

November 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, Summers, Overbeck, Troxell, Cunniff, Horak  
Staff Present: Atteberry, Daggett, Coldiron

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated Item No. 7, *Second Reading of Ordinance No. 146, 2017, Amending Article 2 of the Land Use Code to Add Section 2.19 Titled "Reasonable Accommodation Process,"* was revised and reposted on Friday, November 17 and Item No. 24, *First Reading of Ordinance No. 164, 2017, Amending Chapter 23.5 of the Code of the City of Fort Collins Pertaining to Special Events,* will be withdrawn and rescheduled to January 16, 2018 to allow for additional staff review. City Manager Atteberry recommended the URA 2018 Budget Adoption Resolution be reconsidered on December 5.

● **CITIZEN PARTICIPATION**

Forrest (no last name given) requested Council cease all negotiations with Northern Water regarding Glade Reservoir and demand the application be retracted. He also requested the immediate legalization of rainwater collection and storage and suggested the passing of a law requiring all new developments to designate at least 15% of new units as low-income or affordable housing units.

Colin Garfield discussed the successful "Yes for 2B" campaign and compared its expenditures to those far outweighing them on the opposing side.

Caitlin (no last name given) questioned why the Brown Farm district is restricted from having short term rentals and questioned why the "U+2" Ordinance remains in effect.

Lisa (no last name given) stated the city's growth is unmanageable and its infrastructure is not keeping up with growth.

Robert Perry opposed the impact of the camping ordinance on homeless residents, stating residents have an inalienable right to live.

Shannon Blases discussed vagrancy on private property and supported Council's enforcement of existing laws.

George Grossman, Happy Lucky's Teahouse, congratulated the City on winning the Baldrige Award and discussed the potential negative financial impacts of the upcoming 3-month long construction project and closure on Walnut Street.

David Montgomery played an audio of Police and court interactions and judgements related to Jefferson Park boundaries and sidewalk closures.

William Montgomery continued the audio recording.

Thomas Edwards questioned bicycle rack accessibility at EPIC, opposed public defecation in Old Town, and requested the formation of a Veteran's Board in the city.

- **CITIZEN PARTICIPATION FOLLOW-UP**

Mayor Troxell summarized the citizen participation comments.

Councilmember Martinez asked if there are bus stops on Trilby, per Lisa's comments. Mayor Pro Tem Horak replied Lisa attended a listening session during which her questions were answered; there are no bus stops on Trilby.

Councilmember Martinez asked about accommodations being made for the Walnut Street construction. Kevin Gertig, Utilities Executive Director, discussed the need for a new water line to be placed in the area and stated sidewalks will be open. Two full time project managers will be assigned to the project, pedestrian signage will be placed, and the project will move as quickly as possible. Outreach has occurred and will continue throughout the project.

Councilmember Overbeck commended Gertig's handling of public outreach and asked if parking garage fees could potentially be altered to encourage customers to use the businesses. City Manager Atteberry replied he could provide a staff memo to Council regarding that possibility.

Councilmember Cunniff requested information regarding the timing of this project in relation to the availability of the Elizabeth Hotel parking structure.

Mayor Pro Tem Horak asked if the 3-month time frame factors in potential weather delays. Matt Fater, Water Engineering Field Services, replied in the affirmative and stated he would provide more detailed information in a memo.

Councilmember Stephens asked if the Economic Health department has ideas to mitigate other than signage.

- **CONSENT CALENDAR**

Councilmember Overbeck withdrew Item No. 20, *Resolution 2017-103 Adopting the City's 2018 Legislative Policy Agenda*, from the Consent Agenda.

Councilmember Cunniff withdrew Item No. 7, *Second Reading of Ordinance No. 146, 2017, Amending Article 2 of the Land Use Code to Add Section 2.19 Titled "Reasonable Accommodation Process,"* from the Consent Agenda.

Rich Stave withdrew Item No. 8, *Second Reading of Ordinance No. 148, 2017, Amending Various Provisions of the Code of the City of Fort Collins and the Land Use Code to Allow for the Discretionary Waiver of City Fees on Additional Affordable Housing Projects to be Constructed in the City,* 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.

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| <b>RESULT:</b>   | <b>CONSENT CALENDAR ADOPTED [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 |

1. **Second Reading of Ordinance No. 154, 2017, Being the Annual Appropriation Ordinance Relating to the Annual Appropriations for the Fiscal Year 2018; Amending the Budget for the Fiscal Year Beginning January 1, 2018, and Ending December 31, 2018; and Fixing the Mill Levy for Property Taxes Payable in 2018. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 7, 2017, amends the adopted 2018 Budget and set \$612,965,832 as the amount of the City's appropriation for fiscal year 2018. It also includes the 2018 adopted budgets for the General Improvement District (GID) No. 1 of \$508,107, the GID No. 15 - Skyview of \$1,000, the Urban Renewal Authority (URA) budget of \$6,058,208 and the Downtown Development Authority (DDA) of \$12,507,673, resulting in total City Council appropriations of \$632,040,820 in fiscal year 2018. The Net City Budget, which excludes GID No. 1, GID No. 15 - Skyview, URA, DDA and internal transfers between City funds, is \$484,721,050 for 2018.

Section 4.a. of the Ordinance has been revised between First and Second Reading to explicitly state that the 9.797 mill levy will be imposed on the assessed value of taxable property as set by state law for property taxes payable in 2018.

2. **Second Reading of Ordinance No. 138, 2017, Adopting the 2018 Budget and Appropriating the Fort Collins Share of the 2018 Fiscal Year Operating and Capital Improvement Funds for the Northern Colorado Regional Airport. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 7, 2017, appropriates the City's 50% share of the 2018 Northern Colorado Regional Airport budget. The Airport's total budget is comprised of an operating budget and a capital budget. The 2018 annual operating budget is \$1,211,500, and will be funded using Airport operating revenues and non-operating revenues derived through contributions from the Cities of Fort Collins and Loveland (\$242,500 from each City). The proposed capital budget is \$365,000, and is funded through federal grants, state grants, and Airport operating revenue. This decrease is due to no anticipated FAA grant funding availability for 2018.

This Ordinance appropriates the City of Fort Collins 50% share of the 2018 Airport operating budget, which totals \$605,750 and the City of Fort Collins 50% share of the 2018 capital budget, which totals \$182,500. The City of Loveland will be appropriating the other 50%. The Airport operating budget is used to maintain and operate the Airport in compliance with all regulatory standards for safety and security, and to achieve the Council-approved Airport Strategic Plan. The Airport capital budget will be used to complete Airport improvement projects including runway and taxiway rehabilitation and preservation, taxiway sign safety modifications, an Airport Master Plan update, and acquisition of snow removal equipment.

3. **Second Reading of Ordinance No. 139, 2017, Being the Annual Appropriation Ordinance for the Fort Collins Downtown Development Authority Relating to the Annual Appropriations for the Fiscal Year 2018 and Fixing Mill Levy for the Downtown Development Authority. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 7, 2017, sets the Downtown Development Authority (DDA) Budget. The following amounts will be appropriated:

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|---|-------------|
| DDA Public/Private Investments & Programs | \$2,589,216 |
| DDA Operations & Maintenance              | \$ 793,937  |
| Revolving Line of Credit Draws            | \$3,300,000 |
| DDA Debt Service Fund                     | \$5,824,521 |

The Ordinance sets the 2018 Mill Levy for the Fort Collins DDA at five mills, unchanged since tax year 2002. The approved Budget becomes the Downtown Development Authority's financial plan for 2018.

The Ordinance has been revised between First and Second Reading to more explicitly state that the 2018 DDA Budget adopted and recommended by the DDA Board is also being approved by Council as provided in C.R.S. Section 31-25-816(1). It has also been revised to explicitly state that the mill levy set will be imposed on the assessed value of taxable property, as set by state law for property taxes payable in 2018.

4. **Second Reading of Ordinance No. 140, 2017, Appropriating Prior Year Reserves in the Transportation Capital Expansion Fee Fund and Authorizing the Transfer of Appropriations from the Transportation Capital Expansion Fee Fund into the Capital Project Fund for the Lemay and Vine Intersection Project, and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 7, 2017, appropriates \$1,400,000 of prior year reserves in the Transportation Capital Expansion Fee Fund for the Lemay and Vine Intersection Project. The Lemay Avenue realignment and intersection improvements have been prioritized as the City's #1 Transportation Capital Improvement Project. The improvements will construct a new roadway (realigned Lemay) from Lincoln Avenue to Conifer Street, and a new intersection slightly northeast of the existing Vine Drive and Lemay Avenue intersection. The City has utilized an extensive planning process over the past 25 years to plan for the proposed right-of-way and utility corridor alignments, regional stormwater improvements, and multi-modal connectivity

5. **Second Reading of Ordinance No. 141, 2017, Appropriating Unanticipated Grant Revenue in the General Fund for Hairy Willow Herb-Affected Lands Management. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 7, 2017, appropriates \$6,000 of unanticipated grant revenues from the Colorado Department of Agriculture Noxious Weed Management Program into the General Fund. This project provides for contracted herbicide applications to private property owners affected by Hairy Willow Herb. Hairy Willow Herb is a List A aquatic species requiring mandatory eradication by local governing agencies. Additionally, two acres in City Natural Areas that are now bare due to efforts last year to treat Hairy Willow Herb will be reseeded.

6. **Second Reading of Ordinance No. 142, 2017, Waiving Certain Fees for Housing Catalyst's Village on Horsetooth Affordable Housing Project and Appropriating Prior Year Reserves in Various City Funds to Pay Specified Fees. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 7, 2017, authorizes development fee waivers in the amount of \$352,319 to Housing Catalyst for its Village on Horsetooth affordable housing project pursuant to City Code, the Land Use Code and an Intergovernmental Agreement between the City of Fort Collins and the Fort Collins Housing Authority dated July 3, 2013, and to make an appropriation to reimburse any waived capital expansion fees.

7. **Second Reading of Ordinance No. 149, 2017, Annexing the Property Known as the Fox Hills Second Annexation to the City of Fort Collins, Colorado. (Adopted)**

This Ordinance unanimously adopted on First Reading on November 7, 2017, annexes 20.4 acres located approximately 3,300 feet west of the intersection of County Road 38E (Harmony Road) and Taft Hill Road. into the City. The residents of the Fox Hills subdivision have petitioned to be annexed into the City of Fort Collins. The annexation area also includes 31 single-family dwellings and residual open land that are part of the Fox Hills subdivision west of Red Fox Road. The requested zoning for this annexation is the Residential Foothills (R-F) zone district, which complies with the City of Fort Collins Structure Plan. The surrounding properties are existing residential uses.

8. **Second Reading of Ordinance No. 150, 2017, Amending the Zoning Map of Fort Collins and Classifying for Zoning Purposes the Property Included in the Fox Hills Second Annexation to the City of Fort Collins, Colorado and Approving Corresponding Changes to the Residential Neighborhood 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.*

This Ordinance, unanimously adopted on First Reading on November 7, 2017, zones the property included in the Fox Hills Second Annexation into the Residential Foothills (R-F) zone district and adds the property to the Residential Neighborhood Sign District.

9. **Second Reading of Ordinance No. 151, 2017, Annexing Property Known as the I-25 Third Annexation to the City of Fort Collins, Colorado. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 7, 2017, annexes approximately 282 acres of I-25 right-of-way. This is a 100% voluntary annexation and zoning of two parcels owned and administered by the Colorado Department of Transportation. Area No. 1 is approximately one and a third (1.33) miles in length and spans north to south from East Vine Drive to Smithfield Drive, just south of the I-25 East Mulberry interchange. Area No. 2 is approximately four and a half (4.50) miles in length and spans north to south from East Harmony Road to the boundary of the Growth Management Area which terminates south of Carpenter Road. Contiguity with the existing municipal boundary is gained with 11 previous annexations that surround portions of the north, east, south and west side of the I-25 Third annexation.

The annexation of I-25 will benefit residents of Fort Collins through improved emergency response and more efficient completion of planned capital projects. The I-25 Third Annexation will allow the Colorado Department of Transportation and City of Fort Collins to clear up jurisdictional service questions between Larimer County, the Town of Timnath, the Town of Windsor and the City of Fort Collins. One benefit of the I-25 corridor being added to the City of Fort Collins service area is quicker response times and more police per capita than Larimer County Sheriff's Department. Additionally, the annexation is expected to allow better coordination between City and State Department of Transportation staff during several upcoming capital projects, listed below. This improved coordination of the following projects can help reduce administrative delays due to greater amount of staff in comparison to Larimer County.

1. Construction of a Park & Ride Facility at I-25 and Mulberry Street interchange
2. Reconstruction of the I-25 / Mulberry St. interchange
3. Expansion of I-25 that includes, replacement of the Cache la Poudre River bridges; connection of the Cache la Poudre River Regional Trail and creation of a wildlife corridor under I-25; addition of express lanes (third lane) from Timnath to Prospect Road and widening the Great Western Railroad bridges that cross over I-25 between Harmony and Prospect Roads.

10. **Second Reading of Ordinance No. 152, 2017, Amending the Zoning Map of the City of Fort Collins and Classifying for Zoning Purposes the Property Included in the I-25 Third Annexation to the City of Fort Collins, Colorado, and Approving Corresponding Changes to the Residential Neighborhood 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.*

This Ordinance, unanimously adopted on First Reading on November 7, 2017, zones the property included in the I-25 Third Annexation into the Community Commercial (CC), Industrial (I), Public Open Lands (POL) and Rural Lands District (RUL) zone districts.

11. **Second Reading of Ordinance No. 153, 2017, Authorizing the Conveyance of a Portion of City Property in the Trail Head Subdivision in Exchange for a Parcel of Land from Trail Head Homes, LLC. (Adopted)**

This Ordinance, unanimously adopted on First Reading on November 7, 2017, authorizes the exchange of portions of property located in the Trail Head Subdivision with Trail Head Homes, LLC. The City of Fort Collins owns a parcel of land known as Tract H, Trail Head Subdivision, for the purpose of a future City park. Trail Head Homes, LLC owns a parcel of land directly south of the City Property known as Tract G, Trail Head Subdivision. The current boundary line between the properties is not conducive for park programming needs. The Park Planning & Development Department staff and Trail Head Homes, LLC have negotiated an exchange of portions of these tracts to rearrange the existing lot line between the two properties. The land exchange will be beneficial for Trail Head Homes, the City and ultimately the Trail Head Neighborhood because the exchange will create a better space for the park design, ultimately benefitting all parties involved. This Ordinance authorizes the Mayor to execute the documents necessary to exchange the properties between the City and Trail Head Homes, LLC, recognizing that no funds will need to be paid between parties based on the comparable values of the two parcels. After City Council adoption on First Reading, the legal descriptions depicted on Exhibit B of the Ordinance were amended to correct calls within the descriptions. The square footage and layout of the parcels to be exchanged remain the same.

12. **Items Relating to the Community Services 2018 Mid-Year Budget Cycle Appropriation Requests. (Adopted)**

- A. First Reading of Ordinance No. 158, 2017, Appropriating Prior Year Reserves in the Natural Areas Fund and Authorizing the Transfer of Appropriations from the Natural Areas Fund into the Capital Project Fund for the Natural Areas Maintenance Facility Expansion Project and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program.
- B. First Reading of Ordinance No. 159, 2017, Appropriating Prior Year Reserves in the Capital Expansion Fund and Authorizing the Transfer of Appropriations from the Capital Expansion Fund into the Capital Project Fund for Community Park Development and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program.
- C. First Reading of Ordinance No. 160, 2017, Appropriating Prior Year Reserves in the Capital Expansion Fund and Authorizing the Transfer of Appropriations from the Capital Expansion Fund into the Capital Project Fund for the East District Maintenance Facility and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program.

The purpose of this item is to approve recommended appropriation requests for Natural Areas and Parks and Park Planning & Development projects. These projects, which were reviewed by City Council at the October 24, 2017 Council Work Session, include a Natural Areas Maintenance Facility Expansion, Community Park Development and an East District Park Maintenance Facility

13. **Items Relating to the Horsetooth Road and College Avenue Intersection Improvement Project (Adopted)**

- A. First Reading of Ordinance No. 161, 2017, Appropriating Prior Year Reserves in the Transportation Capital Expansion Fee Fund and Authorizing the Transfer of Appropriations from the Transportation Capital Expansion Fee Fund into the Capital Project Fund for the "Horsetooth and College Intersection Project", and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program.
- B. First Reading of Ordinance No. 162, 2017, Authorizing the Acquisition by Eminent Domain of Certain Lands Necessary to Construct Public Improvements in Connection with the Horsetooth Road and College Avenue Intersection Improvements Project.

The purpose of this item is to appropriate \$1,100,000 of prior year reserves in the Transportation Capital Expansion Fee Fund and obtain authorization from City Council to use eminent domain, if deemed necessary, to acquire property interests needed to construct improvements to the intersection of Horsetooth Road and College Avenue. Council previously appropriated the majority of the project funding through previous Council actions including the 2017-2018 budget process, which identified additional funding was going to be needed with a future appropriation in 2019. The project was previously scheduled to be completed in 2019, but the project schedule has been accelerated to be complete in 2018. In order to accommodate the schedule acceleration, this appropriation would complete the total project funding need of \$7,250,000 in 2018, allowing the construction to be complete by the end of 2018. The project will construct road and intersection improvements, multimodal enhancements, utility improvements, and signal improvements. These improvements will be done in conjunction with the Midtown in Motion Plan. Timely acquisition of the property is necessary to meet the anticipated construction schedule. Staff fully intends to negotiate in good faith with the affected owners and is optimistic that all property negotiations can be completed prior to the start of the Project. Staff is requesting authorization of eminent domain for all property acquisitions for the Project only if such action is deemed necessary. Since the Project is partially funded by Colorado Department of Transportation (CDOT), these acquisitions must follow federal guidelines, which require City staff obtain authorization to use eminent domain procedures.

14. **Items Relating to Code Amendments to Manage Small Cell and Other Communication Facility Installations in City Rights-of-Way and on City Infrastructure. (Adopted)**

- A. First Reading of Ordinance No. 143, 2017, Amending Chapter 23 of the Code of the City of Fort Collins to Establish Communication Facility Encroachment Permits.
- B. First Reading of Ordinance No. 144, 2017, Amending Articles 3 and 5 of the Land Use Code Regarding Small Cell Facilities

The purpose of this item is to consider additions to the City Code to regulate the installation of small cellular and other communication equipment in the City's rights-of-way, establish a permit to allow such installations and to consider less extensive changes to the Land Use Code to clarify that the review of such applications for use of the City's right-of-way is addressed under the City Code regulations. The City Code language has been recommended for approval by the Energy Board and the Land Use Code language has been recommended for approval by the Planning and Zoning Board.

15. **First Reading of Ordinance No. 163, 2017, Repealing and Reenacting Article V of Chapter 24 of the Code of the City of Fort Collins and Amending the Fort Collins Traffic Code Regarding the Residential Parking Permit Program. (Adopted)**

The purpose of this item is to amend the City Code and Traffic Code to include elements of the Residential Parking Permit Program (RP3) as discussed at the August 22, 2017 Work Session, and to change some existing provisions that are no longer being used. Notably, we have added to the Code the RP3 management area and amended the Code to provide the City Manager to create regulations regarding the process for fast-tracking areas affected by spillover parking (parking in neighborhoods adjacent to newly-adopted RP3 zones). Some additional revisions are proposed to ensure consistency between the current administrative procedures and the Code.

16. **Resolution 2017-101 Adopting Amendments to the City's Financial Management Policies. (Adopted)**

The purpose of this item is to update the City's Financial Policies. Changes are recommended to three existing financial policies; Budget, General and Fund Balance Minimums. Council Finance Committee reviewed staff proposed changes on October 16, 2017.

17. **Resolution 2017-102 Authorizing the City Manager to Execute an Agreement with Colorado State University to Purchase Stormwater-Related Research Services Concerning Winter Runoff Monitoring in Spring Creek. (Adopted)**

The purpose of this item is to authorize the City Manager to execute an agreement with Colorado State University (CSU), under which the City (through the Stormwater Utility) would purchase stormwater-related research services concerning winter runoff monitoring in Spring Creek. The term of the agreement is December 1, 2017 through June 30, 2018 and the cost to the City is \$23,000.

18. **Resolution 2017-104 Urging the Colorado General Assembly to Pass Legislation During the 2018 Session to Reauthorize the Colorado Lottery Division to the Year 2039. (Adopted)**

The purpose of this item is to express Council's desire to urge the General Assembly to pass legislation in the 2018 session to reauthorize the Colorado Division of Lottery from the year 2018 to 2039. The Colorado Lottery Division administers the Great Outdoors Colorado (GOCO) funds, which has distributed over \$40 million directly to the City of Fort Collins for parks, trails, open space, wildlife, outdoor recreation, and other amenities.

19. **Resolution 2017-105 Ratifying the Appointment of Matt Schildt to the Poudre River Public Library District Board of Trustees. (Adopted)**

The purpose of this item is to recommend ratification of the appointment of Matt Schildt to the Poudre River Library District Board of Trustees. On October 24, 2017 Ms. Linda Gabel submitted a letter of resignation, effective immediately. The Library Selection Committee determined that Matt Schildt who submitted an application in January 2017 should be appointed to fill the vacancy created by the resignation of Linda Gabel.

● **CONSENT CALENDAR FOLLOW-UP**

In reference to Item No. 16, *Items Relating to Code Amendments to Manage Small Cell and Other Communication Facility Installations in City Rights-of-Way and on City Infrastructure*, Councilmember Summers discussed his desire to work more with the industry regarding small cell regulations. He stated it does not benefit Fort Collins to make the development of new infrastructure more challenging. City Manager Atteberry replied he had not received any feedback as described. Tyler Marr, Policy and Project Analyst, replied staff has attempted to be very engaging with carriers on two different drafts of the Code regulations. Remaining points of disagreement will hopefully be addressed prior to Second Reading.

Regarding Item No. 17, *First Reading of Ordinance No. 163, 2017, Repealing and Reenacting Article V of Chapter 24 of the Code of the City of Fort Collins and Amending the Fort Collins Traffic Code Regarding the Residential Parking Permit Program*, Councilmember Cunniff requested a memo prior to Second Reading discussing staff's plans to administer voting.

Councilmember Stephens identified Item No. 15, *Items Relating to the Horsetooth Road and College Avenue Intersection Improvement Project*, as a good news item.

● **COUNCILMEMBER REPORTS**

Councilmember Summers recognized Northern Colorado Rehab Hospital and reported on the National League of Cities conference in North Carolina.

Councilmember Stephens continued the report on the National League of Cities conference. She stated Fort Collins received an award for being a National League of Cities member for 50 years.



Councilmember Overbeck reported on the Poudre Heritage Alliance's annual retreat and the National League of Cities conference. He also congratulated CSU on closing the gender and minority pay gap.

Mayor Troxell reported on his participation in a panel on data-driven budgeting processes at the National League of Cities conference. He recognized staff and the City for its receipt of the Baldrige award.

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

20. **Second Reading of Ordinance No. 146, 2017, Amending Article 2 of the Land Use Code to Add Section 2.19 Titled "Reasonable Accommodation Process". (Adopted on Second Reading)**

*This Ordinance, unanimously adopted on First Reading on November 7, 2017, revises the Land Use Code to add a process to review a request for a reasonable accommodation for qualified individuals under the Fair Housing Act and the Americans with Disabilities Act. This Ordinance establishes an administrative review process and provides criteria to be considered when reviewing a request for a reasonable accommodation.*

Councilmember Cunniff stated he has concerns about the changes to the appeal process that occurred between First and Second Readings. He expressed concern the only recourse a citizen would have if he believes the City has incorrectly granted an accommodation is District Court and there are expenditures associated with that.

Councilmember Cunniff expressed concern the appeals process has not been handled properly.

Councilmember Martinez asked who is eligible to file an appeal. Councilmember Cunniff replied that would be part of the development of any changes, but is likely limited to parties-in-interest.

Councilmember Cunniff suggested allowing the item to move forward but taking further action to refine the appeals process.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adopt Ordinance No. 146, 2017, as amended, on Second Reading.

Mayor Pro Tem Horak and other Councilmembers supported looking at the appeals process and requested a follow-up memo from the City Manager and City Attorney.

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| <b>RESULT:</b>   | <b>ORDINANCE NO. 146, 2017, ADOPTED ON SECOND READING [UNANIMOUS]</b> |
| <b>MOVER:</b>    | Gerry Horak, District 6   |
| <b>SECONDER:</b> | Ray Martinez, District 2  |
| <b>AYES:</b>     | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak        |

21. **Resolution 2017-103 Adopting the City's 2018 Legislative Policy Agenda. (Adopted)**

*The purpose of this item is to consider and adopt the City's 2018 Legislative Policy Agenda. Each year the Legislative Review Committee (LRC) develops a legislative agenda to assist in the analysis of pending legislation and regulation. The Legislative Policy Agenda is used as a guide by Council and staff to determine positions on legislation and regulation pending at the state and federal levels and as a general reference for the City's state legislators and congressional delegation.*

Councilmember Overbeck stated he would like to see a broader Council discussion regarding priorities and possibly strengthening oil and gas aspects of the agenda.

Doug Henderson, 350 Northern Colorado, expressed support for the Legislative Policy Agenda addressing climate change and the need for climate action. He stated the main emphasis should be placed on minimizing climate change with a secondary priority on resilience. He expressed concern about the removal of language in the priorities section pertaining directly to oil and gas development issues.

Elizabeth Hudetz, Fort Collins Sustainability Group, expressed disappointment so many issues related to the oil and gas industry have been removed from the priority list.

Vicky McLane requested Council reinstate oil and gas issues as a legislative priority.

Ted Walkup requested Council reinstate oil and gas issues as a legislative priority.

Bob Viscount requested Council reinstate oil and gas issues as a legislative priority.

Peggy LaPoint supported priorities with environmental focus but expressed concern regarding the removal of the oil and gas item.

Councilmember Summers made a motion, seconded by Councilmember Martinez, to adopt Resolution 2017-103.

Councilmember Summers stated Council has no plans to proactively advance any legislation in 2018. He stated adding an oil and gas item will not address areas of concern and stated the focus should be on climate, air quality, and alternative energy development, which are already in state priorities.

Councilmember Cunniff asked the Legislative Review Committee members to describe which portions of the agenda were actually removed. Councilmember Summers replied the oil and gas item was replaced with the priority on mental health.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to amend the Resolution title to add "and state and federal legislative priorities," add sections 4 and 5, and add items to the priority list addressing local control. He reiterated other Councilmembers' statements that staff and the City will address items as they come up in the state legislature.

Councilmember Cunniff offered a friendly amendment to add "environmental health" after "safety and welfare." Mayor Pro Tem Horak accepted the friendly amendment.

Councilmembers Summers and Martinez accepted the motion to amend as friendly.

Councilmember Overbeck made a motion to include the 2017 oil and gas operations items into the 2018 agenda. The motion died for lack of a second.

Councilmember Cunniff suggested adding oil and gas specifics into the larger policy agenda.

Councilmember Overbeck supported Councilmember Cunniff's suggestion.

Councilmember Summers clarified the City can always weigh in on any topic at the state level, regardless of the contents of these documents.

Councilmember Overbeck expressed his support for the inclusion of the specific oil and gas wording.

Councilmember Cunniff made a motion, seconded by Councilmember Stephens, to amend the motion to add an item to the Legislative Policy Agenda regarding supporting legislation which strengthens surface land owners' rights regarding oil and gas surface operations and to add an item supporting aligning federal marijuana law with the Colorado Constitution.

Councilmember Summers opposed the amendment and stated ignoring mineral rights is ignoring state law. He stated he is emphatically opposed to the marijuana amendment.

Councilmember Overbeck commended the process on this item and stated he would support the amendment.

Councilmember Cunniff stated he could support changing language from "strengthens" to "better balances" the relationship between land owners and mineral rights owners. Councilmember Stephens accepted the amendment as friendly.

Mayor Troxell stated he would oppose the amendment.

The vote on the motion to amend was as follows: Yeas: Overbeck, Stephens, Cunniff and Horak. Nays: Troxell, Martinez and Summers.

Mayor Pro Tem Horak suggested eliminating the priorities in the document altogether. He made a motion to amend to strike his previous addition of state and federal legislative priorities, strike sections 4 and 5, and to eliminate anything relating to the legislative priorities in exhibits B and C. The result of this change would be the maintenance of the original Resolution less the summary document.

Councilmember Stephens thanked the speakers and stated she is comfortable with the changes and current motion.

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| <b>RESULT:</b>   | <b>RESOLUTION 2017-103 ADOPTED [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 |

● **DISCUSSION ITEMS**

22. **Items Relating to the 2018 Utility Rates. (Adopted on Second Reading)**

A. *Second Reading of Ordinance No. 155, 2017, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Electric Rates, Fees and Charges and Updating Related Provisions.*

B. *Second Reading of Ordinance No. 156, 2017, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Water Rates, Fees and Charges and Updating Related Provisions.*

*C. Second Reading of Ordinance No. 157, 2017, Amending Chapter 26 of the Code of the City of Fort Collins to Revise Wastewater Rates, Fees and Charges*

*These Ordinances relate to 2018 proposed utility rates. A 1.8% increase to monthly charges is proposed for the Electric Fund in 2018. Electric rate increases are proposed to meet increased wholesale costs and to provide some operating income to the utility. On First Reading, Council adopted Option 3 of Ordinance No. 155, 2017, which defaults all residential customers to the residential time of use (TOU) + tier option, with the exception of electric heat customers, who would be on the standard TOU rate. Ordinance No. 155, 2017 was adopted on First Reading on November 7, 2017, by a vote of 4-3 (Nays: Martinez, Summers, Troxell)*

*A 5.0% overall rate increase is proposed for the Water Fund in 2018, with variations by rate class. Water rates are proposed to increase to meet the anticipated capital needs of the utility. A 3.0% overall rate increase is proposed for the Wastewater Utility in 2018, with variations by rate class. Wastewater rates are proposed to be increased to address previous operating revenue shortfalls to meet anticipated capital expenditures for the utility. Ordinance Nos. 156 and 157, 2017, were unanimously adopted on First Reading on November 7, 2017.*

Eric Sutherland stated he has lobbied for time-of-use rates for years; however, the current proposal is not reasonable. He stated the retail rate should correlate with the variability of the wholesale market.

Rich Stave stated he never received a response to a letter he sent Mayor Pro Tem Horak. He stated there is no correlation with the proposal to greenhouse gases. He questioned the impact of the rates on individuals with all-electric service and opposed time of use for all-electric customers.

Elizabeth Hudetz, Fort Collins Sustainability Group, supported Option 3 and encouraged the City to reconsider an income-qualified electric rate.

Shannon Blases stated he has an all-electric house and despite having solar panels and all LED lights, he still pays \$500 a month for heat in the winter. He opposed the proposed rates for all-electric properties.

R. Cook Cloninger opposed the proposed rates for all-electric properties. She requested Council consider an option of a rate cap or not using time-of-use rates for all-electric properties.

Councilmember Cunniff asked if the time-of-use rate for a constant load like electric heat should be rate neutral. Randy Reuscher, Utilities Rate Analyst, replied the pilot study for electric homes showed a 1.9% increase overall. Regarding electric heat specifically, there are typically seasonal shifts.

Councilmember Cunniff asked if all-electric customers are exempt from the tier. Reuscher replied in the affirmative and stated there is a separate demand rate which is not implicated by the tiered component.

Councilmember Overbeck asked when the rates would come back before Council should this proposal negatively impact all-electric customers. Reuscher replied staff is proposing to roll this out as a default rate in October 2018 and it would be in place until Council decided otherwise.

Councilmember Overbeck asked how impacts on all-electric properties will be assessed. Reuscher replied ongoing bill comparisons could occur.

Councilmember Overbeck encouraged strong communication between those residents and the City.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 155, 2017, on Second Reading.

Councilmember Cunniff stated the majority of Council is supportive of a low-income rate and staff could be directed to return with that proposal.

Councilmember Stephens supported the creation of a low-income qualified rate. She reiterated the importance of communication with all-electric customers.

Mayor Pro Tem Horak suggested a more proactive approach to engaging customers to take advantage of assistance programs offered by the City.

Councilmember Martinez expressed concern regarding the effect of these rate increases on residents with broken incomes.

Mayor Pro Tem Horak noted he did respond to Mr. Stave's email.

Mayor Troxell stated he will oppose the motion as he is in favor of Option 1.

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| <b>RESULT:</b>   | <b>ORDINANCE NO. 155, 2017 ADOPTED ON SECOND READING [4 TO 3]</b> |
| <b>MOVER:</b>    | Gerry Horak, District 6   |
| <b>SECONDER:</b> | Ross Cunniff, District 5  |
| <b>AYES:</b>     | Stephens, Overbeck, Cunniff, Horak                                |
| <b>NAYS:</b>     | Martinez, Summers, Troxell  |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 156, 2017, on Second Reading.

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| <b>RESULT:</b>   | <b>ORDINANCE NO. 156, 2017, ADOPTED ON SECOND READING [6 TO 1]</b> |
| <b>MOVER:</b>    | Gerry Horak, District 6  |
| <b>SECONDER:</b> | Ross Cunniff, District 5   |
| <b>AYES:</b>     | Stephens, Summers, Overbeck, Troxell, Cunniff, Horak               |
| <b>NAYS:</b>     | Martinez   |

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 157, 2017, on Second Reading.

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| <b>RESULT:</b>   | <b>ORDINANCE NO. 157, 2017, ADOPTED ON SECOND READING [6 TO 1]</b> |
| <b>MOVER:</b>    | Gerry Horak, District 6  |
| <b>SECONDER:</b> | Ross Cunniff, District 5   |
| <b>AYES:</b>     | Stephens, Summers, Overbeck, Troxell, Cunniff, Horak               |
| <b>NAYS:</b>     | Martinez   |

24. **Public Hearing and First Reading of Ordinance No. 165, 2017 Creating and Establishing the Midtown Business Improvement District, Appointing the Initial Members of the Board of Directors of the District, Approving the District's Initial Operating Plan and Budget; and Designating the Area as a Location for New Business or Commercial Development. (Adopted on First Reading)**

*The purpose of this item is to conduct a public hearing on a petition for the creation of a business improvement district within the Midtown area of Fort Collins. The purpose of the proposed Midtown Business Improvement District (the "Midtown BID," or "BID") is to "leverage public sector investments and provide private sector stakeholders in the area with a stronger platform through which to advocate for-and directly fund-needed improvements as Midtown comes into a new era."*

Mayor Troxell opened the public hearing for this item.

Patrick Rowe, Economic Health Redevelopment Coordinator, stated the City received many petitions from the property owners within the proposed Business Improvement District (BID) requesting formation of a BID. Business Improvement Districts are used as a tool to activate and improve the area within a district for the betterment of those businesses within the District. BIDs are supported by their own funding, either a special assessment or a commercial property mill levy, and have the ability to issue bonds. BIDs are governed by a Board or by City Council.

The boundaries of the Midtown BID are from Drake to Boardwalk including the properties with frontage along Foothills Parkway and College. The intent of this proposed BID is to encourage advocacy, leadership and support on matters critical to the District, to provide place-making and maintenance, to provide programming, marketing, and other events to activate the area, and to provide opportunities to cultivate a partnership with the City and find areas of mutual goals and objectives.

Proposed funding is a frontage assessment of \$10 per linear foot of frontage, which will raise approximately \$170,000 per year. An initial ten-year term to evaluate the District is proposed and the governance is proposed to be nine boardmembers.

Rowe stated the public spaces within the District will remain public and under City jurisdiction. The BID could fund private security; however, it would only be effective on private property.

Steve Raymer, Fort Collins Mennonite Fellowship, opposed the proposed BID and expressed concern it could undermine the local democratic process and local control.

Luke McFetridge, Boardmember of the proposed BID, discussed the reasons for the District and discussed the proposals of the Midtown Plan.

Christine (last name unintelligible) opposed the proposed BID as being undemocratic. She expressed concern public spaces will take on different qualities and feel more privatized and discussed social exclusion.

John Gaffney, Alberta Development Partners and Walton Foothills Holdings, stated the intent is not to take control of the corridor but to add beautification, community events, and opportunities for the public to gather. He also stated the private security at the mall promotes a happy and healthy environment for all.

David Fritzler, BBVA Compass, supported development of the BID.

Jamie Lidko, Centro, stated her consulting firm has worked with the Midtown business owners to help guide the process to create the District. She stated BIDs add service, benefits, and enhancements.

Carrie Baumgart, Markley Investment Company and Markley Motors, stated this BID is intended to engage residents. She encouraged approval of the District.

Steve Dellenbach, Dellenbach Motors, supported formation of the BID and its funding.

Spiro Palmer, Palmer Properties, supported formation of the BID.

Cheryl Distaso, Fort Collins Homeless Coalition, expressed concern about the Midtown BID proposal having long-term ramifications for homeless residents. She stated there is evidence BIDs privatize public spaces.

Councilmember Overbeck asked Ms. Lidko about the social equity involvement of Denver-area BIDs. Ms. Lidko replied BID policy has shifted over the years and some of the language now asserts there will be no legislation against homelessness.

Councilmember Overbeck asked if any of the BIDs have undergone sensitivity training. Ms. Lidko replied training has not yet occurred; however, her Board reached out to the City of Denver which has a process in place to help support that.

Councilmember Martinez noted this Board would be considered quasi-judicial and asked if it would be subject to the Sunshine Law. City Attorney Daggett replied this Board in most cases is probably not quasi-judicial, but is a public body under the Colorado Open Meetings Law.

Councilmember Cunniff asked if the Boardmembers would be elected or appointed by Council. Rowe replied future appointments are to be made by Council.

Councilmember Cunniff stated he would be interested in ensuring public amenities paid for by the BID remain public and accessible as the BID expands its scope to add such amenities or signage. He also stated the Fort Collins Police Services should be the primary provider of public safety and security in public areas.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Martinez, to adopt Ordinance No. 165, 2017, on First Reading.

Mayor Pro Tem Horak noted these businesses are willing to tax themselves to make improvements to the area.

Councilmember Overbeck stated he would support the motion and encouraged inclusivity training for BIDs.

Councilmembers Stephens and Martinez supported the motion.

Mayor Troxell discussed improvements to the Midtown area and supported the formation of the BID.

Mayor Troxell closed the public hearing on the item.

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| <b>RESULT:</b>   | <b>ORDINANCE NO. 165, 2017, ADOPTED ON FIRST READING [UNANIMOUS]</b> |
| <b>MOVER:</b>    | Gerry Horak, District 6  |
| <b>SECONDER:</b> | Ray Martinez, District 2   |
| <b>AYES:</b>     | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak       |

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

25. **Second Reading of Ordinance No. 148, 2017, Amending Various Provisions of the Code of the City of Fort Collins and the Land Use Code to Allow for the Discretionary Waiver of City Fees on Additional Affordable Housing Projects to be Constructed in the City. (Adopted on Second Reading)**

*This Ordinance, unanimously adopted on First Reading on November 7, 2017, changes City policy to allow any developer of housing units targeting households with incomes of no more than 30% area median income (AMI) to request affordable housing fee waivers for the qualifying units and to amend the City Code to reflect this change.*

Rich Stave questioned how this is different than the current process.

Councilmember Cunniff requested staff input on Mr. Stave's comments. Sue Beck-Ferkiss, Social Policy and Housing Project Manager, replied this item is an expansion of the existing fee waiver policy. The policy is discretionary and is relative to the ratio of affordable units in any project. The only units eligible for waivers are those targeting 30% area median income households. The current policy only allows Housing Catalyst to seek these discretionary waivers.

Councilmember Cunniff made a motion, seconded by Councilmember Stephens, to adopt Ordinance No. 148, 2017, on Second Reading.

Councilmember Stephens stated this may spur the development of additional affordable housing in the community.

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| <b>RESULT:</b>   | <b>ORDINANCE NO. 148, 2017, ADOPTED ON SECOND READING [UNANIMOUS]</b> |
| <b>MOVER:</b>    | Ross Cunniff, District 5  |
| <b>SECONDER:</b> | Kristin Stephens, District 4  |
| <b>AYES:</b>     | Martinez, Stephens, Summers, Overbeck, Troxell, Cunniff, Horak        |



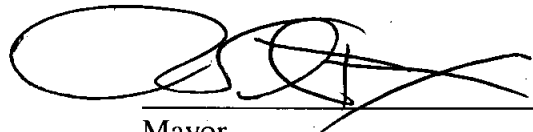
● **OTHER BUSINESS**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn to 6:00 PM on Tuesday, November 28, 2017, for the purpose of conducting the annual evaluation of the Municipal Judge and to consider such other matters as may come before the Council.

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| <b>RESULT:</b>   | <b>ADOPTED [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 |

● **ADJOURNMENT**

The meeting adjourned at 9:45 PM.

  
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Mayor

ATTEST:

  
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City Clerk

