

August 8, 2017

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Special Meeting – 6:00 PM

- PLEDGE OF ALLEGIANCE
- CALL TO ORDER
- ROLL CALL

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

- AGENDA REVIEW

City Manager Atteberry recommended withdrawal of Item No. 5, *First Reading of Ordinance No. 104, 2017, Appropriating Unanticipated Revenue in the Capital Projects Fund and Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for Construction of the Final Five Acres of the Gardens on Spring Creek and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program*, to the August 15, 2017 agenda.

He announced City Clerk Winkelmann will be leaving to take the City Clerk position in Grand Junction and stated Delynn Coldiron, the current Neighborhood Services Manager, will take the interim position to be ratified by Resolution at the next Council meeting.

- DISCUSSION ITEMS

1. **Resolution 2017-073 Directing the City Manager to Submit to the Colorado Parks and Wildlife Commission and Other Agencies the City's Comments on the Fish and Wildlife Mitigation and Enhancement Plan for the Northern Integrated Supply Project and Directing Testimony Regarding the Same. (Adopted)**

*The purpose of this item is to consider a resolution to adopt a set of draft comments regarding the State of Colorado Fish and Wildlife Mitigation and Enhancement Plan (the Plan) for the Northern Integrated Supply Project (NISP). As early as the turn of the 19<sup>th</sup> century, the Poudre River was known as a "hard working" river. Now, well into the 21<sup>st</sup> century, pressures on the Poudre have increased dramatically as the region thrives. In the early 1970s Fort Collins realized that the Poudre had the potential to be more than an industrial zone. Since that time, Fort Collins has invested many tens of millions of dollars in parks, natural areas, river restoration, flood mitigation, and a riverside trail. Fort Collins owns about 70% of the floodplain within the city's growth management area. The Poudre River trail starts west of the City at the CPW Watson Lake facility and with the exception of a short section yet to be completed near Timnath, runs to Greeley. Throughout the year visitors through the River, including boaters, tubers, hikers, bikers, and anglers. According to a 2012 CPW report, the highest creel counts on the Poudre are in downtown Fort Collins not, as one might expect, in the upper reaches of the wild and scenic section.*

*In short, the 10 miles of the Poudre corridor through Fort Collins have become a defining feature of the community's connection to the outdoors, its culture, and its sense of place.*

*In 2015, Fort Collins City Council adopted a position regarding NISP in Resolution 2015-082. The resolution states that NISP would be harmful to Fort Collins and states "City Council cannot support NISP as it is currently described and proposed..."*

*In 2017, Fort Collins City Council adopted Resolution 2017-024 authorizing the City Manager and his designees to meet on a regular basis with Northern Water to discuss and explore Fort Collins' interests in order to ascertain whether those interests can be met pursuant to the terms of the resolution. To date, while several amicable meetings have occurred, Fort Collins and Northern Water have not reached any new understandings or agreements.*

*While staff's draft comment letter implicitly assumes that NISP will be permitted and constructed by recommending various changes to NISP and its operations, nothing in draft comment letter should be interpreted to be a change of Fort Collins' position regarding NISP.*

*While the Plan contains new, useful, and encouraging mitigation measures, staff continues to believe that NISP will have damaging impacts to Fort Collins and is concerned that the Plan does not sufficiently address a number of key concerns. In addition to describing a number of concerns, the comment letter also describes numerous recommendations to address the concerns.*

*The major elements of the proposed comments on the Plan are:*

- *Peak Flows*
- *Water Quality*
- *Mitigation, Restoration, Channel Improvements, and Conveyance*
- *Adaptive Management and Long-term Monitoring*
- *Uncertainties regarding agreements*
- *Mitigation and Enhancement Costs*
- *Big game habitat*

John Stokes, Natural Areas Director, stated this is an action item intended to review staff's proposed comments on the State of Colorado's fish and wildlife mitigation enhancement plan for the Northern Integrated Supply Project (NISP). Stokes discussed the public outreach process utilized and noted Council has two previously adopted Resolutions still in force regarding NISP.

Stokes stated the project is a water supply and storage project with 15 partners in the North Front Range area. The project would involve the construction of Glade Reservoir north of Ted's Place and water would be delivered through the yet-to-be-constructed Douglas Road Pipeline and partially in the Poudre River. Stokes stated a genuine effort is being made to address some of the City's concerns; however, further improvements are warranted.

Jennifer Shanahan, Natural Areas Department, discussed concerns related to peak flows and the City's recommendation that Northern Water take the current recommended peak flow program within the mitigation plan and improve it to consist of a 3-day period during which no diversion occurs. The second major theme involves the plan recommendations for working on the River and concerns that the proposal does not match the project impacts. The City is recommending restoration be increased, specifically of the River's connection to the floodplain. The City is also waiting for a quantitative analysis of water quality and is recommending the mitigation plan not be adopted until the results of the water quality analysis are made public.

Shanahan stated the City is recommending an independent stakeholder group be created to address adaptive management and monitoring.

Stokes stated a major element of the suggestions is that the total mitigation budget be increased by about \$18 million.

Delores Williams discussed the need for a free-flowing river and stated water from a low-level reservoir can be undrinkable.

Eric Sutherland questioned the binding effect of any adopted plans pursuant to federal approval. He stated this appears to be a surrender tactic by the City.

Gary Wockner, Save the Poudre, stated his group has been addressing the threats of NISP for 14 years and opposed the proposed City comments. He stated NISP will pull about \$1 billion worth of water out of the Poudre and will undermine the River.

Sarah Pitts, League of Women Voters, stated the Poudre is the defining feature of the community and stated it is not reasonable to rely on the mitigation plan proposals as Northern Water has been vague about the source of funding.

Councilmember Summers requested some clarification regarding whether the Reservoir can only be filled during years when runoff is excessive enough to divert. Stokes replied the primary water right being used by NISP is a junior water right and therefore, there may be years where no diversion can occur. A substantial portion of the water is not associated with the junior water right and is water that is exchanged from other ditch systems.

Councilmember Summers asked if more regular flows would occur if the Reservoir is constructed. Stokes replied the proposal is that some of the water diverted into Glade would be released back to the River and allowed to run for about 12 river miles down to Lemay, then it would be taken off the River, put in a pipe, and delivered to the east. A base flow would exist for 8 or 9 months of the year.

Councilmember Summers questioned whether Council would change its opinion if Northern Water agreed to all City recommendations.

Councilmember Overbeck discussed a letter from the Natural Resources Advisory Board which suggests delaying the approval of the mitigation plan until water quality effects have been fully described and Northern Water commits to a specific mitigation initiative. Stokes replied the staff letter reflects that and includes a suggestion that Colorado Parks and Wildlife not endorse this plan until the water quality information is available.

Councilmember Overbeck requested details regarding the escalation or inflation cost that will be included. Stokes replied the Denver region CPI is typically used.

Councilmember Stephens thanked the speakers and asked if there are concerns related to undrinkable water with this project. Shanahan stated algae has been discussed and the project falls within the flushing flow and base flow categories. Jill Oropeza, Water Quality Services Division Manager, stated the issue regarding warm water and algae is primarily a drinking water concern and the City's drinking sources will not be affected.

Councilmember Stephens asked what is binding and who would be enforcing requirements. Stokes replied the City's letter addresses uncertainties regarding agreements and the desire for more certainties to be included. Eric Potyondy, City Water Attorney, replied these plans are frequently included as part of the ultimate permit granted by the federal government, providing the mechanism by which these plans become legally enforceable.

Councilmember Summers asked who the independent oversight committee would include. Stokes replied it could be composed of individuals from not only Northern Water and Colorado Parks and Wildlife, but also scientists from CSU, the City of Fort Collins or other impacted cities.

Councilmember Summers asked if Northern Water has been found to operate with integrity and good intent. Stokes replied in the affirmative.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Stephens, to adopt Resolution 2017-073.

Councilmember Summers stated the presentation to Colorado Fish and Wildlife will be critical and must not simply be a list of demands. The City needs to show its commitment to being a collaborative, productive partner.

Councilmember Cunniff expressed appreciation for the work that has gone into this; however, he stated staff's comments include too much "couching" language. He stated he does not want to validate the State's poor process.

Councilmember Stephens stated the City needs to express its concerns and issues.

Councilmember Martinez stated progress only comes through dialogue.

Mayor Troxell supported the Resolution and stated the letter recognizes impacts to Fort Collins and addresses mitigation of those.

Councilmember Overbeck thanked the League of Women Voters for their work and efforts. He stated he cannot support the Resolution given there are no certainties.

Mayor Pro Tem Horak stated the decision does not lie with the City; therefore, it makes sense to send comments. He suggested some wording changes to make the staff comments firmer.

Councilmember Cunniff stated he is partly concerned about the language, but is also concerned about the process.

Councilmember Stephens asked about the meeting occurring in Trinidad making it difficult for community members to attend. Stokes replied meetings are scheduled around the state and this one happened to be in Trinidad. He stated staff could ask the Commission if it would be willing to meet in Fort Collins.

Councilmember Overbeck supported the inclusion of stronger language; however, he stated he is still unlikely to support adoption of the Resolution.

|                  |   |
|------------------|---|
| <b>RESULT:</b>   | <b>RESOLUTION 2017-073 ADOPTED [4 TO 3]</b> |
| <b>MOVER:</b>    | Gerry Horak, District 6                     |
| <b>SECONDER:</b> | Kristin Stephens, District 4                |
| <b>AYES:</b>     | Martinez, Stephens, Troxell, Horak          |
| <b>NAYS:</b>     | Summers, Overbeck, Cunniff                  |

2. **Items Relating to a Proposed Charter Amendment to Add a New Section to Charter Article XII Pertaining to Telecommunication Facilities and Services. (Adopted on First Reading)**

- A. *Possible Public Hearing and Motions Regarding Protest(s) of Ballot Language.*
- B. *First Reading of Ordinance No. 101, 2017, Submitting to a Vote of the Registered Electors of the City of Fort Collins a Proposed Amendment to Article XII of the City Charter to Add a New Section 7 Pertaining to Telecommunication Facilities and Services.*

*The purpose of this item is to propose an amendment to Charter Article XII, Municipal Public Utilities. The amendment would authorize the City Council to provide, by future ordinance, telecommunications/broadband facilities and services as a public utility, to issue of up to \$150 million in bonds, the ability to go into executive session to discuss matters related to competition in the telecommunications industry, and the option to establish governance of this public utility through a board and/or to delegate rate-making authority to the City Manager. This measure does not mandate that the City provide municipal retail broadband services, or that a third-party be the provider.*

*Any protest of the proposed ballot language must be received no later than Monday, August 7, 2017, at noon. The protest(s) shall be heard, considered, and resolved by Council prior to adoption of Ordinance No. 101, 2017. If protest(s) are received, copies will be included in Council's "Read-before" packet.*

SeonAh Kendall, Economic Health Manager, discussed the strategic objectives broadband service would address and detailed the history of the topic.

Jeff Mihelich, Deputy City Manager, stated there is clearly a positive economic impact for cities with 1 gigabit service. Access to broadband will allow Fort Collins to retain talented employees and increase competition among incumbent servers. Mihelich commented on the reliability and redundancy of the 1 gigabit service over currently existing service. He stated this item would go on the November ballot should Council choose to move forward, and if voters pass the item at that time, additional Council steps, including funding, would occur. The beginning of service date would be at some point in 2019 with full build-out in 2022.

Mike Beckstead, Chief Financial Officer, discussed the major decisions which are part of the broadband timeline, specifically indicating a November approval automatically causes this to move forward. He stated the draft ballot language asks for three things: add telecommunications to the current light and power electric utility, or create a fifth separate utility, issue securities and other debt in an amount not to exceed \$150 million, and modify the governance to operate in a commercial enterprise.

Beckstead discussed the allowed role of staff members between now and the November election. Staff is recommending adoption of the Ordinance to place the item on the ballot.

City Manager Atteberry stated the process has been solid, with thorough public outreach.

Mayor Troxell noted this item has been protested; therefore, a hearing pursuant to City Code Section 7-156 will occur.

Eric Sutherland, protestor, disagreed this process has been adequate and stated the proposed charter and ballot language should have been available for public scrutiny two weeks before it was actually published. He stated the ballot language is inconsistent with state law and the City Charter.

Councilmember Martinez expressed concern regarding the availability of the ballot language to the public. He asked about the normal practice for such an issue. City Attorney Daggett replied there is no normal practice from a legal standpoint for providing language in advance of the agenda publication; however, drafts have been provided in recent years when there is a great deal of anticipated public interest. In this case, there was a Council work session on July 11 and this material was provided in that agenda with minor tweaks since.

Councilmember Martinez asked why the executive session expansion is included for this particular project. City Attorney Daggett replied the executive session language included deals with the self-contained set of provisions related to this particular service. City Manager Atteberry noted the executive session proposed changes are tied specifically to broadband business needs.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to deny the protest.

Councilmember Cunniff stated he would support the motion and the executive session being part of this change has been adequately explained.

Councilmember Martinez stated the executive session aspect should be separate and this practice appears to be different than best practices have been used in the past.

Mayor Troxell stated he would support the motion and found the protest to be confusing.

Councilmember Martinez asked if the protest relates to the ballot language. Mayor Troxell replied the spirit of the protest is the ballot language; however, the protestor's comments related more to how City elections are handled. City Attorney Daggett replied the protest is specifically about the form of the ballot question and title.

Councilmember Martinez asked if the executive session language is part of what is being protested. City Attorney Daggett replied the executive session language is part of what is being proposed.

|                  |  |
|------------------|--|
| <b>RESULT:</b>   | <b>MOTION TO DENY PROTEST ADOPTED [6 TO 1]</b>       |
| <b>MOVER:</b>    | Gerry Horak, District 6                              |
| <b>SECONDER:</b> | Bob Overbeck, District 1                             |
| <b>AYES:</b>     | Stephens, Overbeck, Troxell, Cunniff, Horak, Summers |
| <b>NAYS:</b>     | Martinez,  |

Bob Carnahan expressed concern about telecommunications services being provided by the City. He opposed using City funds or City bonding capacity to enter a highly competitive private industry.

Joe Rowan stated this process, though long, has not been honest. He stated the business plan has yet to be fully vetted.

Glen Akins stated the financial aspects of this proposal work and the business pricing is competitive.

Sarah Hunt expressed concern regarding the cost of the proposal and stated there is not enough information for voters to make an informed decision. She questioned privacy issues as well.

Adam Eggleston supported the Ordinance and being on the forefront of this technology.

Dan Rhodes stated broadband will change the architecture of Fort Collins and supported placing the measure on the ballot.

Colin Garfield supported placing the measure on the ballot.

Eric Sutherland stated a broadband utility could still be created even if voters reject the measure. He stated the City should have initiated this measure years ago.

Thomas Edwards supported a unanimous Council vote on placing the measure on the ballot.

Councilmember Overbeck requested staff comments on privacy and consumer protection. Beckstead replied information was added to the business plan that details the commitment to maintain privacy, not share data, and maintain net neutrality.

Councilmember Overbeck asked about buy-in from utilities staff. City Manager Atteberry replied new staff would be required and he has not heard any negative comments from staff.

Councilmember Overbeck asked how equity and inclusion will be addressed. Beckstead stated a low-income rate is being contemplated; however, specific equity and inclusion plans have not been discussed.

Councilmember Martinez asked if Council will still need to approve future decisions should the ballot measure be approved. City Attorney Daggett replied the Charter language gives Council the power to take action in the future without further citizen vote and would authorize Council to make decisions about the governance structure.

Councilmember Martinez asked when a low-income pricing model will be developed. Beckstead replied that has yet to be done primarily because, while it is important for the community, it will not have a material financial impact on the decision.

Kendall stated preliminary discussions have occurred with Poudre School District and the library regarding a low-income rate tier.

Councilmember Martinez asked what percentage of Fort Collins residents currently have broadband service. Kendall replied broadband, through the City's definition, is 10 mbps and up, and approximately 92% of households have that service.

Councilmember Martinez asked if an analysis of potentially filling a gap rather than creating an entire new service has been considered. Beckstead replied filling the 8% market gap is not something the City has considered.

Councilmember Martinez asked if broadband would be a separate utility enterprise. Beckstead replied Council will make the choice to either place it in Light and Power or create a fifth utility. The staff recommendation is to place it within Light and Power.

Councilmember Martinez asked if this could be eventually added to capital expansion fees. Beckstead replied Light and Power has a plant improvement fee and there is a potential for a

broadband public improvement fee that supports development into annexed areas; however, that would be decided by Council. City Manager Atteberry stated that option has never been discussed and is not foreseen. City Attorney Daggett stated the possibility of a fee would depend on what infrastructure is being addressed through said fee. Any fee would be subject to a Council decision.

Councilmember Martinez asked if there is an additional connection cost for individuals wishing to receive a City broadband service. Beckstead replied he believes the connection fee is included in the cost of service for residential customers.

Councilmember Martinez asked if prices would eventually increase for customers. Beckstead replied there will likely be some inflation in pricing as costs begin to change over time.

Councilmember Martinez asked if existing fiber can be utilized. City Manager Atteberry replied that is possible to some extent; however, that will not solve all issues.

Councilmember Martinez asked how Chattanooga is measuring the success of its broadband utility. Coleman King, Chattanooga, Tennessee utilities, replied success is being measured by the projected take rate being exceeded, telecommunications debt being totally paid off, positive community impact, and the savings and electric reliability for the electric system.

Councilmember Martinez asked if Chattanooga looked at partnerships with other providers. King replied in the affirmative and stated a third-party partnership was risky given the customer experience cannot be controlled.

Councilmember Overbeck asked where King began in the process in Chattanooga. King replied he started with the financial modeling, followed by network design and technology selection, managing implementation of the technology, and running the video platform.

Councilmember Overbeck asked how far along the build-out is in Chattanooga. King replied build out was completed in 2.5 years.

Mayor Troxell asked how Chattanooga has addressed security and privacy concerns. King replied privacy is considered of utmost importance and data is not sold.

Mayor Troxell requested input regarding technology obsolescence. King replied upgrades are made to the end components rather than to the fiber network itself.

Councilmember Summers asked if the financial aspects will make the \$150 million debt payable in 15 years. Beckstead replied the math works based on the operating income, principal and interest payments, and the cash flow model.

Councilmember Summers stated clarity provides credibility and suggested the public would be better served by having a specific plan to consider at the polls.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 101, 2017, on First Reading.

Councilmember Martinez asked about Li-Fi. King replied Li-Fi is Wi-Fi using light and is geared toward LEDs. It is a new service, but not a symmetrical type service; therefore the take rate is probably questionable.



Councilmember Cunniff asked if Li-Fi works through buildings and other obstructions. King replied in the negative.

Councilmember Martinez asked about Comcast offering a \$70 rate. Beckstead replied competitive pricing is an evolving target.

Councilmember Martinez noted Chattanooga got \$100 million from the federal government. Beckstead replied their total cost was \$330 million with \$110 million from federal grants. Most of that \$110 million went toward installing automatic interrupters into their light and power system to improve reliability.

Councilmember Cunniff discussed the importance of good public outreach given there are several questions remaining. He stated city-style infrastructure is needed, which entails fiber optic connections. He supported the motion and requested the support of citizens.

Mayor Pro Tem Horak supported placing the measure on the ballot.

Councilmember Stephens supported placing the measure on the ballot and discussed the applications for broadband.

Councilmember Overbeck commended the rigorous, honest process and stated he would support the motion.

Councilmember Martinez stated citizens have the right to vote on issues; however, he stated he may not support the Ordinance on First Reading as he has remaining questions. He questioned spending \$150 million for a 28% take rate and expressed concern that threats outweigh opportunities.

Councilmember Summers supported engaging the community and moving forward with the technology; however, he questioned the business plan and its execution.

Mayor Troxell thanked the speakers and discussed the history of the utilities in Fort Collins. He stated this is a natural progression and a ubiquitous utility which is an important piece of the community's future.

Mayor Pro Tem Horak stated this is not necessarily the last time citizens will vote on this item.

Councilmember Martinez stated that take makes the issue more palatable.

Councilmember Summers disagreed and stated it makes things more confusing.

|                  |  |
|------------------|--|
| <b>RESULT:</b>   | <b>ORDINANCE NO. 101, 2017 ADOPTED ON FIRST READING [5 TO 2]</b> |
| <b>MOVER:</b>    | Gerry Horak, District 6  |
| <b>SECONDER:</b> | Bob Overbeck, District 1   |
| <b>AYES:</b>     | Stephens, Overbeck, Troxell, Cunniff, Horak                      |
| <b>NAYS:</b>     | Martinez, Summers  |

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

3. **Items Relating to a Proposed Charter Amendment Regarding Municipal Court Functions. (Postponed Indefinitely)**

A. *Possible Public Hearing and Motions Regarding Protest(s) of Ballot Language.*

B. *First Reading of Ordinance No. 102, 2017, Submitting to a Vote of the Electors of the City of Fort Collins a Proposed Amendment to Section 1 of Article VII of the City Charter Pertaining to the Jurisdiction of the Municipal Court to Hear Civil Cases.*

*This item sets a ballot question that would modify the jurisdiction of Municipal Court to eliminate the Municipal Court's jurisdiction over civil cases while retaining the Court's jurisdiction to hear and try all proceedings initiated by the City alleging violations of the Charter and ordinances of the City. The Ordinance submits the question to Fort Collins voters at the November 7, 2017, Special Municipal Election. The Charter Amendment has been proposed in order to prevent future appeals to Municipal Court of civil actions that are more appropriately heard in Larimer County District Court and that the Municipal Court is not well situated to hear.*

*Any protest of the proposed ballot language must be received no later than Monday, August 7, 2017, at noon. The protest(s) shall be heard, considered, and resolved by Council prior to adoption of Ordinance No. 102, 2017. If protest(s) are received, copies will be included in Council's "Read-before" packet.*

Mayor Troxell stated this item involves a protest.

City Attorney Daggett stated Home Rule municipalities have the authority to create Municipal Courts and define their jurisdiction. The kinds of civil actions not involving charter or ordinance violations can currently be filed in Municipal Court; however, those have routinely been filed in District Court. Recently a land use decision appealed to Council was filed in Municipal Court.

Municipal Court Judge Kathleen Lane stated the Court's procedures and staffing are set up to deal with the types of cases it has traditionally seen: violations of the City Code, Traffic Code, and other codes. When this recent civil action was filed, she made the determination to assign the case to temporary Judge Teresa Ablao. The plaintiffs in the case filed a motion to disqualify Judge Ablao which was granted based on the potential appearance of a conflict. At that point, the Judge in Loveland was asked to take the case based on an intergovernmental agreement. Because of these difficulties, staff is proposing a change to the Charter to restrict the jurisdiction of the Municipal Court to its typical cases.

City Attorney Daggett noted Larimer County District Court has jurisdiction to review actions and decisions of the City. Municipal Court cases can be appealed to the District Court; however, the addition of that layer does delay a case reaching a true appellate court by potentially several months. She discussed the public outreach process.

Eric Sutherland stated this change would place Fort Collins in the same position as statutory cities in Colorado, and if that is the goal, Article 7 should be eliminated entirely.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to deny the protest.

|                  |  |
|------------------|--|
| <b>RESULT:</b>   | <b>MOTION TO DENY PROTEST ADOPTED [7-0]</b>                    |
| <b>MOVER:</b>    | Gerry Horak, District 6  |
| <b>SECONDER:</b> | Bob Overbeck, District 1                                       |
| <b>AYES:</b>     | Stephens, Overbeck, Troxell, Cunniff, Horak, Summers, Martínez |

Rick Hoffman questioned why this change is being rushed forward and stated this amendment will take away citizens' rights to take grievances to Municipal Court.

Kathryn Dubiel stated the Charter change does not address the underlying concerns related to conflicts of interest, staffing, expertise and budgeting. She stated there should not be a difference between citizen plaintiffs and the City as a plaintiff and disagreed the public outreach process was adequate.

Paul Patterson opposed the Charter change and stated it will take away citizens' rights to take grievances to Municipal Court. He disagreed the public outreach process was adequate.

Eric Sutherland stated there is no concurrent jurisdiction for cases where an allegation of abuse of discretion by Council is concerned.

Thomas Edwards supported placing the measure on the ballot to allow citizens to have a voice.

Coleen Hoffman questioned the urgency of this item.

Councilmember Cunniff asked how the public outreach arenas were determined. City Manager Atteberry replied he would need to return with that information.

Councilmember Cunniff expressed concern regarding the urgency of this item and opposed the public outreach process.

City Attorney Daggett stated staff did discuss the issue with Broomfield, Denver, Aurora, and several other jurisdictions. Few descriptive responses were received as these jurisdictions are not facing these types of cases being filed in their courts.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to postpone Ordinance No. 102, 2017 indefinitely.

Councilmember Stephens agreed the process was rushed and stated citizens need to better understand why they are voting.

Councilmember Overbeck stated a more thorough public process should have occurred.

|                  |  |
|------------------|--|
| <b>RESULT:</b>   | <b>ORDINANCE NO. 102, 2017, POSTPONED INDEFINITELY [UNANIMOUS]</b> |
| <b>MOVER:</b>    | Gerry Horak, District 6  |
| <b>SECONDER:</b> | Ross Cunniff, District 5   |
| <b>AYES:</b>     | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak     |

4. **First Reading of Ordinance No. 103, 2017, Appropriating Prior Year Reserves in the General Fund for the Conduct of a Special Election on November 7, 2017, that was not included in the 2017 Adopted City Budget. (Adopted on First Reading)**

*The purpose of this item is to appropriate \$150,000 from prior year reserves for the conduct of the November 7, 2017, Special Election. This is an estimated amount based on prior participation in coordinated elections. Final costs will be determined by the number of eligible Fort Collins voters, and the number of entities participating/sharing in the cost of the election.*

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Ordinance No. 103, 2017, on First Reading.

|                  |  |
|------------------|--|
| <b>RESULT:</b>   | <b>ADOPTED ON FIRST READING [UNANIMOUS]</b>                    |
| <b>MOVER:</b>    | Gerry Horak, District 6  |
| <b>SECONDER:</b> | Bob Overbeck, District 1                                       |
| <b>AYES:</b>     | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak |

5. **First Reading of Ordinance No. 104, 2017, Appropriating Unanticipated Revenue in the Capital Projects Fund and Appropriating Prior Year Reserves in the General Fund for Transfer to the Capital Projects Fund for Construction of the Final Five Acres of the Gardens on Spring Creek and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program. (Withdrawn)**

*The purpose of this item is to appropriate \$2,631,000 for construction of the Gardens on Spring Creek facility including the Great Lawn, Undaunted Garden, Foothills and Prairie Gardens. This item also appropriates the funds needed for the Arts in Public Places artwork that is part of the capital project.*

|                |                  |
|----------------|------------------|
| <b>RESULT:</b> | <b>WITHDRAWN</b> |
|----------------|------------------|

6. **First Reading of Ordinance No. 105, 2017, Imposing a Moratorium Until December 31, 2017, upon the Acceptance of Applications for the Installation of and/or the Issuance of Right-of-Way Permits for New Antennas, Small Cell Facilities, Towers and Wireless Service facilities by any Third Party in City Rights-of-Way in any Zone District. (Withdrawn)**

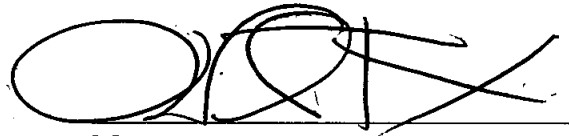
*The purpose of this item is to consider a moratorium until December 31, 2017, on the installation of cellular facilities in public rights-of-way. This would allow the City time to draft and implement appropriate regulations on such installations while still complying with HB 17-1193, which expanded the right of companies to utilize the right of way for small cell installations.*

Mayor Troxell stated this item has been postponed to August 15, 2017 given the late hour.

|                |                  |
|----------------|------------------|
| <b>RESULT:</b> | <b>WITHDRAWN</b> |
|----------------|------------------|

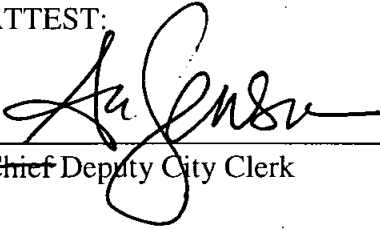
• ADJOURNMENT

The meeting adjourned at 10:06 PM.



Mayor

ATTEST:



Chief Deputy City Clerk

