, this action is being fast tracked without explanation, there are discriminatory requirements, and that Council is potentially setting itself up for legal action.

Ryan Walker, Fort Collins resident, opposed sending the issue to voters stating Council has received plenty of input from petition signers. Walker suggested petition signers should be involved in Code revisions and that the decision regarding HOA's and ADUs be a neighborhood-by-neighborhood decision. Also, Walker believes this Code will not meet affordable housing needs, and requests 'teeth' be placed in the repealed code.

Paul Patterson, Fort Collins resident, requested Council honor the request of petitioners to send the item to the ballot as soon as possible.

Kathryn Dubiel, Fort Collins resident, disagreed with a citizen who stated there is not a process to support Council's decision to enact a revised Land Use Code. Dubiel supported referring the measure to voters.

Rich Stave, Fort Collins resident, stated members of the public who do not agree with some of the decisions have been left out. Stave stated the Land Use Code will change the character of HOAs in ways that aren't going to help the residents who live in them.

Don Stepp, Fort Collins resident, thanked staff for their efforts to update the Land Use Code. Stepp stated it is important to do what is best for the entire City, not just the loudest voices.

Simon Cecil, Portland, Oregon resident and Fort Collins native, stated their inability to afford to move to Fort Collins and those who want to move to Fort Collins should have that opportunity. Cecil opposed referring the item to the ballot.

Robin Hutchinson, Fort Collins resident, stated their friends are becoming homeless because there are not enough affordable places to live. Hutchinson stated opponents of the Land Use Code are demonizing those that want to come here.

Public Comment ended 8:45 p.m.

COUNCIL DISCUSSION

Councilmember Gutowsky stated support for staff and their efforts, stating they are bright and dedicated professionals who will be part of the solution.

Mayor Pro Tem Francis asked if staff has reached out to Preserve Fort Collins. Champine replied in the affirmative noting all meetings and events have been open to the public. She stated most of the input was reflected in the list provided today and the major theme of the feedback was around additional housing choices in single-family zone districts. There were also concerns about the development review process and the involvement of neighborhoods in public hearings.

Mayor Pro Tem Francis suggested Council could examine the most contentious points at a work session and send those comments to the Planning and Zoning Commission followed by another examination by Council.

Mayor Arndt commented on the Council election and discussed the value of the new Council being presented with new options. She supported repeal and reexamination under the new Council.

Councilmember Ohlson supported referring the item to the voters. He stated opposition to the new Code because the rules of neighborhoods should not be changed for those that bought into a certain neighborhood type. Additionally, he stated it is not easy to circulate a petition and it requires incredible organization and dedication.

Councilmember Canonico noted there are many aspects of the Code that are agreeable to all. She asked what would occur should a referred Land Use Code ordinance be voted down. City Attorney Daggett replied that Council would not be limited in its future actions and there would be room for Council, from a legal standpoint, to continue working toward a Land Use Code supported by Council.

Councilmember Canonico asked if any future changes to the Land Use Code would also have to go to the ballot if it is adopted by a referred measure. City Attorney Daggett replied the Charter distinguishes between initiated measures and referred measures. With respect to initiated measures, the Council would not be able to make changes in the future without going back to voters for approval. With respect to referred measures, Council can make changes after voters have voted on the item, and that would be the case in this instance.

Councilmember Gutowsky supported placing the item on the ballot whether it is repealed and revised or not.

Mayor Pro Tem Francis stated she is more comfortable with Council revisiting the item because Land Use Codes are always changing.

Councilmember Gutowsky noted she did not support the updated Code because it did not include parking and developer requirements for affordable housing.

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to adopt Ordinance No. 175, 2023, Repealing 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”, and Related Ordinances No. 137, 2023 and No. 138, 2023, on First Reading.

Mayor Arndt noted the Land Use Code is a living document that will make the City great in the future. She stated there are many agreeable parts of the new Code and the discussion on the more contentious parts can continue.

Councilmember Ohlson stated the number of people who signed the petition is quite large and stated he would prefer to see what the full electorate feels.

The motion carried 3-2, (Nays: Ohlson, Gutowsky).

Ayes: Mayor Arndt, Mayor Pro Tem Francis, Councilmember Canonico.

Nays: Councilmembers Ohlson and Gutowsky.

Absent: Councilmember Peel.

Not voting: Councilmember Pignataro.

18. **Resolution 2023-116 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins, the City of Loveland, and the Federal Aviation Administration for Continued Federal Funding of Air Traffic Control Services at the Northern Colorado Regional Airport.**

The purpose of this item is to authorize the City Manager to execute an agreement with the City of Loveland and the Federal Aviation Administration (FAA) for the Northern Colorado Regional Airport (Airport) to enter the FAA Contract Tower (FCT) Program. The FCT Program will result in the Airport continuing to receive federally funded Air Traffic Control services (ATC Services). ATC Services are currently funded through FAA's Next Gen office as part of the Remote Tower Project. However, that funding will be ending December 31, 2023, and entering the FCT Program will provide a continuation of ATC Services paid for by FAA. Acceptance in the Contract Tower Program ensures ATC Services for a period of 60 months while a permanent facility is constructed.

By executing this agreement, the Cities will be committing to take steps toward the design and construction of a brick-and-mortar tower along certain milestones set by the FAA. This agreement does not prohibit the Airport from continuing to pursue in parallel a remote tower project. Despite the Cities' commitment under the agreement, the Cities will be able to terminate the agreement on 90 days written notice with or without cause, and any financial commitment by the Cities is subject to appropriation by their respective City Councils.

Francis Robbins, Operations and Maintenance Manager for the Northern Colorado Regional Airport, discussed the airport's air traffic control solution that was established in March 2020 as part of the remote tower pilot program. Robbins noted the funding for the remote tower pilot program ends at the end of the calendar year and the agreement presented by the FAA allows for funding of the air traffic controllers to continue directly from the FAA in the federal contract tower program. Robbin stated the agreement also includes a site evaluation for a permanent control facility and requires certain services to be provided by the airport or the FAA.

PUBLIC COMMENT

None.

COUNCIL DISCUSSION

Mayor Arndt stated there is no financial commitment from either of the Cities at this point, however there is a commitment to move forward on the design and construction of the tower. This commitment could be cancelled with 90-days' notice. Robbins concurred and stated capital projects are subject to Council appropriations so additional notice would be provided with future agreements.

Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, to adopt Resolution 2023-116 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins, the City of Loveland, and the Federal Aviation Administration for Continued Federal Funding of Air Traffic Control Services at the Northern Colorado Regional Airport.

**The motion carried 5-0.
Absent: Councilmember Peel.
Not voting: Councilmember Pignataro.**

P) OTHER BUSINESS

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

None.

- OB 2. **Consideration of motion to call a special meeting for the Council Organizational Meeting.**

Mayor Pro Tem Francis moved, seconded by Councilmember Canonico, to call a special meeting for the purpose of the Council Organizational Meeting, which will include swearing in of those elected at the November 2023 municipal election and selection of a Mayor Pro Tem.

**The motion carried 5-0.
Absent: Councilmember Peel.
Not voting: Councilmember Pignataro.**

- OB 3. **Consideration of a motion to go into executive session.**

This motion is to consider going into executive session to conduct the annual evaluation of the City Manager.

"I move that the City Council go into executive session, as permitted under Article Two, Section Eleven of the City Charter, Section 2-31(a)(1) of the City Code and Colorado Revised Statutes Section 24-6-402(4)(f)(roman numeral one), for the purpose of conducting annual performance review of City Manager."

City Manager: 75 minutes

Note: Time is approximate with breaks, as necessary.

Councilmember Pignataro indicated she would not be joining the executive session and wished everyone happy holidays.

Mayor Pro Tem Francis moved, seconded by Councilmember Gutowsky, that the City Council go into executive session, as permitted under Article II, Section 11 of the City Charter, Section 2-31(a)(1) of the City Code and Colorado Revised Statutes Section 24-6-402(4)(f)(I), to go into executive session for the purpose of conducting the annual performance review of the City Manager.

**The motion carried 5-0.
Absent: Councilmember Peel.
Not voting: Councilmember Pignataro.**

The Council met in executive session beginning at 9:26 p.m. with a recording made. Present were:

- Mayor Jeni Arndt
- Mayor Pro Tem Emily Francis
- Councilmember Susan Gutowsky

- Councilmember Tricia Canonico
- Councilmember Kelly Ohlson
- City Manager Kelly DiMartino
- Jennifer Volmer, Investigations Law Group
- Anne Rooney McCord, Investigations Law Group

City Manager Kelly DiMartino entered the executive session at 9:36 p.m. Volmer, McCord and DiMartino left the executive session at 10:38 p.m. and Human Resources Executive Teresa Roche entered.

The executive session concluded at 10:48 p.m. and Council returned to the open meeting in Council Chambers.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 10:50 p.m.

Mayor

ATTEST:

City Clerk