



Wade Troxell, Mayor
Gerry Horak, District 6, Mayor Pro Tem
Bob Overbeck, District 1
Ray Martinez, District 2
Ken Summers, District 3
Kristin Stephens, District 4
Ross Cunniff, District 5

City Council Chambers
City Hall West
300 LaPorte Avenue
Fort Collins, Colorado

Cablecast on FCTV Channel 14
and Channel 881 on the Comcast cable system

Carrie Daggett
City Attorney

Darin Atteberry
City Manager

Delynn Coldiron
City Clerk

**Regular Meeting
May 1, 2018
(amended 4/30/18)**

Persons wishing to display presentation materials using the City’s display equipment under the Citizen Participation portion of a meeting or during discussion of any Council item must provide any such materials to the City Clerk in a form or format readily usable on the City’s display technology no later than two (2) hours prior to the beginning of the meeting at which the materials are to be presented.

NOTE: All presentation materials for appeals, addition of permitted use applications or protests related to election matters must be provided to the City Clerk no later than noon on the day of the meeting at which the item will be considered. See [Council Rules of Conduct in Meetings](#) for details.

The City of Fort Collins will make reasonable accommodations for access to City services, programs, and activities and will make special communication arrangements for persons with disabilities. Please call 221-6515 (V/TDD: Dial 711 for Relay Colorado) for assistance.

**Proclamations and Presentations
5:30 p.m.**

- A. Proclamation Declaring the Week of May 7 as Economic Development and National Travel and Tourism Week.
- B. Proclamation Declaring the Week of May 6 - 12, 2018 as Drinking Water Week.
- C. Proclamation Declaring May 1, 2018 as Mark Wieneke Day.
- D. Proclamation Declaring May 2018 as Mental Health Awareness Month.

Regular Meeting 6:00 p.m.

- **PLEDGE OF ALLEGIANCE**
- **CALL MEETING TO ORDER**
- **ROLL CALL**
- **AGENDA REVIEW: CITY MANAGER**
 - City Manager Review of Agenda.
 - Consent Calendar Review

This Review provides an opportunity for Council and citizens to pull items from the Consent Calendar. Anyone may request an item on this calendar be “pulled” off the Consent Calendar and considered separately.

- Council-pulled Consent Calendar items will be considered before Discussion Items.
- Citizen-pulled Consent Calendar items will be considered after Discussion Items.

- **CITIZEN PARTICIPATION**

Individuals may comment regarding items scheduled on the Consent Calendar and items not specifically scheduled on the agenda. Comments regarding land use projects for which a development application has been filed should be submitted in the development review process** and not to the Council.

- Those who wish to speak are asked to sign in at the table in the lobby (for recordkeeping purposes).
- All speakers will be asked by the presiding officer to identify themselves by raising their hand, and then will be asked to move to one of the two lines of speakers (or to a seat nearby, for those who are not able to stand while waiting).
- The presiding officer will determine and announce the length of time allowed for each speaker.
- Each speaker will be asked to state his or her name and general address for the record, and to keep comments brief. Any written comments or materials intended for the Council should be provided to the City Clerk.
- A timer will beep once and the timer light will turn yellow to indicate that 30 seconds of speaking time remain, and will beep again and turn red when a speaker’s time to speak has ended.

[**For questions about the development review process or the status of any particular development, citizens should consult the Development Review Center page on the City’s website at fcgov.com/developmentreview, or contact the Development Review Center at 221-6750.]

- **CITIZEN PARTICIPATION FOLLOW-UP**

Consent Calendar

The Consent Calendar is intended to allow the City Council to spend its time and energy on the important items on a lengthy agenda. Staff recommends approval of the Consent Calendar. Anyone may request an item on this calendar to be "pulled" off the Consent Calendar and considered separately. Agenda items pulled from the Consent Calendar will be considered separately under Pulled Consent Items. Items remaining on the Consent Calendar will be approved by City Council with one vote. The Consent Calendar consists of:

- Ordinances on First Reading that are routine;
- Ordinances on Second Reading that are routine;
- Those of no perceived controversy;
- Routine administrative actions.

1. Second Reading of Ordinance No. 052, 2018, Appropriating Prior Year Reserves and Unanticipated Revenue in the General Fund for Cultural Development and Programming Activities, Tourism Programming, and Convention and Visitor Program Services.

This Ordinance, unanimously adopted on First Reading on April 17, 2018, appropriates \$482,841, of which \$242,389 is proposed for 2018 Cultural Development and Programming Activities (Fort Fund), \$26,873 is proposed for 2018 Tourism Programming (Fort Fund), and \$213,579 is proposed for 2018 Convention and Visitors Program activities, from a combination of unanticipated revenue (Lodging Tax) and prior year reserves (unspent appropriations) in the General Fund Lodging Tax Reserves.

Lodging taxes are annually collected by the City of Fort Collins for Cultural Development and Tourism programming activities. Anticipated revenue is projected through each Budgeting for Outcomes (BFO) cycle and then adjusted annually as needed based on actual collections. Lodging tax revenue collected in 2017 was \$237,967 above projected collections.

2. Items Relating to Income Qualified Assistance Programs.

A. Second Reading of Ordinance No. 053, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Change the Name of Time-of-Use Electric Rates to Time-of-Day Electric Rates.

B. Second Reading of Ordinance No. 054, 2018, Amending Chapter 26 of the Code of the City of Fort Collins to Adopt Discounts Applicable to Water, Wastewater and Electric Rates, Fees and Charges Applied Under an Income Qualified Assistance Program.

The purpose of Ordinance No. 053, 2018, is to change the name for the electric service rates that will go into effect on October 1, 2018, from "time-of-use" to "time-of-day" to better identify how the rates will be applied to different times during the day.

The purpose of Ordinance No. 054, 2018, is to bring forward an ordinance to implement an Income-Qualified Assistance Program (IQAP), formerly referred to as the income-qualified rate (IQR). For qualified customers who "opt-in", this program will initially provide a 23% discount on specified rate components for electric, water and wastewater services on a customer's monthly bill. Utilities will qualify customers through the Low-income Energy Assistance Program (LEAP), which uses an income threshold of 165% of the Federal Poverty Level (FPL). The IQAP will have a three-year phased approach to provide data to City Council that demonstrates reasonable bill affordability and presents long-term recommendations on participation criteria, including whether a specific level of dwelling improvements in participants' homes may (or may not) eliminate the need for payment assistance, or support removal of participants from the program. The IQAP will be rolled out in October 2018, in conjunction with time-of-day (TOD) (formerly referred to as "time-of-use" [TOU]) rates for residential customers, as approved by Council in November 2017. These Ordinances were unanimously adopted on First Reading on April 17, 2018.

For Second Reading of Ordinance No. 054, 2018, staff has attached a memo responding to Council questions raised on First Reading of the Ordinance. The memo addresses program plans regarding simplified IQAP participant application and qualification procedures, and coordination of IQAP with other regional low-income programs.

3. Second Reading of Ordinance No. 055, 2018, Authorizing the Release of a Restrictive Covenant on Property at the Colony at Rigden Farm.

This Ordinance, unanimously adopted on First Reading on April 17, 2018, authorizes the release of a restrictive covenant for affordable home ownership on a property's title because the property developed into market rate rental housing. The project contemplated by the covenant was not built and no affordable housing incentives were provided to the developer.

4. Items Relating to the Appropriation from Light and Power/Broadband Fund Debt Proceeds and Other Funds Related to the Broadband Project.

A. Second Reading of Ordinance No. 056, 2018, Appropriating Proceeds from the Issuance of 2018 Electric Utility Enterprise Revenue Bonds for Capital, Operating, Debt Service and Art in Public Places Expenditures Associated with the Construction of a Broadband System to Provide Telecommunication Facilities and Services to Customers Within Fort Collins in the Light and Power Fund and Transferring Appropriations from the Light and power Fund to the Cultural Services and Facilities Fund for the Art in Public Places Program.

B. Second Reading of Ordinance No. 057, 2018, Appropriating Funds from the Light and Power Fund to Defeas the City of Fort Collins, Colorado, Electric Utility Enterprise Taxable Revenue Bonds Series 2010B.

These Ordinances, unanimously adopted on First Reading on April 24, 2018, appropriate (1) bond proceeds for the construction of a municipal broadband system and (2) Light & Power reserves for the defeasance of outstanding debt. The issuance and defeasance were authorized by the Electric Utility Enterprise Board Ordinances No. 003 and No. 004, respectively. This agenda item is consistent with Strategic Objective 3.9 from the 2016 Strategic Plan: Encourage the development of reliable, high speed internet services throughout the community.

5. First Reading of Ordinance No. 059, 2018, Appropriating Prior Year Reserves for the Purpose of Providing Natural Areas Programming Not Included in the 2018 Adopted City Budget and Authorizing the Transfer of Appropriations from the Natural Areas Fund into the Capital Project Fund for the Whitewater Park Project.

The purpose of this item is to appropriate \$10,000,000 in prior year reserves and unanticipated revenues in the Natural Areas Fund and to include a transfer of \$273,812 to the Capital Projects Fund for the Whitewater Park project. These appropriations are for land conservation, restoration of wildlife habitat, a transfer of prior year reserves and commitments to fund restoration of the Poudre River at the Whitewater Park, as well as other Natural Area Department programs to benefit the citizens of Fort Collins.

6. First Reading of Ordinance No. 060, 2018, Appropriating Unanticipated Grant Revenue in the Transportation Fund from the Colorado Department of Transportation and the BNSF Railway Foundation for the Safe Routes to School Program.

The purpose of this item is to request appropriation of \$25,584 in unbudgeted funds received through two grants for the Safe Routes to School (SRTS) program (part of the City's FC Moves Department). The Colorado Department of Transportation (CDOT) has awarded an \$18,584 grant for acquisition of new equipment, and BNSF Railway Foundation has awarded a \$7,000 grant for SRTS bike-pedestrian safety education in K-8 schools. This project requires a 20% local match for the CDOT grant (\$4,646), which will be paid from a portion of the BNSF Railway Foundation grant.

7. First Reading of Ordinance No. 061, 2018, Repealing and Reenacting Division 4 in Article IV of Chapter 2 of the Code of the City of Fort Collins Pertaining to the Fort Collins Urban Renewal Authority to Address Recent Changes in Colorado's Urban Renewal Law and Confirming the Appointment of Andy Smith to the Authority's Board of Commissioners.

The purpose of this item is to amend City Code (Code) to provide for an expanded Urban Renewal Authority (URA) Board following the requirements of state law associated with the creation of a new Urban Renewal Plan Area. More particularly, this item amends the Code to provide for an expanded URA Board that includes a county appointment, school district appointment, an appointment from among the special districts, and to restore the board to an odd number, a mayoral appointment. Additionally, the Code will be amended to clarify that the county, school district and special district appointees are not subject to the City's conflict of interest provisions, but are subject to the conflict of interest provisions that govern URAs as per state law.

8. First Reading of Ordinance No. 062, 2018, Amending Section 26-392 of the Code of the City of Fort Collins Regarding the Electric Utility Enterprise.

The purpose of this item is to clarify and amend City Code language regarding the officers of the electric utility enterprise board, and amend the provision regarding meetings of the board in order to allow for greater flexibility in meeting times.

9. First Reading of Ordinance No. 063, 2018, Making Various Amendments to the City of Fort Collins Land Use Code.

THIS ITEM IS WITHDRAWN FROM CONSIDERATION AND MOVED TO MAY 15, 2018

~~The purpose of this item is to adopt a variety of revisions, clarifications and additions to the Land Use Code that are generally housekeeping and routine in nature that have been identified since the last update in May 2017.~~

10. First Reading of Ordinance No. 064, 2018 Authorizing the Conveyance of Various Property Interests on City-Owned Property at Pelican Marsh Natural Area to Pedcor Investments LLC.

The purpose of this item is to authorize the conveyance of one non-exclusive permanent drainage easement, one non-exclusive permanent slope easement and two temporary construction easements on Pelican Marsh Natural Area (Pelican Marsh) to Pedcor Investments LLC. (Pedcor).

11. First Reading of Ordinance No. 065, 2018, Authorizing the Conveyance to the Colorado Department of Transportation of Various Property Interests on City-Owned Property at Arapaho Bend Natural Area.

The purpose of this item is to authorize the conveyance of two permanent right-of-way easements, one temporary construction easement, and a triangle strip of land on Arapaho Bend Natural Area to the Colorado Department of Transportation (CDOT).

12. Resolution 2018-041 Finding Substantial Compliance and Initiating Annexation Proceedings for the East Gateway Annexation.

The purpose of this item is to initiate annexation proceedings for the East Gateway Annexation, containing 1.77-acres, into the City of Fort Collins. The annexation is generally located northeast of the Interstate 25 and East Mulberry Street interchange. The annexation area includes three parcels of land that consist of railroad-owned property, a strip of land on the western edge of the Cloverleaf Mobile Home Park, and a triangular-shaped parcel owned by the Colorado Department of Transportation. The requested zoning for this annexation is a combination of General Commercial (C-G), Industrial (I), and Low Density Mixed Use Neighborhood (L-M-N), consistent with the City of Fort Collins Structure Plan Map designations. The surrounding properties are a mixture of residential and commercial land uses.

The proposed Resolution makes a finding that the annexation petition substantially complies with the Municipal Annexation Act of 1965, determines that a hearing should be established regarding the annexation, and directs notice be given of the hearing. The hearing will be held at the time of First Reading of the annexation and zoning ordinances; not less than thirty days of prior notice is required by state law.

13. Resolution 2018-042 Authorizing the Execution of an Intergovernmental Agreement Between the City of Fort Collins and the Downtown Development Authority Regarding the Renovation and Redevelopment of Old Firehouse Alley/Seckner Alley and West Mountain Alley.

The purpose of this item is to request Council approval for an Intergovernmental Agreement (IGA) between the City of Fort Collins and the Downtown Development Authority (DDA) for renovation and redevelopment of Old Firehouse Alley/Seckner Alley and West Mountain Alley.

14. Resolution 2018-043 Authorizing the Initiation of Exclusion Proceedings of Annexed Properties within the Territories of the Poudre Valley Fire Protection District and the Windsor-Severance Fire Protection District.

The purpose of this item is to authorize the City Attorney to file a petition in the Larimer County District Court to exclude eight properties within the Poudre Valley Fire Protection District that were annexed into the City in 2017, and to file a petition in the Weld County District Court to exclude two properties within the Windsor-Severance Fire Protection District that were annexed into the City in 2017. The properties affected by this Resolution are: Rennat Annexation, Lehman-Timberline Annexation, Mail Creek Crossing Second Annexation, Blehm-Homestead Annexation, Newton First Annexation, Newton Second Annexation, Fox Hills Second Annexation, I-25 Third Annexation, and Interstate Land Holdings Annexation. C.R.S. Section 32-1-502 requires an order of exclusion from the district court to remove these annexed properties from special district territories. The properties located in the Poudre Valley Fire Protection District have been receiving fire protection services from the Poudre Fire Authority and will continue to do so. The properties located in the Windsor-Severance Fire Protection District have been receiving fire protection services from Windsor-Severance Fire Rescue and will now be receiving fire protection services from Poudre Fire Authority. The City Attorney's Office files petitions each year seeking exclusion for all properties annexed in the previous year that should be removed from the fire protection districts (Districts) to avoid double taxation.

15. Resolution 2018-044 Confirming and Approving the Appointment of Andy Smith to the Board of Commissioners of the Fort Collins Urban Renewal Authority as Provided in Colorado's Urban Renewal Law.

The purpose of this item is to appoint Andy Smith to fill a seat created by legislative changes affecting the Urban Renewal Authority (URA). Mayor Troxell and Councilmember Stephens interviewed applicants on April 4, 2018, from applications solicited in February and March. They are recommending that Andy Smith be appointed to serve as a commissioner on the URA's Board.

END CONSENT

- **CONSENT CALENDAR FOLLOW-UP**

This is an opportunity for Councilmembers to comment on items adopted or approved on the Consent Calendar.

- **STAFF REPORTS**

A. Night Sky Initiative Update (staff: Ginny Sawyer)

- **COUNCILMEMBER REPORTS**

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

Discussion Items

The method of debate for discussion items is as follows:

- Mayor introduces the item number, and subject; asks if formal presentation will be made by staff
- Staff presentation (optional)
- Mayor requests citizen comment on the item (three minute limit for each citizen)
- Council questions of staff on the item
- Council motion on the item
- Council discussion
- Final Council comments
- Council vote on the item

Note: Time limits for individual agenda items may be revised, at the discretion of the Mayor, to ensure all citizens have an opportunity to speak. **Please sign in at the table in the back of the room.** The timer will buzz when there are 30 seconds left and the light will turn yellow. It will buzz again at the end of the speaker's time.

16. Second Reading of Ordinance No. 058, 2018, Appropriating Prior Year Reserves in the General Fund and the Fort Collins Urban Renewal Authority Fund and Authorizing the Transfer of Appropriations from the General Fund and the Fort Collins Urban Renewal Authority Fund into the Capital Project Fund for the Poudre River Whitewater Park Project and Transferring Appropriations from the Capital Project Fund to the Cultural Services and Facilities Fund for the Art in Public Places Program and Transferring Appropriations in the Storm Drainage Fund from the Boxelder Creek Outfall Project and the Remington Street Outfall Project to the Capital Project Fund for the Poudre River Whitewater Park Project. (staff: Kurt Friesen; no staff presentation; 15-minute discussion)

This Ordinance, adopted on First Reading on April 17, 2018 by a vote of 6-1 (Nays: Cunniff), appropriates additional funding for the Poudre River Whitewater Park project. The Whitewater Park will be located south of Vine Drive between College Avenue and the BNSF Railroad. Design and permitting for the project are nearly complete, with construction anticipated to begin Summer 2018, and the project complete in Summer 2019. There is sufficient funding available for a minimum, base project. To realize the full vision of the project, as outlined in the 2014 Poudre River Downtown Master Plan, approximately \$2M of additional funds are needed.

For Second Reading, the Ordinance has been modified as follows:

- By the addition of new “whereas” clauses that:
 - incorporate background and requirements from the April 7, 2015 CCIP ballot approval language in Ordinance No. 013, 2015 (the “Ordinance”).
 - set forth the requirement in the Ordinance that City Council must have determined that the City has received at least \$1,500,000 in of contributions and pledges from private sources to support building the Whitewater Park (referred to as the “Kayak Park” in the Ordinance and the CCIP project schedule referenced in the ballot measure) and that the City has not yet received the entire amount of such contributions.
 - Acknowledge that the Ordinance requires construction of all components described on the exhibit attached thereto, which include a whitewater kayak park, a pedestrian bridge, and other elements.
 -
- By inclusion of a condition that the funds appropriated by the Ordinance are not available for expenditure for construction until the City Manager provides a report and recommendation that all required private funds and pledges have been received and Council adopts a resolution finding

the private funding requirement has been met (to satisfy the Ordinance requirement for a determination by Council as to this condition).

The additional funds requested in this appropriation are necessary to satisfy the requirement of the Ordinance that the Project include all of the elements described in Exhibit "A" to Ordinance No 013, 2015.

At the April 17 City Council meeting, several questions were raised regarding restrooms in the Whitewater Park. There are floodway and floodplain constraints on the site today that prevent the restroom from being built in the initial phase of the project. Once the initial phase of the project is completed, floodplain mapping for the project will be revised. The revised floodplain mapping is estimated to be complete in 2019, enabling construction of a permanent restroom as early as 2020. A Budgeting for Outcomes (BFO) offer is planned to be submitted in the 2019-20 budget to fund design and construction of the restroom. Until a permanent restroom is constructed, temporary, portable toilets will be provided on site.

17. Consideration of an Appeal of the Administrative Officer Decision Regarding the Spirit at the River Project Development Plan. (staff: Tom Leeson, Clay Frickey; 10-minute staff presentation; 2 hour discussion)

The purpose of this item is to consider an appeal of the Hearing Officer's decision on February 8, 2018, approving the Spirit at the River Project Development Plan. The appeal was filed on February 20, 2018, by Councilmember Ross Cunniff.

The appellant seeks to have the following questions answered:

1. How does the site plan comply with Land Use Code Section 3.4.1 in general, including but not limited to compliance with Section 3.4.1(E)(1), "...the decision maker shall reduce or enlarge any portion of the general buffer zone distance, if necessary in order to ensure that the performance standards set forth below are achieved" and the associated buffer zone table which calls out the relevant buffer as "Cache la Poudre River (Lincoln Avenue to east UGA boundary): 300 feet" given that the actual designed buffer ranges from 176 to 244 feet, with an average of 201 feet?
2. How does the height/mass of the building comply with Land Use Code Section 4.20(D)(3)(a)(1), which specifies, "The maximum building height shall be three (3) stories"?
3. How does the parking modification comply with Land Use Code Section 4.20(D)(3)(a)(2), which specifies that new parking lots and vehicle use areas shall be located in either interior block locations between buildings or in side yards?

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

● **OTHER BUSINESS**

A. Possible consideration of the initiation of new ordinances and/or resolutions by Councilmembers

(Three or more individual Councilmembers may direct the City Manager and City Attorney to initiate and move forward with development and preparation of resolutions and ordinances not originating from the Council's Policy Agenda or initiated by staff.)

B. Consideration of a motion to appoint Mayor Pro Tem Horak as spokesperson for the City at the Larimer County Board of Commissioners discussion regarding a request for a sign code variance by American Furniture Warehouse.

● **ADJOURNMENT**

Every Council meeting will end no later than 10:30 p.m., except that: (1) any item of business commenced before 10:30 p.m. may be concluded before the meeting is adjourned and (2) the City Council may, by majority vote, extend a meeting until no later than 12:00 a.m. for the purpose of considering additional items of business. Any matter which has been commenced and is still pending at the conclusion of the Council meeting, and all matters scheduled for consideration at the meeting which have not yet been considered by the Council, will be continued to the next regular Council meeting and will be placed first on the discussion agenda for such meeting.