

February 21, 2017

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● ROLL CALL

PRESENT: Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
Staff Present: Atteberry, Daggett, Winkelmann

● AGENDA REVIEW: CITY MANAGER

City Manager Atteberry noted the Resolutions for Item No. 20, *Items Relating to the Old Towns Neighborhood Plan*, have been amended to state the Planning and Zoning Board recommends adoption of the Plan and the Design Guidelines.

● CITIZEN PARTICIPATION

Mike Pruznick discussed board and commission appointments and stated Council should have identified the accident regarding a citizen slipping on ice as still an ongoing investigation. He questioned the Prospect and College intersection design.

Merie Delffs opposed the proposed ordinance relating to appropriate use of public spaces.

Shane Sheridan opposed proposed ordinance relating to appropriate use of public spaces.

Lisa Eaton stated she is a short-term rental landlord and argued the duration of stay does not change the use from residential.

Sharon Overacker opposed regulations on short-term rentals.

Fran Levine opposed the proposed ordinance relating to appropriate use of public spaces.

Laura Jacobsen opposed regulations on short-term rentals and stated managing them is very similar to managing long-term rentals.

Paul Patterson suggested revisions to the short-term rental ordinance.

Brad Clements opposed regulations on short-term rentals.

Jen Petrik supported the proposed ordinance relating to appropriate use of public spaces and opposed regulations on short-term rentals.

Steve Raimer opposed the proposed ordinance relating to appropriate use of public spaces.

Nicholas (no last name given) opposed the proposed ordinance relating to appropriate use of public spaces.

Lloyd Crumb opposed regulations on short-term rentals.

Raisa Slutsky-Moore opposed the proposed ordinance relating to appropriate use of public spaces.

Kathryn Dubiel discussed the intention of the short-term rental regulations.

Sidna Rachid opposed the proposed ordinance relating to appropriate use of public spaces.

Lynn Thompson, Fort Collins Homeless Coalition, opposed the proposed ordinance relating to appropriate use of public spaces as being punitive and noted there are no low-income storage lockers in Fort Collins that are available 24/7.

Dolores Williams supported regulations on short-term rentals.

Marie O'Connell opposed the proposed ordinance relating to appropriate use of public spaces.

Zach Heath opposed the proposed ordinance relating to appropriate use of public spaces.

Gerry Vermont started reading a letter from the ACLU to Council regarding the proposed appropriate use of public space ordinance and its criminalization of homelessness.

Michelle Haefele opposed the permanent grandfathering of short-term rentals.

Ian Johnston, Fort Collins for Progress, continued reading a letter from the ACLU to Council regarding the proposed appropriate use of public space ordinance and its criminalization of homelessness.

Carlos Scott opposed regulations on short-term rentals.

Holly Michaelson, Fort Collins for Progress, opposed the proposed ordinance relating to appropriate use of public spaces.

Jessica Hazlett opposed the proposed ordinance relating to appropriate use of public spaces.

Chris Jacobsen opposed regulations on short-term rentals.

Alexa Sample opposed the proposed ordinance relating to appropriate use of public spaces.

Forrest Carlson opposed the proposed ordinance relating to appropriate use of public spaces.

Margaret Mitchell opposed the grandfathering clause in the proposed short-term rental regulations and opposed the proposed ordinance relating to appropriate use of public spaces.

Mark McFann opposed regulations on short-term rentals.

Michael (no last name given) opposed the proposed ordinance relating to appropriate use of public spaces and encouraged additional investment in affordable housing.

Courtney Cluett-Suarez stated she owns a cleaning business which cleans short-term rentals and discussed the need for short-term rentals in the community, stating the properties are often in better condition than those rented as long-term rentals.

Sarah (no last name given) opposed the proposed ordinance relating to appropriate use of public spaces.

BJ (no last name given) stated she cleans short-term rentals exclusively and that is her sole source of income. The properties are often in better condition than those rented as long-term rentals.

Juliana Cullen opposed the proposed ordinance relating to appropriate use of public spaces.

Graham Tuttle opposed the proposed ordinance relating to appropriate use of public spaces.

Nevan Mandel opposed the proposed ordinance relating to appropriate use of public spaces as they are discriminatory.

Alida Villatoro opposed the proposed ordinance relating to appropriate use of public spaces.

Cheryl Distaso, Homeless Coalition, opposed the proposed ordinance relating to appropriate use of public spaces, citing discriminatory enforcement.

Monte Barry discussed being bit by a dog in Old Town and questioned whether a citation was issued.

Kevin Harper showed images of a new 6-foot sidewalk on West Prospect, a quarter-mile from his property, and questioned why he has been asked to provide land for a 10-foot sidewalk.

Cheryl Schaff opposed regulations on short-term rentals and discussed the benefits of such rentals in Fort Collins. She stated police calls to long-term rentals far exceed those to short-term rentals.

Holly Sample opposed the proposed ordinance relating to appropriate use of public spaces.

Jeff Jensen opposed regulations on short-term rentals.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Martinez noted no decisions have been made regarding the proposed ordinance relating to appropriate use of public spaces. He requested information regarding the effectiveness of such ordinances. City Manager Atteberry replied that response will be provided for Council and the public.

Councilmember Martinez requested information regarding the City's efforts with respect to homelessness. Jeff Mihelich, Deputy City Manager, discussed the new emergency weather shelter plan and noted every person seeking shelter was provided with such during the last four winter storms. He also discussed the new "safe place to rest" model which expands shelters throughout the city during inclement weather and other projects such as Redtail Ponds.

Councilmember Martinez requested Mr. Barry receive follow-up regarding the dog bite he received and again noted no decisions have been made regarding the appropriate use of public space ordinance.

Councilmember Campana discussed the progression of possible solutions regarding the appropriate use of public space issue and noted it is a dynamic process for Council and the City. Specifically, there was no Council support for limiting time spent on public benches; however, there is support for resolving disruptive behavior.

Councilmember Overbeck requested Mr. Barry receive follow-up regarding the dog bite he received. An open house will be held on February 23rd regarding the appropriate use of public space and requested a follow-up memo regarding Mr. Harper's comments.

Councilmember Cunniff supported additional locker space and housing such as Redtail Ponds. He supported the need for additional jail space given significant aggressive behaviors for which there is no appropriate remedy. Regarding short-term rentals, he stated the proposal would allow a lodging-style use in several zones and grandfather the use in residential zones. The proposal would advance the interest of making more housing stock available, in certain zones, for housing uses.

Councilmember Stephens noted the City works with non-profits to ensure shelter and bed space; however, it does not open and organize housing on its own. She noted multiple offenders of some municipal laws currently have no consequences.

Mayor Troxell discussed community resources such as Neighbor to Neighbor and Homelessness Prevention Initiative.

Councilmember Cunniff suggested enforcing the no-smoking ordinance more broadly in order to address concerns regarding inequitable enforcement.

● **CONSENT CALENDAR**

Eric Sutherland withdrew Item Nos. 10, *First Reading of Ordinance No. 035, 2017, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees and Charges for Customers Participating in Community Solar Projects*, and 12, *First Reading of Ordinance No. 031, 2017, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Mail Creek Crossing Second Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Sign District Map*, from the Consent Agenda.

Allen Eckland withdrew Item No. 11, *First Reading of Ordinance No. 030, 2017, Annexing Property Known as the Mail Creek Crossing Second Annexation to the City of Fort Collins, Colorado*, from the Consent Agenda.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt and approve all items not withdrawn from the Consent Agenda.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

1. **Consideration and Approval of the Minutes of the January 31, 2017 Special Council Meeting and the February 7, 2017 Regular Council Meeting. (Adopted)**

The purpose of this item is to approve the minutes from the January 31, 2017 Special Council meeting and the February 7, 2017 Regular Council meeting.

2. **Second Reading of Ordinance No. 021, 2017, Amending Land Use Code Section 3.4.1, Natural Habitats and Features. (Adopted)**

This Ordinance, unanimously adopted on First Reading on February 7, 2017, amends various Land Use Code requirements related to the protection and mitigation of impacts to prairie dog colonies, sensitive and specially valued species, and other natural habitats and features on development sites.

3. **Second Reading of Ordinance No. 022, 2017, Authorizing the City Manager to Enter into a Lease Agreement with the Landowners Association for Phantom Canyon Ranches for Recreational Use of Halligan Reservoir and Certain Surrounding Lands. (Adopted)**

This Ordinance, unanimously adopted on First Reading on February 7, 2017 authorizes a lease agreement between the City of Fort Collins and the Landowners Association for Phantom Canyon Ranches (the Association) for recreational use of Halligan Reservoir and certain real property adjacent to Halligan Reservoir owned by the City (Halligan Property). The Association has leased the recreational rights to the Halligan Property for fishing, boating, and similar activities since 1988. Historically, the North Poudre Irrigation Company (NPIC) leased the recreational rights for Halligan Reservoir to the Association. Because the City now owns the Halligan Property, it has the right to lease recreational use of it. The Lease Agreement would maintain historic leasing practices and will benefit the City in various ways, such as gaining certain rights to access to the Reservoir using the Association's Meadow Creek Road, assisting in the monitoring and maintenance of the Halligan Property, facilitating the ongoing federal permitting process for the enlargement of Halligan Reservoir, and generating a revenue stream. The Lease Agreement provides for three ten-year terms, but allows for early termination by the City, if the enlargement of Halligan Reservoir receives authorization or if the City decides to no longer pursue the enlargement of Halligan Reservoir.

4. **Second Reading of Ordinance No. 023, 2017, Annexing Property Known as the Rennat Annexation to the City of Fort Collins, Colorado. (Adopted)**

This Ordinance, unanimously adopted on First Reading on February 7, 2017, annexes 57.83 acres located at 6015 South Timberline Road into the City of Fort Collins. The parcel became an enclave with the annexation of the Hansen Farm Annexation on February 15, 2013. As of February 15, 2016, the City was authorized to annex the enclave in accordance with State Statute 31-12-106. Staff is recommending placement into the Residential Neighborhood Sign district. The Rennat Annexation is situated between the Union Pacific Railroad/Southridge Golf Course to the west and South Timberline Road to the east. A related item to zone the proposed annexation presented as the next item on this Agenda.

5. **Second Reading of Ordinance No. 024, 2017, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Rennat Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Amendments to the Sign District Map. (Adopted)**

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2015-091.

This Ordinance, unanimously adopted on First Reading on February 7, 2017, zones the property included in the Rennat Annexation into the Low Density Mixed-Use Neighborhood (LMN), Medium Density Mixed-Use Neighborhood (MMN), and Neighborhood Commercial (NC) zone districts.

6. **Second Reading of Ordinance No. 025, 2017, Amending the Zoning Map of the City of Fort Collins by Changing the Zoning Classification for That Certain Property Known as the Gateway at Prospect Rezoning and Making Corresponding Changes to the Sign District Map. (Adopted)**

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2015-091.

This Ordinance, unanimously adopted on First Reading on February 7, 2017, amends the existing zoning on a parcel of vacant land located at the northwest quadrant of I-25 and East Prospect Road. The .43-acre site includes 12.40 acres of land currently zoned L-M-N, Low Density Mixed-Use Neighborhood and 10.03 acres of land currently zoned E, Employment. The proposed rezoning amends the zoning map for the entire site to M-M-N, Medium Density Mixed-Use Neighborhood Zone District. A change was made to Section 4 of this Ordinance to correct a Land Use Code section number.

7. **First Reading of Ordinance No. 027, 2017, Appropriating Prior Year Reserves and Unanticipated Revenue in the General Fund for Cultural Development and Programming Activities, Tourism Programming, and Convention and Visitor Program Services. (Adopted)**

The purpose of this item is to appropriate \$355,985, of which \$221,578 is proposed for 2017 Cultural Development and Programming Activities (Fort Fund), \$14,560 is proposed for 2017 Tourism Programming (Fort Fund), and \$119,847 is proposed for 2017 Convention and Visitors Program activities, from a combination of Unanticipated Revenue (Lodging Tax) and Prior Year Reserves (unspent appropriations) in the General Fund Lodging Tax Reserves.

Lodging taxes are annually collected by the City of Fort Collins for Cultural Development and Tourism programming activities. Anticipated revenue is projected through each Budgeting for Outcomes (BFO) cycle and then adjusted annually as needed based on actual collections. Lodging tax revenue collected in 2016 was \$355,985 above projected collections.

8. **First Reading of Ordinance No. 028, 2017, Amending the Fort Collins Traffic Code Restricting Parking in Bicycle Lanes. (Adopted)**

The purpose of this item is to amend sections of the Fort Collins Traffic Code to clarify regulations relating to bike lanes. The amendment to Section 1013 clarifies that bicycle lanes can be identified by signs or pavement markings and that parking in bike lanes is prohibited. The amendment to Section 1204 includes bike lanes in the list of locations where parking is prohibited.

9. **First Reading of Ordinance No. 029, 2017, Amending Chapter 15, Article XI of the Code of the City of Fort Collins Related to the Regulation and Licensure of Dealers in Secondhand Property. (Adopted)**

The purpose of this item is to update and revise Article XI of Chapter 15 of the Fort Collins City Code. Article XI addresses the regulation and licensure of dealers in secondhand property within the City of Fort Collins. The proposed changes will update the outdated provisions to comply with current state law, local practice and procedure, and fill in any gaps in the existing provisions. Such changes include modifying the definition of a secondhand dealer to include a person who buys secondhand property and eliminating the restriction on issuance or renewal of a license because of any felony by the licensee, to be consistent with state law.

10. **First Reading of Ordinance No. 032, 2017, Annexing Property Known as the Lehman-Timberline Annexation to the City of Fort Collins, Colorado. (Adopted)**

The purpose of this item is to annex 5.684 acres, parcel located at 5830 South Timberline Road, between Mail Creek Ditch and Bacon Elementary School. The initiating resolution was adopted on January 17, 2017. A related item to zone the proposed annexation is presented as the next item on this Agenda.

11. **First Reading of Ordinance No. 033, 2017, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Lehman-Timberline Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Sign District Map. (Adopted)**

This item is a quasi-judicial matter and if it is considered on the discussion agenda, it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2017-017.

The purpose of this item is to place the property included in the Lehman-Timberline annexation into the Low Density Mixed-Use Neighborhood (LMN), zone district.

12. **First Reading of Ordinance No. 034, 2017, Expanding the Boundaries of the Fort Collins Downtown Development Authority and Amending the Plan of Development of the Authority. (Adopted)**

The purpose of this item is to request an expansion of the boundaries of the Fort Collins Downtown Development Authority (DDA) and amend the DDA's Plan of Development to include the property at 221 East Oak Street and adjacent rights-of-way (ROW) on East Oak Street and Mathews Street. The property is a commercially zoned vacant lot at the southwest corner of East Oak Street and Mathews Street. The ROW is being added as a housekeeping step to more efficiently describe the overall DDA boundary. There is no impact to the City from the inclusion of this ROW.

13. **Resolution 2017-018 Authorizing the Assignment of the City's Private Activity Bond Allocation for 2017 to Housing Catalyst to Finance the Rehabilitation of Affordable Housing Units at The Village on Shields. (Adopted)**

The purpose of this item is to assign the City's 2017 Private Activity Bond (PAB) allocation in the amount of \$8,046,750 to Housing Catalyst (HC) for the purpose of the rehabilitation of 285 units of affordable housing located at the Village on Shields. Annually, the City receives a PAB allocation from the State of Colorado. If the City does not use or assign this allocation, it is returned to the State on September 15. Via this assignment, the City will not incur debt and this will not affect the City's credit rating. There have not been any other requests to use the 2017 PAB allocation.

14. **Resolution 2017-019 Approving Fort Fund Grant Disbursements. (Adopted)**

The purpose of this item is to approve Fort Fund grants from the Cultural Development and Programming and Tourism Programming Accounts for the selected community and tourism events, based upon the recommendations of the Cultural Resources Board.

15. **Resolution 2017-020 Ratifying the Appointment of Valerie Arnold to the Poudre River Library District Board of Trustees (Adopted)**

The purpose of this item is to appoint Valerie Arnold to the Poudre River Library District Board of Directors to fill a vacancy that will exist due to the March 2017 term expiration for Jennifer Birks.

16. **Resolution 2017-021 Making an Appointment to the Transportation Board of the City of Fort Collins. (Adopted)**

The purpose of this item is to appoint Karl Ayers to fill a vacancy that currently exists on the Transportation Board due to the resignation of Tim Sutton.

● **END CONSENT**

● **CONSENT CALENDAR FOLLOW-UP**

Councilmember Cunniff expressed concern regarding Item No. 16, *Resolution 2017-018 Authorizing the Assignment of the City's Private Activity Bond Allocation for 2017 to Housing Catalyst to Finance the Rehabilitation of Affordable Housing Units at The Village on Shields*, in terms of the process before the Housing Authority and the way the unit cost was determined.

Councilmember Overbeck expressed concern regarding the likely late timing of Council hearing Item No. 23, *Resolution 2017-025 Accepting Advisory Opinion and Recommendation No. 2017-01 of the Ethics Review Board*.

● **STAFF REPORTS**

Mayan Smith, Publicity Marketing Technician, provided an overview of the City's social media use on various platforms. She discussed the types of information communicated including snow removal, road closures, street sweeping, and neighborhood meetings.

Kate Kimble, Police Services, stated their goal in utilizing social media is to connect with the community. Messages regarding missing persons or suspects can be amplified through social media.

Madeline Noblett, Poudre Fire Authority, discussed the use of social media from the perspective of Poudre Fire Authority.

Councilmembers Overbeck and Martinez thanked the social media staff members for their work.

● **COUNCILMEMBER REPORTS**

Councilmember Stephens thanked the leaders of the Islamic Center of Fort Collins for hosting an open house.

Mayor Pro Tem Horak reported on the Boxelder Basin Regional Stormwater Authority mediation with property owners.

Councilmember Overbeck also thanked the leaders of the Islamic Center and discussed House Bill 1102 regarding an exhibition of motor vehicle exhaust.

Councilmember Campana reported on the second Business Community Inclusion meeting.

● DISCUSSION ITEMS

17. Items Relating to the Old Town Neighborhoods Plan. (Adopted)

- A. *Resolution 2017-022 Adopting the Old Town Neighborhoods Plan as an Element of the Comprehensive Plan (City Plan), and Repealing the 1986 East Side Neighborhood Plan, and the 1989 West Side Neighborhood Plan.*
- B. *Resolution 2017-023 Adopting the Old Town Neighborhoods Design Guidelines, Representing an Implementation Action of the Old Town Neighborhoods Plan.*
- C. *First Reading of Ordinance No. 036, 2017, Repealing Ordinance No. 013, 1996, Regarding Adoption of the Neighborhood Character Design Guidelines for the Eastside and Westside Neighborhoods in Fort Collins.*

The purpose of this item is to adopt the Old Town Neighborhoods Plan (Plan) and the Old Town Neighborhoods Design Guidelines (Guidelines). The Old Town Neighborhoods Plan represents a combined update of the original East Side and West Side Neighborhood Plans developed in the 1980s. The Old Town Neighborhoods generally encompass the predominantly residential neighborhoods to the west and southeast of Downtown. The Plan provides a renewed vision and policy guidance for the two neighborhoods, and incorporates details on programs, strategies, and actions to support and implement the neighborhood vision. Extensive public engagement was conducted over the course of the planning process beginning in 2015. The process involved continuous feedback from residents in the neighborhoods, stakeholder groups, community organizations, and City leadership.

The Old Town Neighborhoods Design Guidelines represent a follow-up implementation item from both the 2013 Eastside Westside Character Study, and the Old Town Neighborhoods Plan. The Guidelines provide illustrations, ideas, and guidance on compatible design for historic resources, new construction, and home additions in the Neighborhood Conservation Low Density (NCL) and Neighborhood Conservation Medium Density (NCM) zone districts of the Old Town Neighborhoods. The application of the Design Guidelines is voluntary and advisory, not regulatory.

Pete Wray, City Planner, stated the Old Town Neighborhoods Plan represents a combined update of the original Eastside and Westside Neighborhood Plans that were adopted in the 1980s. It strives to address emerging issues, update the neighborhood vision, and provide new policy guidance and implementation strategies. Wray discussed citizen participation efforts and collaboration with the Downtown Plan outreach opportunities.

Wray highlighted the Plan's goals for connectivity, compatibility of uses, supporting character with design standards, and encouraging opportunities for accessory housing units where feasible. The only implementation strategy being brought forward concurrent with the Plan at this time, is the new neighborhood design guidelines, a voluntary document. Other recommendations are ongoing and are recommended for additional outreach. The new voluntary guidelines are designed to complement existing standards in the Land Use Code.

Gina Janett commended the design guidelines as being thorough; however, she stated standards were discussed at the open houses and noted the guidelines are voluntary. She encouraged the City to have aggressive outreach with the guidelines and suggested the City hold classes for realtors. She also discussed transition buffers and accessory dwellings.

Jennifer Bray, Affordable Housing Board, stated accessory dwelling units need to be examined citywide and encouraged innovative affordable housing options.

Michelle Haefele suggested incentives for the voluntary guidelines should be strengthened and the accessory dwelling unit change be scaled back.

Chris Marshall discussed abstract language in the guidelines.

Councilmember Cunniff asked about regulatory changes. Cameron Gloss, Planning Manager, replied there are no proposed changes to the 2013 design standards.

Councilmember Cunniff asked if it would be possible to remove the references to accessory dwelling units (ADUs) in the context of dwelling without harming the integrity of the rest of the document. Gloss replied additional staff research would be needed; however, additional public comment asking staff to investigate the option for adding internal or external ADUs in various districts was received. Wray stated there was general support for being more flexible for considering additional provisions for ADUs.

Councilmember Cunniff commended the design guidelines but remained concerned about the definition of ADU given the density of the downtown residential zones.

Councilmember Martinez asked what the current design standards regulate. Gloss replied they regulate mass, scale, height, and floor area permitted on a lot. The suggested guidelines are voluntary.

Councilmember Martinez asked if there are any plans to widen Mulberry or Shields as part of this planning process. Wray replied in the negative but noted improvements are planned within the existing right-of-way.

Councilmember Martinez discussed the importance of ensuring pedestrian push buttons are reachable for individuals in wheel chairs ahead of time rather than needing to retrofit the intersections later.

Councilmember Martinez asked about the recommendations from the Planning and Zoning Board and Affordable Housing Board. Gloss replied both Boards unanimously recommended approval.

Councilmember Overbeck commended the reference to the Climate Action Plan and supported the inclusion of bike and pedestrian enhancements along Shields and Mulberry.

Councilmember Campana commended staff work on the Plan. He requested information regarding the approval process for an ADU. Gloss replied an applicant would go through a development review process for a carriage house if density standards within the zone district are met. Size limitations and rear lot coverage requirements also exist. Given the number of lots which meet the existing requirements, the discussion regarding revising density standards has occurred.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Resolution 2017-022.

Councilmember Cunniff stated he would like additional discussion regarding ADUs. He suggested specific resolution language addressing the issue and stated residents of Old Town neighborhoods do not want opportunities for additional dwelling units. Wray discussed survey

results indicating people do want to explore options for additional flexibility relating to ADUs; however, there are varying opinions.

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to amend the Resolution to add a whereas clause indicating Council has directed staff to consider existing residents of the affected neighborhoods as a primary source of outreach for accessory dwelling unit ordinance implementation.

Mayor Pro Tem Horak and Councilmember Campana accepted the amendment as friendly.

RESULT: RESOLUTION 2017-022 ADOPTED AS AMENDED [UNANIMOUS]
MOVER: Gerry Horak, District 6
SECONDER: Gino Campana, District 3
AYES: Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Resolution 2017-023.

RESULT: RESOLUTION 2017-023 ADOPTED [UNANIMOUS]
MOVER: Gerry Horak, District 6
SECONDER: Ross Cunniff, District 5
AYES: Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 036, 2017, on First Reading

RESULT: ORDINANCE NO. 036, 2017, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER: Gerry Horak, District 6
SECONDER: Ross Cunniff, District 5
AYES: Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

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

18. **Resolution 2017-023 Directing the City Manager or His Designees to Meet with the Northern Colorado Water Conservancy District to Engage in Discussions and Negotiations Regarding the Northern Integrated Supply Project. (Adopted as Amended)**

The purpose of this item is to consider a resolution that would direct the City Manager and/or his designees to discuss and explore the City's and Northern Colorado Water Conservancy District (Northern Water) Water's mutual interests pertaining to the Northern Integrated Supply Project (NISP). Staff would meet with Northern Water to discuss the City's key goals and issues related to NISP, while regularly reporting to City Council. If mutual interests can potentially be met, staff would be authorized to negotiate and prepare draft agreements that would be presented to Council for its review and possible approval.

John Stokes, Natural Areas Director, stated staff brought this recommendation forward to increase the City's sphere of influence and is not the result of Council direction. He discussed improvements to the Poudre River corridor which have been made by the City over the years, including floodplain preservation and trails.

Stokes described the Northern Integrated Water Supply Project (NISP) as a water supply and storage project being proposed by a partnership in the Northern Colorado area. It includes a large off-stream reservoir, Glade Reservoir, which would be north of Ted's Place on Highway 287. The project will require various permits prior to completion.

Jennifer Shanahan, Watershed Planner, stated the common goal among City staff is to have a supportive impact on watershed services for the Poudre. She detailed the planned data-driven approach and projects related to the watershed.

Stokes discussed the previous comments on the NISP project made by Council and stated this recommendation would authorize staff to meet with Northern Water to discuss the City's key goals and objectives related to NISP while regularly reporting back to Council, and if mutual interests could be met, City staff would be authorized to negotiate and bring back concepts to Council for review. The best alternative to negotiating an outcome is to comment, as a stakeholder, but to not engage in direct discussions or negotiations with the project proponent.

Kevin Jones, Chamber of Commerce, supported the Resolution.

Eric Sutherland questioned the party with whom negotiations will occur.

LeRoy Poff stated the Poudre needs peak flows in order to function properly and the City needs to hold fast to that goal.

Ellen Brinks stated the amount of wildlife in the river area has already decreased and the River health should not be allowed to deteriorate further.

Katie Hoffner stated the NISP project should be a non-negotiable deal for the community and opposed any negotiation efforts.

Joe Piesman opposed the NISP project and negotiation efforts.

Will Walters, Sierra Club, opposed NISP and the Resolution.

Katie Rupsis, Sierra Club, opposed NISP and the Resolution.

Francis Richardson, Sierra Club, opposed NISP and the Resolution.

Cynthia Hernandez, Sierra Club, opposed NISP and the Resolution.

Ted Walkup opposed the Resolution stating a mitigation agreement is never for the purpose of helping a project be denied.

Renee Walkup opposed the Resolution.

Arlene Swan opposed NISP.

Christopher Smith supported the Resolution and the project.

Ken Summers supported the Resolution.

Todd Simmons opposed NISP and the Resolution.

Nancy York opposed NISP and the Resolution.

Gina Janett opposed NISP and the Resolution.

Delores Williams opposed NISP and stated the life of the Poudre is not negotiable.

Cordelia Stone opposed NISP and the Resolution.

Scott (no last name given) opposed the Resolution.

Phil Arnheart opposed NISP and the Resolution.

Juan Carlo supported the Resolution.

Harry Rose noted the Land Conservation and Stewardship Board and Natural Resource Advisory Board voted unanimously to oppose the Resolution.

Doug Henderson, 350 Group, opposed NISP and the Resolution.

Carol Hossan opposed NISP and the Resolution.

Charles Kop opposed NISP and the Resolution.

Rico Moore opposed NISP and the Resolution.

Mike Pruznick opposed NISP.

Alexa Sample opposed the Resolution and stated there is no version of NISP that will not compromise the health of the Poudre.

Judy Harrington opposed the Resolution and stated attempts to negotiate at this point will not be productive.

Doug Swartz opposed NISP and the Resolution.

Rebecca Shelly opposed NISP and the Resolution.

Phil Kissel opposed NISP and the Resolution.

Dr. Ed Hall opposed NISP and stated there are problems with the Environmental Impact Statement.

Brett Bovee, Water Board, supported the Resolution.

Katie Wallace, New Belgium Brewery, opposed NISP and the Resolution.

Joe McGrane opposed NISP and the Resolution.

Andrew Lemley opposed the Resolution.

Shane Sheridan opposed the Resolution.

Donna Braginetz opposed NISP and the Resolution.

Sarah Pitts supported the Resolution.

Mark Easter, Save the Poudre Board Chair, opposed the Resolution.

Zach Heath opposed NISP and the Resolution.

William Brown supported the Resolution.

Dick Leffler supported the Resolution.

Avery Informer opposed NISP and the Resolution.

Mike Barry opposed NISP and the Resolution.

Emily Heinz opposed NISP and stated additional citizen outreach, input and involvement needs to occur. She suggested the Resolution be modified to remove the word "negotiate."

Evan Stafford opposed NISP and the Resolution.

Elizabeth Hudetz opposed NISP and the Resolution.

Ward Luthi opposed NISP and the Resolution.

Eric Wilkensen, Northern Water, supported the Resolution.

Dick Livingston opposed NISP.

Gary Wockner, Save the Poudre, opposed NISP and the Resolution.

Mike Antonucci discussed making ocean water potable.

Kwon Atlas opposed NISP and the Resolution.

Lauren Atlas opposed the Resolution.

Councilmember Cunniff asked if the Poudre wildlife corridor stops at I-25.

Councilmember Overbeck reported the EPA stated there was insufficient information in the supplemental draft EIS in 2015. He asked if it is possible for the EPA to veto this project. Stokes replied the EPA administrator could deny the project; however, that option has been exercised extremely rarely.

Councilmember Stephens requested staff input regarding public statements that negotiating now is too early in the process. Stokes replied the final EIS is scheduled to be published at the end of the year. The Army Corps of Engineers would then take public comment and make a record of decision where they would choose the least environmentally damaging practicable alternative. He could not state specifically how long that process could take.

Councilmember Campana noted Council took a position of “cannot support” rather than “oppose” in 2015. He asked if any design changes have been made since that time. Stokes replied two main changes affecting Fort Collins have occurred: water will not be delivered into Horsetooth Reservoir from Glade Reservoir and Northern has proposed a conveyance refinement which delivers water to the Poudre during low-flow months. Both changes are viewed as positive from the perspective of Fort Collins; however, Fort Collins did not engage in conversations with Northern to suggest either of those changes.

Councilmember Campana asked why the term “negotiate” is included in the Resolution. Stokes replied there are advantages to negotiating and there is a possibility give and take could be beneficial to the City.

Mayor Pro Tem Horak asked if staff believes the project is inevitable. Stokes replied there is a strong likelihood the project will be permitted and could go to court; however, it is ultimately not likely to be denied. The project has a purpose and need, and at this point the job of the Corps is to determine the least environmentally damaging practicable alternative.

Council and staff discussed the fact there is no express regulatory requirement that a conservation alternative be required.

Mayor Pro Tem Horak requested staff input regarding the thresholds for peak flows. Shanahan replied staff has developed some ideas around possible ways certain short-duration thresholds could be met.

Councilmember Cunniff asked if the population carrying capacity of Northern Colorado with respect to water has ever been modeled. Stokes replied a mass balance equation for Northern Colorado has not been modeled; however, that type of modeling has been done in the state water plan.

Councilmember Cunniff requested staff opinion regarding which parts of the Resolution would authorize staff to enter into actual negotiations. Stokes replied the Resolution references potential agreements.

Councilmember Cunniff expressed concern about the possibility of agreements being crafted prior to Council’s input. He stated staff should be constrained by Council’s 2015 Resolution.

Mayor Troxell stated the Resolution language offers variability in interpretation and involves ongoing Council input.

Councilmember Campana made a motion, seconded by Mayor Pro Tem Horak, to adopt Resolution 2017-024 with the following changes: delete “and negotiations” from the Resolution title, delete “including through potential agreements between the City and Northern” from the sixth whereas clause and Section 2.

Councilmember Martinez suggested changing “negotiations” to “solutions.”

Councilmember Cunniff suggested changing the language to address solely the City’s interests rather than mutual interests. He asked if notes from City meetings with Northern could be made public. Stokes replied in the affirmative and stated staff has a goal of informing the public of Poudre health related issues.

Mayor Troxell suggested leaving the two sections in the Resolution and replacing “agreement” with “solutions” to allow for a future public process, leading up to an agreement, and replacing “negotiations” with “explore solutions” in the title.

Councilmember Campana and Mayor Pro Tem Horak accepted the change as a friendly amendment.

Councilmember Overbeck stated he would not support the motion given concerns this moves the City away from concerns expressed about the project in 2008.

Councilmember Cunniff stated he would not support the motion as it references Northern’s interests; the City’s job is to advocate for its interests.

Mayor Troxell stated he would support the motion as it is important for Fort Collins to be at the table representing its interests.

Councilmember Martinez stated he would support the motion to open dialogue for solutions.

Councilmember Stephens stated she would support the Resolution in order to codify the existing practice and ensure Fort Collins is able to represent its interests; however, she is skeptical that any resolution will allay her concerns about major issues of the project.

Councilmember Campana commended improvements made to the Poudre in the City and stated it is the City’s duty to stay engaged in this process.

Councilmember Cunniff suggested an amendment to strike the words “and the Northern Water’s mutual” from the first whereas clause and additional language changes.

Councilmember Campana and Mayor Pro Tem Horak accepted the amendment as friendly.

Councilmember Overbeck suggested including a statement referencing the 2008 Resolution in which Council took a position of opposition to the NISP project.

Councilmember Campana and Mayor Pro Tem Horak accepted the amendment as friendly.

Mayor Pro Tem Horak noted this will give staff a tool they have requested.

RESULT:	RESOLUTION 2017-024 ADOPTED AS AMENDED [6 TO 1]
MOVER:	Gino Campana, District 3
SECONDER:	Gerry Horak, District 6
AYES:	Martinez, Stephens, Campana, Troxell, Cunniff, Horak
NAYS:	Overbeck

● **MOTION TO EXTEND THE MEETING BEYOND 10:30 p.m.**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to extend the meeting beyond 10:30 PM to consider additional items of business.

RESULT:	MOTION TO EXTEND MEETING ADOPTED [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
NAYS:	Martinez

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

19. **First Reading of Ordinance No. 037, 2017, Amending Section 2-568 of the Code of the City of Fort Collins Proscribing Certain Actions in the Event a City Board or Commission Member has Declared a Conflict of Interest and Establishing a Related Variance Procedure. (Adopted on First Reading)**

The purpose of this item is to amend Section 2-568(a) and 2-568 (c) of the City Code to clarify certain actions in the event a City board or commission member has declared a conflict of interest and establish a related variance procedure.

Laurie Kadrach, Planning, Development and Transportation Director, stated this item would clarify certain actions once a City board or commission member has declared a conflict of interest, and establish a related variance procedure.

Councilmember Cunniff made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 037, 2017, on First Reading.

Councilmember Cunniff stated this item would allow boardmembers with conflicts the same rights and privileges as any member of the public while ensuring they do not influence their board.

RESULT:	ORDINANCE NO. 037, 2017 ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

20. **Resolution 2017-025 Accepting Advisory Opinion and Recommendation No. 2017-01 of the Ethics Review Board. (Adopted)**

The purpose of this item is to submit the opinion of the Ethics Review Board to Council for its consideration and possible approval.

Councilmember Campana recused himself from this topic as he requested the Ethics Review Board review.

City Attorney Daggett noted Councilmember Campana initiated this inquiry of the Ethics Review Board to clarify when, under the City Charter and City Code, City Councilmembers who have declared a conflict of interest regarding a matter may discuss that matter in his or her personal or professional capacity with City staff. The Ethics opinion clarifies there is not a provision that prevents a Councilmember from communicating with staff in their non-Councilmember, non-official capacity.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adopt Resolution 2017-025.

Councilmember Cunniff noted the Ethics Review Board has recommended further development of City Code to define influencing.

Councilmember Overbeck requested Ethic review items be considered earlier in the evening.

RESULT:	ADOPTED [6 TO 0]
MOVER:	Gerry Horak, District 6
SECONDER:	Ray Martinez, District 2
AYES:	Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak
RECUSED:	Campana

● **CONSIDERATION OF CITIZEN-PULLED CONSENT ITEMS**

21. **First Reading of Ordinance No. 035, 2017, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees and Charges for Customers Participating in Community Solar Projects. (Adopted on First Reading)**

The purpose of this item is to expand the definition of "community solar projects" in Chapter 26 of the City Code to include both "subscriber-based" and "program-managed" community solar projects, and to establish a net metering rate applicable to the Solar Affordability Program (SAP), a new program-managed community solar project. The SAP will rely on energy generated by the 64 kilowatt photovoltaic system installed at 518 N. Loomis Street (the "Loomis Project") to serve income qualified customers and be administered according to program objectives established by the Utilities Executive Director pursuant to City Code Sections 26-464(h) and 26-465(h).

In addition, this item provides background on the income qualified SAP which will provide participating Fort Collins electric customers with direct bill credits for a one year period. During that time, SAP households will participate in efficiency and conservation installations customized to each household, drawing on resources from Utility Services, Larimer County and the State of Colorado. Program households will also participate in energy saving education and complete efficiency upgrades. Combined, the efficiency and education opportunities will enable program households to permanently reduce their electric expenses and usage. Over the life of the SAP, hundreds of qualifying households will benefit from a reduced energy burden as individual participants in the program, and the benefits of additional renewable energy generation will be realized across the residential rate class. The proposed credit rate for SAP and other dedicated program-managed community solar project customers is the same rate as that currently available to customers of subscriber-owned community solar projects, like the Riverside Community Solar project.

Eric Sutherland discussed the Energy Efficiency Program and noted rate payers make these programs happen. He opposed this item.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 035, 2017, on First Reading.

Councilmember Stephens stated she would like to see programs that would make a bigger impact on more families.

RESULT:	ORDINANCE NO. 035, 2017, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **MOTION TO SUSPEND THE RULES**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to suspend the rules to extend the meeting past 12:00 AM.

RESULT:	MOTION TO SUSPEND RULES ADOPTED [UNANIMOUS].
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

22. **First Reading of Ordinance No. 030, 2017, Annexing Property Known as the Mail Creek Crossing Second Annexation to the City of Fort Collins, Colorado. (Adopted on First Reading)**

The purpose of this item is to is to annex 43.698 acres, consisting of 11 parcels located in the southeast quadrant into the City of Fort Collins. The initiating resolution was adopted on January 17, 2017. The subject properties are located on the eastern edge of South Timberline Road and bisected by Kechter Road. A related item to zone the annexed properties is presented as the next item on this Agenda.

Allen Eckland opposed the annexation stating the existing County zoning is a better fit than City zoning. He expressed concern regarding the grandfathering of his land uses and potential future additions and stated property owners should not be responsible for any associated fees.

Ted Shepard, Chief Planner, stated it has been the City's policy since its incorporation to annex enclaves. This aids in delivering public services and maintaining emergency response times. Shepard referenced the Code sections addressing non-conforming uses. Regarding fees, Shepard stated the mill levy property tax and utilities will be less or approximately the same. An intergovernmental agreement exists with Larimer County regarding the annexation of contiguous or enclaved properties.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 030, 2017, on First Reading.

RESULT:	ORDINANCE NO. 030, 2017, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Kristin Stephens, District 4
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

23. **First Reading of Ordinance No. 031, 2017, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the Mail Creek Crossing Second Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Sign District Map. (Adopted on First Reading)**

This item is a quasi-judicial matter and if it is considered on the discussion agenda it will be considered in accordance with the procedures described in Section 1(d) of the Council's Rules of Meeting Procedures adopted in Resolution 2017-017.

The purpose of this item is to zone 43.698 acre, 11-parcel enclave into the City of Fort Collins. The initiating resolution was adopted on January 17, 2017. The subject properties are located on the east edge of South Timberline Road and are bisected by Kechter Road.

Mayor Troxell noted this is a quasi-judicial matter.

City Attorney Daggett outlined the quasi-judicial process relating to zoning.

Ted Shepard, Chief Planner, stated zoning occurs in accordance with the Structure Plan Map upon a property being annexed. The zoning for this property will be Urban Estate per the Structure Plan Map.

Eric Sutherland stated a law or regulation by which the application is being measured is required for a quasi-judicial matter. He questioned what is necessary for the City to change zoning.

Shepard clarified this is not a rezoning but a new zoning for which the basis is the Fossil Creek Reservoir Area Plan adopted by the City and County in 1999.

City Attorney Daggett displayed the standard from the Land Use Code for decisions of this type.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 031, 2017, on First Reading.

Councilmember Cunniff requested a follow-up memo on why this process is considered quasi-judicial.

RESULT:	ORDINANCE NO. 031, 2017, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **OTHER BUSINESS**

City Manager Atteberry discussed the outreach process and options in the Ordinance regarding the appropriate use of public spaces.

Councilmember Martinez suggested removing the time limit for sitting on benches from the Ordinance.

Councilmember Campana suggested removing the prohibition of-reclining or lying down on a chair, bench or other objects designed for sitting.

Councilmember Martinez requested videos such as the rolling coal video be previewed for language prior to public airing.

Councilmember Cunniff discussed a request he received from the Audubon Society to designate the Poudre River urban corridor as an important bird area. He requested and received Council support for staff to prepare a Resolution.

Councilmembers discussed the possibility of placing lockers for homeless residents in the downtown area.


● ADJOURNMENT

The meeting adjourned at 12:31 AM.




Mayor

ATTEST:


City Clerk