

AGENDA ITEM SUMMARY

March 17, 2015

City Council

STAFF

Wanda Nelson, City Clerk

SUBJECT

Consideration and Approval of the Minutes of the February 17, 2015 Regular Council Meeting and the February 24, 2015 Adjourned Council Meeting.

EXECUTIVE SUMMARY

The purpose of this item is to approve the minutes from the February 17, 2015 Regular Council meeting and the February 24, 2015 Adjourned Council meeting.

ATTACHMENTS

1. February 17, 2015 (PDF)
2. February 24, 2015 (DOCX)

February 17, 2015

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Weitkumat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

ABSENT: none

Staff present: Atteberry, Daggett, Nelson

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry noted the Mayor will be making a statement about the legal opinion requested by Council concerning the wording of the April ballot questions during Councilmember Reports. The January 20, 2015 minutes need to be corrected and will be removed from the agenda. Under Item #15, *Items Relating to Marijuana Code Amendments, Ordinance No. 029, 2015, Amending City Code to Regulate Cultivation of Marijuana in Locations other than Retail Marijuana Establishments and Medical Marijuana Businesses*, is removed from the agenda as it requires additional staff work and will return to Council at a later date. Item #17, *Resolution 2015-024 Directing Staff and the Recruiter to Begin Negotiations Regarding the Terms and Conditions of an Employment Agreement with a Selected Candidate for the City Attorney Position* has been amended to appoint two Councilmembers to begin negotiations with the identified City Attorney candidate rather than staff and the recruiter.

● **CITIZEN PARTICIPATION**

Nancy York suggested Council consider implementing a regulation that would prohibit fossil fuel fire places for aesthetic reasons.

Colin Malone supported keeping the community garden in the English Ranch neighborhood, citing the fact it is a multi-generational facility and provides community benefit.

Jennie Milner supported keeping the community garden in the English Ranch neighborhood.

Mike Pruznick requested Council recognize the CAAT team for its work during next week's proclamations, requested Council address the use of GPS in the West Nile issue, and discussed his contributions in the CDAC meetings.

Ashley Burnham and Casey Schulenberg supported keeping the community garden in English Ranch and stated Linton Elementary has a garden club which will use a plot in the garden.

Trevor Even supported the Climate Action Plan update and keeping the community garden in English Ranch.

Fred Kirsch, Fort Collins Community for Sustainable Energy, discussed the need for residents to be motivated to complete energy efficiency retrofits.

Scott Van Dalen and his daughter Annika supported keeping the community garden in English Ranch and discussed Linton Elementary's participation in the garden.

Patrick Browning encouraged the formation of multiple IGAs with CSU for various topics.

Sandy Lemburg encouraged Council to examine a new way to reduce plastic bag use.

Ward Luthi thanked the young citizen who spoke and commended Councilmembers for their work. Additionally, he expressed concern regarding the lack of public input in the City/CSU stadium IGA issue.

Jack Daniels commended the City's downtown holiday light display.

Susan Harness supported keeping the community garden in English Ranch.

Cheryl Distaso, Open Communities Collective, discussed findings of the Fort Collins Sustainability and Social Inclusion Research Project and encouraged Council to utilize the study. Additionally, she commented on racism in the community.

Betty Aragon discussed Councilmembers' previous comments regarding the Fort Collins Sustainability and Social Inclusion Research Project. Additionally, she commented on racism in the community.

Jerry Gavaldon discussed a video produced in 1993 in Fort Collins regarding racism.

Thomas Edwards opposed CSU making changes to parking on Lake Street.

Eric Fellers supported keeping the community garden in English Ranch.

● **CITIZEN PARTICIPATION FOLLOW-UP**

Mayor Weitkunat commended the speakers and requested a statement regarding the English Ranch garden. Jeff Mihelich, Deputy City Manager, replied members of the neighborhood, on both sides of the issue, have developed a potential compromise on the garden's location and will be further discussing the issue.

Councilmember Poppaw thanked the English Ranch residents who spoke and agreed the garden should remain at an alternate location in the park. Additionally, she thanked Councilmember Campana for his participation in the issue.

Councilmember Campana commended residents for working toward a compromise on the garden issue.

Councilmember Cunniff thanked the Citizens Against Asphalt Toxins group for its involvement in the asphalt plant issue and encouraged further discussions regarding Mr. Kirsch's disclosure suggestion regarding home efficiency.

Councilmember Troxell discussed the City/CSU IGA and agreed there are a number of topics which could be addressed in future agreements. Additionally, he thanked the English Ranch

residents who spoke and supported the efforts of the Citizens Against Asphalt Toxins group in attempting a citizen initiative.

Mayor Pro Tem Horak suggested the possibility of an open house to discuss the City/CSU IGA. City Manager Atteberry agreed with the suggestion and stated he would discuss possible dates and noted there will be a Council work session on February 24 regarding the topic prior to the March Council meeting.

Mayor Pro Tem Horak requested a statement regarding the City's future contracts to purchase asphalt. City Manager Atteberry replied staff will work to ensure lessons from this experience will be applied to future asphalt contracts and requests for proposal.

Mayor Pro Tem Horak requested information regarding air quality concerns of outdoor wood-burning fireplaces.

● **CONSENT CALENDAR**

Councilmember Cunniff withdrew Item #10, *Resolution 2015-023 Adopting Amended Rules of Procedure Governing the Conduct of City Council Meetings and Council Work Sessions*, from the Consent Calendar.

Mike Pruznick withdrew Item #2, *Second Reading of Ordinance No. 012, 2015, Amending the Code of the City of Fort Collins to Modify On-Bill Utility Financing Terms and Allow for On-Bill Utility Financing of Business Customers*, Item #8, *First Reading of Ordinance No. 021, 2015, Authorizing the Conveyance of 93 Square Feet of City-Owned Property to Loco Ventures LLC*, and Item #9, *Items Relating to Pineridge Natural Area Encroachments*, from the Consent Calendar.

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

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

1. **Consideration and Approval of the minutes of the January 20, 2015 Regular Council Meeting. (Postponed to March 3, 2015)**

The purpose of this item is to approve the minutes from the January 20, 2015 Regular Council meeting.

2. **Second Reading of Ordinance No. 014, 2015, Appropriating Unanticipated Grant Revenue from Federal Fiscal Year 2014 Federal Transit Administration Section 5307 and Section 5339 Grants for Transit Operations and Pass-Through to Partner Transit Agencies. (Adopted)**

This Ordinance, unanimously adopted on First Reading on February 3, 2015, appropriates funds to provide local funding in exchange for federal funding to the City's partner transit agencies in the Transportation Management Area (TMA) - the City of Loveland, the Town of Berthoud, and the North Front Range Metropolitan Planning Organization (NFRMPO) and to increase appropriations for Transfort operations. The added appropriations for the swap arrangements amount to \$668,616 and

the added appropriations for Transfort operations amounts to \$210,827 - for a total appropriation request of \$879,443. All appropriations are fully funded with federal grant revenues.

3. **First Reading of Ordinance No. 017, 2015, Appropriating Unanticipated Grant Revenue and Prior Year Reserves in the Equipment Fund for Electric Vehicle Charging Stations and Natural Gas Vehicles. (Adopted)**

The purpose of this item is to appropriate \$67,920 and \$12,177 in grant funds plus the local match of \$16,950 and \$2,435 into the Equipment fund for the purchase of two Natural Gas dump trucks and three Fleet vehicle charging stations.

4. **First Reading of Ordinance No. 018, 2015, Appropriating Prior Year Reserves in the General Fund for the Purpose of Supplementing Construction Costs Associated with the Foothills Activity Center and to Transfer Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program. (Adopted)**

The purpose of this item is to increase 2015 appropriations in the City's General Fund by \$404,000 for the purposes of supplementing construction costs of the Foothills Activity Center to transfer appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program. This appropriation is necessary to comply with the Second Amendment to the Foothills Mall Redevelopment and Reimbursement Agreement dated August, 2014 in which the City agreed to pay up to \$400,000 of the estimated additional cost to the Activity Center.

5. **First Reading of Ordinance No. 019, 2015, Amending Sections 8-106 and 8-108 of the Code of the City of Fort Collins Pertaining to Implementation and Administration of the City's Risk Management Program. (Adopted)**

The purpose of this item is to modify City Code Sections 8-106 and 8-108 so that responsibilities related to the management and administration of the City's risk management program are shifted from the City's Purchasing Agent to the Financial Officer or his or her designee.

6. **First Reading of Ordinance No. 020, 2015, Extending the Terms of a Non-Exclusive Franchise by the City of Fort Collins to Comcast of California/Colorado LLC and its Successors and Assigns for the Right to Make Reasonable Use Of, and Erect, Construct, Operate and Maintain Through, the Public Rights-of-Way, Easements and Other Public Property Any Equipment Necessary and Appurtenant to the Operation and Maintenance of a Cable System and the Provision of Cable Services to Citizens Within the City. (Adopted)**

The purpose of this item is to request the extension of the current Cable Franchise Agreement between the City of Fort Collins and Comcast of California/Colorado, LLC (Comcast) for a period of 90 days. The current agreement expires March 16, 2015. City staff and Comcast representatives are in the very final stages of negotiations, anticipating mutual agreement on the final elements of the new agreement very soon. The proposed extension will maintain the terms and conditions of the existing Franchise for the duration of the extension.

7. **Resolution 2015-026 Making Appointments to the Natural Resources Advisory Board and the Women's Commissions of the City of Fort Collins. (Adopted)**

The purpose of this item is to appoint Luke Caldwell and Kelly McDonnell to the Natural Resources Advisory Board; and Elizabeth Donovan, Molly Alderton, and Huston Morse to the Women's Commission. These individuals fill vacancies that currently exist on the respective commission or board, due to resignations of boardmembers and expiration of terms. Applications have been solicited from September 2014 to present. Council teams have conducted interviews from November 2014 to present.

● **END CONSENT**

● **CONSENT CALENDAR FOLLOW-UP**

Councilmember Overbeck suggested the possibility of including additional public input regarding Item No. 7, *First Reading of Ordinance No. 020, 2015, Extending the Terms of a Non-Exclusive Franchise by the City of Fort Collins to Comcast of California/Colorado LLC and its Successors and Assigns for the Right to Make Reasonable Use Of, and Erect, Construct, Operate and Maintain Through, the Public Rights-of-Way, Easements and Other Public Property Any Equipment Necessary and Appurtenant to the Operation and Maintenance of a Cable System and the Provision of Cable Services to Citizens Within the City.*

● **COUNCILMEMBER REPORTS**

Mayor Weitkunat noted Council has received an opinion from outside legal counsel regarding ballot language for the April tax extension measures. She stated the information is attorney-client privileged and is not subject to disclosure and noted no further action has been scheduled regarding Resolutions 2015-019 and 2015-020.

City Clerk Nelson stated TABOR comments are due by Friday at 5:00 PM and submitted statements will be mailed to households on March 6, 2015. Ballots will be mailed on March 20.

Councilmember Cunniff discussed the West Central Area Plan open house and reported on a meeting with the Loveland Council regarding the possibility of creating a jointly owned police training facility. City Manager Atteberry noted that item is tentatively schedule for First Reading on March 3.

Councilmember Overbeck reported on the Downtown Development Authority meeting regarding the Old Town Square remodel. Additionally, he reported on the North Fort Collins Citizen Advisory Group meeting during which the possibility of developing a technology park at College and Vine was discussed.

Mayor Pro Tem Horak reported on the West Central Area Plan open house and reported on the Coloradoan's forum regarding bicycle crashes and vehicle-bicycle interactions.

Mayor Weitkunat reported on the launch of a new electric vehicle program in the city, the Northern Colorado Workplace Charging Challenge.

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

8. **Resolution 2015-023 Adopting Amended Rules of Procedure Governing the Conduct of City Council Meetings and Council Work Sessions. (Adopted)**

The purpose of this item is to update and simplify the Rules of Procedure for Council meetings, and to clarify that certain provisions also apply to City Council work sessions.

Councilmember Cunniff expressed concern regarding the time limits for public speaking aspect of this item.

Eric Sutherland expressed concern regarding wrong-doing and dishonesty in the City organization.

Nancy York stated citizens should be allowed additional time to speak, citing the importance of citizen input.

Mike Pruznick suggested Council hold more public meetings should it opt to lessen public input time at regular Council meetings.

Cheryl Distaso, Fort Collins Community Action Network, expressed concern regarding limiting public input time and stated comments should be allowed at the beginning of the meeting regarding late agenda items.

Betty Aragon encouraged Council to allow at least three minutes for each speaker during citizen participation.

Jerry Gavaldon expressed concern regarding limiting citizen participation time.

Ward Luthi expressed concern regarding limiting citizen participation time and encouraged the use of neighborhood meetings rather than open houses.

Mayor Weitkunat noted this item is related to conduct during citizen comment and stated the Resolution addresses time limits in a flexible way. Additionally, she noted citizens are able to address Council in multiple ways.

Councilmember Campana made a motion, seconded by Councilmember Troxell, to adopt Resolution 2015-023.

Councilmember Campana agreed with Mayor Weitkunat and discussed alternative means of addressing and contacting Council. Additionally, he requested staff input regarding ex parte contact. City Attorney Daggett replied development review items need to be dealt with in a special way as they are quasi-judicial proceedings should they come before Council on appeal.

Councilmember Cunniff made a motion to amend the motion, seconded by Councilmember Poppaw to include adding the phrase “each speaker will generally be limited to 3 minutes, in paragraph C, section 3.

Councilmember Cunniff stated this change would solidifies the current practice and make it more predictable.

Councilmember Troxell argued the language, as written, allows the Mayor to use his or her best judgment to maximize citizen input.

Mayor Pro Tem Horak supported Councilmember Cunniff’s suggestion, stating it would provide an expectation for the public.

Mayor Weitkunat stated she would support the amendment.

Councilmember Troxell stated he would support the wording of the amendment.

Councilmember Campana expressed concern regarding the exclusion of a minimum time.

Mayor Weitkunat and Mayor Pro Tem Horak opposed the use of minimum time language.

Councilmembers Campana and Troxell accepted the amendment as friendly.

Councilmember Troxell cited the importance of citizen participation in the overall Council process.

RESULT:	RESOLUTION 2015-023 ADOPTED [UNANIMOUS]
MOVER:	Gino Campana, District 3
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

● **DISCUSSION ITEMS**

9. **Second Reading of Ordinance No. 015, 2015, Amending Article III of Chapter 12 of the Code of the City of Fort Collins Pertaining to Smoking in Public Areas. (Adopted on Second Reading)**

This Ordinance, adopted on First Reading on February 3, 2015, by a vote of 6-1 (Nays: Weitkunat) expands the City's Smoking Ordinance to include a complete smoking ban within the proposed Downtown Smoke-Free Zone, for all City-owned and operated facilities and related grounds, for all Natural Areas, Parks, and Trails, and at all City-approved special events.

Laurie Kadrich, Community Development and Neighborhood Services Director, stated this presentation would address questions from First Reading, as well as recent issues regarding unintended consequences.

Delynn Coldiron, Interim Neighborhood Services Manager, stated this Ordinance is designed to be self-enforcing through significant education and outreach and adequate signage. Additionally, Coldiron discussed the implementation phase of the project and unintended consequences of this Ordinance in terms of displaced smokers.

Deputy Police Chief Jerry Schiager addressed Boulder, Colorado's experience with unintended consequences of a smoking ban, including the possible effects on businesses just outside the boundaries of the ban area.

Mike Pruznick expressed concern regarding the use of non-smoking citizens in enforcement and questioned why sidewalks near schools and closed vehicles with children inside are not part of a ban. He suggested the issue should be treated as a chemical and trespass issue.

Ed Haynes stated liberty trumps health.

Dale Mantay, Larimer County Tobacco Control Program, supported the Ordinance and stated his group will work with the City in terms of outreach and education.

Councilmember Overbeck requested clarification regarding smokers in vehicles in the downtown area. Kadrich replied individuals would be able to smoke in private vehicles and residences in the zone.

Councilmember Troxell asked about smoking on City golf courses. Coldiron replied many other communities do not have smoking bans on fairways. She stated signage, education and outreach efforts would be used in those instances.

Mayor Weitkunat requested clarification regarding the inclusion of all sidewalks. Kadrich replied the Ordinance is written to address all sidewalks adjoining City-owned properties.

Mayor Weitkunat requested clarification regarding the downtown smoke-free zone and the definition of “center.” Councilmember Campana state that was an easy way to include adjacent sidewalks.

Mayor Weitkunat noted that definition would also include the parking areas next to sidewalks. City Attorney Daggett noted Section 4 of the Ordinance includes a specific exception for smoking in parked enclosed vehicles.

Councilmember Campana asked if this Ordinance would disallow tobacco shops from being located in smoke-free zones. Coldiron replied smoking is allowed in the confines of certain tobacco shops.

Councilmember Campana asked if alcohol can be sold in tobacco shops and expressed concern those types of shops may defeat the purpose of this Ordinance.

Councilmember Troxell stated his support on First Reading was related to the ability to enforce the illegal consumption of retail marijuana in public spaces. He asked if this Ordinance would increase the ability to enforce those regulations. Deputy Chief Schiager replied in the affirmative, particularly in regard to e-cigarettes.

City Attorney Daggett noted the Code specifically prohibits retail tobacco businesses from having a liquor license. Additionally, she noted a tobacco business in the downtown smoke-free zone would not be allowed to have smoking on its premises.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 015, 2015, on Second Reading.

Mayor Pro Tem Horak encouraged a more detailed examination of possible unintended consequences regarding displaced smokers.

RESULT:	ORDINANCE NO. 015, 2015, ADOPTED ON SECOND READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak
NAYS:	Weitkunat

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

10. **Second Reading of Ordinance No. 016, 2015, Appropriating Prior Year's Reserves in the General Fund for Lincoln Neighborhood Improvement Projects and Directing the Formation of a Neighborhood Advisory Committee. (Adopted as Amended on Second Reading)**

This Ordinance, adopted on First Reading on February 3, 2015, by a vote of 4-2 (Nays: Cunniff, Overbeck; Poppaw recused) appropriates revenue from the General Fund Reserves for design and construction of neighborhood projects identified in the Lincoln Corridor Plan. The Lincoln Corridor Plan was adopted by City Council in May 2014. The Plan includes a list of recommended infrastructure projects in the surrounding neighborhoods. The adopted 2015-2016 budget includes

\$556,000 to design and construct approximately half of the projects. Staff seeks appropriation of \$291,000 of General Fund Reserves to complete the remaining short-/mid-term projects.

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

Cheryl Distaso, Fort Collins Community Action Network, suggested language additions and changes to the Ordinance and requested the neighborhoods be referenced as Tres Colonias. Additionally, she suggested the advisory group be allowed to derive the project list.

Jerry Gavaldon expressed concern with the use of the term "Lincoln Neighborhoods" and suggested the advisory committee be allowed to derive the project list.

Betty Aragon expressed concern with the use of the term "Lincoln Neighborhoods" and stated the neighborhoods should be referenced as Tres Colonias. Additionally, she expressed concern regarding the proposed cost of the monument signs or neighborhood markers.

Nancy York stated the process should be driven by individuals within the affected neighborhoods.

Cheryl Glanz stated this is an opportunity for the entirety of the area's history and residents to be represented.

Mayor Weitkunat noted this is an appropriation Ordinance and does not specifically address who will be involved in the advisory group.

Councilmember Overbeck asked how many members would be included in the advisory group. Karen Cumbo, Planning, Development and Transportation Services Director, replied the staff implementation team has developed a plan to include three residents from each neighborhood, for a total of nine members. She stated the initial proposal is to meet quarterly to discuss the proposed improvements.

Councilmember Overbeck suggested expanding the advisory committee membership to individuals who may not live in the neighborhoods.

City Manager Atteberry stated it in an unfair statement that the City has not heard, or does not care, about the comments citizens have made. He made a commitment that the City, as a learning organization, will work toward common solutions. Additionally, the City is not attempting to rename the neighborhoods and suggested the advisory group should include existing residents.

Councilmember Troxell supported the Ordinance and discussed the importance of the public participation process. This is a good news item for the community.

Councilmember Campana made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 016, 2015, on Second Reading, with the amendment to exclude "Lincoln" from the language.

Councilmember Overbeck suggested the use of "Northside Neighborhoods."

Mayor Weitkunat suggested that term may be confusing.

City Attorney Daggett suggested not changing the Ordinance title, but changing the second whereas clause language.

Councilmember Cunniff expressed concern regarding ad hoc off-cycle appropriations.

Mayor Pro Tem Horak stated this item demonstrates commitment to the improvements.

RESULT:	ORDINANCE NO. 016, 2015, ADOPTED AS AMENDED ON SECOND READING [4 TO 2]
MOVER:	Gino Campana, District 3
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Campana, Troxell, Horak
NAYS:	Overbeck, Cunniff
RECUSED:	Poppaw

11. **First Reading of Ordinance No. 028, 2015, Appropriating Prior Years Reserves in the General Fund for Transfer to the Capital Projects Fund and Authorizing the Transfer of Existing Appropriations from the Street Oversizing Fund to the Capital Projects Fund for the Lincoln Corridor Improvements Project and Transferring Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program. (Adopted on First Reading)**

The purpose of this item is to appropriate partial funding for design, right of way acquisition and construction of the Lincoln Avenue Improvements from 1st Street to Lemay Avenue. The Lincoln Corridor Plan, approved by City Council in 2014 (Resolution 2014-040), developed a vision and a preliminary multi-modal design for Lincoln Avenue between Jefferson Street and Lemay Avenue. The scope of the proposed improvements is based on the concepts approved in the Lincoln Corridor Plan with a reduced level of enhancement consistent with the proposed budget.

Based on the Lincoln Corridor Plan estimated cost of \$19.3 million for the entire project from Jefferson to Lemay, the cost to improve the section from 1st Street to Lemay Avenue is \$8 million. With the reduced level of enhancements currently proposed, the project is estimated to cost \$6.5 million. This Council action appropriates \$3 million from General Fund Reserves and an additional \$1.106 million from the Street Oversizing Fund. \$155,881 is available from previous developer Local Street Obligations along the project limits, and \$2,238,119 is currently unfunded.

Councilmember Poppaw withdrew from this item due to a conflict of interest.

Rick Richter, Director of Infrastructure Services, introduced the item and discussed its location.

Dean Klinger, Capital Projects Manager, stated the proposed improvements are based on the Lincoln Avenue Corridor Plan and detailed the funding sources.

Richter stated staff will work to identify funding for the unfunded portion of the improvements by March or April and stated construction is targeted for 2016.

Cheryl Distaso, Fort Collins Community Action Network, expressed concern regarding fast-tracking the Lincoln Avenue improvements and opposed certain proposed enhancements. Additionally, she suggested the implementation of a special improvement district for the area businesses.

Nancy York stated Council expressed the opinion that it did not want to spend \$19 million on this project at its work session. She stated the proposed improvements are too elaborate.

Betty Aragon agreed with Ms. Distaso and Ms. York's comments and stated only minimum enhancements should be completed. Additionally, she opposed the cost of the project.

Jerry Gavaldon asked about the motivating factors behind funding these improvements.

Mayor Weitkunat stated the \$19.3 million is the total funding amount for the proposed roadway from Jefferson to Lemay and noted this appropriation would fund a piece of the improvements. Additionally, she noted Art in Public Places funding is part of every capital project as part of City policy.

Councilmember Overbeck requested staff follow-up regarding Mr. Gavaldon's questions. Richter replied the \$19.3 million was the cost to implement the plan in full as originally identified; the costs were then identified with reduced enhancements to be \$13.5 - 15 million. He stated this section would improve 1st Street to Lemay and is now estimated to cost \$6.5 million.

Councilmember Overbeck expressed concern about the \$6.5 million number being realistic and how future price increases would be accounted for. Richter noted there is a 30% contingency which helps address escalating inflation and unforeseen issues. Additionally, he noted the City has a track record of building projects within budget.

Councilmember Overbeck requested information regarding the City's reserve balance. Mike Beckstead, Chief Financial Officer, replied that answer will be available in March; however he is certain the \$3 million is in the reserves.

Councilmember Overbeck asked about the possibility of creating a special improvement district. Beckstead replied the time it would take to implement a special improvement district, business improvement district, or general improvement district is unknown. Additionally, he noted some of those districts may not be feasible, given the way they need to be formed.

Councilmember Overbeck asked about the \$1.1 million from the street oversizing fund. Richter replied the street oversizing program is identified based on the entire build-out of the city.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Ordinance No. 028, 2015, on First Reading.

Mayor Pro Tem Horak stated this is a high priority for the safety of the corridor from a multi-modal perspective.

Councilmember Troxell stated this item has been a high priority for citizens for quite some time.

Councilmember Cunniff stated he would not support the Ordinance given concerns regarding the use of an unknown percentage of reserves.

Councilmember Overbeck stated he would not support the Ordinance citing a lack of priority process.

Councilmember Campana asked if there is an estimate of the total reserve fund balance. Beckstead replied the total fund balance will be approximately \$71 or \$72 million; however, a significant portion of that was placed in the 2015/16 budget among other assignments.

Councilmember Campana stated he would support the Ordinance as Lincoln Avenue is a corridor within the city's core.

Mayor Weitkunat stated she would support the Ordinance and the timing of the project.

RESULT:	ORDINANCE NO. 028, 2015, ADOPTED ON FIRST READING [4 TO 2]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Weitkunat, Campana, Troxell, Horak
NAYS:	Overbeck, Cunniff
RECUSED:	Poppaw

12. **Items Relating to Marijuana Code Amendments. (Adopted on First Reading)**

- A. *First Reading of Ordinance No. 029, 2015, Amending the Code of the City of Fort Collins to Regulate Cultivation of Marijuana in Locations Other Than Retail Marijuana Establishments and Medical Marijuana Businesses. (Withdrawn from Consideration)*
- B. *First Reading of Ordinance No. 030, 2015, Adding Section 17-194 to the Code of the City of Fort Collins to Prohibit the Use of Flammable Gases, Flammable Solvents, Flammable Liquids, and/or Alcohol in the Extraction of THC or Other Cannabinoids in Locations Other Than Licensed Medical and Retail Marijuana Manufacturing Products Facilities and Deleting Subsection (b)(5) of Section 12-142 of the Code.*

C. **[OPTION A]**

First Reading of Ordinance No. 031, 2015, Amending Section 15-609 of Article XVII of the Code of the City of Fort Collins to Allow the Sale or Distribution of Retail Marijuana from Retail Marijuana Cultivation Facilities to Certain Retail Marijuana Stores or Retail Marijuana Cultivation Facilities.

Or:

[OPTION B]

First Reading of Ordinance No. 032, 2015, Amending Section 15-609 of Article XVII of the Code of the City of Fort Collins to Allow the Sale or Distribution of Retail Marijuana from Retail Marijuana Cultivation Facilities to Certain Retail Marijuana Stores or Retail Marijuana Product Manufacturing Facilities.

The purpose of this item is to address safety and nuisance gaps in the existing codes and to offer options for potential changes to the existing marijuana wholesale prohibition.

Ordinance No. 029, 2015, amends City Code to address non-licensed growing (caregivers or personal use) in non-residential settings. It also allows for greater flexibility in determining what lighting is deemed safe for residential growing.

Ordinance No. 030, 2015, prohibits the use of flammable gases and liquids, carbon dioxide, and alcohol in the extraction of THC except in a licensed facility.

Ordinances Nos. 031 and 032, 2015, remove the existing prohibition on the wholesale of marijuana between licensed businesses. Option A allows sales only to City-licensed establishments; Option B is not limited to Fort Collins establishments.

Ginny Sawyer, Policy and Project Manager, discussed the Ordinances and their effects.

Mike Pruznick questioned the prohibition of flammable gases solely in this situation and suggested the use of more broad regulations.

Kurt Scramstead requested Council support of the ability of retail marijuana outlets to wholesale statewide.

Steve Ackerman, Organic Alternatives, supported the ability of retail marijuana outlets to wholesale statewide.

City Attorney Daggett noted the Option A version of the Ordinance has two typographical errors, one in the title and one in the body of the Ordinance, both of which should include the term “product manufacturing” facilities.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 030, 2015, on First Reading.

Councilmember Cunniff discussed the importance of regulations on retail marijuana.

Mayor Weitkunat asked if there have been instances of fire related to these chemicals. Don Vagge, Deputy Police Chief, replied in the affirmative.

RESULT:	ORDINANCE NO. 030, 2015, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adopt Ordinance No. 032, on First Reading.

Mayor Pro Tem Horak stated this item keeps Fort Collins businesses from being at a competitive disadvantage.

Councilmember Troxell asked about current regulations for excess production. Vagge replied a retailer grows marijuana in its cultivation facility and then is able to sell their own product in that facility. Excess supply cannot currently be wholesaled either to other retailers in the city or statewide.

Councilmember Troxell asked how many grow operations exist in Fort Collins. Vagge replied there are four licensed retail grows, as each licensed retail seller is required to have its own cultivation facility.

Councilmember Troxell asked if the state Marijuana Enforcement Division has any response to this issue. Vagge replied Fort Collins is one of the few municipalities prohibiting wholesaling and noted it is not prohibited at the state level.

Councilmember Troxell asked about tracking sales. Vagge replied retailers are required to track all inventory through the Marijuana Enforcement Division; however, the City does not currently

have access to that information. He noted the state is working to allow municipalities to have access to that information.

Councilmember Troxell stated he would oppose this Ordinance until the state can demonstrate its ability to enforce Amendment 64.

Mayor Pro Tem Horak asked how Fort Collins tracks incoming marijuana. Vagge replied it is not tracked through the city, only through the Marijuana Enforcement Division.

Mayor Pro Tem Horak suggested the Legislative Policy Committee could potentially address the issue on a state level.

Councilmember Cunniff stated any excess production is often left on-site, creating a potential issue with safety.

Councilmember Campana stated he would oppose the Ordinance in order to protect the city from becoming a mecca of cultivation.

RESULT:	ORDINANCE NO. 032, ADOPTED ON FIRST READING [4-3]
MOVER:	Gerry Horak, District 6
SECONDER:	Lisa Poppaw, District 2
AYES:	Overbeck, Poppaw, Cunniff, Horak
NAYS:	Weitkumat, Campana, Troxell

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to postpone Ordinance No. 031, 2015, indefinitely.

RESULT:	ORDINANCE NO. 031, 2015, POSTPONED INDEFINITELY [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkumat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

13. **Resolution 2015-025 Forming an Airport Commission Selection Committee and Appointing Two Councilmembers to Serve on the Committee. (Adopted)**

The purpose of this item is to appoint two Councilmembers to the Airport Commission Selection Committee. The Intergovernmental Agreement (IGA) between the owners of the Municipal Airport, the cities of Fort Collins and Loveland, provides for a committee of two Councilmembers from each City to make recommendations for appointment to the Airport Commission.

Mayor Weitkumat noted this Council committee would appoint citizens to the commission.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Overbeck, to adopt Resolution 2015-025 with Mayor Weitkumat and Councilmember Cunniff as appointees to the committee.

RESULT:	RESOLUTION 2015-025 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Bob Overbeck, District 1
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

14. **Resolution 2015-024 Directing Staff and the Recruiter to Begin Negotiations Regarding the Terms and Conditions of an Employment Agreement with a Selected Candidate for the City Attorney Position. (Adopted)**

The purpose of this item is to seek direction from Council on whether staff and the executive recruiter should engage in negotiation discussions related to the terms and conditions of employment between the City and a selected candidate for the City Attorney position.

Janet Miller, Human Resources, noted this item has changed in regard to the parties that will complete the negotiations. Those individuals will now be two members of Council rather than staff and the recruiter.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Campana, to adopt Resolution 2015-024, inserting the name Carrie Daggett as the identified candidate.

Mayor Pro Tem Horak discussed the interview process and expressed support for Daggett.

Councilmember Campana thanked the applicants and recruiter and expressed support for Daggett.

Councilmember Troxell expressed support for Daggett.

Councilmember Poppaw thanked the applicants and expressed support for Daggett.

Mayor Weitkunat discussed the recruitment and interview process and commended Daggett on her work.

RESULT:	RESOLUTION 2015-024 ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

Councilmember Campana made a motion, seconded by Councilmember Cunniff, to appoint Mayor Weitkunat and Mayor Pro Tem Horak to begin negotiations pursuant to Resolution 2015-024.

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gino Campana, District 3
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

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

15. **Second Reading of Ordinance No. 012, 2015, Amending the Code of the City of Fort Collins to Modify On-Bill Utility Financing Terms and Allow for On-Bill Utility Financing of Business Customers. (Adopted on Second Reading)**

This Ordinance, unanimously adopted on First Reading on January 20, 2015, amends City Code to update and expand the on-bill financing pilot program per the recommendations reviewed by Council at the October 28, 2014 work session and subsequent November 17, 2014 Finance Committee meeting. The objective of the On-Bill Financing pilot program (also known as the Home Efficiency Loan Program) is to provide residential utility customers with low-cost financing for energy efficiency, solar photovoltaic, and water conservation improvements to support the outcomes adopted in City of Fort Collins policies and plans, such as the Climate Action Plan, Energy Policy and Water Conservation Plan. The City Code revisions adjust interest rate and fee language and add on-bill financing sections for small business customers. On First Reading, Council discussed two specific topics: increasing the maximum allowable term to twenty years (not to exceed the useful life of the improvements) and reducing the 2015 interest rate from the proposed 4% to 2.5%. Council requested additional information regarding the financial implications of these topics which has been added to the background section. The Ordinance language has been modified to clarify the maximum term (20 years, not to exceed the measure life).

Mike Pruznick requested assurance that this does not enable “slum lords” and requested assurance tenants cannot be kicked out once the property is worth more.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 012, 2015, on Second Reading.

RESULT:	ORDINANCE NO. 012, 2015 ADOPTED ON SECOND READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

16. **First Reading of Ordinance No. 021, 2015, Authorizing the Conveyance of 93 Square Feet of City-Owned Property to Loco Ventures LLC. (Adopted on First Reading)**

The purpose of this item is to authorize the conveyance of 93 square feet of City-owned property to Loco Ventures LLC in order to resolve an encroachment that was a pre-existing condition on property that the City acquired in 2014 as part of the North College Improvements Project - Conifer to Willox.

Mike Pruznick expressed concern regarding the calculated value of the property and requested justification for discounts.

Councilmember Overbeck requested information regarding the property value. Patrick Rowe, Real Estate Services, replied the value is based on a recent appraisal used to acquire the property.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 021, 2015, on First Reading.

RESULT:	ORDINANCE NO. 021, 2015, ADOPTED ON FIRST READING [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

17. **Items Relating to Pineridge Natural Area Encroachments. (Adopted on First Reading)**

- A. *First Reading of Ordinance No. 022, 2015, Authorizing the Conveyance of a Portion of City-Owned Property at Pineridge Natural Area to Thomas and Sandra Gerrard.*
- B. *First Reading of Ordinance No. 023, 2015, Authorizing the Conveyance of a Portion of City-Owned Property at Pineridge Natural Area to Sharon and David Bottoms.*
- C. *First Reading of Ordinance No. 024, 2015, Authorizing the Conveyance of a Portion of City-Owned Property at Pineridge Natural Area to Mark and Leslie Haynam.*
- D. *First Reading of Ordinance No. 025, 2015, Authorizing the Conveyance of a Portion of City-Owned Property at Pineridge Natural Area to Barry Johnson and Jane Pollack.*
- E. *First Reading of Ordinance No. 026, 2015, Authorizing the Conveyance of a Portion of City-Owned Property at Pineridge Natural Area to Martin and Judith Gutschenritter.*
- F. *First Reading of Ordinance No. 027, 2015, Authorizing the Conveyance of a Portion of City-Owned Property at Pineridge Natural Area to Ward and April Whicker.*

The purpose of this item is to resolve six encroachments on Pineridge Natural Area. Six property owners who have significant and long standing encroachments on Pineridge Natural Area are requesting that City Council approve selling them the land they are encroaching upon. While this is highly unusual and certainly not something Natural Areas would normally recommend, both Natural Areas staff and the Land Conservation and Stewardship Board are recommending approval due to the unique circumstances.

Mike Pruznick expressed concern relating to property values.

Councilmember Cunniff requested information regarding how long the encroachments have been in place and how the issue will be avoided in the future. Mark Sears, Natural Area Manager, replied the City has been working on monitoring its boundaries more diligently over the past few years. He stated four of the six encroachments are on parcels of land the City Natural Areas would prefer not to own at this time. One of the other parcels has had landscaping encroachments for the past twenty years and the final parcel had a fence built encroaching into City property about eight years ago.

Councilmember Cunniff noted these are specific, long-standing issues and requested assurance future issues will be more quickly addressed. Sears replied the City is taking a number of proactive steps in terms of noticing encroaching properties.

Mayor Pro Tem Horak asked about the fact there was no neighborhood input. Sears replied staff did not feel this was a neighborhood issue; however, there are residents who have expressed some concern regarding these ownership transfers.

Mayor Pro Tem Horak asked how future homeowners are alerted to the natural area encroachment regulations. Sears replied homeowners are reminded every few years as staff sends out reminder letters.

Mayor Pro Tem Horak suggested working with the Board of Realtors on the topic.

Councilmember Overbeck asked why a more broad community process did not occur. Sears replied staff did not believe this topic rose to the level of needing neighborhood input. City Manager Atteberry noted that he, Councilmember Troxell, and John Stokes held direct conversations with property owners as well.

Councilmember Troxell commended Sears and the Natural Areas staff for their work on the issues and noted these situations were thoughtfully approached.

Councilmember Overbeck asked about the process moving forward should these land sales not be approved. Sears replied landowners would be given a certain amount of time to remove encroachments. Should they not remove the encroachments, the property owners would be cited and any charge to remove the encroachments would be billed to the owners.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 022, 2015, on First Reading.

RESULT:	ORDINANCE NO. 022, 0215 ADOPTED ON FIRST READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Poppaw, Campana, Troxell, Cunniff, Horak
NAYS:	Overbeck

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 023, 2015, on First Reading.

RESULT:	ORDINANCE NO. 023, 0215 ADOPTED ON FIRST READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Poppaw, Campana, Troxell, Cunniff, Horak
NAYS:	Overbeck

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 024, 2015, on First Reading.

RESULT:	ORDINANCE NO. 024, 0215 ADOPTED ON FIRST READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Poppaw, Campana, Troxell, Cunniff, Horak
NAYS:	Overbeck

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 025, 2015, on First Reading.

RESULT:	ORDINANCE NO. 025, 0215 ADOPTED ON FIRST READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Poppaw, Campana, Troxell, Cunniff, Horak
NAYS:	Overbeck

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 026, 2015, on First Reading.

RESULT:	ORDINANCE NO. 026, 0215 ADOPTED ON FIRST READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Poppaw, Campana, Troxell, Cunniff, Horak
NAYS:	Overbeck

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Ordinance No. 027, 2015, on First Reading.

RESULT:	ORDINANCE NO. 022, 0215 ADOPTED ON FIRST READING [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Wade Troxell, District 4
AYES:	Weitkunat, Poppaw, Campana, Troxell, Cunniff, Horak
NAYS:	Overbeck

EXTENSION OF MEETING

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to extend the meeting past 10:30 p.m.

RESULT:	MOTION TO EXTEND THE MEETING ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

● **ADJOURNMENT**

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to adjourn until the conclusion of the work session on Tuesday, February 24, 2015, so that the Council may consider a possible Executive Session as well as additional business that may come before the Council.

RESULT:	MOTION TO ADJOURN TO FEBRUARY 24, 2015, ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

The meeting adjourned at 10:43 PM.

Mayor

ATTEST:

City Clerk

February 24, 2015

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Adjourned Meeting – 9:05 PM

● ROLL CALL

PRESENT: Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

Staff present: Atteberry, Daggett, Nelson

1. Executive Session Authorized

Councilmember Horak made a motion, seconded by Councilmember Cunniff, to adjourn into executive session for the purpose of meeting with the City Attorney and other attorneys for the City, City Manager and other affected members of the City staff to discuss specific legal questions related to litigation or potential litigation as permitted under Section 2-31 (a)(2) of the City Code and Colorado Revised Statute Sections 24-6-402(4b).

RESULT:	ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

(Secretary's note: Councilmember Poppaw left the meeting at 9:06 p.m.)

(Council adjourned into executive session and returned at 10:08 p.m.)

● ADJOURNMENT

Councilmember Horak made a motion, seconded by Councilmember Cunniff, to adjourn the meeting to 4:00 p.m., Friday, February 27, 2015, to discuss any items that may come before the Council.

RESULT:	ADOPTED [6 TO 0]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Weitkunat, Overbeck, Campana, Troxell, Cunniff, Horak
AWAY:	Poppaw

The meeting adjourned at 10:08 p.m.

Mayor

ATTEST:

City Clerk