

February 16, 2016

COUNCIL OF THE CITY OF FORT COLLINS, COLORADO

Council-Manager Form of Government

Regular Meeting – 6:00 PM

● **ROLL CALL**

PRESENT: Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Staff Present: Atteberry, Daggett, Winkelmann

● **AGENDA REVIEW: CITY MANAGER**

City Manager Atteberry withdrew the Light and Power Reliability staff report due to a staff illness and recommended Consent Agenda Item No. 4, *Second Reading of Ordinance No. 021, 2016, Amending Chapter 7 of the Code of the City of Fort Collins to Update and Amend Requirements and Procedures for City Elections*, be pulled in and postponed to March 1.

● **CITIZEN PARTICIPATION**

Dick Thomas expressed concern regarding the proposed concert venue at the Gardens on Spring Creek.

Jack Daniels thanked the City staff and Council for making Fort Collins such a wonderful place to live.

Jessica Avila opposed the criminalization of homelessness and discussed the cost of homelessness to the community.

John Anderson discussed homelessness in the community and opposed the way Fort Collins has handled the issue.

Carol Tunner discussed the history of the Coy family.

Fred Kirsch, Community for Sustainable Energy, expressed support for an ordinance requiring an energy score disclosure in advertising for all buildings coming up for sale or lease.

Deborah James apologized for her outburst at the previous Council meeting and discussed the need for additional shelter beds for homeless citizens.

Lynn (no last name given) discussed the passing of her friend Doug Shields, who was homeless and expressed the need for additional shelter beds.

Cheryl Distaso, Fort Collins Community Action Network, discussed homelessness in Fort Collins.

Jerry Gavaldon commended Betty Aragon for her work as Director of the Museo and announced she recently retired. He suggested staff write a proclamation recognizing her service. Additionally, he suggested the new addition to the Museo be named after Ms. Aragon.

Sandy Lemburg commented on the way projects are approved for development, noting particularly The Summit and developments on North Mason Street. He suggested processes and procedures for development approvals be revisited.

Mary Danser apologized for her outburst at the previous Council meeting; however, she stated there is a possibility staff is misinformed and noted the homeless population sees issues firsthand.

- **CITIZEN PARTICIPATION FOLLOW-UP**

Councilmember Cunniff thanked Mr. Kirsch for his statements and requested information regarding when a home energy score Ordinance may move forward. Jackie Kozak-Thiel, Chief Sustainability Officer, replied that is one of the strategies coming before Council on March 10. The best practices from other jurisdictions are being examined.

Councilmember Cunniff offered condolences to friends and family of Mr. Shields and asked about possible inaccuracies in the story surrounding his passing. City Manager Atteberry replied there were housing options for Mr. Shields on the evening of his death, though he was turned away from Catholic Charities due to a failed breathalyzer result. He chose not to exercise the option of another shelter. Additionally, City Manager Atteberry stated it is not accurate Mr. Shields' body was lying on the sidewalk for five hours. An investigation needed to occur and his body was removed in less than two hours.

Councilmember Cunniff stated there is more that can be done regarding connecting service providers with homeless citizens and there is no intention to criminalize homelessness.

Councilmember Stephens expressed her condolences regarding Mr. Shields' passing and requested staff input regarding the City's efforts regarding homelessness. Beth Sowder, Director for Social Sustainability, replied there are a variety of things being done regarding affordable housing, the effort to end veteran homelessness, and additional efforts. She acknowledged there are still gaps and improvements can be made. Staff will be travelling to Nashville, Tennessee, to examine its efforts.

Councilmember Martinez commended Deputy City Manager Mihelich's work on the homelessness issue and discussed the success of Nashville's program. Additionally, he commended Ms. Aragon's work in the community and at the Museo.

Councilmember Overbeck commended the speakers and acknowledged Ms. Aragon's work in the community.

Councilmember Cunniff discussed the possible concert venue at the Gardens on Spring Creek.

Mayor Troxell noted the City has specific Charter requirements and works broadly with non-profits and faith-based organizations to make homelessness rare, short-lived and non-recurring in the community. He offered condolences regarding Mr. Shields' passing.

Councilmember Martinez noted homelessness is a communitywide issue and offered condolences regarding Bob Everitt's passing.

● **CONSENT CALENDAR**

Councilmember Cunniff withdrew Item No. 4, *Second Reading of Ordinance No. 021, 2016, Amending Chapter 7 of the Code of the City of Fort Collins to Update and Amend Requirements and Procedures for City Elections*, from the Consent Agenda.

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

RESULT:	CONSENT CALENDAR ADOPTED [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Gino Campana, District 3
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

1. **Consideration and Approval of the Minutes of the January 19, 2016 Regular Council Meeting and the January 26, 2016 Adjourned Council Meeting. (Adopted)**

The purpose of this item is to approve the minutes of the January 19, 2016 Regular Council meeting and the January 26, 2016 Adjourned Council meeting.

2. **Second Reading of Ordinance No. 016, 2016, Appropriating Prior Year Reserves in the Water Fund for a Project to Repair a Piped Section of the Michigan Ditch Tunnel Project. (Adopted)**

This Ordinance, unanimously adopted on First Reading on February 9, 2016, appropriates funds for the repair of a piped section of the Michigan Ditch near Cameron Pass in eastern Jackson County. The Ditch experienced a catastrophic failure in June 2015, when the mountainside on which the Ditch is constructed slid downhill several feet. As a result, the Ditch is currently not able to deliver the majority of the decreed water to Joe Wright Reservoir, which are released to meet City water supply needs either directly or by exchange. Repairing the Ditch and restoring deliveries to Joe Wright Reservoir is essential to ensure that the City fully utilizes its valuable Michigan Ditch supplies. Engineering assessments have been completed with the recommended mitigation being a tunnel. The total mitigation cost is \$8.25M of which \$700K has already been spent on the assessment and preliminary design. The 2015-16 Budget process appropriated \$1.25M toward the Michigan Ditch based on previous smaller landslides and additional funds for general source of supply and water production replacement projects of which \$766,695 was allocated to this project. This appropriation ordinance is for the remaining \$6,300,000 of necessary funds to build the tunnel. The Water Enterprise Fund has already contributed its annual limit of 0.5% of its budgeted operating revenues. Thus, no additional appropriation to APP is allowed in 2016 from the Water Enterprise Fund for this or any other appropriation request.

3. **Second Reading of Ordinance No. 019, 2016, Adding a New Section 1-23 to the Code of the City of Fort Collins to Establish a One-Year Limitation for the Prosecution of City Code Violations in Fort Collins Municipal Court. (Adopted)**

This Ordinance, unanimously adopted on First Reading on February 9, 2016, adds a new Section 1-23 to the City Code to establish a one-year time limitation, subject to certain tolling provisions, for how long after a person violates a provision of the City Code that the person can be prosecuted in Fort Collins Municipal Court (Municipal Court). The City Charter places a one-year time limitation on prosecutions of Charter violations in Municipal Court, but neither the Charter nor the Code establishes a similar time limitation for Code violations. As a result, the current controlling time limitation for prosecutions of Code violations in Municipal Court is a one-year limitation with no tolling provisions that is set by state statute in C.R.S. Section 31-16-111. However, as a home rule municipality, the City can establish its own time limitation and tolling provisions for such prosecutions, as proposed in this Ordinance.

4. **First Reading of Ordinance No. 022, 2016, Appropriating Prior Year Reserves in the Transportation Fund for Consulting Services Related to Interstate 25 (I-25) Traffic Solution Efforts. (Adopted)**

The purpose of this item is to appropriate funds to contract with a lobbying and communications firm to advocate for solutions to Interstate 25 traffic congestion. City leaders have worked in partnership with regional partners to identify and pursue funding for years. Numerous efforts, initiatives, and actions have been taken or are underway to urge the Colorado legislature and Colorado Department of Transportation (CDOT) to accelerate improvements to Interstate 25 (I-25). This \$30,000 appropriation for advocacy would augment and enhance regional efforts and ensure Fort Collins has representation in discussions on I-25. This item supports the adopted recommendations of the 2011 North I-25 Environmental Impact Statement (EIS), and also supports Council priority for I-25 funding; Strategic Plan Objectives: Transportation 6.1, 6.4; and Council legislative policy agenda. The funds would be appropriated from prior year reserves in the Transportation Fund.

5. **First Reading of Ordinance No. 023, 2016, Appropriating Prior Year Reserves in the General Fund for the City of Fort Collins 2016 Contribution to the Employees' Retirement Health Savings Plans for Members of the Police Services Collective Bargaining Unit. (Adopted)**

The purpose of this item is to fund the City's contribution to employees' Retirement Health Savings (RHS) plans for members of the Police Services Collective Bargaining Unit. On December 1, 2015, Council approved the Collective Bargaining Agreement with Bargaining Unit members of Police Services. As part of this contract, the City agreed to make contributions to the RHS plans of Bargaining Unit members. This Ordinance transfers the money from prior year reserves to pay this cost, which is estimated to be \$225,000.

6. **First Reading of Ordinance No. 024, 2016, Adopting the 2016 Amended Classified Employees Pay Plan. (Adopted)**

The purpose of this item is to recommend changes to the City's Classified Employee Pay Plan based on a market analysis conducted as agreed upon through the 2016-2017 Collective Bargaining Agreement with the Northern Colorado Lodge #3 of the Fraternal Order of Police (FOP). This agreement was approved by Council by Resolution on December 1, 2015. Although ratified in 2015, the bargaining agreement specifies a salary data collection method and evaluation process that included the postponement of final data collection and analysis until January 2016 when additional benchmark data became available. This data has been collected and analyzed, resulting in the revised 2016 Classified Employee Pay Plan.

7. **First Reading of Ordinance No. 025, 2016, Authorizing the Sale of City-Owned Property at 1506 West Horsetooth Road, Fort Collins, Colorado, to the Housing Authority of the City of Fort Collins. (Adopted)**

The purpose of this item is to authorize conveyance of the property at 1506 West Horsetooth Road to the Housing Authority of the City of Fort Collins (FCHA). The City purchased this property in 2003 as part of the Affordable Housing Land Bank program. Since its purchase, the City has leased this 8.3-acre property for residential/horse uses. This Ordinance follows from City Council's approval of Resolution 2016-008, which gave staff direction to continue to work with FCHA on this purchase and to bring forward an ordinance authorizing sale of the property to FCHA. An ordinance to make changes to the affordability requirements in the Land Bank Program Code language will be considered by City Council in March.

8. **Resolution 2016-016 Adopting the Recommendations of the Cultural Resources Board Regarding Fort Fund Grant Disbursements. (Adopted)**

The purpose of this item is to adopt the recommendations of the Cultural Resources Board to disburse Fort Fund grants out of the Cultural Development and Programming and Tourism Programming Accounts for the selected community and tourism events.

9. **Resolution 2016-017 Approving an Exception From Competitive Process Requirements for the Purchase for the Consulting Services from Revolution Advisors. (Adopted)**

The purpose of this item is to request an exception to the competitive purchase process for the contracting of services with Revolution Advisors to continue to implement recommendations of the 2014 Compensation and Career Progression Study.

10. **Resolution 2016-018 Appointing Dru Van Doren to the Women's Commission. (Adopted)**

The purpose of this item is to appoint Dru Van Doren to the Women's Commission to fill a vacancy that remained open after the routine recruitment process.

● **END CONSENT**

● **COUNCILMEMBER REPORTS**

Councilmember Overbeck reported on his trip to Washington D.C. with the Poudre Heritage Alliance for the national meeting for the Alliance of National Heritage Areas. He will be going to Wyoming with the Poudre Heritage Alliance to visit the Northern Arapaho Tribe.

Mayor Troxell reported on the Night to Shine event at Redeemer Lutheran Church.

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

11. **Second Reading of Ordinance No. 021, 2016, Amending Chapter 7 of the Code of the City of Fort Collins to Update and Amend Requirements and Procedures for City Elections. (Postponed to March 1, 2016)**

This Ordinance, unanimously adopted on First Reading on February 9, 2016, amends Chapter 7 of the City Code as recommended by the City Clerk and the ad hoc Council Committee, to update and amend the election code.

City Clerk Winkelmann stated staff is requesting this item be postponed for consideration on Second Reading to March 1 to consider applicable law provisions which may apply for City elections, in order to clarify signature verification on mail ballots, and to receive direction regarding Council compensation.

Eric Sutherland stated one cannot determine whether or not the person whose name is on a ballot actually voted the ballot based on the signature. He suggested eliminating all language dealing with signature verification as House Bill 1070 will likely pass and require a more robust system of signature verification. He opposed adopting both the Uniform Election Code and Municipal Election Code.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to postpone consideration of Ordinance No. 021, 2016 to March 1, 2016.

Councilmember Cunniff supported the postponement and stated the changes should be vetted publically. Additionally, he noted the Council compensation issue has to do with an SSDI cap limit.

Councilmember Overbeck noted the Commission on Disability and Senior Advisory Board supported the Council compensation change.

RESULT:	ORDINANCE NO. 021, 2016 POSTPONED TO MARCH 1 [UNANIMOUS]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Martinez, Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

● **DISCUSSION ITEMS**

12. **Consideration of an Appeal of the Administrative Hearing Officer Decision to Approve the Capstone Cottages Project Development Plan. (Hearing Officer Decision Upheld, With Conditions)**

The purpose of this item is to consider an appeal of the Administrative Hearing Officer's decision to approve the Capstone Cottages Project Development Plan. On December 30, 2015, two appellants, Jerry Gavaldon and Betty Aragon-Mitotes filed a Notice of Appeal with two assertions regarding the Administrative Hearing Officer's decision to approve the proposed Capstone Cottages Project Development Plan.

The Appeal includes the following assertions:

1. *Failure to conduct a fair hearing in that, specifically:*

- *Article 2.2.7 - Public Hearing*
- *Decision Maker substantially ignored its previously established rules of procedure, and was biased against the appellant*

2. *The Hearing Officer failed to properly interpret and apply relevant provisions of the Land Use Code, specifically:*

- A. *Article 3, Section 3.5.1 - Building and Project Compatibility*
- B. *Article 3, Section 3.6.4 - Transportation Level of Service Requirements*

Mayor Troxell discussed Council's role in the appeal process.

City Attorney Daggett discussed the appeal process and defined parties-in-interest.

Mayor Troxell requested the appellants and applicants identify themselves and their interest in the appeal.

Betty Aragon-Mitotes and Jerry Gavaldon identified themselves as area landowners and appellants.

Lucia Liley identified herself as legal counsel for the applicant and Linda Ripley identified herself as a land use planner for the applicant. Additionally, Ms. Liley identified team members who may be called to answer specific questions.

Mayor Troxell outlined the time allotments for presentations and rebuttals.

Cameron Gloss, Planning Manager, briefly discussed the project proposal, property zoning, and proposed roundabout. He outlined the appeal assertions that the Hearing Officer failed to conduct a fair hearing and failed to properly interpret and apply relevant provisions of the Land Use Code. Gloss also discussed the decision of the Hearing Officer and addressed questions raised at the site visit. Fifty-five buildings are proposed, 53 of which are residential, with one clubhouse and one maintenance building for a total of 200 total dwelling units. Gloss stated the closest lot is 200 feet from the northern most boundary of the property and stated commercial zoning exists to the south, residential zoning to the north, and industrial and employment uses to the east and west.

Mayor Troxell asked Councilmembers to disclose any potential conflicts of interest or reasons for recusal. Councilmember Martinez withdrew from the discussion of this item as he served as the neighborhood facilitator for the Capstone Cottages project prior to his election on Council.

Mr. Gavaldon raised an objection to the manner in which the conflict of interest was disclosed, stating it should have occurred earlier in the meeting process. Mayor Troxell noted the hearing portion of the meeting has not yet started. Mr. Gavaldon questioned the fairness of the process, stating Councilmember Martinez should have withdrawn from the conversation prior to the staff report.

City Attorney Daggett stated the City Code lays out the sequence of events for an appeal hearing which has been followed and Councilmember Martinez has not made any comments or participated in any fashion.

Mr. Gavaldon stated recusal by conflict of interest has been done at the beginning of the process in other quasi-judicial hearings of which he has been a part.

Mayor Troxell asked Councilmembers to discuss observations made at the site visit.

Councilmember Cunniff stated the questions asked at the site visit were answered by Mr. Gloss and the land was observed in relation to the proposed drawings.

Councilmember Overbeck attended the site visit and concurred with Councilmember Cunniff's comments.

Councilmember Campana stated he arrived at the site just as the other Councilmembers were leaving and he observed the site on his own.

Mayor Troxell stated he attended the site visit but did not ask any questions.

Mayor Troxell requested procedural issues be addressed and noted new evidence is allowed only in very limited situations. He asked if any parties-in-interest intend to present new evidence.

Ms. Aragon-Mitotes stated she submitted new evidence to City Clerk Winkelmann, which she requested be viewed by Council.

Mr. Gavaldon reiterated his concerns regarding the timing of Councilmember Martinez's conflict of interest announcement.

Ms. Liley stated the applicant's team is unable to respond to the proposed new evidence without some idea of its contents.

Mayor Troxell requested an explanation of the proposed new evidence which was not part of the appeal. Ms. Aragon-Mitotes replied she would like to submit a document which was presented to her by the Capstone Cottages team. She stated the document is an agreement they wanted her to sign.

Mayor Troxell asked why this document was not part of the appeal. Ms. Aragon-Mitotes replied she was unclear as to the process as she has never been part of an appeal before.

Ms. Liley stated she was aware of the document and is prepared to respond; however, she was uncertain if that was the only new evidence to be submitted.

Councilmember Campana and other Councilmembers suggested allowing the new evidence. Mayor Troxell accepted that suggestion.

Ms. Liley stated the applicant has no objection to the inclusion of the document; however, she questioned the relevance of the document to hearing officer bias or conduct of the hearing. She stated the applicant would like to submit three documents in rebuttal: a statement from the Vice-President of the applicant entity which describes the hiring of Mr. Martinez to be the neighborhood facilitator and his dealings with Ms. Aragon-Mitotes, a letter from Linda Ripley who participated in the one meeting with Mr. Martinez, Ms. Aragon-Mitotes, and representatives from the applicant entity during which Ms. Aragon-Mitotes presented the proposal that the developer make a donation to the 501(c)(3) Museo, and an email from Ms. Aragon-Mitotes to the Museo Board in which she is defending her submittal of the agreement for approval of the Board in which she mentions she insisted on having a binding agreement with the developer.

Mr. Gavaldon expressed concern regarding the submittal of these rebuttal documents as they were not submitted per the timeline of the Code.

City Attorney Daggett noted none of the evidence being discussed has been submitted in specific accordance with the provisions of the Code; however, because Council can ask questions and request this information, Council may want to consider whether it would like to essentially suspend its decision about the materials that Ms. Liley has offered and consider whether the Council's consideration of the issues as the hearing proceeds lead to an interest in seeing those documents. She noted Council also has the option of accepting those documents at this point in the hearing.

Councilmember Campana suggested allowing the documents.

Mayor Troxell accepted into the record all of the new evidence from both sides of the appeal and stated Council will take a break prior to starting the hearing procedure in order to allow everyone to review the documents.

Mayor Troxell stated Mr. Gavaldon's concern regarding the timing of Councilmember Martinez's conflict of interest will now be discussed.

Mr. Gavaldon discussed the legal advice given to the Planning and Zoning Board when he was a member and argued state law does not allow participation in an appeal process up to a point. He stated Councilmember Martinez should have recused himself earlier.

Mayor Pro Tem Horak stated the Council process for appeals differs from the Planning and Zoning Board process and noted Councilmember Martinez's recusal occurred prior to the hearing actually beginning. He noted this process follows City Code.

Councilmember Campana concurred with Mayor Pro Tem Horak's assessment and noted the actual hearing has not yet begun.

City Attorney Daggett stated this order of events has been suggested as there have been times when Councilmembers have only been able to identify a conflict following the identification of the parties-in-interest and staff report.

Mayor Troxell stated the process has occurred as it should and stated Council will take a brief recess in order to review the documents submitted as new evidence.

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

City Attorney Daggett clarified she misspoke regarding the Code specifically placing the timing of Councilmember disclosures of conflicts of interest; however, it does address the other steps in the process in a certain sequence and staff has recommended the conflict of interest disclosures be triggered after the staff presentation.

Appellant Presentation

Ms. Aragon-Mitotes stated she was not at the initial neighborhood meeting for this project and she was later asked by Mr. Martinez if she would like to hear a presentation by the developer. She stated she saw the presentation in a meeting with the developer, Mr. Martinez, and Ms. Ripley, after which she stated the development did not fit in the neighborhood. She was later approached by Mr. Martinez with a proposal for the developer to fund the construction of a culture center. She received a contract from the developer which she believed contained unethical language stating she would be personally liable if anyone spoke out against Capstone.

Ms. Aragon-Mitotes stated she asked the Museo Board for input regarding the agreement, which was never signed, given her concern she would be personally responsible for negative comments against Capstone. She expressed resentment regarding what was being asked of her as part of this agreement and opposed the character of the developer. She opposed the development as not fitting into the neighborhood and stated these types of developments will effectively run out the Hispanic and working class residents of the adjacent neighborhoods.

Mr. Gavaldon stated the Hearing Officer did not conduct a fair and equitable hearing and stated compatibility and traffic are the major concerns with the project.

Applicant Presentation

Ms. Linda Ripley, applicant representative, discussed the developer and proposed student housing development, stating the low-profile design of the project allows it to easily blend with nearby single-family housing. Ms. Ripley discussed the site and suggested roadway orientations,

including a roundabout. She detailed the project, its density and layout, and proposed parking and landscape plans.

Ms. Liley stated the agreement discussed by Ms. Aragon-Mitotes has no relevance to any appeal allegation, nor was any information presented by the appellants tying it back to an appeal allegation.

With regard to the appeal issues, Ms. Liley stated the appellants have provided no information as to what established rules of procedure were not followed, as alleged. The appellants have also offered no evidence indicating what Hearing Officer bias was allegedly present. In terms of the allegations relating to failure to properly interpret and apply the Land Use Code, Ms. Liley stated this project provides exactly the aspects called for in the MMN zoning district and will serve as a transition between the existing single-family uses and other uses nearby. She noted the property boundaries are not the same as the project boundaries. The modification request would decrease the net dwelling units per net acre from 12 to 8.2. That request aids in good transition and neighborhood compatibility.

In terms of the allegation relating to adequate public facilities and level of service, Ms. Liley stated there is ample evidence in the record that the required level of service D is maintained with this project.

Appellant Rebuttal

Mr. Gavaldon stated the Andersonville neighborhood was never mentioned regarding compatibility in staff's presentation at the original hearing. The reality of the traffic situation is not adequately presented in the traffic impact study and he suggested the possibility that adequate public facilities are not being met by this proposal. Mr. Gavaldon also expressed concern regarding the compatibility of behavior and noted the neighborhood opposes the one-way connection between the proposed project and the existing neighborhood to the north.

Ms. Aragon-Mitotes argued this development is not compatible with the surrounding neighborhoods and expressed concern regarding behavioral issues of brewery patrons.

Applicant Rebuttal

Ms. Liley stated four neighborhood meetings occurred, which were well attended. She argued it is a testimony to the changes made in the project that there are fewer people opposed to the project at this point. Additionally, Ms. Liley noted the Code section cited by the appellants deals with building and project compatibility which deals with architecture, height, mass, and privacy. She noted this use is permitted and meets these Code requirements.

With regard to Ms. Aragon-Mitotes' statement that the agreement would have held her personally liable for any negative comments made against Capstone, Ms. Liley stated that is not true as the agreement would have been between a 501(c)(3) board and Ms. Aragon-Mitotes. It does not bind any neighbors from making any comments whatsoever. Ms. Aragon-Mitotes proposed the agreement as being similar to other deals she had made.

Ms. Liley stated this project will complete many important missing transportation pieces in this area and stated her team does not find this appeal to be legally supportable.

Council Discussion

Councilmember Campana noted one of the conditions of approval was the removal of the roadway connection between the PDP and the Andersonville neighborhood to the north; leaving a trail connection only. This is not typical of the Fort Collins process, as more connectivity is always desired. He asked if this change was desired by the neighborhood. Pete Wray, Senior City Planner, replied throughout the evolution of the project, staff heard general concerns from the neighbors to the north regarding traffic issues. He stated the one-way connection to the south was presented by the developer as an option for those neighborhoods, but it was not a requirement of the project. Despite this option receiving support during the neighborhood meeting process, the discussion for the record the night of the hearing was limited.

Councilmember Cunniff asked if this connection was contemplated in the turning movement analysis of the roundabout on Lincoln Avenue, or if it affects the level of service. Martina Wilkinson, Traffic Operations, replied the operational analysis of the roundabout would not be changed with or without that connection.

Councilmember Overbeck asked about the methodology used to address traffic in the area. Wilkinson replied staff analyzes traffic from proposed developments using a combination of established national standards, as well as local knowledge regarding this specific type of development. She stated the Vine and Lemay intersection would trigger the potential for adequate public facilities when it reaches a level of service E.

Mayor Pro Tem Horak asked about the cost of the connection to the Andersonville neighborhood. Ms. Liley replied the cost would be approximately \$40,000.

Councilmember Cunniff made a motion, seconded by Councilmember Campana, that the Hearing Officer conducted a fair hearing in her consideration of the project and the PDP, that she did not substantially ignore previously established rules of procedure, and there was no evidence of bias against the appellants. Furthermore, he moved the appeal of the decision on the basis that the Hearing Officer failed to conduct a fair hearing is found to be without merit and is denied.

Councilmember Cunniff noted the Hearing Officer accepted public testimony as per the standard rules of procedure.

Councilmember Stephens agreed with Councilmember Cunniff and stated there was no evidence of any bias against the appellants.

RESULT:	MOTION-A FAIR HEARING WAS HELD [UNANIMOUS]
MOVER:	Ross Cunniff, District 5
SECONDER:	Gino Campana, District 3
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

Councilmember Campana suggested the connection coming out of Andersonville should be reconsidered and suggested modifying the decision of the Hearing Officer to eliminate condition C of the approval and require that connection.

Councilmember Stephens stated she is hesitant to change that condition as there was no clear direction from the neighborhoods and there was some concern the roadway would not be utilized as a one-way connection.

Councilmember Cunniff stated this is a one-way connection which will only be present until Lemay is realigned. Additionally, he suggested there is a significant amount of neighborhood support for that connectivity.

Mayor Pro Tem Horak requested input from the appellants regarding the issue. Mr. Gavaldon replied the neighborhood meetings did not show any consensus of neighborhood support for the connection and argued the neighborhood does not want the connection.

Mayor Troxell requested input from the applicants regarding the issue. Ms. Liley replied it was important to find things that could be done for the neighborhood, noting the traffic issue is an existing problem. The developer has acquired the land and is willing to construct the connection. Ms. Liley discussed the option of constructing the connection with bollards so as to allow that option in the future.

Mayor Pro Tem Horak asked what techniques have been used by staff to ensure one-way flow. Wilkinson replied that could be addressed with roadway width and signage, or with removable bollards in case the connection proves unworkable for the neighborhood.

Mayor Pro Tem Horak asked if the cost of building this roadway in the future would increase dramatically. Nick Haas, Northern Engineering, replied construction costs continue to rise annually; therefore, the longer the delay, the larger the percentage of cost increase. Additionally, he noted economies of scale would exist in constructing the roadway during other construction on site.

Councilmember Cunniff asked when the roadwork is set to be complete. John Acken, Capstone Collegiate Communities, replied the construction schedule is still being finalized; however, the tentative goal would be for that type of infrastructure to be complete by the end of the year.

Mayor Pro Tem Horak suggested it would be foolish to not have the connection available.

Councilmember Campana made a motion, seconded by Councilmember Cunniff, to modify the decision of the Hearing Officer approving the PDP by removing condition C, which directed the removal of the roadway connection between the PDP and the Andersonville neighborhood to the north, and by requiring bollards to be installed at the time of construction for further public outreach to occur to determine when or if the bollards are removed. Additionally, he moved that, except as so stated, the appeal is hereby found to be without merit and is denied.

Councilmember Stephens stated she would support the motion with the addition of the bollards.

Councilmember Campana noted this project was granted a modification to decrease the density required by Code and stated it is a well-designed project.

Mayor Troxell stated he would support the motion and stated the project supports a number of City objectives. He complimented the work to deal with traffic concerns.

Councilmember Cunniff stated the contract document discussed by Ms. Aragon-Mitotes did not seem to have any bearing on the appeal itself.

RESULT:	HEARING OFFICER DECISION UPHELD, WITH CONDITIONS [UNANIMOUS]
MOVER:	Gino Campana, District 3
SECONDER:	Ross Cunniff, District 5
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak

(Secretary's Note: Councilmember Martinez returned at this point in the meeting.)

● **OTHER BUSINESS**

Mayor Pro Tem Horak stated Council has received a memo from staff concerning the Regional Water Supply Collaboration Update. Staff has recommended a collaboration workshop.

Mayor Troxell received Council support for directing staff to coordinate a collaboration workshop.

Councilmember Campana asked what board was referenced in the memo from the previous appeal hearing and expressed concern if the board is in any way funded with City dollars. He requested follow-up by the City Attorney and staff.

Mayor Pro Tem Horak made a motion, seconded by Councilmember Cunniff, to go into executive session for the purpose of meeting with the City Attorney and City management staff to discuss specific legal questions related to litigation or potential litigation involving the City in the manner in which particular policies, practices or regulations of the City may be affected by existing proposed provisions of federal, state, or local law as permitted under Section 2-31(a)(2) of the City Code and the Colorado Revised Statutes Section 24-6-402(4)(b).

RESULT:	EXECUTIVE SESSION AUTHORIZED [6 TO 1]
MOVER:	Gerry Horak, District 6
SECONDER:	Ross Cunniff, District 5
AYES:	Stephens, Overbeck, Campana, Troxell, Cunniff, Horak
NAYS:	Martinez

● **ADJOURNMENT**

The meeting adjourned at 10:10 PM.



Mayor

ATTEST:

City Clerk