

March 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, Campana, Overbeck, Troxell, Cunniff, Horak
Staff Present: Atteberry, Daggett, Winkelmann

● AGENDA REVIEW: CITY MANAGER

City Manager Atteberry stated Item No. 10, *First Reading of Ordinance No. 049, 2017, Amending Chapter 7.5 and 8 of the Code of the City of Fort Collins for Phased Increases of the Capital Expansion Fees*, will be withdrawn from the Consent Agenda in order to allow Councilmember Campana to recuse himself.

● CITIZEN PARTICIPATION

Rit Henningen commented on the services provided by Hageman's Earth Cycle.

Eric Sutherland discussed Poudre School District litigation and tax increment financing.

Chet Daniel commented on the services provided by Hageman's Earth Cycle.

Ryan Houdek suggested Council consider changes to the Old Town smoking ban, including allowing smoking areas within the Old Town zone and lessening the fines.

Mike Pruznick discussed government violence against law-abiding citizens, the similarities between Beirut, Lebanon and Fort Collins, and past issues at Council meetings.

Roger Hageman discussed the services provided by Hageman's and stated his business needs the Natural Areas land in order to continue its operations.

Caleb Goll discussed a business he is starting for fire performers and stated he is hoping to host a weekly fire dancing event in City Park.

Anne Cleary discussed the eminent domain utilized on her property near Prospect and College. Council needs to consider the human impacts of its actions. She has not been compensated to date.

Kevin Harper discussed the differences between the appraisals for the trees on his property near Prospect and College.

Tim Abbott expressed support for Hageman's Earth Cycle.

Elizabeth Hudetz expressed concern regarding the amount of spending by political action committees on the City election.

Clint Skutchan, Fort Collins Board of Realtors, stated funds spent by the Board of Realtors on the election have been raised locally and are distributed on behalf of the Board to support candidates it feels are best for Fort Collins' housing future.

Huston Morse, Fort Collins Women's Commission, thanked the Mayor for the Equal Pay Day proclamation.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Campana discussed the Hageman property and stated he is confident a fair resolution will be reached.

Councilmember Overbeck requested additional research into the issue regarding downtown employees not being able to smoke on breaks. He thanked Ms. Cleary and Mr. Harper for bringing awareness to their difficult situation.

Mayor Troxell encouraged Mr. Goll to speak with Poudre Fire Authority. The smoking ban will be discussed at the next Council retreat.

Councilmember Stephens thanked Ms. Morse for speaking on behalf of the Women's Commission and encouraged employers to assess wages for equality. She discussed the donation amounts allotted for elections.

● **CONSENT CALENDAR**

Eric Sutherland withdrew Item Nos. 2, *Second 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*, 6, *First Reading of Ordinance No. 039, 2017, Appropriating Prior Year Reserves in the Transportation Fund for Regional Contribution to Larimer County for North I-25 Improvements*, 7, *Resolution 2017-026 Authorizing the Mayor to Execute an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the City's Contribution of Funds for the North Interstate 25 Improvements*, and 11, *First Reading of Ordinance No. 052, 2017, Amending Chapter 19 of the Code of the City of Fort Collins to Adopt the Colorado Rules of Civil Procedure to Govern the Procedures for Civil Actions Filed in Municipal Court and to Add City Code Section 1-24 to Clarify that Civil Actions Arising Under the City's Ordinances are not Intended to Create by Implication Claims for Monetary Damages for the Benefit of Third Parties*, 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, Campana, Overbeck, Troxell, Cunniff, Horak

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

This Ordinance, unanimously adopted on First Reading on February 21, 2017, annexes 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.

2. **Second 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)**

This Ordinance, unanimously adopted on First Reading on February 21, 2017, expands 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. 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.

3. **Second Reading of Ordinance No. 041, 2017, Establishing Rental Rates and Delivery Charges for Use of the City's Raw Water for 2017. (Adopted)**

This Ordinance, unanimously adopted on First Reading on March 7, 2017, approves rates and charges for the rental and delivery of Utilities' raw water supplies for 2017. These rates are used to invoice agricultural, contractual, and other raw water users. Similar to the past two years, the rates and charges for water from ditch and reservoir companies and the Colorado-Big Thompson Water Project are calculated using formulas that are based on the cost to the Water Utility. These rates and charges are generally slightly higher than last year due to increased annual assessments and other related fees imposed by the companies and the Northern Colorado Water Conservancy District. The rates and charges for the City's reusable and other "fully consumable" supplies are the same as last year.

4. **Second Reading of Ordinance No. 046, 2017, Appropriating Prior Year Reserves in the Keep Fort Collins Great Fund for the Police Campus West Substation Build-out. (Adopted)**

This Ordinance unanimously adopted on First Reading on March 7, 2017, appropriating funding for the Campus West Substation build-out from the KFCG Police Reserves account. Funding for ongoing lease payments and associated O&M expenses was approved in the 2017-2018 budget; however, at inception it was anticipated that market timing would dictate that a lease would be signed before the end of the 2016 fiscal year, with lease payments beginning in 2017 and initial build-out costs paid in 2016 via off-cycle funding. The costs for initial build-out of the substation include demolition/renovation, IT infrastructure, electrical work, furnishing, etc. Delays during the budget process and higher than anticipated build estimates did not allow this money to be appropriated in 2016, as a lease agreement was not yet reached. An agreement has been finalized in principle for build-out costs, requiring an appropriation of \$218,750 from the KFCG Police Reserves account.

5. **First Reading of Ordinance No. 047, 2017, Appropriating Funds Related to Additional 2017 Budget Transfers to Meet Fund Accounting Requirements. (Adopted)**

The purpose of this item is to authorize additional appropriations for 2017 budget transfers required to authorize moving the source of funding to the funds where the appropriations for the 2017 Budget were actually approved. This action has no impact on service delivery of the programs and services funded in the 2017 Budget and there are no funding shortfalls. Rather, this appropriation moves funding from the fund where the Offer was funded to the fund where the actual expenses will occur.

6. **First Reading of Ordinance No. 039, 2017, Appropriating Prior Year Reserves in the Transportation Fund for Regional Contribution to Larimer County for North I-25 Improvements. (Adopted)**

The purpose of this item is to appropriate Transportation Reserve funds in the amount of \$445,947, to be remitted to Larimer County as part of an annual regional contribution of local matching funds for the Colorado Department of Transportation's (CDOT) North I-25 Improvements Project. With Resolution 2016-077, adopted on October 4, 2016, Council authorized the Mayor to enter into an intergovernmental agreement (IGA) with Larimer County and participating local agencies, including the City, to contribute local matching funds for this purpose. This is the first of five annual installments of these payments to Larimer County under the IGA. Local matching fund commitments accelerate the improvements to I-25 in Northern Colorado.

7. **Resolution 2017-026 Authorizing the Mayor to Execute an Intergovernmental Agreement Between the City of Fort Collins and the Colorado Department of Transportation for the City's Contribution of Funds for the North Interstate 25 Improvements. (Adopted)**

The purpose of this item is to enter into an intergovernmental agreement/contract with CDOT to remit \$2.25 million in budgeted City funds (\$1.125M each year 2017-18), for the purpose of providing local matching funds for the North I-25 Improvements project. Local match funding contributions from Fort Collins and other regional agencies allow the I-25 improvements to be accelerated by as many as fifteen years. Funds were identified and appropriated as part of the 2017-2018 Budget.

8. **Items Relating to the Riverside Bridge Replacement. (Adopted)**

A. First Reading of Ordinance No. 048, 2017, Appropriating Unanticipated Grant Revenue from the Colorado Off-System Bridge Program in the Capital Projects Fund for the Riverside Avenue Bridge Replacement Project.

B. Resolution 2017-032 Authorizing the Execution of an Intergovernmental Agreement (IGA) between the City and the Colorado Department of Transportation (CDOT) for replacement of the Riverside Avenue Bridge.

The purpose of this item is to appropriate unanticipated grant funds in the Capital Projects Fund for the replacement of the Riverside Avenue Bridge because it is progressing towards deterioration and does not have the desired load carrying capacity. Additionally, this item authorizes the Mayor to execute an Intergovernmental Agreement (IGA) with the Colorado Department of Transportation (CDOT) related to the grant funds.

The City of Fort Collins Engineering Department has applied for, and was awarded, a grant from the federally funded Colorado Off-System Bridge Program in the amount of \$1,156,000. The IGA between the City and CDOT is for the replacement of the Riverside Avenue Bridge over Spring Creek.

9. **Items Relating to the Horsetooth Road and College Avenue Intersection. (Adopted)**

- A. Resolution 2017-027 Authorizing the Execution of an Intergovernmental Agreement Between the City and the Colorado Department of Transportation for the Horsetooth Road and College Avenue Intersection Improvements Project.
- B. First Reading of Ordinance No. 040, 2017, Appropriating Unanticipated Grant Revenue From the North Front Range Metropolitan Planning Organization and the Colorado Department of Transportation in the Capital Projects Fund for the Horsetooth Road and College Avenue Intersection Improvements Project.

The purpose of this item is to authorize the Mayor to sign an intergovernmental agreement to receive grant funds (IGA), and to appropriate funds for the design, right-of-way acquisition, and construction of the Horsetooth Road and College Avenue Intersection Improvements Project. The City was approved for two federally funded grants, one through the North Front Range Metropolitan Planning Organization ("NFRMPO"), category Surface Transportation Program (STP-Metro), for operational and safety improvements; and the second a Highway Safety Improvement Program (HSIP) grant awarded through the Colorado Department of Transportation (CDOT). The grant applications were based on the addition of northbound and southbound dual left turn lanes. Single left turn lanes currently exist for northbound and southbound traffic. Additionally, the project may include right turn pockets, multi-modal improvements, median and landscaping improvements, and pavement improvements.

10. **First Reading of Ordinance No. 052, 2017, Amending Chapter 19 of the Code of the City of Fort Collins to Adopt the Colorado Rules of Civil Procedure to Govern the Procedures for Civil Actions Filed in Municipal Court and to Add City Code Section 1-24 to Clarify that Civil Actions Arising Under the City's Ordinances are not Intended to Create by Implication Claims for Monetary Damages for the Benefit of Third Parties. (Adopted)**

The purpose of this item is to adopt for Municipal Court the Colorado Rules of Civil Procedure to be used to govern the procedures for civil actions filed in Municipal Court that do not arise from violations of the City Charter or Code.

11. **First Reading of Ordinance No. 050, 2017, Amending Section 23-116 of the Code of the City of Fort Collins Regarding Permits and Licenses to Enter on Real Property. (Adopted)**

The purpose of this item is to amend Section 23-116 of the City Code to authorize the City Manager to grant a permit or license for the use or occupation of any real property owned in the name of the City for a period of up to five years. The existing language in the City Code specifies that the City Manager may grant a permit or license for a period of up to one year.

12. **Items Relating to the Resolution of Issues Concerning Josh Ames Water Certificates. (Adopted)**

- A. Resolution 2017-028 Authorizing the City Manager to Execute Agreements with the Holders of Water Certificates Issued Pursuant to an Agreement Dated May 10, 1971.
- B. First Reading of Ordinance No. 042, 2017, Amending Chapter 26 of the Code of the City of Fort Collins to Clarify the Acceptance of Water Certificates Issued Pursuant to an Agreement Dated May 10, 1971, to Meet Raw Water Requirements.

The purpose of this item is to comprehensively address issues concerning water certificates the City issued under a May 10, 1971, agreement with The Josh Ames Ditch Company (Josh Ames Certificates), which have and will otherwise continue to raise disputes with the holders of such certificates. As set forth in this item, these issues and disputes are to be addressed through two related proposals. The first proposal is a resolution authorizing the City Manager to enter into agreements with the holders of Josh Ames Certificates in order to treat those certificates as being

equivalent to three acre-foot rights per Josh Ames Certificate. The second proposal is an ordinance amending certain sections of Chapter 26 of the City Code to clarify how Josh Ames Certificates are used to meet the City Code raw water requirements for treated water service.

13. **Resolution 2017-032 Approving an Agreement Between the City of Fort Collins and the Community Foundation of Northern Colorado Concerning the Creation of the City of Fort Collins Foundation Fund. (Adopted)**

The purpose of this item is to consider a resolution that would approve an agreement with Community Foundation of Northern Colorado for the creation of a City of Fort Collins Foundation Fund to be held and administered by the Community Foundation of Northern Colorado.

14. **Resolution 2017-034 Authorizing an Intergovernmental Agreement Between the Cities of Fort Collins, Loveland, and Greeley for the Exchange of Judicial Services, and Appointing Temporary Judges. (Adopted)**

The purpose of this item is to authorize an Intergovernmental Agreement (IGA) with the Cities of Loveland and Greeley for judicial services to be used in the event that a conflict of interest or other circumstance prevents the Municipal Judge and temporary judge from hearing a particular Municipal Court case. This agreement is intended to replace an existing 1994 IGA between the same cities.

● **END CONSENT**

● **COUNCILMEMBER REPORTS**

Councilmember Overbeck reported on attending the Islamic Center open house and panel discussion. He also reported on the Poudre Heritage Alliance Board's new website.

Mayor Troxell reported on the National League of Cities meeting.

Mayor Pro Tem Horak reported on a meeting with Senator Gardner at the National League of Cities.

Councilmember Martinez reported on the National League of Cities Public Safety and Crime Prevention meeting.

● **DISCUSSION ITEMS**

15. **First Reading of Ordinance No. 049, 2017, Amending Chapter 7.5 and 8 of the Code of the City of Fort Collins for Phased Increases of the Capital Expansion Fees. (Postponed to May 2, 2017)**

The purpose of this item is to adopt fee recommendations for increased capital expansion fees on a phased timeline determined by City Council. In early 2016, staff initiated comprehensive reviews of the Capital Improvement Expansion Fees, Transportation Capital Expansion (Street Oversizing) Fees and Electric Capacity Fees. In late 2016, staff conducted a thorough inventory of all fees across the City in order to better coordinate presentation of the holistic impact of fee recommendations to the community. Staff worked to integrate the messaging of these efforts to the community and to Council to illustrate the entire fee impact, as well as how Fort Collins compares to neighboring cities' impact fees.

Phased increases in the Capital Expansion Fees, which include the Fire Protection, Police, General Government, Community Parkland and Neighborhood Parkland Capital Expansion Fees, are being presented to Council for adoption on First Reading. Due to additional time needed to address the

phasing of the Electric Capacity Fees and Transportation Capital Expansion Fees, the issue of their phasing will be presented to Council at the April 25, 2017 Work Session.

Councilmember Campana withdrew from the discussion of this item due to a conflict of interest.

Mike Beckstead, Chief Financial Officer, stated the methodology for calculating these fees has not changed. The current cost of existing City assets divided by population or equivalent dwelling units provides the basis for the fees.

Tiana Smith, Revenue and Project Manager, stated impact fees exist to charge development for the impact of the growth experienced in the community. Both asset values and population have increased leading to fee increases. These fees put Fort Collins in the middle of the range of fees compared to neighboring communities. Smith discussed the public and board and commission outreach and stated concerns related to affordable housing were prevalent.

Ann Hutchison, Fort Collins Chamber of Commerce, discussed concerns with increased capital expansion fees and encouraged Council to delay action in order to consider the entire package of fees at one time.

Adam Eggleston encouraged additional citizen outreach and expressed concern the increased fees would further widen the gap between supply and demand in the housing market.

Joe Rowan encouraged Council to delay action in order to consider the entire package of fees at one time.

Clint Skutchan, Fort Collins Chamber of Commerce, encouraged Council to delay action in order to consider the entire package of fees at one time. He expressed concern regarding splitting the readings of the Ordinance between two Councils.

Councilmember Cunniff asked about fees compared to median home prices in neighboring communities. Beckstead replied by showing a chart with that data.

Councilmember Martinez asked if these fees will affect projects with an already approved PDP. Smith replied fees are not collected at that point in the process. Ted Shepard, Chief Planner, replied the average turn-around time in development review varies with project complexity. Building permit fees are collected at the time of building permit issuance, which is after the PDP process has been completed and after the final plan and development agreement have been recorded.

City Manager Atteberry noted a consultant has been hired to review the development review process and improve its efficiency.

Councilmember Martinez made a motion, seconded by Mayor Troxell, to postpone the item to May 2, 2017, after the new Council is seated.

Councilmember Cunniff stated he would not support the motion, although he agreed keeping the effective dates the same does help. He stated he does not have an issue with two different Councils hearing the item.

Councilmembers and staff held a discussion regarding future changes to fee adjustments.

RESULT:	FIRST READING OF ORDINANCE NO. 049, 2017, POSTPONED TO MAY 2, 2017 [5 TO 2]
MOVER:	Ray Martinez, District 2
SECONDER:	Wade Troxell, Mayor
AYES:	Martinez, Stephens, Troxell, Horak
NAYS:	Overbeck, Cunniff
RECUSED:	Campana

16. Second Reading of Ordinance No. 038, 2017, Appropriating Prior Year Reserves in the Neighborhood Parkland Fund for Neighborhood Park Site Development and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program. (Adopted on Second Reading)

This Ordinance, unanimously adopted on First Reading on March 7, 2017 (Campana recused) appropriates Neighborhood Parkland Funds for the 2017-2018 budget cycle. This appropriation will complete the neighborhood park offer, providing funding in the New Park Site Development business unit for Sidehill Park and other neighborhood park projects.

Councilmember Campana withdrew from the discussion of this item due to a conflict of interest.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 038, 2017, on Second Reading.

RESULT:	ORDINANCE NO. 038, 2017, ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Overbeck, Troxell, Cunniff, Horak
RECUSED:	Campana

17. Second Reading of Ordinance No. 043, 2017, Amending Article III of Chapter 17 of the Code of the City of Fort Collins by Adding a New Section 17-46 Regulating Use of Public Facilities on Sidewalks, Plazas, Public Restrooms and Transit Facilities. (Adopted on Second Reading)

This Ordinance was adopted on First Reading, with amendments, on March 7, 2017, by a vote of 6-1 (Nays: Overbeck). The Ordinance provides a set of regulations for shared public spaces in the pedestrian-friendly downtown area. The amendments (1) removed the prohibition on sitting, kneeling or lying on sidewalks or plazas in the downtown area; (2) removed the prohibition on placing attended personal property on sidewalks and plazas or public fixtures in the downtown area, or in or around public restrooms and transit facilities; and (3) modified the direction to the City Manager to report back to the City Council in a year on the impacts of the Ordinance.

Between First Reading and Second Reading City Attorney's Office staff has made additional edits, shown in highlighting and strike-out, to do the following:

- *Remove additional language that was no longer needed because of the First Reading amendments, and adjust section numbering accordingly;*
- *Add an exception to the prohibition on sitting in areas not designed for sitting at a transit facility if enough seating is not available;*
- *Add "locker" to the list of examples of fixtures where it is permissible to leave personal property unattended; and*
- *Minor rearrangement of exceptions in subsections (f) and (g).*

Jeff Mihelich, Deputy City Manager, discussed the extensive public engagement process for this item. He reviewed the comments and amendments made at First Reading. Regarding the

interpretation of the likely penalties for potential violations, Mihelich noted the maximum fine is assessed extremely rarely and jail time is only assessed in the case of multiple charges or a significant criminal record. Staff believes a special agency session is the best possible outcome for violations as opposed to fines or jail time.

Shane Sheridan discussed the need for locker space and opposed the Ordinance.

Steve Raimer stated his church has been contacted by staff regarding the placement of lockers at that property. He stated there are many community-based agencies that would likely be willing to work on a solution for storage space for personal property. He suggested making those efforts for a year prior to adopting any type of ordinance.

Jason Barrett stated the business community appreciated the passing of the Ordinance on First Reading; however, he opposed the elimination of the sitting, kneeling and lying portion of the Ordinance.

Nicholas Mouton asked how the unattended property aspect of this Ordinance will be enforced.

Jim Hewitt thanked Council for taking a step toward improving the use of public space Downtown; however, he expressed concern the heart of the Ordinance was removed.

Lynn Thompson, Fort Collins Homeless Coalition opposed passage of the Ordinance on Second Reading.

Amy Satterfield expressed disappointment the prohibition of lying on sidewalks was removed from the Ordinance.

Terese Howard discussed the lawsuit being faced by Denver regarding property seizure.

Mike Pruznick discussed the smoking ban and enforcement fairness.

Jeremy Woodard, Fort Collins Homeless Coalition, opposed the proposed penalties and expressed concern about confiscating personal property and unequal enforcement.

Holly Sample expressed appreciation for the changes made at First Reading but expressed concern regarding the unattended property component.

Barb Wilkins expressed appreciation for the changes made at First Reading but stated sidewalks should remain clear of obstacles for all citizens.

Dwight Hall stated the appropriate use of public spaces is not a complex issue and requested Council adopt the Ordinance with paragraph B added back in.

Bob Criswell discussed sidewalk obstruction in Old Town and requested that Council adopt the Ordinance with paragraph B added back in.

Kwon Atlas questioned whether an obstruction exists if no one needs to pass through a certain area of the sidewalk. He stated the homeless community needs solutions.

Steve Hartman asked if a ban will also be placed on sandwich boards and other sidewalk obstructions.

Charlie Meserlian opposed providing lockers for homeless individuals.

Cheryl Distaso, Fort Collins Community Action Network, expressed concern regarding the definition of unattended property and the proposed fines. She urged Council to oppose the Ordinance.

Ryan Houdek commended the City for its compassion and urged Council to adopt the Ordinance.

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

Councilmember Stephens asked if the Ordinance contains language relating to how long property can be unattended without triggering a penalty. Mihelich replied a more detailed definition could be added to the Ordinance.

Councilmember Cunniff expressed concern about right-of-way obstruction and questioned the definition of unreasonably inconvenient.

Councilmembers had a discussion regarding replacing the "lie" ban language.

Councilmember Campana proposed reinserting Section B with the inclusion of language such as "unless there are not enough fixtures designed for sitting available."

Councilmember Cunniff suggested directing staff to return with an option that addresses the existing obstruction Ordinance in a way that would be enforceable and lead to better right of way usage.

Councilmember Stephens opposed replacing Section B and agreed with moving forward as suggested by Councilmember Cunniff.

Councilmember Overbeck opposed replacing Section B.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 043, 2017, on Second Reading.

Councilmember Martinez asked if updates could be provided quarterly. Mihelich replied in the affirmative.

Mayor Troxell questioned how right-of-way obstruction can be measured without the inclusion of Section B.

Councilmember Campana discussed his desire for creating the best possible legislation that is defensible. He stated existing laws may need to be better enforced.

Councilmember Overbeck opposed any type of jail time punishment.

Councilmember Cunniff stated he would prefer to get ongoing reports regarding sentencing and stated this Ordinance will aid in providing equitable shared use of downtown spaces.

Councilmember Martinez stated this Ordinance is not related to homeless citizens and he will support the Ordinance, but requested monthly reporting.

Councilmember Stephens discussed the benefits of Special Agency Sessions which aim to get people the help they need.

Councilmember Overbeck stated his opposition to including jail time punishment.

Mayor Troxell stated he would support the motion; however, he preferred to have the obstruction portion included.

Councilmember Overbeck stated this issue deserves a more broad discussion and dialogue.

RESULT:	ORDINANCE NO. 043, 2017, ADOPTED ON SECOND READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Campana, Troxell, Cunniff, Horak
NAYS:	Overbeck

18. Items Relating to Short Term Rental Land Use Code and City Code Ordinances. (Adopted as Amended on Second Reading)

A. *Second Reading of Ordinance No. 044, 2017, Amending the City of Fort Collins Land Use Code Regarding Short Term Rentals.*

B. *Second Reading of Ordinance No. 045, 2017, Amending Chapter 15 of the Code of the City of Fort Collins to Add Short Term Rental Licensing Regulations.*

These Ordinances, unanimously adopted on March 7, 2017, bring forward a licensing structure and the associated Land Use Code (LUC) changes to regulate short term rental (STR) activity in the City of Fort Collins.

Included in the Ordinance on Second Reading are changes for clarity to the grandfathering provisions. The amendments required to Ordinance No. 045 (City Code) should Council choose to consider removing inspections and replacing with self-certification are attached as an exhibit to this AIS.

Ginny Sawyer, Policy and Project Manager, reviewed the proposed Ordinances and discussed the adopted zoning regulations. Sawyer also discussed the licensing provision and associated fees and noted Council will have the option to adopt a self-certifying criterion.

Eric Sutherland questioned why this action is not considered a taking given vested rights.

Jim Janty, Neighborhood Action Coalition, asked how neighborhoods can be made stronger, opposed self-certification, and noted there is no requirement for a publicly-listed contact for short-term rentals.

Eric Tamme expressed concern regarding the grandfathering of non-conforming uses.

Adam Eggleston questioned how many complaints have been received regarding short-term rentals and supported starting with licensure and reviewing after a certain amount of time.

Chris (indiscernible last name) expressed concern regarding the proposed four-hour response time and suggested a maximum response time of one hour with all contact information made public.

Mike Pruznick discussed good neighbors and opposed heavy-handed regulations.

Paul Patterson requested Council support the position outlined by the Neighborhood Action Coalition.

Whitney Crenshaw stated the current course is too aggressive, particularly relating to zoning.

Kathryn Dubiel spoke on behalf of Elizabeth Derbyshire and discussed non-conforming uses.

Mike Knowles discussed the necessary process for making changes to a property and questioned the definition of non-conforming use.

Sue Ballou supported short-term rentals and discussed changes in the city.

Jen Petrick stated primary short-term rentals should be allowed in all zones and non-primary short-term rentals should be allowed in NCB zones. She encouraged reasonable regulations and stated the proposed are over-reaching.

Maggie Dennis, Neighborhood Action Coalition, expressed concern regarding grandfathering and self-certification.

Paul Anderson supported the direction of the regulations and opposed grandfathering.

Dara Rose stated short-term rentals are self-regulating and opposed the amount of the license fees.

Josh Chauncey stated this is legislation of good, neighborly behavior and supported short-term rentals.

Michelle Haeefele stated this use is a violation of the Land Use Code and urged Council to pass the original Ordinance without changes. She requested the inclusion of publicly-available contact information.

Lisa Eaton stated primary short-term rentals should be allowed in all zones.

Pete Grant urged Council to reconsider the restrictions on primary short-term rentals.

Diana Clements supported grandfathering of short-term rentals.

Jim Wurz stated the short-term rental use was prohibited by the Land Use Code and opposed grandfathering without a sunset period.

Councilmember Cunniff asked if it would be possible for the City Attorney to craft a public memo regarding the analysis of the grandfathering and non-conforming use issues if directed by Council. City Attorney Daggett replied she could draft a memo and Council could opt to waive attorney-client privilege and release it.

Councilmember Cunniff expressed concern this use has been allowed to continue without being specifically permitted in the Land Use Code. He noted all properties, regardless of their use are subject to nuisance provisions. Sawyer replied all properties fall under the public nuisance

ordinance and short-term rental properties which repeatedly violate the ordinance would fall under the same requirements as any property for the owner to remediate the situation. A fine structure leading up to ultimately placing a lien on the property are potential penalties.

Councilmember Cunniff asked about requiring owner names to be public. Sawyer replied that is not required for long-term rentals or businesses.

Councilmember Campana made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 044, 2017, on Second Reading.

Councilmember Campana commended staff work on this item.

Mayor Pro Tem Horak discussed ensuring taxes are being paid for short-term rentals.

Councilmember Martinez expressed concern regarding collecting back taxes if operators have been discovered to have not paid them over the past three years. City Manager Atteberry noted there are efforts made for voluntary compliance prior to any type of forced payment. The City has over 95% voluntary compliance on code enforcement issues. Smith noted each case is addressed individually and payment plans can be put into place.

City Manager Atteberry stated he will provide a memo regarding tax collection policies.

Mayor Pro Tem Horak stated any grandfathered properties should be required to pay back taxes.

RESULT:	ORDINANCE NO. 044, 2017, ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Campana, Overbeck, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 045, 2017, on Second Reading.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to amend Section 15-632 to allow self-certification.

City Attorney Daggett outlined the necessary language changes for such an amendment.

Mayor Pro Tem Horak discussed his reasoning for allowing self-certification.

Councilmember Martinez asked what grounds would exist for staff to opt to do an inspection. Sawyer replied a lack of necessary building permits could be a reason for inspection.

Councilmember Cunniff asked if photos of items such as smoke detectors and egress windows would be required as part of the self-certification. Sawyer replied that has not been considered at this point; however, operators must certify compliance with a list of requirements and should they be found to not meet those requirements, that is grounds to not issue and/or revoke a license.

The vote on the motion to amend was as follows: Yeas: Martinez, Stephens, Campana, Cunniff, Horak, Troxell and Overbeck. Nays: None.

THE MOTION CARRIED.

Councilmember Cunniff stated he would have preferred Council to have more policy tools to restrict what was not an allowable use; however, he does not want to lose the existing progress.

RESULT:	ORDINANCE NO. 045, 2017, ADOPTED AS AMENDED ON SECOND READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Campana, Overbeck, Troxell, Cunniff, Horak

● **Motion to Extend the Meeting past 10:30 PM**

Councilmember Cunniff made a motion, seconded by Councilmember Overbeck, to extend the meeting past 10:30 PM to consider the next two agenda items plus any other business to come before Council.

RESULT:	ADOPTED [6 TO 1]
MOVER:	Ross Cunniff, District 5
SECONDER:	Bob Overbeck, District 1
AYES:	Stephens, Campana, Overbeck, Troxell; Cunniff, Horak
NAYS:	Martinez

19. **Resolution 2017-033 Adopting the Downtown Plan as an Element of the Comprehensive Plan (City Plan) and Repealing the 1989 Downtown Plan. (Adopted)**

The purpose of this item is to adopt the Downtown Plan. As an element of City Plan, the Plan represents a subarea of the community that provides a more specific vision, policy direction and implementation strategies. The Downtown Plan document includes a summary of community engagement, important issues and opportunities to be addressed, a long-range vision, and principles, policies, and implementation strategies to enact the vision.

Cameron Gloss, Planning Manager, discussed the new Downtown Plan and stated it will guide the evolution of the downtown area over the next 20 years in terms of policy, regulations, programs, capital projects, funding options, and future character. This Plan will change the downtown boundary to be consistent with that of the Downtown Development Authority. Gloss discussed the public outreach process as being exhaustive and involving many techniques. He outlined the document itself and detailed various implementation aspects.

Eric Sutherland stated improvements to the downtown area need to be funded in some way other than with property tax attributable to levies from the Poudre School District.

Mike Pruznick questioned the use of public funds for this project. He expressed disappointment in the innovation aspects of the Plan.

Matt Robenalt, Downtown Development Authority, noted the DDA Board has unanimously approved a Resolution recommending adoption of the Downtown Plan. He commended staff work on the Plan.

Councilmember Cunniff requested staff input regarding boards and commissions comments relating to a more aggressive implementation of long-term economically viable solutions to parking, the potential impact of the new stadium on spill-over transportation and parking issues, handicapped accessibility along College Avenue, and the need for more attention on social issues. Gloss replied the Plan reflects clear direction from the Parking Advisory Board and Council regarding parking management. The Plan also contains a thread of attention to social issues throughout the Plan. Transportation staff members were not convinced of a substantial impact on the downtown area specifically related to the new stadium.

Councilmember Overbeck asked about fixing gray field sites in the area. Gloss replied federal funding has been received and clean-up efforts will continue.

Councilmember Overbeck asked about historic buildings in the Plan. Gloss replied a request for proposal is out now for consulting services to assist the Historic Preservation program regarding the definitions of adjacency and compatibility.

Councilmember Stephens requested input regarding housing affordability. Gloss replied a commitment has been made to audit and monitor downtown housing; however, there are no existing metrics for a strategy at this point. The overall issue of affordable housing will be further discussed as part of the upcoming City Plan process.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2017-033.

Councilmembers commended staff work on the Plan.

RESULT:	RESOLUTION 2017-033 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Martinez, Stephens, Campana, Overbeck, Troxell, Cunniff, Horak

20. First Reading of Ordinance No. 051, 2017, Appropriating Prior Year Reserves in the General Fund to Support the Idea 2 Product 3D Printing Community Center. (Adopted on First Reading)

The purpose of this item is to present City Council with an Ordinance appropriating General Fund Reserves to support the relocation of the Idea 2 Product ("I2P") laboratory and develop a 3D Printing Community Center. The City through the proposed appropriation will pledge \$150,000 to support the relocation and construction of the 3D Printing Community Center within the Fort Collins community. The funds will be pledged contingent upon the ability of I2P, the operator of the 3D Printing Community Center, to raise a total (including the City's pledge) of \$3.0 million from private sources, other communities, and grants. The pledge will terminate at the end of 2017 unless I2P has successfully raised funds and may be renewed at City Council's option in future years.

Mayor Troxell withdrew from the discussion of this item due to a conflict of interest.

Josh Birks, Economic Health and Redevelopment Director, stated the objective of this funding is to move the 3D printing facility off-campus to create greater access to the public.

Eric Sutherland stated the Charter prohibits this type of funding, as it is a form of gifting.

Mike Pruznick questioned why a CSU program is receiving public funding and stated the dollars would be better spent on social programs.

Councilmember Martinez asked if this is a Charter violation. City Attorney Daggett replied the expenditure is furthering a legitimate municipal purpose and involves an agreement governing the use of the funds; therefore, the Charter does not prohibit the expenditure.

Councilmember Martinez made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 051, 2017, on First Reading.

Councilmember Cunniff asked if subsidies for materials have been considered. Birks replied the industry cluster grant helps to offset the operational costs of the lab and a supply closet of basic materials is provided for users.

Councilmember Cunniff expressed concern regarding the February sales tax shortfall. City Manager Atteberry replied returns were lower than projected for sales tax; however, use tax was higher than projected and a reserve fund exists. March tax numbers will be available prior to Second Reading of the Ordinance.

Councilmember Stephens asked if this funding will be needed continuously. Birks replied the \$3 million target for the lab covers its capital costs and runway to self-sufficiency for operation.

Councilmember Stephens asked if other communities have this type of lab. Birks replied it is based on a business model that has been proven to work in other areas in support of the entrepreneurial community.

Councilmember Stephens asked if the new facility will be accessible by transit. Birks replied that is a prime consideration.

Councilmember Stephens asked about youth use of the facility. Dr. David Prawel, Idea 2 Product, replied the key to this model is corporate participation. He discussed the vision of the program to serve the entire community, including students.

RESULT:	ORDINANCE NO. 051, 2017, ADOPTED ON FIRST READING [6 TO 0]
MOVER:	Ray Martinez, District 2
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Campana, Overbeck, Cunniff, Horak
RECUSED:	Troxell


● **ADJOURNMENT**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adjourn to 6:00 PM on March 28, 2017 to consider the items withdrawn from the Consent Agenda, a possible Executive Session, and such other matters as may come before the Council.

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

The meeting adjourned at 11:53 PM.




Mayor

ATTEST:

W Winkelmann
City Clerk