

ORDINANCE NO. 062, 2018
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AMENDING SECTION 26-392 OF THE CODE OF THE CITY OF
FORT COLLINS REGARDING THE ELECTRIC UTILITY ENTERPRISE

WHEREAS, City Code Section 26-392(a) provides that the City's electric utility constitutes an enterprise of the City and authorizes the City Council, acting ex officio as the board of the enterprise, to issue revenue bonds or other obligations (including refunding securities) payable solely from the net revenues derived from the enterprise and provides for the enterprise board to adopt its ordinances issuing those bonds and obligations in the same manner as City Council adopts its ordinances; and

WHEREAS, the City Council, acting ex officio as the board of the enterprise, has historically interpreted and implemented City Code Section 26-392(a) by the Mayor acting as the president of the enterprise board, the Mayor Pro Tem acting as the vice president of the enterprise board, the Financial Officer acting as the treasurer of the enterprise board and the City Clerk acting as the secretary of the enterprise board; and

WHEREAS, City Code Section 26-392(c) authorizes the enterprise to exercise certain powers in furtherance of its purposes, including the power to hold meetings concurrently with regular or special meetings of the City Council; and

WHEREAS, the City Council, acting ex officio as the board of the enterprise, has historically interpreted and implemented City Code Section 26-392(c) calling for meetings concurrently with regular or special meetings of the City Council by noticing and holding enterprise board meetings on the same date and immediately following a regular or special meeting of the City Council; and

WHEREAS, City Code Section 26-398 authorizes the electric utility enterprise to acquire, construct, provide, fund and contract as necessary to provide telecommunication facilities and services in the City, and to take such other actions as may be necessary for the proper administration of said facilities and services, including the authority to issue revenue and refunding securities and other debt obligations in the manner and to the full extent authorized in Section 7(b) of Charter Article XII and in Code Section 26-392 to fund the electric utility's provision of telecommunication facilities and services; and

WHEREAS, in response to repeated citizen objections to the manner in which the Council, acting ex officio as the board of the enterprise, has historically interpreted and implemented these Code provisions, the City Council desires to clarify and confirm, by amending City Code Section 26-392(a) to expressly so state, that the officers of the enterprise are the City's Mayor (as board president), Mayor Pro Tem (as board vice-president), Financial Officer (as board treasurer) and City Clerk (as board secretary) and that such officers have the same authority to execute to the enterprise's ordinances, debt obligations and other instruments as they have when acting in their City offices under the Charter, this Code, City Council ordinances and resolutions, and applicable state law; and

WHEREAS, the City Council also desires to amend City Code Section 26-392(c) to provide that enterprise board meetings may be held at any time upon the provision of public notice as required for meetings of the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby makes and adopts the determinations and findings contained in the recitals set forth above.

Section 2. That Section 26-392(a) of the Code of the City of Fort Collins is hereby amended to read as follows:

Sec. 26-392. - Utility considered a city-owned enterprise.

(a) The utility shall constitute an enterprise of the City which may, by ordinance of the City Council, acting ex officio as the board of such enterprise, issue its own revenue bonds or other obligations (including refunding securities) on behalf of the City, which revenue bonds or other obligations shall be payable solely from the net revenues (including special assessments) derived from the operation of the enterprise. Such revenue bonds or other obligations may be additionally secured by mortgages on or security interests in any real or personal property of the City used in the operation of the enterprise. The ordinance issuing any such revenue bonds or other obligations shall be adopted in the same manner and shall be subject to referendum to the same extent as ordinances of the City Council.

The officers of the enterprise shall be the mayor as president, the mayor pro tem as vice president, the financial officer as treasurer and the city clerk as secretary. These officers shall have the same authority and duties with respect to the enterprise as they have when acting as officers of the City, including without limitation, the authority to sign the enterprise's ordinances, resolutions, revenue bonds or other obligations, and other instruments.

....

Section 3. That Section 26-392(c) of the Code of the City of Fort Collins is hereby amended to read as follows:

....

(c) The enterprise shall also be authorized to have and exercise the following powers in furtherance of its purposes: to hold meetings upon the call of the mayor as president (or the mayor pro tem as vice president in the case of incapacity or unavailability of the mayor) or the City Manager, after public notice provide in the manner required for concurrently with regular or special meetings of the City Council; to have and use a seal; to issue its revenue bonds for purposes related to the electrical utility system in the manner in which City revenue bonds may be issued; to pledge any revenues of the City's electrical utility system to the payment of such revenue bonds and to pay such revenue bonds therefrom; to enter

into contracts relating to the electrical utility system in the manner in which City contracts may be entered into; to make representations, warranties and covenants relating to the electrical utility system on behalf of the City; to exercise rights and privileges of the City relating to the electrical utility system; and to bind the City to perform any obligation relating to the electrical utility system other than any multiple-fiscal year direct or indirect debt or other financial obligation of the City without adequate present cash reserves pledged irrevocably and held for payments in all future years.

Introduced, considered favorably on first reading, and ordered published this 1st day of May, A.D. 2018, and to be presented for final passage on the 15th day of May, A.D. 2018.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on this 15th day of May, A.D. 2018.

Mayor

ATTEST:

City Clerk