

October 1, 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 October 9th as The Hand That Feeds Day.**
- PP 2. **Declaring October as Fire Prevention Week.**
- PP 3. **Declaring October as Conflict Resolution Month.**
- PP 4. **Declaring National Disability Employment Awareness Month**

Mayor Jeni Arndt presented the above proclamations at 5:00 p.m.

**REGULAR MEETING
6:00 PM**

B) CALL MEETING TO ORDER

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

C) PLEDGE OF ALLEGIANCE

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

D) ROLL CALL

PRESENT

Mayor Jeni Arndt
Mayor Pro Tem Emily Francis
Councilmember Susan Gutowsky
Councilmember Julie Pignataro
Councilmember Melanie Potyondy
Councilmember Kelly Ohlson

ABSENT

Councilmember Tricia Canonico

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:

- All items on the consent agenda were recommended for approval with no changes.
- The items on the discussion agenda were reviewed.
- Second public hearing on the 2025-26 recommended budget.
- Appeal hearing for the College and Trilby Multi-Family development.
- Spanish interpretation available.

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.)*

Joe Rowan discussed water supply requirements and the Halligan Dam cost.

Alan Braslau read recommendations from an Energy Board memo recently sent to Council regarding the Platte River Power Authority's (PRPA) Integrated Resource Plan and urged Council to support them.

Kimberly Connor provided a power point presentation related to issues in Gaza and urged Council to support a ceasefire resolution.

Kevin Cross urged Council to support the Energy Board's memo recommendations, including a third-party review of PRPA's Integrated Resource Plan.

Susan McFaddin urged Council to support the Energy Board's memo recommendations, including a third-party review of PRPA's Integrated Resource Plan. McFaddin also commented on air quality issues and related health concerns.

Gary Nation shared concerns about tree limbs encroaching on sidewalks at the Courtney Park Apartments and commented on traffic noise on East Harmony Road.

Michele Pullaro shared concerns about homeless individuals outside of her business in Old Town and stated the Public Nuisance Ordinance needs to be enforced or another solution needs to be found.

Linda Hall stated she had developed an economic development plan related to the Hughes Stadium site and discussed its components, including a wild horse management plan. She requested a work session to discuss the information with Council.

August-Carter Nelson discussed the situation in Gaza and urged Council to support a ceasefire resolution.

Christopher Diley spoke about the negative experiences he has had related to marijuana use.

Rick Casey urged Council to support a third-party review of PRPA's Integrated Resource Plan.

Public comment concluded at 6:38 p.m.

H) PUBLIC COMMENT FOLLOW-UP

Councilmember Pignataro requested follow-up regarding the tree limb concerns shared by Gary Nation. City Manager DiMartino replied there has been some back and forth regarding what trees were on public property and what trees were on private property; however, notice was given to the property owners today giving them 14 days to come into compliance.

Councilmember Potyondy requested details on how people can provide feedback on the Hughes Stadium site. Ginny Sawyer, Senior Policy and Project Manager, replied the team of partners and staff is meeting biweekly to develop the scope and timeline, and it is anticipated educational materials and other information about the process will go out later this year. Sawyer noted individuals could submit feedback at any time through the City Leaders email or the webpage.

Councilmember Ohlson asked about the traffic noise issue mentioned by Gary Nation. City Manager DiMartino replied a staff team, being led by Police Chief Swoboda, is working on a variety of noise and sound issues within the city. Chief Swoboda stated some ordinances need to be updated and examined more holistically. He noted the street noise issue is one of concern and officers are working to address it.

Councilmember Ohlson noted he remains interested in a third-party review of the PRPA Integrated Resource Plan related to the new gas plant and is hoping for support from two other Councilmembers.

Councilmember Gutowsky asked if there was a reason why the third-party review is not being done. Mayor Arndt noted the topic should be brought up under Other Business if Council desires more discussion related to it.

Councilmember Potyondy asked whether there are additional steps that could be taken to assist Michele Pullaro with her concerns. City Manager DiMartino noted staff has been in contact with her and will continue to assist as they can.

Councilmember Gutowsky requested more information from Linda Hall on the economic development plan related to the Huges Stadium site, especially as it relates to wild horses.

I) COUNCILMEMBER REMOVAL OF ITEMS FROM CONSENT CALENDAR FOR DISCUSSION

None.

J) CONSENT CALENDAR

1. Consideration and Approval of the Minutes of the September 17, 2024, Regular Meeting.

The purpose of this item is to approve the minutes of the September 17, 2024, regular meeting.

Approved.

2. Items Pertaining to the Annual Adjustment Ordinance.

A. Second Reading of Ordinance No. 134, 2024, Making Supplemental Appropriations in Various City Funds.

B. Second Reading of Ordinance No. 135, 2024, Appropriating Prior Year Reserves in Various City Funds.

C. Second Reading of Ordinance No. 136, 2024, Authorizing Transfers of Appropriations in Various City Funds.

D. Second Reading of Ordinance No. 137, 2024, Authorizing Transfer of Appropriations for the Fossil Creek Trail Spur Project.

These Ordinances, unanimously adopted on First Reading on September 17, 2024, appropriate additional revenues for prior year reserves that need to be appropriated before the end of the year to cover related expenses that were not anticipated, and therefore, not included in the 2024 annual budget appropriation. The additional revenue is primarily from fees, charges for service, rents, contributions, donations, and grants that have been paid to City departments to offset specific expenses.

All Ordinances Adopted on Second Reading.

3. **Second Reading of Ordinance No. 138, 2024, Appropriating Unanticipated Philanthropic Revenue Received by City Give for the Parks Department Designated Toward Improvements at Veterans Plaza of NoCo, Spring Canyon Community Park.**

This Ordinance, unanimously adopted on First Reading on September 17, 2024, requests an appropriation of \$25,050 in philanthropic revenue received by City Give to be used for improvements at the Veterans Plaza in Spring Canyon Community Park.

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.

4. **First Reading of Ordinance No. 139, 2024, Appropriating Prior Year Reserves and Authorizing Transfers of Appropriations for the Safe Routes to School Zach Elementary School Crossings Project and Related Art in Public Places.**

The purpose of this item is to provide supplemental appropriations to the Safe Routes to School (SRTS) Zach Elementary School Crossings Project (Project). If approved this item will appropriate:

1. \$176,760 from Transportation Capital Expansion Fee (TCEF) reserves to the Project;
2. \$277,750 from Transportation Services Fund reserves to the Project;
3. \$4,410 (0.8% of TCEF and Transportation Services Fund reserves contribution) from TCEF reserves (\$1,750) and Transportation Services Fund reserves (\$2,660) to the Art in Public Places (APP) program;
4. \$90 (0.2% of TCEF and Transportation Services Funds contribution) for maintenance of art from the Transportation Services Fund reserves to the APP program.

Adopted on First Reading.

5. **First Reading of Ordinance No. 140, 2024, Making Supplemental Appropriations from the State of Colorado for the Universal Pre-School Program at the Northside Aztlan Community Center.**

The purpose of this item is to consider an appropriation of unanticipated revenue of \$30,469 from the State of Colorado in 2024 to help fund the Universal Pre-school (UPK) program at the Northside Aztlan Community Center through the Recreation Fund.

Adopted on First Reading.

6. **Items Relating to the US 287 and Triangle Drive Signal Installation Project.**

A. Resolution 2024-120 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins, Colorado, and the Colorado Department of Transportation for the US 287 and Triangle Drive Signal Installation Project.

B. First Reading of Ordinance No. 141, 2024, Appropriating Revenue from a Funding Advancements for Surface Transportation and Economic Recovery Grant and the Colorado Department of Transportation Americans with Disabilities Act Grant and Appropriating Prior Year Reserves and Authorizing Transfers for the US 287 and Triangle Drive Signal Installation Project and Related Art in Public Places.

The purpose of this item is to receive award grant funds and provide appropriations to the US 287 and Triangle Drive Signal Installation Project (Project). If approved this item will:

1. Authorize the Mayor to execute an intergovernmental agreement (IGA) for the Project with the Colorado Department of Transportation (CDOT);
2. Receive and appropriate \$682,211 in Funding Advancements for Surface Transportation and Economic Recovery (FASTER) funds to the Project;
3. Receive and appropriate \$183,843 in CDOT Americans with Disabilities Act (ADA) funds;
4. Appropriate \$688,897 from Transportation Capital Expansion Fee (TCEF) reserves to the Project;
5. Appropriate \$6,686 (0.8% of TCEF contribution) from TCEF reserves to the Art in Public Places (APP) program;
6. Appropriate (0.2% of TCEF contribution) for maintenance of art from the Transportation Services Fund reserves to the APP program.

The funds will be used to design and install a new traffic signal as well as bicycle and pedestrian improvements connecting Triangle Drive to the northeast towards the Lakeview on the Rise development. There is severe crash history at this intersection and in 2023 CDOT committed FASTER funding to the City for signal improvements. CDOT has also committed funding for pedestrian improvements to bring the intersection into compliance with ADA requirements.

Resolution Adopted and Ordinance Adopted on First Reading.

7. **Resolution 2024-121 Ratifying the Appointment of Rick Rivera to the Poudre River Public Library District Board of Trustees.**

The purpose of this item is to fill an existing vacancy on the Poudre River Public Library District Board of Trustees.

Adopted.

END OF CONSENT CALENDAR

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, to approve the recommended actions on items 1-7 on the Consent Calendar.

Councilmember Potyondy highlighted the traffic signal at Triangle and College and commented on the improvements it will bring.

Mayor Arndt thanked Rick Rivera for his upcoming service to the community on the Library District Board of Trustees.

The motion carried 6-0.

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

Nays: none

Absent: Councilmember Canonico

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 Susan Gutowsky

- Lunch and Learn event at the Larimer County Food Bank

Councilmember Melanie Potyondy

- FoCo Trash Mob worked with the Sustainability Department to obtain a \$2,500 leadership grant that will assist in education around single-use plastic waste

Mayor Jeni Arndt

- Thanked those involved in organizing a recent Trade Mission trip to Raleigh, North Carolina
- Attended a weekly bike race per the invite of the SendTown Bike Club

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

None.

O) CONSIDERATION OF ITEMS PLANNED FOR DISCUSSION

8. Public Hearing #2 on the 2025-26 Recommended Budget for the City of Fort Collins.

This is the second public hearing on the City Manager's 2025-26 Recommended Budget for the City of Fort Collins. The purpose of this public hearing is to gather public input on the 2025-26 budget. Both hearings were set by Council adoption of Resolution 2024-116 at its September 3, 2024, meeting. The City Manager's 2025-26 Recommended Budget can be reviewed at the City Clerk's Office by appointment only and online at fcgov.com/budget.

Spanish interpretation will be available at all 2025-2026 budget related meetings.

PUBLIC COMMENT

None.

Clerk's Note: Mayor Arndt called for a break at 6:55 p.m., noting the meeting would resume at 7:10 p.m.

9. College and Trilby Multifamily Community Development Plan Appeal.

The purpose of this quasi-judicial item is to consider an appeal of the Administrative Hearing Officer's decision on August 6, 2024, approving the College and Trilby Multifamily Community Project Development Plan (PDP) #PDP220009.

The Appellants filed a Notice of Appeal on August 20, 2024, alleging:

*The Hearing Officer **failed to properly interpret and apply relevant provisions of the City Code, Land Use Code, and Charter.** The appeal alleges that the Larimer County Urban Area Street Standards and the City's Transportation Master Plan were not properly interpreted and applied.*

Neither of these two documents is specifically discussed anywhere in the record, however several Land Use Code Sections invoke the Larimer County Urban Area Street Standards by reference; and a standard in that document mentions the Transportation Master Plan.

Thus, the Staff Report in the record may be considered to incorporate the two documents into the record indirectly because it includes findings on a Land Use Code Section that invokes the street standards.

City Attorney Daggett reviewed the appeal process.

STAFF PRESENTATION

Kim Meyer, Interim Director of Community Development and Neighborhood Services, noted staff discovered some erroneous references to a Planning and Zoning Commission hearing in Council's packet and noted this item relates to a Type I hearing before an Administrative Hearing Officer.

Meyer outlined the proposed 38-acre project at the northwest corner of Trilby Road and College Avenue for 265 townhomes in configurations of two-, three-, and four-unit buildings. Meyer detailed the allegations in the appeal, both based on the alleged failure of the Hearing Officer to properly interpret and apply relevant provisions of City Code, specifically the Larimer County Urban Area Street Standards (LCUASS).

The first allegation is that infrastructure on the adjacent subdivision roads are substandard and have traffic volumes that exceed permitted standards. Meyer noted these streets were not included in the required traffic study and that the City does not use traffic volumes to classify streets. Additionally, Meyer stated the expectation is that the existing streets in the adjacent neighborhood would not be significantly impacted by this development. Meyer stated the appeal requests a new traffic study to be completed to include those streets, which she noted were built decades ago in the County and do not meet current standards.

The second appeal allegation is that LCUASS is not fungible, and the adopted standards cannot be ignored and replaced with another set of standards. Meyer noted staff found that the proposed development complies with the Land Use Code related to streets and applicable standards.

Councilmember Potyondy noted she has met with some individuals in the Skyview neighborhood but did not discuss this parcel or project.

Parties-in-interest in support of and opposed to the appeal identified themselves and Mayor Arndt outlined the time allotments.

APPELLANT PRESENTATION

Marcus Mims, appellant, stated the supporting evidence he submitted was rejected by City staff and he can therefore not make his original presentation. Mims discussed the applicable LCUASS design criteria tables which include average daily traffic volumes, which he stated should be included when considering traffic volumes. Additionally, he noted the standards contain numerous infrastructure requirements for various roadway classifications that he believes will be violated with this development.

Olivia Bronovich discussed traffic safety issues in the area that already exist.

Joey Meer, Skyview South HOA, expressed support for revising the traffic study to include the neighborhood roads.

Adam Trainer, Skyview South, echoed concerns shared by neighbors regarding safety and noted the neighborhood streets do not include bike lanes or sidewalks.

Kathy Malinowsky commented on existing traffic safety concerns.

Jack Harper, Skyview South, expressed concern about increased traffic from the proposed development.

Joe Trimbath, Skyview North, expressed concern that the proposed development would double the population of the neighborhood and stated the general consensus of the neighborhood is that the traffic study is flawed as the existing roadway infrastructure cannot handle that extra traffic. Trimbath noted the neighborhood is not opposed to the development but is opposed to the way the development has been approved and planned.

Marcus Mims stated the traffic report provided by JR Engineering suggested there were no existing infrastructure shortfalls; however, he noted the north side of Skyway does not include sidewalks or bike lanes.

APPLICANT PRESENTATION

Andy Peters, land use attorney representing Zocalo Community Development, requested Council uphold the Hearing Officer's approval of the project stating the first appeal allegation is about how streets in other neighborhoods are functioning, not about anything the project proposes. Peters noted Council must consider whether the Hearing Officer correctly required the right improvements to address the impacts of the project and stated there is a very limited set of circumstances in which the Code allows for off-site improvements to be required, and they do not apply in this instance.

Peters stated there is no requirement in LCUASS to upgrade streets in nearby neighborhoods. He noted City staff and the applicant had a scoping meeting related to the traffic study and agreed on the intersections to be studied based on level of service standards. Additionally, he noted the traffic counts mentioned by Marcus Mims in LCUASS are not used in Fort Collins, only in Loveland. Peters noted all applicable levels of service are being met with this project as per the traffic study and staff analysis thereof.

Peters noted improvements to the College and Trilby intersection were required as part of this project; however, the improvements are already being completed as part of a City capital project.

APPELLANT REBUTTAL

Marcus Mims noted the appellants are not asking for the developer to fund the improvements but noted the City's Transportation Master Plan calls for bike lanes throughout Skyway and on Constellation. He requested those items be planned, funded, and scheduled prior to this development going in.

Mims shared additional concerns about traffic volumes and reiterated Mr. Peters statement that Skyway is not designated as a collector despite being posted at 30 miles per hour.

Joey Meer, Skyview South HOA, stated the HOA is not suggesting Constellation needs to be improved, but would rather not have any additional traffic. Meer added that if Constellation was extended to the neighborhood to the south, those roadways would be able to accommodate additional traffic.

Joe Trimbath, Skyview North, stated that while the applicant may not have an obligation to improve surrounding streets, they do have an obligation to do an appropriate traffic study. Trimbath asked more about the College and Trilby intersection and related improvements.

APPLICANT REBUTTAL

Andy Peters stated the applicant would have no concerns with decreasing the speed limit on Skyway. He stated the only requirement for offsite improvements occurs in the instance where there is not a connection to an arterial street; therefore, that does not apply in this case.

Peters noted the City's capital improvement project is what will be improving the College and Trilby intersection, but if that had not occurred, those improvements would have been the responsibility, or partial responsibility, of the developer.

Peters stated staff did a great job with the project and the Hearing Officer made the right decision.

COUNCIL QUESTIONS AND DISCUSSION

Councilmember Pignataro asked about the scoping exercise done to determine which intersections will be studied in the traffic impact study, when it occurs, and whether it is an appealable decision. Steve Gilchrist, Traffic Operations, replied the scoping study happens after an application is submitted for its first conceptual review and it looks at the area of influence a project will have an impact on related to surrounding intersections. City Attorney Daggett replied that work is all done prior to the presentation to the decision maker; therefore, it could be questioned at the decision-making stage. Gilchrist stated those decisions are not typically questioned and the scoping is based on all impacts. City Attorney Daggett stated the decision that is before Council, which was made by a Hearing Officer, was based on the volume of material presented, and as part of that process, the Hearing Officer made a decision about whether the standards were met, including the scope of the traffic study.

Councilmember Potyondy asked if the Trilby and College improvements will extend west past Mars. Gilchrist replied in the affirmative.

Councilmember Potyondy asked what type of intersection will exist at Mars and Trilby. Gilchrist replied it will be a stop sign controlled intersection for now, but there could be long-term improvements if there is ever a capital project done to widen Trilby to the full four-lane arterial.

Councilmember Gutowsky asked about the entrance and exit motions at the Mars and Trilby intersection. Gilchrist replied it is currently a stop sign controlled T intersection and the proposal is for a T intersection with a southbound stop sign, not a multi-way stop for Trilby.

Councilmember Gutowsky stated it seems it may be an untenable situation for that intersection with the increased traffic. Gilchrist replied there are alternative access points for drivers to go east on Trilby.

Councilmember Gutowsky asked when the traffic study was completed. Gilchrist replied it was completed in 2022.

Councilmember Ohlson asked if there were other intersections that could have been required in the traffic study that would have helped address some of the neighborhood concerns. Gilchrist replied staff has the ability to require average daily traffic volume studies; however, there is no nexus to require improvements related to those as the City's standards are based on intersection level of service.

Mayor Pro Tem Francis thanked those who participated and noted Council's role is to determine whether the decision maker properly interpreted and applied the applicable Code sections related to the issues on appeal. She stated the intersections mentioned in the appeal are outside the scope of this development and stated the Hearing Officer upheld the appropriate standards.

Councilmember Potyondy stated she believes the Hearing Officer properly applied the Code standards and stated that as the Council representative for the district, she will still represent the individuals in the area to help strategize ways to help with issues.

Councilmember Pignataro thanked those who participated and noted there are only certain things Council can make its decision upon related to an appeal. She stated she believes the Hearing Officer made the correct decision based on the rules currently in place, though she noted the appeals process is being looked at for changes.

Councilmember Ohlson stated he has always opposed the fact that developers hire those that do the traffic studies and suggested the City should complete those itself with payment from the developer to add credibility to the process. Additionally, he expressed concern about the extermination of prairie dogs on the property, though he stated that will not affect his decision.

Councilmember Gutowsky stated she understands the frustration of the appellant regarding safety and traffic, though she believes the Hearing Officer properly interpreted the Code.

Mayor Pro Tem Francis moved, seconded by Councilmember Pignataro, that the Council dismiss the failure to properly interpret and apply allegations because neither the Land Use Code nor LCUASS Chapter 7, Street Designs and Technical Criteria, require a development to fix traffic deficiencies on streets outside a development to which the development does not add significant traffic, and further that the appeal is dismissed in its entirety.

The motion carried 6-0.

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

Nays: none

Absent: Councilmember Canonico

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.

Q) ADJOURNMENT

There being no further business before the Council, the meeting was adjourned at 8:34 p.m.

Mayor

ATTEST:

City Clerk

DRAFT