

August 19, 2014

**COUNCIL OF THE CITY OF FORT COLLINS, COLORADO**

**Council-Manager Form of Government**

**Regular Meeting – 6:00 PM**

• **ROLL CALL**

PRESENT: Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak  
ABSENT: None

Staff Members Present: Atteberry, Nelson, Daggett.

• **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry stated Mike Beckstead will present a brief staff report regarding the status of the mall project.

• **CITIZEN PARTICIPATION**

Mel Hilgenberg, 172 North College, announced community events, suggested the City and County partner to recycle residential trash and supported the Give Smart initiative.

Kevin Pass, 1150 St. Germain Drive, stated the asphalt plant on Taft Hill Road needs additional monitoring.

Megan Williams, 3000 South Taft Hill, read a letter to Council from the West Nile Virus Technical Advisory Committee expressing concern regarding Larimer County's decision to aduldicide within city limits.

Dana Kunze, 2206 West Prospect Road, continued reading the letter from the West Nile Virus Technical Advisory Committee.

Julia MacMillan, 1301 Lawrence Drive, expressed concern regarding the draft air permit for Martin Marietta's asphalt plant on Taft Hill Road.

Nancy York, 130 South Whitcomb, urged Council to act to restore the 5-year moratorium on fracking that was overturned by a judge.

John Anderson, Fort Collins resident, discussed the importance of moral courage and stewardship.

Desiree Fiske, 334 East Mulberry, showed slides opposing the public education campaign proposed by the Social Sustainability Department regarding the Give Smart anti-panhandling program.

Lucy Trup, 2125 Stonecrest, expressed concern regarding the draft air permit for Martin Marietta's asphalt plant on Taft Hill Road.

Jeremy Woodard, Fort Collins resident, opposed the homeless sweeps being conducted by Fort Collins Police.

Myles Crane, 5200 Parkway, discussed the erosion and stormwater issues with Mail Creek.

Lauren DeQuasie, Fort Collins resident, read a letter from a homeless individual opposing the homeless sweeps being conducted by Fort Collins Police.

Karen Hare, 1352 Northern Court, expressed concern regarding the asphalt plant on Taft Hill Road.

Jerry Letow, Fort Collins resident, stated he is currently homeless and opposed the homeless sweeps being conducted by Fort Collins Police.

Bob Hare, 1352 Northern Court, expressed concern regarding the asphalt plant on Taft Hill Road stating truck traffic in the area has drastically increased.

Zachariah Humbert, Fort Collins resident, opposed the homeless sweeps being conducted by Fort Collins Police.

Brian Simpson, Fort Collins resident, expressed concern regarding the asphalt plant on Taft Hill Road.

Brandi Williams, Fort Collins resident, opposed the use of police for social services.

Val Vogeler, 520 North Taft Hill Road, opposed the asphalt plant on Taft Hill Road.

Jamie Newlin, Fort Collins resident, stated he is homeless and opposed the homeless sweeps being conducted by Fort Collins Police.

Rich Stave, 5410 Fossil Ridge Drive, stated he is hopeful regarding the Mail Creek project progress.

Kelly Ohlson, 2040 Bennington Circle, read a statement expressing concern regarding pressure placed on City staff to cut corners on development policies.

Glen Colton, 625 Hinsdale Drive, continued reading Mr. Ohlson's statement.

Karen Rose, 5200 Parkway Circle, expressed concern that Mail Creek has been studied three times and requested a budget and timeline for the project.

Mike Pruznick, 636 Castle Ridge Court, discussed rape occurrences in the City's parks and natural areas and stated the mall contract should be cancelled for cause.

Cody Fry, Fort Collins resident, stated he is transient and opposed the homeless sweeps being conducted by Fort Collins Police.

Cheryl Distaso, Fort Collins Community Action Network, supported the West Nile Virus Technical Advisory Committee's letter and concerns, opposed the asphalt plant, and opposed the homeless sweeps being conducted by Fort Collins Police and the anti-panhandling campaign.

Thomas Edwards, 1101 South Bryan Avenue, expressed concern regarding the effects of CSU students on Avery Park.

## ● CITIZEN PARTICIPATION FOLLOW-UP

Mayor Weitkunat requested information regarding the City's role in the permitting process for the Martin Marietta asphalt plant. City Manager Atteberry replied the Air Quality Advisory Board will be considering the issue prior to Council's consideration in September, and he suggested Council defer a full conversation until that time. He noted City staff has paid very close attention to the issues and acknowledged the City does have a contract with Martin Marietta to provide materials for the Street Pavement Management Program.

Mayor Weitkunat requested information regarding the County's adulticide spraying. City Manager Atteberry replied the spraying has occurred in the southeast part of town and commended the City's integrated pest management policy. He has called Dr. LaBailly and has spoken with the County Manager regarding making more systemic decisions regarding spraying in the future.

Councilmember Overbeck thanked the Technical Advisory Committee for its input and commended its work.

Councilmember Cunniff shared the concern regarding the County's decision to spray and its lack of public outreach.

Councilmember Troxell expressed concern regarding the lack of process to County Commissioner Gaiter and suggested the City readdress its own policies with respect to West Nile Virus.

Mayor Weitkunat requested information regarding the homeless issues. Bruce Hendee, Chief Sustainability Officer, replied staff recognizes the difficulty in enforcing homeless camping regulations. He stated the City is working with several non-profits to develop a plan which will be brought before Council in the coming months. Mary Atchison, Social Sustainability Director, discussed issues regarding housing and possible crimes against homeless women. She stated the community education campaign regarding panhandling was heavily researched.

Councilmember Poppaw suggested the campaign should be pulled back until Council has an opportunity to examine it. Additionally, she expressed concern that there is not enough housing in the community and tickets should not be issued until an alternative can be offered.

Councilmember Overbeck expressed concern regarding the campaign and asked if safe zones for the overflow of homeless individuals are being considered. Atchison replied many alternatives are being considered, including opening space in churches, safe camping zones, tiny home villages, and dorm-like space.

Councilmember Poppaw noted she has received compliments regarding some of the officers patrolling the downtown area.

City Manager Atteberry expressed support for the officers and other staff members who have been dealing with the homeless issue and stated Council expectations need to be made clearer.

Councilmember Cunniff suggested the panhandling campaign may need to be reconsidered.

Councilmember Campana stated the solution to this issue will need to involve the entire community and encouraged additional dialogue.

Councilmember Troxell commended the efforts of officers dealing with homeless individuals.

Mayor Pro Tem Horak noted the Mail Creek project could be discussed during the upcoming budget cycle.

Councilmember Campana discussed his status as a developer and stated he has filed a conflict of interest should the issues discussed by Mr. Ohlson and Mr. Colton come before Council.

Mayor Pro Tem Horak noted Mr. Ohlson's concerns had been expressed at a listening session and requested an additional discussion with the City Manager.

(Secretary's note: Councilmember Campana left the Council Chambers at this point in the meeting due to his conflict of interest.)

City Manager Atteberry stated he has never fielded any type of comment regarding favoritism being shown to a particular Councilmember and took exception to the accusations made by Mr. Ohlson. He detailed the issue raised by Councilmember Campana in his role as a developer and the City response thereto. Council was not made aware of the use of outside counsel for a Code interpretation likely due to the unexpected passing of City Attorney Roy.

Councilmember Cunniff discussed the need for policies to aid in these types of situations.

● **CONSENT CALENDAR**

Councilmember Overbeck withdrew Item No. 13 *Items Relating to Initiating Annexation Proceedings for the Clydesdale Park First and Second Annexations* from the Consent Calendar.

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

(Secretary's note: Councilmember Campana was out of Chambers at the time of this vote.)

<b>RESULT:</b>	<b>ADOPTED [6 TO 0]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Lisa Poppaw, District 2
<b>AYES:</b>	Weitkunat, Overbeck, Poppaw, Troxell, Cunniff, Horak
<b>AWAY:</b>	Campana

1. **Consideration and Approval of the Minutes of the July 1 and July 15, 2014 Regular Council Meetings, the July 8, 2014 Special Council Meeting and the July 22, 2014 Adjourned Council Meeting. (Adopted)**

The purpose of this item is to approve the minutes from the July 1 and July 15, 2014 Regular Council meetings, the July 8, 2014 Special Council meeting and the July 22, 2014 Adjourned Council meeting.

2. **Second Reading of Ordinance No. 101, 2014, Amending Article XII of Chapter 23 of City Code Relating to Art in Public Places. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 15, 2014, amends Article XII of Chapter 23 of the City Code relating to Art in Public Places. This Ordinance increases the threshold for art projects requiring City Council approval from \$10,000 to \$30,000. During First Reading, Council changed the threshold amount from \$60,000 to \$30,000.

3. **Second Reading of Ordinance No. 102, 2104, Amending the Fort Collins Traffic Code Regarding Payment of Fares for Use of Public Transportation Vehicles. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 15, 2014, amends the Traffic Code to address fare payment requirements on public transportation and provides due process of fare violations through Municipal Court.

4. **Second Reading of Ordinance No. 103, 2014, Authorizing the Conveyance of a Non-Exclusive Waterline Easement and Temporary Construction Easement on City Property to the North Weld County Water District and the East Larimer County Water District. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 15, 2014, authorizes the conveyance of easements on City Property to the East Larimer County Water District and the North Weld County Water District for their NEWT II Water Transmission Pipeline Project. The East Larimer County Water District and North Weld County Water District have begun the second phase of a multi-phase water transmission pipeline project for the purposes of conveying treated water from the Districts' Soldier Canyon Filter Plant to their drinking water distribution systems. The alignment of the pipeline will cross a section of the City Property, located east of Taft Hill Road and north of Vine Drive, which is managed by the City Park Planning Department. As such, the Districts have requested a waterline easement from the City for their project.

5. **Second Reading of Ordinance No. 104, 2014, Authorizing the Conveyance of a Non-Exclusive Utility Easement on City Property to the Nunn Telephone Company. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 15, 2014, authorizes the conveyance of a non-exclusive easement to Nunn Telephone Company for the purpose of installing a fiber-optic connection to an AT&T fiber regeneration hut that is located on a portion of the Meadow Springs Ranch. The proposed easement is 10 feet wide and approximately 690 feet long and would be placed immediately adjacent to an existing access road.

6. **Second Reading of Ordinance No. 105, 2014 Amending Section 2-581 of the City Code and Setting the Compensation of the Interim City Attorney. (Adopted)**

This Ordinance, unanimously adopted on First Reading on July 15, 2014, establishes the salary and compensation provided the interim City Attorney while she serves in this capacity.

7. **Items Relating to the Vida Sana Grant. (Adopted)**

A. Resolution 2014-066 Authorizing The City Manager To Execute A Grant Agreement With The Poudre Valley Health Systems Foundation For Delivery Of Vida Sana Project Programming

B. First Reading of Ordinance No. 106, 2014, Appropriating Unanticipated Grant Revenue in the Recreation Fund for the Vida Sana Grant.

The purpose of this item is to approve the sub-grant agreement and appropriate sub-grant funds from the Colorado Department of Public Health and Environment, through the Poudre Valley Health System Foundation and the Coalition for Activity and Nutrition to Defeat Obesity (CANDO), for the Vida Sana program to eliminate racial and ethnic disparities in access among Latino/Hispanic community members to healthy lifestyle counseling and programs. Specific interventions include

increasing access to facilities providing physical activity; providing social support to increase physical activity; and implementing a community wide campaign for increasing physical activity that will be carried out by partner agencies.

8. **First Reading of Ordinance No. 107, 2014, Amending Ordinance No. 121, 2013, Regarding Minimum Parking Requirements in the Transit-Oriented Development Overlay Zone District to Extend Its Termination Date. (Adopted)**

The purpose of this agenda item is to request a 90-day extension of the temporary parking requirements in the TOD Overlay Zone. The ordinance (Ord. No. 121, 2013) expires on September 13, 2014. The Planning and Zoning Board is requesting more time to evaluate recommendations from the TOD Parking Study. New parking requirements are anticipated to replace the temporary parking ordinance.

The Planning and Zoning Board will consider this item at its September 11, 2014 meeting. City Council will formally consider the TOD Parking Study on First Reading on October 7 and Second Reading on October 21.

9. **First Reading of Ordinance No. 108, 2014, Amending Chapter 26 of the City Code to Revise Electric Rates, Fees and Charges and Provide Rates for Customers Enrolled in the Fort Collins Community Solar Project. (Adopted)**

The purpose of this item is to establish a reimbursement rate for the energy that will be produced through the Fort Collins Community Solar Project (solar farm). The proposed reimbursement rate is consistent with recent changes in the rooftop net-metering reimbursement rate, adopted in Ordinance No. 067, 2014. Like the rooftop net-metering customers, participants in the solar farm, who purchase an interest in the solar farm, will be reimbursed for every kilowatt-hour of energy produced at a rate of \$0.0714 per kWh (the combination of the Summer Tier 1 rate of \$0.0583 per kWh and one half the facilities charge rate - \$0.0131 per kWh). The difference between the two rates is that, because participants in the Fort Collins Community Solar Project will need to fully utilize the distribution infrastructure to deliver all of their household energy, the additional payment the facilities charge portion of the rate is proposed to be only half of that being given to rooftop net-metering customers.

10. **First Reading of Ordinance No. 109, 2014, Authorizing the Mayor to Execute a Lease Agreement with Clean Energy Collective, LLC for the Use of City Property for a Community Solar Garden Project with an Associated Access Easement. (Adopted)**

The purpose of this item is to authorize the lease of City property located at 500 Riverside Avenue to Clean Energy Collective, LLC (through its subsidiary, CEC Solar #1038, LLC), to build and operate a community solar farm project, including an access easement to enter the property from the Wastewater plant entry road on Mulberry Street. The City has entered into a Power Purchase Agreement with Clean Energy Collective, LLC (CEC) to develop a community solar project in Fort Collins. The City property located at 500 Riverside Avenue was determined by staff and CEC to be a feasible site for the location of the project. To facilitate the development of the solar garden, CEC has requested a lease agreement for the use of the City's property for a period of 25 years for the building and operation of the solar farm project.

11. **First Reading of Ordinance No. 110, 2014, Authorizing the Exchange of a 9.33 Acre Portion of the Timberline Substation Property from the Electric Utility for a Comparably-Valued 3.03 Acre Site from the Parks Department. (Adopted)**

The purpose of this item is to authorize the exchange of portions of property at the Timberline Substation property between the Utility Department and the Parks Department. The City of Fort Collins owns a parcel of land at the southwest corner of Prospect Road and Timberline Road which is the location of the Timberline Substation (the "City Property"). The Utility Department owns 19.92 acres of the City Property of which 7.43 acres are used for substation purposes. The Parks Department desires to develop a 9.33-acre portion of the property owned by Utilities for recreation purposes and has proposed to acquire this portion from the Utility Department. The Parks

Department intends to maintain the property as a disc golf course. The Utility Department has determined that the proposed conveyance and recreation use will not adversely impact the portion of the City Property used for utility purposes. In exchange, the Utility Department desires to acquire a 3.03 acre portion of the City Property which is owned by the Parks Department. This Ordinance authorizes the exchange of the properties between the Utility Department and Parks Department, recognizing that no funds will need to be paid between the departments, based on the comparable values of the two parcels, existing encumbrances on the 9.33-acre parcel, the value of all access reservations retained by the Utilities Department, the beneficial use each will realize in the land it acquires, and the value of additional services the Utility Department will provide to the Parks Department.

12. **First Reading of Ordinance No. 111, 2014, Authorizing the Conveyance of a Shared Access Easement on City Property to Public Service Company of Colorado. (Adopted)**

The purpose of this item is to authorize the conveyance of a shared access easement to Public Service Company of Colorado for an access road at the Timberline Substation Property. The City of Fort Collins Utility Department owns a property at the southwest corner of Prospect Road and Timberline Road which is the location of the Timberline Substation (the "City Property"). Public Service Company of Colorado, Inc. (PSCo) owns a small tract of land on Timberline Road which is surrounded on three sides by the City Property. The access to the two properties is by means of an existing driveway located on Timberline Road of which a portion falls on to each property. In order to establish an easement of record for the allowed use of the driveway by each party, the Utility Department and PSCo have proposed the conveyance of a shared access easement allowing both parties the right to use the driveway for access purposes.

14. **Resolution 2014-069 Authorizing a License to Enter to the Fort Collins Fire Museum Foundation for Access to City-Owned Property at 330 North Howes Street for Up to Two Years. (Adopted)**

The purpose of this item is to authorize the Fort Collins Fire Museum Foundation to use a portion of the City's Car Barn for restoring historic fire equipment belonging to the City and Poudre Fire Authority (PFA). This License to Enter is effective for up to two years, but can also be terminated by either party at any time.

15. **Resolution 2014-070 Authorizing Intergovernmental Agreements with the United States Fish and Wildlife Service Regarding Reintroducing Endangered Black-Footed Ferrets to Soapstone Prairie Natural Area and Meadow Springs Ranch. (Adopted)**

The purpose of this item is to approve by resolution various agreements with the United States Fish and Wildlife Service (USFWS) that allow the City to reintroduced endangered black-footed ferrets to Soapstone Prairie Natural Area and Meadow Spring Ranch. The City of Fort Collins implemented a black-tailed prairie dog management plan on Soapstone Prairie Natural Area (Soapstone) and Meadow Springs Ranch (Meadow Springs) with a goal of reintroducing the federally endangered black footed ferret onto the properties (ferrets predate on prairie dogs almost exclusively). The prairie dog plan was implemented in cooperation with the U.S. Fish and Wildlife Service (USFWS) and Colorado Parks and Wildlife (CPW) and resulted in the selection of the City-owned properties as a new ferret recovery site in 2014 by USFWS. In addition, the City worked with State Representative Randy Fischer to introduce and pass HB14-1267 allowing for the reintroduction of ferrets to occur. One requirement of the legislation is that reintroduction of the species must be done in accordance with a Programmatic Safe Harbor Agreement (Safe Harbor) with USFWS. The Certificate of Inclusion into the Safe Harbor and accompanying City of Fort Collins *Black-footed Ferret Reintroduction Plan for Soapstone Prairie Natural Area and Meadow Springs Ranch* are considered Intergovernmental Agreements and require City Council approval by resolution.

16. **Resolution 2014-071 Authorizing the Assignment of the City's Private Activity Bond Allocation for 2014 to the Fort Collins Housing Authority to Finance the Rehabilitation of Affordable Housing Units at the Villages at Cunningham Corner. (Adopted)**

The purpose of this item is to assign the City's 2014 Private Activity Bond Allocation (PAB) in the amount of \$7,408,350 to the Fort Collins Housing Authority (FCHA) for the purpose of affordable housing rehabilitation. Specifically, the bond proceeds will be used to finance the rehabilitation of 284 affordable housing units located at the Villages on Cunningham Corner.

Annually, the state allocates a portion of its ceiling for PAB to the City. If the City does not use or assign this allocation, it is returned to the state on September 15. The City will not incur debt and this will not affect the City's credit rating. There have not been any other requests to use the 2014 PAB allocation.

17. **Resolution 2014-072 Approving an Intergovernmental Agreement Between the City of Fort Collins, Platte River Power Authority, the Town of Estes Park, the City of Longmont, and the City of Loveland for Demand Side Management Program Coordination. (Adopted)**

The purpose of this item is to formalize the joint funding of demand side management (aka energy efficiency and conservation) (DSM) programs between the City of Fort Collins and Platte River Power Authority (Platte River).

Jointly developed efficiency programs which are administered by Platte River require supplemental or directive funding from Fort Collins Utilities on behalf of Fort Collins customers. This intergovernmental agreement (IGA) formalizes the authority to provide additional funding via a purchase order process between the City and Platte River. The IGA is a joint document between Platte River, Fort Collins, Loveland, Longmont and Estes Park.

18. **Resolution 2014-073 Approving Expenditures from the Art in Public Places Reserve Account to Commission an Artist to Create Art for the Senior Center Expansion Project. (Adopted)**

The purpose of this item is to approve expenditures from the Art in Public Places Reserve Account to commission an artist to create art for the APP Senior Center Expansion Project. The expenditure of \$50,238 will be for design, materials, fabrication, installation and contingency for an artist-designed steel art panel to be located in the main lobby of the Senior Center, and for artist-designed concrete form liners to be used on an exterior seat wall at this site.

19. **Resolution 2014-074 Appointing Two Representatives to the Colorado Municipal League Policy Committee. (Adopted)**

The purpose of this item is to appoint Councilmember Wade Troxell and City Manager Darin Atteberry to represent the City of Fort Collins on the Colorado Municipal League Policy Committee.

● **END CONSENT**

● **CONSENT CALENDAR FOLLOW-UP**

Councilmember Cunniff requested an assessment of whether the Poudre River buffer standards are being met with regard to the project referenced in Item No. 10, *First Reading of Ordinance No. 109, 2014, Authorizing the Mayor to Execute a Lease Agreement with Clean Energy Collective, LLC for the Use of City Property for a Community Solar Garden Project with an Associated Access Easement*. Additionally, he requested revenue assessments regarding the proposed cutbacks with regard to Item No. 9, *First Reading of Ordinance No. 108, 2014, Amending Chapter 26 of the City Code to Revise Electric Rates, Fees and Charges and Provide Rates for Customers Enrolled in the Fort Collins Community Solar Project, prior to Second*



*Reading.* Bruce Hendee, Chief Sustainability Officer, replied staff worked extensively with the Utility and Natural Areas Departments to ensure Poudre River buffers were met.

Councilmember Troxell supported Item No. 14, *Resolution 2014-069 Authorizing a License to Enter to the Fort Collins Fire Museum Foundation for Access to City-Owned Property at 330 North Howes Street for Up to Two Years* and Item No. 17, *Resolution 2014-072 Approving an Intergovernmental Agreement Between the City of Fort Collins, Platte River Power Authority, the Town of Estes Park, the City of Longmont, and the City of Loveland for Demand Side Management Program Coordination*. Additionally, he stated he is looking forward to serving another term on the Colorado Municipal League Policy Committee.

Mayor Weitkunat discussed Item No. 15, *Resolution 2014-070 Authorizing Intergovernmental Agreements with the United States Fish and Wildlife Service Regarding Reintroducing Endangered Black-Footed Ferrets to Soapstone Prairie Natural Area and Meadow Springs Ranch*, stating Black-Footed Ferrets will be released at Soapstone on September 3<sup>rd</sup>.

## ● STAFF REPORTS

Mike Beckstead, Chief Financial Officer, discussed a second amendment to the mall redevelopment agreement and stated bonds should be offered through the Metro District shortly. The amendment addresses the height of the underpass, the cost of the activity center, leasing, and moving costs within the original estimate.

Councilmember Cunniff asked when the second tranche will be available. Beckstead replied the tranche levels that were specified in the first amendment are still in effect.

Councilmember Cunniff requested a list of leases.

## ● COUNCILMEMBER REPORTS

Councilmember Cunniff reported on a meeting with Congressman Jared Polis regarding energy policies.

## ● CONSIDERATION OF COUNCIL-PULLED CONSENT ITEMS

Mayor Weitkunat stated the Council-pulled Consent Item No. 13 will be considered after Item No. 23.

## ● DISCUSSION ITEMS

### 20. Second Reading of Ordinance No. 100, 2014, Appropriating Prior Year Reserves in the General Fund to Fund High Priority Security Enhancements. (Adopted)

*This Ordinance, adopted on First Reading on July 15, 2014, by a vote of 5-1 (Nays: Cunniff) appropriates funds to address high priority security findings identified by a comprehensive security assessment of City buildings. Funding is requested to implement enhancements to address the high priority findings identified in a 2013/2014 City building security assessment performed by Lyon & Associates. Funding will be directed to access control, alarm systems, internal public address systems, security cameras, and minor remodels to increase security workspace hardening. For Second Reading, the amount has been decreased to \$190,360 because it was determined that two servers were not required.*

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 100, 2014, on Second Reading.

Councilmember Cunniff stated he would not support the motion as a more appropriate time to discuss this issue would be during budget discussions.

Mayor Pro Tem Horak stated this item deals with an overriding security concern for front line staff members.

The vote on the motion was as follows: Yeas: Weitkunat, Overbeck, Poppaw, Campana, Troxell and Horak. Nays: Cunniff.

THE MOTION CARRIED.

<b>RESULT:</b>	<b>ADOPTED [6 TO 1]</b>
<b>MOVER:</b>	Gerry Horak, District 6
<b>SECONDER:</b>	Lisa Poppaw, District 2
<b>AYES:</b>	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Horak
<b>NAYS:</b>	Cunniff

21. **Items Relating to Disposable Bags. (Adopted Ordinance No. 099 as Amended on Second Reading)**

- A. *Second Reading of Ordinance No. 099, 2014, Amending Chapter 12 of the City Code to Establish Regulations Regarding Disposable Bags. (Option 1)*
- B. *First Reading of Ordinance No. 112, 2014, Amending Chapter 12 of the City Code to Establish Regulations Regarding Disposable Bags (Option 2)*

*At the May 13, 2014 Work Session, City Council directed staff to prepare an ordinance to reduce the number of disposable bags distributed by grocery stores at checkout registers. On July 1, Ordinance No. 099, 2014 was adopted by a vote of 5-2 (nays: Weitkunat, Troxell) on First Reading.*

*Council directed staff to postpone Second Reading of Ordinance No. 099, 2014 to August 19, to allow more time for Councilmembers to review public input on disposable bags. An informational meeting held July 30 (attended by 50-60 people) allowed the public to receive answers from staff and Councilmembers on specific questions regarding the proposed ordinance.*

*The "Option 2" ordinance has also been developed for Council's consideration. Option 2 has been written at the request of multiple Councilmembers to take a new approach at an ordinance that could help reduce the use of disposable bags in Fort Collins.*

Bruce Hendee, Chief Sustainability Officer, noted an additional option has been added since First Reading.

Susie Gordon, Senior Environmental Planner, stated Council will be considering Ordinance No. 099, 2014, on Second Reading and Ordinance No. 112, 2014, on First Reading. She discussed the history of the issue and the approval of Ordinance No. 099, 2014 on First Reading. Additionally, Gordon discussed Ordinance No. 112, 2014 and its differences from Ordinance No. 099, 2014.

The following citizens supported adoption of Ordinance No. 099, 2014:

David Roy, 2016 Evergreen Court  
Kevin Cross, Fort Collins Sustainability Group  
Gail Marie Kimmel, 331 Park Street  
Nancy York, 130 South Whitcomb  
Cheryl Distaso, Fort Collins Community Action Network  
Rob Kagen, Natural Resources Advisory Board  
Bob Mann, Natural Resources Advisory Board  
Tim Johnson, Fort Collins resident

The following citizens opposed the adoption of both Ordinances:

David Steinmetz, 4936 Smallwood Court  
Kathleen Bailey, 934 East Ridgecrest Road  
Chris Kelley, Fort Collins resident  
Duane Jansen, 617 Hillview Court  
Mary Beth Snyder, 630 North Briarwood  
Jonathan Barnes, Fort Collins resident  
Rob Kaczanowski, 720 Bentley Place  
Sean Yeldell, Fort Collins resident  
Mike Vandle, Fort Collins resident  
Rudy Zitti, 1626 Fantail Court  
Mary Lou Chapman, Rocky Mountain Food Industry Association  
Mike Pruznick, 636 Castle Ridge Court  
Jim Ling, 6575 Rookery Road  
Tim Bessler, 4443 Starflower Drive  
John Primsky, 1907 Catkins Court  
Heather Wolhart, 2520 Constitution Avenue  
Cathy Zitti, 1626 Fantail Court  
Lisa Gechter, Fort Collins resident  
Nila Croll, 7306 Vardon Way  
Ed Haynes, 1300 Patterson Place  
Allison Wollen, Fort Collins resident  
Jeff Bailey, Citizens Against Bag Taxes

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

Councilmember Campana asked about the results of a Brindle Group study. Gordon replied the report was a policy analysis of various approaches and the study determined that relative to bans, it is not as effective to charge a bag fee.

Councilmember Troxell commended the report staff prepared regarding the City's use of plastic bags.

City Manager Atteberry stated the City needs to lead by example and supported Council giving direction to reduce bag use within the organization.

Councilmember Troxell asked how many establishments will be affected with the passage of Ordinance No. 112, 2014. Hendee replied staff would need additional research time in order to respond with more precision.

Councilmember Troxell requested a waste stream analysis and questioned whether either of these Ordinances will accomplish their goals.

Mayor Weitkunat asked how many businesses would be impacted by the passage of Ordinance No. 099, 2014. Gordon replied there are about 25 grocery stores in Fort Collins which would be impacted.

Mayor Weitkunat suggested the possibility of eliminating the exemption for individuals receiving federal assistance given legislation that does not allow discrimination based on income.

Councilmember Cunniff made a motion, seconded by Councilmember Poppaw, to adopt Ordinance No. 099, 2014, on Second Reading.

Councilmember Cunniff stated there has been more research regarding the impacts of this option as opposed to Ordinance No. 112, 2014. He made a motion, seconded by Councilmember Poppaw, to amend Ordinance No. 099, 2014 to strike Section 12.140 and the reference to the same in Section 12.148(4), and to modify Section 12.139(2) by replacing the language to read "any revenue derived in excess of actual cost of administration and cost of the disposable bags shall be used to procure and distribute to eligible customers free of charge reusable bags" and adding an item 4 stating that "eligible customers for free reusable bags shall consist of those customers who provide proof that he or she is a participant in a federal or state food assistance program to the extent permissible under the relevant program."

Councilmember Cunniff discussed the intent behind his proposed amendment.

Councilmember Campana discussed his meeting with the Rocky Mountain Food Industry Association and stated they would like the bag fee to be applicable to all retail stores, would like to have the City generate uniform education pieces, and oppose administering excess revenue from the bag fee.

Mayor Pro Tem Horak supported expanding the Ordinance to all retailers and supported aligning the fee with the actual amount of the cost, which is \$0.04 or \$0.05.

The vote on the amendment was as follows: Yeas: Cunniff, Overbeck and Poppaw. Nays: Weitkunat, Campana, Troxell and Horak.

THE MOTION WAS DEFEATED.

Councilmember Troxell asked if a deposit rather than a fee was ever considered. Gordon replied there is no precedent for such a system; therefore the idea was never investigated further.

Councilmember Cunniff opposed a deposit program for bags only in Fort Collins but supported the discussion of a statewide deposit system for various waste products.

Councilmember Troxell opposed the existing two Ordinances as not being fully ready.

Councilmember Campana stated the issue has had a significant amount of public outreach and discussed his support for the items in Ordinance No. 112, 2014; however, he stated he could support Ordinance No. 099, 2014 with slight changes, including reducing the fee to \$0.05.

Councilmember Cunniff suggested Council direct the City Manager to undertake a reduction in the number of plastic bags used by the City.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to amend the Ordinance to change references from food stores to retail stores, to change the fee amount from \$0.10 to \$0.05, to delete the section regarding rebates for individuals receiving state or federal food assistance, and to direct the City Manager to address the reduction of plastic bag use within the City organization and create a public education campaign.

Mayor Pro Tem Horak suggested the City Attorney be given a few minutes to craft the amendment language.

Mayor Weitkunat suggested proceeding to other items on the agenda during the time.

Mayor Weitkunat opposed the excessive number of changes being made to Ordinance No. 099, 2014 and suggested it would be cleaner to start over with a new Ordinance.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Poppaw, to table the discussion of Item No. 21 until the completion of the discussion of Item No. 25.

Merrit Hartson, 4321 East County Road 48, stated the item should be tabled for more than ten minutes in order to allow the public to examine the changes.

Rob Kaczanowski, 720 Bentley Place, noted retailers which would now be affected by this change are not represented and supported tabling the item to a point in the distant future.

Kevin Cross, Fort Collins Sustainability Group, supported moving ahead with the amendment as it is incorporating components of Ordinance No. 112, 2014.

Mary Beth Snyder, 630 North Briarwood, opposed the Ordinance amendment.

Kathleen Bailey, Fort Collins resident, opposed the Ordinance amendment.

Eric Levine, Fort Collins resident, supported the Ordinance and the amendment and noted the irregularity of allowing public comment following Council going into discussion.

The vote on the motion was as follows: Yeas: Cunniff, Campana, Overbeck, Poppaw, Horak and Weitkunat. Nays: Troxell.

THE MOTION CARRIED.

(Secretary's note: At this point in the meeting, the Council considered Item #25 *Resolution 2014-076 Creating a Council Committee to Make Recommendations to the Council, Commencing the Process to Select a Search Firm, and Adopting a Plan and Target Schedule for the Recruitment and Selection of a City Attorney* and took a brief recess to allow the Interim City Attorney time to draft the requested amendments to Ordinance No. 099, 2014.)

Mayor Pro Tem Horak asked for input regarding the inclusion of all retailers. Hendee replied the amended Ordinance was to include all retailers and discussed the staff concern with the ability to

operationalize those changes all at one time. He stated staff is recommending implementation for grocers in 2015 with the additional retailers added in 2016.

Councilmember Cunniff asked about including all retailers in a delayed implementation date of April 1, 2015. Hendee replied staff will work with any Council direction on the issue.

Councilmember Troxell expressed concern the Ordinance has received too many amendments to go forward on Second Reading. City Attorney Daggett replied there is no specific Charter Code or procedural rule that limits the Council's ability to amend an Ordinance between First and Second Reading. Ordinances are published by title and noted this title is quite broad and its meaning has not changed between readings, given the proposed amendments.

Councilmember Troxell stated his objection remains.

Mayor Weitkunat agreed with Councilmember Troxell and stated the amendments deserve the opportunity to receive public input.

Councilmember Cunniff disagreed with the conclusion that the impact of the amended Ordinance differs from the impact of Ordinance No. 112, 2014.

Mayor Pro Tem Horak requested staff recommendations regarding implementation dates. Hendee replied the grocery store industry is prepared for the change given the level of communication with staff; however, the retailers have not been part of the same communication loop.

Councilmember Campana made a motion, seconded by Councilmember Overbeck, for a friendly amendment to change the implementation date to April 1, 2014. Mayor Pro Tem Horak and Councilmember Cunniff accepted the friendly amendment.

The vote on the motion to amend was as follows: Yeas: Overbeck, Poppaw, Horak, Cunniff and Campana. Nays: Troxell and Weitkunat.

**THE MOTION CARRIED.**

Councilmember Cunniff discussed the global impact of plastic bags and stated this is an appropriate action to be taken by local government.

Councilmember Troxell stated this action will cause incremental damage to the business community and to citizens. He encouraged the consideration of waste as a resource.

Mayor Weitkunat opposed the direction stating there is no overwhelming immediacy behind enacting this fee at this time. She commended citizens' voluntary efforts at reducing, reusing and recycling and stated the same outcome could have been achieved through education, eliminating the negative discourse throughout the community.

Councilmember Campana stated this implementation does not prevent a systems approach to the waste stream, does not prevent the use of waste energy, does not prevent reuse and recycling, and does not prevent further education. He supported the use of this fee as an additional tool toward the road to zero waste.

Mayor Pro Tem Horak suggested a friendly amendment to include a section requiring verbal consent from customers to purchase disposable bags in Section 138. Councilmembers Cunniff and Poppaw accepted the friendly amendment.

<b>RESULT:</b>	<b>ORDINANCE NO. 099, 2014 ADOPTED AS AMENDED [5 TO 2]</b>
<b>MOVER:</b>	Ross Cunniff, District 5
<b>SECONDER:</b>	Lisa Poppaw, District 2
<b>AYES:</b>	Overbeck, Poppaw, Campana, Cunniff, Horak
<b>NAYS:</b>	Weitkunat, Troxell

**Motion to Continue Meeting Past 10:30 PM**

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

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

22. **Resolution 2014-075 Naming a Loop Trail Within a New 31-Acre Natural Area and Restarting the Process for Selecting an Overall Name for the New Natural Area. (Adopted)**

*The purpose of this agenda item is to restart the process with the Natural Areas Department and the Land Conservation and Stewardship Board to make a recommendation to Council of a name for a new 31-acre natural area on the Poudre River conveyed to the City by Woodward Governor and to name a loop trail within that natural area.*

John Stokes, Natural Resources Director, discussed the location and history of the Natural Area property and the Natural Areas naming policies. The ad hoc committee has suggested naming a loop trail within the natural areas as the Coy-Hoffman Loop.

Wayne Sundberg, 1108 Lynnwood Drive, supported honoring the Coy name.

Heather Wolhart, 2520 Constitution Avenue, stated she is a relative of John and Emily Coy and supported honoring the family name. She noted Coy Hoffman is her grandfather and is a different individual.

Maxine Tamlin, Pioneer Association President, presented a petition to name the Natural Area to honor the Coy family.

Myrne Watrous, 723 West Olive, opposed the naming of the trail Coy-Hoffman and opposed restarting the naming process. She supported naming the area the John and Emily Coy Homestead Natural Area.

Carol Tunner, 1400 Wimbledon Court, stated the Hoffman family donated the land by the trail and supported naming the area to tie to the history of the land.

Councilmember Troxell asked about the use of family names in Natural Area naming and questioned the descriptive use of the word "homestead."

Councilmember Cunniff supported the loop trail naming.

Mayor Weitkunat supported the addition of the word "homestead" and the inclusion of interpretive features on the loop trail to discuss the history of the area.

Councilmember Cunniff made a motion, seconded by Mayor Pro Tem Horak, to adopt Resolution 2014-075, changing the name of the loop trail to the John and Emily Coy Homestead Loop Trail.

Councilmember Cunniff supported the inclusion of interpretive features along the trail.

Mayor Weitkunat encouraged the involvement of historical and cultural considerations in the naming of the Natural Area itself.

City Attorney Daggett recommended Council consider a conforming change to the final Whereas clause. Councilmember Poppaw suggested a friendly amendment to that end. Councilmember Cunniff and Mayor Pro Tem Horak accepted the amendment.

City Attorney Daggett recommended Council add a section to the Resolution regarding naming Natural Areas after families. Councilmember Poppaw suggested a friendly amendment to that end. Councilmember Cunniff and Mayor Pro Tem Horak accepted the amendment.

<b>RESULT:</b>	<b>ADOPTED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Ross Cunniff, District 5
<b>SECONDER:</b>	Gerry Horak, District 6
<b>AYES:</b>	Weitkunat, Overbeck, Poppaw, Campana, Troxell, Cunniff, Horak

23. **First Reading of Ordinance No. 113, 2014, Approving the Seventh Amendment to the Fort Collins-Timnath Intergovernmental Agreement Regarding Cooperation on Annexation, Growth Management and Related Issues. (Postponed to September 2, 2014)**

*The purpose of this item is to update a 2009 Intergovernmental Agreement (IGA) with the Town of Timnath to incorporate several amendments and new land use provisions. The Land Use portions of the agreement are intended to provide planned and orderly development of urban services along the I-25 Corridor and to establish appropriate Growth Management and Influence Areas to support such development.*

24. **Items Relating to Initiating Annexation Proceedings for the Clydesdale Park First and Second Annexations. (Postponed to September 2, 2014)**

A. *Resolution 2014-067 Finding Substantial Compliance and Initiating Annexation Proceedings for the Clydesdale Park First Annexation.*

B. *Resolution 2014-068 Finding Substantial Compliance and Initiating Annexation Proceedings for the Clydesdale Park Second Annexation.*

*The purpose of this item is to initiate annexation proceedings for the existing Clydesdale Park subdivision located east of Interstate 25, south of the intersection of East Mulberry Street and Carriage Parkway. Clydesdale Park includes 217 single-family residential lots on approximately 75 acres. Residents of the Clydesdale Park neighborhood have requested this annexation. In accordance with State law, the purpose of the Initiating Resolutions is to accept the Annexation Petitions and provide a schedule for upcoming Council hearings within a timeline that complies with State Statutes.*



25. **First Reading of Ordinance No. 114, 2014, Appropriating Capital Project Funding in the Light and Power, Water, Wastewater, and Stormwater Drainage Enterprise Funds and Authorizing the Transfer of Appropriations to the Cultural Services and Facilities Fund for the Art in Public Places Program, for the Construction of a New Utilities Administration Building in Block 32 on LaPorte Avenue and Renovation of 700 Wood Street. (Postponed to September 2, 2014)**

The purpose of this Appropriation Ordinance is to provide funding for the construction of a new Utility Administration Building within Block 32 on LaPorte Avenue, as well as renovation of the existing Utility Service Center at 700 Wood Street. The total combined project costs are \$23,411,000 with \$4,500,000 already appropriated from Light and Power reserves, leaving \$18,911,000 to be appropriated with this ordinance.

A Utility Building Team comprised of internal staff and external subject matter experts has worked with the architectural firm RNL and Adolfsen and Peterson Construction to assess the best way to address the current building performance and space issues facing Fort Collins Utilities' ongoing and future business operations. Balancing the city-wide goal to have high-performing office buildings with the need to be fiscally prudent has led the Building Team to recommend the two-pronged funding process proposed in this appropriation ordinance.

The four Utility Enterprise Funds (Light and Power, Water, Wastewater and Stormwater) will share the costs of the projects. All appropriations will come from the existing reserves in these four funds.

25. **Resolution 2014-076 Creating a Council Committee to Make Recommendations to the Council, Commencing the Process to Select a Search Firm, and Adopting a Plan and Target Schedule for the Recruitment and Selection of a City Attorney. (Adopted)**

The purpose of this item is to begin the City Attorney recruitment and selection process by:

1. creating a Council Committee to screen search firm candidates and make recommendations to the City Council regarding the search firm to be chosen and to make recommendations regarding other matters related to the City Attorney recruitment and selection process;
2. directing staff to develop and implement a request-for-proposal process for search firms to aid the Council Committee in its recommendation to City Council; and
3. adopting a detailed plan and target schedule for the recruitment and selection of the City Attorney.

Janet Miller, Human Resources Director, discussed the Resolution and items for Council consideration.

Councilmember Cunniff questioned the length of the process. Miller replied the timeline may seem long; however, the timeline is increased by the need to bring many of the items before Council and by the need for the engagement process for the recruiter. The timeline is similar to the City Manager search process as well as to Loveland's City Attorney process.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Troxell, to adopt Resolution 2014-076 with Mayor Weitkunat, and Councilmembers Campana and Troxell as members of the Council Committee.

Councilmember Poppaw commended the willingness of the Councilmembers and Mayor to serve on the committee.


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

● **ADJOURNMENT**

The meeting adjourned at 11:16 PM.

  
\_\_\_\_\_  
Mayor

ATTEST:

  
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City Clerk

